

Report of the

U.S. Department of Justice
National Institute of Justice

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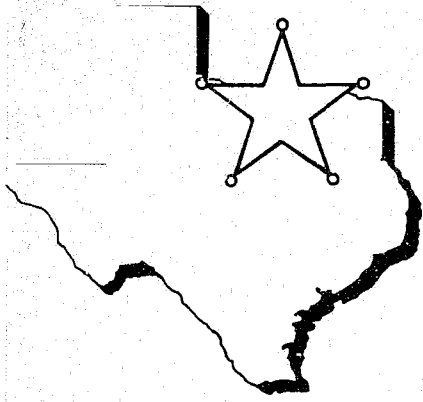
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TEXAS CRIMINAL JUSTICE TASK FORCE



January 12, 1989

NCJRS

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ACQUISITIONS

CHAIRMAN
Charles T. Terrell

The Honorable William P. Clements, Jr.
Governor, State of Texas
State Capitol, Room 200
Austin, Texas 78711

Dear Governor Clements:

In your Inaugural Speech two years ago you spoke of how any obstacles could be overcome by unleashing the creative energy of our people, of setting new goals for our State, and moving in innovative directions. Your Texas Criminal Justice Task Force has met that challenge.

The Texas Criminal Justice Task Force believes that we can reverse trends of criminal behavior by making repairs throughout the entire criminal justice system — from juvenile rehabilitation programs to literacy requirements for inmates prior to release. Our goal must be to assure all Texans that the unending cycle of criminal behavior committed by a few will be recognized and can be stopped.

As we continue the **War On Crime** we will need to use weapons such as drug education and place more emphasis on programs to reduce recidivism. We are confident that the recommendations made within this report will provide the solution to many of the problems which contribute to criminal activity in Texas.

On behalf of the entire Task Force, I respectfully present this report to you for review, with optimism for its successful implementation.

Sincerely,

Charles T. Terrell
Chairman

CT/ss

This report is dedicated to the memory of T.L. Roach, Amarillo, Texas.

Preface

David Ruiz's transfer back to the Texas Department of Corrections from a federal facility in Indiana on May 26, 1988, came during an extraordinary period in the long Ruiz case. The same week that Ruiz arrived, Judge William Wayne Justice signed an order phasing out the Special Master's office by March 1990. This is a significant step toward regaining full control of our prisons after 16 years of litigation in a lawsuit that has caused tumultuous changes in the criminal justice system in Texas. When the 70th Legislature convened, the situation was very different. On December 31, 1986, Judge Justice found the defendants in Ruiz, et al. vs. McCotter, et al. in contempt of court, ordering daily cumulative fines should the defendants' officers and agents fail to take remedial actions to purge themselves of contempt by May 31, 1987. These fines could have added up to \$800,500 a day or \$24 million a month.

At a private conference in chambers on January 9, 1987, then Governor-Elect William P. Clements, Jr., assured Judge Justice that it would be his firm intention and purpose as Governor to require and assist the Texas Department of Corrections to comply strictly with the court's orders and to demonstrate its good faith in so doing. Senate Bill 215 was passed by the Legislature, providing an emergency overcrowding contingency plan for the TDC. The Governor was given the power to credit administrative good-conduct time to certain non-violent inmates, as defined by the Legislature, when the prison population is certified to have reached 95 percent of capacity. In addition, the bill provided for the transfer of \$12.6 million to the TDC and \$7.8 million to the Board of Pardons and Paroles for compliance with the court orders. On April 24, 1987, Judge Justice dismissed the threat of \$800,500 in daily fines against the State for non-compliance and specifically recognized the good faith and diligence of the Governor and state officials in working toward a resolution of the suit.

Under the direction of Governor Clements, Lieutenant Governor Hobby, and Speaker Lewis, this lawsuit which has spanned five administrations is finally winding down. Judge Justice has already eased the monitoring of legal-access issues at 13 state prison units. In a short 16-month period, we made more progress toward resolving the Ruiz case than has been accomplished in the last 16 years. However, much remains to be done to restore balance to our correctional system.

The criminal justice system continues to be in a state of crisis because of an ever-increasing number of serious crimes and the decreasing ability of the prison system to prevent violent recidivists from repeating their crimes. In compliance with Judge Justice's orders, TDC depopulated the system by 3,680 inmates in September 1987, and a second depopulation of 1,552 inmates will occur in September 1989. The total loss of capacity is equivalent to 16 percent of the system. Overcrowding has become the mechanism that drives our corrections system.

State prisoners denied space in TDC because of overcrowding are filling local facilities to the brim. The number of sentenced prisoners in county jails increased 107 percent from November 1987 to November 1988. As of January 2, 1989, 28.7 percent of the total jail population was composed of convicted felons. The problem continues to grow and demands specific action that can achieve realistic reductions of county jail populations both now and in the future. The State should provide capacity adequate to

house convicted criminals who are sentenced to the penitentiary by our judges and juries.

The 70th Legislature passed the first phase of a prison construction program that was approved by the voters and that will help ease the existing backlog of convicted felons. Many new beds are scheduled to come on line in the next few months. Last session we also achieved passage of a tough anti-crime package that included a limited State's right to appeal, determinate sentencing for some juvenile offenses, a partial clarification of the good-faith exception to the exclusionary rule, and regulation of the precursor chemicals used to manufacture "speed" and other controlled substances. Now we must fortify our accomplishments and forge ahead on new ground.

Our first priority must be to increase prison capacity to provide for our future needs and reduce county jail populations. If we do not continue to increase capacity, the lessons of recent months will be lost, and the prison doors will again slam shut. If we cannot carry out the sentences handed down by our court system, the whole system fails. We must have at our disposal a full range of sanctions that fit both the offender and the crime.

It is vital that we make the most efficient and cost-effective use of our criminal justice resources. We need to employ sound management techniques in determining the future of the criminal justice system in Texas. We must make comprehensive plans for the years ahead. We need to address the root causes of crime and develop appropriate solutions. Our strategy must be based on the tried and true experience of professionals in the field and on the common-sense voice of the people in our communities.

As evidenced from the Ruiz litigation during the previous two years, there is a clear indication that the State of Texas is moving in the right direction and making the necessary decisions. This progress must continue. Together we can move toward a more effective criminal justice system. Together we can make Texas a place where criminals — not law-abiding citizens — are afraid to walk the streets at night.

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Executive Summary

There has been a significant increase in serious crime in Texas since 1980, according to statistics from the Uniform Crime Reporting (UCR) program administered by the Texas Department of Public Safety. The number of reported UCR index crimes — criminal homicide, forcible rape, robbery, aggravated assault, burglary, theft, motor vehicle theft, and arson — is an indicator of the total volume of serious crime. Total index crime increased by 49.1 percent between 1980 and 1987. This increase in serious crime far outstrips the increase in population in the state. In 1987, there was one violent crime every 5 minutes, and one property crime every 26 seconds. Very significantly, participants in the 1988 Texas Crime Poll conducted by Sam Houston State University rated widespread property crime as being of more concern than violent crime.

Many criminal justice professionals believe that much of the problem lies in the fact that criminal acts often do not result in meaningful punishment because the criminal justice system has become overburdened and a number of offenders no longer have a fear of the consequences of their acts. There has been a real decline in the proportion of offenders who are incarcerated. In 1980, 16.9 percent of the 168,099 offenders under supervision by criminal justice authorities were in prison. By 1987, there were 369,449 offenders under supervision, and the percentage in prison had declined to 10.6 percent. Furthermore, the average time served by most inmates released in 1987 was 12 months, less than one-fourth of their sentence. Five years ago, the average length of stay in the Texas Department of Corrections (TDC) was over half of the sentence. It is now possible to be released on parole after completing 3 months of a 2-year sentence, 7.6 months of a 5-year sentence, and 15.2 months of a 10-year sentence. The number of parolees under supervision nearly tripled from 1980 to 1987. The number of probationers under regular supervision has increased 122 percent, from 127,623 in 1980 to 283,401 in 1987.

Even though arrests have doubled over the past decade, the increase in crime has not been matched by an increase in arrests. Between 1980 and 1987 crime increased by 49.1 percent compared with a 13.8 percent increase in the total number of arrests. The decline in arrests may be due in part to the lack of incarceration capacity to receive those who violate certain laws. Increasingly, more of the arrests for violent, property, and drug offenses are of juveniles. This alarming trend calls attention to the importance of the juvenile justice system.

Prison and jail overcrowding will continue to be a pressing problem. Crime in Texas has increased significantly over the past decade, and it is projected to continue to increase. Even after the additional capacity authorized by the 70th Legislature and now under construction becomes available, it will only offset a portion of the deficit which exists in the system. Computer projections indicate that it will be only two years before we are again confronted with releasing inmates in order to make room for the new admissions unless we complete the job begun by the 70th session. Further expansion of the strained system by the 71st Legislature is required to bring it into balance and to prevent the prison doors from again slamming shut and repeating the dysfunction we are now experiencing. As the Criminal Justice Summit stated,

releases due solely to overcrowding make sentences meaningless and weaken or remove the deterrent to crime. The lack of confinement capacity distorts the entire criminal justice process.

Drugs continue to be a catalyst to the crime problem in Texas. The nationwide Drug Use Forecasting (DUF) program funded by the National Institute of Justice and the Bureau of Justice Assistance is creating a vivid picture of the relationship between drugs and crime. The project made headlines last January when the first data released from DUF indicated that an average of 70 percent of all people arrested for serious crimes are abusing at least one illegal drug. Prior to the study, officials had estimated from interviews with arrestees that approximately 20 percent of serious offenders had used drugs prior to or during the commission of crimes. Of those charged with burglary offenses in the Houston sample, over 67 percent tested positive for drugs, the same percentage as the arrestees for drug offenses. DUF has provided conclusive evidence of the magnitude of the interrelation between drugs and crime. Other national studies have shown that drug use accelerates criminal behavior, but long-term studies confirm that reducing the level of drug usage reduces the level of crime, even among relatively hard-core drug users. The number of drug-related killings in Houston more than doubled in 1988. The war on drugs is also the war on crime.

According to the Bureau of Justice Statistics Report to the Nation on Crime and Justice, repeat offenders are responsible for much of the nation's crime. A major study of the crime rates of 2,190 offenders in prison in California, Michigan, and Texas was made by the Rand Corporation. The study found that inmates averaged between 187 and 287 crimes per year exclusive of drug offenses. High-rate offenders tend to commit a variety of misdemeanors and felonies as well as both violent and property crimes. This pattern has been confirmed by other studies. Long-term studies show that the more often a person is arrested, the greater the chances of being arrested again. Nationally about half of the inmates released from prison will return to prison — most within 3 years of their release. Despite repeated convictions and incarcerations, surveys show that many offenders continue to believe that they can get away with committing crimes.

A profile of inmates in TDC showed that 91 percent did not complete high school, and the average grade level of achievement is slightly more than sixth grade. A great many adult felons lack steady employment. Nationally, 20 percent of adult felons were estimated never to have worked at all, and an additional 20 percent were estimated to have held a wide variety of short-term jobs. Many offenders have been discovered to have been victims of childhood neglect. Young people make up the largest proportion of offenders entering the criminal justice system. Criminal history, age, number of arrests, and drug use are among the best indicators of future criminality.

Policy makers are faced with dealing with the significant increase in crime in the state and the resulting impact on the criminal justice system. This report details a comprehensive strategy for dealing with the current crisis. The following is a summary of the recommendations of the Texas Criminal Justice Task Force.

VICTIMS: The Task Force believes that a fundamental function of the criminal justice system is to answer the needs of the victims of crime. Because the Family

Code protects the confidentiality of juvenile offenders, there is confusion over the application of the Crime Victim Bill of Rights in cases where the offender is a juvenile. This creates obstacles for the victim in tracking the case through the system, and the Task Force recommends that the Crime Victim Bill of Rights be included in the Texas Family Code. The Task Force also believes that the Texas Crime Victims Compensation Act should provide essential assistance to victims who have suffered financial losses in addition to being traumatized by violent crimes, and that the maximum award of \$50,000 should be restored, the weekly lost wage award should be increased from \$150 to \$200, and the amount of assessed court costs should be increased to keep the fund solvent in the future. The Task Force recommends that the Texas Crime Victim Compensation Fund be used solely for awards to crime victims and the accompanying administrative costs.

JUVENILES: Most serious repeat offenders begin their involvement with crime when they are juveniles. Although it is important to reach out to the youth who turns to delinquency because of preventable problems, the system must also take measures to deal with the criminal who just happens to be under age. The best strategy for combating juvenile crime is to stop the cycle of criminal behavior before it even starts. The public school system has the greatest access to the young people of Texas and a responsibility to educate them about the dangers of alcohol and drug use. However, there is no comprehensive program covering all grades and all school districts. The Task Force recommends that substance abuse education be mandated as one of the essential elements taught in grades 1-12, that teachers be trained to recognize substance abuse among students, and that such training be a prerequisite of teacher certification. The Task Force recommends that the determinate sentencing law be expanded to cover all felony offenses to more adequately protect the interests of those victimized by juvenile crime. Because every juvenile offender deterred from a lifetime of crime is one less statistic in the state prison system, the Task Force recommends that the sentencing juvenile court be given the discretion to submit a rehabilitation plan for the offender prior to the offender's transfer to the Texas Youth Commission. An additional recommendation is that the Texas Youth Commission be required to demonstrate to the court its good-faith effort to follow the plan of rehabilitation ultimately implemented.

LAW ENFORCEMENT: Assaulting a peace officer who is protecting the lives and property of Texas citizens should be treated as a serious offense. Great concern has arisen over the safety of law enforcement officers since a series of attacks on them garnered headlines in 1988. The Task Force recommends that the penalty for committing the offense of aggravated assault on, or threatening of, a peace officer should be increased, depending on the circumstances of the assault, to a first degree felony. The \$20,000 death benefit for an officer killed in the line of duty is not an adequate sum for the survivors of the men and women who willingly face death on a routine basis. The Task Force recommends that the death benefit for an officer killed in the line of duty should be increased to \$50,000. The Task Force believes that, to win the war on drugs, we must be able to legally seize all the drug-tainted assets of every convicted drug trafficker and recommends that state asset-forfeiture provisions be enhanced to allow for the seizure of any real, personal, tangible, or intangible

property that is used in the commission of a felony or is the proceeds of the commission of a felony or is acquired with proceeds from the commission of a felony. The Task Force recommends amending precursor chemical laws for controlled substances and their analogues to require reporting of transactions and registration of participants. Since the importance of accurate and meaningful data becomes increasingly clear as solutions to the lack of capacity are explored, the Task Force recommends enhancing the existing Computerized Criminal History System to obtain the benefits of an Offender-Based Transaction System.

