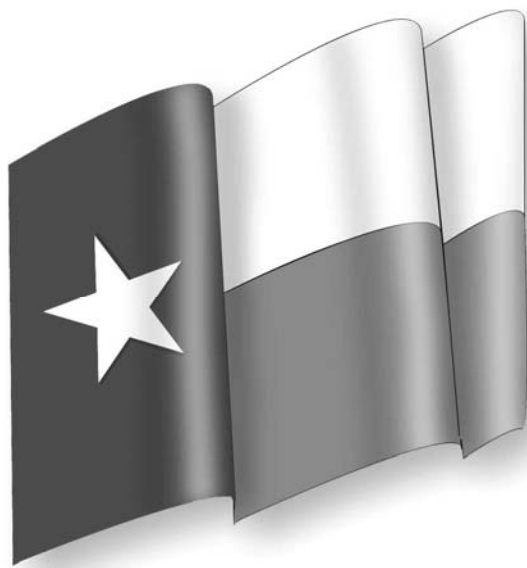


SUNSET COMMISSION DECISIONS



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

January 2007

Agency Information

Agency at a Glance

In 1846, the Texas Legislature provided funding for the first Texas prison. Since that time the state criminal justice system has expanded to include probation, parole, and offender rehabilitation programming. The Texas Department of Criminal Justice (TDCJ) works with the Board of Pardons and Paroles (Parole Board), and the Correctional Managed Health Care Committee (the Committee) to perform these functions. Both the Parole Board and the Committee operate as semi-independent agencies and are responsible for making offender parole determinations and coordinating offender healthcare services, respectively.

The Texas Department of Criminal Justice's major functions include:

- ◆ providing for confinement and re-integration of adult offenders;
- ◆ maintaining appropriate community-based supervision for offenders released on parole and mandatory supervision; and
- ◆ supporting community-based supervision and programs for offenders on probation.

Key Facts

- ◆ **Funding.** In fiscal year 2004, TDCJ operated with a budget of \$2.5 billion. Approximately 80 percent of TDCJ's budget supports the incarceration of offenders. The average daily cost of incarcerating an offender in prison is \$40.06.
- ◆ **Offender Population.** In fiscal year 2005, TDCJ incarcerated approximately 153,000 offenders in 106 prisons located throughout the state. TDCJ also provided funding and support for 430,000 offenders on probation in 121 Community Supervision and Corrections Departments, and TDCJ's Parole Division supervised approximately 76,000 offenders released on parole and mandatory supervision.
- ◆ **Staffing.** TDCJ employs approximately 38,000 staff, of which 23,500 are correctional officers. TDCJ faces a continuing correctional officer shortage based on staffing requirements at each facility. As of July 2006, the shortage was 2,746 officers, down from a high of 3,406 in October 2001.

Issues/Recommendations

Issue 1 By Not Adequately Addressing Offender Rehabilitation Needs, the State's Criminal Justice Efforts May Not Deter Recidivism, Increasing the Prison Population.

Recommendations

Change in Appropriations

1.1 The Sunset Commission should recommend that the Legislature appropriate significant additional funds to TDCJ for offender treatment and rehabilitation programs proven to reduce recidivism.

This recommendation would express the will of the Sunset Commission that the Legislature appropriate additional funding, as described below, for treatment and rehabilitation programs for offenders on probation, in prison, and on parole. By targeting risk factors for recidivism, these programs could reduce the number of incoming offenders and potentially lessen the need to build new prisons, promote public safety, and encourage offenders to become productive members of society. The recommendation is not intended to be a comprehensive assessment of overall need for offender treatment and diversion programs in the criminal justice system.

Based largely on needs identified by TDCJ in its 2008-2009 LAR, the recommendation is intended to promote discussion about the State's approach to incarceration as it again reaches the crossroads of the supply and demand of prison beds. The recommendation does not address the overall need for capacity, which TDCJ has identified and should pursue on its own. However, no meaningful evaluation of the State's criminal justice agency can occur without giving some consideration to its role in preventing offenders' return to prison and ultimately preparing them for life outside of prison. The

following provides some detail on the various program categories and suggested funding.

A. In-Prison Treatment: \$62.9 million (construction); \$8.4 million (treatment)

This funding would provide \$2.4 million annually to support using 200 existing beds for the IPTC program. The IPTC is a six-month program that provides intensive substance abuse and reentry services for parole eligible offenders. Offenders who complete IPTC and are released from prison participate in 15 months of community-based after-care treatment. Based on rates of program completion in 2005, approximately 1.9 offenders completed programming per IPTC bed. With 200 extra beds, an additional 380 offenders might complete the IPTC program annually. By accommodating an additional 380 offenders in this program each year, TDCJ could potentially experience a reduction in the number of offenders reincarcerated from 86 to 19, based on past recidivism studies. The cost avoided by not having to incarcerate the larger number of offenders could be approximately \$978,200 annually.

This recommendation would also provide \$62.9 million to construct a 1,000 bed medium security facility, with 500 beds designated for offenders with Driving While Intoxicated (DWI) convictions. The treatment cost for these beds would be \$6 million annually. A facility of this size would cost approximately \$11 million per year in staffing and operating expenses; however, TDCJ anticipates using appropriations designated for temporary capacity beds to fund this expenditure. While this provision

would add capacity to TDCJ, it would also expand treatment for offenders with DWI convictions, which would be expected to reduce recidivism rates along the same lines as for IPTC. Expanded treatment for DWI offenders would also increase the likelihood of parole for low-risk offenders, resulting in shorter sentences for these offenders. While TDCJ's specific approach to DWI programming is currently unknown, the DWI program could be structured similar to an IPTC. Assuming TDCJ created a six-month program, and completion rates were similar to the IPTC as noted above, 950 offenders could complete programming annually. The number of reincarcerations could potentially decline from 214 to 48, resulting in 166 fewer offenders in prison. The cost avoided by not incarcerating 166 offenders could be approximately \$2.4 million annually.

B. Parole and Probation Treatment: \$31.5 million

This funding would provide an additional \$24.8 million annually to support probation services. Specifically, \$5.6 million would provide 250 additional residential treatment beds for inpatient substance abuse and mental health services. Another \$10 million in funding would go to basic supervision, for reducing probation officer caseloads. This funding would also provide \$9.2 million for outpatient substance abuse treatment through contracted community-based providers. This recommendation would increase the total funding for CSCDs above the amount appropriated in 2005 to encourage departments to continue to implement progressive sanctions models, which have been shown to reduce the number of probation revocations. Funding provided to CSCDs in fiscal year 2005 has thus far resulted in 1,016 fewer probation revocations than during the same time period in the previous fiscal year. With 1,016 fewer offenders in prison, the State benefits from

approximately \$14.8 million in annual cost avoidance.

This recommendation also includes an additional \$6.7 million to increase Substance Abuse Felony Punishment facility (SAFP) capacity by 250 beds. Based on the number of SAFP beds and the total number of SAFP completers in 2005, TDCJ could expect approximately 1.5 offenders to complete the program per year, per bed. An additional 250 beds would enable approximately 375 more offenders to complete SAFP annually. Assuming the most recent recidivism rates for SAFP, the addition of 250 SAFP beds could result in 93 fewer reincarcerations, with a possible avoided cost of incarceration of \$1.4 million.

