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TEXAS COMMISSION ON JAIL STANDARDS

ANNUAL REPORT TO THE GOVERNOR

LIEUTENANT GOVERNOR AND SPEAKER OF

THE HOUSE OF REPRESENTATIVES OF TEXAS

JANUARY 31, 1988

112086

U.S. Department of Justice
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(As of December 31, 1987)

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- Sheriff Johnny Klevenhagen, Vice-Chairman
- Dr. Rolando del Carmen
- Sheriff Joe Corley
- I.T. Tex Corley
- Judge Roy English
- Dr. Charles Hurst, M.D.
- Roy Lee Orr

TEXAS COMMISSION ON JAIL STANDARDS



COMMISSION MEMBERS

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Sheriff John J. Klevenhagen, Vice-Chairman, Houston
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Rolando V. del Carmen, Huntsville
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Roy L. Orr, De Soto

EXECUTIVE DIRECTOR

Robert O. Viterna

January 31, 1988

The Honorable William Clements, Governor, State of Texas

The Honorable William Hobby, Lieutenant Governor, State of Texas

The Honorable Gib Lewis, Speaker, House of Representatives, State of Texas

Gentlemen:

This is the eleventh annual report to you from the chairman of the Texas Commission on Jail Standards as required by Sec. 10, Art. 5115.1, V.A.C.T. Civ. S.

The report will provide background information concerning the creation of the Commission, the duties of the Commission intended by the Legislature, and its accomplishments and activities during 1987.

The past year saw increases in jail capacity. However these gains were offset by even greater increases in jail population. Texas counties are attempting however to attain jail facilities and jail operations that comply with Texas Minimum Jail Standards.

The chairman, commissioners and staff are available at any time to discuss the work of the Jail Standards Commission with you or your staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert O. Viterna".

Robert O. Viterna
Executive Director
Texas Commission on Jail Standards

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INTRODUCTION

This report is made pursuant to Texas Revised Civil Statutes, annotated, Article 5115.1 (1975).

This report covers activities of calendar year 1987.

CREATION OF THE COMMISSION

The Commission was created by act of the 64th Legislature (1975) in recognition of the necessity for the State of Texas to regulate its counties' jails and thus prevent federal court intrusion into state and local matters. The 64th Legislature was encouraged in this creation by the organizations listed in Appendix I.

DUTIES OF THE COMMISSION

Article 5115.1 VATS requires the Texas Commission on Jail Standards to:

- (1) Promulgate reasonable rules establishing minimum standards for:
 - (a) Construction, equipment, maintenance and operation of jails
 - (b) custody, care and treatment of prisoners
 - (c) number of jail supervisory personnel
 - (d) programs and services for prisoners
- (2) revise, amend or change rules
- (3) provide consultation and technical assistance on jail matters
- (4) review and comment on plans for jail construction or renovation
- (5) inspect each jail at least annually
- (6) determine compliance annually for each jail inspected

EARLY ACOMPLISHMENTS OF THE COMMISSION

A. Drafting of Minimum Standards

The nine member commission, appointed on October 30, 1975, working as a full group and in subcommittees met thirty-six times in public meetings over a period of 400 days throughout the state. Standards were drafted and published for public comment. The comments were heard and were reviewed and minimal standards in final form were redrafted and republished. The final standards incorporated suggestions from over 1,000 expert witnesses and public attendees. The Texas Minimum Jail Standards were published in the Texas register (Volume I, Number 97, December 17, 1976). The Standards became effective December 23, 1976.

B. Staffing

The hiring of a staff commenced in July, 1976, and that task was completed by January 17, 1977. A period of training ensued. Inspections commenced February 7, 1977, and have since continued on a regular annual basis.

C. Assistance to County Officials

Consultation and technical assistance to county authorities on jail matters was begun in September, 1976. Throughout the remainder of 1976, assistance and consultation was rendered on 34 occasions to 26 counties. Because jail facilities are as complex as hospitals (with administrative, medical, laundry and supervisory functions as well as sophisticated equipment and safety systems) technical assistance has continued to be an important ongoing activity, demanding significant effort, and accounting for a large portion of the agency's resources.

D. Plan Reviews

Review of construction and renovation plans of county jail facilities began in 1976 as well. Comments and suggestions had been furnished to 21

counties and their architectural agents by December 20, 1976. This service has become one of the most extensive and best received by county authorities and their architects. Counties have realized significant economic benefit from the suggestions and coordinated planning efforts of the Commission, other appropriate state agencies, (State Fire Marshal; State Purchasing and General Services, Historical Commission) architects, county commissioners and sheriffs.