PROSECUTION: It is unconscionable that Texas law does not make available to our state prosecutors the same tools in court that are available to federal prosecutors. The Task Force recommends that the good-faith exception to the exclusionary rule be clarified so that, if the manner in which a search and seizure is conducted passes United States constitutional muster, that evidence be admissible in our state courts. Legislation should achieve the original intent of last session's amendment. A defendant's voluntary oral statement or confession of guilt made while in custody is admissible evidence at trial in every jurisdiction in the country except state courts in Texas. The Task Force recommends that a criminal defendant's oral statements to a peace officer, when those statements are made knowingly and voluntarily while the defendant is in custody, be made admissible in court. In Texas, with respect to the right to have a case heard by a jury, the scales of justice tilt heavily toward favoring the criminal. It is the defendant who has the exclusive right to decide who will punish him, the judge or the jury, in a criminal case. The Task Force recommends that legislation be enacted to give the State, in its representation of victims and the people, the same right to a jury determination that the defendant enjoys at each stage of the a criminal proceeding. It is recommended that last session's amendment be expanded to include provision for placement of a defendant's fingerprints on the judgment for convictions of any felony offenses or misdemeanors punishable by confinement in jail. Such an expansion will facilitate the discovery and proof of an offender's prior criminal record and make for better record-keeping efficiency.

PUNISHMENT: Overcrowding in the Texas Department of Corrections should not be the mechanism that drives how much punishment is meted out to Texas criminals. Expansion of the prison system is absolutely necessary so that further reforms in the criminal justice system can be based on the firm foundation of sufficient space in our state prisons. With additional capacity available, the punishment can again fit the crime in Texas. More needs to be done to toughen our laws to ensure that the beds in TDC are filled with the dangerous or repeat offenders who need to be behind bars to prevent additional innocent people from becoming their victims. The Task Force recommends that the minimum time requirements for violent offenders be restored to their previous level of one-third of the sentence or 20 years. Murder, the knowing or intentional taking of human life without justification, is not included on the list of offenses for which minimum calendar penitentiary time is prescribed by the Legislature. Many times murder is not committed with a deadly weapon, and, as it is inappropriate not to require all murderers to serve a minimum period of calendar time, the Task Force recommends the inclusion of murder in the section 3g categories. Society must be protected from

the habitual offender as well as the violent offender. The Task Force recommends that the minimum calendar time served for each subsequent conviction for commission of one of the offenses under section 3g be doubled. In cases when there is a conviction for any other felony offense, if four or more total felony offenses have been committed and any one of those offenses falls within the section 3g category, that subsequent conviction should also be subjected to double calendar time. Drug dealers who profit from the human misery caused by drug abuse must be held accountable. The Task Force recommends that conviction for an aggravated offense under the Controlled Substances Act should be added to the list of offenses under section 3g so that appropriate minimum calendar time is served by major drug traffickers. Although it is an offense to knowingly or intentionally possess child pornography, the offense itself is simple a class A misdemeanor, and the Task Force recommends that the offense of possession of child pornography be reclassified as a second degree felony.

PROBATION: Properly used, probation is an effective and meaningful sanction. However, probation functions most effectively when supported by the bottom line of sufficient prison capacity. The Task Force believes that probation programs should be augmented to help fight the war on crime by rehabilitating offenders before they move on to more serious offenses. The Task Force recommends that the Texas Adult Probation Commission develop specifications and implement plans for "boot camp" facilities to accommodate intensive residential counseling and life skills training for 2,000 young offenders. The Task Force strongly recommends that drug testing and rehabilitation be utilized whenever appropriate as a condition of probation and at all stages of the criminal justice process where release from confinement or reduction in the level of sanction restriction is considered. Besides drug abuse, probably no factor has more impact on the crime equation than lack of education, and the Task Force recommends that involvement in education programs be a condition of probation whenever appropriate. The Task Force recommends increased funding for probation alternatives to incarceration through enhanced supervision models such as intensive supervision probation and electronic monitoring because, at a time when prison capacity is becoming an increasingly scarce resource, these programs can make a significant contribution to efforts to manage the state criminal justice system more effectively. There is no sanction more appropriate and more helpful to the community than an offender's contributing to a program that helps catch other criminals, and therefore the Task Force recommends allowing judges the discretion to order a probation fee to benefit local Crime Stoppers programs.

CORRECTIONS: As demonstrated by the frequent closures at the Texas Department of Corrections and the intolerable backlog of convicted felons in county jails waiting to be transferred to prison, Texas is continuing to experience a severe shortage of prison capacity. There is nothing to engender change in the behavior of criminally prone individuals when the spectre of real punishment, the cold reality of a long stretch behind bars, has all but disappeared. The Task Force holds that the welfare of Texas citizens is not protected by the early release of violent and repeat offenders, and justice is not served when the reasonable sentences determined by

judges and juries are undermined by the need to relieve prison overcrowding. We must have a functional prison system to lock up the violent and habitual criminal, while at the same time rehabilitating the offender who is willing to learn from the experience of incarceration and turn his or her life around. The current crisis caused by the lack of capacity in the Texas Department of Corrections has taken the corrections out of our corrections system. Even with the first phase of new construction authorized by the 70th Legislature, a continued crisis in capacity is anticipated if no additional capacity is made possible. Based on projections by the Criminal Justice Policy Council and expert testimony from a number of corrections officials, the Task Force is recommending addition of 10,809 beds to the capacity of the Texas Department of Corrections. The Task Force also recommends that the increased budget requests of the Texas Department of Corrections for drug and alcohol counseling and other services to inmates be approved in recognition of the fact that the root causes of crime must be attacked to reduce recidivism. The Task Force recommends that bond financing be considered to expand TDC capacity.

PAROLE: The parole decision-making process has been intolerably distorted because of prison overcrowding. However, parole can serve a vital function in an effective continuum of sanctions. Meaningful punishment options should be available for use by parole officers who currently have few tools to keep technical violators of parole conditions in line, and the Task Force recommends that the Board of Pardons of Paroles be authorized to develop and implement plans for 2,000 intermediate-sanction beds for this purpose. Real commitment must be made to end the vicious circle of drugs and crime. At stake are the further commission of crimes by drug-abusing offenders and the safety of the public. The Task Force strongly recommends that drug testing and rehabilitation be utilized whenever appropriate as a condition of parole. The process should be designed to reinforce measures started with the offender in the Texas Department of Corrections. Likewise, the Task Force recommends that involvement in education programs be a condition of parole whenever appropriate. The Task Force recommends increased funding for alternatives to incarceration through enhanced supervision models such as intensive supervision and electronic monitoring. Strong alternative programs must be funded and developed for the offender who is eligible to complete his or her sentence outside prison walls without endangering innocent citizens. These promising programs can be key elements in a broad of continuum of sanctions that includes the availability of the ultimate sanction — time in prison.

It will cost money to improve our criminal justice system. We must spend our dollars wisely — on building needed prison space and funding programs that fight drug abuse and illiteracy. As we address the root causes of crime by improving our preventive and rehabilitative programs, we will change the direction of troubled lives. As we increase capacity for repeat violent offenders, we will keep a great many of our citizens from ever becoming crime victims. The war on crime can be won.

Summary of Task Force Recommendations

Include the Crime Victim Bill of Rights in the Family Code
Expand the Crime Victim Compensation Fund
Reserve the Crime Victim Compensation Fund Solely for Victims' Benefits

Make Drug Education Mandatory for Public School Students and Teachers
Expand the Felony Offenses Covered by Determinate Sentencing
Broaden Rehabilitation Efforts for Juvenile Offenders

Make Assault on a Peace Officer a First Degree Felony
Increase the Death Benefit for an Officer Killed in the Line of Duty
Enhance the State Provision for Asset Forfeiture
Amend Precursor Chemical Laws for Controlled Substances and Their Analogues
to Require Reporting of Transactions and Registration of Participants
Enhance the Existing Computerized Criminal History System to Obtain the
Benefits of an Offender-Based Transaction System

Clarify the Good-Faith Exception to the Exclusionary Rule
Allow the Admissibility of Oral Statements Voluntarily Made by Defendants
Provide the State the Right to a Jury
Include Fingerprint Identification on All Judgments

Restore the Requirement of One-Third of the Sentence or 20 Years' Calendar
Time for Violent Offenders
Add Murder to the List of Violent Offenses that Require Minimum Calendar Time
Increase the Minimum Calendar Time for Repeat Offenders
Add Aggravated Offenses under the Controlled Substances Act to the List of
Offenses that Require Minimum Calendar Time
Make Possession of Child Pornography a Second Degree Felony

Establish Boot Camp Programs for Youthful Offenders
Include Drug Testing and Rehabilitation as a Condition of Probation and Bond
Make Continuing Education a Condition of Probation
Increase Funding for Probation Alternatives to Incarceration Through
Enhanced Supervision Models
Allow Judges the Discretion to Order a Probation Fee to Benefit Local Crime
Stoppers Programs

Enhance Texas Department of Corrections Capacity and Rehabilitative Programs
Consider Alternate Methods of Financing Construction

Construct Intermediate-Sanction Facilities for Parole Violators
Include Drug Testing and Rehabilitation as a Condition of Parole
Make Continuing Education a Condition of Parole
Increase Funding for Parole Alternatives to Incarceration Through Enhanced
Supervision Models

Introduction

TEXAS CRIMINAL JUSTICE TASK FORCE

One of the first actions of Governor Bill Clements was the creation of the Texas Criminal Justice Task Force. The Task Force has worked diligently over the past two years and has addressed numerous criminal justice issues. The most important goal of the Task Force was to provide Governor Clements with legislative recommendations prior to the convening of the 71st Legislature.

In order to provide an accurate representation of what Texas law enforcement officials and the general public believe are the predominant criminal justice issues today, Governor Clements asked the Task Force to seek input at the grass-roots level in a series of public hearings. Task Force members conducted sixteen public hearings throughout Texas, in the cities of Amarillo, Lubbock, Midland, San Angelo, Edinburg, Corpus Christi, Tyler, Texarkana, Fort Worth, Dallas, Houston, Beaumont, Laredo, San Antonio, and Austin, which hosted two separate hearings.

The hearings provided the Task Force members with information from a host of experts in the criminal justice area. Because of the geographical location of the hearings, the Task Force was able to hear an array of issues and problems, some unique to a specific geographic location. Law enforcement officials, district attorneys, sheriffs, chiefs of police, victims and victims' organizations, county judges, regional criminal justice associations, and local citizens were among the witnesses who testified before the Task Force. The Task Force heard from nearly 200 witnesses, including:

- 47 chiefs of police, police officers, narcotics officers, and sheriffs
- 21 victims of crime and victims' organizations
- 20 district and county attorneys
- 20 local criminal justice groups and interested organizations
- 19 interested citizens, chambers of commerce, school districts
- 17 district and county judges, and local elected officials
- 16 adult and juvenile probation officers

The following corrections agencies and associations are among the numerous groups that provided testimony to the Task Force:

- Texas Department of Corrections
- Texas Juvenile Probation Commission
- Texas Adult Probation Commission
- Texas Youth Commission
- Texas Department of Public Safety
- Texas Board of Pardons and Paroles
- Victims Initiating Gains In Legislation
- Texas Department of Public Safety Officers' Association
- Texas Police Chiefs' Association
- People Against Violent Crime

Texas District & County Attorneys Association
Texas Law Enforcement Legislative Council
Texas Association of Counties
Texas Municipal League
Combined Law Enforcement Associations of Texas

The testimony gained in the hearings provides the foundation for proposals that the Task Force is recommending. The Task Force heard hundreds of recommendations in over 49 hours of testimony. After the hearings, Task Force members evaluated the testimony and, after deliberation, developed the legislative package contained in this report. The proposals received were well thought out and were presented in a concise manner. The Task Force members believe that the recommendations are an excellent indication of what the general public and the law enforcement community consider to be the areas requiring the greatest attention.

THE TEXAS CRIMINAL JUSTICE SUMMIT

Governor Clements has made crime a priority concern throughout his administration. An important milestone was the Texas Criminal Justice Summit, which Governor Clements convened in February, 1988. The Summit brought together leaders from across Texas for the purpose of addressing jail and prison overcrowding. The resulting proposals were far-reaching and a sweeping approach to solving many of our state's problems.

Both the Texas Criminal Justice Task Force and the Summit recognize the need to confront the root causes of criminal activity, by working with prison inmates to enhance their ability to resist recidivism and with ex-offenders to make them contributing citizens, the need to support our law enforcement agencies, and the need to fight the serious drug problem. Some of the Summit recommendations included:

- 1) Future bed capacity increase for the Texas Department of Corrections, the Board of Pardons and Paroles, and the Texas Adult Probation Commission.
- 2) Drug testing throughout the entire criminal justice system.
- 3) Increased staff for Board of Pardons and Paroles so that more intensive supervision can be maintained for recently released offenders.
- 4) Mandatory drug testing and drug rehabilitation treatment as a condition of parole.
- 5) Continuing education as a mutually agreed and stipulated condition of parole.
- 6) Establishment of an Offender-Based Transaction System for the collection of essential data.

One of the Summit's recommendations called for the Texas Criminal Justice Task Force to study and propose specific legislation which would enhance penalties for repeat sex offenders, major drug offenders, and career criminals, as well as combat racketeering, organized crime and major drug trafficking. Specific legislative recommendations are included as a part of the Task Force's proposals.