C. Pre-Trial Diversion: \$5 million

This recommendation would provide \$5 million for additional pre-trial diversion treatment, allowing TDCJ to contract with various community-based providers to deliver treatment services to mentally ill offenders awaiting trial. Following arrest, offenders receive mental health screenings through the county jail intake process. If services are in place, mentally ill offenders could be released after intake instead of being incarcerated pending trial. TDCJ estimates that this funding would serve 1,500 offenders. Since this funding provides pre-trial treatment, and sentencing occurs at the presiding judge's discretion, TDCJ has had difficulty determining how many of these offenders might be diverted from prison or state jail. However, similar probation programs have reduced reincarceration rates, indicating the success of this type of initiative in treating, stabilizing, and lowering recidivism for mentally ill offenders.

D. Literacy Education: \$6 million

This funding would provide \$6 million for additional literacy education programming in TDCJ prisons. Additional funding would be appropriated through TEA and the Windham

School District. This money would allow Windham to provide literacy education to an additional 7,670 high-risk offenders annually, who are likely to experience the largest reduction in recidivism. Windham can provide literacy education to these offenders without adding to classroom capacity. According to the most recent data available, re-incarceration rates for these offenders could potentially drop from 30 percent to 19 percent, resulting in 844 fewer offenders in prison and \$12.3 million in annual cost avoidance.

Management Action

1.2 TDCJ should conduct routine program evaluations of all rehabilitation programs designed to reduce reincarcerations and revocations, and report the findings to the Legislature.

Under this recommendation TDCJ should perform routine program evaluations of all its rehabilitation programs to ensure that these programs reduce offender re-incarcerations and revocations. TDCJ should coordinate its evaluative efforts with the legislative oversight committee recommended in Issue 2 to evaluate the effectiveness of correctional programs, if such a body is established.

However, TDCJ would still be responsible for conducting its own evaluation. While not intended to be a statistically validated study, TDCJ should be able to calculate the number of persons returned to prison or revoked based on assumptions that it must identify, such as the population being evaluated, the length of time under evaluation, and any other factors TDCJ deems necessary.

All evaluation findings should be presented to the Legislature in support of additional legislative appropriations requests. These findings would provide better information on which to make budget decisions.

Fiscal Implication

Appropriating additional funds to TDCJ for offender treatment and rehabilitation programs would result in a cost to the State. However, funding these programs would reduce recidivism, creating additional capacity that could generate millions in cost avoidance for the State.

The Legislature, through the appropriations process, would determine the amount of funding and therefore the actual impact to the State. The fiscal impact would not be reflected in the fiscal note for the TDCJ Sunset bill.

Responses

Agency – Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support these recommendations. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Honorable Caprice Cospier, 339th District Court Judge – Harris County, Houston

Benny Hernandez, III, former inmate – Austin

Cynthia Humphrey, Executive Director – The Association of Substance Abuse Programs, Kerrville

Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville

Herbert Steptoe, Public Relations – Winners Circle Peer Support Network, Houston

Jim Stott – Texas Probation Association/Correctional Management Institute of Texas, Huntsville

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

For Providing Funding for Offender Treatment and Rehabilitation Programs

Paul Becker, Director – Harris County Community Supervision Corrections Department, Houston

Honorable Dolores Briones, County Judge – El Paso

Dr. Chilo Madrid, Vice President – Association of Substance Abuse Programs, El Paso

Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against Providing Funding to Expand Capacity Within TDCJ

Honorable Dolores Briones, County Judge – El Paso

Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Modifications

1. Instead of building a new medium security facility that would cost \$62.9 million, use the money to fully strengthen existing outpatient treatment programs that focus on treating alcohol addictions that lead to DWIs. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
2. Instead of spending \$62.9 million to build a new medium security facility, use the money for inpatient and outpatient treatment programs provided through local Community Supervision Corrections Departments (CSCDs) to reduce the number of prisoners entering TDCJ. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin)
3. Rather than building new prison beds, the State should spend more money on effective community-based treatment programs and alternatives to incarceration, which follow these principles.
 - ◆ Reorienting probation towards risk-reduction strategies that reduce recidivism and increase public safety.
 - ◆ Increasing the use of individualized assessment, drug treatment, and community supervision rather than prison to contain growth of the state's prison population and safe tax payers' money.

- ◆ Establishing clear outcome-based accountability systems to strengthen probation by measuring success based on reduction in revocations, probationer employment status, and recidivism rates.

(Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin; Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)

4. Increase funding for outpatient substance abuse treatment so that it is based on the need of the person on parole, probation, or currently in a community treatment facility, expressed in terms of the number of people on probation who have been identified as having a drug or alcohol problem multiplied by the cost of treatment. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
5. Provide funding for probation programs based on results, so that departments, counties, or providers are rewarded if they meet their targeted results. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
6. Provide \$50 million for parole and probation treatment, instead of \$31.5 million, to expand parole and probation treatment capacity for community based providers. This money would be administered by the Texas Department of State Health Services to be contracted with the state system of providers that are certified and recognized. (Cynthia Humphrey, Executive Director – The Association of Substance Abuse Programs, Austin)

Recommended Action: Adopt Recommendations 1.1 and 1.2.

Commission Decision: Adopted Recommendations 1.1 and 1.2.

Issue 2 Lawmakers Do Not Have the Information Necessary to Effectively Manage the State's Criminal Justice System and Plan for Its Future.

Recommendation

Change in Statute

2.1 Establish a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies.

This recommendation would create a Criminal Justice Legislative Oversight Committee. The Committee would consist of six members as follows:

- ◆ the Chair of the Senate Committee on Criminal Justice;
- ◆ the Chair of the House Committee on Corrections;
- ◆ two members of the Senate appointed by the Lieutenant Governor; and
- ◆ two members of the House of Representatives appointed by the Speaker of the House of Representatives.

The Lieutenant Governor and the Speaker of the House of Representatives should give first consideration to members of the Senate Finance Committee and the House Appropriations Committee when making the appointments. The Lieutenant Governor and the Speaker would appoint the presiding officer of the Committee on an alternating basis. The presiding officer would serve a two-year term, expiring February 1 of each odd-numbered year.

The Committee would be charged to:

- ◆ conduct an in-depth analysis of the criminal justice system;

- ◆ assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
- ◆ identify critical problems in the criminal justice system and recommend strategies to solve those problems;
- ◆ determine long-range needs of the criminal justice system and recommend policy priorities for the system; and
- ◆ advise and assist the Legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system.

The Committee would not be responsible for the tracking and reporting functions that LBB previously assumed from the Policy Council, including prison population and cost projections. Instead, the Committee would be focused on providing more broad-based oversight of the criminal justice system, analyzing the system through statistical analysis and research to identify whether or not the system is working. The Committee would not oversee the actual inner workings of a prison and therefore would not perform inspections or on-site monitoring like other oversight approaches. Instead, the Committee's purpose would be to provide statistical research, analysis, and reporting necessary to know whether or not the system is effectively providing public safety, promoting positive change in offender behavior, and helping to successfully reintegrate offenders into society.

The Committee would be able to hire its own staff, but would also be authorized to contract with universities or other entities to carry out its duties. Allowing the Committee to

contract out for these services would ensure that it would not have to develop the expertise necessary to perform these functions. However the Committee, with its legislative membership, would be the entity best suited to advise the Legislature in developing plans, programs, and legislation to improve the overall effectiveness of the State's criminal justice system.

Fiscal Implication

Establishing a Criminal Justice Legislative Oversight Committee would result in a cost to the State. However, the actual fiscal impact will depend on how the Committee structures its staff support.

Responses

Agency

None received.