1987 EVENTS

A. Jail Inspections

During the year, 299 jail inspections were conducted. As in 1986, some jails were inspected more than once, at the request of the county. Bell, Bexar, Dallas, Ellis, Henderson, Lamar, Limestone, Montgomery, Nueces, McLennan, Nacogdoches, Palo Pinto, and Tarrant County Jails for example. Some of these counties requested additional inspections to ensure construction plans previously approved were being adhered to by contractors. Other counties were found to be experiencing difficulties in achieving compliance and were inspected more frequently to encourage their effort to achieve compliance. Other counties requested inspections for assistance in achieving correct completion of efforts that would ensure compliance.

B. Assistance to Counties

No on site technical assistance was provided to counties in jail operations after January 1, 1987 due to fund limitations. Technical assistance in jail matters (structure, life safety, operations) however was provided to county officials on 121 occasions. On most occasions, the county authorities or their agents visited the Austin office where the discussions were conducted. Ninety one (91) requests for technical

assistance were handled by telephone. While this is one of the best received commission programs, it was severely restricted as budget cuts reduced this program by eliminating travel funds associated with the position. Two hundred and eighty-two (282) consultations and discussions, up 26 from last year, were also conducted with county judges and commissioners court and sheriffs concerning the most economical and feasible way to achieve compliance with the state law and in some instances existent federal court orders.

Municipalities requested, on 105 occasions, information and assistance on jail construction or renovation. While municipal jails are not required to conform with jail standards, these municipalities all stated confidence in the Commission to provide them unbiased information and guidance upon which to base decisions concerning construction or operations.

C. Investigation and Resolution of Requests for Inmate Assistance

The Commission received 128 requests, up 8 from last year, for inmate assistance in 1987. Some requests were redundant or ones over which the Jail Commission has no purview. These were referred to an appropriate agency for response. Additionally, some requests were referred back to the originator with instructions to use the grievance procedures which the jail had established to address such matters. Inquiry into the remainder of the requests either alleviated conditions in need of correction or established the fallaciousness of the allegation and aided in eliminating frivolous litigation.

D. Construction Plan Review

Construction/renovation plans for counties were reviewed in 72 instances. Approximately 720 staff hours were devoted to this task. (Note: Each project is reviewed formally at least twice and most three

times).

E. Determination of Reasonable Variance Requests

Requests for variances were received and processed from 18 counties, Each of the 18 separate requests were individually reviewed and acted upon by the Commissioners during the year's six meetings. Sixteen of the requests were granted.

F. Enforcement Proceedings

Notices of Non-Compliance were sent to 103 counties, up 13 from last year, whose jails were not in compliance. In most instances, the counties receiving the notices have taken positive and responsible action toward eliminating cited deficiencies to meet the requirements of state law. Counties which were not, in the opinion of the Commission, acting expeditiously to resolve deficiencies, were requested to attend public commission meetings. These meetings resulted in firm commitments from the county concerned, or a remedial order being issued by the Commission, which eliminated the deficiencies.

Remedial Orders, 10 in all, one more than last year, were issued to:

Archer County - limiting population
Floyd County - closed
Kinney County - closed
Maverick County - limiting population
Nacogdoches County - limiting population
Nueces County - limiting population
Parker County - limiting population
Potter County - Closed (one facility only)
Rockwall County - limiting population
Tarrant County - limiting population

G. Counties in Compliance

During the year, 193 county jails were found certified, up nine from last year, as being in compliance with Texas Minimum Jail Standards. This includes twenty five which were certified for the first time, or which were subsequently recertified after having lost certification. These jails are marked with an asterisk. As of December 31, 1987 169 jails remained certified.

