
**HOUSE COMMITTEE ON CORRECTIONS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2006**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
80TH TEXAS LEGISLATURE**

**JERRY MADDEN
CHAIRMAN**

**COMMITTEE CLERK
RAENETTA NANCE**



House Committee On Corrections

November 22, 2006

Jerry Madden
Chairman

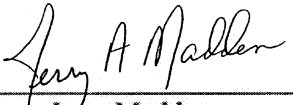
P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

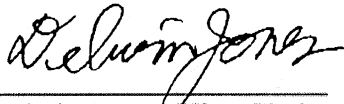
Dear Mr. Speaker and Fellow Members:

The Committee on Corrections of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

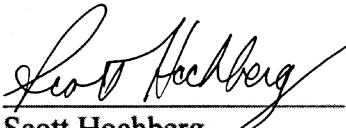
Respectfully submitted,



Jerry Madden

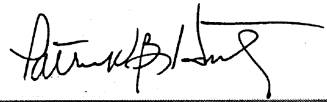


Delwin Jones, Vice Chairman

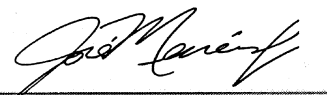


Scott Hochberg


Rick Noriega



Patrick "Pat" Haggerty



Jim McReynolds



Kirk England

Jerry Madden
Chairman

Delwin Jones
Vice-Chairman

Members: Patrick "Pat" Haggerty, Scott Hochberg, Jim McReynolds, Rick Noriega, Kirk England

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INTRODUCTION

At the beginning of the 79th Legislature, the Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Corrections. The Committee membership included the following: Jerry Madden, Chair; Delwin Jones, Vice-Chair; Pat Haggerty; Ray Allen; Scott Hochberg; Jim McReynolds; Rick Noriega.

Representative Melissa Noriega was sworn in to replace her husband as Acting Representative on January 11, 2005 while Representative Rick Noriega served in Afghanistan. She served on the Corrections Committee until Representative Rick Noriega returned to his home and resumed responsibilities as the elected representative on August 26, 2005. Representative Melissa Noriega contributed greatly to the work of this committee in the regular session and her service was greatly appreciated by all of the committee members.

On January 18, 2006 Representative Ray Allen resigned from the legislature. Representative Ray Allen did a great service to this committee and the criminal justice community in the past as Chairman of the Corrections Committee and as a serving member. In a special election, Kirk England was elected to represent the Texas House of Representatives District 106 and was later appointed by the Speaker of the House to serve on the House Committee on Corrections as well as the House Committee on County Affairs.

During the interim, the Corrections Committee was assigned eight charges by the speaker:

1. Study the organizational structure of the department to determine if the current system is effectively and efficiently addressing the needs of all components of the criminal justice system in conjunction with the Sunset review of the Texas Department of Criminal Justice (TDCJ) in 2007.
2. Examine the probation system and reforms debated during the 79th Legislature, including using strategies such as graduated sanctions and specialized courts for reducing revocations and recidivism. Study the organization and cost of our probation system and make recommendations about how to prioritize and strengthen general supervision.
3. Evaluate the correctional health care systems in other states as they compare to the Texas health care system, with a focus on greater accountability and competition among providers.
4. Assess the programming needs for special populations in the Texas Department of Criminal Justice (TDCJ).
5. Review the operation and organization of the Windham School District.
6. Study the adequacy of the state accountability system in measuring the effectiveness of Disciplinary Alternative Education Programs (DAEPs) based on academic performance, behavior modification and percentage of students referred to the juvenile justice system. (Joint Interim Charge with the House Committee on Public Education)

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7. Study the effectiveness of prevention programs, such as after school programs, in reducing the actual indices of crime and the rate of young offenders entering the criminal justice system. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)
 8. Monitor the agencies and programs under the Committee's oversight and monitor the Governor's Criminal Justice Advisory Council.

Charges 1, 2, 7 and 8 were studied by the full Corrections Committee. In order to undertake all of the charges efficiently and effectively Chairman Madden also appointed two subcommittees: the Subcommittee on Education and the Subcommittee on Healthcare and Special Populations.

The full committee and the subcommittees have completed their hearings and investigations and have issued their respective reports. The Corrections Committee has approved all reports, which are incorporated as the following final report for the entire committee. The members approved all sections of the report with the exception of Representative Rick Noriega. Representative Noriega was on active duty with the National Guard during the interim hearings and drafting of the report recommendations. Representative Noriega felt it was inappropriate to sign something that he was not directly involved with.

Finally, the Committee wishes to express appreciation to the Committee Clerk, Raenetta Nance, for her work in preparing the reports and to Representative Madden's staff, Marsha McLane, Taryn Dusek, and Mark Hey for their contributions in research, writing, and editing. The Committee also wishes to express gratitude to the agencies that assisted the Committee and supplied valuable information for the preparation of the report, in particular the Texas Department of Criminal Justice, TDCJ executive staff, the TDCJ-Criminal Justice Assistance Division, Texas Board of Pardons and Paroles, State Auditor's Office, Texas Correctional Office on Offenders with Medical and Mental Impairments, Texas Juvenile Probation Commission, Texas Youth Commission, Council on Sex Offender Treatment, and the citizens who testified at the hearings for their time and efforts on behalf of the Committee.

HOUSE COMMITTEE ON CORRECTIONS

INTERIM STUDY CHARGES, HEARINGS, AND SUBCOMMITTEE ASSIGNMENTS

CHARGE NO. 1- Study the organizational structure of the department to determine if the current system is effectively and efficiently addressing the needs of all components of the criminal justice system in conjunction with the Sunset review of the Texas Department of Criminal Justice (TDCJ) in 2007.

This charge was not delegated to a subcommittee, the full committee responded to charge 1.

In response to its charge, the Committee on Corrections held a public hearing dedicated to this charge on March 22, 2006. The Committee heard both invited and public testimony during the course of this hearing.

CHARGE NO. 2- Examine the probation system and reforms debated during the 79th Legislature, including using strategies such as graduated sanctions and specialized courts for reducing revocations and recidivism. Study the organization and cost of our probation system and make recommendations about how to prioritize and strengthen general supervision.

This charge was not delegated to a subcommittee, the full committee responded to charge 2.

The Committee on Corrections held a public hearing dedicated to this charge on March 22, 2006. The Committee heard both invited and public testimony during the course of this hearing. Much of the public testimony highlighted how the probation system contributes to prison overcrowding.

CHARGE NO. 3- Evaluate the correctional health care systems in other states as they compare to the Texas health care system, with a focus on greater accountability and competition among providers.

This charge was assigned to the Subcommittee on Healthcare and Special Populations. Members included Representative Pat Haggerty (Chair), Representative Jim McReynolds, and Representative Rick Noriega.

In response to its charge, the Subcommittee held a public hearing on April 26, 2006. The subcommittee heard both invited and public testimony during the course of this hearing.

CHARGE NO. 4- Assess the programming needs for special populations in the Texas Department of Criminal Justice (TDCJ).

This charge was assigned to the Subcommittee on Healthcare and Special Populations. Members included Representative Pat Haggerty (Chair), Representative Jim McReynolds, and Representative Rick Noriega.

In response to its charge, the Subcommittee held a public hearing on April 26, 2006. The Subcommittee heard both invited and public testimony during the course of this hearing.

CHARGE NO. 5- Review the operation and organization of the Windham School District.

This charge was assigned to the Subcommittee on Education. Members included Representative Jerry Madden (Chair), Representative Delwin Jones, and Representative Scott Hochberg.

In response to its charge, the Subcommittee held a public hearing on April 18, 2006. The Subcommittee heard both invited and public testimony during this hearing.

CHARGE NO. 6- Study the adequacy of the state accountability system in measuring the effectiveness of Disciplinary Alternative Education Programs (DAEPs) based on academic performance, behavior modification and percentage of students referred to the juvenile justice system. (Joint Interim Charge with the House Committee on Public Education)

This charge was assigned to the Subcommittee on Education. Members included Representative Jerry Madden (Chair), Representative Delwin Jones, and Representative Scott Hochberg.

In response to its charge, the Subcommittee held a public hearing on April 18, 2006. The Committee heard both invited and public testimony during this hearing.

CHARGE NO. 7- Study the effectiveness of prevention programs, such as after school programs, in reducing the actual indices of crime and the rate of young offenders entering the criminal justice system. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)

This charge was not delegated to a subcommittee, the full committee responded to charge 7.

In response to its charge, the Committee on Corrections held a public hearing in conjunction with the House Committee on Juvenile Justice and Family Issues on April 18, 2006. The Committee heard both invited and public testimony during the course of this hearing.

CHARGE NO. 8- Monitor the agencies and programs under the Committee's oversight and monitor the Governor's Criminal Justice Advisory Council.

This charge was not delegated to a subcommittee, the full committee responded to charge 8.

In response to its charge, the Committee on Corrections held a public hearing on March 22, 2006. The Committee heard both invited and public testimony during the course of this hearing.

CHARGE 1: STUDY THE ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT TO DETERMINE IF THE CURRENT SYSTEM IS EFFECTIVELY AND EFFICIENTLY ADDRESSING THE NEEDS OF ALL COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM IN CONJUNCTION WITH THE SUNSET REVIEW OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ) IN 2007.

BACKGROUND

Sunset Proceedings

Agencies that are currently under sunset review include the Texas Department of Criminal Justice, the Correctional Managed Health Care Committee, and the Board of Pardons and Paroles. The Sunset Process is guided by a 12-member body of legislators and public members appointed by the Lieutenant Governor and the Speaker of the House of Representatives. Assisting the Commission is a staff whose reports provide an assessment of an agency's programs, giving the Legislature the information needed to draw conclusions about the agencies under review.

On November 14th and 15th, 2006, the Sunset Commission will hold public hearings and present the report and recommendations to the Texas Department of Criminal Justice (TDCJ). At this hearing the Department will respond to the recommendations presented and the Commission will take public testimony. The following month, on December 12th and 13th, the Commission will hold a decision meeting where they will vote on official recommendations. This will be an open meeting but public testimony will not be allowed.

The Project Manager for the Sunset review of TDCJ is Jennifer Jones.

Sunset Advisory Commission
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Whereas the Texas Sunset Commission provides an assessment of the entire Department's programs and makes recommendations about program necessity and workability, the Corrections Committee has used charge one as a means to highlight a few important areas of interest. These areas of interest include the availability and expansion of contract facilities, substance abuse treatment programs within TDCJ, reform of the TDCJ sex offender treatment program, and development of strategic relationships with private vendors.

TDCJ Population Projections and Background

In June 2006 the Legislative Budget Board (LBB) released new prison population and capacity projections for fiscal years 2006-2011. The June 2006 Adult and Juvenile Correctional Population Projections report explains that if capacity remains where it is today and the state does not build anymore prisons, the prison population will exceed operating capacity by 9,600 beds in 2010.¹ Although this projection is less grim than the original numbers (2005 projections were 14,000 beds short by 2010), it takes several years to build multi-million dollar prisons, so the legislature must act quickly to either curb this growth or start building.

As of May 1, 2006, the total state prison capacity was 154,702 beds. The operating capacity preferred by TDCJ prison administrators is 97.5 percent of the total combined capacity of 156,120, which equals 152,217 beds.²

On August 18, 2006 the Texas Board of Criminal Justice (TBCJ) held their 128th Board Meeting to approve the Fiscal Years 2008-2009 Legislative Appropriations Request (LAR).

Summary of requested beds in TDCJ LAR:

- Total new beds: 4,080
1 unit at **2,250** beds + **500** Administrative Segregation beds
1 unit at **1,330** beds
- Additional new treatment beds: 1,450
1,000 new beds (including 500 DWI beds)- vendor build
250 new Substance Abuse Felony Punishment Facility (SAFPF) beds- vendor build
200 new In-Prison Therapeutic Community (IPTC) beds- The IPTC beds are available in existing units, so only treatment money is needed.

Availability and Expansion of Contract Facilities

The state of Texas currently has contracts with private operators to maintain 15,505 secure prison beds, approximately 10 percent of the state's total capacity.³ The facilities are run by Corrections Corporation of America (CCA), Geo Group, and Management Training Corporation (MTC).

When capacity needs arise, the Texas Board of Criminal Justice (TBCJ) contracts with county jails and private facilities at costs of approximately \$40 and \$30 per day respectively. Currently, TBCJ must contract with the more expensive county facilities due to an existing private facility cap. Under current law, the TBCJ may only contract for a total of 4,580 correctional center beds that are operated, maintained, and managed by a private vendor. These types of facilities can each house a maximum of 1,000 inmates.

During the Third Called Special Session the House Committee on Corrections unanimously passed HB 87 in a public hearing on May 5, 2006. This bill, filed by Chairman Jerry Madden, took into account capacity issues and was intended to give more flexibility to the Texas Department of Criminal Justice by increasing the maximum cap on the average daily inmate population at a contract facility from 1,000 to 1,200 and by increasing the total overall cap from 4,580 to 4,780. By doing so, HB 87 would have allowed the State to make use of available beds in existing facilities instead of sending all overflows of state prisoners to county facilities. This proposal would have eased the burden on counties, resulted in a cost savings to the state, and provided inmates with more programs that would help them stay out of the criminal justice system once released.

TDCJ is currently contracting for 1,487 county jail beds in Bowie, Jefferson, Limestone, Newton, and Guadalupe counties. TDCJ projects that it will need a total of 3,100 contract beds by August 2007. Assuming that TDCJ continues to contract for temporary leased beds throughout the 2008-09 biennium and that 200 beds could be added to current capacity, the Legislative Budget Board

estimated that such a policy change would save the state \$494,210 per fiscal year. The potential cost savings is calculated by multiplying 200 beds by 365 days by an average daily savings of \$6.77 (average daily cost of temporary leased bed of \$39.96 - (\$28.75 average daily cost for a privately operated prison bed + \$4.44 average daily medical cost) = \$6.77).⁴

The Texas Commission on Jail Standards (TCJS) currently reports that the county facilities housing TDCJ inmates are all in compliance with minimum jail standards. However, it is important to note that there are currently 32 jails that are not in compliance.⁵

There are a total of 1,487 TDCJ inmates contracted to facilities under the purview of TCJS (note that TCJS updates population data from the jails on the first of every month- this information is current as of 8/01/06):

- Bowie County Correctional Center
335 TDCJ inmates
- Guadalupe County Jail in Seguin
93 TDCJ inmates
- Jefferson County Downtown Jail in Beaumont
244 TDCJ inmates
- Newton County Correctional Center
418 TDCJ inmates
- Limestone County Correctional Center
397 TDCJ inmates

National studies comparing public and private prisons show that private facilities offer significant savings, in the range of 5 to 20 percent.⁶ Additionally, national research comparing the recidivism rates of public and private prisoners has found a 29 percent lower recidivism rate among inmates released from private prisons, which may be attributable to more effective programming and reentry services, including perhaps greater legal latitude to incorporate faith based programs.⁷ It is arguable that these recidivism studies do not take into account the fact that private prisons usually house lower risk offenders who are naturally less likely to recidivate. Regardless, it is wise that TDCJ continue to look to the private sector to help alleviate current and future overcrowding issues.

In light of TBCJ's approval of the 2008-2009 LAR, it appears that TDCJ does intend to expand private contracts in the area of treatment beds while also intending to build state-operated capacity. The Committee will take any legislative action necessary to raise the private prison cap to accommodate the Department's request.

Substance Abuse Treatment Programs Within TDCJ

In August of 2006, Dean Whitmire and Chairman Madden appointed an informal joint staff working group made up of both House and Senate staffers to review the overall treatment programs within TDCJ. During the first meeting on August 15th, 2006 the joint staff working group agreed that the changes since 2003 (and possibly earlier) have significantly changed the

concepts of Substance Abuse Felony Punishment Facilities (SAFPF) programs and In-Prison Therapeutic Community (IPTC) programs.

The joint staff working group's first assignment was to develop a picture of the current operations and status of these programs. The area of *most* concern is researching the current status of location and availability of aftercare beds. Other interests include:

- SAFPF capacity, along with waiting periods to get to SAFPF and then the shortfall of Transitional Treatment Center (TTC) beds and waiting time to get assigned to a TTC.
- Demographic make up of SAFPFs, how probationers and parolees are mixed, and availability of special needs beds.
- How the quality of treatment is monitored.
- Evidence of follow up to compliance reviews.
- Numbers of sanctions that have been that have been ordered by TDCJ.
- What the role of the Department of State Health Services is (and whether TDCJ is aware of any investigations on individuals or licenses they have done).
- What program manual or policies are being followed and mandated.

The following is a preliminary summary of the current SAFPF programs within TDCJ:⁸

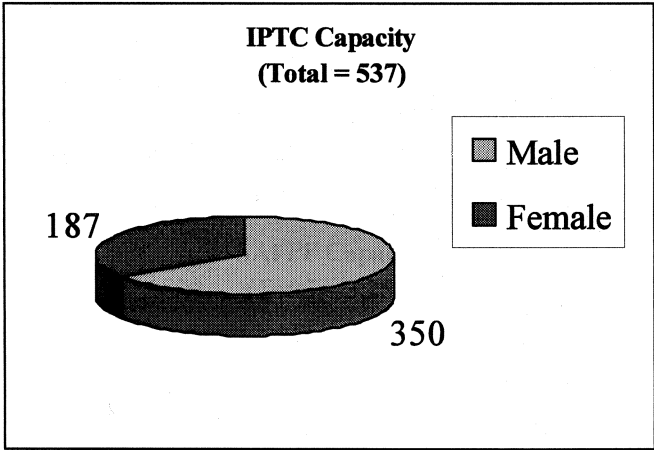
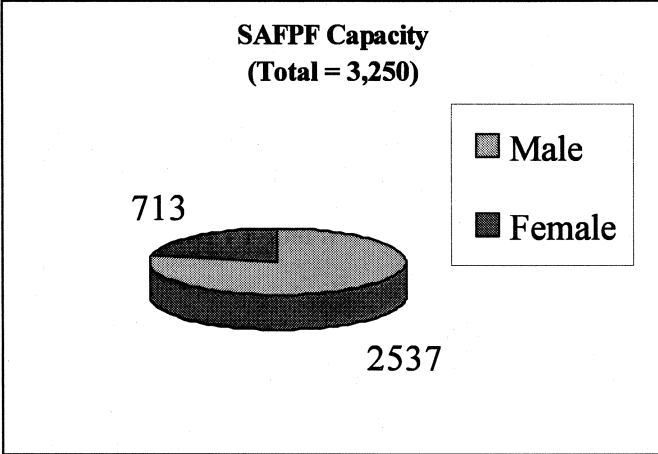
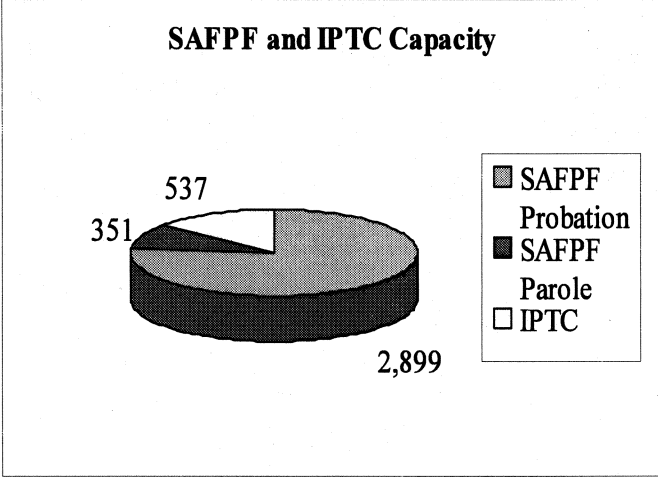
The SAFPF program provides treatment beds primarily for probationers whose crimes are related to substance abuse. Most SAFPF offenders were under probation supervision when the conditions of their supervision were modified to place them in the program in lieu of a revocation to prison. In 2001, the Criminal Justice Policy Council observed that approximately 70% of the offenders placed in the program would have been revoked to prison or state jail if the SAFPF program was not available. "In this sense, the program is cost-effective as offenders serving a nine month sentence in a SAFP facility cost the state less than if they would have served an average of three years in prison".⁹

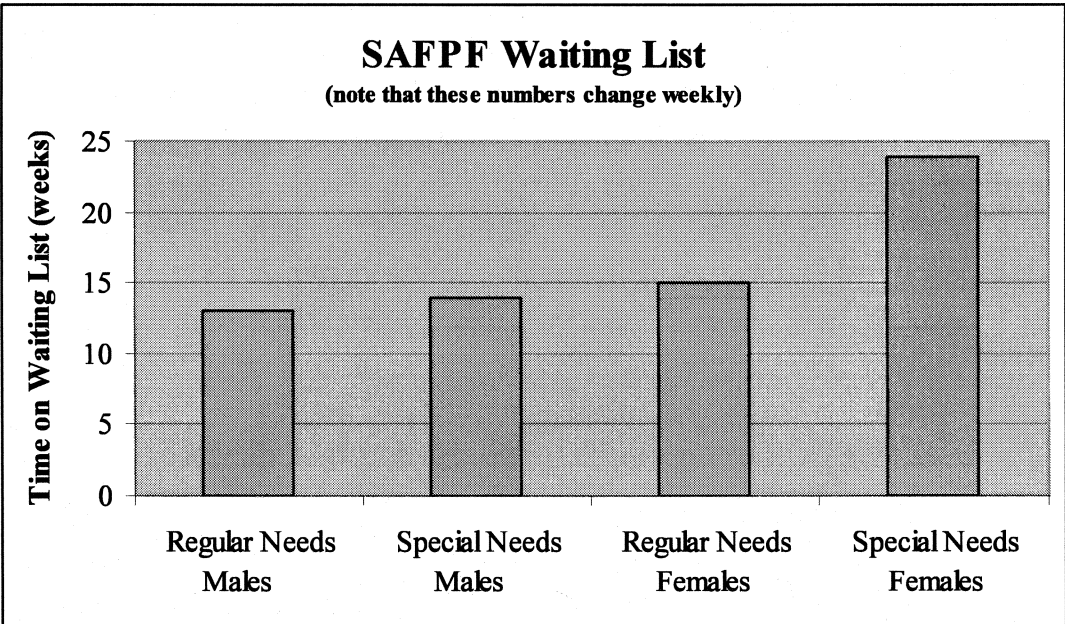
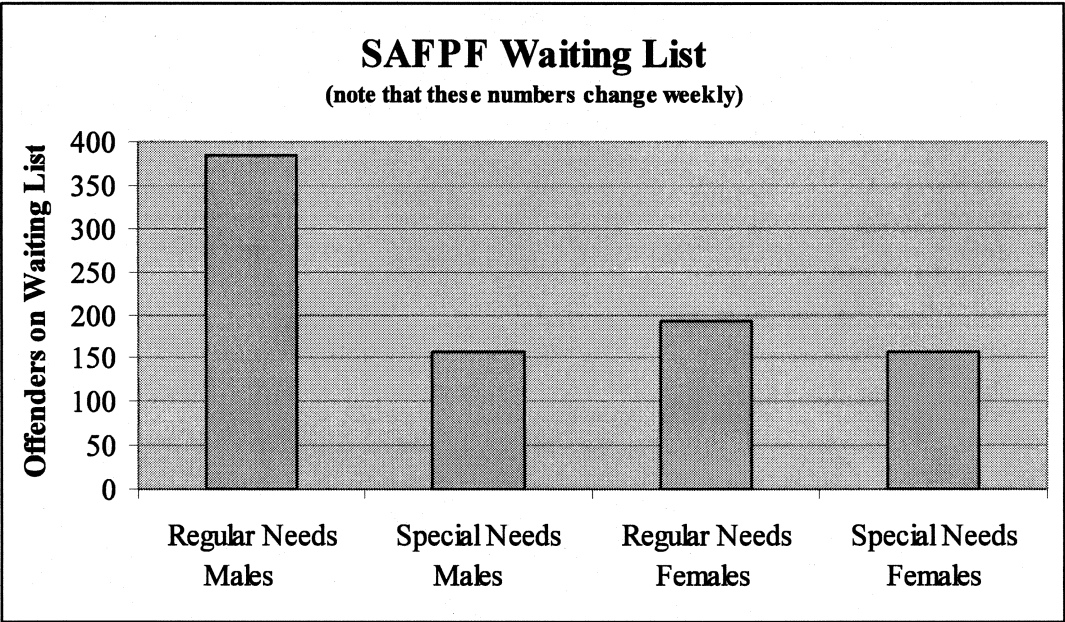
Most SAFPF beds are still reserved for probationers. As of June 24, 2006 the exact numbers were 2,899 probationers and 351 parolees.¹⁰ Parolees and probationers are not housed separately on those units that house both. SAFPF policies and procedures are outlined in the Substance Abuse Treatment Programs Operating Manual (SATOM), Revised on March 2005.

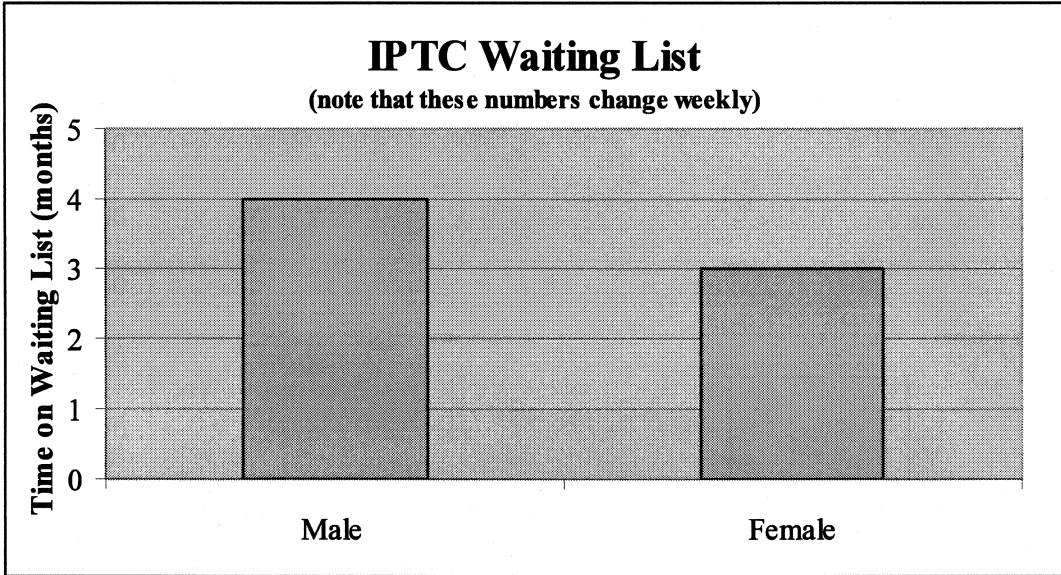
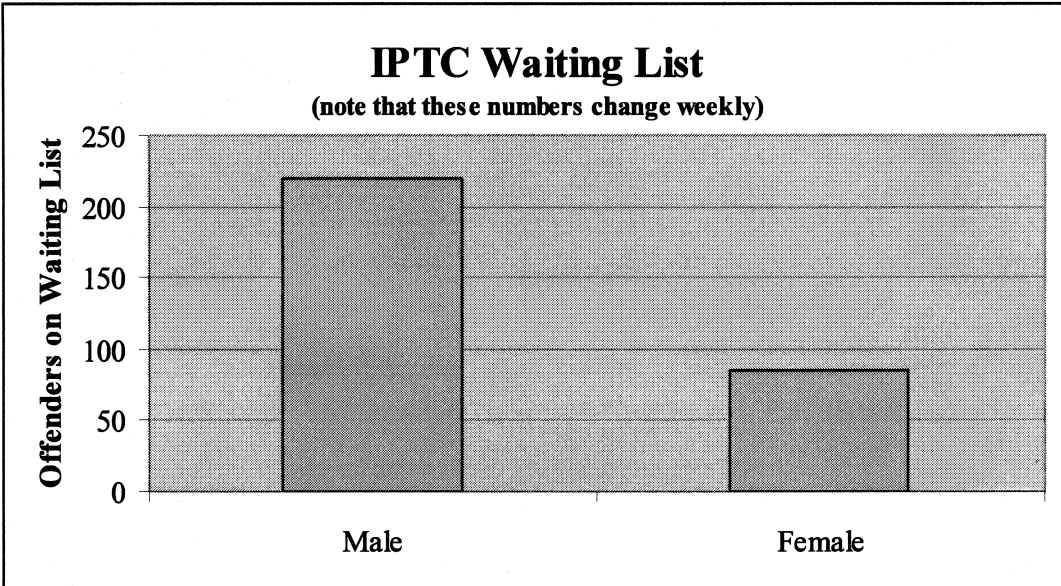
An In-Prison Therapeutic Community (IPTC) is an intensive six-month treatment program for eligible offenders who are within six months of parole release and who are identified as needing substance abuse treatment. The Board of Pardons and Paroles must vote to place qualified offenders in the therapeutic community program and successful graduates are then released on parole. Programming is similar to that of the SAFPF program. Treatment also includes an aftercare phase, which consists of residential care for three months followed by nine to twelve months of outpatient counseling.¹¹

The Transitional Treatment Center (TTC) is the aftercare component of the treatment program for releasees from the IPTC and SAFP facilities where specially trained parole officers supervise offenders. The most recent count of offenders waiting for a TTC bed is 375 with a 30 to 90 day wait (number as of 6/24/06), but of course this number fluctuates.¹²

SAFPF and IPTC units include: Glossbrenner, Halbert, Jester, Johnston, Walker Sayle, Kyle, Hackberry (which is part of the Gatesville unit) and Estelle.







<u>Unit</u>	<u>SAFPF</u>			<u>Total Beds</u>
	<u>Probation</u>	<u>Parole</u>	<u>IPTC</u>	
Estelle (Special Needs Male)	178	10		188
Glossbrenner	518	94		612
Halbert (Female)	358	67	187	612
Hackberry (Special Needs Female)	278	10		288
Jester (Special Needs Male)	323			323
Johnston	612			612
Kyle		170	350	520
Walker Sayle	632			632
Total Beds	2899	351	537	3787

TDCJ Sex Offender Treatment Program

As of July 31, 2006 there are 25,022 offenders incarcerated in TDCJ whose offense of record is a sex offense (the offense of record is the offense that incarcerates the offender for the longest period of time). However, that number jumps to 32,481 when you also include the number of offenders who have a past or current conviction of a sex offense, a conviction for a non-sex offense that includes a sexual element or admitted that while in the commission of the offense there was intent to commit a sex offense.¹³ Many of these offenders are released back into society.

Releases of offenders whose offense of record was a sex offense:

- Fiscal Year 2003 2,373 (1,253 were discharges)
- Fiscal Year 2004 2,487 (1,466 were discharges)
- Fiscal Year 2005 2,744 (1,634 were discharges)

The state spends a large amount of money to treat sex offenders with the goal of reducing the likelihood that they will sexually abuse again. The FY 2006 budget for the current TDCJ Sex Offender Treatment program is \$2.1 million- it makes sense that lawmakers want to know if the treatment is in fact effective.

There have been considerable advances in our knowledge about the characteristics of effective sex offender treatment programs. Scientific research and program evaluation studies have begun to reveal the types of sex offender treatment and treatment settings that are associated with reduced sexual offense recidivism. Consider the following principles of sex offender treatment that have recently emerged in the scientific literature.

- A prison based sex offender treatment program by itself does not reduce sexual offense recidivism.¹⁴
- A prison based sex offender treatment program with time limited (1 year) community treatment does not reduce sexual offense recidivism.¹⁵

-
- Community based sex offender treatment by itself can reduce recidivism, if the right kinds of treatment techniques are used for the necessary length of time.¹⁶
 - Sex offender risk predicts the rate of recidivism: low risk offenders recidivate at a rate less than high risk offenders.¹⁷
 - Sex offender treatment based on plans that consider the sex offender's risk level, needs and learning style is the most effective.¹⁸

These principles of sex offender treatment have a direct impact on the current sex offender treatment legislation and practices in most states. The principles reveal that money spent on prison-based treatment of the sex offender inmate may not be the most effective use of state resources. That is not to say that all programming for sex offender inmates is without merit. Community based sex offender treatment has proven to be effective. Prison based sex offender programming can be effective if the focus is on post-release issues such as risk, community supervision and community treatment.

Risk-Need Programming and Assessment for Sex Offender Inmates

Sex offenders, like other criminals, are an extremely heterogeneous mixture and do not fit into a standard profile. They fall into numerous categories with varying levels of dangerousness: from the statutory offender, voyeur, exhibitionist, incest offender, pedophile, serial rapist and sexual sadist to the sexual murderers and sexually violent predators.

Individualizing the management of these offenders is paramount for public safety. Treating sex offenders with the goal of reducing sexual reoffense rates is difficult. It comes as no surprise that sex offender treatment in a prison setting tends to be ineffective and there is only modest support for sex offender treatment in a community setting. At this time, it appears prudent to reduce or eliminate sex offender treatment in the prison setting and bolster resources for sex offender treatment in the community. Community based sex offender treatment by itself can reduce recidivism if the right kinds of treatment techniques are used for the necessary length of time.

The scientific research regarding prison based sex offender treatment instructs us not to do sex offender treatment in prison. However, this same research does offer some direction for programming for sex offender inmates.

The existing research regarding sex offender inmates indicates that they recidivate according to their risk level, with or without treatment.¹⁹ Therefore, it makes sense to identify the risk levels of sex offender prison inmates and develop post-release plans to manage that risk. It is assumed that if risk is identified and appropriate community plans are developed, then it might be possible to manage prison inmates released to the community in such a way that the likelihood of reoffense is reduced.

The work of Andrews, Bonta, & Hoge (1990) has identified three key principles for planning rehabilitation interventions with offenders. These three principles are defined below.²⁰

- **Risk** – Risk is the likelihood of future reoffense. Effective rehabilitation programming is based upon the principle that the intensity of the rehabilitation intervention is matched to the risk of the offender. Higher risk offenders respond

better to more intense services whereas low risk offenders respond better to less intense services. In fact, the research shows that providing intensive interventions to low risk offenders actually increases the risk for reoffense.

- **Need** – There are two types of needs: criminogenic and non-criminogenic. A criminogenic need is a factor that is known to lead directly to crime. Examples include thinking errors, substance abuse and employment problems. A non-criminogenic need is a factor that might have an indirect bearing on crime (e.g. personal distress). Effective treatment is aimed at eliminating criminogenic needs and teaching the offender how to cope with non-criminogenic needs.
- **Responsivity** – Responsivity refers to the offender’s learning style including the teaching technique or treatment approach that is most effective for the client. This principle mandates that the method of rehabilitation is matched to the offender’s learning style. For example, if an offender is mentally retarded and cannot read, the program for that offender should not require reading or written assignments.

Instead of providing sex offender treatment to prison inmates, a more effective approach would be to conduct assessments on sex offender inmates for the purpose of identifying risk and need. There are primarily three risk areas that should be addressed: risk for sexual reoffense, risk for violent offenses, and risk for lifestyle criminality. There are two needs that should be assessed: Criminogenic needs and non-criminogenic needs. This information could then be used to develop post-release community plans to manage the risk and need of the prison inmate sex offender.

In order to complete a risk-needs assessment, a skilled sex offender treatment provider can conduct a review of an inmate’s records and interview the inmate. Based upon information gathered through interview and records review, the sex offender treatment provider can develop a plan for community supervision and community sex offender treatment.

Post-Release Plans for Community Supervision and Community Treatment

A post-release plan for an inmate sex offender is a summary of findings and recommendations for community supervision and community treatment. The relevant findings that should be summarized should include information about risk and need. This information should be used to make recommendations regarding community supervision and community treatment.

The following is an outline of the information that should be included in a post-release plan for community supervision and community treatment for the sex offender parolee:

1. **Risk for Reoffense** – Three risk areas are assessed: sex, violence and criminal lifestyle. The risk ratings of these three risk ratings are combined to identify an inmate’s overall risk.

	High Risk	Medium Risk	Low Risk
Sexual Reoffense			
Violent Reoffense			
Criminal Lifestyle			

2. **Needs Assessment** – Two types of needs were assessed: criminogenic and non-criminogenic. The findings of the needs assessment should be summarized: education/employment, family/marital, accommodations, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitudes.

3. **Recommendations for Sex Offender Treatment** – Inmates released to the community should be placed in one of three treatment tracks:

1. **Low Risk** – Low risk offenders should be required to participate in one year of post-release treatment. Offenders would be mandated to participate in one (90 minute) cognitive behavioral group weekly and one (60 minute) cognitive behavioral individual session per week for the first year of release. This is a decrease from current standards.

2. **Medium Risk** – Medium risk offenders should be required to participate in routine sex offender treatment, which lasts up to three years. This offender would be mandated to one (90 minute) cognitive-behavioral group weekly and one (60 minute) individual session per month for three years. The offender would also be mandated to one maintenance polygraph per year and one penile plethysmograph (PPG). The VRT (Visual Reaction Time) may be used if the offender is not applicable for the PPG due to medical reasons or gender.

- Regarding cost, the offender would pay for treatment.

3. **High Risk** – High risk offenders should be required to participate in treatment for the entire time they are on supervision. Offenders would be mandated to two (90 minute) cognitive-behavioral groups per week and two (60 minute) individual sessions per month for their entire supervision. High-risk offenders would be mandated to PPGs twice per year and polygraphs (Instant Offense, Monitoring, and Annual Maintenance). The VRT may be used if the offender is not applicable for the PPG due to medical reasons or gender. This is an increase from current standards.

- Regarding Cost, the offender would pay for the cost of treatment. Treatment is \$20-30 per group and individual sessions are \$25-60.

4. **Recommendations for Treatment other than Sex Offender Treatment** – Based upon two risk assessment instruments, the Level of Service Inventory-Revised (LSI-R) and the Sex Offender Need Assessment Rating (SONAR), if an inmate is determined to have a need, then that inmate should be referred for treatment to address that need, e.g., substance abuse treatment, psychiatric treatment, etc.

5. **Recommendations for Supervision**

1. **Low Risk** – The low risk offender should have minimal reporting requirements. Offenders would have one regular caseload visit per month under community supervision. The current parole requirements for low risk offenders is two face-to-face contacts per month. Therefore this recommendation is a decrease in supervision for the low risk offenders.
2. **Medium Risk** – Medium risk offenders should be required to adhere to the standard supervision schedule for sex offenders. This includes three face-to-face contacts and no form of electronic or GPS monitoring. This standard remains the same as the current standard.
3. **High Risk** – High risk offenders should be required adhere to intensive supervision standards, including GPS monitoring. Offenders would be mandated to the highest level of supervision (four face-to-face contacts and one surveillance contact). High risk offenders would also be monitored by active global positioning satellite (GPS) tracking. This is an increase from current standards.
 - Regarding cost, the State’s cost would be \$14.05 per day per offender.