For

Cecilia K. Carlyle

Vicki McCuiston, Program Director – Texas Coalition to Abolish the Death Penalty, Austin

Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modifications

1. Direct the Criminal Justice Legislative Oversight Committee to engage in quantitative and qualitative research on the impact of parental incarceration on children and on other members of the immediate family. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
2. Direct the Criminal Justice Legislative Oversight Committee to perform on-site evaluations and monitoring of prisons in a consistent manner to protect state resources and to accurately determine whether TDCJ is following policy and protecting the interests of a safe society and the interests of the inmates under their care. (Vicki McCuiston, Program Director – Texas Coalition to Abolish the Death Penalty, Austin)

Recommended Action: Adopt Recommendation 2.1.

Commission Decision: Adopted Recommendation 2.1.

Issue 3 The Board of Pardons and Paroles Has Not Adequately Updated and Used Required Parole Guidelines to Help Ensure the Most Consistent, Appropriate Release Decisions.

Recommendations

Change in Statute

3.1 Require the Board of Pardons and Paroles to annually report and explain to the Legislature its efforts to meet the parole guidelines.

This recommendation would require the Parole Board to report to the Lieutenant Governor, Speaker of the House, and the substantive committees of each house responsible for overseeing criminal justice, regarding its efforts to meet its own guidelines for making parole decisions. The report should provide a brief explanation of the guidelines, including how the Parole Board defines the risk factors and offense severity levels, and how it determines the probable parole approval rates for each guideline score.

The Parole Board would monitor the actual approval rates for individual parole panel members, regional offices, and the state as a whole, and compare these rates with the expected rates under the guidelines. The report would specifically highlight areas where the Parole Board's actual parole approval rates do not meet the expectations established under the guidelines, explaining these variations and detailing actions the Parole Board has taken or will take to meet the guidelines.

The recommendation would not require the Parole Board to adhere to the parole approval ranges in the guidelines, nor would it provide for penalizing parole panel members for failure to meet the guidelines. As a result, this recommendation would not impede panel

discretion or affect members' ability to decide each case individually. The recommendation would, however, require the Parole Board to focus more attention on the way parole panels make parole decisions, and whether the process provides enough objectivity and consistency, as well as flexibility and accountability, to adequately protect the public.

3.2 Require the Board of Pardons and Paroles to annually review and update the parole guidelines.

Under this recommendation, the Parole Board would meet each year to perform an internal assessment in which it would review and discuss how its guidelines serve the needs of parole decision making. The assessment should focus not just on how well the guidelines reflect parole panel decisions, but also how well they predict successful parole outcomes. The Parole Board would have the authority to enlist experts, as needed, to assist with the review. Through these assessments, the Parole Board could seek to update its guidelines by including new risk factors, as well as changing the values of offense severity or risk factor scores. If actual parole approval rates significantly differ from the recommended rates in the guidelines, the Parole Board could also modify the benchmark rates. To help ensure candid internal discussion about how these guidelines can best serve the Parole Board's needs, and to improve parole decision making, the Parole Board would not be required to conduct these assessments in an open meeting. The adoption of any changes to the guidelines, however, would occur in a public meeting.

3.3 Require parole panel members who depart from the guidelines to provide specific reasons explaining the deviation.

This recommendation would require parole panel members to produce a written statement describing in detail the specific circumstances regarding departure from the guidelines. The approval and denial reasons currently used for parole determinations would not be sufficient, requiring greater specificity. The statement would be provided to the offender and placed in the parole file for future review. Providing more information regarding departure from the guidelines would increase transparency and public confidence in the parole process.

Fiscal Implication

Based on the current guidelines, these recommendations would not have a direct fiscal impact to the State. However, if the Parole Board updates the guidelines and parole panels come closer to meeting the established approval ranges for each guideline score, additional offenders could be released from prison earlier. In fiscal year 2005 for example, compliance with minimum approval rates could have released 20,888 offenders, compared to the 18,485 offenders actually released, which would have resulted in more than \$32 million in costs avoided on an annual basis. In addition, in terms of prison capacity, reduction of the prison population by 2,403 offenders could help prevent the necessity to build a new prison unit, at a cost of nearly \$300 million, with ongoing costs of \$35 million each year.

Responses

Agency – Board of Pardons and Paroles

Recommendations 3.1 and 3.2: Since the implementation of the revised guidelines (2001), the Board’s Parole Guidelines Committee has consistently reviewed the 1,931 NCIC offenses for possible re-ranking or establishing new rankings based on any legislative changes impacting offense rankings and the parole guidelines. The committee has undertaken this task after each legislative session since 2001. The current up-to-date list of offenses that have been ranked by the committee contains 2,289 offenses. Parole approval rates by guideline levels is information that is included within the Board’s Annual Report, distributed each year to the Governor, members of the Legislature, and others.

Recommendation 3.3: The Board utilizes the “Reasons for Denial” under Board Rule 145.6, which does provide specific denial reasons which tend to correlate to the deviation from the guideline score. These “Reasons for Denial” were created to comply with Section 508.144, Government Code, and the numbers were assigned to provide a mechanism to enter the reasons into TDCJ’s computer system. Many voting members use 10 D – the narrative reason for specifically citing parole denial (i.e., extensive DWI history) to justify deviation from the guideline score. The parole guidelines do not direct the voting member to enter a yes or no vote in specific cases. At the time of the vote, the member has before them a risk analysis and an assigned guideline level. What they do not have before them is their up-to-the minute deviation rate, which is generated monthly after all votes have been processed. Thus it is difficult to know at the time of the vote whether that particular vote is outside the guidelines. Requiring the voters to provide reasons when they deviate from the guidelines would not be possible at this time.

(Rissie Owens, Presiding Officer – Board of Pardons and Paroles)

For

Linda Oberle – Texas Parole Watch, Teague

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modifications

1. During an offender’s parole review, if an immediate relative of a deceased victim does not exist, allow the victim to be represented by the nearest relative by consanguinity during the parole review process. (Representative Vicki Truitt, Vice Chair – Sunset Advisory Commission)
2. Require the Board of Pardons and Paroles to annually report and explain its efforts to meet the parole guidelines to the Legislature, and the Criminal Justice Legislative Oversight Committee created in Issue 2. (Mr. Howard Wolf, Public Member – Sunset Advisory Commission)
3. Require the Parole Board to reexamine the offense severity ratings within the parole guidelines and develop a mechanism for updating the individualized risk assessment to reflect the latest research on recidivism probabilities for various types of offenses and offender characteristics. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
4. Create a range in the guidelines that are presumptive for parole unless some salient factors specified in legislation are not met. The Parole Board will still have discretion to deny parole in the presumptive ranges of the guidelines but in general the expectations will be that parole be granted for low risk, low severity offenders. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
5. Require the Parole Board to follow the parole guidelines. (Carol Perkins – Huntsville)
6. Parole Board members who refuse to comply with the parole guidelines should be relieved of duty before their term expires. (Linda Oberle – Texas Parole Watch, Teague)

<p>Recommended Action: Adopt Recommendations 3.1 through 3.3, and Modifications 1 and 2.</p> <p>Commission Decision: Adopted Recommendations 3.1 through 3.3, and Modifications 1 and 2.</p>
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Issue 4 Supervising Low-Risk Probationers Who Could Be Released From Probation Early Diverts Limited Resources From Probationers Needing More Intensive Supervision.