TEXAS CRIMINAL JUSTICE TASK FORCE

Membership

Chairman Charles T. Terrell
UNIMARK Insurance Companies
Dallas

Rob Allyn
Allyn & Adams
Dallas

Bob Bolen
City of Fort Worth, Mayor
Fort Worth

Lee Brown
City of Houston, Chief of Police
Houston

Kevin Chapman
Dallas Co. District Attorney's Office
Dallas

Patsy Day
Victims Outreach
Dallas

Edwina Cox Evans
Bethlehem Foundation
Dallas

Jon H. Fleming
UNIMARK Insurance Companies
Dallas

Dick Alcala
Judge, 340th Judicial District Court
San Angelo

William B. Blakemore, II
Alpha Twenty-One Corporation
Midland

J.E. "Buster" Brown
Texas Senate, District 17
Lake Jackson

Don Busby
Busby & Associates P.C.
Temple

Levi Davis
Hamilton Financial Group
Dallas

Jim Dozier
Montgomery Co. Attorney
Conroe

Knox Fitzpatrick
Governor's Office, Criminal
Justice Division - Austin

Hal Gaither
Judge, 304th Judicial District Court
Dallas

Membership, Continued

Louis Gibson
Medical Arts Clinic
Corsicana

Jim Granberry
University City Club
Lubbock

Robert Gunn
Gunn Oil Company
Wichita Falls

Jerry Hodge
Maxor Drug Company
Amarillo

Kay Bailey Hutchison
Hutchison, Boyle, Brooks & Dansfield
Dallas

Pettis Norman
Pettis Norman Inc.
Dallas

Chip Perryman
Perryman Operating Co.
Athens

Ross Ramsay
Ramsay Architect, Inc.
Rockwall

Al Gonzalez
City of Dallas, Councilman
Dallas

John Green
Attorney at Law
Odessa

Adela Hedges
Porter & Clements
Houston

John Holmes
Harris Co. District Attorney
Houston

Travis Johnson
City of San Angelo, Police Dept.
San Angelo

Donna Parker
We the People
Hawkins

Allan B. Polunsky
Polunsky & Beitel
San Antonio

James Raney
City of Nacogdoches,
Commissioner - Nacogdoches

Membership, Continued

Ed Reyna
U.S. Probation Dept.
Dallas

T.L. Roach (deceased)
T.L. Roach & Son
Amarillo

Larry Robinson
City of Tyler, Chief of Police
Tyler

LaRue Robinson
Southwestern Bell Telephone
Company - Dallas

Al Schorre
Midland Co. District Attorney
Midland

Rider Scott
Governor's Office, General
Counsel - Austin

Robert Smith
Salmanson, Smith, Travis & Schrager
Austin

Paul Spain
Terra Companies
Dallas

John Vance
Dallas Co. District Attorney
Dallas

O. L. Watson
Tarrant Co. Commissioner
Fort Worth

Royce West
Brown, Robinson & West
Dallas

David A. Witts
Arter, Hadden & Witts
Dallas

Carole Young
The Watson & Taylor Co.
Dallas

EXECUTIVE ORDER

BY THE

Governor of the State of Texas

THE STATE OF TEXAS
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
AUSTIN, TEXAS

February 26, 1987

EXECUTIVE ORDER
WPC 87-3

ESTABLISHING THE TEXAS CRIMINAL JUSTICE TASK FORCE FOR THE
COMPREHENSIVE REVIEW OF THE CRIMINAL JUSTICE SYSTEM.

WHEREAS, the first function of government at all levels is to protect and safeguard the lives and property of its citizens; and

WHEREAS, in spite of the dedication and best efforts of the criminal justice community, the rate of crime has steadily increased; and

WHEREAS, the pain and economic loss inflicted on our citizens resulting from crime require priority attention from private citizens and government officials alike;

NOW THEREFORE, I, William P. Clements, Jr., Governor of Texas, under the authority vested in me, do hereby create and establish the Texas Criminal Justice Task Force hereinafter referred to as the Task Force.

The Task Force will consist of not more than seventy-five (75) members appointed by the Governor. The Governor shall designate a Chairman and Vice-Chairman from the membership, who, along with the members, shall serve at the pleasure of the Governor.

The Task Force is charged with the following responsibilities of studying and making recommendations, including but not limited to, regarding changes of laws within the Texas Criminal Justice System; the effects of drug and alcohol abuse on our society and a strategy for prevention; the role of health science education institutions in the delivery of health care in correctional institutions; the organizational structure of state criminal justice agencies; the location of regional correctional facilities and their benefits their interaction with local communities; the theory of an Offender Based Transaction System; and such other duties that may be directed by the Governor.

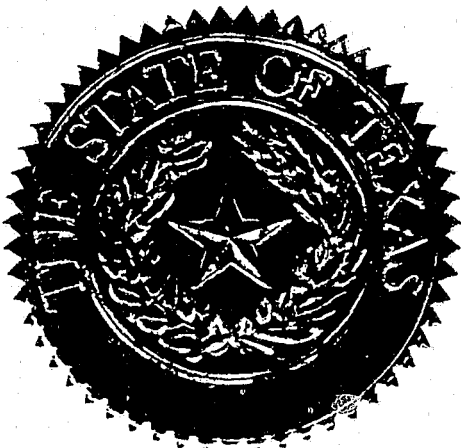
The Task Force shall make a complete written report of its activities, findings, and recommendations to the Governor.

The Task Force shall meet at the call of the Chairman, who may designate Committees within the Task Force to study specific areas of the criminal justice system.

The members of the Task Force shall serve without compensation, but may be reimbursed for reasonable and necessary expenses upon approval of the Director of the Criminal Justice Division of the Governor's Office.

All agencies of state and local government are hereby directed to cooperate with and assist the Task Force in the performance of its duties.

This Executive Order shall be effective immediately and shall remain in full force and effect until modified, amended or rescinded by me.



Given under my hand this
26th day of February, 1987

W. P. Clements, Jr.

William P. Clements, Jr.
Governor

Jack M. Rains

Jack M. Rains
Secretary of State

Analysis of Crime in Texas

CRIME TRENDS

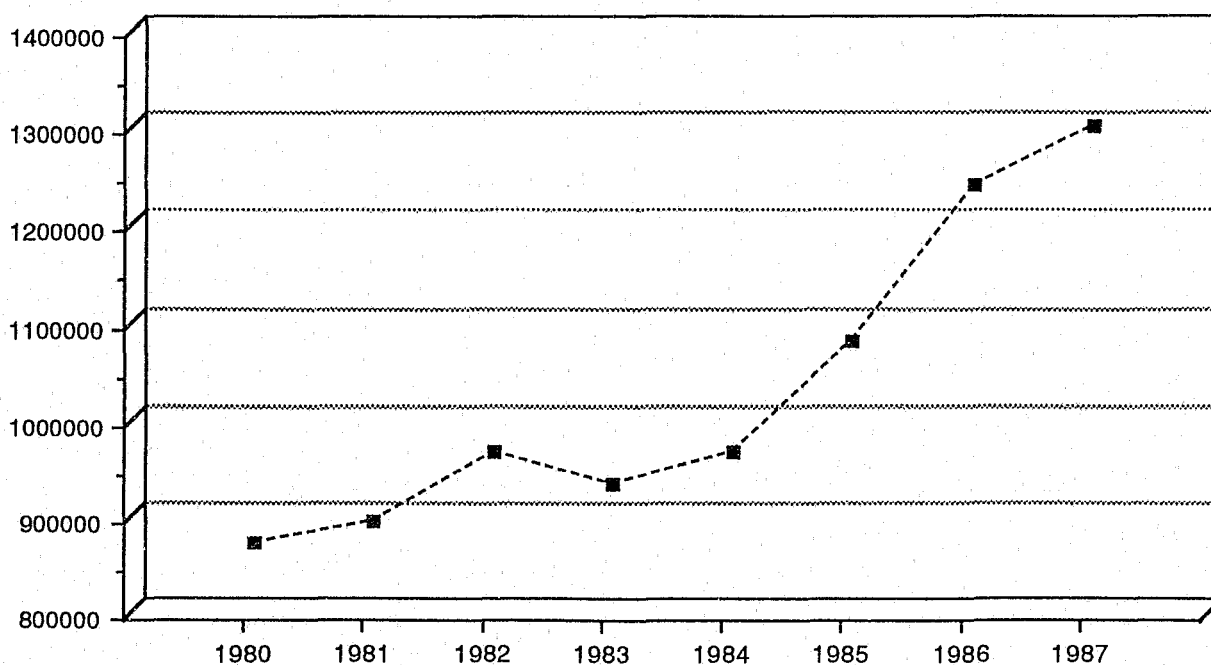
Crime Increases 49.1 Percent Between 1980 and 1987

There has been a significant increase in serious crime in Texas since 1980, according to statistics from the Uniform Crime Reporting (UCR) program administered by the Texas Department of Public Safety. UCR statistics provide a reliable source of information on crimes and arrests in Texas and are used extensively to measure criminal activity in the state. Over 815 local law enforcement agencies submit statistics for inclusion in the UCR report.

The number of reported UCR index crimes — criminal homicide, forcible rape, robbery, aggravated assault, burglary, theft, motor vehicle theft, and arson — is an indicator of the total volume of serious crime. However, the UCR statistics are based on offenses "known to law enforcement officials" from various sources, most often from victims' complaints, and are limited to what crimes are actually reported to the police. It is known that a number of crimes are not reported to the police, and changes in a particular jurisdiction's reporting patterns can affect the crime trend.

Crimes are reported to DPS by local agencies without regard to whether or not anyone is arrested or stolen property is recovered. Information on arrests is

Chart 1: Total Index Crime Reported in Texas, 1980-1987



SOURCE: Texas Department of Public Safety, Uniform Crime Reporting Bureau

reported to show the activity of law enforcement agencies. Arrest information is collected on all offenses, not just the limited number of index crimes already listed.

Total index crime increased by 49.1 percent between 1980 and 1987. In 1980 there were 869,439 index crimes reported to law enforcement agencies compared with 1,296,829 in 1987. This increase in serious crime far outstrips the increase in population in the state. Both violent and property index crime increased significantly. Although reports of murder fluctuated over the seven-year period, projections show an increase in murder in 1988.

The Texas "Crime Clock" represents the annual estimated crime experience by showing the relative frequency of offense occurrences by computing the annual ratio of crime to fixed time intervals. In 1987, there was **one violent crime every 5 minutes, one property crime every 26 seconds**, one murder every 4 hours and 28 minutes, one forcible rape every hour and 5 minutes, one robbery every 14 minutes, one aggravated assault every nine minutes, **one burglary every 1 1/2 minutes**, one theft every 44 seconds, and one motor vehicle theft every 4 1/2 minutes.

Estimated Statewide Crime Totals, 1980-1987

	Jan. - Dec. <u>1980</u>	Jan. - Dec. <u>1987</u>	<u>% Change</u>
Murder	2,389	1,960	-17.9
Rape	6,694	8,068	20.5
Robbery	29,532	38,049	28.8
Aggravated Assault	39,251	57,903	47.5
Burglary	262,332	355,732	35.6
Theft	450,209	711,739	58.0
Motor Vehicle Theft	79,032	123,378	56.1
INDEX CRIME TOTAL	869,439	1,296,829	49.1
Crime Rate (Per 100,000 population)	6,135	7,724	25.8

Another way to measure crime is by random survey of the general population. This method accounts for crimes that may not be reported to the police. The 1988 Texas Crime Poll conducted by Sam Houston State University showed that 47 percent of the Texas adults surveyed reported that they had been victims of a crime in the past year. This is an increase from the 1986 results, which showed that slightly over one third of the respondents reported being victimized in the preceding 12 months. Significantly, **participants in 1988 rated widespread property crime as being of more concern than violent crime.**

It is not possible to authoritatively document specific causes for the increase in crime in Texas, and opinions vary among police officials and other criminal justice professionals and analysts. The increase has been tied to a variety of factors, including the lack of prison space which has led to the early release of felons, the increase in illegal drug trafficking, a higher incidence of drug and alcohol abuse, the changing

economy, as well as social issues such as illiteracy, mental illness, the breakdown of the family, and an overall moral decline.

Many criminal justice professionals believe that much of the problem lies in the fact that criminal acts often do not result in meaningful punishment because the criminal justice system has become overburdened and a number of offenders no longer have a fear of the consequences of criminal acts. There has been a real decline in the proportion of offenders who are incarcerated. In 1980, 16.9 percent of the 168,099 offenders under supervision by criminal justice authorities were in prison. By 1987, there were 369,449 offenders under supervision, and the percentage in prison had declined to 10.6 percent. Furthermore, the average time served by most inmates released in 1987 was 12 months, less than one-fourth of their sentence. Five years ago, the average length of stay in the Texas Department of Corrections (TDC) was over half of the sentence.