Cost of Risk-Need Programming and Assessment for Sex Offender Inmates

A sex offender treatment provider should be used to conduct assessments and develop post-release plans. It is possible that many of the current employees who provide sex offender treatment at TDCJ may be able to conduct assessments rather than be terminated if this new assessment program was implemented.

It is likely that a sex offender treatment provider could complete five assessments per week. Assuming that a treatment provider works approximately 47 weeks in a year, one treatment provider can provide services to 235 inmates in a year. Current estimates of sex offenders released each year by the Texas Department of Criminal Justice – Institutional Division is roughly 2,750. It would take 12 full-time sex offender treatment providers to conduct 2,750 risk-need assessments in a year. Of course, there would need to be administrative oversight and clerical support.

	Number	Salary	Cost
Administrator	1	50,000.00	50,000.00
Clerical Support	4	14,000.00	56,000.00
Sex Offender Treatment Providers	12	45,000.00	540,000.00
		Total Salary	\$646,000.00

The cost estimates above could be reduced. It is possible that an existing administrator could oversee the program, so only a portion of that administrator’s salary would be allocated to the program. Additionally, the salary for sex offender treatment providers is based upon the assumption that these staff are licensed sex offender treatment providers. TDCJ-ID has a history of using non-licensed persons and if non-licensed persons are used, then it might be possible to reduce the salaries of these employees. Finally, the estimate of one assessment per day, or five per work week, is very conservative. It is possible that sex offender treatment providers can actually conduct more assessments than one per day. However, since the assessment is based on records review (sometimes records are difficult to obtain) and inmate interview (sometimes inmates are obstinate or on lock

down), the conservative estimate of one assessment per day was used.

Strategic Relationships With Private Vendors

Over the course of the Interim, the Committee has heard testimony from many private vendors with invested interests in the future development of TDCJ policies and procedures. The Committee does not intend to support one vendor over the other, but simply aims to provide a summary of possible ventures that TDCJ should look into further. TDCJ should consider forming strategic alliances with private sector partners to help identify areas for improvement and develop more efficient methods of operation.

Commissaries- Sole Source Contracting

As a matter of agency policy and due to concerns for fairness and the avoidance of inappropriate procurement practices, the method of using “sole source” or a proprietary product is discouraged by the Texas Building and Procurement Commission and is rarely utilized by TDCJ. If an Agency determines that only one product will meet their needs, they are required to send the Texas Building and Procurement Commission (TBPC) a Proprietary Purchase Justification Letter as described in Government Code 2155.067. The TBPC defines “proprietary” as products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services. An example would be a particular brand name product.

The inability of the agency to introduce new concepts and products into the commissary could be an obstacle to increased security, substantial revenue growth in their commissary operations as well as increased inmate satisfaction.

For example, there is a company that provides commissary items in many of the nations’ prisons that invests millions of dollars each year in new product development. Many of these products are proprietary in nature because they have innovative, unique packaging with a focus on security due to their consumption taking place exclusively in a correctional facility. The current procurement environment prohibits this company from introducing these items that are proven to be popular throughout the correctional industry.

If a mechanism or policy was established to allow TDCJ to periodically utilize proprietary products based upon certain criteria, it is possible that they could see substantial benefits.

Some examples where TDCJ would benefit are:

- *Commissary products that are specifically designed for the correctional environment.* These products are manufactured with safety, security and convenience in mind. Some examples are clear plastic containers and clear electronics that prohibit the storage of contraband and pouches as opposed to canned goods for many items, which eliminates the use of can openers and reduces the ability to make weapons. If procurement of these products would enhance TDCJ security in a way that other products can not, one

would assume that these items should be considered in the procurement process along with an emphasis on cost.

- *Products that are beneficial for Diabetic offenders.* With an increasing number of inmates suffering from Diabetes, this line of products would not only be a popular item, therefore improving sales, it could have an extremely positive impact on the cost of healthcare for those inmates requiring special diets.
- *Products that would increase commissary sales.* In other states, the sales of some exclusive products such as Ryan's Ranch, an exclusive Nolan Ryan line of meat snacks, a Troy Aikman signature shoe, City Cow Habanero and Jalapeno cheeses produce substantial revenue for their commissary. In addition, many Texas County Jails are currently providing these products.

Commissaries- Consistency and Fairness in Bid Process

The Committee has heard complaints that on several occasions attempts have been made by vendors to obtain information from TDCJ regarding the commissary bid process. Particularly, questions regarding how the agency arrives at their decisions regarding the choice of a particular product and the awarding of the bid.

As a result of these complaints, the Committee has worked with TDCJ to better understand the commissary process. Particularly, the Committee was interested in exploring how vendors are chosen and how decisions on products are made. Below is a summary of the concerns and answers that the Committee has explored:

- **How Vendors are Chosen**

Formal market studies are not performed by the commissary department. Product selection is based on suggestions from offenders, offender advocate groups and TDCJ employees. The Correctional Institutional Division reviews new items to ensure that safety and security issues are addressed.

In regards to selection of vendors, the Texas Building and Procurement Commission (TBPC) solicits and awards TDCJ commissary orders over \$25,000. TBPC sends the solicitation to all vendors that have registered on the Centralized Master Bidders List (CMBL), who have indicated that they can provide the type of goods needed. The solicitation is also posted on the Electronic State Business Daily (ESBD). The ESBD is an on-line web page listing procurement opportunities and is available to any vendor wishing to do business with the State of Texas.

- **How Decisions on Products are Made**

The decision for award is based on both price and taste. Food items are tested using a blind taste test administered by TDCJ Contracts and Procurement Staff. The taste test panel is comprised of staff from the Commissary Department and TDCJ Offenders. The test results are factored with the price to determine the vendor offering the best value to the State. The taste is weighted up to 40%. This process helps to ensure that the Commissaries are offering good tasting products, with affordable prices, to the Offenders.

During the interim, the Committee requested that TDCJ also consider nutritional value in the bidding process. TDCJ offered to run tests on products to see if weighing a 10% nutritional value would have an effect on the products chosen in the bidding process. TDCJ Commissary department demonstrated that adding a 10% nutritional value weight did not have a significant impact on which products were chosen.

Banking Practices- Prepaid Debit Cards

Most banks provide electronic solutions to help public sector organizations as well as state, county, and municipal government agencies reduce costs and improve efficiencies through electronic funds transfer. The most common type of electronic funds transfer is direct deposit to an existing bank account, such as direct deposit of payroll to employees or refunds to taxpayers.

For individuals who do not have bank accounts, funds may instead be deposited into prepaid debit cards established by a government agency. For example, JPMorgan Chase has used prepaid cards to disburse court witness fees, Earned Income Tax Credit, and help pay election judges. These are generally not bank accounts as they are funded by a one-time deposit.

Prepaid cards are also useful to pay individuals leaving state correctional institutions, as most released inmates do not have bank accounts. Correctional agencies currently issue large volumes of low value paper checks to inmates upon release from a correctional facility. Many state correctional customers for governmental banking services, including the Texas Department of Criminal Justice, have expressed the need to reduce the high cost of administering paper checks.

Prepaid debit cards offer other advantages to former inmates. In Texas, as in most other states, many released offenders have difficulties cashing checks issued by the correctional system. Some have to pay significant fees to cash their checks. Some are required to make purchases that they otherwise would not make, often paying higher costs for limited goods at the few retail stores that are willing to cash them. Some contend that liquor stores and bars are more likely to cash checks (often requiring purchases) than most other types of retailers.

Some examples where TDCJ would benefit are:

- *Rehabilitation.* Released inmates would be given the opportunity to participate in mainstream financial services used by most of the public, which would be consistent with the Department's rehabilitation objectives.
- *Efficiency.* Many public and private sector organizations have realized that electronic funds transfer is a far less costly and more efficient method of disbursing funds than issuing paper checks.
- *Incentives to Report.* The process of using financial incentives (the issuance of the second check) to encourage released offenders to report to a parole office would be improved if a deposit could be made to an existing prepaid card as opposed to issuing and distributing another check.

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- *Tracking.* If there was a need to track down a former offender due to a possible crime or parole question, TDCJ would have direct access to information on where that releasee had last been based on his or her last electronic transaction.

Texas Criminal Justice Coalition- Recommendations for the Sunset Advisory Commission

The following section of the report is not to be represented as the opinion of the Corrections Committee. The Texas Criminal Justice Coalition (TCJC) recently developed an anonymous on-line survey to measure Texans' perceptions of key aspects of the Texas Department of Criminal Justice (TDCJ). Over 4,000 Texans of various socioeconomic, racial, and generational backgrounds responded to the survey within a two week period. They answered questions relating to prisoner mail, prisoner visitation, prisoner family assistance, prisoner recreation, services for children of the incarcerated, the purpose of TDCJ, prevention of drug re-offense, public safety, education, criminal justice spending, criminal justice budgeting, re-entry, and hiring of former offenders.²¹

Below is an overview of the findings from this report that the Committee feels will be very valuable in developing future legislation regarding the practices and policies of TDCJ. The full report provides fascinating information that is valuable to citizens, lawmakers, and prison administrators. For a copy of the full report, please visit:

http://www.criminaljusticecoalition.org/solutions_for_incarceration/tdcj-sunset.

Summary of Findings:

- The primary purpose of TDCJ is reintegrating offenders into society through rehabilitation (35%), compared to punishment of a person through confinement (9%).
- Non-violent drug users should be put in programs outside of prison walls to prevent them from committing a drug-related crime again (96%).
- Dollars currently spent on incarcerating non-violent offenders should be redirected towards treatment, with the savings used in other ways, such as education and treatment (95%).
- Probation, parole, and treatment programs should be allocated more criminal justice budget dollars than they are currently getting (94%).
- TDCJ should provide counseling for children with incarcerated parent(s) to better prevent these youth from entering prison (87%), should provide children with incarcerated parent(s) access to tutoring programs to increase their educational success (75%), and should allow for additional parent-child contact through increased visitation time (51%).
- Texas should spend more money on increasing high school graduation rates in order to reduce the number of people entering prison (87%).

The following is a direct excerpt outlining the TCJC policy recommendations found in the Executive Summary of the report:²²

Based on these findings, the Texas Criminal Justice Coalition makes the following major recommendations to the Sunset Advisory Commission, the Texas Legislature, and organizations that focus their work on issues related to Texas' incarcerated population:

(1) Assess Evidence-Based Treatment Programs. Given the readiness of Texans to fund alternatives to incarceration, it is necessary to begin a comprehensive search, review, and analysis of proven treatment programs that yield the best results, in coordination with an analysis of how probation differs from drug rehabilitation.

- *Focus on Programs that Reduce Crime.* Evidence-based treatment programs are an effective means for reducing crime. According to a study by the state's Texas Criminal Justice Policy Council, offenders who receive appropriate treatment are four times less likely to return to prison than those who do not. Moreover, a study by the United States Department of Justice's National Corrections Institute found that "tough on crime" penalties actually result in a slight *increase* in an individual's inclination toward criminal activity. On the other hand, treatment and programs, such as cognitive skills training, result in a 15–29% decrease in an individual's criminal behavior.²³
- *View Probation and Drug Treatment Separately.* Oftentimes, an individual's addiction to drugs causes their criminal activity (such as theft), as they require funds to feed their addiction. This individual's problems can be addressed in two ways: (1) through drug treatment, or (2) through probation. Drug treatment will best get to the root of the criminal activity because it will address the physiological impact of the substance on the addict and help in putting an end to the need for criminal activity spurred by the addiction. Probation will help determine if the drug treatment program is truly working for that individual. For instance, if an offender on probation produces a urine analysis that tests positive for a particular drug, his/her probation officer will be able to verify that the offender's particular treatment program is not working. This should not be a cause for probation revocation (as committing another crime, like theft, would be). Not all treatment programs work for every type of addiction, and on average, an addict relapses three times before proper treatment. If an individual is punished with probation revocation for failure to stop his/her illness, s/he will ultimately reenter society with the continuing need to make poor and illegal life decisions. Judges should be given tools besides revocations to deal with probationers poor decisions that fall short of new crimes, and instead reserve prison space for those who are a real threat to public safety.
- *Invest in Programs that will Yield Real Returns.* Texas' community supervision resources are stretched to the limit. The stress created by overburdening probation officers with non-violent offenders can ultimately allow higher risk probationers to slip through the cracks. This is something that we cannot afford – from both a financial and a public safety perspective. Texas should change this ongoing practice by investing in programs (such as drug treatment programs, as mentioned above) that could pull as many as half of our probationers out of the criminal justice system and put them on the road to becoming productive citizens.

(2) Aid Families of the Incarcerated. Both TDCJ and the Texas Legislature should make

policy changes that recognize the importance of family in the rehabilitative and reentry process.

- *Assess Family Impact.* Quantitative and qualitative research on the impact of parental incarceration on children and on other members of the immediate family is needed. This research should address the effect of the geographic distance between the child and parent in prison, especially with regards to family visitation, when prisons are located in remote, rural locations.
- *Change TDCJ Policy.* TDCJ should review its regulations in regards to mail, phone calls, and visitation to ensure that they are family-friendly and do not have a negative impact on incarcerated parents' efforts to maintain family relationships and to retain custody of their children. TDCJ should also implement parent-child visiting programs that will allow parents to spend an extended amount of time with their child on site at the prison. Lastly, TDCJ should re-train corrections administrators to sensitize them to family issues.
- *Change State Policy.* Texas should provide mentoring programs for children of the incarcerated to boost their educational level and help prevent criminal activity and entry into the system, as well as provide support groups for caregivers of incarcerated children, and for the children and incarcerated parents themselves.

RECOMMENDATIONS

Availability and Expansion of Contract Facilities

- The Committee recommends that the legislature increase the maximum cap on the average daily inmate population at a contract facility. There is clearly a need for state owned and operated facilities, particularly for the medium and maximum-security level inmates. However, if the state must contract with private companies and county jails to alleviate overcrowding, why limit the number of private beds the state can contract with when the private beds cost less money and provide more treatment? Increasing the cap will allow the state to make use of available beds in existing facilities instead of sending all overflow of state prisoners to county facilities. This proposal eases the burden on counties, results in cost savings to the state, and provides inmates with more programs that will help them stay out of the criminal justice system once released.
- The Committee recommends that the overall cap be increased to match the needs represented in the most recent TDCJ Legislative Appropriations Request.

Substance Abuse Treatment Programs Within TDCJ

- The Committee expects to track the progress of the new residential treatment and sanctions beds allocated by Rider 73 (SB1, 79th Regular Session). These beds are coming online during the Summer of 2006 and the Committee will track their progress over the next six to twelve months. Adopted during the 79th Session, Rider 73 allocated \$13.6 million to use each year on additional residential treatment and sanctions beds. Preference was given to probation departments that had high rates of technical revocations and access to currently existing but unfunded beds. That money was used to fund 488 beds in 4 counties as well as provide for additional aftercare treatment in Harris

and Montgomery County.

- On August 18, 2006 the Texas Board of Criminal Justice (TBCJ) approved the TDCJ LAR which included a funding request for an additional 1,450 new treatment beds. The Committee fully supports this section of the LAR and will do everything it can to assist TDCJ with acquiring requested treatment beds as well as possible additional treatment beds that are not requested in the TDCJ LAR.

The Effectiveness of Sex Offender Treatment Programs

- The Committee recommends that prison based services should be used to identify risk and develop plans for managing the risk of a sex offender inmate released to the community. Research indicates this approach is more cost effective. In Fiscal Year 2005, there were 1,634 discharges of offenders whose offense of record was a sex offense. Of this number, only 162 completed the Sex Offender Treatment Program. With or without sex offender treatment, the sex offender inmate released to the community can pose a threat to the community.
- This recommendation assumes that all currently incarcerated sex offenders would be evaluated to determine risk level from some determined time forward. The recommendation also assumes that all sex offenders, not only those whose offense of record is a sex offense would be included in the assessment program. Currently there are 32,481 TDCJ offenders who have a past or current conviction of a sex offense, a conviction for a non-sex offense that includes a sexual element or admitted that while in the commission of the offense there was intent to commit a sex offense
- The Committee recommends that TDCJ work with the Council on Sex Offender Treatment Providers and other sex offender specialists to redesign the TDCJ Sex Offender Treatment Program to comply with the most recent and proven methods of treatment.

Strategic Relationships With Vendors

- The Committee recommends that the Texas Department of Criminal Justice pursue new methods and procedures made available by advances in technology and free-world business practices. TDCJ should focus on the following areas for improvement and development of a more efficient means of operation:
 - *Commissaries- Sole Source Contracting.* The Committee recommends that TDCJ consider allowing a sole source commissary provider to conduct a six-month pilot project in which the benefits of sole-source contracting could be measured. TDCJ could simply choose one or two units and allow the provider to run the commissary and introduce the products much like they do in states which have privatized their commissaries. Several states including Florida, Virginia, West Virginia, Rhode Island, North Dakota, Massachusetts and Idaho have taken this approach and are seeing substantial benefits. In the alternative, a sole-source commissary provider could provide TDCJ with a limited amount of a new product with a proven track record of sales in other states to test the product's viability in TDCJ. Also for consideration could be a sole source bulk operation. This provides the same benefits except the cost of commissary labor. Less deliveries, better security, standardized menu and just in time inventory which TDCJ does

not have to keep on hand.

- *Consistency and Fairness in Bid Process.* TDCJ should consider other criteria such as the quality and service record of the vendor. Additionally, a scientifically sound taste test should be in place, the quality of and if applicable the sales record of the product in the commissary, and whether or not the vendor is capable of providing superior service and product on time.
- *Prepaid Debit Cards.* The Committee recommends that TDCJ seriously explore the efficiency and cost saving opportunities associated with offering prepaid debit cards to inmates upon release.

The Committee recommends the Texas Department of Criminal Justice report back to the legislature on the progress of any ongoing efforts and progress in carrying out the Committees' recommendations since the publication of this report by January 26, 2007.

CHARGE 2: EXAMINE THE PROBATION SYSTEM AND REFORMS DEBATED DURING THE 79TH LEGISLATURE, INCLUDING USING STRATEGIES SUCH AS GRADUATED SANCTIONS AND SPECIALIZED COURTS FOR REDUCING REVOCATIONS AND RECIDIVISM. STUDY THE ORGANIZATION AND COST OF OUR PROBATION SYSTEM AND MAKE RECOMMENDATIONS ABOUT HOW TO PRIORITIZE AND STRENGTHEN GENERAL SUPERVISION.

BACKGROUND

Probation Reform

The primary probation reform measure debated during the 79th Legislative Session was House Bill 2193, which was authored by Representatives Madden, Sylvester Turner, Jim McReynolds, and Pat Haggerty. The Senate Sponsor was Chairman John Whitmire. Governor Rick Perry vetoed the measure after it passed through the House and Senate, and yet it appears that public concern over prison overcrowding and probation reform is as prevalent as ever.

Over the past three interims, The House Committee on Corrections and the Senate Criminal Justice Committee have looked into issues dealing with the state's probation system and submitted recommendations to each full committee. During the 79th Legislative Session Chairman Jerry Madden took these recommendations and formed work groups with judges, probation officers, prosecutors and advocacy groups to find a good common ground that accomplishes shared goals to strengthen the probation system and to increase public safety.

The Committee on Corrections also held several workgroups in the Spring and Summer of 2006 to discuss future work on the probation bill (HB 2193) and other probation related issues and strategies. Many interested parties attended these workgroups including several Community Supervision and Corrections Department (CSCD) Directors, judges, district attorneys, and advocacy groups.

Chairman Madden called these workgroups together with the intent of crafting a general consensus on individual issues within the reform measure. Although not all invested parties are willing to agree on everything, the committee staff was able to outline several general themes that were produced at the work groups:

- Overall there is a lot of support for more drug courts.
- Prosecutors are not willing to support lowering the current maximum term of probation from ten years to five years.
- All parties generally support the mandatory judicial review provision of HB 2193.
- One of the underlying problems with strengthening probation is that those involved must work harder to market its success because some judges do not have confidence in the probation system.
- The majority of CSCDs are reporting that probationers are responding well to graduated sanctions.
- There is concern that probation departments may lose money with probation reform because increasing early terminations will cut off a primary revenue source from the department. Restructuring the probation funding mechanisms may be needed to encourage early termination without reducing CSCD resources.

Maximum Probation Terms

HB 2193 shortened the maximum length of probation for 3rd degree felony offenses from ten years to five years, but allowed a judge to extend the time up to the full ten years that probation

currently can last. It did not attempt to change the maximum probation terms for sex offenses, 3g offenses, first degree offenses, second degree offenses, or state jail felonies.

In his veto proclamation, Governor Perry stated that he "would not sign legislation that reduces penalties for offenses against law enforcement officers". He cited that the bill would shorten the probation for those who are convicted of assault on a peace officer and taking a weapon away from a peace officer. Clearly there are different degrees of assault and a defendant who seriously assaults a peace officer likely would not receive probation. Nonetheless, in an effort to involve all interested parties and work for the best interest of our communities, the Committee recommends that under the future probation bill, the maximum period of probation for these two offenses should remain ten years, as they are under current law.

The Governor was also concerned about reducing the maximum period of probation for offenses such as kidnapping, injury to a child, repeated spousal abuse, intoxication assault and habitual felony drunk driving because offenders endanger the lives of others in such crimes. The Committee recommends that any revised draft of the probation bill should exclude intoxication assault and habitual felony drunk driving from the list of third degree felony offenses that would have a shortened probation term. Under the revised bill, the maximum period of probation for these two offenses should remain ten years, as they are under current law.

After thoughtful investigation in to the nature of the other three offenses, the Committee has decided to leave in kidnapping, injury to a child, and repeated spousal abuse. Some may disagree that these specific offenses, punishable as third degree felonies, endanger the lives of others or endanger public safety. None of these offenses involve serious bodily injury. For example, for a kidnapping to be punishable as a third degree felony, the actor must be a relative of the person abducted, not show intent to use or threaten to use deadly force, and the actor's sole intent must be to assume lawful control of the victim (i.e., parental dispute over a child).

Technical changes regarding which offenses should be eligible for a reduced maximum probation term should be carefully considered in public testimony and agreed on by a majority of the Committee.

Current Probation Lengths

The following charts provide a snapshot of current probation lengths.²⁴ It is important that policy makers are able to gather information on the specific populations that are effected by possible policy changes.

Table 1: Probation Length of Offenders Placed on Probation FY 2005

Probation Length	Number	Percent
2 -5 years	42,962	76.1
More than 5 years	13,480	23.9
Total	56,442	100

Table 2 : Probation Length (in Years) of Offenders Placed on Probation FY 2005

Probation Length in Years	Number	Percent
2	7,650	13.55
3	11,036	19.55
4	7,212	12.78
5	17,064	30.23
6	2,139	3.79
7	2,013	3.57
8	2,027	3.59
9	83	0.15
10	7,218	12.79
Total	56,442	100

Table 3 : Probation Length in Years of Offenders Placed on Probation FY 2005 by Offense Type

Offense Type	Avg. Probation Length	Number
Homicide	7.57	133
Kidnap	7	70
Sexual Assault	8.19	904
Robbery	7	1180
Assault	5.58	5837
Burglary	5.64	4669
Larceny	4.34	4379
Stolen Vehicle	3.66	1204
Forgery	3.72	2851
Other Property	3.94	2882
Controlled Substance	4.65	21647
Sex Offenses	7.06	917
DWI	5.91	4753
Other Offenses	4.38	5015
Total	4.94	56442

Table 4: Percent of Offenders Placed on Probation FY 2005 with Probation Length 2-5 Years and Over 5 Years by Offense Type

Offense Type	Percent Probation Length 2- 5 years	Percent Probation Length 5+
Homicide	36.84	63.16
Kidnap	41.67	58.33
Sexual Assault	20.9	79.1
Robbery	39.76	60.24
Assault	64.09	35.91
Burglary	65.63	34.37
Larceny	90.35	9.65
Stolen Vehicle	98.84	1.16
Forgery	97.58	2.42
Other Property	94.62	5.38
Controlled Substance	79.7	20.3
Sex Offenses	39.57	60.43
DWI	60.25	39.75
Other Offenses	85.45	14.55
Total	76.12	23.88

Mandatory Judicial Review

The probation reform bill required judges to review cases upon completion of one-half of a probationer's term so long as the probationer had fulfilled all the requirements of the probation. Most parties fully supported the mandatory judicial review component of the probation bill. The Committee feels that this addition to the probation system provides for greater judicial involvement and discretion.

One issue that the Corrections Committee will revisit in the 80th Legislative Session is how to properly handle the prospect of early termination and mandatory review for an offender who has not repaid all restitution owed, but would otherwise be eligible for early termination. Section 8 of HB 2193 added that a judge may not refuse to terminate a period of community supervision solely on the grounds that the defendant is indigent and unable to pay restitution, fines, costs, or fees. Understandably, many victims would feel that it is not fair to let someone off of probation if they have not paid restitution. Additionally, a main component of being on probation is holding down a job, so there is little excuse for why a defendant would not be able to pay probation fees.

One suggestion that the Committee would like to explore in more detail is the idea of handling restitution similarly to the way the state handles child support with the option to garnish wages. This idea would likely gain the support of victims and businesses and it would assist probationers with early discharges. There was ample support for this idea from those attending the Spring and

Summer work sessions, but implementing this idea may require an amendment to the Texas Constitution.

Early Termination for State Jail Felony

Current law does not allow a person convicted of a state jail felony offense and placed on “regular” community supervision to be eligible for consideration for early termination even though persons convicted of more serious offenses (first, second and third degree felons) are eligible for early termination. Allowance of early termination for this category of low level offenders might reduce the number of offenders subsequently incarcerated in a state jail facility.

Amending Article 42.12, Section 20, Subsection (b) by deleting the language "or a defendant convicted of an offense punishable as a state jail felony" would allow, but not require, a judge to grant early termination to a defendant placed on “regular” community supervision for a state jail felony offense under the same circumstances under which a judge could grant early termination for a person placed on “regular” community supervision for a first, second, or third degree felony.

On July 14, 2006 the Judicial Advisory Council officially endorsed this proposal as a legislative recommendation. HB 2193 also addressed this issue in the 79th Session. In Article 42.12 Section 20 (b) the phrase "state jail felons" was deleted and "3g offenders" was added to the list of those that are not eligible for early termination. This legislation passed both the House and the Senate and did not contribute the Governor's decision to veto the bill.

Sentencing for Subsequent Offenses

Current law provides that if a person serving a sentencing in the institutional division, is convicted of a new offense while confined in a facility operated by or for the institutional division, the sentencing court must order that the defendant begin serving his/her second sentence after the completion of the first sentence. However, current law does not mandate that conviction for an offense committed at a state jail felony facility be automatically stacked onto the sentence for which the person had been ordered while confined in the state jail felony facility.

The following proposed change would provide that for all offenses committed in a facility operated by or on behalf of the correctional institution division of the Texas Department of Criminal Justice, upon convicted that sentence would be automatically stacked:

Code of Criminal Procedure, Article 42.08, Section (a), is amended to read as follows:

(a) If a defendant is sentenced for an offense committed while the defendant was confined [~~an inmate~~] in the institutional division or state jail division of the Texas Department of Criminal Justice and the defendant has not completed the sentence he was serving at the time of the offense, the judge shall order the sentence for the subsequent offense to commence immediately on completion of the sentence for the original offense.

Presentence Investigation Reports

Over the years probation departments have been under the impression that, except under certain

limited circumstances, they must prepare presentence investigation (PSI) reports in all felony cases. Thus CSCDs have been preparing PSI reports even when a sentencing court does not utilize them. With tightening resources, there has been a cost associated with devoting staff time to preparing an instrument that may not be used by the sentencing court.

In *Griffith v. State*, 135 S. W. 3d 337 (Tex. Cr. App. – 2005) the Texas Court of Criminal Appeals ruled that the preparation of a PSI in a felony case is now a waivable right. The Judicial Advisory Council has recommended that in situations in which a defendant is placed on community supervision pursuant to a plea bargain agreement, the trial judge be allowed to dispense with the preparation of a PSI report.

An alternative would be to develop a centralized diagnosis program with a PSI center which may lead to more consistency with probation departments. The PSI center could match type with risk and provide a supervision strategy. The Committee would be interested in further examination of the idea of having a centralized PSI in a diagnosis center so that CSCDs will have an accurate idea of the type of probationer they are dealing with.

Model List of Progressive, Intermediate Interventions

Since 1989 the law has provided that a trial judge can give a community supervision officer the authority to modify the conditions of community supervision for the limited purpose of transferring the defendant to different programs within the community supervision continuum of programs and sanctions. Nevertheless this provision has also specified that if a probationer objects to being transferred to a different program, then the trial judge must consider the matter.

Additionally, under this current provision a judge still has to consider the matter if a probationer disagrees with the decision of the community supervision officer to transfer the probationer to a different program. Therefore, this provision has been seldom utilized in local jurisdictions.

It may be appropriate to allow, but not require, the judges in a jurisdiction to adopt a range of intermediate sanctions and then authorize a community supervision officer to impose one of the approved sanctions without the trial judge having to consider the matter. This would be so even if the defendant objected to the imposition of the intermediate sanction recommended by the officer. This change would greatly reduce the time between which a probationer violated a technical condition of community supervision and received an intermediate sanction. This change would improve the delivery of intermediate sanctions, increase compliance with the conditions of community supervision, and reduce the time that courts have to expend in amending conditions of community supervision.

Effect of Diversion Funding

The 79th Texas Legislature allocated approximately \$27.7 million per year in new diversion program (DP) funds to the Texas Department of Criminal Justice-Community Justice Assistance Division (TDCJ-CJAD) for Strategy A.1.2. Diversion Programs. These funds are intended to strengthen community supervision by reducing caseloads so that officers can focus on serious offenders, enticing CSCDs to utilize progressive sanctions models, and providing more community supervision options through the funding of residential treatment and aftercare.

The Appropriations Riders from SB 1, 79th Regular Session direct CJAD to target the new diversion program funds (approximately \$27.7 million per year) for specific purposes:

Approximately \$14 million is being used to reduce caseloads consisting of medium and high risk offenders. Legislative intent was to provide offenders with needed supervision and services so that their opportunity to complete probation is improved and the result is a reduction in revocations to prison or state jail. In allocating the use of these new funds, CJAD is directed by the appropriation riders to give preference to probation departments using a progressive sanctions model.

The rest of the appropriation is being used for additional residential treatment and sanction beds. In the distribution of these funds, CJAD must give preference to probation departments that have access to unfunded residential treatment and sanction beds and higher rates of technical revocations. Legislative intent was to maximize the positive effect of these funds on the criminal justice system.

Measuring Success:

- Both CJAD and the Legislative Budget Board are carefully tracking the effect of this funding. On December 1, 2005, CJAD published their *Report to the Governor and the Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds*.²⁵
- CJAD is currently tracking evaluation criteria in this report quarterly and is providing this information to the CSCDs, Judges, Prosecutors, and general public via the following website: <http://cjadweb.tdcj.state.tx.us/Research/EvaluationCriteria/evalcriteriamenu.aspx>
- Last fall, the Criminal Justice Data Analysis (CJDA) Team began the Community Corrections Revocation Project. The first phase of the project involved capturing individual information on all felony offenders revoked from community supervision during September 2005 from the five largest Community Supervision and Corrections Departments (CSCDs). Those are Bexar, Dallas, Harris, Tarrant and Travis counties. The purpose was to establish a baseline profile of revoked felons prior to the implementation of additional community corrections funding from the 79th Legislative Session, and then study the post-funding impacts one year later and periodically thereafter. A report that summarizes the baseline profiles of the project will be released during September 2006.
- The Legislative Budget Board is examining the impact of the probation funds allocated during the 79th Session and they will have new projections based on the impact of those funds by January 2007.

In the first quarter of FY 2006, felony revocations to TDCJ declined by 11.69% when compared to the first quarter of FY 2005. This translated into 737 fewer revocations to TDCJ in the first quarter of FY 2006 when compared to FY 2005. While the total reduction in revocations to TDCJ has continued to decline, the rate of decline has slowed. By the third quarter of FY 2006, there were a total of 887 fewer revocations to TDCJ in the first nine months of FY 2006 when compared to the

first nine months of FY 2005. This represents a reduction of 4.94% in revocations when comparing FY 2006 to FY 2005.

Funded departments have continued to demonstrate targeted levels of revocation reduction. Departments not funded or declining funding have primarily accounted for the slowing of the reduction in revocations. For instance, funded departments have accounted for 1,037 fewer revocations in FY 2006 compared to FY 2005. This reduction has been offset by an increase of 221 revocations in departments declining funding, during the same comparison period. When comparing funded departments to non-funded departments and departments declining funding:

- Revocations declined by 8.47% in funded departments
- Revocations declined by 1.90% in non-funded departments
- Revocations increased by 11.14% in departments declining funding

The initial decline in revocations was achieved primarily through the institution of local progressive sanctions systems required of departments receiving new funding. The impact of caseload reduction funding and residential treatment beds are processes that represent long-term improvements in the system, as officers are employed and trained and new treatment beds become available. The impact of this funding may take longer to demonstrate results than the first nine months of this 24 month long project.

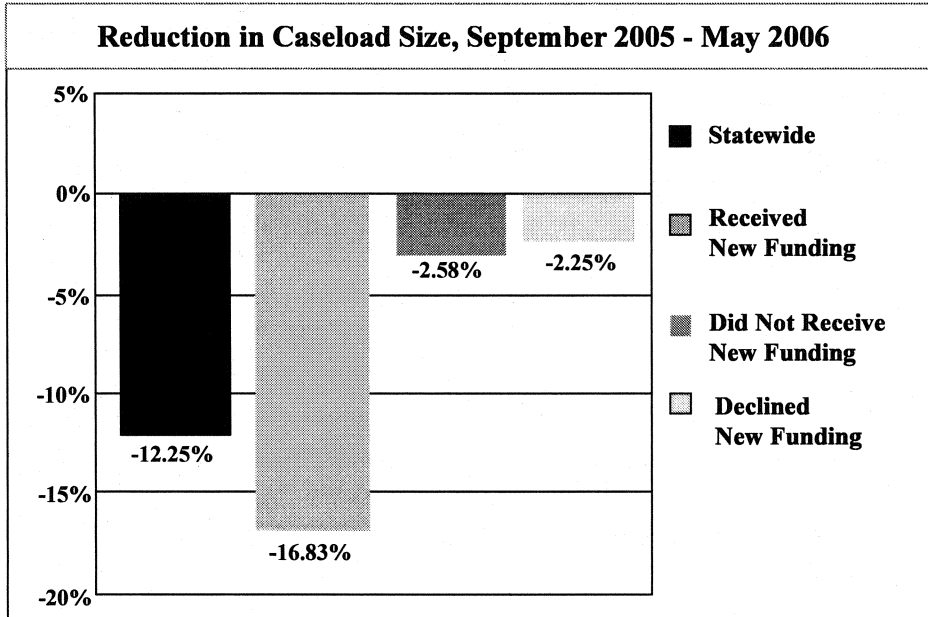
Progressive sanctions can quickly demonstrate revocation reduction results as offenders who previously would have been revoked to prison upon initial violation are systematically sanctioned in a methodology designed to reduce supervision violations without revocation. This methodology has resulted in preventing revocations of some offenders, but may also only delay revocations for those offenders who persistently violate supervision conditions. As departments exhaust the sanctions they can use with persistent violators, departments may have no alternative but revocation and the impact of this process has resulted in slowing the rate of revocation reduction over time.

As detailed in the graphs below, funded departments have exceeded non-funded departments and departments declining funding on the most significant evaluation criteria associated with the new diversion funding:

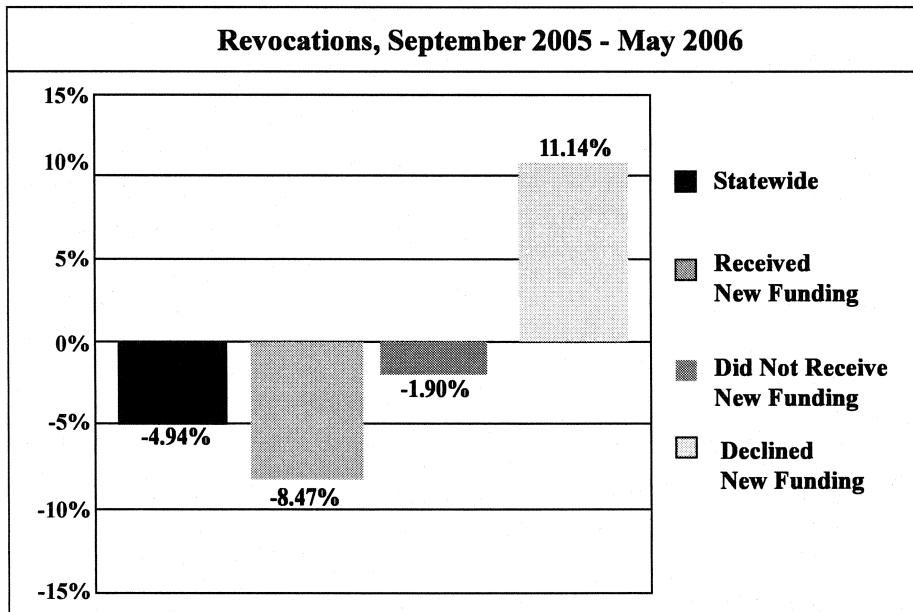
- Funded departments have the highest reductions in caseload size
- Funded departments have the highest reductions in felony revocations
- Funded departments have the highest reductions in technical revocations
- Funded departments have the highest increases in early discharges

Expanding this initiative to non-funded departments may result in additional benefits in reducing revocations. As additional residential treatment beds become available and new officers become more proficient in supervision, revocations may decrease at a greater rate than the third quarter results.