Recommendations

Change in Statute

- 4.1 Require CSCDs to identify and recommend probationers appropriate for early termination.**
- 4.2 Authorize TDCJ to adjust funding methods to minimize the loss of funds to CSCDs resulting from early termination of probationers.**

Change in Appropriations

- 4.3 The Sunset Commission should recommend that the Legislature change its method of funding CSCDs to maintain a constant funding level even if the number of probationers declines because of early termination.**

These recommendations would require CSCDs to conduct early termination reviews of all felony and misdemeanor probationers who have served either two years or one-third of their sentences. This early termination review could coincide with CSCDs' routine offender assessments. If the review determines that probationers have complied with all probation conditions, and have not committed additional violations of the law or of probation conditions, they would be recommended to the district judge for early termination. The judge would retain full discretion to determine whether or not to grant early termination. While compliance with supervision conditions would be required, indigence, resulting in inability to pay all fees, should not prohibit offenders from early termination.

Under these recommendations TDCJ, in conjunction with the probation community, would be statutorily authorized to restructure

the funding formulas for CSCDs to ensure CSCDs would maintain adequate funding while permitting early termination of low-risk offenders. TDCJ's new funding methods should provide funding and support for high-risk offenders, including newer probationers, while not penalizing CSCDs for releasing low-risk offenders. TDCJ could accomplish this by providing more funding for offenders in their first years of probation, when intensive services are most beneficial, and tapering funding after probationers have served several successful years of their sentences and require less intensive supervision. The funding formula in statute for basic supervision would be amended to give TDCJ flexibility to restructure the way it allocates funds to allow this front-loading in the early years of probation.

As part of these recommendations, the Sunset Commission should encourage the Legislature to adjust its method of appropriating for TDCJ's probation and community-based programs to maintain level funding in the event of increased early terminations. Currently, the amount of state probation funding for TDCJ and CJAD is determined by the number of offenders under direct supervision. If early terminations increase as a result of these recommendations, state probation funding would decrease, discouraging early termination. To minimize the disincentives against early termination, TDCJ should maintain level funding for CSCDs, and direct them to target funding toward the highest-risk probationers. Increased early termination will result in the loss of offender fees; however, by adjusting both the State's method of appropriating

money for probation programs, and TDCJ's formula for funding CSCDs, the Legislature could minimize the impact of this loss and encourage CSCDs to focus services towards higher-risk offenders.

Fiscal Implication

Any state money that would have been used to supervise early terminating offenders should be redirected and used to supervise new probationers and higher-risk offenders.

Responses

Agency – Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support these recommendations. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Bill Fitzgerald, Director – Bexar County Community Supervision Corrections Department, San Antonio

Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville

Jim Stott – Texas Probation Association/Correctional Management Institute of Texas, Huntsville

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modifications

1. Increase basic supervision funding so that probation departments will not have to depend so heavily on probationer fees as a means of income. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
2. In addition to maintaining constant funding levels for basic supervision, provide additional funding to CSCDs to meet the needs of high-risk probationers. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
3. Base any new funding formula on risk, targeted at providing specific programs for the high-risk probation population. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)

Recommended Action: Adopt Recommendations 4.1 through 4.3.

Commission Decision: Adopted Recommendations 4.1 through 4.3.

Issue 5 Keeping Low-Risk Offenders on Parole and Mandatory Supervision Who Could Be Released Early Can Divert Limited TDCJ Resources From Best Use.

Recommendation

Change in Statute

5.1 Require TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders from parole and mandatory supervision early.

Under this recommendation, offenders on parole and mandatory supervision would become eligible for early release after completing one-half of their remaining sentence upon release, including two consecutive years of successful supervision without any violation reports pursuant to the violation action grid used by the Parole Division. Offenders eligible for early release would be identified and reviewed annually, and offenders denied early release would be reviewed each year thereafter.

Upon eligibility, district parole officers would review offenders to determine if a recommendation for early release would be appropriate. Specifically, parole officers would evaluate if an offender has a low risk of recidivism, and has made a good faith effort to comply with the conditions of release. Early release would be a privilege, not a right, and parole officers would have complete discretion to make early release recommendations.

Recommendations for early release would be forwarded to Regional Parole Supervisors for approval. Upon approval, offenders would be released from supervision, but would remain under TDCJ jurisdiction until the completion of their sentence. TDCJ would retain the authority to require an offender to resubmit to supervision at any time and for any reason. Granting early release to low-risk offenders would reduce parole officer caseloads, giving parole officers more time to effectively supervise newly released and high-risk offenders, who require more frequent contact and oversight. This recommendation would also provide an incentive for released offenders to successfully complete supervision.

Fiscal Implication

Any savings realized from reduced parole supervision caseloads would be used to supervise high-risk offenders on parole or mandatory supervision.

Responses

Agency – Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support this recommendation. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modification

1. Allow early release for parolees who pose little risk to the public because of age, medical condition, or supportive relationships. Local parole offices should not be penalized for early release. (Joan DeLuca, Board Member – Texas Inmate Families Association, Inc., Austin)

Recommended Action: Adopt Recommendation 5.1.

Commission Decision: Adopted Recommendation 5.1.

Issue 6 Current Law Limits the Use and Effectiveness of Medically Recommended Early Release of Offenders, Increasing State Medical Costs.

Recommendations

Change in Statute

- 6.1 Authorize judges to permit the early release of state jail confinees who pose no risk to public safety due to their medical conditions.**
- 6.2 Require TCOOMMI to identify and recommend state jail confinees eligible for early medical release.**

These recommendations would specifically allow district judges to grant early medical release to state jail confinees. TCOOMMI would be required to develop a process to facilitate judges' consideration of MRIS for state jail confinees, following the same process for identifying and recommending state jail confinees as currently used for offenders in prison. TCOOMMI would work with the Committee and the university healthcare providers to identify medically eligible offenders. In addition, TCOOMMI would:

- ◆ develop a case summary and medical report for each eligible confinee, and present that information to the local judge with jurisdiction;
- ◆ create a continuity of care plan, including medical placement and services, for confinees approved for release;
- ◆ coordinate community supervision with local CSCDs; and
- ◆ make quarterly status reports to judges on released confinees.

Early release would be dependent upon TCOOMMI securing appropriate community placement. Once TCOOMMI places a confinee in the community, the local CSCD would be responsible for supervision. If an MRIS-approved state jail confinee's release is revoked, TDCJ would expedite the offender's return to TDCJ.

These recommendations would not affect judges' discretion to grant or deny release of state jail confinees under current law or for medical reasons. By clarifying the judge's authority to grant early release of confinees for medical reasons, these recommendations would help provide for more consistent application of this program statewide. The recommendations would also result in savings to the State.

Fiscal Implication

Authorizing the release of medically eligible state jail confinees would result in a savings to the General Revenue Fund, but the savings cannot be determined because TDCJ cannot estimate how many confinees would be eligible and approved for release.

Responses

Agency – Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support these recommendations.
(Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Recommended Action: Adopt Recommendations 6.1 and 6.2.

Commission Decision: Adopted Recommendations 6.1 and 6.2.

Issue 7 Current Law Does Not Hold All Parole Decision Makers to the Same Standards of Objectivity and Independence.

Recommendations

Change in Statute

7.1 Expand conflict of interest provisions concerning financial and personal interests to include parole commissioners.

The conflict of interest provisions applicable to Parole Board members would be expanded to include parole commissioners. Parole commissioners would be prohibited from ownership or having a spouse who is an owner of an entity funded or regulated by TDCJ or the Parole Board. In addition, parole commissioners and their spouses could not be officers or paid representatives of a criminal justice trade association, and parole commissioners could not be registered lobbyists. This recommendation would be prospective, so any current parole commissioners would not be affected. Applying conflict of interest provisions to all parole decision makers would help prevent the appearance of impropriety, and increase public confidence in the objectivity of the parole process.