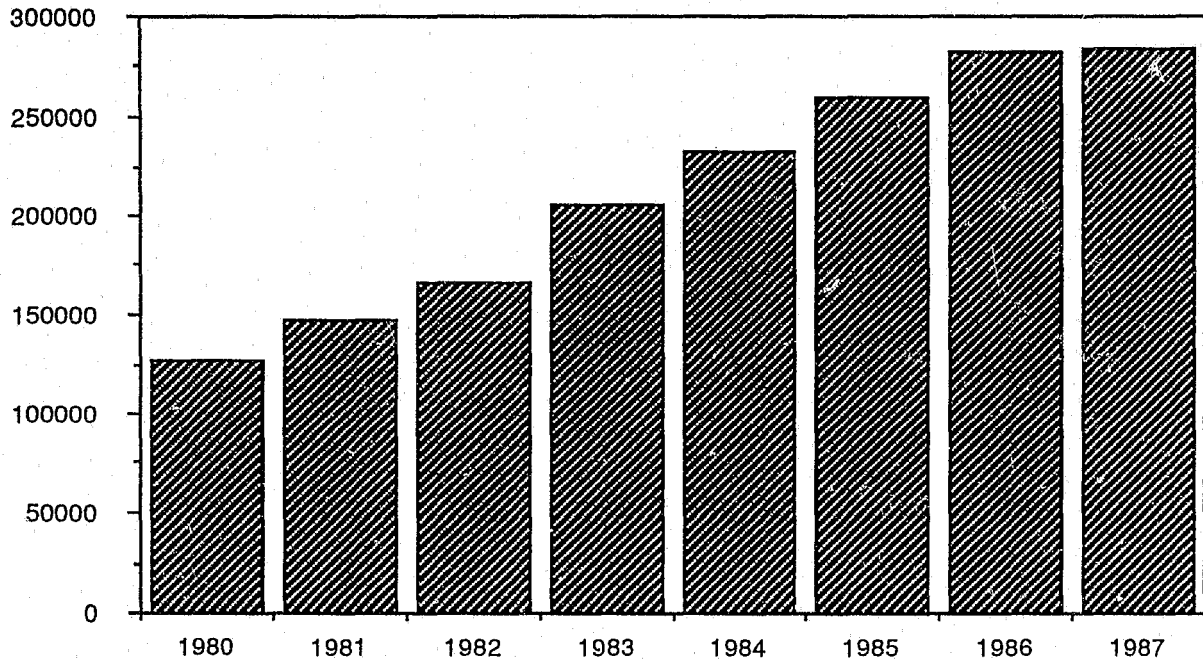
The necessity for early releases has strained the ability of the Board of Pardons

Percentage Change of Selected Supervision Workload Indicators in the Texas Criminal Justice System, Fiscal Years 1980-1987

<u>Indicator</u>	<u>1980</u>	<u>1986</u>	<u>1987</u>	<u>% Change 1980-1987</u>
Jails Average Daily Pop.*	(Est) 11,000	20,495	23,453	113.0
New Felony Probationers (excluding ISP)	26,990	37,498	40,680	50.7
Total Felony Probationers Under Supervision	72,516	116,087	123,087	69.7
Total Probationers Under Supervision	127,623	282,880	283,401	122.0
Prison Admissions**	14,176	30,471	35,134	147.8
Prison Releases**	9,610	29,347	33,370	247.2
Population Under Parole or Mandatory Supervision**	11,933	41,622	46,821	292.3

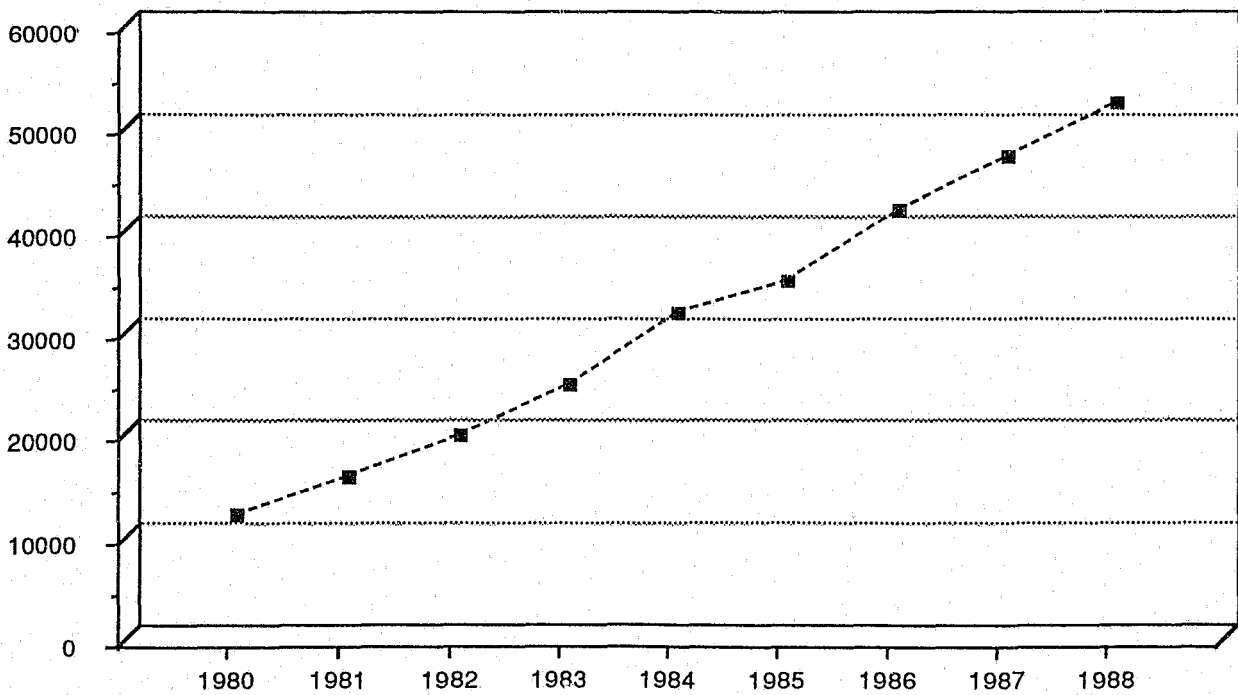
* As of December 5, 1988, there were 7,686 convicted felons in county jails with over 100 population awaiting transfer to TDC. ** In fiscal year 1988, there were 33,816 prison admissions, 33,483 releases, and 52,047 persons on parole or mandatory supervision. Final fiscal year 1988 data were not yet available for the other indicators.

Chart 2: Total Felony and Misdemeanor Probationers Under Supervision, Fiscal Years 1980-1987



SOURCE: Texas Adult Probation Commission, Annual Reports

Chart 3: Population Under Parole and Mandatory Supervision, Fiscal Years 1980-1988



SOURCE: Texas Board of Pardons and Paroles, Annual Reports

and Paroles to use discretion in reaching parole decisions. To stay within court-ordered prison population guidelines, the board is now approving three out of every four convicts for parole as soon as they become eligible. ***It is now possible to be released on parole after completing 3 months of a 2-year sentence, 7.6 months of a 5-year sentence, and 15.2 months of a 10-year sentence.*** The number of parolees under supervision nearly tripled from 1980 to 1987. Approximately 30 percent of all parolees are returned to prison after only 2 years, and many others return later.

District attorneys and judges have been making substantial use of probation as an alternative to incarceration. Texas leads the nation in the total number of offenders on probation. The number of probationers under regular supervision has increased 122 percent, from 127,623 in 1980 to 283,401 in 1987. Probation revocations to prison constitute 35.4 percent of all admissions to the TDC.

Prison and jail overcrowding will continue to be a pressing problem. Crime in Texas has increased significantly over the past decade, and it is projected to continue to increase. Even after the additional capacity authorized by the 70th Legislature and now under construction becomes available for use and assuming the continued diversion of offenders into probation and parole programs, computer projections indicate that it will be only two years before we are again confronted with releasing inmates in order to make room for the new admissions. Further expansion of the strained system by the 71st Legislature is required to prevent the prison doors from again slamming shut and repeating the dysfunction we are now experiencing. Releases due solely to overcrowding make sentences meaningless and weaken or remove the deterrent to crime. The lack of confinement capacity distorts the entire criminal justice process.

Texas Crime and Arrest Patterns

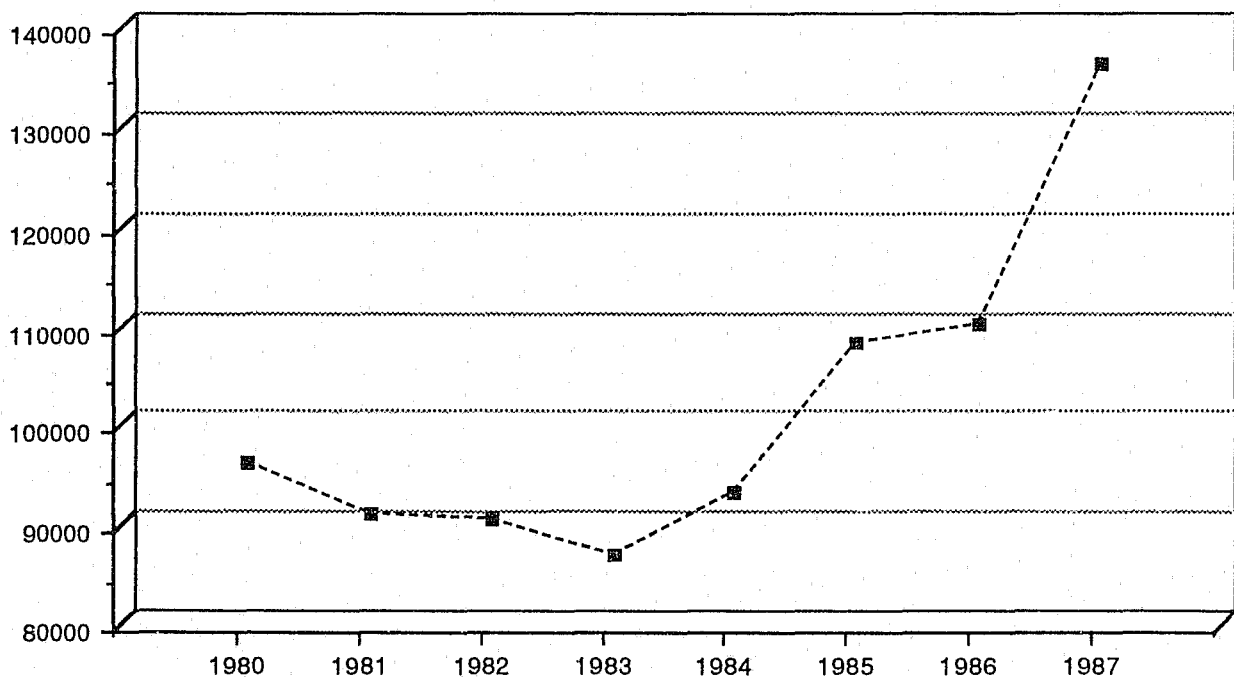
- No category of crime declined during the first six months of 1988. Violent crime increased overall by 4.9 percent. Murder was up 1 percent, with rape up 8.4 percent, robbery up 1.7 percent, and aggravated assault up 6.6 percent. The property crime category increased over all by 1 percent. Burglary showed an increase of .5 percent. Theft was up 1.3 percent, and motor vehicle theft was up by 1 percent. The crime rate for January to June 1988, which is the number of crimes reported per 100,000 population, increased by 0.7 percent. During the first half of 1987, the crime rate jumped 4.4 percent.

- Even though arrests have doubled over the past decade, the increase in crime has not been matched by an increase in arrests. Between 1980 and 1987, crime increased by 49.1 percent compared with a 13.8 percent increase in the total number of arrests. Although the overall clearance rate has held steady at 20 percent, the total number of arrests made in Texas decreased by four percent in 1987, with 873,554 reported compared with 909,805 in 1986. There were 114,245 arrests for driving while intoxicated in 1987, a six percent decrease from 1986. The decline in arrests continued in the first half of 1988, with a 3.4 percent decrease compared with the first half of 1987. The decline in arrests may be due in part to the lack of incarceration capacity to receive those who violate certain laws.

- Arrests of juveniles have increased proportionately faster than arrests of

adults. Juvenile arrests of individuals age 16 and under increased by 41.3 percent between 1980 and 1987. Moreover, between 1986 and 1987 arrests of juveniles increased by 23.6 percent, from 109,858 to 135,798. This was the largest percentage increase since 1980. In 1986, arrests of juveniles accounted for 17.4 percent of all arrests for violent, property, and drug offenses. In 1987, arrests of juveniles rose to represent 21.1 percent of all arrests for those offenses. Juvenile arrests for violent, property, and drug offenses increased by 84.6 percent, 38.4 percent and 50.9 percent respectively from 1980 to 1987. Between 1986 and 1987 the percentage increase in juvenile violent, property, and drug arrests was greater than at any other time since 1980, with juvenile arrests for violent, property, and drug offenses increasing by 28.1 percent, 25.2 percent, and 56.4 percent respectively during this period.

Chart 4: Juvenile Arrests, 1980-1987



SOURCE: Texas Department of Public Safety, Uniform Crime Reporting Bureau

- Adult arrests of individuals age 17 and over increased by 4.9 percent between 1980 and 1987. Between 1980 and 1987, adult arrests for violent offenses increased 53.7 percent, while arrests for property offenses increased by 17.3 percent and arrests for drug offenses increased by 36.4 percent. Adult arrests for violent and drug offenses increased by 7.17 percent and 3.0 percent respectively between 1986 and 1987. Property arrests, however, declined by 6.5 percent during this period.

- While crime is continuing to increase in Texas, the rate of increase has begun to slow somewhat. The trend shows that total crime is still increasing, and crime increased significantly from 1980 to 1987. It is difficult to pinpoint why the rate of increase in crime in Texas has begun to slow, although it may be related to a corresponding decrease in the growth of the Texas population. An encouraging sign is that arrests for driving while intoxicated are down, which may indicate the growing

public awareness of the severity of this crime and the enhanced sanctions associated with it. The decrease in arrests of adults may be related to the lack of confinement options available to hold arrestees for minor offenses and parole and probation violations. Increasingly, more of the arrests for violent, property, and drug offenses are of juveniles. This alarming trend calls attention to the importance of the juvenile justice system.

DRUGS AND CRIME

Drug Use Forecasting

Drugs continue to be a catalyst to the crime problem in Texas. The nationwide Drug Use Forecasting (DUF) program funded by the National Institute of Justice and the Bureau of Justice Assistance is creating a vivid picture of the relationship between drugs and crime. Factual data from diagnostic urine tests provide the most objective information available regarding the prevalence of drug abuse among suspected criminals.

Results thus far have surprised many criminal justice experts by showing that drug use among all individuals arrested is much higher than previously estimated. The project made headlines last January when the first data released from DUF indicated that an average of 70 percent of all people arrested for serious crimes are abusing at least one illegal drug. This finding is particularly startling since individuals arrested for drug-related offenses who are known to abuse drugs were intentionally underrepresented in the study. Prior to the study, officials had estimated from interviews with arrestees that approximately 20 percent of serious offenders had used drugs prior to or during the commission of crimes.

In Texas, Houston, Dallas, and San Antonio have been selected to participate in the federally funded program. The Houston Police Department has been included in the DUF study since 1987, and the Dallas County Sheriff's Department began testing last summer. The San Antonio Police Department, in cooperation with Bexar County, started the program last fall.