JAILS IN COMPLIANCE

Andrews	Angelina	Aransas	Armstrong
Atascosa	Austin	Bailey	Bandera
Bell *	Blanco	Brazoria	Brazos *
Brewster	Brooks	Brown	Burnet
Calhoun	Callahan	Camp	Carson
Castro	Chambers	Childress	Cochran
Coke	Coleman	Collingsworth	Colorado
Comal	Coryell	Cottle	Crane
Crockett	Culberson	Dallam	Dallas
Dawson	Deaf Smith	Denton *	Dewitt
Dickens	Dimmitt	Donley	Duval
Ector *	Falls	Fannin	Fayette
Fisher	Foard	Fort Bend	Franklin *
Freestone	Gaines	Garza	Gillespie
Gonzales	Grayson	Gregg	Grimes
Hall	Hamilton	Hansford	Hardin
Hartley *	Haskell	Hemphill	Henderson *
Hidalgo	Hill	Hockley	Hood *
Hopkins	Houston	Howard	Hunt
Jack	Jackson *	Jasper	Jefferson
Jim Hogg	Jim Wells	Jones *	Kaufman*
Kendall	Kenedy	Kerr	Kimble
Kleberg	Knox	Lamb	Lampasas
La Salle	Lavaca	Lee	Leon
Limestone	Lipscomb	Live Oak	Llano
Loving	Lynn*	Martin	Mason
Matagorda *	Maverick	Medina	Menard
Mills	Moore	Morris	McCulloch
Nacogdoches *	Newton	Nolan	Ochiltree
Oldham	Orange	Palo Pinto	Panola
Parmer	Presidio	Rains	Real
Red River	Reeves*	Refugio	Roberts
Runnels	Rusk	Sabine	San Augustine
San Jacinto	San Patricio	San Saba	Schleicher
Scurry	Shelby	Sherman*	Smith
Somervell	Starr	Sterling	Stonewall *
Sutton	Swisher	Taylor	Terrell
Tom Green *	Trinity	Upshur *	Upton
Uvalde	Val Verde	Van Zandt	Victoria

Walker	Waller *	Ward *	Washington
Wharton	Wheeler *	Wichita *	Wilbarger
Wilson	Winkler	Yoakum	Zapata
Zavala			

Twenty-five jails in compliance during 1987, 10 less than last year,
lost certification because of deficiencies found.

Baylor County - staffing
 Brewster County - structural and classification
 Burleson County - classification
 Cass County - lighting
 Clay County - classification
 Collin County - classification
 Cooke County - classification
 Crosby County - classification and structural
 Delta County - classification
 Glasscock County - staffing
 Goliad County - classification
 Harrison County - classification
 Hutchinson County - classification and structural
 Karnes County - classification
 Kinney County - staffing
 Lamar County - classification
 Liberty County - classification
 Madison County - classification
 Marion County - classification
 Montague County - classification
 Randall County - classification
 Shackelford County - classification
 Stephens County - classification

Webb County - staffing

Young County - classification

Action is being taken by all of the above twenty five (25) counties to correct the deficiencies and achieve compliance.

H. Jail Closings

During 1987, 11 counties had closed jails. In most instances, these jails were marginally operational. Average daily populations were very small. These counties determined that it was economically burdensome to continue jail operations and opted to board their few prisoners in an adjacent county at a lower cost than maintaining their own facilities. One jail, Edwards County, was closed by Remedial Order in 1985 and remains closed but is building a new facility. It is interesting to note however that several of these counties have approached the Commission concerning the re-opening of their jail. Discussions are continuing. Those counties using the jails of adjoining counties are:

Borden	Irion	McMullen
Briscoe	Jeff Davis	Motley
Concho	Kent	Throckmorton
Edwards	King	

I. NEW JAILS OPENED

Fifteen counties, one less than last year, opened new jails for operation during the year.

Bell	Henderson	Nueces
Caldwell	Kaufman	Panola
Dallas	Limestone	Tarrant
Denton	Montgomery	Upshur
Ellis	McLennan	Waller

J. MAJOR RENOVATIONS COMPLETED.

Seven counties, two more than last year, completed major renovation during the year.

Brazos	Parker
Hood	Travis

K. JAILS UNDER PLANNING OR INTO CONSTRUCTION

Forty-eight (48) counties commenced planning new jails or renovation during the year, sixteen more than last year. Thirty-nine (39) counties entered into construction during the year, six less than last year.

Planning

Archer	Angelina *	Bandera *	Brazos (N) *
Brewster *	Burleson (R)	Cass	Caldwell (N)
Clay (N)	Dallas (N) *	Delta (R)	Comanche (N)
Eastland (R)	Ector *	Ellis (N)	Freestone (R) *
Goliad (N)	Hale (R)	Hamilton (N)	Harris (N)
Harrison	Henderson (N) *	Hill (R) *	Houston (R) *
Hutchinson (R)	Karnes (R)	Kerr (N) *	Kleberg *
Lamar (N)	Lampasas (R) *	Leon *	Llano *
Madison (N)	Midland (N)	Montague (R)	Nacogdoches (N)
Nueces (R)	Nueces (R)	Orange (R) *	Palo Pinto (R) *
Parker (N)	Randall (N)	San Patricio (R) *	Titus (R)
Uvalde *	Wilbarger (N) *	Willacy (R)	Yoakum *
Young (R)			