7.2 Expand restrictions on previous employment with TDCJ to include parole commissioners.

The employment restrictions currently applicable to Parole Board members would be expanded to include parole commissioners. This recommendation would be prospective, so any current parole commissioners previously employed by TDCJ would not be affected. Any future parole commissioner applicants would be ineligible to serve as commissioners until the second anniversary of the date the person terminated employment with TDCJ. Employment restrictions would strengthen the Parole Board's independence from TDCJ, and help prevent the appearance of bias in release and revocation decisions.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

Responses

Agency – Board of Pardons and Paroles

Recommendation 7.1: Although the commissioners are governed by the general standards for state employees set forth by the Ethics Commission, the current status appears to make them exempt from the conflict of interest rules to which the Board members are held. For the sake of clarity, and to be sure that there is no mistake, the provision should be applied to the commissioners.

Recommendation 7.2: This change could cause a loss of potential commissioners with a depth of criminal justice knowledge. Since the parole commissioners are state employees, this would be an unprecedented restriction on employment. Currently, there are no restrictions on state employees who wish to accept employment with another state agency.

(Rissie Owens, Presiding Officer – Board of Pardons and Paroles)

For

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Recommended Action: Adopt Recommendations 7.1 and 7.2.

Commission Decision: Adopted Recommendations 7.1 and 7.2.

Issue 8 Texas Has a Continuing Need for the Texas Department of Criminal Justice.

Recommendation

Change in Statute

8.1 Continue TDCJ for 12 years.

The recommendation would continue TDCJ as an independent agency, responsible for providing public safety by confining, rehabilitating, and re-integrating offenders into society. Because the Board of Pardons and Paroles is not subject to abolishment, but is instead subject to review at the same time as TDCJ, it would also come under review in 2019.

Fiscal Implication

If the Legislature continues TDCJ using the existing organizational structure, the agency's annual appropriation of about \$2.6 billion would continue to be required for its operations.

Responses

Agency – Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support this recommendation. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Recommended Action: Adopt Recommendation 8.1.

Commission Decision: Adopted Recommendation 8.1.

Issue 9 Due to Its Unusual Structure and Function, the Correctional Managed Health Care Committee Should Be Allowed to Continue, Removed from Sunset Review.

Recommendations

Change in Statute

9.1 Remove the separate Sunset date for the Committee and allow it to continue.

This recommendation would allow the Committee to continue, but it would not be scheduled for Sunset review in the future. The Legislature's decision to have such an entity to oversee the contracting relationship would not be the subject of future Sunset review. However, the Committee's role and responsibilities in the correctional healthcare system would be subject to review as part of future Sunset reviews of TDCJ.

9.2 Update the statutory direction for the Committee.

In place of its current statutory responsibilities, as listed in the table on page 73, the Committee would be responsible for:

- ◆ developing statewide policies for the delivery of offender health care;
- ◆ maintaining the contracts for healthcare services in consultation with TDCJ and the healthcare providers;
- ◆ allocating funding made available through legislative appropriations for correctional health care;
- ◆ identifying and addressing long-term needs of the correctional healthcare system;
- ◆ monitoring the universities' expenditures to ensure they are in compliance with statutory and contractual requirements;

- ◆ addressing problems found through monitoring performed by TDCJ and the universities, including requiring corrective action;
- ◆ serving as a dispute resolution forum in the event of a disagreement relating to offender health care between TDCJ and the healthcare providers or between UTMB and Texas Tech;
- ◆ communicating with TDCJ and the Legislature about the financial needs of the correctional healthcare system; and
- ◆ providing reports to the Board of Criminal Justice at the Board's quarterly meetings on the Committee's policy decisions, financial status, and corrective actions.

This recommendation would replace current statutory responsibilities with responsibilities that reflect the Committee's current functions.

9.3 Require the Chair of the Committee to be a public physician member.

This recommendation would require the Governor to choose one of the two public members who is licensed to practice medicine as the Chair of the Committee. Having a public member as the Chair would ensure that none of the parties to the correctional healthcare contracts are in charge of the Committee, thus emphasizing the balanced partnership that has evolved over the years. This recommendation would also institutionalize the recent positive change to the leadership of the Committee.

9.4 Remove limitations on the Texas Department of Criminal Justice's ability to monitor the quality of health care provided to offenders.

This recommendation would fully enable TDCJ to review the health care provided to offenders. Since TDCJ is ultimately responsible for the well-being of the offenders under its authority, it should be allowed to conduct any monitor activities it feels are necessary. Just as TDCJ and the universities have developed a cooperative relationship through the Committee, TDCJ and the universities should cooperate to the greatest extent feasible on quality of care monitoring. However, the scope of TDCJ's efforts should not be limited in statute. In addition, when TDCJ finds problems through its monitoring activities, it would be able to require the universities to take corrective action. The agency would report to the Board of Criminal Justice and the Committee all corrective actions required and whether the universities took appropriate action in response. Clarifying the scope of TDCJ's monitoring would allow the agency to hold the universities accountable for the care they

provide and ensure the universities are properly addressing allegations of inadequate care. This recommendation does not require TDCJ to take on any specific new responsibilities or to become solely responsible for ensuring quality care is provided. Instead, TDCJ would be able to decide what new monitoring activities, if any, to perform. Further, this change would not affect the universities' ability and responsibility to conduct their own quality of care monitoring.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. Removing the Committee's Sunset date and realigning its statutory responsibilities will not significantly impact the operations of the Committee. Removing limitations on TDCJ's authority to monitor care provided to offenders could result in the agency deciding it needs to increase its budget for its Health Services Division. However, the agency could also decide to perform additional monitoring activities using its existing resources.

Responses

Agency

Correctional Managed Health Care Committee

The Correctional Managed Health Care Committee concurs with all four of the recommendations. The recommended language would update the Committee's enabling statute to better reflect the actual functions and operations of the current program. The Committee would continue to serve as the forum for providing clinical expertise, establishing health care policies, and resolving conflicts. Removing the monitoring limitation currently found in the Correctional Managed Health Care Committee statute would permit TDCJ to monitor other aspects of care should it be deemed necessary. This clarification, as noted, would not replace the cooperative manner in which quality of care monitoring is accomplished, but would ensure TDCJ's monitoring authority is clear. (Allen Hightower, Executive Director – Correctional Managed Health Care Committee)

Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support Recommendation 9.4. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modifications

1. Continue the Correctional Managed Health Care Committee for 12 years. (Sunset staff, based on a request from the Sunset Commission)
2. Increase the accountability of the Correctional Managed Health Care Committee. Require TDCJ to monitor the activities of the Committee. (Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin)

Recommended Action: Adopt Recommendations 9.1 through 9.4.

Commission Decision: Adopted Recommendations 9.1 through 9.4.

Issue 10 Offenders and the Public Have Limited Access to Information About Correctional Health Care, Leading to a Lack of Transparency in the System.

Recommendations

Change in Statute

10.1 Require the Committee to make information about offender health care readily available to the public.

The Committee's statute should be amended to ensure that the following information is accessible to public:

- ◆ Contracts between TDCJ, the Committee, and the universities, including the Offender Health Services Plan attachment;
- ◆ Correctional Managed Care Formulary;
- ◆ Correctional Managed Care Policies and Procedures Manual;
- ◆ Quality assurance statistics and data, to the extent permitted by law;
- ◆ General information about the costs of correctional health care, including, but not limited to quarterly and monthly financial reports, and aggregate cost information on items such as pharmaceutical costs, salaries and benefits, equipment, offsite medical services, and supplies;
- ◆ Aggregate, statistical information about offender deaths and disease prevalence;
- ◆ Description of the process for filing offender grievances;
- ◆ General statistics on the number and type of offender grievances filed during the previous quarter;
- ◆ Contact information for the public to file complaints or submit inquiries to TDCJ and the university providers;
- ◆ Information about the regulation and discipline of healthcare professionals and a link to the Health Professions Council website;
- ◆ Unit data, including the most recent accreditation review date (if the unit has been accredited by a national accrediting body), hours of operation, a description of services available, general information on unit staffing, and statistics on offenders' ability to access care in a timely manner;
- ◆ Dates and agendas for quarterly Committee meetings; and
- ◆ Meeting minutes from past Committee meetings.