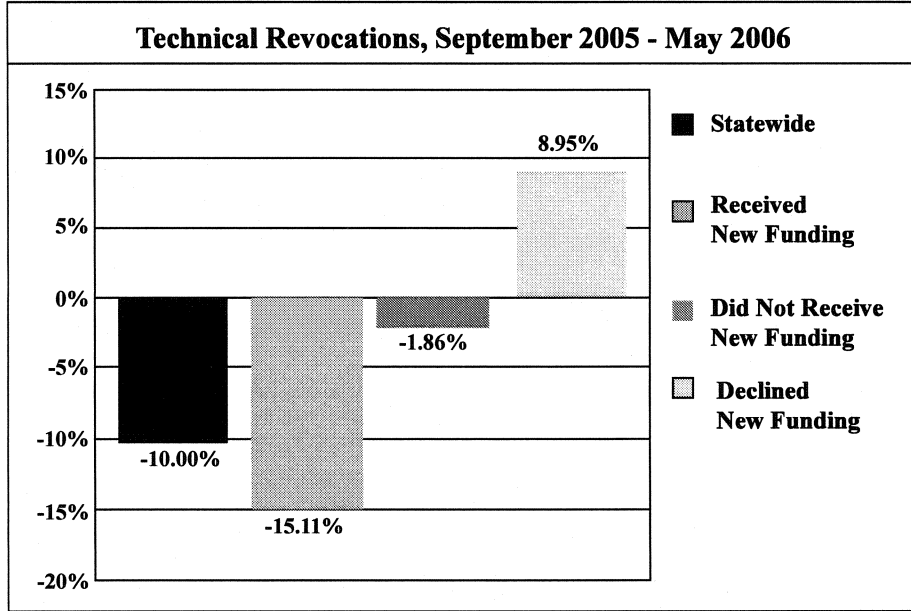
Impact of New Diversion Program Funding



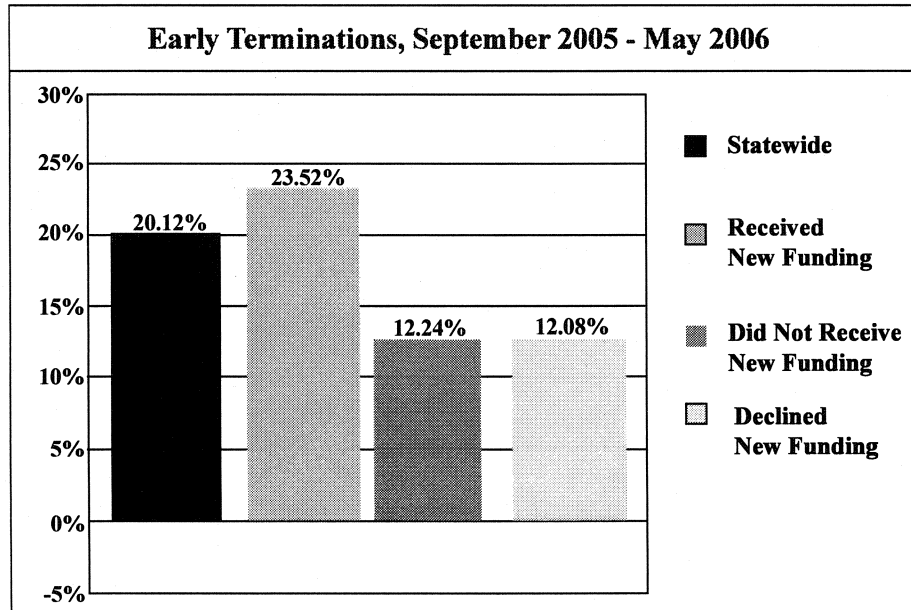
Impact of New Diversion Program Funding



Impact of New Diversion Program Funding



Impact of New Diversion Program Funding



Funding Mechanisms

The Committee is currently working with TDCJ- Community Justice Assistance Division, the Texas Probation Association, the Texas Public Policy Foundation, and the ACLU to create an alternative probation funding mechanism in order to frontload the formulas to encourage more intensive programming early in the probation terms. It is common knowledge that the state gets the "biggest bang for the buck" early in probation terms when offenders are new to the programs and rules, and are more eager to do a good job. Studies show that if a probationer is going to re-offend, they will do it within the first two years. It is in this time period that more resources are needed to supervise the offenders and offer programming options.

Additionally, the current method of per capita funding and reliance on supervision fees are disincentives to grant early dismissals and shorter probation terms. The current method encourages probation officers to keep offenders on probation longer than they need to be because they are putting money into the system.

There are a variety of complications in changing the various formulas for funding probation services in Texas. CSCDs receive the bulk of state funding from three appropriated line-items: 1) basic supervision, 2) community corrections programs (CCP); and 3) discretionary programs (DP). The first two line-items are formula driven and the last is grant funded. However because of the difference between the two formulas and the demographics of each county, a change in one of the line items can have a profound effect, either positive or negative, on an individual CSCD.

*Lessons Learned from Texas Probation Association*²⁶

In 2000, the Texas Probation Association examined the feasibility of combining the basic supervision and community corrections programs into a single line item. They also considered the creation of a separate line item for residential programs with most of the remaining funds under the DP line item then either being combined with the basic supervision and CCP line item or left in a separate grant funding line-item. This proposal had the advantage of simplifying the budget and audit process.

Instead of a CSCD having to prepare multiple budgets and CJAD having to review these different budgets, only one budget (or two if a residential facility were involved) would have to be prepared and reviewed. Instead of CSCDs having to observe different financial guidelines for various budgets, only one financial guideline would have to be followed. Additionally, instead of having to have different audits for these various budgets, only one budget would have to be audited.

The idea behind creating a separate line-item for residential facilities was to ensure a stable and hopefully realistic source for funding community corrections facilities (CCFs). However, the Texas Probation Association reports that what seemed like a fairly simple proposal turned out to be far more complicated and treacherous.

Basic supervision funds both the felony and misdemeanor cases being directly supervised by a CSCD. However, a rider in the appropriations bill specifies that the Texas Department of Criminal Justice shall distribute funds at a rate not to exceed \$.70 per day for each misdemeanor

defendant directly supervised by a CSCD and for a period not to exceed the period of time authorized by statute. Thus the total number of misdemeanor cases eligible to receive this funding is first calculated and these cases are initially funded out of the basic supervision line-item. Then whatever funds remain in this line item are used to fund felony probation cases. Thus the more placements that are made for misdemeanor probation cases in the State means that there will be less funding available for felony probation cases in the State and vice versa. Moreover, depending on the demographics of individual counties, some CSCDs may have a disproportionate number of either felony probation cases or misdemeanor cases.

The CCP line-item essentially funds the same probation services and operations that basic supervision funds do. Many departments use basic supervision funds to support CCF's; in addition to CCP Funds, Basic Supervision funds are used to supplement many of the DP programs, including residential. However, while most CCFs are funded through the DP line-item some CSCDs have elected to have portions of their CCP funding used to operate CCFs. Nevertheless the formula for CCP weighs the population of a county equally with the number of felony cases a CSCD is directly supervising. Fortunately, (or unfortunately) not all counties are similar in ratio to their population and the number of felony offenders on probation. This is especially true for bedroom or suburban counties. For example Fort Bend County, with a population of roughly 350,000 people has the same number of felony probationers as Brazos County, with a population of roughly 120,000. Nevertheless because the overall population of the county comprises half of the formula for CCP funding, Fort Bend County gets considerably more funds than Brazos County.

Thus if the CCP line item and the basic supervision line item were to be consolidated, certain CSCDs would suffer a financial loss. In addition, suburban counties generally have a disproportionate number of more misdemeanor cases than other counties. In trying to consolidate the basic supervision and CCP line items, the Texas Probation Association found that they could only do so without adversely affecting the funding of certain CSCDs if there was a considerable infusion of funding for misdemeanor cases. The funding of misdemeanor cases would compensate for the loss of CCP funding that certain CSCDs would suffer.

The attempt to create a separate line-item for residential facilities was equally problematic. Because certain CSCDs were funding their CCFs with CCP funds, then even if the total portion of the CCP funds allocated for residential facilities was placed in a newly created residential programs line-item, without making a further adjustment in the CCP line-item then those CSCDs whose residential funding was transferred to the residential line-item would actually receive a windfall through the re-calculated CCP formula.

Future Developments

It is clear that reforming the probation funding mechanisms is very complicated and may have enormous implications for the field. TDCJ-Community Justice Assistance Division has developed a Funding Advisory Committee to start addressing this and other funding concerns facing the field of community supervision. Chairman Jerry Madden has also directed the ACLU and Texas Public Policy Foundation to work together on ideas for other funding mechanisms. The intent of HB 2193 was to divert resources from low-risk "model" probationers who are doing

everything the state asks of them and focus resources on three things: high risk offenders, drug courts, and treatment. The Committee believes that changing the probation formula will compliment this plan.

RECOMMENDATIONS

Texas needs a strong probation system with innovative programs and smaller caseloads so that the state can lower the revocation rate and gain judicial confidence in community supervision. The Committee recommends the drafting of a new probation reform bill similar in nature to HB 2193 of the 79th Legislative Session with consideration given to the following changes that may or may not be appropriate to fit in one bill:

Probation Terms

- The Committee recommends that future changes to the probation bill regarding decreasing the maximum term of probation for some third degree felony offenses should be carefully analyzed by all interested parties including the Governor's office. Special attention should be given to the nature of third degree felonies involving assault on a peace officer, kidnapping, injury to a child, and repeated spousal abuse.
- The Committee recommends that any revised draft of the probation bill should exclude intoxication assault and habitual felony drunk driving from the list of third degree felony offenses that would have a shortened probation term. Under the revised bill, the maximum period of probation for these two offenses should remain ten years, as they are under current law.

Mandatory Judicial Review

- The Committee recommends further consideration and debate be given to the idea of handling restitution similarly to the way the state handles child support with the option to garnish wages. This idea should be debated publicly in an open hearing before the Committee takes any further action on this recommendation.

Early Termination for State Jail Felony

- The Committee recommends amending Article 42.12, Section 20, Subsection (b) by deleting the language "or a defendant convicted of an offense punishable as a state jail felony". This would allow, but not require, a judge to grant early termination to a defendant placed on "regular" community supervision for a state jail felony offense under the same circumstances under which a judge could grant early termination for a person placed on "regular" community supervision for a first, second, or third degree felony.

Sentencing for Subsequent Offenses

- The Committee recommends amending Code of Criminal Procedure Article 42.08, Section (a) to provide that for all offenses committed in a facility operated by or on behalf of the correctional institution division of the Texas Department of Criminal Justice, upon convicted that sentence would be automatically stacked.

Presentence Investigation Reports

- The Committee recommends that further consideration is given to the most efficient and effective use of presentence investigation reports. Discussion of this subject may be well suited for a working group in the near future. If it is determined that a centralized PSI center is not feasible, then it makes fiscal sense that in situations in which a defendant is placed on community supervision pursuant to a plea bargain agreement, the trial judge be allowed to dispense with the preparation of a PSI report.

Model List of Progressive, Intermediate Interventions

- The Committee recommends allowing judges in a jurisdiction to adopt a range of intermediate sanctions and then authorize a community supervision officer to impose one of the approved sanctions without the trial judge having to consider the matter. This would be so even if the defendant objected to the imposition of the intermediate sanction recommended by the officer.

Funding Mechanisms

- The Committee strongly recommends that the CJAD Funding Advisory Committee, TPPF, ACLU, and Texas Probation Association carefully analyze any possible changes to the line-items to probation funding with specific attention to the possible fiscal impacts these changes would have on all CSCDs. Any recommended changes should have the approval of both CJAD and The Texas Probation Association. The Committee looks forward to hearing testimony on possible alternative funding mechanisms in the upcoming legislative session.

CHARGE 3: EVALUATE THE CORRECTIONAL HEALTHCARE SYSTEMS IN OTHER STATES AS THEY COMPARE TO THE TEXAS HEALTHCARE SYSTEM, WITH A FOCUS ON GREATER ACCOUNTABILITY AND COMPETITION AMONG PROVIDERS.

SUBCOMMITTEE ON HEALTHCARE AND SPECIAL POPULATIONS

BACKGROUND

Correctional Managed Healthcare

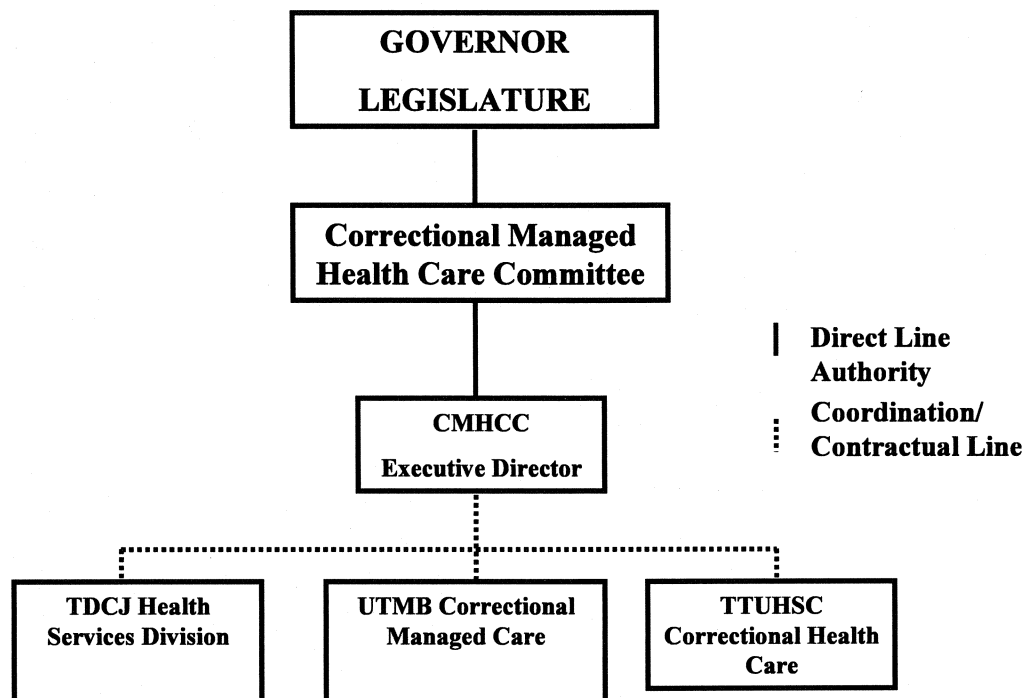
The only people guaranteed healthcare by law are prisoners. People currently in prison do not receive Medicaid or Medicare, so the state pays for all of their healthcare expenses and this is very expensive. It is important that the state looks at how other states finance prisoner healthcare so that we can provide this care at the most reasonable cost possible.

There are several models that other state correctional systems use to deliver healthcare services:

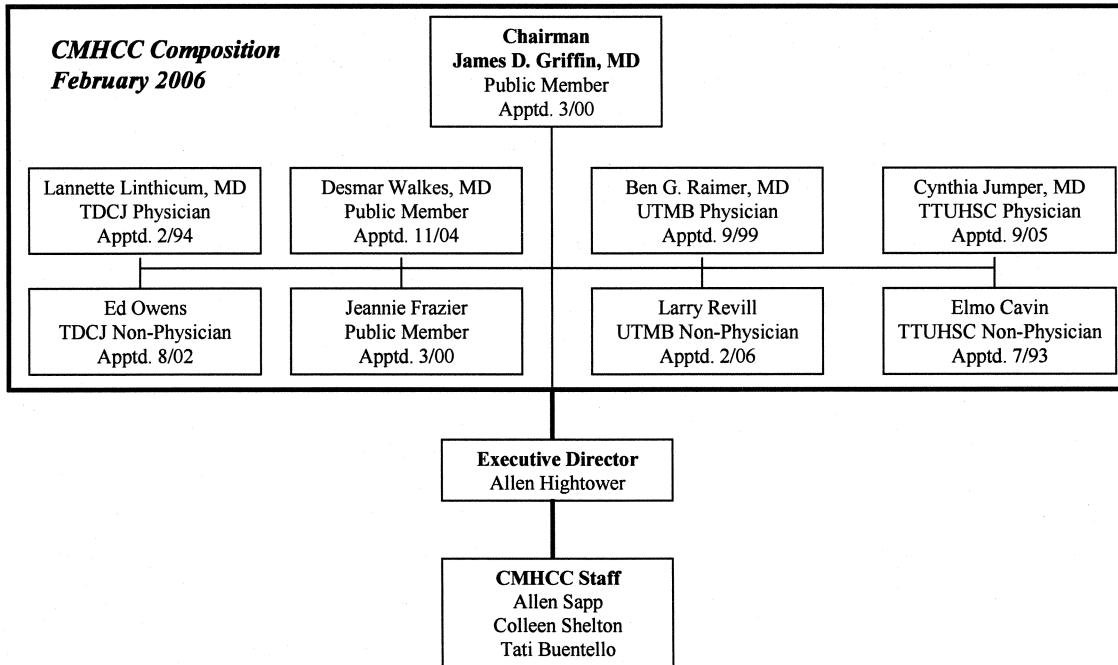
- delivering healthcare services with staff employed by the department of corrections;
- contracting with a private vendor or vendors for correctional healthcare services;
- contracting with state, local or university-based healthcare programs for services; or
- combination of some or all of the above.

In Texas, correctional managed healthcare is a strategic partnership between the Texas Department of Criminal Justice (TDCJ), The University of Texas Medical Branch at Galveston (UTMB), and Texas Tech University Health Sciences Center. This partnership is managed by a statutorily established body, the Correctional Managed Health Care Committee. The shared mission of the partnership is to develop a statewide healthcare network that provides TDCJ offenders with timely access to a constitutional level of healthcare while also controlling costs.

CMHCC Organizational Relationships



CMHCC Organizational Detail



27

The Texas model of coordinating services between the state's correctional system and two of the state's medical schools through an entity like the CMHCC is relatively unique. A number of other states including Ohio, Connecticut, Mississippi and California have examined the Texas model to determine the extent to which it could be employed within their programs.²⁸ Most recently, a special independent review of the California Department of Corrections commissioned by Governor Arnold Schwarzenegger has recommended that California move to a university-based healthcare delivery system like the Texas model²⁹ Within the last year, the federal court has placed the California correctional healthcare program in receivership, effectively taking control of the delivery system from the state as costs for the program are continuing to escalate. These are conditions similar to what Texas experienced in the late 1980's and early 1990's that led to the development of the CMHCC and the current program structure.³⁰

State Survey on Prison Population Healthcare

In December of 2005, the Corrections Committee requested a state survey on prison population healthcare from the Texas Legislative Council. In response to the request for information on the correctional healthcare systems in other states and any available evaluations of such system, the Texas Legislative Council submitted the following information:

Summary of Other States

- Thirteen states provide correctional healthcare through comprehensive contracts with private vendors:

Alabama, Delaware, Idaho, Illinois, Indiana, Maine, Maryland, Mississippi, Missouri, New Jersey, Pennsylvania, West Virginia, and Wyoming

- Four states (including Texas) provide correctional healthcare by means of a contract or agreement with a state university or college:
Connecticut, Georgia, and Massachusetts
- Eleven states provide correctional healthcare through a blend of departmental personnel and contract services:
Arkansas, Florida, Michigan, Minnesota, New York, North Carolina, North Dakota, Ohio, Oregon, Tennessee, and Virginia
- Four states provide correctional healthcare primarily through departmental personnel, and contract services only when departmental personnel are unavailable:
Alaska, California, Colorado, and Washington
- Three states provide correctional healthcare exclusively through departmental personnel:
Hawaii, Nevada, New Hampshire

*States With Contracts or Agreements With State Universities or Colleges*³¹

Connecticut

- The University of Connecticut Health Center assumed all healthcare (medical, mental health, pharmacy, and dental) service provisions from the Department of Corrections in November 1997.
- A managed care and quality improvement initiative has established a formal utilization review that provides a standard physician review process, including an appeals process, for physician requests for specialty services.

Georgia

- The Office of Health Services in the Georgia Department of Corrections provides on-site healthcare services to inmates primarily through a contract with the Medical College of Georgia.
- The Office of Health Services monitors the contract.

Massachusetts

- The Health Services Division of the Massachusetts Department of Corrections is responsible for the delivery of healthcare.
- Since 1992, the University of Massachusetts Medical School has provided comprehensive health and mental health services to inmates in the custody of the DOC, including management of Bridgewater State Hospital.
- Commonwealth Medicine is a part of the University of Massachusetts Medical School that provides specialized expertise to the public sector healthcare initiatives. Health and Criminal Justice Programs, a division of the Commonwealth Medicine, serves as a technical, research, and consultive resource for criminal justice agencies in the planning and delivery of healthcare, mental health, and substance abuse services to their populations.
- These programs combine service delivery with broader efforts to promote best practices through academic initiatives and fostering linkages between criminal justice agencies and

the Commonwealth's healthcare, mental health, and public health systems.

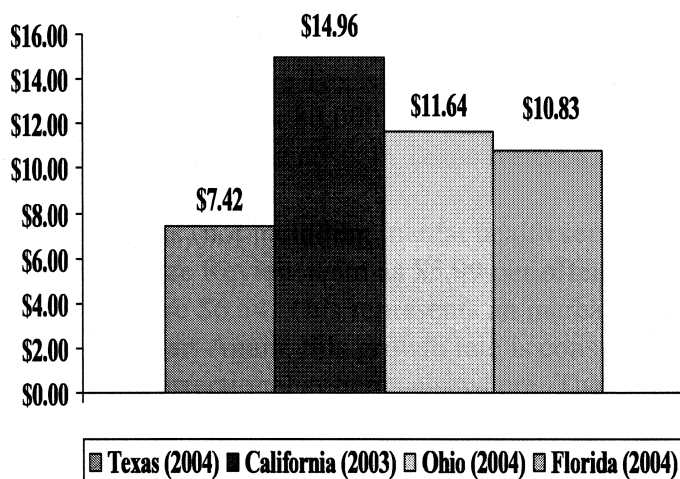
Correctional Managed Healthcare Costs of Care

The Texas correctional healthcare program has consistently provided healthcare services at a per capita rate much lower than experienced in many other large correctional jurisdictions. The Corrections Yearbook, 2002, published by the Criminal Justice Institute reports that the national average medical costs in 2002 (the latest year for which they have data published) was \$8.03. The costs for Texas was \$6.65 or about 20% below the national average.³²

A study conducted last year by a special commission in California reported that their correctional healthcare costs are approximately \$1 billion per year for a population of offenders just slightly larger than in Texas, where Texas costs are about \$375 million per year. In Florida, a state with a prison population of about 80,000 offenders, the medical cost per inmate per day in FY 2003 was \$10.13. The same year, the costs in Texas were \$6.78.³³

Medical care costs (not including mental health services) were documented by the Comptroller's Texas Performance Review team as \$5.99 per offender per day in FY 1993. In FY 2004, total medical costs were \$6.54. This represents an increase of only \$0.55 over an 11 year period, or about \$.05 per year. Again, this growth rate is considerably lower than the growth rate experienced in correctional systems elsewhere. The Council of State Governments issued a Trends Alert on Corrections Health Care Costs in January 2004 that found correctional healthcare costs nationally were growing at a rate of ten percent per year.

Healthcare Cost/Day Comparisons to Other Large Jurisdictions



Council of Governments Trends Alert (Jan 2004) found *national average increase in costs for correctional health care was 10% per year*. Costs are driven by chronic & communicable diseases; aging prisoner populations; mental health costs; and costs of Rx drugs.

Ongoing cost containment initiatives in Texas that work to keep the healthcare costs of prisoners down includes the following:

- Use of Disease Management Guidelines
- Strict Formulary Controls
- Access to 340B (PHS) pricing for drugs
- Utilization Management program
- Active participation in MRIS referral process
- Use of telemedicine/EMR technologies
- Cluster management team approach

Healthcare Beyond the Basic Constitutionally Guaranteed Standard

The Committee is interested in further exploring two issues that relate to the constitutionally mandated level of care for prisoners. The first issue has to do with healthcare that is above and beyond the basic constitutionally guaranteed level of healthcare for inmates with additional funds. For example, if an offender wishes to have chiropractic care, but is refused this service, should the offender be able to use his or her own money to pay for the cost of this care, including bringing a chiropractor in to the unit and paying for an extra correctional officer to oversee the process?

The second issue relates to transplants and donor lists. If a transplant is determined to be medically necessary for the survival of an inmate, should the inmate be placed on the donor list and should the state be required to pay the cost of the transplant? The Committee recommends that the legislature take a directive on these two particular issues

Prisoners have a constitutional right to healthcare services. The US Supreme Court Case, *Estelle v. Gamble* (1976), was a Texas case that went to the U.S. Supreme Court and set national standards for correctional healthcare. This particular case set the term “*Deliberate Indifference*” as a standard of measure defined as knowing and disregarding an excessive risk to health and safety. The federal courts also defined three rights for prisoners, the right to access medical care, the right to professional medical judgment, and the right to receive the medical care called for by professional medical judgment.

The key components of the healthcare delivery system in Texas prisons include initial health assessments, transfer screenings, periodic physical exams, dental clinics, chronic care clinics, telemedicine/EMR, mental health programs (including inpatient and outpatient specialty care), physically handicapped offender programs, and in-prison hospice programs.

The term "medically necessary", as defined by the CMHCC, is services, equipment or supplies furnished by a healthcare provider which are determined to be:

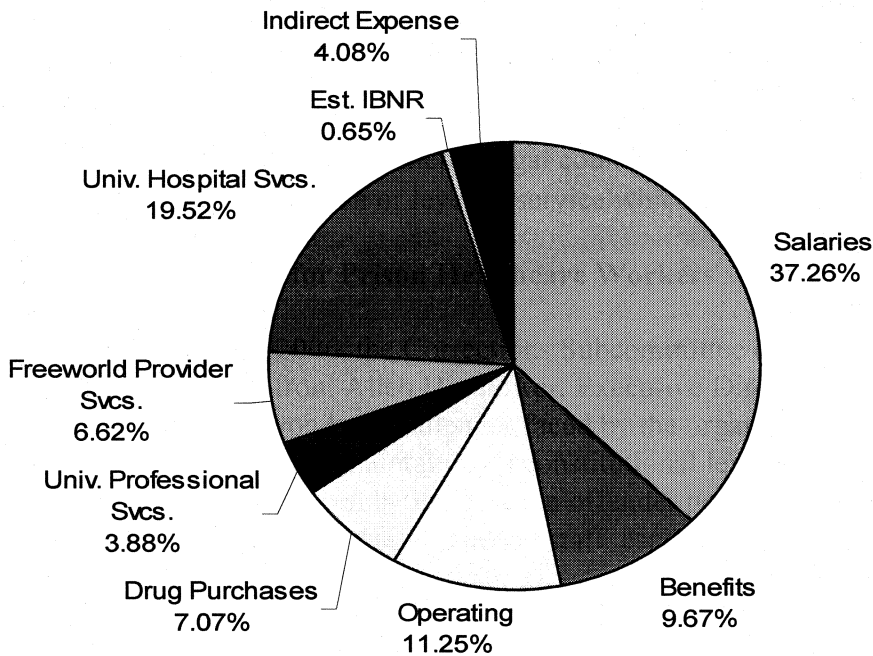
- *Appropriate and necessary* for the symptoms, diagnosis or treatment of the medical condition; and
- Provided for the *diagnosis or direct care and treatment* of the medical condition; and
- Within *standards of good medical practice* within the organized medical community; and

- *Not primarily for the convenience* of the TDCJ Offender Patient, the physician or another provider, or the TDCJ Offender Patient's legal counsel; and
- The *most appropriate* provision or level of service which can *safely* be provided.

Incentives and Hiring Bonuses for Prison Healthcare Workers

In a public hearing on April 26, 2006, the Corrections Subcommittee on Healthcare and Special Populations received testimony from Allen Hightower, Executive Director for the Correctional Managed Healthcare Committee on key challenges faced by the organization. One of the primary concerns for the CMHCC is maintaining a constitutional level of care while facing significant resource needs being driven by increases in offender populations, rapid growth in the aging offender population, and a shortage of medical staff, especially nursing staff.

Below is a breakdown of total healthcare costs by Category for FY 2005:



Mr. Hightower explained that the medical staff costs are increasing, driven by market demand for professionals, especially for mid-levels (PA, NP) and RN's. Vacancy rates in early 2004 reached critical levels and the only way to stem loss of professionals was to make market adjustments in salaries and shift differential pay. Future salary increases for prison healthcare workers should be a priority in the upcoming session because the correctional healthcare system must be able to offer a constitutionally guaranteed right to healthcare for prisoners.

RECOMMENDATIONS

Legislative Directive for Healthcare Beyond the Basic Constitutionally Guaranteed Standard

- The Committee recommends that the legislature take a directive on whether or not a prisoner should be allowed access to healthcare beyond the basic constitutionally guaranteed standard if the prisoner has funds to pay for it.
- The Committee recommends that the legislature take a directive on whether or not a prisoner should have access to transplants if the transplant is medically necessary.
- The issue of access to healthcare not traditionally provided by the correctional managed healthcare system should be heard in public testimony before language is drafted.

Incentives and Hiring Bonuses for Prison Healthcare Workers

- The Committee recommends funding incentives and hiring bonuses for prison healthcare workers.

**CHARGE 4: ASSESS THE PROGRAMMING NEEDS FOR SPECIAL POPULATIONS
IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ).**

BACKGROUND

Healthcare Expenses of Elderly Inmates

American Correctional Association's publication of best practices indicated that "geriatric care and programming are definite necessities for the immediate future".³⁴ Trends indicate that the elderly inmate population is on the rise; however, policymakers and prison administrators are not provided with standard directives on what types of special programming are useful and needed. This is a problem because while the elderly inmate population continues to grow, programs designed for elderly prisoners have not.

The older offender requires an environment that is more slowly paced as well as specialized programming and medical services. Not surprisingly, per capita costs of incarcerating elderly inmates have soared. According to the National Institute of Corrections (NIC) overall spending on healthcare increased nationally by 27% from 1997 to 2001.³⁵

ACA Best Practices states that "Given the poor physical and mental health of the inmates entering the correctional setting, the provision of adequate health and mental health care necessarily must become a higher priority in the years ahead".³⁶ This is particularly important concerning the healthcare needs of elderly inmates. Due to the effects of aging, the older offender places far different demands on the system than does the younger inmate and this is especially true of healthcare needs.

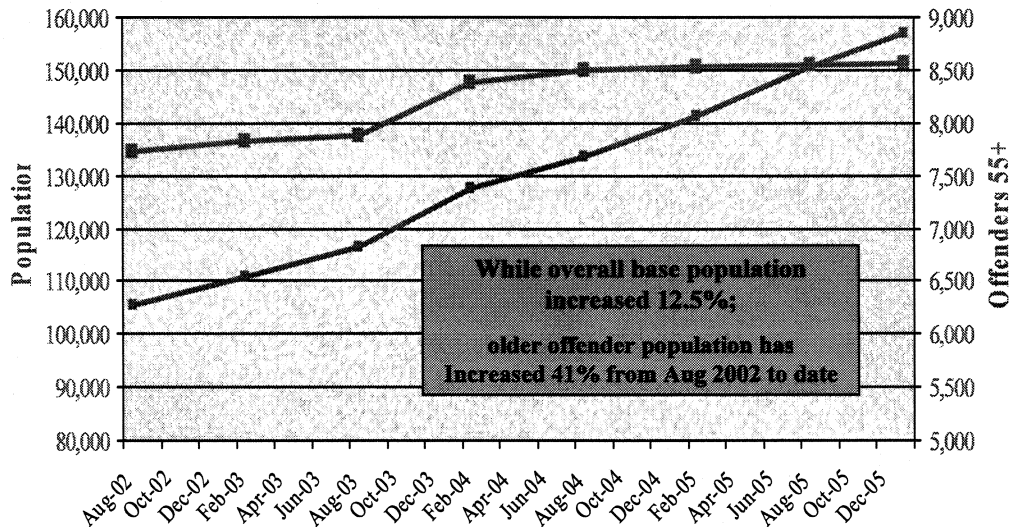
It is important to note that elderly inmates are functionally older than their chronological age. Although there is no definitive, nationwide standard for what constitutes an "elderly inmate," most researchers identify 50 as the threshold age. A report conducted by the Florida DOC in 1999 noted that inmates are typically functionally older than their chronological age due to their lifestyle, lack of medical care, and environmental factors.³⁷ Whatever the definition, it is clear that the transformation to "elderly" is accelerated among prison inmates compared to the general population. According to the NIC, this faster physiological aging adds 11.5 years, on average, to inmates' chronological ages after age 50.³⁸

Additionally, more people will be dying in prison, not only due to longer sentences but also because of diseases such as AIDS, hepatitis C, and drug-resistant tuberculosis. These diseases are often accompanied by mental despair and depression. Compounding this problem is fear of dying in prison, lack of family and support group, and even fear of being released from prison. Programmatically, this can lead to serious problems because most prison programs are designed to help younger offenders reenter society and assume productive roles once released.³⁹ However, these elderly offenders require specialized medical care as well as special housing and programming.

- The average cost per day is \$40.06 per TDCJ offender, which comes to \$14,622 per year.
- The cost of housing an elderly inmate is approximately three times the cost of housing a younger one.⁴⁰
- Inmates over the age of 55 suffer, on average, three chronic health problems, such as hypertension, diabetes, alcoholism and emphysema.⁴¹

- In most prisons, counseling focuses on rehabilitating younger inmates, rather than coping with issues that are more germane to the elderly prisoner, such as chronic illness or death.⁴²

How has the CMHC Service Population Grown?



What are Other States Doing?

Few states have fully implemented plans that address the needs of elderly offenders. Those states that have separate facilities for elderly prisoners typically combine the elderly population with the younger disabled population. Some states do not construct separate facilities for, or designate particular facilities as "elderly offender" institutions, but choose instead to segregate the older inmate population in separate halls or dormitories.⁴³

- Federal Bureau of Prisons- Heart Healthy Eating Program
 - The primary goals of the Heart Healthy Program is to address inmate health and contain medical costs.
- Maryland- Transfer to Nursing Homes
 - Maryland law has special provisions for transferring elderly inmates to nursing homes or state hospitals, and also allows for medical parole that is used as a means of removing elderly inmates from correctional institutions.⁴⁴
- Alabama- Hamilton Correctional Facility for the Aged and Infirm
 - The Alabama Department of Corrections refitted an old mental hospital as Hamilton Correctional Facility for the Aged and Infirm. The facility houses quadra and paraplegics, heart and lung patients, and prisoners suffering from

diabetes and cancer. It has around-the-clock nursing staff and a doctor who visits two or three times a week.

- California- Elm Hall
 - The California Institution for Men (CIM) houses older offenders in its Elm Hall. Elm Hall was designated as an older offender housing unit, but, over time, has evolved into a housing unit for both older offenders, and offenders with non-acute care medical needs.
 - CIM has an arrangement with California Polytechnic Institute to act as a training ground for social work and geriatric social work students, helping to augment the Correctional Counselors whose caseload has not been adjusted to reflect the increased amount of time necessary to deal with older offenders.
 - Individual institutions in California which have significant numbers of older offenders have developed policies such as nutritional consultations, assignment to lower bunks and tiers as medically indicated, support groups, such as the "over 50" group, and clustered housing.⁴⁵
- Florida- Established Geriatric Inmate Facilities and Special Training for COs
 - In May, 2000, the Florida Legislature passed Senate Bill 2390 (Chapter 2000-214, Laws of Florida), "An Act Relating to Elderly Offenders".
 - The Act directed the Department of Corrections to "establish and operate a geriatric facility or an institution specifically for generally healthy elderly offenders who can perform general work appropriate for their physical and mental condition."
 - The Department of Corrections was also directed to develop statewide programming specific to the needs of elderly offenders.
 - The legislation required the department to develop and implement a preventive fitness/wellness program, specifically designed to maintain the mental and physical health of elderly offenders.
 - The Florida DOC has obtained approval from the Criminal Justice Standards and Training Commission, housed within the Florida Department of Law Enforcement, for the course, *Elder Abuse: Neglect and Exploitation*, as part of the certified training that all correctional officers must undergo.⁴⁶

The Florida Department of Corrections- Office of Program Services evaluated existing programs to determine which are best suited for the elderly inmate. The recommendations of this report highlight that programs for the elderly should include (but should not be limited to):

- all existing academic and special education programs that are currently being offered for the general population;
- vocational programs such as cabinet making, environmental services, and horticulture;
- wellness education that provides information pertinent to elders' specific health needs;
- wellness facilities that fit their particular fitness capabilities;
- substance abuse programming specific to elders' needs; and

-
- betterment programs that are age-specific.⁴⁷

In-prison Geriatric Communities

As of November 30, 2004, there were approximately 3,533 TDCJ offenders over age 60. TDCJ currently has a 60 bed geriatric facility located within the Estelle Unit in Huntsville, Texas for very old inmates who usually require excessive medical care. There are other units around the state that have wings dedicated primarily to older inmates who are still functional, but Estelle is the only unit with a geriatric facility.

To address many of the concerns regarding the elderly inmate population, Representative Harold Dutton filed a bill on in-prison geriatric communities during both the 78th and 79th Legislative Sessions. This bill was left pending in committee both sessions, but in light of the alarming statistics regarding elderly inmates, the Corrections Committee believes that the legislature should take another look at Representative Dutton's proposal.

- Establish a program to confine and treat inmates who are 60 years of age or older in in-prison geriatric communities.
- The institutional division of TDCJ and the Texas Department of Aging and Disability Services should jointly develop methods of screening and assessing inmates to determine their needs as geriatric inmates.
- The institutional division should be required to separate inmates participating in the program from the general population of the division and house the inmates in discrete units or areas within units, except for medical and security purposes.

According to the fiscal note for HB 448, 79th Legislative Session, it is assumed that the screening and assessment activities performed by TDCJ would provide a constant population of 800 inmates who are 60 years of age or older who would receive treatment that addresses the special problems of geriatric inmates. Costs for enhanced treatment programming required by the bill are assumed to be an additional \$3.93 per offender per day. Assuming a daily cost of \$3.93 per day for 800 inmates receiving treatment, the yearly cost of implementing the provisions of the bill would be \$1,147,560.

There are many benefits to developing In-Prison Geriatric Units:

- TDCJ could provide special training for Correctional Officers in how to handle elderly prisoners, but would not have to train all staff- only those working in the geriatric units.
- Elderly inmates would be less vulnerable and have a lesser risk of being abused by other inmates.
- Elderly inmates would be less vulnerable to contagion (less exposure to germs and disease of regular (large) population), and may get sick less therefore easing the burden on CMHC.
- Segregation provides a concentration of specialized staff and resources for the elderly, thereby reducing costs.
- The older offender requires an environment that is more slowly paced than the general population (these units would be quieter at night and quieter in general).

MRIS, Special Needs Parole, and Diversion Programs for the Elderly

Federal funding for eligible special needs offenders can be used to offset program costs and state costs in general. Since the state cannot receive federal funds for TDCJ inmates, moving the responsibility for the offenders to other state agencies could generate federal monies. Medicaid and Medicare are available for those offenders released to community care. Financial eligibility for community care or institutional services is administered under Title XIX and Title XX of the Social Security Act of 1990. Title III of the Older Americans Act is designed to assist older persons who remain independent in the home environment.⁴⁸

During the 79th Legislative Session, the House Committee on Corrections unanimously passed HB 1383 by Representative Jesse Jones. This bill would have required the Texas Department of Criminal Justice (TDCJ) and the Correctional Managed Health Care Committee (CMHC) to conduct a study of inmates at least 60 years of age receiving health care services from TDCJ who may be released on parole with a reasonable belief that they will not engage in further criminal activity. The bill would have required the study to calculate the savings from releasing such inmates and report the findings to the Legislature.