Construction

Anderson (N)	Atascosa (R) *	Bastrop (N)	Bee (N)
Bexar (N)	Bosque (R)	Cherokee (N)	Collin (R) *
Cooke (R)	Dallas (R) *	Edwards (N)	Erath (N)
Floyd (R)	Frio (N)	Galveston (N)	Guadalupe (N)
Harris (R)	Hays (N)	Johnson (N)	Kinney (R)
Live Oak (R) *	Lubbock (R)	Midland (R)	Milam (R)
Navarro (N)	Polk (N)	Potter (N)	Robertson (N)
Rockwall (N)	Rusk (N) *	Smith (N) *	Tarrant (N)
Travis (N)	Tyler (N)	Wichita (R) *	Williamson (N)
Wise (N)	Wood (N)	Zapata (R) *	

* = Certified

OTHER 1987 EVENTS

A. Legislative Events

The 70th Legislature was particularly arduous. It extended into two Special Sessions before an Appropriations Bill was finally realized. Almost every agency was subject to funding restrictions compared to 86 - 87 Biennium. The Jail Commission was no exception. The greatest effect was in the area of Technical Assistance. For all practical purposes, no

Technical Assistance will be performed during the 88 - 89 Biennium. Travel funds also were reduced. While there will be sufficient monies to carry out full inspection schedules, other travel for consultation and training is diminished.

The 70th Legislature also enacted 219 new laws relating to Criminal Justice. Specific to jail matters were:

HB 2119 which permits counties to contract with municipalities for jail space.

HB 400 which created Jail Districts for the purpose of financing jails.

HB 16 which permits jails to be sited outside the county seat.

HB 2308 which permits counties to recoup medical expenses from prisoners.

HB 1299 which rescinded old legislation concerning staffing which conflicted with current practices.

The Legislature also continued the Criminal Justice Policy Council and the Criminal Justice Coordinating Council. These bodies, created by the 68th Legislature, and composed of key elected officials and Criminal Justice Agency Directors, have been instrumental in achieving a more orderly climate amongst the agencies and the Legislature. It has also developed a population projection model for prisoners and parolees that is quite accurate and permits a more consistent planning program for construction and agency funding.

B. Sheriffs Resource Council

The Sheriffs Association of Texas appointed a new Council at its July conference. No meetings have occurred to date. The Jail Commission has however been in regular contact with SAT Legislative Committee concerning proposed legislation for the next legislative session.

C. Commissioners Court Activities

The four Judges and Commissioners Associations (see below) rallied tremendous support in favor of the Jail Commission during the legislative hearings. Because of their obvious strong support, the House County Affairs Committee (the Jail Commission's oversight committee) voted unanimously to fund the Commission at the highest level (IV) much in excess of the recommended Legislative Budget Board level (III). In hearings with the House Appropriations Committee this same degree of support gained the Commission an enhanced level of funding over other similar agencies.

This support from Commissioners Courts has become quite stable. While individual differences exist, the vast majority of the Commissioners Courts have experienced the reduction of litigation generally and successful litigation specifically against their jails. They are pleased with the phenomenon and attribute it to the Jail Commissions activities and presence.

Of continuing significance is the high degree of awareness among the Commissioners Courts in jail matters. The majority have come to anticipate their jail needs and initiate the necessary action on their own. Few counties must still be energized to take action and even fewer counties must be sanctioned because of failure to do so.

The Jail Commission continues to operate with the policy of cooperation with, and assisting counties, which are acting in good faith to resolve their jail problems.

County Judges and Commissioners Association of Texas
North and East Texas County Judges and Commissioners Association
South Texas Judges and Commissioners Association
West Texas Judges and Commissioners Association

D. Training Activities

January 15 - 17. American correctional Association Congress - attended by Executive Director - Atlanta, Georgia.

May 3 - 8. American Jail Association Training Session - attended by Executive Director - Clearwater, Florida.

July 19 -22. Annual Texas Sheriff's Conference - attended by Executive Director and Staff - Fort Worth, Texas.

July 23 - 24. 18th Annual Conference of TSABAA - attended by Chief Accountant - Austin, Texas.

August 2 - 6. ACA Congress - attended by Executive Director - New Orleans, Louisiana.

October 14 - 16. Jail Management Conference - attended by Executive Director and Staff - Huntsville, Texas.

November 3 - 4. Small Jails Issues meeting - attended by Planner - Boulder, Colorado.

E. Other Events

In September, 1987, it became necessary for Texas Department of Corrections to allocate space for reception of convicted felons. During the previous 8 1/2 months, TDC had closed its reception function totally on eighteen occasions. This start - stop activity was burdensome to both the county jails as well as TDC and resulted in transitory periods when TDC population exceeded the court mandated 95% limitation and therefore made the State vulnerable to contempt proceeding.