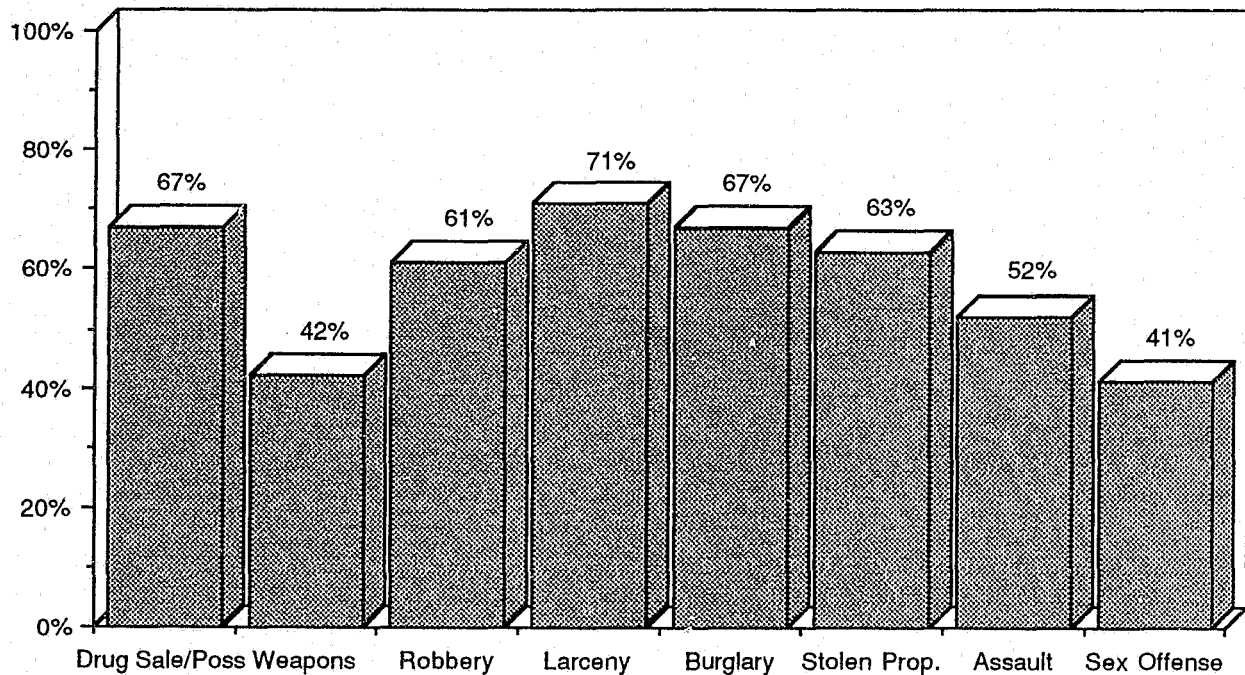
Every three months, 200-250 new male arrestees and 100 new female arrestees are briefly interviewed and asked to provide urine specimens as part of a confidential study. Because the anonymity of the test is stressed, the response rate for volunteers has been consistently high. A full 95 percent of the arrestees approached agree to be interviewed, and over 80 percent of those interviewed provide a specimen.

Specimens are analyzed by a laboratory for the following ten drugs: cocaine, heroin, marijuana, methadone, methaqualone, phencyclidine (PCP), Valium, Darvon, amphetamine (speed), and barbiturates. Samples are tested for the presence of multiple drugs.

In the January-March 1988 testing period in Houston, the DUF study found that 62 percent of the male arrestees tested positive for at least one type of drug. Of those charged with burglary offenses in the Houston sample, over 67 percent tested positive for drugs, the same percentage as the arrestees for drug offenses. It was found that 44 percent of the arrestees in Houston tested positive for cocaine.

Females were not tested in Houston during this test period. In cities conducting tests for the presence of any drug in women, the women registered levels of drug

Chart 5: Percentage of Male Arrestees in Houston Who Tested Positive for Drugs by Top Arrest Charge



SOURCE: National Institute of Justice, Drug Use Forecasting Project

abuse slightly higher than or equivalent to those for the men. However, when marijuana was excluded, the positive rate was appreciably higher for females.

The first results from the Dallas Drug Use Forecasting project were released by local law enforcement officials in October of 1988. In the sample tested, 73 percent of the people arrested for a serious offense tested positive for illegal drug use. The Dallas results also showed a 53 percent rate of cocaine use and a surprisingly low rate of amphetamine use — 6 percent for men and 7 percent for women. Drug use was consistently high across all arrest categories, ranging from 54 percent for assault to 94 percent for drug offenses. The San Antonio results were not yet available.

As data from more test periods become available, drug abuse researchers and law enforcement professionals will be able to do in-depth analysis of the trends in individual cities. The DUF results can be used to track drug abuse trends one year to one and a half years before other indicators, such as hospital emergency room admissions, point out the growing problem.

It has long been held that illegal drugs play a significant role in the crime problem. DUF has provided conclusive evidence of the magnitude of the interrelation between drugs and crime.

Other Studies on Drugs and Crime

Other national studies have shown that drug use accelerates criminal behavior, and studies of criminal justice populations in Texas have confirmed the extent of the drug

problem. Nearly every criminal act is linked somehow to drugs. Crimes are committed to buy drugs. Crimes are committed under the influence of drugs. Crimes are committed to further drug trafficking. Consider the following findings:

- A Rand Corporation study found that the majority of the "violent predators" with career criminal histories are long-term narcotics abusers who frequently use combinations of drugs.

- The greater the use of drugs, the more crimes addicts commit, increasing four-to-six-fold during periods of heavy drug abuse. California inmates addicted to heroin commit 15 times as many robberies, 20 times as many burglaries, and 10 times as many thefts as non-drug users.

- Drug-related violence is leading to skyrocketing homicide rates in major U.S. cities. The Criminal Justice Statistics Association reports that, despite a substantial decrease in 1987, the homicide rate was expected to rise again in 1988 because of the profound effect that drugs have on crime. The number of drug-related killings in Houston more than doubled in 1988, and authorities say the increase parallels a rapidly expanding drug trade and an influx of Colombian and Jamaican drug dealers.

- Drug abuse by young arrested defendants is on the rise. One 1986 New York study found evidence of cocaine abuse in 71 percent of the 16-to-20-year-olds arrested, up from only 28 percent in 1984.

- A recent study of offenders admitted to TDC showed that four-fifths had either used drugs, were under the influence of drugs, or were convicted of a drug-related offense. The Board of Pardons and Paroles conducted a small-scale study of 500 parolees under intensive supervision. The results showed that two-thirds of those tested were taking drugs. This clearly shows that parolees continue to have high levels of drug abuse.

- Teams of researchers in Baltimore and at U.C.L.A. have conducted long-term studies that confirm that reducing the level of drug usage reduces the level of crime, even among relatively hard-core drug users. Harry Wexler of Narcotics and Drug Research, Inc., said: "It has been demonstrated many times that if you reduce the use of drugs, you reduce the crime rate. There is no question about that."

The evidence is overwhelming that one of the major causes of crime is drug trafficking and abuse. The war on drugs is also the war on crime.

RESEARCH RESULTS ON CRIMINALITY

Characteristics of Career Criminals

According to the Bureau of Justice Statistics Report to the Nation on Crime and Justice, repeat offenders are responsible for much of the nation's crime. Some high-rate offenders are arrested frequently and others rarely. The majority of offenders commit crime at low rates, but there is a core of hardened offenders who commit a disproportionate amount of the total crime.

A major study of the crime rates of 2,190 offenders in prison in California, Michigan, and Texas was made by the Rand Corporation. Substantial efforts were made to validate the inmates' responses. The study found that inmates averaged between 187 and 287 crimes per year exclusive of drug offenses. The estimates are so

large because, although a few inmates have committed only one crime, 10 percent of the survey population committed more than 600 crimes annually. For example, although 50 percent of the burglars in the study averaged fewer than 6 burglaries per year, 10 percent committed more than 232 burglaries per year. High-rate offenders tend to commit a variety of misdemeanors and felonies as well as both violent and property crimes.

This pattern has been confirmed by other studies. A 22-state study of young parolees showed that 10 percent of the group was responsible for 40 percent of the group's total later arrests. A Washington, D.C., study reported that 24 percent of all adult arrests could be attributed to just 7 percent of the offenders.

The more serious the juvenile record of the offender, the greater the chances of the offender's becoming a repeat adult offender. It has been found that 78 percent of a sample group with lengthy juvenile careers were arrested as adults and 37 percent were serious adult offenders.

Long-term studies show that the more often a person is arrested, the greater the chances of being arrested again. Nationally about half of the inmates released from prison will return to prison — most within 3 years of their release. Despite repeated convictions and incarcerations, surveys show that many offenders continue to believe that they can get away with committing crimes.

Other Factors in Criminality

The relationship of an offender's social and economic background to crime is hotly debated. It is impossible to tell what came first, the social or economic characteristic or the criminal behavior. It is unknown why some people with similar characteristics do commit crimes and others do not. However, offenders as a whole share the following characteristics:

- A profile of inmates in TDC showed that 91 percent did not complete high school, and the average grade level of achievement is slightly more than sixth grade. The level of education reached by prison and jail inmates in the U.S. is far below the national average.

- A great many adult felons lack steady employment. Nationally, 20 percent of adult felons were estimated never to have worked at all, and an additional 20 percent were estimated to have held a wide variety of short-term jobs. On the average, felons in these groups committed more crimes, particularly more property crimes, than the 60 percent who had a more stable employment history. The average inmate was at the poverty level before entering jail.

- Many offenders have been discovered to have been victims of childhood neglect. About 48 percent of jail and prison inmates grew up with primarily one parent or other relatives, compared with 20 percent of the children under 18 in the general population. Moreover, 16 percent of prison inmates grew up with neither parent, while only 4 percent of all children under 18 were living with neither parent.

- Young people make up the largest proportion of offenders entering the criminal justice system. Two-thirds of all arrests and three-fourths of all index crime arrests in the nation are of persons under age 30.

- Illegal drug use is far greater among offenders than among nonoffenders. Prison inmates also use alcohol more often and in greater amounts than their

counterparts in the general population.

Criminal history, age, and drug use are among the best indicators of future criminality. With an ever-increasing number of admissions to Texas prisons and jails, these factors should be taken into consideration. Policy makers are faced with dealing with the significant increase in crime in the state and the resulting impact on the criminal justice system. This report details a comprehensive strategy for dealing with the current crisis. A number of elements enter into the solution, but it is important not to overlook the point made by James K. Stewart, Director of the National Institute of Justice:

"If we continue to focus our concern primarily on prison crowding without acknowledging the necessary function prisons perform by incapacitating the violent predators and deterring those who might otherwise commit serious crimes, we do a disservice to victims and undermine public confidence in our system of justice."

The Task Force Recommendations

1.0 VICTIMS' RIGHTS

A great deal of effort is expended in the the criminal justice system to protect the rights of the defendant and ensure that law enforcement officers, defense attorneys, prosecutors, witnesses, judges, and juries properly execute their duties. However, the role of the person most affected by the criminal event has often been overlooked. The victim of crime is sometimes subjected to a "second assault" by a criminal justice system that does not respond to his or her needs.

In 1979, the Texas Legislature responded to the growing awareness of the needs of crime victims by creating the Texas Crime Victim Compensation Fund (article 8309-1, Texas Revised Civil Statutes Annotated). The Act authorized the establishment of a fund constituted of fines imposed on those convicted of crime, to be administered by the Industrial Accident Board. The fund provided reimbursement to uninsured victims of violent crime for funeral, medical, and counseling expenses, in addition to lost wages.

The 69th Legislature affirmed the importance of recognizing the needs of victims by adding the Texas Crime Victim Bill of Rights in article 56 of the Texas Code of Criminal Procedure. The Bill of Rights requires that the prosecutor inform the victim of the status of the case upon request and that the victim be given the opportunity to

Texas Crime Victim Rights

A victim of a violent crime is someone who (1) has suffered bodily injury or death or who has been the victim of a crime involving sexual assault, kidnapping, or aggravated robbery, (2) the close relative (spouse, parent, brother/sister, or adult child) of a deceased victim, or (3) the guardian of a victim. *As a victim of violent crime, close relative of a deceased victim, or guardian of a victim, you have the following rights:*

1. The right to *protection from threats of harm* arising from cooperation with prosecution efforts.
2. The right to have *your safety* and that of your family taken into consideration when *bail* is being considered.
3. *If you so request*, the right to be *informed* about court proceedings, including whether or not they have been canceled or rescheduled.
4. *If you so request*, the right to *information* about procedures in the criminal investigation of your case by law enforcement, and about general procedures in the criminal justice system, including *plea bargaining*, from the prosecutor's office.
5. The right to receive information about the *Texas Crime Victim Compensation Fund* which provides financial assistance to victims of violent crimes and if you so request, to *referral* to available *social service agencies* that may provide additional help.
6. The right to provide information to a probation department conducting a *presentence investigation* on the impact of the crime.
7. *If you so request*, the right to be notified of *parole proceedings* by the Board of Pardons and Paroles, to participate in the parole process, and to be notified of the defendant's release.
8. The right to be present at all public *court proceedings*, if the presiding judge permits.
9. The right to be provided with a safe waiting area before and during court proceedings.
10. The right to *prompt return of any property* no longer required as evidence.
11. *If you so request*, the right to have the prosecutor *notify your employer* of the necessity of your testimony that may involve your absence from work.
12. The right to complete a *Victim Impact Statement*, detailing the emotional, physical and financial impact that the crime has had on you and your family, and to have that statement considered by the judge at *sentencing* and by the parole board prior to taking any *parole* action.

complete a victim impact statement to be considered at the sentencing and punishment phases of the trial.

The Task Force believes that a fundamental function of the criminal justice system is to answer the needs of the victims of crime. Testimony received by the Task Force from crime victims and agencies that serve crime victims led to the adoption of the following recommendations to improve the functioning of Texas laws that were designed to protect victims' rights:

1.1 Include the Crime Victim Bill of Rights in the Family Code

Issue: There is confusion over the application of the Crime Victim Bill of Rights in cases where the offender is a juvenile. Juvenile offenders are governed by the Family Code rather than by the Code of Criminal Procedure, which contains the Crime Victim Bill of Rights, and the Family Code protects the confidentiality of juvenile offenders. Although some local juvenile boards have promulgated guidelines that allow police and prosecutors to release the name of the offender to the victim in the interest of pursuing legal action, others have not. This creates obstacles for the victim in tracking the case through the system. The problem is particularly acute because, as noted in the analysis of crime in Texas, juvenile arrests for violent offenses increased by 84.6 percent from 1980 to 1987.

Recommendation: The Task Force recommends that the Crime Victim Bill of Rights be included in title 3 of the Texas Family Code.

1.2 Expand the Crime Victim Compensation Fund

Issue: When the Texas Crime Victims Compensation Act was created in 1979, the maximum award was \$50,000. Lack of awareness and enforcement of the collection of the court fees in the early years of the fund resulted in a negative balance in the fund and the consequent denial or reduction of many claims from crime victims. To restore the fund to a positive balance, legislative measures were enacted to enforce and broaden the collection of court fees. In addition, the maximum allowable award was reduced to \$25,000.