By improving the transparency of the correctional healthcare system, this recommendation would promote a greater understanding of how health care is delivered and would ultimately ensure greater public confidence in the system. This information should be made available on the Committee's website and should also be available in written form, upon request. The Committee should work with TDCJ, UTMB and Texas Tech to ensure that its website is linked to their websites, and that it is accessible through the State of Texas website, and is locatable through common search engines.

All of this information is already subject to disclosure under the public under the Public Information Act. This recommendation would not require disclosure of any information currently considered confidential under federal and state law, such as medical and other information relating to individuals. In determining the specific information to be

made more readily available, the Committee should work with TDCJ to ensure that public disclosure would not pose a security threat to individuals or to the criminal justice system.

10.2 Require TDCJ to make information about healthcare services readily available to offenders.

Statute should be amended to ensure that the following information is available to offenders through the unit law libraries:

- ◆ Offender Health Services Plan;
- ◆ Correctional Managed Care Formulary;
- ◆ Correctional Managed Care Policies and Procedures Manual; and
- ◆ Description of the process for filing offender grievances.

By providing more information to offenders, the recommendation would promote a better understanding of the system among offenders and would ultimately improve accountability of the healthcare providers.

Management Action

10.3 TDCJ's Health Services Division and the university providers should provide more useful information in response to offender grievances.

When an offender appeals a grievance, TDCJ and the universities should more fully explain the major findings from the investigation, and provide an explanation of the specific reason or policy basis for dismissing the grievance, or a description of any corrective action that results.

In conjunction with Recommendation 9.4 removing the provision in statute preventing TDCJ from monitoring the quality of correctional health care, this provision would allow TDCJ to investigate and provide more complete responses to these offender grievances, beyond the simple form-letter responses currently used.

Fiscal Implication

These recommendations should not have a significant fiscal impact to the State. The Committee may incur some costs resulting from improvements to its website; however, the Committee should be able to cover the cost with its current operating budget. TDCJ may incur some cost associated with making information about correctional health care available in all unit libraries, but these costs should not be significant and should be absorbed within the agency's current operating budget. TDCJ or the universities may incur additional costs associated with providing more information in response to offender grievance, however due to recent changes made to the Patient Liaison Program within TDCJ's Health Services Division, sufficient resources should be available to handle any increased workload.

Responses

Agency

Correctional Managed Health Care Committee

The Correctional Managed Health Care Committee concurs with all three recommendations. The Committee can take the actions outlined in the report to improve public access to such information and are prepared to move forward with implementation of this recommendation right away. Increasing the amount of information available about the correctional health care program will promote a better understanding of the system and its operations. The Committee will work with the partner agencies to improve the explanations included in responses to grievances. (Allen Hightower, Executive Director – Correctional Managed Health Care Committee)

Texas Department of Criminal Justice

The agency and its governing body, the Board of Criminal Justice, support Recommendations 10.2 and 10.3. (Brad Livingston, Executive Director – Texas Department of Criminal Justice)

For

Rose Vines, Director – Death Penalty Discourse Network, New Orleans

Dale West, Chairperson; Joan DeLuca, Board Member; Susan Fenner, Board Member; and Joan Burnham, Former Executive Director – Texas Inmate Families Association, Inc., Austin

Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin

Against

None received.

Modifications

1. Allow families to access medical information about offenders, with a proper release from the offender. (Joan DeLuca, Board Member – Texas Inmate Families Association, Inc., Austin; Linda Jones – New Jerusalem C.O.G.I.C., Dallas)
2. Ensure TDCJ and the correctional health care system take action in response to medical grievances. (Rose Vines, Director – Death Penalty Discourse Network, New Orleans)

Recommended Action: Adopt Recommendations 10.1 through 10.3.

Commission Decision: Adopted Recommendations 10.1 through 10.3.

Across-the-Board Recommendations

Texas Department of Criminal Justice

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

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

Board of Pardons and Paroles

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

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

Correctional Managed Health Care Committee

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

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

New Issues

New Issues

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

Sunset Commission Member New Issues

11. Require TDCJ to assess women serving sentences of two years or less and who are of childbearing age (18-44) for alcohol consumptions and family planning practice to determine the risk of an alcohol-exposed pregnancy. Trained corrections personnel shall administer and score an alcohol screening tool and provide a brief intervention to women identified at risk for an alcohol-exposed pregnancy. (Representative Vicki Truitt, Vice Chair – Sunset Advisory Commission)
12. Require TDCJ to provide a brochure about the risks of drinking alcohol during pregnancy to all women during intake into the corrections system. (Representative Vicki Truitt, Vice Chair – Sunset Advisory Commission)
13. Require TDCJ to study the option of using the GPS tracking and monitoring device offered by Satellite Tracking of People, LLC and report the findings to the Legislature, including recommended options for using the device, associated costs, and funding proposals for implementing these options. (Representative Byron Cook, Member – Sunset Advisory Commission)
14. Allow offenders with parole guidelines scores of 5 through 7 who are denied parole to appeal the parole determination to the court of original jurisdiction that convicted them of the current offense. (Mr. Howard Wolf, Public Member – Sunset Advisory Commission)

Texas Department of Criminal Justice

15. Establish a pay scale for correctional officers commensurate with their responsibilities. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
16. Establish training academies within TDCJ for middle management, lieutenant to major, and for wardens in advanced prison management. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
17. Provide training to correctional staff in substance abuse, anger resolution, leadership, discipline, and people skills. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
18. Restructure and fund the TDCJ career ladder. Remove TDCJ employees and correctional officers in particular from the state salary schedule A and B, and put them in one that emphasizes professional development. (Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville)
19. Professionalize TDCJ's workforce by requiring formalized consultation between the organizations that have met the standards for dues deduction and require that these meetings focus on reducing employee turnover. Subject these meetings to legislative oversight by the Criminal Justice Legislative Oversight Committee created in Issue 2. (Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville)

20. In the short-term, fund mandatory overtime pay for TDCJ employees. In the long-term, eliminate the need for mandatory overtime. (Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville)
21. Develop information systems that will create electronic records of all offenders at intake. (Kate Connolly – Austin)
22. Require TDCJ to collect correctional educational and vocational program data, and adopt a reporting process to improve the employment status of people under their supervision. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin)
23. Require TDCJ to record recidivism data for each prison unit and include this as an item on evaluation reports. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
24. Require TDCJ to change the culture in the prison system from punitive to rehabilitative. To reach this goal, the corrections system must help the offenders develop a social conscience. A well trained correctional staff, full spiritual program, alcohol/drug abuse treatment and cognitive programs are essential to make this happen. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
25. Define the rehabilitation mission of TDCJ, post it conspicuously throughout all prisons, and see that it is promulgated throughout the ranks, correctional staff, and incarcerated population and ensure that it reflects significance of family visits and support. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
26. Provide sufficient chaplains to both meet the spiritual needs of the offender population and staff, bring in volunteers to assist in that task; provide staff support to the chaplains-offenders who can type and do office work. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
27. Encourage free exercise of religious activities so as to oppose denominational bias. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
28. Establish sufficient number of AA/NA programs through volunteer teams to meet the needs of the entire incarcerated population. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
29. Enhance mental health sections on each unit to deal with mental health / mental retardation cases focusing on assisting in stabilizing the individuals and reducing abuse among the population. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
30. Provide treatment where necessary for as many cases that really need it to remain clean and sober. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
31. Ensure that pedophiles and other addicted sex offenders get into a treatment modality permanently. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)