The Committee recommends requiring TDCJ and CMHC to conduct the study outlined in Representative Jones' bill with minor changes discussed in the recommendations portion of this report.

Releasing elderly inmates to community care through Medically Recommended Intensive Supervision (MRIS), special needs parole, or diversion programs for elderly inmates would relieve the financial burden on the state because these offenders would be eligible for Medicaid and Medicare benefits. Possible alternatives that the legislature should consider are geriatric halfway houses and nursing home care. Consideration of inmates for special needs transfer or diversion should be limited to those whose release would not jeopardize the public safety and whose offense of record was not a violent crime such as murder, sexual assault, kidnapping or aggravated robbery. Also, special needs offenders should have, prior to release, an approved treatment plan that insures appropriate supervision, service provision, and placement.

Any of these programs (MRIS, special needs parole, or diversion programs for the elderly) would also open up new beds. A transfer program (whether to a half-way house or nursing home) would help alleviate current overcrowding pressures in the short term by removing from the prisons those inmates who meet specific criteria of special needs. Even though parole of such inmates will not completely solve the prison space problems, it will open up needed prison beds and help relieve the prisoner backlog held in many county jails.

Furthermore, many studies have shown that elderly inmates have the lowest recidivism rates, with the progressively lower rates reaching 7.4 percent of released inmates 65 and older.⁴⁹ This has led some researchers to conclude that there is a net savings in releasing elderly prisoners, although such releases may aggravate other problems, since many elderly inmates have alienated friends and families, and may be too sick to re-enter the workplace.

Medically Recommended Intensive Supervision- State Jail Offenders

Statutory provisions for Medically Recommended Intensive Supervision (MRIS) currently apply to those offenders who are incarcerated in the Texas Department of Criminal Justice (TDCJ) prison. For those offenders who are in state jail, and whose medical condition is terminal or requires long term care, there is no legal recourse for discharging them from custody.

Residential Infant Care Program for Mothers in TDCJ

During fiscal year 2004, the Texas Department of Criminal Justice (TDCJ) admitted over two hundred pregnant inmates with a three year or less sentence. Once the babies are born, they are taken from their mother and not reunited until the mother is released from prison. As a result, the baby and the mother cannot bond. The mother is returned to her prison unit without a program to develop the hands-on parenting skills and bonding needed to give the inmate mother and infant the best chance at a productive life.

Considering a residential infant care program for mothers in TDCJ, an idea that Representative Ray Allen has been pushing for years, may have a serious impact on closing the revolving door of recidivism and could potentially help hundreds of small children avoid following in their parent's footsteps. The Committee may want to work with the Texas Youth Commission to learn more about what works best in TYC's mother/baby program and apply lessons learned to any future legislation.

TCOOMMI Programs for Offenders With Special Needs

Texas is the only state in the country with statutory provisions for continuity of care of offenders with special needs. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) is legislatively mandated to coordinate the continuity of care activities of local and state criminal justice, health and human service and regulatory agencies through Memoranda of Understandings (MOUs) between the various entities. Currently, the MOUs are in the process of being revised to reflect current statutory provisions.

Continuity of Care for Offenders with Special Needs (COC)⁵⁰

Special needs groups include those with mental illness, mental retardation, terminal or serious medical condition, physical disabilities, and the elderly. COC provides pre-release screening and referral to aftercare treatment services for special needs offenders referred from the TDCJ Correctional Institutions Division, state jails, SAFPF's, local jails, or other referral sources.

Continuity of Care activities include:

- Identifying offenders with special needs who require aftercare treatment services.
- Participating in joint treatment planning with Institutional Units, State Jails, SAFPF's, local jails, or other facilities in order to provide a positive transition from incarceration to the community.
- Securing resources in the community for all offenders referred with special needs.

- Working towards improved systems of coordination and communication among local and/or state criminal justice, social service, and other appropriate disciplines to ensure responsiveness to the needs of offenders with special needs.
- Post release follow-up through 90 day reports.

The Institutional COC program provides a formal pre and post release aftercare system for all offenders with special needs released from TDCJ facilities (state jails, SAFPFs, and prisons). By identifying offenders who are in need of aftercare treatment prior to their release, the offenders' chances for a more successful re-entry into the community are improved.

The COC program operates on a regionalized system of care that utilizes local Mental Health Mental Retardation Authorities (MHMRA) or Division of Aging and Disabled Services (DADS) staff to perform their respective job functions. Through contracts between TCOOMMI and these agencies, twenty-seven COC workers and seven Eligibility Benefits Specialists are assigned to cover each TDCJ operated facility within the state.

COC workers develop pre-release plans in conjunction with the primary service provider in the community to which the inmate is scheduled to be released. In addition, 90 days prior to release, the Benefit Eligibility Specialist initiates all relevant applications for federal entitlements for which the inmate may be eligible (i.e., Social Security Insurance, Social Security, Social Security Disability Insurance, Veterans Benefits, Food Stamps, AIDS medications, etc.).

COC referrals and releases during the current and previous fiscal years:

FY 2003:	FY 2004:
Cases Referred- 4,348	Cases Referred- 4,584
Cases Released- 3,203	Cases Released- 4,252

During the regular session of the 79th Legislature, a number of reports were provided to the members on problems associated with accurate identification of offenders with mental illnesses. As a result, a number of legislative initiatives were enacted designed to improve the screening and identification process throughout the criminal justice continuum. The status of those activities are provided in the following section.

TDCJ/TCOOMMI Identification Activities

During FY 2006, TCOOMMI in cooperation with TDCJ Health Services, and UTMB established a process for Continuity of Care (COC) workers to access critical medical or psychiatric information via the Electronic Medical Record (EMR) system. In doing so, the COC workers are able to conduct the majority of the pre and post release activities from their office rather than traveling to the units. This initiative, another first of its kind in the country, results in cost savings due to significant reductions in travel expenses, yet maintains the integrity of the COC

program.

In addition, TCOOMMI recently initiated a more accurate process for identifying former or current clients of the MH/MR system. The need for an improved identification process is best demonstrated by the cross-referencing results noted in the following chart.

Texas Department of Criminal Justice CARE Match Rates
February 2006

	Total	CARE Matches
Probationers	430,312	57,719 or (13%)
Parolees	77,167	21,097 or (27%)
CID	151,528	45,628 or (30%)
TOTAL	659,007	124,444 or (19%)

* CARE: Client Assignment and Registration System

* Data includes all persons served by MHMR and is not limited to current target populations of Schizophrenia, Bipolar or Major Depression

Based on the February cross-referencing data match, approximately 19% of the total TDCJ offender population were former or are current clients of the state or local MH/MR service system. The data, however, is misleading due to the presence of client data that includes populations who no longer qualify for MH/MR services. This could include clients who may have received a one time only service of crisis intervention or individuals committed to state mental hospitals for alcohol treatment during the period MH/MR was authorized to provide such services. Currently, the target populations served by MH/MR includes individuals with a diagnosis of Schizophrenia, Bipolar or Major Depression. This new cross-referencing process, as shown in the following chart, will allow TDCJ/TCOOMMI to target limited psychiatric or supervision services to those offenders most in need of treatment. In addition, more reliable data on prevalence rates of mental illnesses in the criminal justice system will now be available for the Legislature.

**TDCJ System Wide Data Match With CARE
June 2006**

Summary Information

	Number	Percent of Total	Percent of all Active Clients*
Matched Clients Meeting Criteria	50,174	100.00%	7.66%
			Percent of all Incarcerated Clients**
Incarcerated Clients Age 22 and Over	14,698	29.29%	9.87%
With Major Depression	4,540	9.05%	3.05%
With Bipolar Disorder	2,871	5.72%	1.93%
With Schizophrenia	2,814	5.61%	1.89%
With a Non-TPDx or Crisis	4,473	8.91%	3.00%
Incarcerated Clients Under Age 22	1,780	3.55%	1.20%
With Major Depression	261	0.52%	0.18%
With Bipolar Disorder	169	0.34%	0.11%
With Schizophrenia	53	0.11%	0.04%
With a Non-TPDx or Crisis	1,297	2.59%	0.87%
			Percent of all Parole Clients†
Parole Clients Age 22 and Over	7,192	14.33%	9.35%
With Major Depression	2,515	5.01%	3.27%
With Bipolar Disorder	1,603	3.19%	2.08%
With Schizophrenia	1,665	3.32%	2.16%
With a Non-TPDx or Crisis	1,409	2.81%	1.83%
Parole Clients Under Age 22	297	0.59%	0.39%
With Major Depression	39	0.08%	0.05%
With Bipolar Disorder	24	0.05%	0.03%
With Schizophrenia	9	0.02%	0.01%
With a Non-TPDx or Crisis	225	0.45%	0.29%
			Percent of all Probation Clients‡
Probation Clients Age 22 and Over	24,468	48.77%	5.70%
With Major Depression	9,524	18.98%	2.22%
With Bipolar Disorder	6,633	13.22%	1.55%
With Schizophrenia	2,627	5.24%	0.61%
With a Non-TPDx or Crisis	5,684	11.33%	1.32%
Probation Clients Under Age 22	4,174	8.32%	0.97%
With Major Depression	849	1.69%	0.20%
With Bipolar Disorder	687	1.37%	0.16%
With Schizophrenia	151	0.30%	0.04%
With a Non-TPDx or Crisis	2,487	4.96%	0.58%

*Includes prison/state jail, active parolees, & on probation as of May 31, 2006: 655,043

**Includes prison and state jail as of May 31, 2006: 148,914

†Includes active parolees as of May 31, 2006: 76,925

‡Includes clients on probation as of May 31, 2006: 429,204

Jail Screening

In an attempt to improve the identification process at the local jails, the 79th Legislature attached two (2) separate riders to the Department of State Health Services (DSHS) and the Texas Commission on Jail Standards (TCJS) appropriations which required the establishment of a cross-referencing process between local MH/MRA's and jails.

In addition, both state agencies were to report their implementation efforts and findings to TCOOMMI on a quarterly basis. Since September 1, 2006, TCJS has consistently provided

quarterly reports to TCOOMMI on implementation activities. This monitoring has been accomplished through the routine jail inspections that are conducted on an annual basis. Jail Inspectors not only verify that the process is in place, but also identify problems or obstacles the jails have encountered in implementing the cross-referencing activity. The report, which is found in Appendix A, has identified a number of barriers that warrant highlighting. Those include:

- 1) The response from MH/MRA's on the CARE matches oftentimes come after the defendant has been released, therefore no continuity of care is available.
- 2) Once identified, the lack of resources prevents any pre-trial or jail diversion opportunities.
- 3) Process for submitting and receiving information is inconsistent, and time consuming.

Unfortunately, the implementation status for local MH/MRA's is not known. Although the assumption can be made that local MH/MRA's are coordinating with the local jails based upon the reports generated by the Jail Commission, the majority of local MH/MRA's have not submitted required information to TCOOMMI. As a result, critical information on prevalence rate is unavailable to provide to the Committee at this time. TCOOMMI has been directed to aggressively work with DSHS to facilitate the submission of this legislatively required information prior to the 80th Legislative Session.

Not Guilty by Reason of Insanity (NGRI) Aftercare Treatment

Senate Bill 837 by Wentworth, passed during the 79th Legislative Session, revised the statutory provisions for the insanity defense. This bill did not change the substantive law in Texas, which still requires a defendant to prove that as a result of a severe mental disease or defect he/she did not know that the conduct was wrong. The significant change in the bill relates to release of a defendant found NGRI to court-ordered outpatient or community-based treatment and supervision after inpatient commitment to Vernon State Hospital. As a result of this legislation, the Trial Court must receive and approve an individualized treatment plan, must find that the services are available, and may mandate participation in treatment and order supervision by TCOOMMI.

The bill allows for the courts to order a defendant found NGRI to a TCOOMMI treatment program and a local Community Supervision and Corrections Department (CSCD) for supervision. However, the legislation did not include a provision for directing the state hospitals to notify TCOOMMI of NGRI discharges and the person's return to the community.

Additionally, TCOOMMI faces a problem regarding NGRI cases that are releases directly from the jail rather than a state mental health facility. Since the individual is not technically an "offender" there are questions as to how TCOOMMI can become involved. These and any other concerns resulting from SB 837 should be solved through legislative directives and clarification of legislative intent.

RECOMMENDATIONS

Healthcare Expenses of Elderly Inmates

- The Committee recommends that a workgroup be formed during the 80th Legislative Session to examine the impact of the rising population of geriatric inmates within TDCJ and possible solutions to rising costs and programmatic needs. Given Representative Harold Dutton's experience in this area, it is recommended that the group work with Representative Dutton and his staff as well as the Correctional Managed Healthcare Committee and TDCJ to form an acceptable piece of legislation that will address the Committee's concerns regarding geriatric inmates.

MRIS, Special Needs Parole, and Diversion Programs for the Elderly

- The Committee recommends that the Texas Department of Criminal Justice (TDCJ) and the Correctional Managed Health Care Committee (CMHC) conduct a study of inmates at least 60 years of age receiving a substantial amount of healthcare services from TDCJ whose offense of record was not a violent crime such as murder, sexual assault, kidnapping or aggravated robbery. The study should calculate the savings from releasing such inmates and report the findings to the Committee.
- The Committee recommends altering statutory provisions for Medically Recommended Intensive Supervision (MRIS) to apply to offenders who are in state jail so long as their medical condition is terminal or requires long term care and there is no legal recourse for discharging them from custody.

Residential Infant Care Program for Mothers

- The Committee recommends that the legislature consider a residential infant care program for mothers in TDCJ that is reflective of the legislation previously filed by Representative Ray Allen. The Committee may want to work with the Texas Youth Commission to learn more about what works best in TYC's mother/baby program and apply lessons learned to any future legislation.

Continuity of Care for Offenders With Special Needs

- TCOOMMI should provide routine reports to the Committee on the status of any legislative directive which requires periodic reporting from other entities. This will allow the Committee to monitor progress on a more formal basis, and take corrective action if needed in a more timely fashion.
- As a result of the recent legislative initiative directing DSHS and TCJS to establish a cross-referencing of local jails' inmates with the MHMR database, TCOOMMI has outlined three areas of concern that require further research or debate by the Legislature. The Committee should work with TCOOMMI during the 80th Legislative Session to draft possible legislation and hold public hearings on the following three issues and any other recommendations that TCOOMMI and the Texas Commission on Jail Standards see fit:
 - 1). The data generated from legislative cross-referencing study will in all likelihood show a pattern of multiple arrests and incarcerations for some individuals. It is anticipated that these individuals will have a history of non-

compliance to mental health treatment. If voluntary compliance to mental health treatment has proven to be unsuccessful, should involuntary treatment be pursued in order to minimize criminal justice involvement? A review of the current process for civil outpatient commitments may be necessary to adequately address this problem.

2). Once a jail inmate has been identified as a current or former client of MHMR, how is the information forwarded to others in the criminal justice system, defense attorney, judge, prosecutor or CSCD? If part of the reason for improved identification is to allow the “courts” to be aware of a defendant’s mental illness on a pre-trial or sentencing basis, a system of notification between the jail and other relevant criminal justice entities is warranted.

3) If the jail inmate is a current or former MHMR client, what if any role should the local MHMR agency play in relation to the inmates treatment coordination with the courts and pre and post release planning activities? In communities where TCOOMMI funds offender programs this presents no or little problems, however, in areas with no TCOOMMI funding, this will be problematic.

Not Guilty by Reason of Insanity (NGRI) Aftercare Treatment

- The Committee recommends requiring state hospitals to notify TCOOMMI of NGRI discharges and the person’s return to the community.
- The Committee should work with Senator Wentworth to clarify how TCOOMMI is to become involved with NGRI cases that are released directly from the jail rather than a state mental health facility. These and any other concerns resulting from SB 837 should be solved through legislative directives and clarification of legislative intent.

CHARGE 5: REVIEW THE OPERATION AND ORGANIZATION OF THE WINDHAM SCHOOL DISTRICT.

SUBCOMMITTEE ON EDUCATION

BACKGROUND

Windham School District

Education in prisons has an effect not only on the offender but also on the offender's family and on generations to come. Most importantly though, providing educational opportunities to the state's incarcerated population better ensures that those offenders do not recidivate and are not a further strain on the system or a threat to our society.

Established in 1969, the Windham School District is the only publicly funded school district in Texas that is located inside a correctional institution and is comparable in population to the sixth largest public school district in Texas, Northside ISD, San Antonio, Texas which currently serves 78,100 students.

Windham School District has four statutory goals:

- reduce recidivism
- reduce the cost of confinement or imprisonment
- increase the success of former inmates in obtaining and maintaining employment
- provide an incentive to inmates to behave in positive ways during confinement or imprisonment

Windham School District operates 88 schools on TDCJ facilities throughout the state. These schools are divided into four geographical areas and each of those are headed by a regional administrator. The principals associated with those regions report directly to the regional administrators.

The Windham School District Administrative Headquarters is located in Huntsville, Texas. The Windham Superintendent is the Chief Executive Officer of the School system and is responsible to the Board of Trustees for providing a comprehensive education programming system to offenders that are incarcerated in TDCJ. The Superintendent, Debbie Roberts, reports to the Board of Trustees which happens to also be the Texas Board of Criminal Justice.

Central Office functions are divided into four different divisions:

1. Division of Instruction- responsible for curriculum
2. Division of Operational Support- includes accountability
3. Division of Administrative and Business Services headed by Chief Financial Officer
4. Human Resources Division
5. Division of Continuing Education

Education for TDCJ Offenders can be divided into three areas:

1. Literacy
 - Adult basic education is for offenders functioning below a sixth grade level.
 - Secondary education is for those offenders working toward a GED.
 - Special education is for offenders with emotional or mental disabilities.
 - English as a Second Language is for offenders with Limited English Proficiency

2. Life Skills

- Changes Program (prerelease program)
- Cognitive Intervention Program
- Parenting Program

3. Career and Technology (vocational)

Offenders are placed in educational programs based on individualized treatment plans. With high demand and little resources for these programs, offenders are assessed on need and prioritized based on the age and their proximity to release. Offenders who are eligible and have the ability to pay for tuition themselves may also participate in college classes throughout the TDCJ system. Windham contracts with 35 Junior Colleges and 4 Senior Colleges to provide academic college programs to eligible offenders. In FY 2005, 447 offenders earned Associate Degrees, 52 offenders earned Bachelor Degrees, and 26 offenders earned Masters Degrees.⁵¹

Appropriate Placement of Windham in the Appropriations Articles

The appropriation for the Windham School District has been in the Texas Education Agency's (TEA) bill pattern for as long as anyone at the LBB is capable of researching back to.⁵² Since TEA does not actually administer the Windham program, there are questions as to how much of a priority the program is in their budgetary requests and the extent to which they fully integrate the needs of the Windham School District into their own budget requests.

Windham is a school system charged with educating adults in a prison system and has a much different relationship with TEA than any other school district. For example, Houston ISD would not make an individual budget request the way the Windham would seek to do. Historically, TEA tends to make a baseline request rather than ask for more money for Windham as an exceptional item.

Current appropriations for Windham is just under \$58 million per year and that funding level has stayed flat over the last several biennia. The biennial appropriation is roughly \$115 million which is all general revenue split up between two different funding sources:

- **Fund 1** is regular general revenue.
- **Fund 193** is the Foundation School Fund (the name given to general revenue that supports public education).
- There are no special dedicated funding streams for this program, it is just general revenue.

There are 4 riders in TEA's budget that govern the appropriation to Windham School District. One of these Riders speaks to the number of contact hours and the contact hour rate. Decisions surrounding appropriations for Windham have been primarily appropriations and budget driven rather than driven by particular formula or other allocations. Windham must pull down the funding based on the number of contact hours performed. For the most part, there is a level of appropriation that is set and the number of contact hours is adjusted to meet that appropriation. There are no records of this funding having lapsed.

The other Riders direct how Windham is to use the appropriation:

- **Rider 53** speaks to priorities for the Windham School District.

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- **Rider 67** directs Windham ISD in the event the budget is reduced (how to take those reductions and the programs that the legislature would rather the reductions come out of).
 - **Rider 79** directs TEA to do a study on the Windham Independent School District that is due at the end of this calendar year in December.

As far as TEA is concerned, whether Windham School District is in Article III or Article V of the General Appropriations Act is largely inconsequential to their agency. There are not TEA full-time employees associated with the transfer of funds; Windham is not a participant of the Foundation School Program (they do not get ADA), and they are not a part of the TEA accountability system.

Looking at TEA's bill pattern from a structural perspective, it appears to be relatively simple to move the appropriation from Article III to Article V. All participants in the April 18th Corrections Committee public hearing agreed that very little would have to be done, and it is primarily just a re-routing of funds through TDCJ rather than TEA. It is important to note that LBB staff pointed out that if the Legislature chooses to make the Windham School District a part of TDCJ's bill pattern, there may be some amendments necessary to Chapter 19 of the Education Code (the Windham enabling code).

In the bill pattern for TDCJ, there is a strategy titled "Academic Vocational Training" (C22) which is in Article V, but it is a transfer to Windham from TDCJ. That money is handled by the Windham School District through a Memorandum of Understand (MOU), but there is also a rider in TDCJ's budget directing what that money can be used for and noting that it can not be transferred any where else. This strategy was reduced 35 % two biennia ago and 5% last biennium.⁵³

Windham received a 19% overall cut in the 2003 budget, but this was one of many across-the-board cuts that the Appropriations Subcommittee on Article III had to make that year. The 18% cut was not directly related to any preference that the Legislature had regarding cutting education for prisoners. As a result of this funding cut, Windham was forced to implement a reduction in force, a salary reduction, a restructuring of the regional divisions, and reorganization of Windham Central Administration. Specifically, the Windham School District reduced their administrative personnel by 36% and teaching personnel by 17%.⁵⁴

Federal Funding for Windham

The Windham School District receives roughly \$2 million per year in federal funds from Title 1 and IDEA grants (federal special education allocations). TEA has oversight responsibilities for those funds and they can not give those oversight responsibilities away because the Department of Education holds TEA responsible for those funds. However, TEA can exercise the monitoring function regardless of whether Windham is under TEA's bill pattern or not. In the future, if the Legislature moves Windham to Article V, the federal special education allocation would come to TEA and TEA would transfer Windham's share to TDCJ.

Windham School District Board of Trustees

Windham has its own Board of Trustees, but it is concurrent with the Texas Board of Criminal

Justice. The Windham Board of Trustees and the Texas Board of Criminal Justice is the exact same entity that merely wears a different hat depending on which meeting they are in that particular day. The Board does have separate Board meetings, but it is the exact same nine people. In a Windham School District meeting, any document approved is approved by the Windham School District Board of Trustees, and any actions taken are taken on behalf of Windham, not the Texas Department of Criminal Justice.⁵⁵ The school district employees are not employees of the Texas Department of Criminal Justice, they are employees of the Windham School district.

In August of any given year, the budget is presented to the Board of Trustees by the Chief Financial Officer for approval. The Board has not historically worked with TEA on preparation of the budget because the budget instructions usually order a reduction. Windham has not made a budget request to TEA in the last few decades.

Teacher Retirement System

Currently all employees within the Windham School District are members of the Teachers Retirement System and the Windham School District employees' retirement system is not contingent upon moving from Article III to Article V. Chapter 19 of the Education Code specifically creates Windham as a school district and specifically sets those employees up as members of TRS. Moving Windham from Article III to Article V would not effect Windham employee's retirement options unless the legislature specifically amended Chapter 19 of the Education Code.

There are other adult education teachers in Texas such as junior college professors that are not under the jurisdiction of TEA, but are members of the Teacher Retirement Program. These employees, like Windham employees, are covered under the Employee Retirement System (ERS) healthcare, and when they retire they get the ERS health benefits (essentially they are not pulling off of TRS for health benefits but they are getting the TRS retirement).⁵⁶

Compliance with HB 2837- Texas Workforce Commission and Windham

Numerous studies indicate reduced recidivism rates for employed ex-offenders even when factors such as age, risk score, race/ethnicity, and type of previous offense are accounted for. Curiously, TDCJ and the Texas Workforce Commission (TWC) have not been tracking which vocational and training programs are most effective in assisting ex-offenders with gainful employment. House Bill 2837 by Representative Ray Allen (79th Legislative Session) set up requirements that the Texas Workforce Commission, TYC, and TDCJ improve coordination by sharing data seamlessly and evaluating the effectiveness of training services.

A key element of the State's recidivism strategy is Project RIO, a program administered by the Texas Workforce Commission in collaboration with Local Workforce Development Boards, TDCJ, the Windham School District and the Texas Youth Commission (TYC). The project provides a link between education, training, and employment during incarceration with employment, training, and education after release.

While the individual offender is incarcerated, an individual transition plan is developed to identify a

career path for the offender and to guide placement decisions. Prior to release an evaluation is conducted to assess the needs of the offender and to assist the offenders selection and placement in Windham, college courses, or other TDCJ and TYC programs. The evaluation process is a multi-step approach that includes information gathering, goal-setting, program placement and offender self-assessment.

After release, TWC Project RIO staff provides ex-offenders with individualized workforce development services including job preparation and job search assistance. RIO participants attend structured job search workshops that focus on basic skills such as completing a work application, preparing a resume and performing in a mock interview. The most important aspect of the TWC Project RIO program is ex-offender employment as soon as possible after release.

While Texas has had success reintegrating ex-offenders into the workforce, there are still areas where additional focus and coordination between the project partners can bring about improved performance. Texas Correctional Industries (TCI) has a "War Against Recidivism" (WAR) program that provides inmates with work experience in high demand occupations, professional certification and licensure as needed, and a record of their training and work activities while incarcerated. Unfortunately, WAR only reaches a small percentage of TDCJ inmates.

HB 2837 by Representative Allen improves coordination between partner agencies so ex-offenders receive professional certification and licensing along with educational opportunities in an applied vocational context. Under this bill, TYC, TDCJ and TWC are to share data seamlessly on ex-offenders and their post-release employment status. Additionally, the effectiveness of training services is to be evaluated and reported annually to the Governor and the Legislative Budget Board.

As of September 1, 2006, data sharing component of the project has been implemented. The data elements that were required in the bill were sent by the target date. In addition, some data elements that were identified in the course of meetings with TWC were added. Those data elements will be included by the end of September.

The effectiveness study is well underway. The offenders who will be included in the study have been identified and information relative to their work history after being released from TDCJ has been provided to TDCJ from TWC. This information will be analyzed and reflected in the report that is due to the Legislative Budget Board on November 1, 2006.

RECOMMENDATIONS

Appropriate Placement of Windham in the Appropriations Articles

- The Committee recommends that the Windham Independent School District be removed from Article III and placed TDCJ's bill pattern. There may be some amendments necessary to Chapter 19 of the Education Code (the Windham enabling code).

Certification of Windham Superintendents

- The Committee recommends that teachers should not have to be certified superintendents to be a Windham Superintendent and they should not have to obtain waivers.

CHARGE 6: STUDY THE ADEQUACY OF THE STATE ACCOUNTABILITY SYSTEM IN MEASURING THE EFFECTIVENESS OF DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS (DAEPS) BASED ON ACADEMIC PERFORMANCE, BEHAVIOR MODIFICATION AND PERCENTAGE OF STUDENTS REFERRED TO THE JUVENILE JUSTICE SYSTEM.

JOINT CHARGE WITH THE HOUSE COMMITTEE ON PUBLIC EDUCATION.

BACKGROUND

Alternative Education Programs

Publicly funded education programs should not be gateways into incarceration. If Texas plans to succeed in driving prison numbers down, the legislature must prioritize deterring our youth from entering the system, particularly in the area of education and alternative education programs. Unruly and dangerous kids should not hamper the education and safety of other students, but it is time that the State set some standards and guarantee that these youth are receiving a good education, that school districts are held accountable, and that the state does everything possible to keep these youth out of the criminal justice system.

There have been alarming increases in alternative education program placements over the last few years. As Texas schools are sending more students to these programs, it is necessary that the legislature study the adequacy of these programs based on academic performance, behavior modification and other factors. While it is important to remove disruptive students from the classroom, the state must work to guarantee that once removed- they are deterred off the pathway to prison into a productive life.

The Committee has worked extensively to coordinate the ideas and efforts of all alternative education stakeholders. At the start of the interim, the committee staff worked with many alternative education experts to compile a list of over forty possible recommendations on Disciplinary Alternative Education Programs (DAEPs), Juvenile Justice Alternative Education Programs (JJAEPs), and pre and post adjudication facilities. The next step was to research all past legislation that has covered each recommendation and explore what resistance those measures faced. The final step was to list pertinent background information, suggestions, pitfalls, and pros/cons for each recommendation.

Below is a brief background on DAEPs and JJAEPs. Following a description of these programs is a summary of the measures that the Committee plans to prioritize next session as well as policy recommendations.

The Committee would like to specifically thank the following people who were instrumental in compiling this particular project: Marc Levin, Director of the Center for Effective Justice at the Texas Public Policy Foundation; Randle Richardson, CEO of Community Education Partners; David Anderson, Legal Counsel at the Texas Education Agency; Billy Jacobs, Texas State University; Vicki Spriggs and Linda Brooke, Texas Juvenile Probation Commission; and Shannon Edmonds, Texas District and County Attorneys Association.

Disciplinary Alternative Education Programs (DAEPs)

DAEPs are alternative education environments for students who commit virtually any disciplinary violation or criminal offense. Some DAEP campuses are located on the regular school campus while others are self contained off-campus. Since school districts set their own codes of conduct, they have nearly unlimited discretion to refer students to DAEPs for even a single disciplinary infraction of any kind.⁵⁷ JJAEPs are for expelled students while DAEPs are for students whom the school district either can not expel or choose not to expel under Section 37.007 of the Education Code.

Marc Levin, Director of the Center for Effective Justice at the Texas Public Policy Foundation (TPPF), has done impressive work in this policy area. In a report published by TPPF in March 2006 titled *Schooling a New Class of Criminals?: Better Disciplinary Alternatives for Texas Students*⁵⁸, Marc thoughtfully outlined key problems facing Texas DAEPs. Some of these problems are highlighted below:

- In 2003-2004 there were 138,701 DAEP placements, an increase of more than 10 percent since 2000-2001.⁵⁹
- DAEP student's drop out rate is over twice the rate for students state wide.⁶⁰
- Only 41 percent of DAEP students passed the math portion of the TAKS test.⁶¹
- Some DAEPs offer as little as two hours per day of instruction.⁶²
- State requirements for DAEPs are practically non-existent. Under Section 37.008, the state requires that DAEPs focus on English language arts, mathematics, science, history, and self-discipline, provide for students' educational and behavioral needs, and provide supervision and counseling.

DAEPs That Work

There are some DAEPs that appear to be working well. Walter Bevers is in his sixth year as Principal of Clear Path Alternative School, a DAEP serving both Clear Creek and Friendswood ISD. This program was created soon after the re-write of the Texas Education Code in 1995. Clear Creek I. S. D. is a recognized leader in this area, and the Corrections Committee was fortunate enough to have Mr. Bevers testify before the Committee at the April 18, 2006 hearing on alternative education programs.

Clear Path currently serves approximately 500 students a year, with Friendswood ISD contracting for their services over the last three years. Over the last five years, this program has recorded a recidivism rate below 5% each year. Clear Path offers direct instruction on grade level in the four core subject areas to students in grades 6-12. They also offer a period during the day for electives coursework sent from the home campuses. Moreover, Clear Path offers a special education class room, along with counseling for behavior and drug and alcohol offenses.

Chris Patterson, with the Texas Public Policy Foundation (TPPF) has also done research on successful DAEPs. Highlighted by Marc Levin in the March 2006 TPPF "Policy Perspective", Patterson outlines the successes of Beechnut and Ferndale alternative education schools operated by Community Education Partners (CEP). CEP is a private education company under contract with Houston since 1997. During 2004-05, Houston assigned 3,186 students to CEP. Approximately 40 percent of these students received mandatory placements, referred for such things as assault, weapons, gang activity, and drugs/alcohol use; others were referred for repeated disruptive or abusive behavior. Patterson reports that most students at CEP value the opportunity to acquire the academic and social skills necessary to return and succeed at their home schools, and against all of the odds, turn themselves around and earn a high school diploma.⁶³

Patterson observed the following characteristics that make these schools stand out:⁶⁴

- Classes are small with a 1:12 teacher to student ratio.
- Students receive a behavioral evaluation and a behavioral plan and have access to community-based social providers located at the school who provide individual, group, and family services.
- Students from grades 6 through 12 are grouped by academic ability and sex.
- Uniforms are required, and students follow the CEP motto: Be Here, Behave, and Be Learning.
- Teachers are formally dressed and provide direct instruction on the required state curriculum from 9:30 am to 4:30 pm, Monday through Friday, and maintain strict order.
- When students fail to show, a truant officer goes to their homes and delivers them to their classrooms.

CEP believes that DAEPs in Texas should be assessed on their ability to improve student attendance, change behavior and most importantly, accelerate the academic achievement of students so that these students have an opportunity to graduate from high school.

Randle Richardson, CEO of Community Education Partners, has noticed that students referred to a DAEP are performing reading and math at least two grade levels below expectations for their age. He also notes that these students have a chance of moving out of an “at-risk of dropping out” status if they begin attending school regularly, change their behavior, improve their basic skills and start passing classes and earning credits toward graduation. Unless these students can read and perform basic math on at least a 7th or 8th grade basic skills “mastery” level, they will not be successful at higher level courses and have an opportunity to graduate.

Because of Texas’ unique ability to track the performance of students across schools and school systems, longitudinal measures of academic growth are possible. The Texas Juvenile Probation Commission also agrees that value based assessments are needed. CEP has contacted the Committee to propose four measures to be used in the value added assessment of student academic achievement in a DAEP.

A standard should be established for each of the four measures. The measures are:

- *Student Attendance.* The attendance of the student at his/her home school during the previous semester is measured against the attendance of student in the DAEP during the first 45 days, at the end of the first semester and at the end of the second semester.
Rationale: Improved attendance is a prerequisite to basic skills growth in a DAEP.
- *Basic Skills Growth in Reading and Math.* A basic skills pre-test during the first two weeks of enrollment in the DAEP is administered to set a baseline for student achievement. Basic skills mastery growth in reading and math using an instrument aligned with grade level equivalents should be used to monitor grade level skills growth over the period of enrollment in the DAEP.
Rationale: Mastery of basic skills in reading and math is a prerequisite to passing classes

and accelerated credit accumulation.

- *Grade Promotion for Students Previously Retained.* The ability of a DAEP to promote students to the next grade is a measure of academic rigor. This measure is the key “turn-around” indicator for students enrolled in these programs.
Rationale: Grade promotion of over age (retained in grade for at least 1-2 years) students is required if graduation is a realistic objective.
- *Academic Growth for Students Performing in the Lowest Quartile.* Using an appropriate state-wide assessment, DAEP programs must demonstrate that at least 50% or more of enrolled students are achieving one-year academic growth. This may not be an appropriate measure since many DAEP students are not placed for a significant time.
Rationale: The lowest performing students must accelerate their performance on the TAKS if graduation is a realistic objective.

TEA's Collection of Performance Data, Monitoring, and Audit Programs.

TEA currently publishes basic data on the performance of DAEP students in the *Comprehensive Annual Report to the Texas Legislature*⁶⁵ and instructions on DAEP data submissions are issued to school districts annually in the *PEIMS Data Standards*.

During the Interim, Chairman Madden and Representative Scott Hochberg met with Commissioner Neely, Judith DelaGarza, and Jenna Watts (Texas Education Agency) to discuss performance measures. It was agreed that the meeting would reconvene before the start of the 80th Legislative Session at which time the Corrections Committee will submit specific requests for the collection of performance data and monitoring mechanisms. Once the Corrections Committee has formulated the final legislative requests for data, TEA will review the requests and determine if revisions in school district data collection and submission procedure would be necessary to meet the needs of the Committee and the Texas Legislature in general.

The requests made by the Corrections Committee will be specific to useful information for policymakers. An outline of the preliminary request is provided in the recommendations section of this report.

Juvenile Justice Alternative Education Programs (JJAEPs)

JJAEPs are not residential programs, they are day programs for students that are expelled from school but not locked behind bars. In 2003, there were 6,407 students in JJAEPs. This represents a 33 percent increase in the JJAEP population compared to 1999, but is still less than 10 percent of the DAEP population.⁶⁶

How Students are sent to a JJAEP:

- Ordered by Juvenile Court (very rare, and there are funding complications that are outlined below).
- Expelled by school district (includes discretionary placement and mandatory placement).
- Sent by school district for continuing to misbehave in DAEP (considered a discretionary expulsion).

-
- All parties including the parents agree that it is in the best interest (very rare).

Funding Students in JJAEPs

The Texas Juvenile Probation Commission (TJPC) pays for students in JJAEPs that are mandatory placements and the home school district pays for the discretionary placements. The discretionary placement price that the school district pays is based on a negotiation done every year between the school boards and the juvenile boards.

By law the juvenile court can order any juvenile into a JJAEP, but this causes problems regarding funding. Since a court ordered placement is not considered a "mandatory expulsion", TJPC can not fund that student's placement. Currently there is no enforcement measure to make the school district pay for that student, so the local county has to fund that child's placement. The local county must negotiate with the school district to get the school district to pay for the juvenile and more often than not, the school districts are resistant because it is a court decision and not an educational decision.

The Committee plans to consider altering the Education Code to delegate which entity (TJPC or the school district) should fund students who are not "expelled", but are placed in a JJAEP by court order.

Counties That Do Not Have JJAEPs

A total of twenty six Texas counties, which include 258 school districts, are required to operate JJAEPs. Another six counties choose to operate their own JJAEPs while Karnes and Wilson counties have jointly created a JJAEP. In counties without JJAEPs (which account for approximately 27 percent of the states population) expelled students are simply released to the street until their expulsion term ends.

Under current statute, only counties with more than 125,000 people are required to have JJAEPs largely due to the fact that it does not make economical sense for smaller counties to operate them. TJPC Rider 9 allows for counties between 72,000 and 125,000 to choose to operate as a mandatory JJAEP and be funded as such. Of the 19 counties eligible, only one county has chosen to operate under this provision.⁶⁷

Simply mandating JJAEPs in these counties is impractical because funding is a major obstacle. Lowering the population threshold from 125,000 would impact the following:

- Lowering population to 100,000 would include 8 additional mandatory counties.
- Lowering the population to 70,000 would include 13 additional mandatory counties.