An examination of the awards in the past shows that the maximum award represents a small percentage of the total awards, and recipients of larger awards tend to be victims who have been catastrophically affected by crime. In 1988, the average award to victims was about \$4,500. The current \$150-per-week maximum allowance for lost wages is barely over the minimum wage.

In 1985, the Crime Victim Bill of Rights, which includes the the right of the victim to be notified of the existence of the compensation fund, was incorporated into Texas law. Increased awareness of the fund and the growing rate of violent crime have fueled an increased demand for compensation from the fund. Although the fund is currently solvent, reports from the Industrial Accident Board project that, at the collection levels now being assessed, the fund may again be threatened with insolvency.

Recommendation: The Task Force recommends that legislative action be taken on the following proposals to expand the Texas Crime Victims Compensation Act and thus provide essential assistance to victims who have suffered financial losses in

addition to being traumatized by violent crime:

- Restore the maximum award of \$50,000, as it is given in relatively rare and very well-justified circumstances.
- Increase the weekly lost wage award from \$150 to \$200 to better reflect the prevailing salaries in today's workplace.
- Marginally increase the amount of assessed court costs to keep the fund solvent in the future. Although raising the maximum awards is not estimated to adversely affect the fund balance, growth in the awareness of the fund and the number of victims presents a danger of insolvency in coming years.

1.3 Reserve the Crime Victim Compensation Fund Solely for Victims' Benefits

Issue: During the last two legislative sessions, Texas experienced a severe fiscal crisis. Approximately \$5 million was taken from the Crime Victim Compensation Fund to satisfy a judgment against the State School for the Deaf and for uses other than compensating victims of crime. Given the increase in Texas crime rates and the number of victims seeking compensation from the fund, it is felt that all the funds collected for victims of crime should be used to benefit victims of crime.

Recommendation: The Task Force recommends that the Texas Crime Victim Compensation Fund be used solely for awards to crime victims and the accompanying administrative costs.

2.0 JUVENILES

The adult criminal justice system truly has its beginning in the juvenile justice system. As noted in the analysis of crime section, most serious repeat offenders begin their involvement with crime when they are juveniles. Furthermore, youthful offenders are responsible for the vast majority of the nation's crime. If the criminal justice system could deter these underage offenders from continuing their juvenile crime careers and moving on to become adult criminals, crime in Texas would be significantly reduced.

However, the present trend indicated by the arrest statistics is an alarming increase in serious juvenile crime, particularly violent and drug offenses. While it is important to reach out to the youth who turns to delinquency because of preventable problems, the system must also take measures to deal with the criminal who happens to be under age. An example of this type of offender is the Dallas youth who is in prison for murdering three people before age 16 while operating as an assistant to a crack dealer.

The best strategy for combating juvenile crime is to stop the cycle of criminal behavior before it even starts. Based on the overwhelming evidence on the link between drug use and crime and the heartbreaking number of Texas youths who fall prey to the drug pusher's wiles, the Task Force believes that the best way to avert criminal behavior is through comprehensive drug education. These recommendations will help create a future for Texas children that is crime and drug free:

2.1 Make Drug Education Mandatory for Public School Students and Teachers

Issue: The public school system has the greatest access to the youth of Texas and a responsibility to educate them about the dangers of alcohol and drug use. Substance abuse has reached critical proportions among the youth of this state. The results of a 7-12 grade school survey done by the Texas A&M University Public Policy Research Laboratory pursuant to a contract with the Texas Commission on Alcohol and Drug Abuse are frightening. For example, it is estimated that 28 percent of our public school seventh graders have used inhalants and 58 percent have used alcohol. The link between substance abuse and crime has been discussed at length in the analysis of crime in Texas.

The success of anti-smoking education programs in deterring young people from addiction to cigarettes offers hope that education programs about other types of drugs can also be effective. A great number of school districts in Texas have initiated commendable drug education programs, most notably through Project D.A.R.E. (Drug Abuse Resistance Education), which employs a skilled law enforcement officer as an instructor, and Texans' War on Drugs. However, there is no comprehensive or consistent program covering all grades and all school districts. First grade is not too early to begin teaching children the life skills they need to say no to drugs, because 6-year-olds have been known to abuse drugs such as cocaine and inhalants.

We expect schoolteachers to be able to intervene when a student begins to show the signs of drug abuse, but current law does not offer teachers the tools necessary to accomplish this goal. The drug abuse education programs available for teachers are inadequate in the face of the critical nature of this problem. There are so many types and derivatives of illegal drugs on the market today that teachers should not be expected to be well versed in the nature of the drug abuse problem without an in-depth and accurate training program.

Recommendation: The Task Force recommends that substance abuse education be mandated as one of the essential elements taught in grades 1-12. The Task Force further recommends that teachers be trained to recognize substance abuse among students and that such training be a prerequisite of teacher certification. Teachers should be encouraged to report substance abuse and insulated from liability for such reporting. The Task Force views these as the minimum steps that must be taken to educate our youth about the dangers and destructiveness of alcohol and drug use, thereby affecting the crime problem in an indirect but significant way.

2.2 Expand the Felony Offenses Covered by Determinate Sentencing

Issue: During the 70th legislative session, lawmakers passed much-needed amendments to the Texas Family Code, which enhanced the State's ability to prosecute the hardened violent juvenile offender. The law provided for determinate sentencing upon certain findings of the juvenile court, and thus allowed courts and prosecutors greater flexibility in fitting punishment to the crime committed, as well as in taking into consideration the interests and needs of the juvenile offender.

The juvenile convicted under the provisions of the statute serves time in the Texas Youth Commission until he or she turns 18, at which time the offender may be

transferred to the Texas Department of Corrections to complete the sentence.

However, only six felony offenses are covered under the statute. As a consequence, numerous significant felony offenses escape inclusion. These include aggravated robbery, arson, burglary of a habitation, aggravated assault with a deadly weapon, attempted murder, and sexual assault.

Some hesitate at the concept of incarcerating juvenile offenders for long periods of time. It should be noted that the offenses being committed by this type of juvenile offender differ in no substantial way from the offenses committed by the hardened adult offender. The victims of violent juvenile crime and repeat property offenses perpetrated by juveniles suffer just as much as the victims of adult crime.

Recommendation: The Task Force recommends that the determinate sentencing law be expanded to cover all felony offenses. Such an expansion will give judges more flexibility and allow the Texas system of juvenile justice more adequately to protect the interests of those victimized by juvenile crime.

2.3 Broaden Rehabilitation Efforts for Juvenile Offenders

Issue: A recent statewide study completed by the juvenile committee of the Task Force indicates that, in at least one major jurisdiction, recidivism has run as high as 86 percent among juvenile offenders sent to the Texas Youth Commission between 1983 and 1987. That is, following release, they were filed on for additional crimes as juveniles, they were indicted for crimes after they became adults, or they had their parole revoked by TYC. Clearly, this is an indication that a fresh approach toward rehabilitative efforts needs to be taken in order to enhance the system's ability to deal with the repeat youthful offender. Every juvenile offender deterred from a lifetime of crime is one less statistic in the state prison system.

Recommendation: In order to provide more local input and analysis to rehabilitation authorities, the Task Force recommends that the sentencing juvenile court be given the discretion to submit a rehabilitation plan for the offender prior to the offender's transfer to the Texas Youth Commission. This plan could be prepared by the local authorities, who have easy and ready access to the child's family, friends, and school and to the victim of the offense.

Under this plan, the Texas Youth Commission would be able to provide its own plan of rehabilitation, stating the reasons for any deviation from the local plan submitted by the court, which would retain jurisdiction over the child.

An additional recommendation is that the Texas Youth Commission be required to demonstrate to the court its good-faith effort to follow the plan of rehabilitation ultimately implemented. Providing better coordination and monitoring of rehabilitative efforts for juvenile offenders may help ensure that more individuals will successfully complete the program.

3.0 LAW ENFORCEMENT

Texas has a group of dedicated professionals who are on the front lines of the war on crime every day. The law enforcement community deserves the wholehearted

support of every Texas citizen. The Task Force believes that we must take every action possible to protect our peace officers from violence and provide them with the procedural tools necessary to enforce both the spirit and the letter of the law.

Without question the three most disturbing developments in criminal justice in the last few years have been the increase in violent attacks on law enforcement officers, the growing menace of the illicit drug trade, and the corrections crisis that frustrates the dedicated efforts of Texas police officers, sheriffs, and state troopers. The Task Force makes the following recommendations to help alleviate the problems faced by law enforcement agencies:

3.1 Make Assault on a Peace Officer a First Degree Felony

Issue: Assaulting a peace officer who is protecting the lives and property of Texas citizens should be treated as a serious offense. From 1980 to 1985, assaults on peace officers increased by 14.3 percent, and from 1986 to 1987 alone, assaults rose by 24.8 percent. In calendar year 1987, 4,515 peace officers were assaulted in the line of duty. In Dallas, the number of assaults for the first 11 months of 1988 exceeded the total number of assaults for all of 1987.

Great concern has arisen over the safety of law enforcement officers since a series of bloody attacks garnered headlines in 1988. Three Dallas police officers were shot to death over a six-week period in early 1988, leading citizens to drive with their lights on in support of the police department. In San Antonio, six officers were wounded by gunfire in the span of ten weeks.

Law enforcement officials and criminologists cite a number of reasons for the rise in assaults, including a poor Texas economy, overcrowded prisons, early paroles, and increasing crime rates. Whatever the reason for the increase, assault against a peace officer is a major offense that demands meaningful punishment.

Currently, the offense of aggravated assault against a peace officer is treated as a second or third degree felony, depending on the circumstances of the assault. If a deadly weapon is used during the crime, prosecution as a second degree felony can be sought. Otherwise, the offense is usually classified as a third degree felony.

Recommendation: The Task Force recommends that the penalty for committing the offense of aggravated assault on, or threatening of, a peace officer should be increased to a first degree felony. This recommendation would require legislative action to amend section 22.02 of the Penal Code.

3.2 Increase the Death Benefit for an Officer Killed in the Line of Duty

Issue: In Texas, during 1987, seven peace officers were killed in the line of duty. Currently, the death benefit provided to the surviving spouse is \$20,000, with additional monthly payments to dependents. This is not an adequate sum for the survivors of the men and women who willingly face death on a routine basis.

Recommendation: The Task Force recommends that the death benefit for an officer killed in the line of duty should be increased to \$50,000 for the surviving spouse and dependent children. This recommendation would require legislative action to amend title 109, article 6228f, Texas Revised Civil Statutes Annotated.

The recently enacted federal Anti-Drug Abuse Act of 1988 increased death

benefits to peace officers killed in the line of duty from \$50,000 to \$100,000, retroactive to June 1, 1988. However, these benefits are awarded only if the peace officer was enforcing federal statutes at the time of his or her death.

3.3 Enhance the State Provision for Asset Forfeiture

Issue: According to a 1988 issue of Fortune magazine, the illicit drug trade is probably the fastest-growing industry in the world. The global drug trade is estimated to generate \$500 billion annually, more than twice the value of all U.S. currency in circulation. The American drug market produces annual revenues that are twice what U.S. consumers spend for oil products.

In the ongoing fight against drugs, we must never forget that the illegal drug trade is a big business. Drug dealers are motivated to make a profit, and obscenely large profits can be made by trafficking in the human misery caused by drug addiction. Seizing the cash, cars, weapons, and other assets that have been used in the commission or violation of the drug laws or derived from the profits of the drug trade through strong asset forfeiture laws can help remove the financial incentive for drug trafficking.

Asset forfeiture packs a one-two punch. First it delivers a blow to the financial incentive for drug trafficking and organized crime. These forfeited funds and property can then be used to bolster the resources of the law enforcement agencies that are the front-line forces in the war on drugs. The proceeds from the illicit drug trade can also be utilized in our criminal justice system to ensure the swift prosecution of drug dealers.

In 1981, the Legislature enacted an asset forfeiture law that has allowed limited successes against organized trafficking activities. However, the current law could be made even stronger. On the federal level and in about half of all states, the ability to seize real or personal property used in drug dealing or purchased with the proceeds of illegal activities is helping fight the war on drugs. Unfortunately, Texas state law does not provide for the seizure of real property such as farms, office buildings, condominiums, and exclusive homes when the purchases are not directly traceable to drug profits, even though the property was used in drug operations.

The nature of the problem can be illustrated by the example of an individual who uses legitimate funds to purchase real property. Subsequent to the acquisition, the property could be used to grow and cultivate significant amounts of controlled substances or shield major processing laboratories from inspection. Even though the drugs or plants could be seized, the site where they were grown or refined would be safe from seizure. Under Texas law, even real estate purchased with falsified documents cannot be seized — even though in most instances real property represents the most valuable asset.

A recent national study on asset seizure and forfeiture pays particular attention to what has been accomplished in Florida. The report cites the high-quality procedures for managing and disposing of seized assets that have been developed in Florida out of necessity because of the substantial drug traffic in the state. Unfortunately, Florida's successes have led to the expansion of the drug trade into Texas.

Recommendation: The Task Force recommends that state asset-forfeiture provisions be enhanced to allow for the seizure of all property that is "contraband."

"Contraband" would be defined as any real, personal, tangible, or intangible property that is used in the commission of a felony or is the proceeds of the commission of a felony or is acquired with proceeds from the commission of a felony.

This proposed statute is similar to the one that has proven extraordinarily effective in Florida. Such a statute would allow law enforcement agencies to aggressively seize real estate acquired with drug or other racketeering proceeds. To win the war on drugs, we need to truly make crime pay. This means being able to legally seize all the drug-tainted assets of every convicted drug trafficker.

3.4 Amend Precursor Chemical Laws for Controlled Substances and Their Analogues to Require Reporting of Transactions and Registration of Participants

Issue: In 1986, more speed was produced in Texas than in any other state in the United States, accounting for over 40 percent of the nationwide total. Obviously, speed, because of its ease of manufacture and relatively low cost, is a major component of the overall drug problem in Texas. This has led to increased criminal activity to support the purchase of the drug.