In conference with:

Board of Pardons and Parole
Department of Corrections
Governors Office of Criminal Justice
Jail Commission
Sheriffs Association
Texas Association of Counties

it was determined that TDC could accept, regularly, 750 convicted felons per week. Twenty counties, those which contribute 85% of TDC population, were given weekly, specified allocations which could be transported. The remaining 234 counties transport only when, by calling TDC, they receive authority to do so.

The system restored order to the process. From the inception however it was apparent that the 750 a week allocation would create back logs in the county jails. The counties, essentially, generate 850 convicted felons, or transportable felons each week. The allocation system, in effect, leaves 100 transportable felons each week still remaining in the county jails, a projected 5000 per year.

This critical matter was just publicly discussed October 14, 1987 at Sam Houston State University, in a conference initiated by the Governor's Office of Criminal Justice. Plans were made to hold a state wide conference in early 1988 to further address the matter and to present possible solutions and courses of action which would involve all activities in the criminal justice system.

Subsequently, (December 7, 1987) the county judges of Harris, Dallas and Tarrant counties, which account among themselves for 65% of TDC population had a conference with the Governor. By this time, these counties, and other metropolitan counties, were suffering from overpopulation problems. The approaching crises was acknowledged, but no immediately effective solution was discovered. Harris and Tarrant counties are in the process of expanding capacity by 4700 and 1600 respectively and Dallas had already begun planning for a 2000 bed expansion. These solutions were many months away.

Additionally, the Senate State Affairs Committee called a conference on December 16, 1987 to address the same jail population issue.

Representation from:

Adult Probation Commission
Department of Corrections
Governor's Office of Criminal Justice
Jail Commission
Legislative Budget Board
Sheriffs Association of Texas
Texas Association of Counties

Suggestions for solutions to the population problem were solicited. Most suggestions received would require funding which is not immediately available or enabling legislation which would require waiting till the 71st Legislature convenes or the calling of Special Session. The Committee Staff will analyze all plans and prepare a recommended program for consideration by the Committee.

To further probe the extent of the problem, another conference was scheduled for January 7, 1988 in which all the metropolitan counties would participate. (This conference was held and while no immediate solutions or ameliorations were forthcoming the counties found a sympathetic ear in the Governor who indicated he would consider a Special Session to address the matters if a solution program is developed). Meanwhile, counties are still attempting to address population problems through initiating alternative means to incarceration, retrofitting existing structures into certifiable jail facilities and looking into a difficult, uncertain future.

F. Remedial Orders

Texas Commission on Jail Standards issued ten Remedial Orders in 1987.

CONCLUSION

1987 began with hope and promise. The state ADP was 20,500 and bunk availability was 24,200. While this still represents 100% of operating capacity, projects in, and nearing, construction would bring 3400 new

bunks on line. It appeared that county jails were getting ahead of the jail population growth, and in fact in July, 1987 the percentage of utilization versus operation at capacity dropped to 99%. The September 1987 allocation program erased all gains however. At years end the jails were at 111% of operating capacity and still expanding.

Although additional construction projects are in planning or underway that may increase bunk availability by 4800 it appears even this will be insufficient to close the gap between prisoners and bunk availability.

Counties are currently being encouraged to practice a host of alternatives to incarceration available to them. Additionally District Attorneys and District Courts are being asked to practice available procedures which will assist in reducing jail populations. Finally, the State, through the Office of the Governor and the Legislature are seeking means and ways (to include funds) to assist the counties with the jail population problem.

The climate for acceptance of innovative, creative ways to solve the population problems in Texas has never been better. The Commissioners Courts and Sheriffs are anxious to avoid litigation caused by, or compounded by, jail overpopulation. A prophet is being sought and if he appears, he will be acclaimed.

Respectfully submitted,



R.J. "Bob" Uhr, Chairman
P.O. Box 310703
New Braunfels, Texas 78131-0703
512/629-1192

APPENDIX I

ORGANIZATIONS INSTRUMENTAL IN CREATING
THE TEXAS COMMISSION ON JAIL STANDARDS

1. American Civil Liberties Union
2. Baptist General Convention of Texas
3. Citizens United to Rehabilitate Errants
4. Concerned Parents
5. League of Women Voters
6. Sheriffs Association of Texas
7. Social Action Diocese
8. State Bar of Texas
9. Texas Association of Counties
10. Texas Civil Liberties Union
11. Texas Commission of Humanities
12. Texas Junior Bar Association
13. Texas Library and Historical Commission
14. Texas Rural Legal Aid
15. Women in Action