Placement of Students in DAEPs and JJAEPs

The current placement system for students in alternative education programs has violent offenders interacting with non-violent offender on a daily basis. For obvious reasons, this can cause problems.

Summary of Current Situation:

DAEPs:

- A student charged with a Title 5 felony (criminal homicide, kidnapping and unlawful restraint, trafficking of persons, sexual offense, assault offense) is immediately placed in a DAEP if the offense occurred off-campus.
- The school district does not have to wait for the courts to take action. If the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct off-campus defined as a felony (both Title 5 felonies and Non Title 5 felonies), the student can be immediately placed in a DAEP. In other words, they can be placed in a DAEP for almost anything that relates to a felony whether it is on or off campus.
- Students who commit violent crimes off-campus generally cannot be expelled to JJAEPs under Section 37.007 of the Education Code, so they are instead sent to DAEPs.

JJAEP/Expulsion:

- All expellable felonies must take place at school or a school related function with few exceptions that include terroristic threat or false alarm and felonies committed against other students or in retaliation as a result of an employees association with the school.
- There are a significant number of students who are expelled who fall under the following scenarios and ultimately end up in a JJAEP:
 - Students expelled for an offense and not reported to law enforcement so no charges are ultimately filed.
 - Students expelled for an offense that does not meet the Penal Code definition.
 - Students expelled whose charges are later dropped because there is no probable cause.

Consideration should be given to clearly define what should happen in the three scenarios above and TEA should include this as part of their monitoring. TEC Chapter 37 was set up this way in 1995 because the school districts understandably want the control of who gets expelled discretionarily. Unfortunately, the MOU negotiations between school districts and juvenile boards have historically been difficult (more so in certain jurisdictions) and the current law gives the school districts the upper hand in the negotiations.

When the law was first created and juvenile justice was required to get into the school business, it was not an easy pill for the school districts to swallow. Programmatically and philosophically, the biggest issue for JJAEPs has been serving students who are not under juvenile court supervision (this specifically included the serious or persistent misconduct expulsions and others where criminal charges are never filed).

Based on the research conducted throughout the interim, it is clear to the Committee that the courts would like more say so in who goes into JJAEP program. However, it is important to consider the fact that changing the make up of the JJAEP population will have fiscal implications on counties.

Currently the state pays \$59 for a mandatory JJAEP placement, yet the cost of operating these programs is closer to \$90.⁶⁸ Historically, the JJAEP population has existed primarily of

“discretionary” expelled students which the school districts have the responsibility to fund and this has assisted in bearing the under funded cost of the JJAEPs. With the increase in the mandatory population of students, the counties have been forced to increase their financial contribution to the operation of the programs.

If the Committee chooses to pursue a different structure of JJAEP and DAEP placement, a great deal of consideration must be given to how these new placements will be funded.

Residential Programs for Arrested Youth

Students served at a detention facility are not in a JJAEP or a DAEP—the detention facility becomes like an additional campus in the same way any other residential facility (e.g., drug treatment, or Texas Youth Commission) might. There are two placement options for school-age youth who are arrested:

- Pre-adjudication detention centers (short term holding place).
- Post-adjudication facilities (after a juvenile has been adjudicated, the juvenile could be sentenced to a post adjudication facility for 6-9 months instead of going to the Texas Youth Commission).

Pre-adjudication detention centers are holding places while the youth wait until the disposition. During FY 2005, the average daily population in the pre-adjudication facilities was 1,695 and the average length of stay for juveniles was 12.1 days; however some have stayed much longer depending on the complexity of the case.⁶⁹ When in a detention facility, TEA is required to provide education in those facilities, but it varies across the state and in most instances there is little to no education. It is the responsibility of the school district in which the facility is located to provide the educational services in these facilities. There are two exceptions: Dallas and Harris Counties both operate a charter school that provides the education in all of their juvenile residential facilities.

TEA doesn't believe that districts have an obligation to serve purely transient populations (e.g., the kids arrested over a weekend but going home very soon) since that just creates confusion by withdrawing them from the home district to which they are returning. According to TEA, it is rare for any student to be immediately enrolled. Districts often tell a new student to come back the next day or the day after when they have found a classroom with space. It also takes some time to assess a student and place them in the correct high school courses, as well as request and obtain the student's records.

The purpose of the 10-day guidance is to prevent a district from requesting records and having the student withdrawn from the home district (a student can only be enrolled in one district) in a time frame in which the student is likely to be back there. If the school district knows that a student will be in the detention center for 10 days or longer, they should begin to enroll the student from the first day. Otherwise, the student remains the responsibility of his home district. This result is explicitly recognized in TEC 39.073(f), which protects the serving district from those short-term students counting as dropouts.

Post-adjudication facilities are designed for longer stays; a judge can sentence a juvenile to a post

adjudication facility for 6-9 months. The school district where that facility is located is required to provide education in those facilities. The problem with this situation is that students from all over the county (and in some instances even from other counties) are being placed in a post adjudication facility in another school district. There is concern from advocacy groups and parents that TEA does not enforce the requirement to educate these students. This is a very serious matter that both the Corrections Committee and Public Education Committee is very interested in.

The school district that houses the post-adjudication facility can draw down ADA for those students in the adjudication facilities, but there is concern that while the school district draws down the money, they are not paying attention to what services they have to provide. It has become apparent to the Committee that the education provided by TEA in both the detention centers and post adjudication facilities varies greatly across the state.

Minimum Number of Instructional Hours for Non-Traditional Education Programs

A student is only required to attend school to the extent required by TEC 25.085, or a court order. A student over 17 years old with parental permission (or a student over 16 years old in a Job Corps program) may withdraw and enroll in a GED program. A student with a GED is not required to attend school, nor is an 18 year-old or a student enrolled in a private school or home school.

The statute that applies (with some exceptions) to districts (TEC 25.082) is intended to "open the school doors for at least seven hours". A different statute (TEC 25.085) requires the student to attend "the entire period the program of instruction is offered". That allows the district to make individual program determinations for students, either more or less than the seven hours, based on the student's needs. For example, some students may need more than 7 hours (including summer or after-school tutoring) and some less (e.g., a high school senior that only needs 3 credits to graduate). Some students may have medical limitations (pregnancy, drug treatment) or employment or parenting obligations that also limit their ability to attend the full day.

From the student's perspective, the question is whether he/she has to attend an educational program. If the requirement is compulsory attendance, truancy is the enforcer. A court with jurisdiction over a student can probably require more than compulsory attendance, so a court order might be able to keep a student in school past the point of compulsory attendance.

Below is a summary of current requirements for non-traditional educational programs:

Texas Youth Commission & Windham School District:

- No requirements on length of school day.

Pre and Post Adjudication Facilities:

- Seven hours a day just like regular school day requirements (no special distinction).
- TEA does not require enrollment if student will be there less than ten days.
- Once the student is enrolled at the detention center, the district can collect ADA funding on the student. The district can enroll the student on the first day of detention

(though most wait ten days) and start collecting ADA.

Charter Schools

- Not required to have a seven-hour day.

On-Campus DAEPs:

- Seven hours a day just like regular school day requirement (no special distinction).
- Students are only required to attend for the full program offered (which can be more or less than seven hours).
- HB 2127 by Olivo was filed during the 79th Legislative Session, but no action was taken in committee. This bill required DAEPs to have a school day of at least seven hours including intermissions and recesses.
- Student attendance in instructional programs is funded (the ADA); there is no funding based on course completion.
- School Districts might take exception to the assumption that attendance in a DAEP is funded. From their perspective, the ADA money for the removed student is paying for the classroom he/she left and will return to (for example, the teacher's salary didn't go down when the student was removed).
- While the student's attendance is funded, the districts get very little extra money (there is a small separate appropriation) to pay for the incremental cost of operating a DAEP.

Off-campus DAEPs:

- Not subject to a requirement for length of school day (TEC 37.008(c)).

JJAEPs:

- Seven hours a day, 180 days per year (JJAEPs may apply to TJPC to waive the 180 requirement)
- Students are only required to attend for the full program offered which can be more or less than seven hours.
 - mandatory expulsions = TJPC funds
 - discretionary expulsions = local MOU (the discretionary placement price that the school district pays is based on a negotiation done every year between the school boards and the juvenile boards).

Funding for school districts and charters

2 hours of instruction = district receives half-time funding
4 hours of instruction = district receives full-time funding

Note that individual student attendance is audited for state funding, but there is no TEA enforcement of the seven-hour day. TEA does not audit the length of the school day because that is not what drives state funding. TEA does audit attendance, which includes the four-hour day, for funding purposes. Districts are responsible for complying with the school day statute. Also note that in-school GED programs and the new "flexible day programs" are funded based on a 35 hour per week methodology rather than the general formula above.

Learning Disabilities and Alternative Education Placement

At the Corrections Subcommittee on Education April 18, 2006 public hearing, Richard LaVallo submitted testimony on behalf of Advocacy, Incorporated, the protection and advocacy system for Texans with disabilities. Advocacy, Incorporated has extensive experience in representing students with disabilities who are placed in DAEPs and JJAEPs and the attorneys within this organization are very concerned about the number of special education students placed in alternative education programs.

There is clearly an over-representation of students with disabilities in DAEPs and JJAEPs.⁷⁰

- 11.6% of students in Texas receive special education services.
- During the 2004-2005 school year, 25% of the students placed in DAEPs (33,056 of 132,158) were special education eligible.
- 25% of the students in JJAEPs (2,621 of 10,656) were special education students.

The graph below is from the *2005 Comprehensive Annual Report on Texas Public Schools: A Report to the 70th Legislature from the Texas Education Agency*:

Group	State	DAEP
Female	48.6	26.7
Male	51.4	73.3
Receiving Spec. Ed. ^b Services	11.6	20.3
Not Receiving Spec. Ed. Services	88.4	79.7

^aDisciplinary alternative education programs. ^bSpecial education.

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According to Advocacy, Inc., it is their experience that a significant number of students with disabilities are placed in DAEPs and JJAEPs for discretionary offenses, most notably serious and persistent misbehavior. In 2004-2005, 74% of statewide JJAEP placements were discretionary and 76% of the statewide DAEP placements were discretionary.⁷² There is not data on the number of discretionary and mandatory placements for student with disabilities, but these students with disabilities are not the dangerous students who were the focus of Chapter 37 when the legislation was initially passed in 1995.

Academic Performance of Students with Disabilities

Students with disabilities in DAEPs and JJAEPs also perform poorly on state assessments. According to the *2005 Comprehensive Annual Report on Texas Public Schools: A Report to the 70th Legislature from the Texas Education Agency*, students with disabilities, who are placed in DAEPs and take the State-Developed Alternative Assessment (SDAA), do worse than special education students placed in non-disciplinary settings. The SDAA assesses special education students who are receiving instruction in the state curriculum but for whom TAKS is an inappropriate measure of academic progress. In 2003-04, the SDAA was available for

testing students in Grades 3-8. According to the Comprehensive Annual Report:⁷³

- Statewide, 8.6% of students assigned to DAEPs took the SDAA reading test.
- On the SDAA reading test, 59 percent of special education students assigned to DAEPs met the admission, review, and dismissal (ARD) committee's expectations, compared to 88 percent of special education students statewide, a difference of 29 percentage points.
- The difference on the SDAA mathematics test was 32 percentage points.

Table 3.7. SDAA^a Performance Meeting ARD^b Expectations (%), Grades 3-8, by Subject and Student Group, 2004		
Group	DAEP^c	State
Reading		
African American	57	86
Hispanic	60	87
White	58	90
Economically Disadvantaged	59	87
Female	62	89
Male	58	87
All	59	88
Mathematics		
African American	50	80
Hispanic	51	82
White	49	83
Economically Disadvantaged	51	82
Female	52	82
Male	50	82
All	50	82

^aState-Developed Alternative Assessment. ^bAdmission, review, and dismissal committee. ^cDisciplinary alternative education program. Data include all students who received special education services and were assigned to DAEPs in 2003-04.

House Bill 622 by Representative Olivo

There is a provision of the law that requires a school district to invite a representative of a JJAEP to be present at a hearing to place a child with a disability who may be expelled from a school into a JJAEP. This statute also allows for the JJAEP administrator to provide written notice to a school district if the administrator is concerned that a student's educational or behavioral needs cannot be met. Furthermore, upon receipt of the notice, the school district is required to convene an ARD committee to reconsider the student's placement in the program.

This provision of the law expired September 1, 2005 and House Bill 622 by Representative Olivo would have eliminated the expiration provision had the bill made it out of Calendars and passed through both Chambers. The witness list in support of House Bill 622 was impressive, including The Mental Health Association, Texas Classroom Teachers Association, Texas Federation of Teachers, Advocacy, Inc., Texas Council for Developmental Disabilities, Juvenile Justice

Association of Texas, TX State Teachers Association, and the Association of Texas Professional Educators.

Integrating into the State Accountability System and Holding Programs and Referring Districts Accountable for Students to Achieve Academic Gains

Credits

The number of credits that can be earned in a DAEP is up to the local program. The accountability checks are the review of progress towards graduation (TEC 39.009(e)) and the requirement to provide an opportunity to "complete coursework" before the beginning of the next year. However, there is not agreement that this means complete all course credits. In 1995, TEA took the position that a DAEP had to provide a program that would allow a student to graduate. This position was based on the language "provide for...educational...needs" in TEC 37.008(a)(5). This position was later overruled by the "only as required by this section" language in TEC 37.008(1) enacted in 1997.

Dropouts

"Dropout" is a status assigned to a student enrolled last year in a regular instructional program, a DAEP, or a JJAEP, who is gone this year without a good reason (e.g., graduating, leaving the state, enrolling in a private school, etc.).

Juvenile Justice Alternative Education Programs:

- Students who drop out from JJAEPs are attributed to the home school districts (districts where the students were enrolled prior to entering the JJAEP) for dropout calculations and included in the dropout rate for the home school district.
- "Court Ordered" students in a JJAEP don't really have the ability to drop out.
- If a student simply stops coming, the JJAEP is required by standards to report truancy and continue to try and make contact with the student. After the student has not returned following 40th absence, the JJAEP typically sends notice back to the school district and withdraws the student from the JJAEP.

Disciplinary Alternative Education Programs:

- In most cases, a DAEP is a campus within the home district, although some cooperative structures exist.
- Students who drop out from DAEPs are attributed to the home campus and district for dropout calculations and included in those dropout rates.

Pre or post-adjudication facilities:

- Students in a pre or post-adjudication facility are enrolled in the school district in which the facility resides (TEC 25.001B).
- The drop out calculations attribute dropouts to the school districts in which the facilities are located. The logic is that if they are accountable for the students, they have an incentive to ensure the students continue school once they are released from the facilities, either locally or in their home districts. It is important to note that the home districts may not be aware the students have been released.

Texas Youth Commission Facilities:

- Dropouts attributed to the TYC facility are not in the school district/campus(s) dropout rate in accordance with TEC 39.072.
- It is assumed that TEC 39.072 (h) was put in place several sessions ago for two reasons: 1) so the district serving the facility would not be accountable for any student leaving the program and becoming a dropout, and 2) so the serving district would not be held accountable for the TAKS tests scores.
- A student in a TYC facility being served by a Texas public school is liable to compulsory attendance and truancy laws once he or she is released from TYC.
- A parent or guardian is responsible for enrolling a student released from TYC (who is under 18 years of age) in school or satisfying compulsory attendance in another form such as home school or acquiring a GED.

Juvenile Justice Code- Issuance of Class C Citations

There has been much concern from a variety of groups that schools are in the habit of pushing all their problems onto the courts. School districts throughout Texas are overwhelming the justice of the peace and municipal courts by filing tickets against students for minor infractions that should be addressed in the schools and not the courts. There is no research that indicates that the issuance of Class C misdemeanors in school is modifying student behavior, although it is clogging municipal and justice courts ill-equipped to handle juvenile cases. Issuing tickets for things like disruption of a classroom, sleeping in class, or chewing gum have taken the responsibility for classroom management and given it to law enforcement.

Situations have been reported where students are written citations only to be returned to class. It is of the Committee's opinion that if an offense is not serious enough to remove a student from class, then it shouldn't be serious enough for a criminal offense. Class C citations and referrals to court only delay punishment for the student's transgression, and delayed punishment lacks deterrence. Since minors cannot appear in court by themselves, parents must go with them to court. To make matters worse, minors cannot plead guilt/no contest and send in their citation by mail with payment. These students must come to court and their parents must come with them (CCP Art. 45.0215). By the time the student makes it to court months later, there's nothing left to do but charge the student's parents a fine and court costs, which most of them have a hard time affording.

Another problem with school-generated citations is that they are weak cases. Since these are only Class C misdemeanors, there is usually little detail sent to the prosecutor including absence of any real offense reports, witness statements, or evidence. Additionally, teachers and principals don't want to come to court months later to testify if the student threatens to ask for a trial. Once in court, a student is entitled to a jury trial, but is not entitled to a lawyer because these are fine-only offenses and the constitution doesn't require it. Since the student's parents cannot act as the lawyer (although some municipal and JP judges allow it anyway), the result is a prosecutor having to potentially try a jury trial vs. a 10-year-old child over a minor transgression.

While the "pass the paddle" situation has gotten out of hand, it is important that the legislature recognize that completely revoking school districts ability to issue Class C citations could have negative consequences. There are legitimate Class C offenses in the Penal Code, Transportation Code, and Alcohol & Beverage Code that still need enforcement by school officers. Additionally, truancy is a Class C offense, and schools have to be able to issue truancy citations. The better solution is to revoke school districts' authority to criminalize school discipline problems altogether. In this scenario, the only Class C citations for which a student should be cited would be those already in state law.

RECOMMENDATIONS

Place students who commit violent Off-Campus Crimes in JJAEPs not DAEPs.

- The Committee recommends the following:
 - Amending Chapter 37 of the Education Code so that violent offenders are not commingling with non-violent offenders.
 - Establishing new definitions for mandatory and discretionary expulsions with the recognition that a great deal of consideration must be given to how these new placements will be funded. Mandatory expulsion should include all on and off campus felonies and any judge-ordered placements. Discretionary expulsions should include misdemeanor level offenses including persistent misbehavior in a DAEP.
 - Reducing discretionary referrals for chronic and persistent misbehavior through better training of DAEP teachers in classroom management and needs of special education students.

Establish a Minimum Number of Instructional Hours for Non-Traditional Education Programs.

- The Committee recommends the following:
 - Changing requirements guiding the length of school day for Disciplinary Alternative Education Programs to "operational hours". Most students in DAEPs are significantly behind and need quality attention and programming while in the DAEP. This will allow for the counseling, tutoring, cognitive skills training and other programs that may be needed in this environment. Students that have to leave early because of medical reasons, work study or other reasons would be allowed to do so.
 - Holding DAEPs to the same standard as JJAEPs.
 - Working with TJPC and TEA to statutorily define what a school district has to provide in a pre/post adjudication facility. Examples include instructional or "operational" time and core curriculum.
 - Encouraging all alternative education programs to use virtual learning to enhance programming.

Encourage students in alternative education programs who meet certain requirements to pursue a GED if standard graduation is not possible.

- JJAEPs are currently required under TEC 37.011(d) to have GED programs and courts currently have the ability to order students into a GED program. However, the

JJAEPs receive pressure from school districts not to place students in GED programs because the school district will have to count the student as dropouts.

- The Committee recommends the following:
 - Develop a program that will encourage students in alternative programs who meet certain requirements to pursue a GED. If graduation is not possible, one of the best motivators for some youth may be to obtain a GED.
 - These requirements should include being 2-4 years behind in school, 16 to 18 years of age, and parent/guardian permission.

Learning Disabilities and Alternative Education Placement

- The Committee recommends the following:
 - Repeal Chapter 37.004 (g) of the Texas Education Code and require school districts to invite a representative of a JJAEP to be present at a hearing to place a child with a disability who may be expelled from a school into a JJAEP.
 - Require DAEPs to certify in writing that they have provided all students identified with a disability an Individualized Education Plan as required by federal law.
 - Explore the cost associated with providing additional in-service training to assist teachers in identifying and managing students with attention-deficit disorder and other learning disabilities that may be associated with misbehavior.
 - Clarify in statute that for the purposes of special education that the local school district retains the Local Education Agency (LEA) responsibility.
 - Require that students diagnosed with learning disabilities be referred to an in-school special education class if available prior to discretionary DAEP placement.

Disciplinary Alternative Education Programs

Encourage districts to adopt best practices to reduce discretionary placements such as in-service teacher training in effective disciplinary techniques.

- Past Legislation: HB 2847 (79th Regular Session) by Olivo would have required special training for school resource officers and school district peace officers. The training program would include curriculum that incorporates learning objectives regarding discipline management practices or behavior management practices.
- The Committee Recommends the following:
 - Require campuses to annually review the number of removals from their campus and the number of removals by each teacher.
 - Require special training and mentoring for a teacher that is identified as having excessive removals.

Require school districts to contact parent/guardian before placement.

- Under current law, the method of parental notification must be in board policy and in the student code of conduct. The range of time when parents or guardian are notified varies across the state.
- Past Legislation: HB 623 (79th Regular Session) by Olivo passed out of committee, but stayed in Calendars. This bill would have entitled a parent to immediate notice from a school district when their child is removed to a DAEP or JJAEP.
- The Committee Recommends the following:

-
- Requiring immediate notice to parents from a school district when a student is to be given out of school suspension, placement in a DAEP, or expulsion.

Administer the Kaufman Test of Education Achievement Analysis to medium and long-term placements upon entering and exiting programs.

- Pre and Post tests are helpful in assessing student growth. At JJAEPs, students who are to remain there for at least 90 days are given the Kaufman Test upon their entrance and departure from the program; however, DAEPs have no such similar system.
- An alternative to the Kaufman Test is a new test that TEA is currently developing. HB 1 requires TEA to develop a growth measure using the TAKS test, which will show year to year growth for individual students. Although it does not show true growth while in the program it does still attribute some growth or loss while assigned to the DAEP.
- The Committee recommends the following:
 - Require that TEA explore alternative means of testing DAEP program success including academic growth as well as measuring course completion and behavior improvement measures. TEA should report their findings and recommendations to the Committee.

Charge the TEA to collect performance data, monitor, and audit programs.

- The Committee recommends that the following items be considered in the future performance data, monitoring, and audit request to TEA:
 - Monitoring system that is on-site and not solely based on performance and placement data.
 - Measurement of the impact that removing a disruptive student from a classroom has on that classroom.
 - Instituting an alternative means of testing DAEP program success including academic growth (either the Kaufman test or new TAKS growth measurement test) as well as behavior improvement measures such as pre and post attendance, pre and post discipline incidents and recidivism.
 - Provide DAEPs with set minimum standards of operation and report on the cost associated with enforcement of those standards including on-site monitoring.
 - Minimal operation standards for DAEPs should include but not be limited to DAEP classroom ratios, health and safety requirements, abuse, neglect and exploitation reporting and training.
 - Provide DAEPs with complete planning for transitioning of students once they return to their regular courses.
 - Provide longitudinal data on the probation population to track graduation rate.

Juvenile Justice Alternative Education Programs

Provide an educational environment for counties that do not have JJAEPs.

- The Committee recommends two alternatives that should be explored further in a public hearing:
 - Create virtual school learning environments for expelled students in counties that

do not have JJAEPs. One option would be for districts to hold virtual courses during alternative hours such as 4:00pm to 8:00pm, so that the current four hour funding requirement will be met. This could be accomplished using Foundation School funding or contracting with local churches or other faith-based organizations. Another suggestion is to have rural areas set up a program where students report to a school campus two or three times a week and link into a virtual school program. This could be conducted in the evenings so parents would be required to participate and transport their child. Thoughtful consideration should be given to special provisions to allow school districts to collect ADA and waive operational hours or instructional time.

- Create incentives for counties neighboring an existing JJAEP county to co-op.

Provide funding for year round education for students in JJAEPs.

- Students in JJAEPs are often behind in school and these youth need year round educational programming and the opportunity to catch up on lost credits.
- Currently, the state funds a 180-day program regardless of the population served, although there are a few special programs that fund a longer year. A school district can operate longer and students are still generally required to attend summer or remedial courses (TEC 25.085(d)), but there is very little money to support those types of programs.
- The Committee recommends the following:
 - Provide funding for year round education for students in JJAEPs.

Pre- and Post-Adjudication Centers

Establish accountability measures for pre and post-adjudication centers

- The Committee recommends the following:
 - Explore the feasibility of contracting with established educational providers to set up charter programs for pre and post adjudication facilities. According to the Texas Juvenile Probation Commission, there are currently two special purpose school districts, one run by the University of Texas and one by Texas Tech University that may be able to provide computer-based curricula and assignments for students.
 - Require juvenile residential programs to use alternative means of testing program success including academic growth measures as well as measuring course completion and behavior improvement measures.
 - Encouraging pre and post adjudication facilitates to use virtual learning to enhance programming.

Juvenile Justice Code

Limit district and school board authority to create criminal offenses for violations of school discipline policies.

- The Committee recommends the following:
 - Revoke school districts' authority to criminalize school discipline problems altogether. The only Class C citations for which a student should be cited should be those already in state law.

CHARGE 7: STUDY THE EFFECTIVENESS OF PREVENTION PROGRAMS, SUCH AS AFTER SCHOOL PROGRAMS, IN REDUCING THE ACTUAL INDICIES OF CRIME AND THE RATE OF YOUNG OFFENDERS ENTERING THE CRIMINAL JUSTICE SYSTEM.

JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES.

BACKGROUND

Juvenile Crime in Texas

There are two main state agencies that address juvenile crime in Texas: the Texas Youth Commission and the Texas Juvenile Probation Commission. The cost of keeping youth in the system as well as the recidivism rate for youth who have been in the system is high.

According to the Texas Youth Commission's 2003 Review of Agency Treatment Effectiveness, the reported recidivism rates for TYC youth are as follows:

- 55.76% are re-arrested within 1 year for any offense
- 48.74% are re-incarcerated within 3 years
- 26.08% are re-incarcerated within 1 year

According to the Texas Juvenile Probation Commission Report, August 2005, the number of youth referred to TJPC that have already had prior referrals is as follows:

- 20% have two prior referrals
- 31% have four prior referrals
- 14% have three prior referrals

Not all youth are sentenced to TYC or referred to TJPC:

- In FY 2005 there were 4,189 individual offenders 19 years old or younger who were received by TDCJ.
- The average number of offenses for which these offenders were convicted and sentenced to TDCJ was 1.5.⁷⁴

Along with the high recidivism rate and high number of repeat offenders, TYC and TJPC also see a large number of youth overall. The end of year residential population of TYC was 4,875 in FY 2005, 4,883 in FY 2004, and 4,825 youth in FY 2003. Of those that spend time in TYC facilities, the average residential length of stay for a youth was 20.9 months in FY 2005, 21.0 months in FY 2004, and 22.3 months in FY 2003.

The Texas Juvenile Probation Commission (TJPC) also sees a high number of youth. TJPC received 107,342 juveniles by referral in calendar year 2003 and 107,781 juveniles in calendar year 2004.⁷⁵

There are a number of factors that many juveniles referred to one of the two State Agencies have in common. Of the 2,614 youth committed to TYC in FY 2005, only 206 of those youth had completed 10th grade or higher (8% of offenders). Of those juveniles committed, the average reading and math levels were far below those of the majority of youth in their respective grade levels.

Categories	Fiscal Year									
	2001		2002		2003		2004		2005	
	#	%	#	%	#	%	#	%	#	%
TOTALS	2406	100%	2448	100%	2511	100%	2526	100%	2614	100%
NOT KNOWN GANG MEMBER	1392	58%	1491	61%	1683	67%	1656	66%	1701	65%
KNOWN GANG MEMBER	1014	42%	957	39%	828	33%	870	34%	913	35%
LAST GRADE COMPLETED-4TH OR LESS	7	0%	7	0%	9	0%	10	0%	12	0%
LAST GRADE COMPLETED-5TH	47	2%	52	2%	30	1%	28	1%	39	2%
LAST GRADE COMPLETED-6TH	174	7%	172	7%	136	5%	106	4%	110	4%
LAST GRADE COMPLETED-7TH	417	17%	396	16%	336	13%	280	11%	273	11%
LAST GRADE COMPLETED-8TH	1021	43%	952	39%	1145	46%	1105	44%	1167	46%
LAST GRADE COMPLETED-9TH	567	24%	603	25%	668	27%	794	32%	720	28%
LAST GRADE COMPLETED-10TH OR MORE	164	7%	253	10%	180	7%	190	8%	206	8%
MISSING	9		13		7		13		87	

FISCAL YEAR	IQ AT COMMITMENT	AGE AT COMMITMENT	LAST GRADE COMPLETED	READING GRADE LEVEL AT COMMITMENT	MATH GRADE LEVEL AT COMMITMENT
2001	91	16yr 0mo	8	6yr 0mo	5yr 3mo
2002	90	16yr 1mo	8	5yr 8mo	5yr 3mo
2003	91	16yr 2mo	8	5yr 9mo	5yr 4mo
2004	90	16yr 2mo	8	5yr 8mo	5yr 3mo
2005	89	16yr 2mo	8	5yr 8mo	5yr 4mo

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Research has repeatedly argued that dropouts and academic failure or dissatisfaction often leads to juvenile delinquency and Texas ranks among the states with higher dropout rates. According to the Texas Education Agency's 2004-2005 Report on Secondary School Completion and Dropouts in Texas Public Schools, Texas graduated 73.5% of freshman in 2001-2002 and 75.5% in 2002-2003, ranking 30th and 29th respectively among the 50 states.⁷⁷ There were a total of 6,276 dropouts during the 2000-2001 school year and 8,538 dropouts during the 2001-2002 school year. The majority of dropouts occur in the higher secondary school years.⁷⁸ The delinquency that often accompanies educational failure and dissatisfaction leads to increasing costs in the criminal and juvenile justice system and negative impacts on the community.

Along with the high number of high school dropouts, there are other factors that lead to juvenile

delinquency. One of these factors is the high number of youth left without adult supervision after school hours. According to the U.S. Department of Labor more than 28 million youth have both of their parents or their only parent in the workforce full-time. This leaves millions of children without parental supervision between the hours of 3 and 6 p.m. and enables these youth to become involved in juvenile crime. In fact, the peak hours for juvenile crime on school days are from 3-6 p.m. This represents three hours of no supervision that could be replaced by after school programs.

What Texas is Currently Doing

The Texas Education Agency and the Texas Department of Family and Protective Services currently list multiple federal, for-profit, and non-profit after school or preventative programs for Texas residents to participate in. Those aimed toward education and dropout prevention include but are not limited to the following:

Programs for Children with Incarcerated Parents

According to a recent National Institute of Corrections (NIC) report, children of incarcerated parents who receive no intervention are six to eight times more likely to become involved in a criminal lifestyle.⁷⁹ Interestingly, the gender of the parent is an important factor when considering the impact of incarceration. When fathers go to prison, mothers assume full responsibility for the care of the child(ren) ninety percent of the time (90%). In contrast, when mothers are imprisoned fathers assume the care giving responsibilities of the child(ren) twenty-eight percent (28%) of the time.⁸⁰

- **AMACHI** is a program that uses faith-based and secular partners to match children of criminal offenders with adult role models. On March 9, 2006, Texas made history as Governor Rick Perry announced the kickoff of the first statewide Amachi program—a collaboration of the 11 Big Brothers Big Sisters organizations in the state, One Star Foundation, and the Texas Department of Criminal Justice. It is hoped that Amachi Texas will become a blueprint for other states to use in replicating the statewide program.
- **GO KIDS** is a program implemented by the Texas Department of Criminal Justice. GO KIDS impacts both offenders and the offenders' children by offering programs geared towards strengthening the parent-child relationship, as well as providing a reliable connection to valuable community resources. Christina Melton Crain, Chairwoman of the Texas Board of Criminal Justice, has been a long time champion of this program. TDCJ is committed to providing opportunities for visitation as well as incorporating programs which, in respect to maintaining public safety, include children of offenders or impact the children of offenders.
- **Lone Star Girl Scout Council, Troop 1500** is one of 30 Girl Scout programs in the country that focus on mentoring and counseling the relationship between young girls and their incarcerated mothers. Troop 1500 meets three times a month with a licensed therapist from the YWCA to do group therapy in a meeting held at the UT School of Social Work. Once a month the girls travel to Gatesville to visit their mothers in prison. The mothers and daughters share a meal, do each other's nails, sometimes have a facial and generally catch up. Then, they get down to the real business at hand: team building,

literacy curriculum, decision-making curriculum, communication-building skills work, life skills activities and group therapy.

Other Texas Programs

- **The Texas 21st Century Community Learning Center** is a branch of a federal program that allows students and families to continue to learn new skills and discover new abilities after the school day has ended. This program was authorized under Title IV, Part B of the No Child Left Behind Act and is funded through a federal grant.
- **Afterschool Alliance** is a non-profit organization that exists to advocate the need for after school programs for all children. Their goal is to see that all children are offered this option by the year 2010.
- **Big Brothers Big Sisters** is a non-profit mentorship program that aims to pair mentors with youth to create a lasting bond and help youth reach their potential. They have found that "littles" are 52% less likely to skip school, 46% less likely to begin using illegal drugs, and more likely to get along with their families and peers.⁸¹
- **Camp Fire USA** is a for-profit youth development organization that serves approximately 750,000 youth and children. It is a nation-wide program that aims to build caring, confident youth and future leaders.⁸²
- **Communities in Schools (CIS)** is a nation-wide program created to help kids stay in school and prepare for adult life. The program focuses on building one-on-one relationships between adults and youth and encouraging and aiding the development of before and after school programs. They boast more than 1300 CIS sites that offered such programs during the 2004-2005 school year.

Texas Department of Family and Protective Services

The Texas Department of Family and Protective Services (DFPS) focuses on prevention and early intervention (PEI) programs that aim to prevent abuse, neglect, delinquency, and truancy of children in Texas. The following programs are all offered in Texas, but not all are available in every area of the state:

- **Community Youth Development (CYD).** The CYD program contracts with fiscal agents to develop juvenile delinquency prevention programs in ZIP codes that have a high incidence of juvenile crime. Approaches used by communities to prevent delinquency have included mentoring, youth employment programs, career preparation, and alternative recreation activities. Communities prioritize and fund specific prevention services identified as needed locally. Services must have been evaluated and determined to be effective in reducing juvenile delinquency. CYD services are available in 15-targeted Texas ZIP codes. Currently, DFPS provides ongoing training and technical assistance for all local CYD programs. DFPS also supports an annual youth conference, the Teen Summit, to promote youth leadership and provide training and activities.⁸³
- **Services to At-Risk Youth (STAR).** Through community contracts with community agencies, STAR offers family crisis intervention counseling, short-term emergency residential care, and individual and family counseling to youth up to age 17 who experience conflict at home, have been truant or delinquent, or have run away. STAR services are available in all 254 Texas counties. Each STAR contractor, ranging from

local media campaigns to informational brochures and parenting classes, also provides universal child abuse prevention services.⁸⁴

- **Evidence-Based Juvenile Delinquency Prevention Services.** Evidence-based practices include services that have been evaluated and proven to be effective in preventing juvenile delinquency (At-Risk Prevention Services) or that have utilized best practices and sound research in program design (Innovative Prevention Services). A variety of services that are known to increase youth resiliency while preventing juvenile delinquency are available across the state. It is essential that these programs foster strong community collaboration to provide for a continuum of services for youth participants.⁸⁵

School District-Specific Programs

Some Texas school districts and counties offer their own after school programs with the same objectives discussed above. Travis County is one such county that offers after school programs and has found their specific program to have beneficial and positive results. The programs in Travis County are offered from 3-6 p.m. in the Austin Independent School District and are run by teachers and adult supervisors with the help of volunteers. In addition to paid staff, they have 87 mentors from the community, 25 University of Texas student assistants, additional volunteers from Dell, and numerous others.

The AISD after school program is a pilot program funded by Travis County and is in its second year of operation. It is currently funded at less than \$400,000 a year and serves approximately 1,300 students. The after school program costs roughly \$1.50 per participant per day. This cost does not include the cost that is covered by non-profit agencies, etc. Travis County also offers an “after-school” program on Saturdays from 9 a.m. to 3 p.m. that serves between 180 and 215 youth regularly. For those students that don’t have transportation, transportation is provided.

The Travis County program is aimed toward high-risk youth and focuses on two Travis County middle schools that have the highest number of youth in the criminal justice system. The program offers tutorial assistance, a variety of recreational activities, and science and chess programs through Dell and the University of Texas. The results have been higher academic accomplishment, higher scores on standardized tests, greater school attendance, more interest in school, and “staying out of trouble”.⁸⁶

Another type of after school program that has been successful in some school districts is a fee-based program in which parents pay to send their children to after-school care. Plano Independent School District operates such an after-school program in their schools called PASAR (a Spanish word meaning “to surpass or exceed”). It is a fee-based program not funded by PISD or taxpayer funds and is for children in grades K-5. The standard monthly fees are roughly \$200 with discounts of around \$100 for those students that receive free and reduced lunches. Students in PASAR participate in various activities at all elementary school sites including academic and homework tutorials, outdoor play and board games, fine arts activities, relaxation, and snack time. PASAR is offered at the child's home elementary school and provides for a safe after-school environment from 2:45 to 6:30 p.m. when many children would be home alone and unsupervised while parents were at work. PASAR also offers Summer and Holiday programs at an additional cost.⁸⁷

Nurse Family Partnership Program

One program of particular interest to the Committee is the Nurse Family Partnership (NFP) Program. Although this program is not an after-school prevention program, NFP has proven to make a remarkable difference in the lives of young mothers in helping them to raise healthy well-rounded children and steer them away from the path of future criminal behavior. The Nurse Family Partnership is an evidence-based nurse home visitation program that improves the health, well-being and self-sufficiency of low-income first-time parents and their children. NFP Nurse Home Visitors achieve three important goals:

- Pregnancy outcomes are improved by helping women engage in good preventive health practices, including obtaining thorough prenatal care from their healthcare providers, improving their diet, and reducing their use of cigarettes, alcohol and illegal substances;
- Children's health and development are improved by helping parents provide responsible and competent care for their children; and
- Families' economic self-sufficiency is improved by helping parents develop a vision for their own future, plan future pregnancies, continue their education and find work.