Legislation passed by the 70th Legislature requires that manufacturing wholesalers and retailers of precursor chemicals (which are chemicals used to manufacture a controlled substance) report their precursor sales to the State. However, manufacturers and distributors of controlled substances have persisted in using fake identification, aliases, false addresses, and surrogates in the purchase of these chemicals. Adequate time to investigate the legitimacy of the transaction is not currently available under Texas law.

Another problem is that new designer drugs have appeared on the streets. These are called controlled substance analogues. These drugs have a similar effect on the user, but are slightly different in molecular structure from the controlled substance they imitate. Recent legislation has outlawed these drugs, but often the ingredients or precursor chemicals used to create the designer drug (controlled substance analogue) differ from those used to create the controlled substance.

Recommendation: The Task Force recommends that manufacturers, wholesalers, and retailers of precursors of controlled substances and their analogues be required to register with the State and submit to the State a report of each transaction at least 21 days before delivery of the substance. This recommendation would require legislative action to amend section 3.11 of the Texas Controlled Substances Act. In addition, the Task Force recommends an amendment to current law to allow the Director of the Texas Department of Public Safety to add precursors for controlled substance analogues as well as controlled substances to the legislative list when public safety is jeopardized by their use in the manufacture of illicit drugs.

3.5 Enhance the Existing Computerized Criminal History System to Obtain the Benefits of an Offender-Based Transaction System

Issue: As the existing corrections system resources have over time become overwhelmed with offenders, policy makers at the state and local levels have wanted

accurate information on how the criminal justice system is currently functioning. The importance of accurate and meaningful data becomes increasingly clear as solutions to the lack of capacity are explored.

A computerized Offender-Based Transaction System (OBTS) requires the systemic and systematic collection of essential criminal justice statistics with common data elements and allows for the automated exchange and analysis of relevant information by all components of the system. Data contained in an OBTS allow researchers to examine how the criminal justice system processes offenders, measure the changing volume of offenders moving through the different segments of the criminal justice system, calculate processing time intervals between major decision making events, and assess the changing structure of the offender population. Policy and management decisions can then be based on an accurate portrayal of the system as it really functions.

Texas does not have an OBTS, although interest in adopting such a system has remained high. The Bureau of Justice Statistics of the U.S. Department of Justice has recommended OBTS data reporting standards to guide states in the development and management of OBTS systems.

Texas does have a central state depository of criminal case history data designed to serve the law enforcement community, located at the Texas Department of Public Safety (DPS). The Criminal Justice Policy Council recently conducted an in-depth analysis of this major source of criminal justice information. The system, known as the Computerized Criminal History system (CCH), differs in significant ways from an OBTS. It may, however, provide the basis for designing and adopting an OBTS in Texas if policy makers agree on the need for an OBTS.

The Texas CCH system is part of the Federal Bureau of Investigation National Crime Information Center system. On March 1, 1988, there were 3,468,861 records in the CCH system. In excess of 2.6 million CCH inquiries are initiated annually by police, prosecutors, and researchers.

Upon arrest of an individual, a CCH inquiry is initiated by the arresting agency through a remote terminal. Most law enforcement agencies have their own terminal and smaller agencies without remote terminals can access CCH through other police departments or through their sheriff's office. The CCH check at the point of arrest is used primarily to search for outstanding warrants and determine if the person is currently on probation or parole and in violation of certain conditions of release. Law enforcement investigators use CCH inquiries to determine if suspects in a particular crime are currently in prison, thereby eliminating those persons as suspects.

Prosecutors are perhaps the most frequent users of the CCH system, as they want to know a person's criminal history record for setting bail recommendations, enhancing charges to be filed, deciding what is an acceptable sentence during any plea negotiations, and recommending judge or jury sentences.

CCH data are used by correctional officials to create the files that will be used for case classification in prison, parole release decision making, and the assignment of levels of supervision when an offender is released on parole. As the correctional system is under increased pressure to manage the growth of the prison population, classification decisions and parole decisions have to be made for a larger group of offenders in a shorter processing time. CCH data provide the only central

depository of criminal history information that is easily accessible to the state correctional agencies.

CCH information is also used for research purposes. The information is used to measure the recidivism of offenders by analyzing arrest records one, two, or three years after offenders are released from prison. This information is critical in establishing the "success rate" of different types of offenders and programs. This information can also be used to simulate the impact of policies on the front-end component of the criminal justice system. In 1985 the Criminal Justice Policy Council developed a simulation model to project prison populations and to simulate the impact of policies on the prison and parole systems. Future development of modules to simulate law enforcement and the courts is dependent on new sources of data.

Although the CCH provides many valuable functions, it does not answer the need for a comprehensive data base that tracks offenders throughout the system. An OBTS differs from a CCH system in a number of functional and design requirements. The CCH system serves the primary purpose of being a depository for criminal history records. Data contained therein are for use by criminal justice system personnel to identify offenders, determine the applicability of release on bond, and determine the applicability of enhancing current charges against an accused. The OBTS system, with a common identifier, serves primarily as a systematic way to measure the flow of persons from arrest to discharge from the criminal justice system. Various data elements, such as the outcome of court disposition, are needed in the OBTS but not in the CCH. Transition points from one agency to the next (police to prosecutor, court to corrections, etc.) are of particular interest in an OBTS. The data available from an OBTS system can be used not only by persons in the system, but also by policy makers.

The file structure of the existing CCH system does not contain a unique identifier for each charge; therefore it is not always possible to track a charge from arrest to final disposition. This type of information is critical to modeling the criminal justice system.

There is no requirement in Texas that local agencies report their arrests and case dispositions to the CCH. As with any data system, the information retrieved is only as accurate and complete as the information entered. The following analysis illustrates problems with CCH data collection:

- An indicator of the lack of data entry by local agencies is the use of a special code for offenders received at TDC who have no record of arrest in the CCH system. A sample of 269 offenders admitted to TDC in 1985-1986 showed that 33.8 percent had this 0002 code indicating that no record of arrest exists, even though they were entering the penitentiary — a significant example of data missing from the local reporting agencies.

- A random sample of 500 offenders placed on felony probation during July 1987 was matched against the CCH data base nine months after the sample was taken. Due primarily to a backlog of over one year in updating the CCH record of probationers, out of the group of 500 known probationers fewer than 10 percent had a CCH record accurately reflecting their current status.

- A random sample of 1,000 prison inmates was matched against the CCH data base one week after the sample was taken. Of the known TDC inmates, 87.2 percent

had an accurate CCH entry reflecting their current status.

The ability to conduct any analysis with a CCH system or an OBTS system is dependent on the completeness and quality of the data entered. Because of the importance of the uses of criminal history data, the high incidence of non-reported data is an area of serious concern.

Recommendation: The Task Force recommends the enhancement of the existing Computerized Criminal History System to obtain the benefits of an Offender-Based Transaction System. Such enhancement would greatly improve the accuracy of the data available for all users of the system. An OBTS system adds data elements of crucial importance to local criminal justice system authorities, and this information has become necessary for the proper management of the overburdened criminal justice system. The adoption of an OBTS stand-alone system would represent a costly process, but, by enhancing the existing CCH system, costs can be minimized while the major benefits of an OBTS system can be obtained.

The following changes are recommended:

- Mandatory reporting for all felonies and class A and B misdemeanors of arrests, arrest dispositions, court dispositions including change of venue, and custody status. Only 88.6 percent of all arrests, 17 percent of arrest dispositions, and 52.3 percent of court dispositions were estimated to have been entered into the system in 1986.
- Reclassification of certain "optional" data elements as "required" for data-reporting purposes — including arrest dispositions, court dispositions, and court sentences.
- Implementation of a unique numbering system for each offender.

4.0 PROSECUTION

Prosecutors are in the courtroom every day, bringing the lawbreaker to justice and defending the rights of the victim. Texas county and district attorneys saw felony court convictions in 1987 increase to 9.9 percent of all adult arrests, up from 6.7 in 1980. It is unconscionable that Texas law does not make available to our prosecutors the same tools in court that are available to federal prosecutors. In the case of oral confessions, every state in the union, as well as the federal government, has statutes allowing the admissibility of confessions made to a peace officer but not recorded or committed to writing. The Task Force is in favor of revising these Texas laws to remove inequities in criminal prosecution:

4.1 Clarify the Good-Faith Exception to the Exclusionary Rule

Issue: Both United States and Texas Constitutions protect citizens against "unreasonable searches and seizures." Historically, the remedy for a violation of such protections by law enforcement has been the total exclusion from consideration by a judge or jury of all evidence seized pursuant to the search or seizure, regardless of whether the police acted in good faith in searching for and seizing the incriminating evidence. In Texas, article 38.23 of the Texas Code of Criminal Procedure, enacted in

1965, carried forward this principle, and as a result, numerous individuals engaged in criminal activity walked free when courts, in following the statute, ruled damaging evidence inadmissible. In 1984, in Leon v. United States, 104 S.Ct. 3405 (1984), the United States Supreme Court recognized a good-faith exception to the Federal exclusionary rule. Leon stands for the proposition that the evidentiary fruits of a defective search warrant will not be suppressed so long as the police acted in reasonable good faith in preparing, procuring, and executing the warrant.

Article 38.23 was amended by the 70th Legislature in an attempt to provide a good-faith exception, but the new statute ultimately passed has been viewed by some as potentially ambiguous and confusing. As a result, some courts have failed to recognize the good-faith exception, with the result that evidence admissible in a United States district court would be inadmissible only blocks away in the state courthouse.

The lack of a good-faith exception to the exclusionary rule can adversely affect the criminal prosecution at three vital stages:

- At the charging decision, when a prosecutor is forced to advise the arresting law enforcement officer that charges will not be filed because of problems in the search warrant,
- During the plea-bargaining process, when a prosecutor has to accept a less than satisfactory disposition in terms of length of sentence because of potential problems with the warrant during trial, and
- During the trial and appeal process, when a reasonable verdict by a judge or jury is overturned because of problems with the original warrant. The vast majority of cases with a flawed warrant never make it to this last stage. It is worth noting that the evidence ruled inadmissible often demonstrates that the defendant was engaged in drug trafficking.

Recommendation: The Task Force recommends that needed legislation be passed to clarify the recent amendment to article 38.23 so that there is no question as to the admissibility of evidence seized by law enforcement agencies acting in reasonable good faith in preparing, procuring, and executing a search warrant. If the manner in which a search and seizure is conducted passes United States constitutional muster, that evidence should be admissible in our state courts. Legislation should achieve the original intent of last session's amendment.

4.2 Allow the Admissibility of Oral Statements Voluntarily Made by Defendants

Issue: A defendant's voluntary oral statement or confession of guilt made while in custody is admissible evidence at trial in every jurisdiction in the country except state courts in Texas. In our state, unless such a statement is written or taped, a defendant can orally confess to violent crime even after receiving Miranda warnings, and it cannot be heard by a jury considering his guilt.

Marshall Dwayne Williams was convicted of killing his stepfather by rigging a Dallas Morning News newspaper rack with a bomb, which exploded when the victim bought his morning paper. Williams made numerous significant oral statements confessing his construction of the weapon. Those statements were totally inadmissible in Texas state courts. It was Williams's misfortune that he also had

committed a federal crime when he placed the bomb in the newspaper rack. He was tried in federal court, where those very statements, which were inadmissible in Texas state court, were used against him. All of Williams's constitutional rights were protected in federal court, but the federal fact finder could consider the confession in making its determination of guilt. The individual's rights were protected, and the ends of justice were properly served. If not for the federal statute, which allowed Williams to be tried in federal court, he might be a free man today.

Some savvy criminals who are well aware of Texas law use oral confessions for their own purposes. Harry Temen readily admitted to investigators that he murdered Glenn and Pearl Todd by shooting him in the head and pistol-whipping her to death. However, he refused to be taped or to sign a statement because he "had been to the pen before and knew better than to put anything in writing." When he was later apprehended in Colorado, the Colorado police were amazed to learn that his oral confessions about the murder were not admissible as evidence in the Texas courts.

In Houston, the case of David Port, who murdered a postal worker, is notorious. Port made an oral confession about the killing, but did not allow his statements to be taped or written down. Prosecutors were lucky enough to have sufficient evidence to convict Port of the charge based on other evidence. However, certain oral statements made by Port other than the confession were introduced as evidence at the trial, and on those grounds, the case was overturned on appeal. If Port had committed this offense in another state, his statements to police would have ensured his continued stay behind bars.

Recommendation: The Task Force recommends that state law regarding the admissibility of statements by criminal defendants, contained in article 38.22 of the Texas Code of Criminal Procedure, be amended to provide for the admissibility of a criminal defendant's oral statements to a peace officer when those statements are made knowingly and voluntarily when the defendant is in custody.

4.3 Provide the State the Right to a Jury

Issue: We all value the protections afforded us by our United States and Texas constitutions. Likewise in our state our legislature has wisely drawn a Penal Code and a Code of Criminal Procedure that ensure the continued protection by statute of an accused's rights before, during, and after trial. But there are others whose rights and concerns should be addressed in a fair and equitable system of criminal justice. The victim of crime has recently been afforded more rights by the Legislature. It has been clear since the days of Magna Carta that community input through the jury of your peers is a crucial element in our democratic system of justice.

In Texas, with respect to the right to have a case heard by a jury, the scales of justice tilt heavily toward favoring the criminal. It is the defendant who has the right to a jury at both the guilt and punishment phases of a misdemeanor trial. It is the defendant who has the exclusive right to decide who will punish him, the judge or the jury, in a criminal case. In these instances, the State, representing the people and thus victims of crime, has no say. Only on the issue of guilt in a felony case is the State entitled to have a jury decide.

The result of current law is that a defendant in a felony case can prevent the voice of the community from being heard in determining what is an appropriate price to

pay for that defendant's transgression in that community. And, in a misdemeanor case, the defendant can eliminate community involvement totally by having his case heard by a judge, who may be more sympathetic to his position in, for instance, a case of driving while intoxicated than would the citizenry. A study of convictions in Houston shows that there is a disproportionate number of not-guilty verdicts when misdemeanor cases are heard by a judge rather than by a jury.

Recommendation: The Task Force recommends that legislation be enacted to correct this imbalance. The State, in its representation of victims and the people, should have the same right to a jury determination that the defendant enjoys.