32. Include some incentive mechanism in the expanded in-prison treatment programs that will help the offenders completing the programs get parole. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
33. Make more rehabilitation and education programs available to older inmates. (Joan DeLuca, Board Member – Texas Inmate Families Association, Austin)
34. Increase intensity of rehabilitation programs as an offender nears the end of his or her sentence. (Joan DeLuca, Board Member – Texas Inmate Families Association, Austin)
35. Ensure rehabilitation and education programs are available to offenders in administrative segregation. (Joan DeLuca, Board Member – Texas Inmate Families Association, Austin)
36. Provide rehabilitation services for all offenders, including drug, alcohol, and violent offenders, especially those that have a sentence of less than 10 years. (Anonymous – Austin)
37. Make offenders within two years of release eligible for classes regardless of their custody status. (Anonymous – Austin)
38. Send a status report to an offender's family twice a year showing how the offender is progressing, including the offender's good time credit and parole eligibility status. (Linda Jones – New Jerusalem C.O.G.I.C., Dallas)
39. Encourage TDCJ to facilitate faith-based, privately run correctional facilities for willing offenders nearing release. (Bill Robinson, Chairman – Corrections Concepts, Inc., Dallas)
40. Authorize access to televisions at the offenders' expense at the Polunsky unit, where the men's death row is located. (Angelyn Agapetus – Huntsville)
41. Provide prisoner access to telephones in TDCJ facilities. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin)
42. Establish secure, affordable, phone services to assist offenders in staying in touch with their families. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
43. Look into the 16 maximum security (supermax) prisons, including death row. There should be accountability as to the methods and oversight of general/overall conditions of the supermax prisons and their effects on offenders. Goals of supermax prisons should be enunciated and tracked over time so the effectiveness of supermax prisons can be judged by how well their results conform to the goals. The goals of the supermax prisons should be documented and examined to assess whether supermax prisons are effective. (Angelyn Agapetus – Huntsville)
44. Allow offenders in supermax prisons who have good behavior to leave their cells to be among others and not be confined to them 23 hours a day. Allow inmates with good behavior to qualify for group activities. (Angelyn Agapetus – Huntsville)
45. Make religious services available at maximum security prisons, including death row. (Angelyn Agapetus – Huntsville)
46. Make work programs available for offenders with good behavior at the supermax units. (Angelyn Agapetus – Huntsville)

47. Require TDCJ to extend the time period that prisoners must file a grievance within, specifically in cases of sexual assault where trauma and fear may prevent a prisoner from filing a grievance in the stipulated TDCJ timeframe. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin)
48. Establish internal disciplinary means other than adding to sentences for offenses committed by offenders. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
49. End frequent strip searches of offenders on women's death row at the Mountain View Unit. (Rose Vines, Director – Death Penalty Discourse Network, New Orleans)
50. Require TDCJ to provide access to condoms in discreet locations throughout units and via health care providers in all facilities. (Ruth True and Donald Titcombe – ACT UP Austin; Sylvia Lopez, Project Director – Women Rising Project, Austin; Lee Manford, Executive Director – AIDS Services of Austin; Paul E. Scott, Executive Director – Equality Texas, Austin; Kasey McKee – Houston; Alicia Barron – Manvel; Claudia Peterson)
51. Require TDCJ to allow community based organizations to provide condoms to inmates in conjunction with HIV/STD prevention programming. (Ruth True – ACT UP Austin; Sylvia Lopez, Project Director – Women Rising Project, Austin; Lee Manford, Executive Director – AIDS Services of Austin)
52. Require TDCJ to develop a plan for the safe and anonymous disposal of condoms. (Ruth True – ACT UP Austin; Sylvia Lopez, Project Director – Women Rising Project, Austin; Lee Manford, Executive Director – AIDS Services of Austin)
53. Require TDCJ to guarantee that no inmate will receive disciplinary action for possession of condoms. (Ruth True – ACT UP Austin; Sylvia Lopez, Project Director – Women Rising Project, Austin; Lee Manford, Executive Director – AIDS Services of Austin)
54. Require TDCJ to ensure that all inmates upon their release receive prevention materials including, but not limited to, condoms, community resource lists and HIV prevention and transmission information. (Ruth True – ACT UP Austin; Lee Manford, Executive Director – AIDS Services of Austin)
55. Require TDCJ to make HIV prevention, including condom availability, part of an offender's rehabilitation. (Jennifer Herrera y Nava, Director of Prevention Programs – AIDS Services of Austin)

Probation

56. Duplicate successful drug court models throughout the state. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
57. Provide incentives for probation departments to work on neighborhood-based supervision strategies in high risk areas, and encourage them to work closely with parole. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
58. Require probation officer caseloads to be based on the risk-level of his/her probationers. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
59. Limit the caseloads of probation officers to no more than 60 clients. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)

60. Establish a maximum five-year probation sentence which has an automatic review by the court every two years. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
61. Increase the effort of community corrections to provide effective treatment programs. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
62. Require SAFP facilities to implement a three-pronged approach to be effective. First, substance abusers should stay in SAFP for nine months instead of the current six-month stay. Second, after SAFP, individuals must be admitted to a Transitional Treatment Center for 90 days. Finally, individuals must spend nine to 10 months in an outpatient program. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
63. Increase the length of the SAFP program from six to nine months. (Dr. Chilo Madrid, Vice President – Association of Substance Abuse Programs, El Paso)

Parole

64. Separate the parole program from the prisons agency. (Cecilia K. Carlyle)
65. Require the members of the Board of Pardons and Paroles to be appointed and held accountable by a panel of Texas citizens rather than being overseen by the Governor's office. (Linda Oberle – Texas Parole Watch, Teague)
66. Remove the current Parole Board members and appoint members of the general public, independent parties, members of substance abuse clinics, and family members to ensure objectivity. (Anonymous offender family member – The Woodlands)
67. Create a parole committee made up of wardens and officers on each prison unit to evaluate the work performance and rehabilitation progress of offenders and incorporate this evaluation in the parole process to help determine if an offender is suitable for release. Assign a single Parole Board Member or commissioner to a unit to oversee the work of the parole committees. (Carol Perkins – Huntsville)
68. Develop teams to examine persons ready for parole made up of chaplains, counselors, educators, correctional officers, and inmates in an effort to reduce the recidivism rate. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
69. Ensure that the first parole panel voter is never the same for each review of the same parole file. (Johnny and Joanie Griffin – Sealy)
70. Require the Board of Pardons and Paroles to examine the parole plans, contacting family of offenders and thoroughly investigating the offenders who are ready for parole before denying them. (Jennifer Wells – Gunter)
71. Allow the Parole Board to interview an offender during the parole review through the use of a web camera at the prison. (Johnny and Joanie Griffin – Sealy)
72. Make an offender's records open to the offender, including letters supporting and opposing parole, as well as parole board interviews with victims' family and friends. (Johnny and Joanie Griffin – Sealy)