This program has been proven to more than pay for itself, given the multitude of outcomes the program affects. Net reductions in public costs begin to accrue by the time the children are four years old. There is evidence that the economic returns/benefits from investing in early intervention programs are larger when programs are effectively targeted. The RAND Corporation has independently estimated that the return for each dollar invested is \$5.70 for the high-risk population served.⁸⁸

Nurse Family Partnership (NFP) is the most rigorously tested program of its kind. Randomized controlled trials of the Nurse Family Partnership were conducted in Elmira, New York (1977); Memphis, Tennessee (1987); and Denver, Colorado (1994).⁸⁹

Positive Program Effects Found in First Trial at Child Age 15:

Benefits to Children

- 48% reduction in child abuse and neglect
- 59% reduction in arrests
- 90% reduction in adjudications as PINS (person in need of supervision) for incorrigible behavior

Benefits to Mothers

- 61% fewer arrests
- 72% fewer convictions
- 98% fewer days in jail

Council on At-Risk Youth (CARY)

Adrian L. Moore, Executive Director of The Council on At-Risk Youth (CARY), testified before the House Committee on Corrections at a public hearing held on April 18, 2006. Mr. Moore's testimony used validated performance measures and proven methods to demonstrate how the state can intervene with individual lives to keep Texas's high-risk youth out of the criminal

justice system. Chairman Jerry Madden was very impressed with Moore's emphasis on the use of best practices and statistical measurements to demonstrate the successes of the CARY program and invited Mr. Moore to share his program with other groups who have a sincere interest in keeping youth from turning to crime.

After a personal follow-up meeting with Mr. Moore, Chairman Madden arranged for a meeting between Mr. Moore, Ann Dellano of the ACLU, Nicole Porter of the Prison and Jail Accountability Project, and Marc Levin of the Texas Public Policy Foundation (TPPF). These individuals have a long history of working on criminal justice policies and are trained to distinguish between reputable proven programs and policies that come up short. Chairman Madden knew that he could rely on their honest assessment of the program and as expected, the feedback was filled with rave reviews. With the blessings of such distinguished opinions from conservative *and* liberal groups, steps were taken to develop a pilot project for the next fiscal year.

The Council on At-Risk Youth (CARY) is a 501c3 not for profit organization dedicated to helping youth prevent violence, drug abuse and delinquency through public information, training, and management of youth violence prevention programs. The Council surveys best practice prevention initiatives, collaborates with other organizations and implements violence prevention programs for groups of youth who are at risk of violent behavior and who are assigned to disciplinary programs in the public school setting.⁹⁰

Before serving as Executive Director of the Council on At-Risk Youth, Mr. Adrian Moore had extensive employment experience in the juvenile and correctional atmospheres as well as administrative and rehabilitative professions.

- American Correctional Association
Accreditation Auditor (1/94-present part time)
- Texas Youth Commission
Quality Assurance Auditor (3 years); Regional Director (9 years); Director of Planning, Research and Evaluation (6 years); Director of Financial and Technical Assistance (3 years); Assistant Director of Community Services (3 years); and Community Resource Coordinator (1 year)
- National Council on Crime and Delinquency
Senior Survey Consultant (3 years); Survey Consultant (3 years)
- New Mexico Vocational Rehabilitation Division
Rehabilitation Counselor (1 year), Assistant Camp Director (1 year) and Psychological counselor (1 year)

CARY's vision is based on the fact that research shows strong correlations between students' entry into the school disciplinary system and later entry into criminal justice system. One study funded by the National Institute of Child Health and Human Development shows that nearly 60 percent of boys classified as bullies in the sixth through ninth grade will receive at least one criminal court conviction by age 24, and 40 percent will receive three criminal court convictions by age 24.⁹¹

Predictors of later crime and delinquency for school age youth have been reviewed by Dottie Carmichael, PhD. at the Texas A&M Public Policy Research Institute. Dr. Carmichael recently completed a study entitled "Minority Over-Representation in the Texas Juvenile Justice System" and found that "among ten different factors that might identify youth at greater risk for becoming involved with the juvenile justice system, a school disciplinary referral emerged as the single strongest predictor".⁹² According to Dr. Carmichael, "one school infraction increases the likelihood of a future justice system referral by 23%; the greater the number of school disciplinary incidents, the higher the probability of subsequent referral to the justice systems". The study concluded "these powerful findings provide clear direction for targeting early intervention programs where they have the greatest impact".⁹³

Review of the table below shows dramatic increases in the number of students being engaged in disciplinary activity in the public schools over a six year period. Note that in school suspensions have increased at a level of 29% and out of school suspensions have increased by 32% over the six year period. Note also that in more than one million cases in 2005, students have had disciplinary action taken; this number reflects 23% of the total student population in Texas public schools. This is the group of students that make schools unsafe for other students. As pointed out by Dr. Carmichael, this group of students represents with high predictability the group that provides intake into the juvenile and criminal justice system in Texas.

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
ISS	452,477	484,210	495,550	518,182	605,450	630,850
OSS	195,117	217,027	231,158	245,671	280,356	292,165
DAEP	122,931	119,816	96,737	101,039	103,696	100,909
EXP	9,750	8,220	8,133	7,613	9,334	9,885

ISS = In School Suspension
 OSS = Out of School Suspension
 DAEP = Placement in a Disciplinary Alternative Education Program
 EXP = Expelled from Public School

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CARY's vision is that cost effective application of "science based" interventions with these students will decrease crime and delinquency and result in improved school attendance, improved grades and improved citizenship.⁹⁵ There are numerous "science based" or "evidenced based" programs for the prevention and intervention of youth violence, drug abuse, and juvenile delinquency. The US Center for Disease Control and Prevention has identified several violence prevention programs in "Best Practices for Youth Violence Prevention".

One of these programs used by the Central Texas Based Council on At-Risk Youth, called "Positive Adolescent Choices Training" (PACT), has findings demonstrating a 50% reduction in both aggressive school incident reports and juvenile court referrals for participants completing the program.⁹⁶ PACT is recommended by the Center for Disease Control and Prevention and

was also recommended as a “best practice” in the 1999 Annual Report on School Safety by the U.S. Department of Education and by the U.S. Department of Justice.⁹⁷ The curriculum consists of social cognitive skills training by Youth Advisors over a four week period of time in the following areas:

- Making positive choices
- Anger triggers and controls
- Conflict resolution
- Aggression and assertiveness
- Dealing with criticism
- Communications
- Negation skills
- Violence risks and myths

There are many other scientifically proven programs including a lengthy inventory of youth drug abuse prevention programs that have been evaluated rigorously by the US Department of Health and Human Services- Substance Abuse and Mental Administration. There is also a listing in the "Blue Prints for Delinquency Prevention", published by the US Office of Juvenile Justice and Delinquency Prevention. These programs are readily available for use, requiring only social work, psychology and/or counseling trained professionals, minimal supplies and materials, and a place to meet and conduct the programs for at-risk youth.

The public school disciplinary system within the DAEP and/or the In-School Suspension or Detention setting offers the perfect place and time for the administration of these prevention programs and intervention programs. DAEP's and ISS settings offer direct access to the target population that is most likely, in the absence of intervention programs, to graduate to juvenile and criminal justice systems. One of the most convincing components of this program compared to volunteer after-school prevention programs is that intervention takes place within the school day on school campus and doesn't rely solely on the students initiative to attend a volunteer program. Moreover, many students who may want to participate in after school programs outlined previously in this section face other constraints like responsibilities at home (babysitting younger siblings), employment during after school hours, or access to transportation.

The Council on At-Risk Youth (CARY) and the Austin Independent School District received a federal Bureau of Justice Assistance grant for the PeaceMakers Youth Violence Prevention Program during the two school years from the Fall of 2003 through the Spring of 2005. Part time Youth Advisors were available two to four hours daily at five AISD school sites:

- Alternative Learning Center- *126 students served*
- Bedichek Middle School- *69 students served*
- Dobie Middle School- *48 students served*
- Martin Middle School- *49 students served*
- Webb Middle School- *42 students served*

CARY served a total of 334 students in the PeaceMakers skills training program. The student population consisted of 11 through 15 year olds; the average age was 13. The student population

demographics were 52% Hispanic, 30% Caucasian and 18% African American. 75% of the students were male and 25% female.

The Advisors counseled youth with the science-based approach using the Positive Adolescent Choices Training (PACT) curriculum discussed previously. Additionally, one Project Trainer conducted classroom teacher training and parent training in methods pertaining to violence prevention. Youth Advisors also conducted informal individual counseling, mentoring, coaching, and classroom behavioral monitoring with student participants.

Program Evaluation Results for School Years 2003-2004 and 2004-2005

External Research Evaluation:

Funding was made available in the grant for review and assessment by an outside professional consultant. Academic Research Associates (ARA) with principal investigator Holly Van Scoy, Ph.D. was awarded the contract. Youth Advisors administered pre- and post- tests to students asking for their responses to the PeaceMakers program and analyzed whether there had been any demonstrated behavior change on completion of the program. The principal research finding was statistically significant results for student improvements in appropriate social behaviors and decreases in anti-social behaviors. ARA found significant positive changes in the scores of all youth for anger management, communication, negotiation and conflict resolution skills. The second phase of the survey will analyze results for the 2004-2005 school year and will also examine change in behavioral incidents reported before and after the PeaceMakers intervention.

Survey Research Results:

Several groups were polled using written questionnaires and telephone surveys to determine their responses to the PeaceMakers Program.

Administrators from the Austin Independent School District reported at the Texas Safe and Drug Free School Conference on February 7, 2005 that CARY program graduates show 1) noticeable improvements in attitudes and behaviors, 2) improvements in manners and social skills, 3) improvements in attendance and 4) increases in academic grades.

Counselors reported in a faculty survey conducted in May 2005 that 118 CARY program graduates at Bedichek, Dobie, Martin and Webb Middle Schools showed 1) improvements in their attitudes and conduct, 2) improvements in grades, 3) improvements in managing their anger, 4) improvements in resolving conflicts with others and 5) decreases in student aggressive acts.

Teachers responded to the CARY Faculty Survey that they had noted change in graduates with 1) improvements in grades, 2) improvements in attitudes, 3) improvements in overall behaviors, and 4) improvements in social skills.

Parents of some 60 students participating in the CARY programs at the Alternative Learning Center reported in the spring of 2004 and 2005 that their children were demonstrating 1) improvements in anger management, 2) improvements in resolving conflict with others, 3) involvement in fewer fights, 4) being in school at the close of the next semester, and 5) having

passing grades and being promoted to the next grade.

Anecdotal Evaluative Comments:

Many student and parent informal comments were very positive about the impact of the program, particularly at Martin and Bedichek Middle Schools. One girl was initially opposed to her assignment to the group but after participation stated "it was an awesome group and I was glad I stayed". Another student stated "it's a great place to bring personal problems and get good advice". Several Bedichek boys concurred that "all schools should have this program so that students could use the same methods to prevent violence".

Several students also began referring themselves to the program. At Bedichek there were two full groups of students waiting for entry into the program. These "self referrals" were students who had observed behavioral changes in their peers and were determined that they would also benefit with PeaceMakers. On receiving a congratulatory note on her daughter's improved behavior at the graduation ceremony, one mother came to the principals office in tears, stating that "she had never before received any positive written comments about her daughter".

Mr. Moore explained to the Committee that while it was originally difficult to obtain the schools permission to execute the program within the school curriculum and on campus, the reaction to the results of the program have been so outstanding that principals and administrators have begged CARY to continue on their campuses. The findings are consistent with those noted within a national review of the Positive Adolescent Choices Training Program (PeaceMakers) by the US Department of Education, the US Department of Justice and the US Center for Disease Control and Prevention.

Cost Comparisons

After reviewing both current and proposed youth prevention programs within the State of Texas, the Committee concludes that the CARY program offers the most promising results and would like to work to expand the program in a funded pilot project. Knowing that many at-risk youth in school disciplinary systems will have high likelihood for future criminal involvement, we can significantly prevent crime and delinquency, and do so in a much more cost effective manner if we will invest in intervention programs for at-risk students.

The Table below illustrates comparative costs for prevention and intervention with one youth against the costs of processing the same youth through the juvenile and criminal justice system.

1 year CARY Positive Choices Training	\$600
7 day stay at Gardner Betts Detention	\$2,100
1 year sentence to Travis County Jail	\$25,000
1 year commitment to the Texas Youth Commission	\$50,000
5 year sentence to the Texas Department of Criminal Justice	\$75,000
10 years in "revolving door" of criminal justice system for school dropout involved in drug abuse and petty crimes (US DoJ)	\$2,000,000

During the years between 1999 and 2003, an average of 15,000 cases were deferred by prosecution annually and another average of about 37,000 cases were brought before the juvenile court for an adjudication fact finding hearing to determine whether the juvenile committed the delinquent act as alleged by victims and police.

	1999	2000	2001	2002	2003
Arrests:	115,925	145,063	142,897	140,992	144,667
Referrals:	93,624	113,146	113,134	105,910	107,338
Detentions:	50,201	51,488	52,014	49,898	49,814
Defer Prosecution:	15,671	15,234	15,134	14,058	23,338
Ajudicated To:					
1) Probation	26,057	28,173	26,953	27,456	26,423
2) Residential Care	8,341	7,808	9,932	9,932	9,632
3) TYC	3,002	2,650	2,498	2,498	2,519

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Proposed Pilot Project for Delinquency and Intervention Services in School District DAEP's and ISS Settings:

The Committee proposes a regional Texas experiment targeting only one percent of the 100,000 plus students being exposed to the school disciplinary system using the PACT model of services now being conducted by the Council on At-Risk Youth in Travis County. The model provides a case management system using violence and drug abuse prevention skills training in a six week segment inclusive of community service projects in the ISS, OSS or DAEP school setting. This is followed by an additional 10 and ½ months of individual behavioral counseling, coaching, and mentoring for each at-risk youth. The costs of such a system for personnel, supplies, materials, and operations is \$600.00 per student per year or \$60,000 for one year serving 100 students at one school site. School districts would conduct the program using this model or closely related models, or they would employ contractors to administer and manage the program. The Committee proposes that one percent of the current disciplinary population or 10,000 youth be provided services at 100 sites for a cost of \$6,000,000.00.

This cost is less than costs associated with 100 youth being processed through the juvenile justice system with:

- 25 youth being admitted to pre court detention (\$108,000)
- 35 youth being admitted to 6 months local residential placement (\$2,450,000)
- 40 youth being committed to TYC (\$3,890,000)
- Total expenditure = \$6,448,000

What Other States Are Doing: California and Michigan

On November 5, 2002 California voters passed Proposition 48, the After School Education and Safety Program Act of 2002, by 56.6%. The act does the following:

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- Provides grants to elementary and middle schools in California for after-school programs. When fully funded, it will provide more than \$400 million in additional state funds for after-school programs. Schools are required to provide a 50% match to all state funding and grants will not be made until the economy improves sufficiently to provide the state with enough additional revenue to fund the program.
 - The act establishes three priorities for the funds:
 - To continue existing after-school grants. One provision requires level funding each year after Fiscal Year 2004 for existing grants.
 - To make every public and charter school in the state eligible for after-school funds. Each elementary school will be eligible for a grant of \$50,000 per year, and each middle and junior high school \$75,000 per year.
 - To target schools in which 50% or more of students are eligible for free or reduced lunch by increasing funds for before school and intersession programs and for schools with waiting lists for after-school programs.

Proposition 49 also stipulates some of the content and operation of programs. It suggests the inclusion of computer training, fine arts, and physical fitness programs. It allows such programs to be off school sites as long as the site meets certain safety and transportation standards and calls for the community to participate and aid in the operation of such programs.

An independent study of the costs and benefits of Proposition 49 by the Rose Institute of State and Local Government at Claremont McKenna College found that every dollar invested in after-school programs will save taxpayers approximately \$3, and could save more than \$6.50 for crime victims.

In September of 2004, the Michigan Legislature passed legislation to create the Michigan After-School Partnership to carry out the goal of ensuring quality after-school programs for each and every child in Michigan. The Legislature stated that the Michigan After-School Partnership be co-chaired by the Michigan Department of Human Services and the Michigan Department of Education. They broadened their goal to include an increase in qualified staff and volunteers, child care, development services and crime and violence prevention. Each year, the Michigan After-School Partnership must report its progress to the Legislature and the Governor. Their mission statement is to "provide statewide leadership to build and sustain high-quality after-school programs for children and youth in all communities throughout the State."⁹⁹

The Michigan After-School Partnership is funded through monies received from the Charles Stewart Mott Foundation, The Robert Wood Johnson Foundation, the Michigan Department of Human Services, and the Michigan Department of Education.

RECOMMENDATIONS

The Committee recommends funding all, or a portion of, the proposed CARY pilot project targeting only one percent of the 100,000 plus students being exposed to the school disciplinary system using the PACT model of services now being conducted by the Council on At-Risk Youth in Travis County. A detailed outline of the proposed CARY pilot project is provided as Appendix B. Appendix B details who the target population should be, program services that are to be provided, explanation of curriculum, project staffing, how the program is to be evaluated, and an itemized list of program costs (staff, fringe benefits, supplies and materials, operational costs, and program evaluation).

**CHARGE 8: MONITOR THE AGENCIES AND PROGRAMS UNDER THE
COMMITTEE'S OVERSIGHT AND MONITOR THE GOVERNOR'S CRIMINAL
JUSTICE ADVISORY COUNCIL.**

BACKGROUND

The House Committee on Corrections has jurisdiction over the following state agencies: the Texas Department of Criminal Justice, the Board of Pardons and Paroles, the Texas Youth Commission, the Council on Sex Offender Treatment, the Texas Correctional Office on Offenders with Medical or Mental Impairments, and the Private Sector Prison Industries Oversight Authority. For the purpose of this interim report, the Committee chose to focus its efforts primarily on the Texas Youth Commission.

This chapter of the report (Charge 8) begins with a summary of the Governor's Criminal Justice Advisory Council and an update on the recommendations this group has provided since its inception. Next, the report provides background on the former Criminal Justice Policy Council and makes a case for its reinstatement. Finally, the report addresses numerous issues regarding the Texas Youth Commission followed by a detailed list of recommendations that the Committee plans to pursue.

GOVERNOR'S CRIMINAL JUSTICE ADVISORY COUNCIL

The Governor's Criminal Justice Advisory Council consists of nine members appointed by the Governor. The Council was created by Executive Order RP41 to advise the Governor on matters related to adequacy of criminal justice procedures, from the investigation stage through the appellate and post-conviction legal process.

Council members, with the assistance of ex officio members shall advise the Governor on:

- procedures to meet advances in technology, including forensics, matters of investigation, and related appellate and post-conviction legal processes;
- methods to ensure state and local law-enforcement investigation procedures are accurate and reliable;
- processes of access to public-safety investigators and courts that will provide confidence in convictions;
- changes in the law necessary to improve the criminal justice system; and
- other Governor-designated matters.

In a January 2006 report, the Governor's Criminal Justice Advisory Council published recommendations to Governor Rick Perry. Below is a summary of the Council's recommendations. A complete copy of the council's report is available at:

http://www.governor.state.tx.us/divisions/general_counsel/files/CJAC-0106.doc

The Council's recommendations are focused in four general areas: forensics, innocence projects, sex offender policies, and technology assistance. Included in its recommendations are proposals to:¹⁰⁰

- Change state law to give judges more discretion in ordering post-conviction DNA tests. The council found that many state district judges have been reluctant to order more DNA testing without the specific statutory authority to do so.

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- Change state law to give judges the authority to order DNA testing when the defense will pay for the testing.
 - Allow the state to pay for DNA testing at privately contracted labs to alleviate the growing backlog of DNA cases that await testing by the Department of Public Safety (DPS).
 - Secure additional funding for DPS to hire more forensic scientists, expand laboratories and purchase additional equipment.
 - Seek grant funding from the Governor's Criminal Justice Division to assist innocence projects at the state's four public law schools.
 - Approve and fund global positioning satellite surveillance of registered sex offenders for at least three years, and for life in some cases. The estimated cost is \$756,000 for the first year.
 - Expand funding for the Office of the Attorney General's sex offender enforcement unit, at a cost of about \$5 million for the first year and \$4.5 million for the second year.
 - Encourage local law enforcement agencies to use in-car audio-video record of all law enforcement contact with citizens at traffic stops and, if possible, fund local jurisdictions which may have insufficient resources for audio-video equipment.
 - Direct the Texas Commission on Law Enforcement Officer Standards and Education to regularly review and address search and seizure laws, and to provide continuing education on search and seizure laws.

In addition, the Council recommended further study in four areas:

1. Providing state funding for a public defender's office to ensure high quality representation for those charged with capital murder, especially in rural areas with limited availability of criminal defense lawyers experienced in capital murder cases.
2. Increasing the compensation of individuals who are wrongfully convicted. Current law limits the compensation to \$25,000 and is capped at \$500,000.
3. Creating a pilot project to examine problems in eyewitness identification.
4. Surveying current procedures in getting confessions. Videotaping the interrogation and confession of suspects in major crimes can eliminate irregularities in procedures.

CRIMINAL JUSTICE POLICY COUNCIL

The Criminal Justice Policy Council (CJPC), the state's former criminal justice research and analysis group, was terminated in June 2003 by a line-item veto. In response to the Governor's veto and recognizing a need to continue certain core functions of the CJPC, the Legislative Budget Board instructed Legislative Budget Board staff to provide the following information to the Legislature:

- Project Adult and Juvenile Correctional Populations
- Perform Fiscal and Criminal Justice Impact Analysis of Proposed Legislation

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- Calculate Recidivism Rates for Adult and Juvenile Correctional Populations, and
 - Calculate Cost-Per-Day Information for Criminal Justice Populations

While the Legislative Budget Board staff has provided the above-mentioned information, the Committee is interested in research pertaining to how well specific corrections programs are working and what other programs and initiatives might be needed.

This research task could be accomplished in a number of ways. For example, it could be achieved by a legislative agency, through a contract with one of the state's universities, or through a contract with a for-profit/non-profit statistical gathering group.

The Corrections Committee encourages the reinstatement of the criminal justice research component because, without it, state policy makers have less information with which to guide state policy on issues such as the need for prison construction, criminal sentencing and its impact on the prison population, or the effectiveness of rehabilitation programs for inmates, probationers and parolees. The Committee would specifically like to see research and information on recidivism rates for all individual programs within the TDCJ system including those in the Institutional Division, probation, and parole and to provide an evaluation of the effectiveness of these separate programs. Other programs of interest are Substance Abuse Felony Punishment Facilities (SAFPFs), halfway houses, as well as numerous community developed programs.

In an environment where lawmakers and state leaders rely so heavily on projections and formal statistics to guide and shape policy, it has become exceedingly difficult to understand the landscape of criminal justice without these resources. To provide for cost-effective solutions in the criminal justice system, the State needs an objective evaluation of programs and alternatives.

TEXAS YOUTH COMMISSION

Safe facilities are critical to the treatment and rehabilitative efforts that the Texas Youth Commission (TYC) uses to transform Texas' most chronic and serious young offenders into productive citizens. It is in the best interest of everyone that these young men and women become contributing members of society, rather than living their adult lives in and out of prison and creating more and more crime victims along the way.

In a public hearing on March 22, 2006 the House Corrections Committee listened to twelve hours of public testimony on the recent problems ailing the TYC. The majority of the testimony centered on staff being injured by youth and not being supported by the TYC administration. The outcry by both staff and youth advocates concerning alleged abuses and inadequate policies of TYC has been loud enough and pervasive enough to capture the attention of state-wide press and legislators including Representative Harvey Hilderbran who testified before the Committee.

Many members of the public drove to Austin to specifically testify on allegations of TYC's youth being abused and TYC's failure to protect the correctional staff from abuse by the offenders. The Corrections Committee received testimony from former TYC staff members with multiple injuries and multiple surgeries, life time disabilities, and depleted medical benefits. TYC staff

explained that "man down" calls go unanswered for long periods of time due to extensive staff shortages, that radios fail to transmit calls for aid, and that aggressive TYC youth lure staff out of the range of cameras for confrontations and assaults.

Following the public hearing, the Corrections Committee traveled to visit two TYC facilities in Brownwood and San Saba on April 19, 2006. On this trip, the Committee Members toured the facilities and spoke with both youth and staff to gain a better understanding of the TYC environment.

Chairman Madden has been in constant communication with Dwight Harris, Executive Director of TYC and his executive staff throughout the interim. Chairman Madden and the Corrections Committee have worked for nearly a year trying to analyze ways of addressing the issues that appear to be impairing the agency's mission of rehabilitation and safety. Topics have included workers compensation claims, training, adoption of successful policies that are used by the Texas Department of Criminal Justice (TDCJ), capacity issues, programming, use of force methods, and methods for increasing staff recruitment and decreasing turnover. Many of these topics quickly developed into full-blown investigations and extensive research projects conducted by Chairman Madden and the committee staff.

The remainder of this report is an overview of the areas the Committee found most important and relevant to the TYC's success. The Committee would like to specifically thank the following people who were instrumental in compiling this particular project: Dwight Harris, Executive Director TYC; Joy Anderson, Chief of Staff TYC; the entire TYC executive staff who worked tirelessly to provide the Committee with answers to an endless list of questions; and Paul Harris, Government Relations Specialist at the State Office of Risk Management for his work on worker's compensation issues.

Federal Intervention

OJJDP Technical Assistance

At the request of Chairman Madden in March 2006, TYC Executive Director Dwight Harris asked the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP) for technical assistance. Chairman Jerry Madden wrote a letter of support on behalf of the House Committee on Corrections to the OJJDP encouraging that the agency comply with this request.

The OJJDP informed TYC that the request had been approved and they identified a consultant, Mr. Alvin Cohn, who is available to facilitate the review. Mr. Cohn lives in Rockville, Maryland, and comes highly recommended with nearly 50 years of academic, professional, and administrative experience in the field of criminal justice. He has specialized in the development of management and training programs, authored six books, and published some 75 journal articles and monographs.

The technical assistance review will focus on ways to reduce the number of confirmed cases of abuse and neglect in TYC facilities. The review will likely be limited to two facilities and include staff training, staff-to-youth ratios, abuse/neglect investigation processes, youth

dormitory configurations, and operational policies. The Committee expects that this review will include an in depth review of TYC's youth classification system. The Committee is pleased that TYC took such a proactive request in seeking technical assistance from the OJJDP. The Committee is also pleased that the OJJDP has agreed to help and will be able to provide national-level expertise and advice related to best practices of operating juvenile correctional facilities.

OJJDP Civil Rights Division Investigation

Executive Director Harris asked for the OJJDP review prior to learning in June that the OJJDP Civil Rights Division would conduct an investigation of its own at the Evins facility in Edinburg, Texas.

The three broad categories the Department of Justice typically reviews include whether or not the agency is providing proper protection from harm, education, and healthcare. The protection from harm involves preventing youth-on-youth violence, excessive force at the hands of staff members, and providing a general safe environment. Investigators will be looking at things such as youth to staff ratios, whether TYC mixes older youth with younger youth, and TYC's enforcement and training related to use of force policies. TYC has been advised that the expected atmosphere of this investigation should be one of cooperation and not an effort to punish people for any past acts.

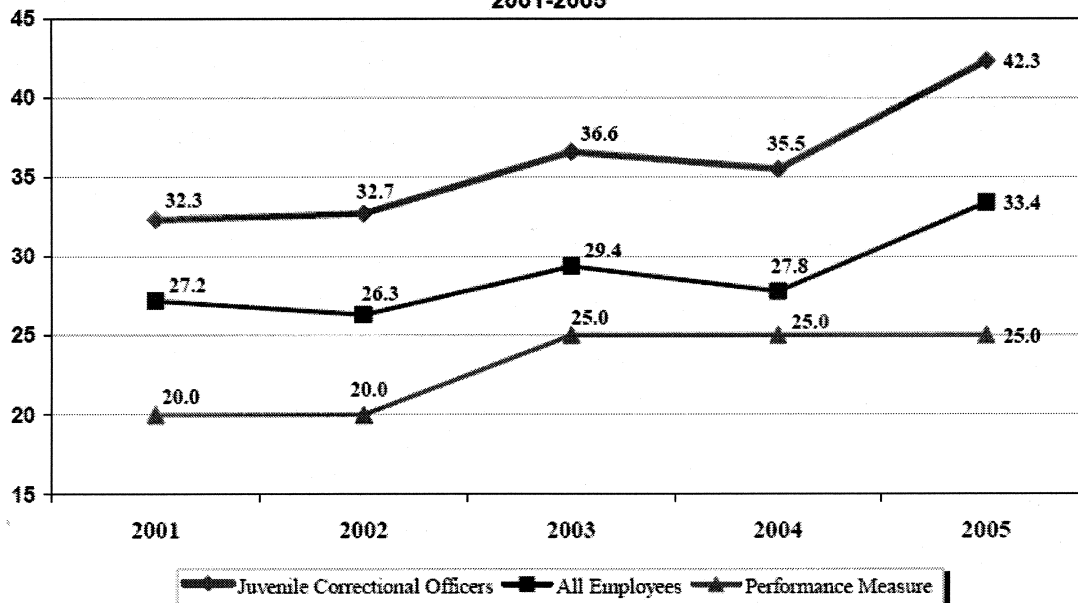
This investigation is an effort to set up conditions for improvement, should any aspect of TYC's operation need to be improved. The Committee is confident that TYC is ready to host and assist the DOJ investigators to the best of the agency's ability and the Committee looks forward to assisting TYC with the implementation of any recommendations, particularly those that may need legislative mandate.

Staffing Problems

Staffing issues appear to be at the heart of most problems TYC is facing. The Texas Youth Commission has reported alarming retention rates, particularly in the Juvenile Correctional Officer (JCO) position. The turnover rate is high compared to other state agencies and seriously impacts the Commission's ability to keep youth and staff safe.

The classifications with the highest turnover rates are Juvenile Correctional Officers (JCOs). The turnover rate for JCOs climbed from 35.5% in FY 2004 to 42.3% in FY 2005 (see chart below). In some facilities, turnover rates have been as high as 70%.¹⁰¹

FIGURE 22: TYC EMPLOYEE TURNOVER TRENDS
2001-2005



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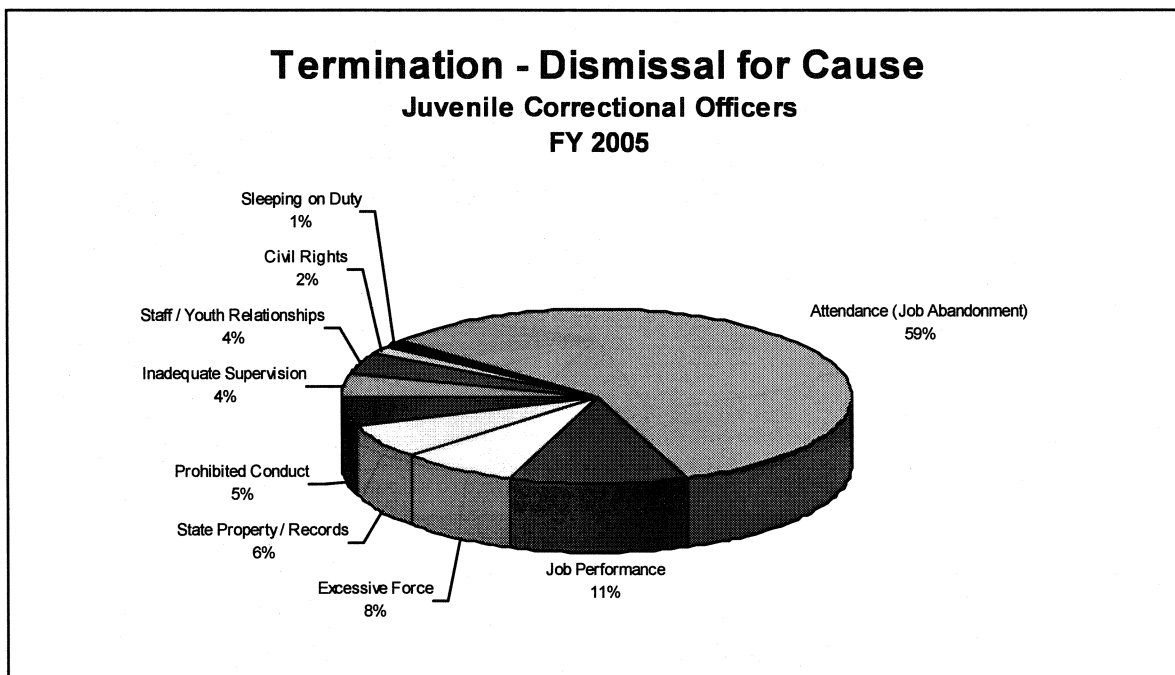
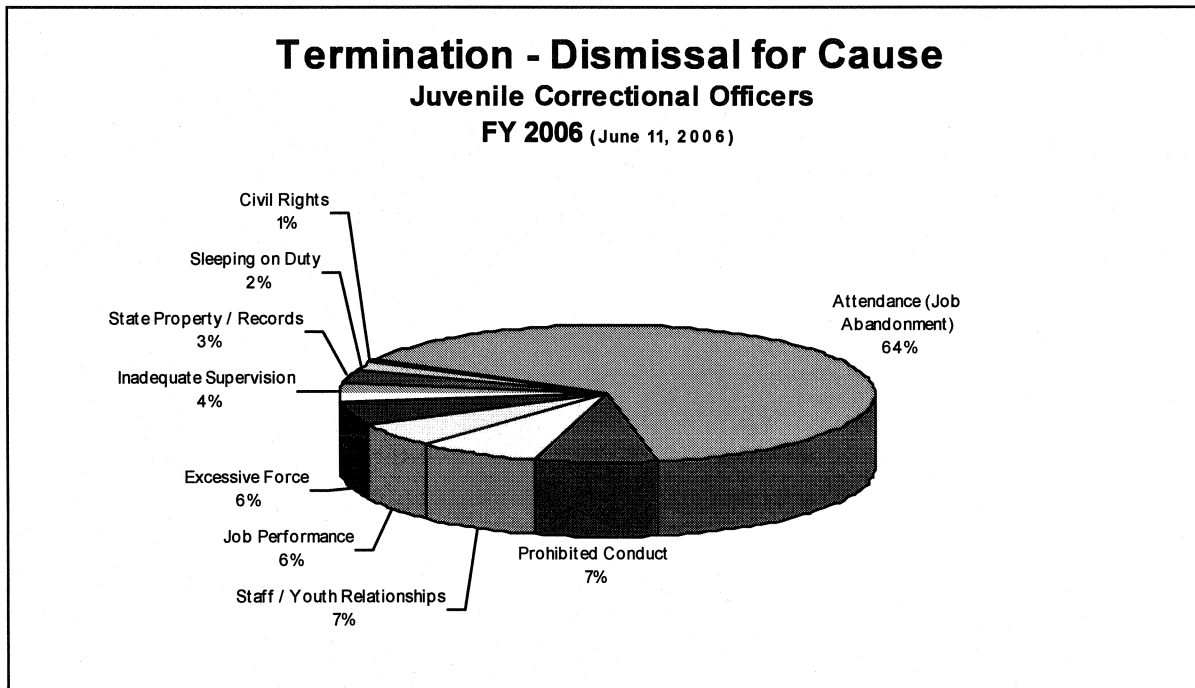
The JCO “survival rate” shows the percentage of new JCOs who are still employed after a certain amount of time. This survival rate has been decreasing the last three years. Of the 581 JCO I's who started between September 1, 2004 and February 28, 2005, 43.7% terminated before 6 months.¹⁰³

In FY 2005, there were 1,226 Juvenile Correctional Officer separations from TYC. Of those separations, 12.8% were dismissed for cause. As of June 2006, there have been 991 separations for FY 2006 and 12.2% of those have been dismissed for cause.¹⁰⁴ Of the dismissals for cause so far in FY 2006, 64% were terminated for attendance and the majority of these were for job abandonment (defined as being absent from work for three consecutive days or more without authorization). All other dismissal for cause separations in FY 2006 were distributed among the other dismissal categories and each accounted for less than 11% of the total dismissals for cause.

After looking at the data from September 1, 2004 to date, it is clear that for the most part employees, and not TYC have made the decisions to end employment with the agency. During the past two years, only 12.5% of the separations from TYC are attributable to involuntary terminations. Of those terminations, more than 60% have been because of job abandonment where the employees left work and did not return.¹⁰⁵

Exactly 110 JCOs have separated from TYC since September 1, 2004 due to violations of policy.¹⁰⁶ This number (110 out of 2,217) accounts for less than 5% of the total terminations. Considering the work environment, which can be highly restrictive with many policies, 5% may be a remarkable number. However, from a different perspective one may interpret this number to indicate that there is either a). not proper investigation of allegations of abuse by staff, or b). not enough supporting evidence of allegations of abuse by staff. Regardless, from this data one should conclude that

employees are leaving for other mostly personal reasons, and not because of termination decisions by TYC.



TYC submitted a FY 2006 Second Quarter Turnover Report to the Corrections Committee. This report highlighted the main reasons that JCOs choose to leave based on exit interviews.

- 26% left for "Personal" reasons and 10.3% stated "Unknown". This number represents 36.7% of terminations that TYC wasn't really given a reason for.
- 21.5% left for "Better Job/Pay". TYC explained that often times better job means better working conditions rather than better pay.
- "Dismissal for Cause" (14.6%) and "Resign in Lieu" (5.4%) represents 20.0% of terminations.

There will always be factors that cause employees to leave which are outside of the agency's control. A large percentage of TYC terminations occur within the first six months of their employment. This indicates that factors other than compensation and location are involved since both of these factors are well known by the new hire. Consequently, it appears that the primary reasons for termination would not include salary or the commute to work.

The following observations indicate that further investigation is needed:

- Not all TYC facilities are experiencing an increase in their turnover rate. Gainesville State School has been decreasing and Marlin and Ron Jackson (Brownwood) continue to maintain relatively low turnover rates.
- The turnover rate is driven by new employees who leave at a very high rate.
- Exit interviews are indicating that there are other factors involved that TYC can address to improve retention.

The remaining section of this report addresses areas that TYC can work on to improve retention. These areas include recruitment, training, working conditions (average daily population, workers compensation, cameras and surveillance, Inspector General or Special Prosecutor Unit), and employee benefits (pay scale, shift differential pay, retirement plans, and Homes for Heroes).

Recruitment

The challenges associated with recruiting and retaining staff throughout the TYC have reached critical levels. The number of applicants is down from last year, and TYC attributes the decrease in applications to the economic upturn in other industries with which TYC competes for applicants in the communities surrounding TDCJ facilities.¹⁰⁷

The Texas Department of Criminal Justice has fourteen recruiters, eight in Huntsville and six others located throughout the state. Their mission is to conduct all the recruiting for the agency and the hiring of additional correctional officers. The entire process is done out of TDCJ headquarters in Huntsville and field locations are not involved in the hiring of correctional officers. TYC on the other hand does not have any full-time recruiters. Recruitment is done on the local level by the Human Resource Administrator (HRA) as a normal part of business. Central Office HR staff work closely with local HRAs and assist whenever needed.