73. Base parole decisions and decisions about supervision on the offender's individual characteristics; efforts towards self improvement; crime for which he or she was convicted; length of time since conviction; and behavior while incarcerated. (Joan DeLuca, Board Member – Texas Inmate Families Association, Austin)
74. Release offenders who are eligible for parole based on the current parole guidelines and who do not have any major cases and have not been in any kind of trouble. (Anonymous offender family member – The Woodlands)
75. Grant parole to offenders with a guidelines score of six or seven if the first parole panel member votes yes. Two out of three votes would still be required for offenders with scores of one through five. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
76. Make the Board of Pardons and Paroles explain in writing to a committee of legislators and other officials the reason for every denial they issue. (Barbara Peterson – Wichita Falls)
77. Pull and re-vote every parole file that has been given a serve all or a set off in the last year. These files should be reviewed first by an independent, unbiased review board. Every reason for the delayed parole should be justified, and there should be no denials until the voters are held accountable for reviewing every document in the offender's file. The voters should either meet with the offender or at least speak with the unit for an opinion. (Anonymous offender family member – The Woodlands)
78. Train parole officers in substance abuse and addiction, people skills, leadership, and an understanding of who is in prison and how they got there. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
79. Effect a change in parole officers' attitudes to reflect rehabilitation as opposed to enforcement. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
80. Work with parolees to change their life style and do not re-incarcerate them unless they are a serious threat to society or commit another felony. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
81. Expand training in anger management and life skills to cover the need for parolees. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
82. Encourage parolees to seek a church of their choice. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
83. Solicit support from local parishes to provide support groups, material, and financial support for needy parolees. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
84. Encourage the parole division to establish a greater variety of sanctions other than returning persons to prison. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)
85. Set up an absconder section, which deals with absconder cases to determine whether they can be salvaged or must return to prison. (Deacon Doots Dufour, Director – Criminal Justice Ministry, Diocese of Austin)

86. Consolidate supervision of offenders simultaneously on parole and probation by releasing the offender from whichever term is shorter. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
87. Restore mandatory supervision for offenders incarcerated for technical violations of probation. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
88. Make state jail confinees eligible for discretionary mandatory supervision after serving one year of their sentence. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
89. Reduce the amount of time a person convicted of aggravated assault with severe bodily injury should have to serve before being eligible for parole to less than half of their sentence. (Ms. Sanches – Conroe)
90. Release offenders without any major disciplinary cases whose timesheets show that they have exceeded their sentence. (Anonymous offender family member – The Woodlands)
91. Allow a first-time offender who has a sentence imposed for more than 20 years to be allowed to report by mail once a month if the offender has a clean record with the parole officers for two years. Sex offenders and offenders sentenced for aggravated crimes would not be eligible. (Jorita Hagins – Abilene)
92. Allow first-time offenders who have been on parole for 10 years and who have obeyed the Parole Board rules to be released from reporting each month. (Jorita Hagins – Abilene)
93. Exclude a person who was not sentenced for a drug or alcohol offense from having to submit to testing after a period of three years. (Jorita Hagins – Abilene)
94. Use GPS monitoring on infirm, elderly offenders who are on parole in nursing homes, so that the nursing home doesn't count as a secured facility and allows the offenders to get Medicare, Medicaid, and other federal benefits. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
95. Expand the statutory authority of the Board of Pardons and Paroles to release terminally ill prisoners convicted of sex offenses through the MRIS parole review process. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas, Austin; Jennifer Lyon – Texas Inmate Families Association, TxCURE, and registered crime victim, New Braunfels)
96. Clarify in statute that an individual who is ambulatory, but that otherwise meets the MRIS criteria, is eligible for early release through MRIS. (Jennifer Lyon – Texas Inmate Families Association, TxCURE, and registered crime victim, New Braunfels)
97. Clarify in statute that victims have a right to participate or have statements considered in the MRIS parole review process. (Jennifer Lyon – Texas Inmate Families Association, TxCURE, and registered crime victim, New Braunfels)
98. When an offender is very sick, and on their dying bed, they should be released to come home. (Linda Jones – New Jerusalem C.O.G.I.C., Dallas)
99. Do not allow local authorities to have jurisdiction over state-funded residential treatment facilities and/or transitional housing for people with a mental illness on parole. (Helga Roper – Austin)

Correctional Managed Health Care

100. Ensure accountability of unit medical personnel by requiring them to follow the medical orders of Hospital Galveston doctors. (Rose Vines, Director – Death Penalty Discourse Network, New Orleans)

Miscellaneous

101. Expand the use of GPS tracking and monitoring as an alternative to incarceration, specifically replace the current two-piece GPS equipment used by TDCJ with newer, more efficient one-piece GPS technology. (Steve Logan, CEO – Satellite Tracking of People, LLC, Houston)
102. Encourage more transparency in private prisons by having their role objectively assessed by the Legislature. The way they do their work should be transparent to the legislature, including their turnover rates. (Brian Olsen, Executive Director – American Federation of State, County, and Municipal Employees / Correctional Employees Council, Huntsville)
103. Change the statutory cap on the total number of private prisons and number of offenders that can be housed in each contracted private facility to increase private prison capacity. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
104. Allow police officers to issue tickets for Class B misdemeanors to reduce pre-trial detention in county jails. (Marc Levin, Director, Center for Effective Justice – Texas Public Policy Foundation, Austin)
105. Expand the right to vote to parolees and probationers. (Benny Hernandez, III, former inmate – Austin)
106. Require standard practices to educate adults who exit TDCJ after felony probation, incarceration, or parole of their right to vote. (Will Harrell, Executive Director; Nicole Porter, Director, Prison and Jail Accountability – American Civil Liberties Union Foundation of Texas)
107. Allow non-violent, non-sexually based offenders who have successfully completed their time or rehabilitation programs to conceal their records for the purpose of employment, but allow the records to remain open for prosecutors and law enforcement. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
108. Encourage probation, parole, prisons, and Health and Human Services divisions that deal with criminal justice clients, as well as treatment programs, to collaborate with one another and share data to best track and allocate resources for those who enter and leave the criminal justice system. (Ana Yáñez-Correa, Executive Director – Texas Criminal Justice Coalition, Austin)
109. Require collaboration between the criminal justice system and the existing Department of State Health Services licensed substance abuse and brain disorder treatment programs and mental health treatment programs. (Honorable Dolores Briones, County Judge – El Paso)
110. Target first time female drug offenders for community based substance abuse and brain disorder treatment programs as an alternative to incarceration. (Honorable Dolores Briones, County Judge – El Paso)
111. Expand DWI treatment programs in prison, for pre-trial diversion, and upon parole. (Dr. Chilo Madrid, Vice President – Association of Substance Abuse Programs, El Paso)

112. Require a thorough psychological evaluation with a detailed treatment plan be given to the court prior to any substance abuse conviction. If convicted and sentenced to TDCJ, require offenders to have this evaluation accompany them to TDCJ and later to the parole division with any additional findings. If dual diagnosis is established, require treatment to be overseen by a psychologist or psychiatrist, and selected family must be included in the treatment plan. (Helga Roper – Austin)
113. Save the sex offender label for cases of death, serious bodily harm, or use of a weapon until a second offense and a pattern of behavior is established. (Shirley Lowery – Springtown)
114. Direct the state to pay for ethical outpatient treatment for sex offenders and set up a reentry program to help with housing and employment. (Shirley Lowery – Springtown)

Recommended Action: Staff makes no recommendations on any of the new issues.

Commission Decision: Adopted New Issues 11 and 12. Adopted New Issue 13 as modified to require TDCJ to study the option of using GPS tracking and monitoring devices and report the findings to the Legislature, including recommended options for using the devices, associated costs, and funding proposals for implementing these options.