TYC has developed a "Recruitment and Retention Plan" for targeted positions in accordance with the direction given by the Honorable Sylvester Turner, Chair of the Criminal Justice Subcommittee, House Committee on Appropriations. An increase in employment rates and reduction in turnover rates for JCOs, case managers, and clinical professionals will be used to measure the success of this plan.

The report contains facility-specific strategies that the agency has recently implemented, strategies that are planned for priority implementation and strategies that are planned but require legislative authority and/or additional funding prior to implementation. Below is a summary of some of the recruitment efforts described by this plan. The proposed strategies that require legislative authority and/or additional funding prior to implementation are addressed in the section below titled "Employee Benefits".

Summary of Recruitment Efforts

- *The Employee Referral Program:* In 2005, 55 employees were awarded eight hours of administrative leave (to total 440 hours) as a result of referring an employee to TYC. In the first two quarters of fiscal year 2006, 77 were awarded leave. This increase is due to additional promotion of the program. During the Spring of 2006, the TYC Executive Council approved the issuance of \$200 savings bonds OR 8 hours of administrative leave to employees utilizing the Employee Referral Program. TYC began offering the savings bonds in August 2006 and sent informational fliers out to employees in their September check stubs. In the first month of the program, TYC gave out two savings bonds; however, several have chosen the leave instead of the bond.
- *Shuttles to Facilities:* As the cost of gasoline has risen, it has been increasingly difficult to recruit and retain staff in rural areas. A state vanpool is currently being used to transport employees who work in Sheffield but reside 70 miles away in Fort Stockton. The agency is evaluating the use of vanpools at other high turnover facilities. Based on current data for the Sheffield shuttle, the estimated annual cost for shuttle service at Vernon and San Saba would be \$13,235 and \$16,114 respectively.
- *Outreach to Former Employees:* Nearly one thousand retirees and former employees who are eligible for rehire have been sent letters asking them to consider returning to TYC employment. This process will be conducted twice a year.
- *Payment for Overtime:* TYC has adopted a more generous policy standard requiring payment for overtime that exceeds 120 hours. The adjusted projection for the FY 2006 total annual cost is \$2,832,884. Implementation of this plan can be carried out within the current budget.
- *News Paper Ads:* TYC has run ads in local newspapers and major newspapers including the Dallas Morning News and Houston Chronicle. The Agency must limit advertising in larger cities such as Dallas and Houston because the one-day cost is very high. TYC is currently shifting focus to the Internet and Texas Workforce Commission as the primary source of advertising for job postings.
- *College Job Fairs:* TYC attends several college job fairs where they set up an agency information board and recruit students to apply for JCO, caseworker, psychologist, and teacher positions. TYC has found this is one of the best methods to give potential applicants an idea about what it is like to work in juvenile corrections.

- *League of United Latin American Citizens (LULAC)* : TYC has targeted LULAC because they give the agency access to a large population of potential Hispanic applicants. In addition, LULAC is a free source and they have a presence in all counties.
- *Recruitment Efforts out of State*: TYC staff have recruited in Oklahoma for the Victory Field facility in Vernon located near the Oklahoma border.
- *Hiring Dates*: TYC has implemented more frequent hiring dates for targeted facilities including daily, weekly, and bi-monthly facility interviews for rapid hiring.
- *Recruitment Video*: TYC is currently taping a video which will provide a general overview of the agency, including interviews with direct staff care. TYC expects it to be edited and distributed by March 2007.
- *Employee Assistance Program*: EAPs are confidential counseling programs for employees and their family members who may need help in resolving personal and work-related problems. TYC first implemented an EAP through an outside vendor September 1, 2006. Training and informing all staff of its availability has begun, with a full roll-out expected in October 1, 2006.

TYC has spent an enormous amount of advertising dollars to recruit Juvenile Correctional Officers. The agency has found that the most effective tool for filling vacancies is the use of interview fairs. The advertisement expenditures attract applicants to the interview fairs and TYC is able to assess applicants on the spot. The applicant is then contacted within two days with a job offer contingent upon passing criminal/driving record checks, reference checks, drug testing, and psychological assessments. Below is a summary of the recruitment costs between June 2005 and February 2006 for the four facilities with the highest turnover rates.¹⁰⁸

McLennan County State Juvenile Correctional Facility in Mart, Texas

- Total Number of Applicants = 1,195; Total Number of Hires = 322
- Recruitment Costs = \$135,059.04
- Cost Per Hire = \$419.44

Sheffield Boot Camp in Sheffield, Texas

- Total Number of Applicants = 91; Total Number of Hires = 29
- Recruitment Costs = \$6,459.00
- Cost Per Hire = \$223.72

Victory Field Correctional Academy in Vernon, Texas

- Total Number of Applicants = 35; Total Number of Hires = 121
- Recruitment Costs = \$9,898.00
- Cost Per Hire = \$81.80

John Shero State Juvenile Correctional Facility in San Saba, Texas

- Total Number of Applicants = 160; Total Number of Hires = 77
- Recruitment Costs = \$54,653.00
- Cost Per Hire = \$709.78

TYC Central Office Human Resources staff receive, review, and approve field recruitment plans annually. As a committee, they also compile the plans and create the agency's overall recruitment plan. TYC measures the results from this recruitment plan based on the number of hires. It appears that the biggest obstacle faced is not recruitment in and of itself; it is the fact that many employees either do not report for duty on the first day of hire or terminate employment soon after.

Training

The amount of training that the Texas Department of Criminal Justice requires of TDCJ correctional officers far exceeds TYC's requirements. At TYC, all new direct care employees (juvenile correctional officers, case workers, teachers and psychologists) are required to complete the following before they work with youth:

Pre-Service Training (80 Hours):

- Handle With Care (Restraint Training)
- Verbal Judo
- Preventing Sexual Misconduct and Inappropriate Relations Between Staff and Students
- Juvenile Rights
- Adult CPR/ Automatic External Defibrillator Use
- First Aid
- Victim's Rights
- Mission Briefing, Ethics and Confidentiality
- Sexual Harassment and Discrimination Prevention
- Safety/ Hazardous Materials
- Incident Report Writing
- Cultural Diversity
- Juvenile Health
- HIV/AIDS/Blood Borne Pathogens
- Suicide- Risk Precautions

Due to the nature of the job, the Legislature feels that this is not enough. TYC was funded by the 79th Legislature for an exceptional item identified as the Professional Development Training Academy: \$492,308 in FY 2006 and \$500,906 in FY 2007. The appropriation included authority for 12 additional full time employees each year. The first phase of the PDA has been completed. The agency has started providing PDA training at selected facilities having high turnover or safe culture training needs.

The following graph provides information on the current training provided by TYC and a comparison of TYC training (current and proposed) with that provided by TDCJ.

	TYC	TDCJ	TYC Proposed
Preservice	80 Hours Classroom	200 Hours Classroom	Implement the Foundational Training Program (FTP). FTP would provide 280 hours classroom training. The program consists of 120 hours at the proposed training academy and 160 hours at the employee's facility.
On the Job Training (OJT)	Hours Conducted by the Supervisor	100 Hours conducted by a dedicated Field Training Officer (FTO)	320 hours under the direction of a Field Training Officer (FTO).
Formalized Mentoring	None	Six months assigned to a veteran employee	Six months assigned to a veteran employee

The Foundational Training Program, as designed, will not require existing staff to take the entire training program. However, TYC will need many resources and additional staff to implement a training program the magnitude of TDCJ. The actual cost to implement this program will require a detailed analysis of staffing, construction, location placement, contracting services, etc. TYC is in the process of developing a long term plan to move the agency in the desired direction and it is estimated that it will take five to six years to fully implement the proposed foundational program.

TYC is currently deploying available resources to train existing staff on critical elements that are not part of the current preservice training. These elements include behavioral management of youth, Covey Principles for promoting effective working relationships, and interpersonal communication skills. Using current turnover rates to make estimates, TYC expects to train 900 to 1,200 new direct care staff each year.¹⁰⁹

TYC currently has 28 staff dedicated to training, including:

- 16 Field Training staff
- 4 Staff Development Training Coordinators
- 5 Behavioral Management Specialists (trainers for the Professional Development Academy)
- 3 Clinical Specialists

According to Dwight Harris, Executive Director of TYC, to implement the proposed Foundation Training Program, TYC would need the following:¹¹⁰

- Adequate JCO staff-to-youth ratio (relief factor) to accommodate the increased staff coverage essential to allow other staff to attend training.
- Minimum of three training facilities strategically placed throughout the state.
- Minimum of 27 FTEs to support the 120 hours of classroom training delivery at three training facilities.

-
- At least 15 Behavioral Management Specialists (BMS) would be needed to train all direct care staff on-site. There would be one BMS per facility.
 - Minimum of 15 Field Training Officers (FTO) would be needed to train and maintain the on-the-job training of all JCOs. There would be one FTO per facility.
 - Minimum of 15 Clinical Specialists (CS) would be needed to train and maintain the resocialization training and on-the-job training for clinical professionals. There would be one CS per facility.

Working Conditions: Average Daily Population, Workers Compensation, Cameras and Surveillance, Inspector General and Special Prosecutor Unit

Average Daily Population

The residential population is projected by the LBB to grow moderately through 2011. The primary driving force behind the tempered growth in the residential population is a slowing of intakes and a steady length of stay for released juveniles.¹¹¹ While intakes are only increasing by .6 percent per year, the youth-to-staff ratios are increasing at a more rapid pace because of the agency's turnover rates and number of JCOs not reporting to work. This combination of factors has created a very stressful work environment.

The Commission has approached the Legislature, particularly Chairman Madden and Chairman Sylvester Turner (Chair, Subcommittee on Criminal Justice, House Appropriations Committee) regarding requests for additional contract care. However, the Legislature is not likely to fund these additional contract care beds because there are several beds throughout the state that are not being used due to staffing issues. Before funding additional contract beds to decrease the youth-to-staff ratio, TYC must operationalize the current state-operated beds.

While TYC has had difficulties staffing many facilities, the Commission has had an extremely difficult time fully staffing the McLennan County (Mart) facility. Chairman Turner requested that TYC put together a comprehensive plan to recruit and retain direct care staff in order to operationalize these and other beds. This plan was submitted to both Committees in May 2006 and key information in this plan is represented in the above section titled "Recruitment".

Overall, it appears that TYC is making some headway, but there is a long way to go before the Mart facility and others are fully operational. As of July 5, 2006, the McLennan County facility had 58 vacant JCO positions and another 57 JCO staff unavailable for work with youth (24 out due to medical reasons, 9 out on suspension pending investigation and 24 still in their initial training phase). Trends for this facility over the past 12 months indicate an average hiring rate of 33.5 JCOs per month and an average separation rate of 24.8 JCOs per month for a net gain of 8.7 JCOs per month.

At this rate, the projected date for full staffing and full youth population is March 1, 2007. If the recruitment initiatives create the full anticipated positive impact, then the projected date for complete staffing and youth population may be as early as January 1, 2007.

If TYC can reach the optimal youth-to-staff ratio that provides a safe environment for the youth and staff, then they will likely see the turnover rate, injury rate, and recruiting effectiveness improve at all facilities. The Legislature is not willing to simply throw more money at this problem. TYC must

work to prove to the Corrections Committee and Appropriations Committee that all resources are being fully exhausted and that all available beds are occupied before the state funds additional contract beds.

Workers Compensation

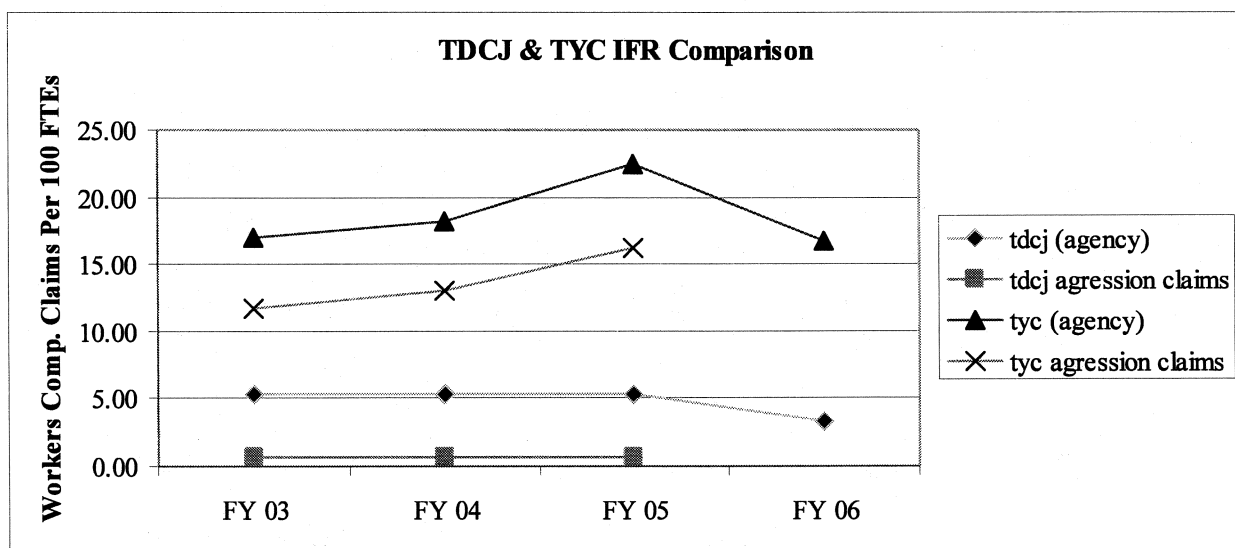
The Texas Youth Commission has the highest agency workers compensation claims in the state; they are higher than the Texas Department of Public Safety and the Texas Department of Criminal Justice. Not only is the safety of TYC staff a major concern for the Corrections Committee, but these claims are costing the state millions of dollars each year. The State Office of Risk Management reports that the "cash basis claim costs" for the Commission was \$5,644,788 in FY 2004 and \$6,189,747 in FY 2005.

Injury Frequency Percentage by Fiscal Year

Agency Name	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Texas Juvenile Probation Commission	-	-	-	2.01	1.90	3.49	-	5.13	1.71	-
CSCD- Probation Departments	2.43	2.10	2.34	2.30	2.34	2.41	2.11	1.81	1.59	1.27
Texas Department of Criminal Justice	4.42	4.70	5.36	5.96	6.23	6.29	5.32	5.33	5.26	3.27
Department of Public Safety	5.66	7.54	5.90	6.40	7.36	10.18	7.03	5.85	6.42	4.01
Texas Youth Commission	12.47	13.42	15.93	14.60	15.42	21.58	17.05	18.18	22.41	16.76

* Provided by State Office of Risk Management

One would naturally assume that TYC injury frequency rates would be comparable to those of the adult system, TDCJ. The Committee was shocked to learn that is not nearly the case. Below is a graph comparing TDCJ and TYC workers compensation claims for both the agency as a whole and aggression claims only.

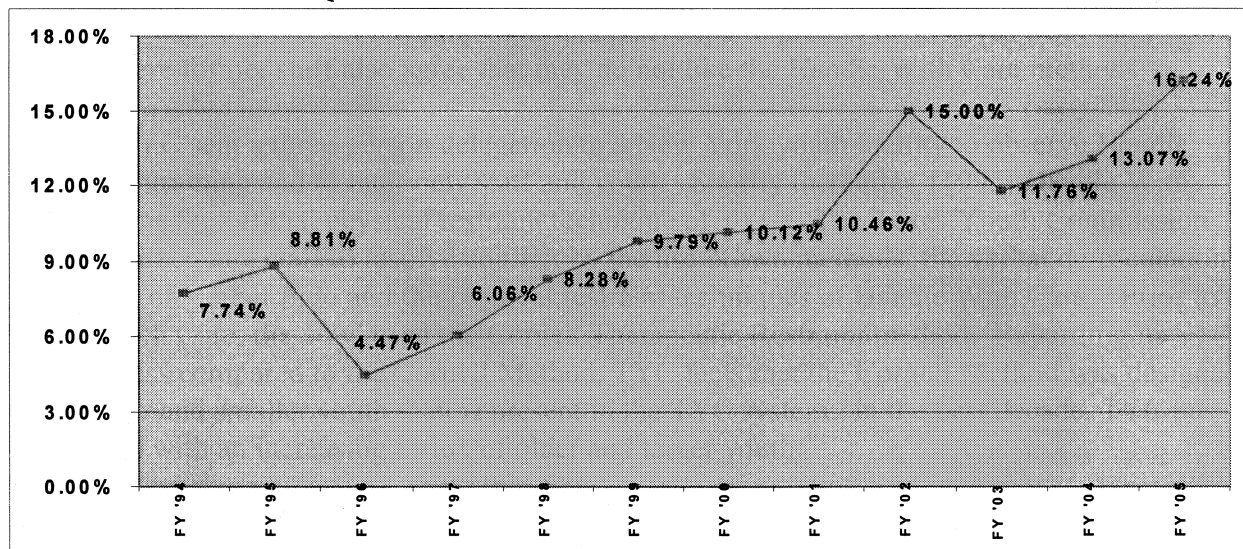


After learning of the workers compensation rates for TYC (as well as allegations of staff and youth abuse), the Committee became very interested in investigating TYC's use of the Handle With Care approach to restraining youth. Former TYC staff have complained to the Corrections Committee that they did not have the tools and discretion to protect themselves from the violent youth. Their former staff also agree that they do not like the Handle With Care methods.

In 1994, TYC sent a three-person delegation to a New York youth facility to observe Handle With Care training and to interview staff and youth. Shortly thereafter, (1995) Handle With Care became the official physical restraint technique of TYC. The Texas Youth Commission trains its direct-care staff to resolve conflict by the use of two methods: the verbal de-escalation techniques of Verbal Judo and the physical restraint techniques of Handle With Care. Prior to Handle With Care, the TYC used the Cornell Therapeutic Restraint method. Regarding its effectiveness compared to the Cornell Method, TYC feels that the Cornell Method was designed for younger and smaller youth than is present in the TYC system. In the past decade, TYC has had to deal with an increasing influx of older and larger youth.

The graph below reflects the Injury Frequency Rate trend for aggression claims before and after TYC's implementation of Handle With Care (IFR is the number of workers' compensation claims per 100 FTEs)

TYC INJURY FREQUENCY RATE HISTORY FOR STAFF AGGRESSION CLAIMS



In FY 1996, the first year after Handle With Care was introduced, the IFR for aggression claims decreased. Beginning in FY 1997, the trend for aggression claims began to increase over the next several years. Unfortunately, TYC was unable to produce IFR data prior to 1994, so it is difficult to look at the trend over a long history. TYC's Human Resource (Risk Management Section) database was not fully operational until the beginning of FY 2003.

Although there is no agency data before Handle With Care was initiated, there are over 100,000

Handle With Care practitioners working with adults and children in some of the most challenging environments in the U.S., Puerto Rico, and Europe. The proprietary physical holding method, known as the Primary Restraint Technique (PRT)®, is the centerpiece of Handle With Care’s physical technology. No other passive holding method or physical technique of any kind has ever been granted patent protection. The physical component of Handle With Care training is designed to be simple and coherent. TYC believed that those who complete Handle With Care training should have the physical tools to effectively intervene in crisis episodes with confidence.

Regarding other states' restraint methods, Handle With Care is currently taught in 44 states and Puerto Rico and has 22 licensed “Master Instructors” and “Regional Training Centers” currently under license throughout the U.S. Handle With Care has contracts with a dozen states, including Texas. Following is a chart listing several other public organizations and the type of restraint technique used:

Agency	Physical Restraint
Connecticut Juvenile Training School	Safe Crisis Management (SCM) by JKM Associates
La Cross County, Wisconsin (Juvenile Detention)	Principles of Subject Control- escort holds, pain compliance, pressure points, counter measures, and incapacitating techniques
Massachusetts Department of Youth Services	Crisis Prevention Institute
Ada County Sheriffs Department	In-house program with some Northpointe Institute features
Pima County Arizona Juvenile Detention Center	Handle With Care
Jacksonville Florida Sheriff –includes juveniles adjudicated as adults	Local Matrix – formal escorts, straight arm bar takedowns, bent wrist takedowns
Frontier Correctional System, Inc- (Juveniles) Cheyenne, Wyoming	Handle With Care
New York Office of Children and Family Services	In-house program with some Handle With Care components
Santa Cruz County Probation	Safe Crisis Management
Missouri Department of Corrections (Adult)	Handle With Care
Colorado Department of Corrections (Youthful Offender System)	In-house “touch for attention” includes pressure point control tactics for staff self defense.
Many Rivers Regional Detention Center, Minnesota	In-house program that includes joint manipulation and pain compliant techniques

Based on a review of the data and the research on the Handle With Care approach, the

Committee cannot conclude whether or not Handle With Care contributed to the increase in workers compensation claims; however, it should be reviewed against the Use of Force plan utilized at TDCJ to see if staff/youth safety could be improved.

The following factors may have contributed to the increase in workers compensation claims:

- Expansion – From 1995 through 2000, a major agency expansion created several new facilities, as well as 96-bed open-bay dorms in some of the existing facilities. The expansion also created a large influx of new inexperienced staff.
- Turnover – Over the past several years, turnover among the agency's Juvenile Correctional Officers has been high. The high turnover rate has led to high overtime rates which may increase the chances of aggression injuries.

Workers Compensation Fraud

One interesting finding is that TDCJ reportedly had similar problems with high workers compensation claims before instituting a fraud detection system. This group of only 3-4 individuals work for TDCJ by investigating possible fraudulent workers compensation claims. For example, the team will investigate a claim where a former correctional officer reportedly sustained back injuries on the job and was unable to work only to find that individual doing construction labor on the side to earn extra money while pulling in workers compensation. TDCJ sent out memos to employees warning them of the new system and soon word spread that employees were getting caught with fraudulent claims. Since then, TDCJ's workers compensation claims have decreased significantly. It would be wise for TYC to institute a similar program.

SB 325 Behavior Management Workgroup:

TYC is currently participating in an interim workgroup to review restraint methods, as directed by SB 325 (Zaffirini) in the 79th Legislative Session. Below is a summary of the group's work to date:

The SB 325 Behavior Management Workgroup Summary:

- The Workgroup convened an initial meeting on December 8, 2005 to review legislation, overview restraint and seclusion practices and assign a timeline and schedule.
- On January 11, 2006 the Definitions and Reporting Sub-Groups met to review state-wide, standardized definitions.
- On February 23, 2006 the workgroup met to discuss agency issues related to SB 325 and to identify best practices.
- On April 27, 2006 the workgroup reviewed issues and definitions and discussion on best practices.
- Due June 23, 2006: A review of recommendations regarding data collection, best practices in seclusion and restraint, and training standards.

Time Table:

Deliverables	Status	Date
Form Work Group	Work group formed first meeting on December 8, 2005	November 1, 2005
Adoption of Restraint and Seclusion Procedures by Rule	DADS, DSHS, and DFPS initiating rules	June 1, 2006
Legislative Report on Best Practices Recommendations	State agencies and additional members	July 1, 2006
Adoption of Rules to Implement Best Practice Recommendations		November 2006
Legislative Report on Implementation of Best Practices	State agencies	January 1, 2007

Cameras and Surveillance

TYC institutions have surveillance equipment and cameras in security units and on most dormitories. Some of this equipment still utilizes VCRs rather than the more reliable digital video recorders (DVRs). According to Dwight Harris, all sites have equipment functionality concerns and all sites need to expand their systems in order to cover entire facilities. Based on the estimated costs for cameras, DVRs, recabling, and other expenses, a comprehensive redesign and repair of TYC's surveillance system for full coverage would cost more than \$7 million.¹¹²

The Committee is aware that the Department of Justice awards grants through the Prison Rape Elimination Act that can be used for the purchase of security equipment. The Committee expects TYC to take full advantage of the available funds from this Act.

Inspector General and Special Prosecutor Unit

Chapter 261, Subchapter E, of the Texas Family Code requires TYC, and other state agencies that operate or license a facility in which children are located, to make a prompt and thorough investigation of allegations of abuse, neglect, and exploitation. By agency rule, any person having cause to believe a youth has been or may be abused or neglected must report it and are subject to discipline if they chose not to. Also by agency rule, certain incidents such as serious youth injury, sexual conduct between youth, discovery of drugs, and the like must be reported for investigation whether or not there is immediate cause to believe neglect was involved. For more detailed information, please refer to the Texas Youth Commission General Administrative Policy Manual on Rule: 33, Alleged Abuse, Neglect, and Exploitation. This document can be found at <http://austin.tyc.state.tx.us/Cfinternet/gap/93/gap9333.htm>

All allegations are reported to the Inspector General Section where they are assigned for investigation by one of 22 inspectors general (IGs). These independent IGs are stationed around

the state and report to their supervisors in the Inspector General Section in the TYC Austin Central Office, not to local administrators. During an investigation, the IG interviews youth and employees who witnessed an alleged event and reviews supporting documentation and medical records. All relevant and available evidence is gathered, preserved, and scrutinized, including documents, witness interviews, statements, photographs, and security videos. Upon conclusion of an investigation, a report is transmitted to Central Office for review.

The investigation report is reviewed for thoroughness and accuracy by the supervising Deputy Chief Inspector General. A determination is made from the investigator's findings whether or not the allegation is confirmed. All the allegations, as well as the investigation findings, are reported to local law enforcement officials and the youth's parents.

A person may appeal an investigation finding to the agency's Executive Director and the Executive Director will consider the recommendations of the Office of General Counsel in reaching a decision. An executive review board made up of chief agency administrators meets bi-monthly to review cases that were confirmed during the reporting period and corrective actions that are being taken to prevent their recurrence. Facility Administrators and IGs from across the state attend the meeting by video conference.

The TYC Board oversees the agency's investigation process to help ensure that it is fair and thorough and that findings in confirmed cases are reviewed by executive staff for needed corrective actions. However, it is of the Committee's opinion that the TYC Board has historically been little more than a rubber-stamp board, and that using the term oversight may be somewhat of a stretch at the current time.

At each of its regular meetings, the Board reviews a bi-monthly report of all alleged abuse and neglect cases that were closed during the reporting period. In the report, confirmed cases are summarized and the Board is provided with a summary of decisions made by the Executive Director on appeals. The Board is required by law to ensure that its procedure for investigating abuse, neglect, and exploitation allegations is periodically reviewed under the agency's internal audit program.

Disciplinary Sanctions

Referral for criminal prosecution and possible transfer to the adult system is one range of disciplinary sanctions available to the agency for youth who commit offenses in its residential programs. Other sanctions include extensions in initially assigned length of stay, assignment to a special Behavior Management Program at the facility, or transfer to the Aggression Management Program at the McLennan County State Juvenile Correctional Facility. When a youth's offense is especially serious or when the range of disciplinary sanctions has been tried with the youth without apparent effect, the safety and security of the facility is at risk and referral for criminal prosecution must be considered.

The decision to make a referral for criminal prosecution is made on a case-by-case basis considering a number of factors. The local facility administrators are required to submit their assessments to central office directors for approval in advance of making a referral. Below are

the factors that are considered:

- *The nature and seriousness of the offense.* Usually youth are referred for criminal prosecution for assaultive behavior rather than other types of offenses. The extent of harm done, other individuals involved, motives and circumstances leading to the behavior, whether a weapon was used, and the degree of remorse are among the considerations.
- *The age of the youth.* Criminal prosecution is not available for youth under age 14. A juvenile court must approve criminal prosecution of other juveniles and only youth 17 and older may be referred directly for criminal prosecution without juvenile court approval.
- *The youth's delinquent history and offense history while in TYC.* An offense may have been committed early in the youths stay before the youth has had reasonable opportunity to learn from the rehabilitation programs. In this case, TYC may prefer not to refer the youth for criminal prosecution.
- *The probable criminal sentence.* Behavior that is viewed as serious in the context of a juvenile institution may not always be perceived serious enough to warrant a youth's imprisonment with adults when considered in the context of a criminal trial. For this reason, youth of juvenile court age (under 17) are referred only if they commit an offense for which they could be classified as a violent offender under agency rules.

Reporting Cases

On May 30, 2006, the Corrections Committee requested that TYC report how many cases have been forwarded to prosecutors for prosecution from TYC categorized by youth on youth, youth on staff, and staff on youth. Surprisingly, there is no automated system in place for tracking these cases. The fact that there is not an automated system for tracking cases that are forwarded to prosecutors is of great concern. It is the Committee's opinion that the TYC Board should have this information readily available, and that the IG should deliver updates on prosecutions to the Board on a regular basis.

The following chart represents the information that TYC was able to obtain from the facilities. These numbers represent filings by TYC with local law enforcement. Not all of these cases represented were necessarily prosecuted.

Additionally, the "Staff on Youth" numbers do not reflect the automatic notifications that TYC makes to local law enforcement when there is a confirmed case of abuse or neglect against a staff person. TYC informs them every time they have such a finding and local law enforcement then decides whether to pursue it or not. This number is unknown.

	<u>2004</u>	<u>2005</u>	<u>2006 to Date</u>
Youth on Youth*	3	6	2
Youth on Staff*	13	29	24
Staff on Youth	0	2	1

* The difference between youth on youth and youth on staff referrals has to do with seriousness of the legal charges. There is little benefit in referring a youth for something that is not a felony. Youth on youth assaults rarely rise to that level whereas a youth on staff assault is a felony by definition (assault of a public servant).

Unlike the Texas Department of Criminal Justice (TDCJ), there currently is no criminal investigation division within TYC. TDCJ employs inspectors general who are peace officers to investigate alleged crimes within prisons. Findings are referred to the Special Prosecution Unit in Huntsville or, depending on the prison's location, to the local district attorney for prosecution. TDCJ also employs attorneys in its State Counsel for Offenders Division to represent indigent inmates who are indicted for felonies.

For the safety and security of both staff and youth, a criminal investigation is very important. Also, many TYC institutions are in rural communities that do not have a lot of resources to investigate and try the offenses referred by TYC. It is the Committee's opinion that TYC should be required to set up a criminal investigation division and that some state assistance should be provided similar to that provided for prosecution of inmate crimes in counties where TDCJ institutions are located:

- Counties are to be reimbursed for some of the expenses incurred for the prosecution (Code of Criminal Procedure, Art. 104.003)
- In the event of a conflict of interest when another defense attorney must be appointed, the state shall reimburse the county for the attorney's fees in excess of \$250 (Code of Criminal Procedure, Art. 26.051)

Office of Youth Care Services

At the July 27, 2006 Board Meeting, the Texas Youth Commission approved a recommended motion to change the name of the Office of Inspector General to the Office of Youth Care Investigations. It was the Board's opinion that this new name most accurately communicates the role of the investigative purpose of the division, which is the protection of youth. The Board felt that the Inspector General name implies a larger role in the investigation and audit of individual youth, staff, and agency performance that is not the responsibility of the division.

Chairman Madden attended this Board Meeting and was upset to learn that the Board would take such actions without discussing the issue with the Corrections Committee. The Committee feels that in an atmosphere where both staff and youth are alleging abuse, it is of the utmost importance to have a division that is charged with investigating all allegations of abuse. The new name, Office of Youth Care Investigations, implies that the protection, investigation, and due process that should be guaranteed to all TYC staff has not and will not be a priority of the Texas Youth Commission.

As stated earlier, the Corrections Committee received testimony from TYC staff members with multiple injuries and multiple surgeries, life time disabilities, and depleted medical benefits. TYC staff explained at the public hearing that "man down" calls go unanswered for long periods of time due to extensive staff shortages, that radios fail to transmit calls for aid, and that aggressive TYC youth lure staff out of the range of cameras for confrontations and assaults.

The Committee recommends that the name "Office of Inspector General" be reinstated and that TYC provide the Committee with a formal presentation of the duties, mission, and investigative purpose of the division.

Employee Benefits: Pay Scale, Peace Officer/Correctional Officer Retirement Plan, One Time Merit Increases, Homes For Heroes

The Committee recognizes that the labor supply is tight and employees have the option to migrate to other jobs in an effort to match their philosophies regarding preferred lifestyles and values to the philosophies of employers. This is especially true in the case of TYC because individuals who are qualified to be JCOs within TYC are likely qualified to be Correctional Officers at TDCJ. For the most part, available programs for TYC JCOs are in line with TDCJ. However, there are some significant differences that are explained below. While TYC is working to double recruitment efforts, there are some things that the Legislature and TYC can do to keep these new hires as well as current employees.

Pay Scale to be Commensurate with TDCJ

TYC employs approximately 2,600 Juvenile Correctional Officers in 13 institutions and 9 halfway houses across the state. TDCJ facilities are located near all TYC facilities and employ over 26,000 correctional officers. The Committee worked with the Texas Youth Commission and TDCJ to devise a program that would make TYC Juvenile Correctional Officers (JCOs) and TDCJ Correctional Officers (COs) follow a similar pattern of pay increases.

In general, the salary structures of TDCJ and TYC were similar for comparable correctional officer positions. However, TDCJ accelerated their career ladder by 4 months over TYC, which equates to an additional \$96.58 per month during the first two years of employment. The logic here was that since turnover in the early months of employment are very high within TYC, increasing salary benefits early in the employment history would entice JCOs to stick with the program.

The Youth Commission currently has the authority to make salary adjustments in its pay program. After careful analysis of the economic cost of implementing a pay scale commensurate with TDCJ, the Youth Commission instituted the new scale at the request of the Corrections Committee. The total estimated cost of revising the TYC pay program for JCO I through III positions to match the TDCJ pay program for Correctional Officers is \$322,605 in FY 2006; and \$1.3 million in FY 2007. The total cost of the adjustments will be funded within the agency's current budget from expected savings from vacant positions due to high turnover.

Original TYC Pay Program

TYC Title	Salary Group	Tenure Months	Salary Month	Salary Annual
JCO I	A07	0 - 6	\$1,816	\$21,792
JCO I	A07	0 - 6	\$1,816	\$21,792
JCO II	A09	7 - 12	\$1,966	\$23,592
JCO III	A11	13 - 18	\$2,136	\$25,632
JCO III	A11	19 - 24	\$2,261	\$27,132
JCO III	A11	25 - 35	\$2,395	\$28,740
JCO IV	A13	36 - 47	\$2,465	\$29,580
JCO IV	A13	48 - 59	\$2,536	\$30,432
JCO IV	A13	60 - 95	\$2,613	\$31,350
JCO IV	A13	96 +	\$2,693	\$32,310

TDCJ Pay Program

TDCJ Title	Salary Group	Tenure Months	Salary Month	Salary Annual
CO I	A07	0 - 2	\$1,816	\$21,792
CO II	A09	3 - 8	\$1,966	\$23,592
CO III	A11	9 - 14	\$2,136	\$25,632
CO III	A11	15 - 20	\$2,261	\$27,132
CO III	A11	21 - 36	\$2,395	\$28,740
CO III	A11	21 - 36	\$2,395	\$28,740
CO IV	A12	37 - 48	\$2,465	\$29,580
CO IV	A12	49 - 60	\$2,536	\$30,432
CO IV	A12	61 - 96	\$2,613	\$31,350
CO V	A14	97 +	\$2,693	\$32,310

New TYC Pay Program - Effective 6/1/2006

TYC Title	Salary Group	Tenure Months	Salary Month	Salary Annual
JCO I	A07	0 - 2	\$1,816	\$21,792
JCO II	A09	3 - 8	\$1,966	\$23,592
JCO III	A11	9 - 14	\$2,136	\$25,632
JCO III	A11	15 - 20	\$2,261	\$27,132
JCO III	A11	21 - 36	\$2,395	\$28,740
JCO IV	A13	37 - 48	\$2,465	\$29,580
JCO IV	A13	49 - 60	\$2,536	\$30,432
JCO IV	A13	61 - 96	\$2,613	\$31,350
JCO IV	A13	96 +	\$2,693	\$32,310

TDCJ Pay Program

TDCJ Title	Salary Group	Tenure Months	Salary Month	Salary Annual
CO I	A07	0 - 2	\$1,816	\$21,792
CO II	A09	3 - 8	\$1,966	\$23,592
CO III	A11	9 - 14	\$2,136	\$25,632
CO III	A11	15 - 20	\$2,261	\$27,132
CO III	A11	21 - 36	\$2,395	\$28,740
CO IV	A12	37 - 48	\$2,465	\$29,580
CO IV	A12	49 - 60	\$2,536	\$30,432
CO IV	A12	61 - 96	\$2,613	\$31,350
CO V	A14	97 +	\$2,693	\$32,310

Peace Officer/Correctional Officer Retirement Plan

One of the most significant gaps between TDCJ Correctional Officers and TYC JCOs is the retirement plan. TDCJ offers their correctional officers retirement as early as age 50, with 20 years of service using a 2.8% multiplier per year of services to compute retirement salary. If they retire before age 50 with 20 years of service, 2.8% is still used, although their annuity is reduced. In contrast, TYC offers the standard state retirement plan based on the rule of 80, using 2.3% as the multiplier.

Allowing juvenile correctional officers to have a retirement plan similar to TDCJ could increase the retention of longer-tenured staff members, create a rich pool of experience, and decrease costs related to turnover. The Committee should further explore the costs associated with such a

change before recommending legislation.

Homes for Heroes

A significant benefit for correctional officers within the Texas Department of Criminal Justice is the ability to purchase affordable housing. The Texas State Affordable Housing Corporation (TSAHC) "Homes for Heroes" home loan was created to acknowledge certain public employees for their commitment to their profession and their contribution to the safety and welfare of all Texans. Currently, these low interest home mortgage loans are made available to TDCJ correctional officers, fire fighters, law enforcement, county corrections officers and security officers- but not juvenile corrections officers.

Searching for ways to address staffing and recruiting problems within TYC, the Corrections Committee scheduled hearings and meetings throughout the Spring and Summer to explore many TYC related issues. In April 2006 the Committee visited two TYC facilities and observed the staffing needs firsthand. The Committee received suggestions and feedback from numerous TYC employees and upon arriving back in Austin, the Corrections Committee staff immediately drafted HB 129. This bill, filed by Chairman Jerry Madden aimed to alleviate urgent staffing and recruitment problems within the state's juvenile correctional facilities by extending the popular Homes for Heroes program to TYC Correctional Officers. The Corrections Committee unanimously passed HB 129 in a public hearing on May 5, 2006 but this issue was never added to the call by the Governor and the bill subsequently died.

The Committee feels that allowing the JCOs to have benefits that are commensurate with those of TDCJ correctional officers will boost staff morale and improve employee recruitment and retention.

RECOMMENDATIONS

Criminal Justice Policy Council

- The Corrections Committee recommends that criminal justice research, including statistical gathering and program evaluation, be provided to the Legislature for use in making decisions on criminal justice issues by one of the ways as outlined above.

Texas Youth Commission

Federal Intervention

- The Committee plans to monitor the ongoing federal investigation and will be prepared to take any legislative actions necessary to correct deficiencies found by that investigation

Board of Directors

- TDCJ has mandatory review of all procedures once every four years, whereas TYC has no such system. It is the Committee's opinion that this is a critical deficiency and that the Board should make recommendations on policy review procedures.

Recruitment

- The Committee recommends that the Texas Youth Commission prepare an updated report on the implementation and success of the comprehensive Recruitment and Retention Plan for targeted positions in accordance with the direction given by the Honorable Sylvester Turner, Chair of the Criminal Justice Subcommittee, House Committee on Appropriations. An increase in employment rates and reduction in turnover rates for JCOs, case managers, and clinical professionals should be used to measure the success of the plan.
- The Committee recommends that TYC hire a full-time "Human Resources Recruitment Officer" or full-time recruitment staff and set up a recruitment program similar to the one TDCJ implements in Huntsville, Texas.

Workers Compensation

- The Committee recommends that TYC work with TDCJ to develop a plan for a workers compensation fraudulent detection team similar to that of TDCJ's team.
- The Committee recommends that TYC review TDCJ's Use of Force Plan to study whether the utilization of this plan would result in less injuries.

Inspector General and Special Prosecutor Unit

- The Committee recommends that the name "Office of Inspector General" be reinstated and that TYC provide the Committee with a report on the duties, mission, and investigative purpose of the division.
- The Committee recommends that the Office of Inspector General report directly to the TYC Board rather than the TYC Executive Director.
- The Committee recommends that TYC set up a Criminal Investigation Division within the Office of Inspector General. Peace Officers should be hired to investigate alleged crimes within the Commission. Some state assistance should be provided similar to that provided for prosecution of inmate crimes in counties where TDCJ institutions are located.
- The Committee recommends that TYC be required to develop an automated system used to track the number of cases forwarded to prosecutors for prosecution from TYC. The automated system should contain some measurement regarding whether the case was successfully prosecuted and the outcome and the type of offense (youth on youth, youth on staff, and staff on youth). Additionally, the Inspector General should deliver these updates on prosecutions to the Board on a regular basis.

Peace Officer/Correctional Officer Retirement Plan

- The Committee recommends that the Legislative Budget Board analyze the cost associated with giving TYC JCOs the same retirement plan that TDCJ is currently implementing. After further analysis of costs and benefits, the Committee may want to pursue this option in the next Legislative Session.

Homes For Heroes

- The Committee recommends that the Legislature extend the popular Homes for Heroes

program to TYC Correctional Officers.

Cameras and Surveillance

- The Committee recommends that TYC take full advantage of all available grants that can be used for the purchase of security equipment through the Prison Rape Elimination Act.

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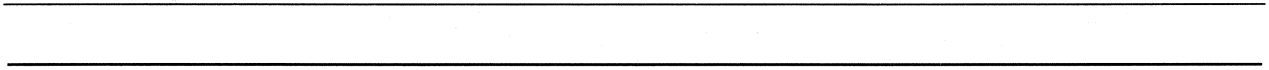
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APPENDIX

APPENDIX A

COUNTY	DATE	REGIONAL MHMR	SUBMISSION	FORM	RESPONSE	SERVICE	IMPROVEMENT	COMMENT
ANDERSON	7-Feb-2006	Access Glenda Tull	daily	electronic	within 72 hours	PA	yes	
ANDREWS								
ANGELINA								
ARANSAS								
ARCHER								
ARMSTRONG	20-Sep-2005	Panhandle	daily	fax	not yet	not yet	not yet	
ATASCOSA	4-Apr-2006	Camino Real	daily	by hand	within 72 hours	PA,Med	yes	
AUSTIN	30-May-2006	Texana	weekly	electronic	within 7 days	PA, Med	* no	*still works along the same lines
BAILEY	29-Mar-2006	Central Plains	daily	fax	within 24 hours	PA, Med	*no	* nothing beyond identification
BANDERA	16-Feb-2006	Gayle Long	daily	fax, phone	within 72 hours	PA, med	*no	* already had good relationship
BASTROP								
BAYLOR	NO	JAIL						
BEE								
BELL	20-Feb-2006	Central Texas	daily	electronic	within 72 hours	PA, Med	yes	
BEXAR	13-Feb-2006	Healthcare Services	daily	other	within 72 hours	PA, med	yes	
BLANCO	2-Nov-2005	Hill Country	weekly	fax	within 72 hours	none	yes	
BORDEN	NO	JAIL						
BOSQUE	24-Mar-2006	Heart of Texas	daily	electronic	within 72 hours	PA, Med	yes	
BOWIE								
BRAZORIA	28-Mar-2006	Gulf Coast	M,W,F	fax	within 24 hours	PA, Med	Yes	
BRAZOS	25-Apr-2006	MHMR Emergency	daily	electronic	within 72 hours	*,PA,Med	Yes	* Crisis intervention
BREWSTER	12-Oct-2005	Permian Basin	daily	fax	within 72 hours	no change	no change	
BRISCOE	NO	JAIL						
BROOKS	12-Sep-2005	Coastal Plains	daily	fax	within 72 hours	PA, Med	yes	
BROOKS (P)	13-Sep-2005	Coastal Plains	daily	fax	within 72 hours	PA,Med	yes	
BROWN								
BURLESON								
BURNET	13-Jan-2006	Bluebonnet Trails	weekly	electronic	no response	PA,Med,PR	no	local is office more help
CALDWELL								
CALHOUN	NO	JAIL						
CALLAHAN	9-Jun-2006	Betty Hardwick	daily	fax	same day	PA, Med	yes	* MHMR center limiting info
CAMERON	20-Sep-2005	Panhandle	every 2 days	fax	within 72 hours	not yet	not yet	
CAMP								
CARSON								
CASS								
CASTRO	19-Sep-2005	Central Plains	weekly	fax	within 72 hours	nothing	yes	
CHAMBERS								
CHEROKEE	24-Jan-2006	Access	weekly	* fax	within 7 days	PA, Med	yes	* faxed every Monday
CHILDRESS	23-Mar-2006	Helen Farabee	daily	fax	within 72 hours	PA, Med	yes	
CLAY	20-Sep-2005	Helen Farabee	weekly	fax	within 72 hours	PA, Med	yes	
COCHRAN								
COKE	NO	JAIL						
COLEMAN								
COLLIN								
COLLINGSWORTH	22-Mar-2006	Texas Panhandle	daily	fax	*	PA	no	* only received results once
COLORADO								
COMAL	19-Jan-2006	Hill Country	daily	fax	within 72 hours	none	*no	*not doing much for us
COMANCHE	14-Nov-2005	Life Resources	daily	fax	within 72 hours	nothing	no	
CONCHO	NO	JAIL						
COOKE	21-Sep-2005	Texoma	daily	fax	within 72 hours	*nothing	no	*unless they're on client list
CORYELL	18-Nov-2005	Central Counties	daily	fax	within 72 hours	PA, Med	yes	
COTTLE	NO	JAIL						
CRANE	25-Apr-2006	West Texas	*	*	*	*	*	* not submitting; advised
CROCKETT	10-Jan-2006	Shannon Hospital	daily	fax	within 72 hours	PA	yes	
CROSBY	27-Oct-2005	Lubbock Reg.	daily	electronic	daily	not yet	yes	
CULBERSON								
DALLAM	24-May-2006	Texas Panhandle	nightly	fax	within week	PA, Med	* no	* no better or worse
DALLAS	7-Mar-2006	Dallas North Star	daily	electronic	* 3-15 days	PA, Med	yes	* sporadic
DAWSON								
DEAF SMITH	19-Sep-2005	Panhandle	daily	electronic	within 72 hours	PA, Med	not yet	
DELTA								
DENTON	10-Apr-2006	Denton County	daily	fax	within 72 hours	*	yes	* verifying case management
DEWITT								
DICKENS	27-Oct-2005	Helen Farabee	daily	fax/elec.	within 72 hours	nothing	no	
DICKENS (P)	26-Oct-2005	Helen Farabee	daily	fax	within 72 hours	not yet	not yet	
DIMMIT	25-Apr-2006	Camino Real	daily	fax	within 7 days	nothing	no	
DONLEY	3-Nov-2005	Panhandle	daily	fax	within 7 days	not yet	not yet	
DUVAL								
EASTLAND	8-Jun-2006	Brownwood	daily	fax	same day	PA, Med	* no	* MHMR won't see patients
ECTOR								
EDWARDS								
EL PASO								
ELLIS								
ERATH	16-Nov-2005	Pecan Valley	daily	fax	within 7 days	PA	yes	

FALLS	28-Mar-2006	Waco	weekly	electronic	within 72 hours	* PA	yes	* counseling
FANNIN								
FAYETTE	15-Dec-2005	Bluebonnet Trails	daily	electronic	over 72 hours	none	no	LaGrange MHMR more help
FISHER								
FLOYD	NO	JAIL						
FOARD								
FORT BEND								
FRANKLIN	12-Sep-2005	Lakes Regional	other	fax				
FREESTONE	24-Apr-2006	Heart of Texas	daily	fax	within 72 hours	PA, Med	Yes	
FRIO	27-Apr-2006	Camino Real	weekly	fax	within 7 days	PA, Med	yes	
GAINES								
GALVESTON								
GARZA								
GILLESPIE	10-Nov-2005	Hill Country	daily	fax	within 72 hours	PA, Med	yes	
GLASSCOCK	1-Dec-2005	West Texas	booking	fax	within 24 hours	all	no	just started
GOLIAD								
GONZALES								
GRAY	26-May-2006	Texas Panhandle	daily	fax	within 72 hours	PA, Med	* no	* no info beyond identification
GRAYSON								
GREGG								
GRIMES	27-Apr-2006	Austin State Hos.	*	*	*	*	*	* not submitting; advised
GUADALUPE	4-Oct-2005	Bluebonnet Trails	daily	electronic	within 72 hours	none	no	* no guidance by MHMR
HALE	28-Mar-2006	Central Plains	daily	by hand	same day	PA, Med	Yes	
HALL	20-Mar-2006	Texas Panhandle	daily	fax	no reply	PA, Med	no	Clarendon office more helpful
HAMILTON	17-Nov-2005	Central Counties	daily	fax	within 7 days	PA, Med	yes	
HANSFORD	22-Sep-2005	Panhandle	daily/weekly	fax	within 72 hours	not yet	yes	
HARDEMAN								
HARDIN								
HARRIS	12-Apr-2006	Harris County	daily	by hand	immediate	PA, Med	* yes	* is in-house system
HARRISON								
HARTLEY	NO	JAIL						
HASKELL	15-Nov-2005	Helen Farabee	daily	fax	within 72 hours	PA, Med	yes	
HAYS								
HEMPHILL	24-May-2006	Panhandle	daily	fax	* 3-4 days	PA, Med	* no	*inmate is usually released first
HENDERSON	6-Oct-2005	Andrews Center	daily	fax	within 7 days	no more	no service	
HIDALGO	26-Jan-2006	Tropical	daily	electronic	*other	PA, Med	Yes	* only respond when hit
HIDALGO (P)	25-Jan-2006	Tropical	daily	fax	federal inmates	records	*no	* MHMR reluctant to participate
HILL	13-Dec-2005	Hillsboro	daily	fax	within 72 hours	PA, Med	yes	
HOCKLEY								
HOOD								
HOPKINS	13-Sep-2005	Lakes Regional	daily	fax	don't respond	nothing	no help	
HOUSTON	9-Feb-2006	Burke Center	daily	fax	within 72 hours	*other	yes	* as needed
HOWARD	28-Sep-2005	West Texas	daily	fax	within 72 hours	PA, Med	yes	
HUDSPETH								
HUNT								
HUTCHINSON	21-Sep-2005	Panhandle	daily	fax	within 72 hours	PA, Med	no	
IRION	NO	JAIL						
JACK								
JACKSON	30-Mar-2006	Gulf Bend	daily	fax	within 7 days	PA, Med	yes	
JASPER	9-Jan-2006	Burke Center	daily	fax	within 72 hours	PA, Med	*no	* sometimes
JEFF DAVIS	NO	JAIL						
JEFFERSON								
JIM HOGG	14-Sep-2005	Laredo	daily	electronic	within 72 hours	none	no	
JIM WELLS								
JOHNSON								
JONES								
KARNES	5-Apr-2006	Camino Real	M,W,F	fax	within 72 hours	nothing	no	
KAUFMAN	25-Oct-2005	Lakes Regional	daily	electronic	every other week	nothing	no	
KENDALL	8-Nov-2005	Hill Country	daily	fax	within 72 hours	all	yes	
KENEDY	NO	JAIL						
KENT	NO	JAIL						
KERR	9-Nov-2005	Hill Country	daily	fax	within 72 hours	PA, PR	yes	
KIMBLE	9-Jan-2006	Hill Country	daily	fax	within 72 hours	not yet	not yet	
KING	NO	JAIL						
KINNEY	23-May-2006	Hill Country	daily	fax	within 72 hours	PA, Med	yes	
KLEBERG								
KNOX								
LA SALLE								
LAMAR								
LAMB	31-Mar-2006	Central Plains	daily	fax	within 72 hours	PA, Med	yes	
LAMPASAS	11-Jan-2006	Temple	daily	fax	2-7 days	PA, Med, PR	no	local office helpful
LAVACA								
LEE								
LEON	8-Feb-2006	Brazos Valley	weekly	fax	within 7 days	PA, Med	no	
LIBERTY	21-Dec-2005	Tri County	daily	fax	within 72 hours	Med	yes	

LIMESTONE	31-May-2006	MHMR Waco	daily	fax	within 72 hours	Med	yes	
LIMESTONE (P)	1-Jun-2006	Heart of Texas	* other	fax	within 24 hours	PA	yes	* as we get approvals
LIPSCOMB	21-Mar-2006	Texas Panhandle	*	fax	not yet	not yet	not yet	* will start submitting
LIVE OAK								
LLANO	12-Jan-2006	Hill Country	daily	fax	within 24 hours	none	no	fax troubles
LOVING	NO	JAIL						
LUBBOCK	25-Oct-2005	Lubbock Reg.	daily	electronic	within 72 hours	PA, Med	yes	
LYNN	28-Oct-2005	Lubbock Reg.	weekly	fax	within 72 hours	not yet	not yet	
MADISON	10-Feb-2006	Brazos Valley	daily	fax	within 72 hours	Med	yes	
MARION								
MARTIN	1-Dec-2005	West Texas	after book-in	fax	within 24 hours	all	yes	
MASON								
MATAGORDA	27-Mar-2006	Texana	daily	electronic	within 72 hours	PA	yes	
MAVERICK	24-Apr-2006	Camino Real	daily	fax, ele.	within 72 hours	PA, Med	yes	
MCCULLOCH								
MCLENNAN	14-Dec-2005	McLennan County	daily	electronic	within 72 hours	PA, Med	yes	
MCLENNAN (P)	28-Oct-2005	McLennan County	* other	phone	within 72 hours	PA	yes	* when housing state or county
MCMULLEN	NO	JAIL						
MEDINA								
MENARD	11-Jan-2006	Hill Country	daily	fax	within 72 hours	nothing yet	no	
MIDLAND								
MILAM	12-Dec-2005	Center Texas	daily	fax	within 72 hours	PA, Med	yes	
MILLS								
MITCHELL	29-Sep-2005	West Texas	daily	fax	within 72 hours	PA, Med	no	
MONTAGUE	21-Sep-2005	Helen Farabee	daily	fax	within 72 hours	PA, Med	yes	
MONTGOMERY	6-Dec-2005	Tri County	daily	electronic	within 72 hours	PA, Med	yes	
MOORE	24-May-2006	Texas Panhandle	daily	* phone	* other	PA, Med	yes	* call MHMR; results immediate
MORRIS								
MOTLEY	NO	JAIL						
NACOGDOCHES	4-Oct-2005	Burke	daily	electronic	within 72 hours	PA, Med	yes	
NAVARRO	27-Oct-2005	Johnson Ellis	daily	electronic	within 72 hours	PA, Med	yes	
NEWTON	10-Jan-2006	Burke Center	daily	fax	within 72 hours	PA, Med	yes	
NEWTON (P)	10-Jan-2006	Burke Center	upon arrival	fax	* within 7 days	none	yes	* sometimes longer than 7 days
NOLAN	27-Sep-2005	West Texas	daily	fax	within 72 hours	PA, Med	no	
NUECES								
OCHILTREE	21-Mar-2006	Texas Panhandle	daily	electronic	*	PA, Med	no	* get mass list every 2-3 days
OLDHAM	22-May-2006	Texas Panhandle	daily	electronic		PA, Med	yes	
ORANGE								
PALO PINTO	15-Nov-2005	Pecan Valley	daily	fax	varies	PA, Med	yes	
PANOLA								
PARKER								
PARMER	23-May-2006	Central Plains	daily	fax	within 36 hours	PA, Med	yes	given website access to MHMR
PECOS	10-Oct-2005	Permian Basin	daily	fax	never responded	none	no	
POLK	13-Jan-2006	Burke Center	daily	fax	within 72 hours	PA, Med	yes	
POTTER	20-Sep-2005	Panhandle	daily	fax	within 72 hours	PA, Med	yes	
PRESIDIO	12-Oct-2005	Permian Basin	daily	fax	within 72 hours	no change	no change	
RAINS	15-Sep-2005	Andrews Center	daily	fax	within 72 hours	PA, Med	yes	
RANDALL	19-Sep-2005	Panhandle	daily	electronic	within 72 hours	PA, Med	yes	
REAGAN	27-Apr-2006	Concho Valley	daily	fax	within 24 hours	PA	* no	* no help; just CARE match
REAL								
RED RIVER								
REEVES	11-Oct-2005	Permian Basin	daily	phone	within 72 hours	PA, Med	yes	
REEVES (P)	11-Oct-2005	Permian Basin	monthly	fax	within 7 days	none	no	* Arizona inmates only
REFUGIO	7-Jun-2006	Gulf Bend	daily	fax	within 72 hours	PA	* no	* no change
ROBERTS	25-May-2006	Texas Panhandle	*	*	*	*	*	* all inmates go to Hemphill Co.
ROBERTSON	27-Mar-2006	Brazos County	daily	fax	within 72 hours	PA, Med	yes	
ROCKWALL								
RUNNELS								
RUSK	25-Jan-2006	Sabine Valley	daily	electronic	within 72 hours	PA	yes	
SABINE								
SAN AUGUSTINE								
SAN JACINTO								
SAN PATRICIO	8-Jun-2006	Taft MHMR	daily	fax	within 7 days	PA, Med	* no	* lack of support from MHMR
SAN SABA	9-Jan-2006	Life Resources	none	none	none	none		
SCHLEICHER								
SCURRY								
SHACKELFORD	6-Jun-2006	Betty Hardwick	weekly	fax	about 24 hours	PA	yes	
SHELBY								
SHERMAN								
SMITH	27-Jan-2006	Andrews Center	daily	fax	within 72 hours	PA, Med	yes	
SOMERVELL								
STARR	26-Jan-2006	Border Region	*daily	*person	*other	all	yes	*MHMR comes to the jail daily
STEPHENS	7-Jun-2006	Betty Hardwick	book-in	* phone	same day	PA	yes	* MHMR answers verbally
STERLING								
STONEWALL								

SUTTON	10-Jan-2006	Kerr County	daily	fax	within 72 hours	none	no	
SWISHER	22-May-2006	Central Plains	daily	fax	within 2 days	PA, Med	yes	
TARRANT	12-Apr-2006	Tarrant County	daily	*other	within 72 hours	PA, Med	yes	* screening sheet from booking
TAYLOR								
TERRELL	13-Oct-2005	West Texas	at book-in	fax	no response	no response	no response	
TERRY								
THROCKMORTON	NO	JAIL						
TITUS								
TOM GREEN								
TRAVIS	18-Apr-2006	Austin/Travis Co.	daily	electronic	within 72 hours	*	* no	* in-house system more effective
TRINITY	28-Apr-2006	Lufkin	daily	fax	no response	*		* no response
TYLER	12-Jan-2006	Burke Center	daily	fax	*other	PA, Med	yes	* between 4 and 48 hours
UPSHUR								
UPTON	26-Apr-2006	West Texas	daily	fax	within 72 hours	PA, Med	* no	* nothing has changed
UVALDE	26-Apr-2006	Hill Country	daily	fax	within 72 hours	*, PA, Med	Yes	* inmates sent to SASH
VAL VERDE (P)	24-May-2006	Hill Country	daily	fax	within 72 hours	none	* no	*no services provided in past
VAN ZANDT	23-Oct-2005	Andrews Center	daily	fax	within 72 hours	none	yes	
VICTORIA	29-Mar-2006	Gulf Bend	daily	fax	within 7 days	PA, Med	no	
WALKER	19-Dec-2005	Tri County	daily	electronic	within 72 hours	PA, Med	yes	
WALLER								
WARD								
WASHINGTON								
WEBB								
WHARTON	18-Jan-2006	Texana	daily	electronic	with 72 hours	*PA, Med	no	* local inmates only
WHEELER	22-Mar-2006	Texas Panhandle	daily	electronic	*	PA	no	* recive about 3 mass lists
WICHITA	22-Feb-2006	Helen Farabee	daily	fax	within 72 hours	PA, med	*no	* have to call for meds and info
WILBARGER	21-Feb-2006	Helen Farabee	daily	fax or mail	approx. 24 hours	PA, med	*no	* local office more cooperative
WILLACY	27-Jan-2006	Tropical	*	*	*	*	*	*not participating yet/given info
WILLIAMSON	22-Mar-2005	Bluebonnet Trails	daily	electronic	within 72 hours	PA, Med	yes	
WILSON	6-Apr-2006	Camino Real	weekly	fax	no response	Med, visit	* no	* not enough contact w/MHMR
WINKLER								
WISE								
WOOD								
YOAKUM	30-Nov-2005	West Texas	daily	fax	within 24 hours	all	no	
YOUNG	24-Feb-2006	Helen Farabee	daily	fax	within 48 hours	PA, med	*no	* local office more helpful
ZAPATA	15-Sep-2005	Laredo	daily	electronic	within 72 hours	Medication	yes	
ZAVALA								
ZAVALA (P)	21-Dec-2005							not yet started

City of Littlefield (P) 30-Mar-2006 Central Plains not yet not yet not yet not yet not yet not yet

APPENDIX B

Proposed Pilot Project for Delinquency Prevention and Intervention Services in School District Disciplinary Alternative Education Programs (DAEP's) and in In-School Suspension (ISS) settings. Prepared By Adrian L. Moore, Founder and Executive Director of the Council on At-Risk Youth.

Proposal:

A pilot project targeting 1% of the 1,000,000 plus student cases currently being exposed to the school disciplinary system in Texas is proposed replicating the model used by the Council on At-Risk Youth (CARY) in Travis County. The model provides a comprehensive case management system using violence and drug abuse prevention skills training in a six week segment using a “best practice” program known as Positive Adolescent Choices Training inclusive of community service projects in the ISS or DAEP school setting, followed by an additional 10 and ½ months of individual behavioral counseling, coaching and mentoring for each of the at-risk youths.

The costs of such a system for personnel, supplies, materials and operations is \$600.00 per student per year or \$60,000.00 for one year serving 100 students, at one school site. School districts would conduct the program using this model or closely related models, or they would employ contractors to administer and manage the program. The pilot project proposes that one percent of the current disciplinary population or 10,000 youth be provided services at 100 sites for a cost of \$6,000,000.00.

Target Population:

The target population will consist of 11 through 15 year old male and female middle school students who have been assigned to in school or out of school suspension, or placed in disciplinary detention, or selected by principals as needing intervention, or removed from class and assigned to the disciplinary Alternative Learning Center. Behaviors that are characteristic of the target population include assault, abuse, aggression, insubordination, bullying, sexual harassment, intimidation of others, destruction of school property, sale of dangerous drugs, and/or possession of weapons.

A total of 10,000 students would be selected for the intervention with students representing the three ethnic groups with about 50% Hispanic, 30% Caucasian and 20% African American. Approximately 85% will be male and 15% female student participants. The average age will be 13. Grade levels will likely be in the middle schools consisting of the 6th, 7th and 8th grades.

Program Services:

The intervention include a three pronged approach including violence prevention group skills training, individual counseling and service learning projects. The students skills training should include a “best practice” social cognitive strategy with violence prevention skills training drawn

from “Positive Adolescent Choices Training” or a like model program curriculum. The group skills training process will provide communication and assertiveness skills, anger management skills, skills in dealing with criticism, negotiation skills, conflict resolution skills and violence risk education. Group social cognitive training will be augmented with individual behavioral counseling and casework that will establish goals for behavior that is free of aggression, abuse and assault.

Group Skills Training:

The objective of the violence prevention skills training will be comparable to Positive Adolescent Choices Training with the objective of decreasing school based student violence including assault, abuse, aggression, intimidation, sexual harassment and bullying indicators. Students will be taught social skills and violence prevention skills in the areas of communication skills, assertiveness skills vs. aggression, anger management skills, giving and receiving negative feedback, negotiation skills and conflict resolution skills.

The Positive Adolescent Choices Training (PACT) violence prevention curriculum is recommended by the Center for Disease Control in the 2000 report, Best Practices of Youth Violence Prevention and in the Department of Education 1999 Safe Schools Report. The PACT curriculum is augmented with several components on assertiveness and self-esteem that are commonly found in social skills training models. The Students will be assigned to a skills training group for six weeks for 20 to 25 workshop sessions. The group size will average 6 to 10 students. The Youth Advisor uses direct classroom instruction, group process, modeling and role playing to demonstrate successful use of the skills. New groups will be started at six week intervals consistent with the middle schools six week academic sessions.

The curriculum will be presented in a group setting with instruction and social cognitive group interactions using 20 elements or individual lesson plans in the following categories:

a) Violence Risk Education:

- Violence risk education; true and false questions and discussion
- Social skills necessary to avoid solving conflicts
- Violence that one has control over versus what one does not control
- Consequences of violence for the victims, survivors and perpetrators
- Motivation behind violence, difference between conflict and violence

b) Communication and Assertiveness Skills:

- Verbal and non-verbal communication and active listening skills
- Identification of passive, assertive, and aggressive behaviors
- Verbal and non-verbal assertive skills
- Refusing an unreasonable request
- Role playing to incorporate skills

c) Self Image and Self-Esteem:

- Self-perception and how others view self

-
- Identification of areas of strength and areas for self-improvement

d) Anger Management Skills:

- Identify anger, how it feels, and what it looks like in self and others
- distinguish anger from violence
- ABC's of anger management & ways to control anger
- Ways to avoid physical violence

e) Dealing with Criticism:

- Giving constructive verbal feedback in a positive, assertive manner; role playing activities
- Receiving constructive feedback with steps involved in positive ways and benefits to be derived with role playing activities

f) Conflict Resolution Skills:

- Learn and identify ways others may be feeling and thinking in a conflicted situation
- Six-Step conflict resolution process; scripted role-play to illustrate points
- Use of the I word

g) Negotiation Skills:

- Purpose and benefits of negotiation and the
- 5-Step negotiation process; role playing activities

Individual Counseling and Case Management:

The objective of the counseling component of PeaceMakers is to establish behavioral goals with the student and work with him or her in making positive choices, learning from experience, gaining positive behaviors and achieving appropriate relationships with others. The case management process will include individual behavioral plans for the reduction of aggressive and abusive behaviors. Contact will be made with parents to discuss the students' social history and to set individual behavioral goals with each student. Youth Advisors will conduct counseling and coaching with the students as well as teaching alternative behaviors to aggressive and abusive acts.

The project funded staff Youth Advisors will help each student to identify behaviors and problems that led to his or her involvement in the schools disciplinary system. Key issues in interpersonal conflict, parental pressure and self esteem will be reviewed. Students may respond to personal issues with substance abuse, depression and stress. Basic goals will be established and rank ordered between the student and the Youth Advisor.

Behavioral counseling assumes that learning comes from experience. Counseling may include mentoring, role modeling, homework, behavioral experiments, and self management training. The Youth Advisor will demonstrate positive regard and understanding of students. The Youth Advisor will help the student in weighing alternative approaches and choices and may help the student in identifying thinking errors. Active listening, feedback and appropriate confrontation should be used.

Youth Advisors will monitor student's behavior reports and request feedback related to progress with behavioral goals. Staff personnel should meet with teachers, counselors and principals to provide feedback on each student's progress toward reduction of violent prone behaviors.

Project Staffing:

The delinquency prevention and intervention model calls for Youth Advisors to be assigned at the ratio of one staff member for each 100 students. Youth Advisors will have three key responsibilities for conducting group skills training, individual case management and behavioral counseling and conducting community service or service learning projects with the youth in the school disciplinary setting.

- Group skills training with students will be conducted daily for the first six weeks period of time with follow-up booster sessions occurring every two weeks for twelve weeks and then moving to a monthly schedule for eighteen weeks. Student will be seen in group approximately 34 times for during the school year.
- Individual student counseling will be scheduled according to individual need but will approximate a schedule of once weekly with students for the first two six week periods, and then move to being seen once monthly or every other month thereafter. Although there will be variation based on individual need, students will be seen in individual counseling an 16 to 24 times during the 12 month period.
- Service learning projects will be conducted with each group of students with the youth identifying community problems and issues, designing a strategy to address the problems they have identifies, developing an implementation plan for the community service and then carrying out the service under the direction of the Youth Advisor.

Youth Advisor staff personnel will preferably have a masters degree in social work, psychology, sociology or a closely related field with three to five years experience in mental health, corrections or special education with a bachelors degree in these same academic areas with five to 10 years experience in mental health, corrections or special education.

A local project director/supervisor will be assigned to provide oversight to each of the projects within the school districts. The director/supervisor will have responsibility for hiring, orientation, training, and day to day supervision and monitoring of program operations for the Youth Violence Prevention Program. The project director/supervisor will coordinate with principals, assistant principals, and counselors to communicate project plans, to establish referral criteria for student participants, to discuss the program curriculum and to select schedules for program delivery. Each project director can supervise up to six Youth Advisors who are working with 100 youth annually.

Program Evaluation:

Outcome evaluation will be a project wide effort with central coordination of the research evaluation

design. Early evaluation work has been successfully conducted using pre and post intervention questionnaires asking youth for feedback on program effectiveness. To date, 60 to 80% of students in the program have reported significant increases in: 1) improved anger management skills, 2) improved conflict resolution skills, and 3) reductions in aggressive behaviors. The evaluation being proposed for use is intended to measure student behaviors following the violence prevention intervention as they return to regular classes. A program evaluator will be employed or contracted to complete the research evaluation design. The evaluator will analyze disciplinary data to determine youth outcomes as a result of the pilot project.

It is predicted that 60% of these students served will not enter the juvenile or the criminal justice system. Averting 60% of 10,000, or 6,000 of these at risk youth from the juvenile and criminal justice system will bring substantial savings to a very costly juvenile and criminal justice system. The project will reduce unnecessary victimization of Texas citizens, and it will produce youth who will become positive contributing members of the community.

To allow ample time for project start up and stabilization along with allowing longitudinal tracking of student participants, the project should be operational for a period of at least three years.

Managing Organization:

An agency of the state or a state agency will be selected to conduct the pilot project based on a sensitivity to public school disciplinary systems and experience in dealing with the education service centers and the various school districts. Responsibilities for managing and administering the pilot project will include 1) contract management with school districts, 2) fiscal administration and record keeping, 3) program implementation including staffing, support and training, 4) quarterly monitoring of fiscal and program operations and 5) selection and oversight of a research firm or individual to conduct program research evaluation. One option for management and administration of the project is for the Council on At-Risk Youth to be charged with this responsibility as a contractor with the Region 13 Education Service Center in Austin.

With this arrangement, the managing organization CARY would establish Requests for Proposals for circulation to the states school districts announcing the availability of funding for the purpose of conducting delinquency prevention projects in concert with school disciplinary systems. Criteria for eligibility for project funding will be established with minimum requirements related to target population, program models, project staffing, evaluation needs. Outside professional reviewers would rate and rank order the applications based on adherence to the project requirements and standards.

The school districts will have the option of administering the program themselves or contracting the program out to a private, non-profit 501 (C) (3) agency. They may administer and staff the program directly with school district staff. Alternatively, they may elect to employ and contract with a non-profit organization to administer the program with their respective staff personnel. This is the manner in which CARY has operated in concert with school districts in Austin, Georgetown, Lockhart and Luling.

Contracts will be granted to individual school districts who apply for funding support with demonstrated commitment to serve youth within their respective school district disciplinary settings and willingness to participate actively in 1) adopting the proposed model or comparable models for delinquency and drug abuse prevention and intervention, 2) assuring adherence to fiscal standards, 3) participating in statewide annual trainings, 4) submitting to onsite inspections and monitoring, and 5) participating in statewide project evaluations.

Costs for the Pilot Project:

1) Program Services:

The program services budget recommended is \$6,000,000.00 for 10,000 at risk youth. The budget is designed to allot \$600.00 for a full year of comprehensive case management services for each at-risk youth. Alternate patterns of fund distribution would include:

- a) 2 school districts for contracts/grants in the amount of \$600,000.00 each to serve 1,000 at risk youth each for a total of \$1,200,000.00 serving 2,000 youth,
- b) 10 school districts selected for contracts/grants of \$300,000.00 each to serve 500 at-risk youth for a total of \$3,000,000.00 serving 5,000 youth, and
- c) 20 school districts selected for contracts/grants of \$90,000.00 each to serve 150 youth each for a total of \$1,800,000.00 serving 3,000 youth. The total contract funds amount to \$6,000,000.00.

2) Fund Expenditures:

The budget model calls for 87% of funding allotted for personnel expenses, 9% of funding toward supplies, materials and operating expenses and the balance of 4% for evaluation purposes. As an example, a summary for each of the \$300,000.00 projects serving 500 at-risk youth should have allotments as follows for each project with five youth advisors and part time supervisor is as follows:

Staff.....	\$207,900.00
Fringe Benefits.....	\$ 51,975.00
Supplies and Materials.....	\$ 7,335.00
Program Operations.....	\$ 20,790.00
Contract Evaluator.....	\$ 12,000.00
Total.....	\$ 300,000.00

The budget detail for each of the \$300,000.00 projects is detailed as follows:

1) Staff:

A) Youth Advisors (5) @ \$34,650.00.....	\$ 173,250.00
B) Project Supervisor @ \$34,650.00.....	\$ 34,650.00
Subtotal Staff.....	\$ 207,900.00

2) Fringe Benefits:

A) FICA @ 7.65% X Salary.....	\$ 15,904.00
B) Health/Retirement @13.7%	\$ 28,482.00
C) TWC Unemp. Insurance @ 1.35%	\$ 2,807.00
D) Workman's Comp Ins. @ 2.3%	\$ <u>4,782.00</u>
Subtotal Fringe Benefits.....	\$ 51,975.00

3) Supplies and Materials:

A) Office and home office supplies for each of five staff Youth Advisors and Project Director with each requiring:	
Copy paper (6 cases @ \$29.00).....	\$ 174.00
Small envelopes (6 boxes@ \$20.00).....	\$ 120.00
Filing folders (6 boxes @ \$23.00).....	\$ 138.00
File Box (6 @ \$18.00).....	\$ 108.00
Storage Boxes (6 @ \$15.00).....	\$ 90.00
C D Diskettes (6 box @ 30.00).....	\$ 180.00
Ink cartridges (12 @ \$33.00).....	\$ 396.00
Pencils for students (5 doz @\$4.00).....	\$ 20.00
Writing pads (12doz @ \$8.00).....	\$ 96.00
Annual calendars (6 @ \$18.00)	\$ 108.00
Self stick notes (12 @ \$7.00).....	\$ 84.00
Scotch tape (12 pk @ \$3.00).....	\$ <u>36.00</u>
Subtotal.....	\$ 1,615.00

B) Positive Adolescent Choices Training
Manuals @\$25.00 with 25 copies for youth
advisors, asst. principals, and counselors
for\$ 625.00

C) What's Up With Violence Prevention?"
(@ \$4.50 for 200 copies) for \$900.00 and
Dealing with Anger and Conflict Handbook
(@4.50 for 200 copies) for \$900.00 for.....\$1,800.00

D) Program training materials and supplies..... \$ 3,295.00

Subtotal Supplies and Materials.....\$7,335.00

4) Operational Costs:

Liability Insurance for 5.5 staff\$ 2,500.00
Office Rent for 1.5 offices for 12 mos..... \$ 4,900.00
Telecommunications..... ..\$ 1,800.00
Equipment repair.....\$ 400.00
Copying @ \$50.00 per mo.....\$ 600.00
Software\$ 300.00
Website hosting.....\$ 250.00
Postage\$ 500.00
Employment advertising\$ 700.00
Bookkeeping and Payroll Service.....\$ 4,500.00
Tax Preparation.....\$ 500.00
Organizational Memberships.....\$ 300.00
Banking Services..... \$ 100.00
Subtotal for Program Operations..... \$ 20,790.00

5) Contract Program Evaluation:

A) Professional evaluator or PhD student.....\$12,000.00

Total.....\$300,000.00

3) Project Management:

As discussed above, key responsibilities for managing and administering the pilot project will include 1) contract management with school districts, 2) fiscal administration and record keeping, 3) program implementation including staffing, support and training, 4) quarterly monitoring of fiscal and program operations, and 5) selection and oversight of a research firm or

professional to conduct program research evaluation. Whether project management would be assumed by an existing state agency or contracted to a non-profit organization such as CARY, management requirements consistently consume 10% to 15% of total project operational costs. CARY will provide the management for 8% of total project costs. Consistent with the required functions above, costs can be itemized and summarized as follows.

1) Staff:

A) Project Director.....	\$80,000.00
B) Project Fiscal Director.....	\$60,000.00
C) Project Trainers/Monitors (2 @ \$45,000).....	\$90,000.00
D) Project Evaluator.....	\$50,000.00
E) Admin Techs (3 @ 30,000.00)	<u>\$90,000.00</u>
	\$370,000.00

2) Fringe Benefits:

@ 20% staff salaries\$74,000.00

3) Supplies and Materials:

@ 5% staff salaries.....\$18,500.00

4) Operating Expenses

@ 10% staff salaries.....\$37,000.00

Total Management/Administration Costs.....\$499,500.00