4.5 Include Fingerprint Identification on All Judgments

Issue: Each year, prosecutors' offices statewide order hundreds of "pen packets" from the Texas Department of Corrections. These "pen packets" contain records such as the judgment and sentence under which the defendant went to the Texas Department of Corrections, as well as photographs of the defendant and copies of his fingerprints. These records enable a prosecutor to prove to a judge or jury that a particular defendant has been convicted of a particular offense or offenses and sentenced to the penitentiary. This is done by the comparison of the fingerprints contained in the "pen packet" and fingerprints obtained from the defendant at trial. Likewise, sheriffs' offices throughout the state keep voluminous records on the thousands of misdemeanor convictions obtained year after year. These records are kept so that law enforcement officials, judges, and juries can determine if a particular defendant has been convicted of or incarcerated for a particular offense.

Texas law was amended in the 70th Legislature to provide for the placement of a defendant's fingerprints on the actual judgment itself for convictions for driving while intoxicated, involuntary manslaughter, and all misdemeanors punishable by confinement in jail. Law enforcement officials and prosecutors statewide have indicated in public testimony that this amendment has been very beneficial in improving the admissibility and accuracy of conviction records and making record keeping more efficient.

Recommendation: The Task Force recommends that last session's amendment be expanded to include provision for placement of a defendant's fingerprints on the judgment for convictions of any felony offenses or misdemeanor cases punishable by confinement in jail. Such an expansion will facilitate the discovery and proof of an offender's prior criminal record and make for better record-keeping efficiency.

5.0 PUNISHMENT

Texans today face a challenge like no other — the challenge to overcome the menace of crime and develop adequate correctional programs for those who break our laws. Our commitment to protect our citizens and families from crime does not waver in light of the severe crowding plaguing our prisons and jails. The consensus of the people of this state is clear. We must send a loud message to criminals: If you

break the law, you will pay the price.

That is not to say that the system cannot go the extra mile for those offenders who are willing to accept assistance and become productive members of society. Rehabilitative efforts are very cost-effective in the long run because they can stop the cycle of lawlessness. There is no question that the drug abuse and illiteracy rampant in Texas criminal justice populations must be addressed. But there is a limit to how many chances a criminal should have to prove to the people of this state that he or she has not been reformed. A line must be drawn so that the violent and career offender is not set free to continue to prey upon society.

This section on criminal punishment and the following sections on probation, corrections, and parole outline a comprehensive strategy for dealing with the crisis in our criminal justice system. Prison overcrowding has created intolerable distortions throughout the entire criminal justice system, and we must build more prisons to restore balance to the system. We must never again shut our eyes to the reality of ever-increasing admissions to the Texas Department of Corrections and allow the prison doors to slam shut. Probation and parole have value when they are used as part of a continuum of sanctions to be imposed under certain conditions. Neither probation nor parole should be used as a release valve for prison overcrowding.

On the other hand, with almost 400,000 individuals under some kind of supervision in the system, it is obvious that prison space will remain a scarce resource. That is why strong alternative programs to incarceration must be funded and developed for the offender who can serve his or her sentence outside prison walls without endangering innocent citizens. Probation and parole overcrowding have become almost as much of a problem as prison overcrowding, and adequate resources must be provided so that probation and parole officers can deal with their caseloads. However, as noted in the Criminal Justice Policy Council study, "New Admissions to Prison and Intermediate Sanctions: Looking at Eligible Populations," these alternative programs, while providing much-needed flexibility, are not an antidote to prison overcrowding.

Overcrowding in the Texas Department of Corrections should not be the mechanism that drives how much punishment is meted out to Texas criminals. Expansion of the prison system is absolutely necessary so that further reforms in the criminal justice system can be based on the firm foundation of sufficient space in our state prisons.

With additional capacity available, the punishment can again fit the crime in Texas. More needs to be done to toughen our laws to ensure that the beds in TDC are filled with the dangerous offenders who need to be behind bars, if additional innocent people are not to become their victims. Murderers, drug traffickers, career criminals, and child pornographers belong in this category. The Task Force recommends the following changes to put the justice back into criminal justice in Texas:

5.1 Restore the Requirement of One-Third of the Sentence or 20 Years' Calendar Time for Violent Offenders

Issue: For a number of years the minimum calendar penitentiary time for the commission of those offenses listed under article 42.12, section 3g, of the Texas Code

of Criminal Procedure (capital murder, aggravated kidnapping, aggravated robbery, aggravated sexual assault, or any offense where there is an affirmative finding that the defendant used or exhibited a deadly weapon during the commission of the offense or during immediate flight therefrom), stood at one-third of the sentence or 20 years, whichever occurred first. The 70th Legislature reduced the penalty for those committing these violent offenses to one-fourth of the sentence or 15 years, whichever is the least. See article 42.18, section 8 (b) (1), Texas Code of Criminal Procedure. Overcrowding has become so overwhelming that the violent offenders who have previously been rejected for parole three or more times are being released in an attempt to keep up with the demand for prison beds. Consider these examples noted by the Houston Chronicle:

- Daniel Campos, sentenced to 35 years in prison for stabbing a man 52 times while his wife watched; paroled after slightly less than six years.
- McKinney Fox, sentenced to 10 years for aggravated sexual assault; paroled after 3 years, 4 months.
- Paula Cantrell Derese, sentenced to two concurrent life terms for planning the 1976 slayings of her parents; released after only 10 years.
- Confessed serial killer Tommy Ray Kneeland; sentenced to two life terms, plus 550 years, paroled after only 13 years.

The reduction in calendar time served by violent criminals is simply not appropriate public policy for the alleviation of prison overcrowding.

Recommendation: The Task Force recommends that the minimum time requirements for violent offenders be restored to their previous level of one-third of the sentence or 20 years.

5.2 Add Murder to the List of Violent Offenses that Require Minimum Calendar Time

Issue: A perusal of the list of offenses for which minimum calendar penitentiary time is prescribed by our Legislature reveals a category of violent crime conspicuous by its absence. Murder, the knowing or intentional taking of human life without justification, is not included. While at first blush it may seem that most murders are committed with deadly weapons, and therefore would fall within this category, it is a fact that many times murder is not committed with a deadly weapon. For instance, the child-abuse murder case of the man who smashed his infant daughter's skull by kicking her repeatedly did not involve a "deadly weapon" as described by law.

Recent Texas Court of Criminal Appeals decisions have severely limited the ability of courts to make the appropriate affirmative findings under article 42.12. It is inappropriate that all murderers are not required to serve a minimum calendar time.

Recommendation: Any questions as to whether or not a deadly weapon was used in the commission of the murder would be eliminated by inclusion of murder in the section 3g categories, and therefore the Task Force makes that recommendation.

5.3 Increase the Minimum Calendar Time Required for Repeat Offenders

Issue: As discussed in the analysis of crime section, it has been documented that the repeat offender, or recidivist, accounts for the greatest percentage of crime

committed in Texas and in our nation. A major study of the crime rates of 2,190 offenders in prison in California, Michigan, and Texas was made by the Rand Corporation. The study found that inmates averaged between 187 and 287 crimes per year exclusive of drug deals, and 10 percent of the survey population committed more than 600 crimes annually.

Examples are plentiful of repeat offenders who were released on parole and proceeded to commit new felonies mere hours after receiving their freedom. These are but a few of the shocking details of the crime wave in the state caused by unreformed career criminals:

- Jerry Quate received his third parole, this time after 8-and-a-half years of a life conviction, on a Friday. On the following Sunday, he was taken back into custody for attempted rape and attacking a security guard.

- Ten years into a life sentence for murder, Thomas Edward Williams was paroled. In 11 months, he was back behind bars for the murder of Thomas Christopher Glynn, whom he shot in the back.

- Donald Ray Cumbie was sentenced to life imprisonment for his 16th felony conviction, to be served concurrently with five other sentences of 75 years each. His total sentence was 360 years. Nevertheless, he was paroled after 8-and-a-half years. Five months after parole, he was arrested for the aggravated robbery of a supermarket.

- Eugene Dixon was paroled in the spring after serving less than half of a sentence for sexually assaulting a 15-year-old boy and an 80-year-old woman. By summer, he was charged with stabbing a 12-year-old boy to death.

- Ray Dolpus Moody was charged with murdering his 18-year-old stepdaughter and setting her body on fire just four months after his release on parole on an aggravated assault conviction.

- Timothy Gaines had been out of prison for 25 days when he and three companions decided to visit White Rock Lake. Two men were robbed, two other men were beaten with a hatchet, and two teen-aged girls were raped before Gaines and his companions were caught. Gaines previously had six burglary convictions and served less than a fourth of an eight-year sentence.

When the repeat habitual offender's proclivity to wreak havoc on the safety and property of Texas citizens is combined with the revolving door in our prisons caused by chronic overcrowding, the result is an ever-increasing crime rate, as documented by a report from the Bureau of Justice Statistics on career criminals. ***Society must be protected from the habitual offender as well as from the violent offender.*** In Texas law there is no provision for increasing minimum calendar time served by the repeat offender. Removal of the repeat offender from society is an issue which must be addressed if we are to adequately protect our citizens.

Recommendation: The Task Force recommends that the minimum calendar time served for each subsequent conviction for commission of one of the offenses under article 42.12, section 3g, of the Texas Code of Criminal Procedure be doubled. In cases when there is a conviction for any other felony offense, if four or more felony offenses have been committed and any of one of those offenses falls within the section 3g category, that subsequent conviction should also be subjected to double calendar time.

5.4 Add Aggravated Offenses under the Controlled Substances Act to the List of Offenses That Require Minimum Calendar Time

Issue: Drug dealers who profit from the human misery caused by drug abuse must be held accountable. Currently, there is no provision in Texas law to mandate minimum calendar time for the drug dealer who commits an aggravated offense under the Texas Controlled Substances Act. An aggravated offense under the Act includes delivery, possession with intent to deliver, or manufacture of significant quantities of drugs. Major drug traffickers victimize our citizens as much as the violent offender who commits unspeakable crimes while under the influence of drugs. If we are to win the war on crime, we must win the war on drugs. That requires cracking down on the drug dealers who provide the fuel for the commission of crimes in Texas.

Recommendation: The Task Force recommends that conviction for an aggravated offense under the Controlled Substances Act should be added to the list of offenses under article 42.12, section 3g, of the Texas Code of Criminal Procedure so that appropriate minimum calendar time is served by major drug traffickers.

5.5 Make Possession of Child Pornography a Second Degree Felony

Issue: The Texas Legislature in past sessions has gone far in providing for the protection of our children through the Texas Family Code. Unfortunately, the sad fact is that children are continually victimized by the pornography trade. An equally sad fact is that adults have created a significant demand for this kind of perversion. While it is an offense to knowingly or intentionally possess child pornography, the offense itself is simply a class A misdemeanor. Often the people who possess child pornography are the very ones who take the photographs and participate in the sexual abuse of children. Consider these cases:

- In cases where the child refuses to testify and there is no physical evidence to support the charges, cases alleging child sexual abuse are generally dropped before they ever make it to the court docket. However, the defendant often is apprehended with child pornography in his possession. For instance, one man accused of promoting child prostitution was apprehended with pornographic materials.
- A coach of youth sports, on probation for obscenity and indecency with a child, was apprehended with photographs of young boys engaged in deviate sexual intercourse. Because such a charge is only a misdemeanor, additional felony charges could not be sought.
- A 13-year-old boy who had been abused for a period of years by a 36-year-old locksmith testified that the man used pornographic videotapes of other children to "show him how it was done, man-to-man."

It is obvious that those who possess child pornography do not have the moral compass to point them in the direction of not possessing such material and not participating in the sexual abuse of children.

Recommendation: It is the Task Force's position that the law should provide a strong disincentive to participate in any aspect of child pornography, and accordingly, the Task Force recommends that the offense of possession of child pornography be reclassified as a second degree felony.

6.0 PROBATION

Probation should function as the first rung of a progressive series of punishments and should offer strong programs designed to assist the first-time offender who is motivated to stay out of prison. Unfortunately, the prison overcrowding crisis has distorted the meaning and function of probation. A probated sentence is often used as a mechanism to relieve prison crowding, and some defendants mock the system by choosing to do their time in prison rather than submit to longer-term supervision under probation. Properly used, probation is an effective and meaningful sanction. However, probation functions most effectively when supported by the bottom line of sufficient prison capacity.

The Task Force believes that probation programs should be augmented to help fight the war on crime by rehabilitating offenders before they move on to more serious offenses. This can be done by addressing the issues that are known to be the root causes of crime — lack of discipline and self-esteem, illegal drug use, illiteracy, and not being held accountable for their actions in the community. The following comprehensive recommendations are designed to improve the effectiveness of the probation sanction:

6.1 Establish Boot Camp Programs for Youthful Offenders

Issue: Alarming numbers of young people enter the criminal justice system each year. For many of these youthful offenders, particularly those running afoul of the law for the first time, the system can and should function as a point of termination for crime rather than as the beginning of a series of failures. Quite often, young people become involved in crime because of a lack of discipline and structure in their lives. They may not have experienced training in the common life skills that most of us take for granted — elements as fundamental as social structure or even personal hygiene. An innovative idea to address this category of offender has recently emerged in the form of military-like "boot camps."

Representatives of the Texas Criminal Justice Task Force visited existing boot camps in Georgia and Mississippi. The Task Force members observed operations of the camps and were thoroughly briefed on the overall camp goals, programs, and selection criteria. At the boot camps, carefully screened young offenders undergo a rigorous program designed to develop structure, discipline, and a sense of self worth. The program is value oriented and includes a strong educational component. Initial results show that this is a successful approach that can turn troubled lives around.

Recommendation: The Task Force recommends that the Texas Adult Probation Commission develop specifications and implement plans for "boot camp" facilities to provide intensive residential counseling and life-skills training to 2,000 young offenders. The facilities should be operated by the Commission. Thorough research into the other states' experience should be conducted to ensure an efficient program.

6.2 Include Drug Testing and Rehabilitation as a Condition of Probation and Bond

Issue: As was discussed at length in the analysis of crime, the problem of drug abuse has been proven to be a major causal factor in the incidence of crime. It would appear that responsible use of societal leniency, such as probation or pre-trial release, should include a component to address this critical issue. Both misdemeanor and felony courts in Texas are authorized to grant probated sentences or pre-trial release to offenders who agree to comport themselves within certain enumerated behavioral restraints. During the period of probation, the courts typically require that offenders undergo some form of rehabilitation.

Regular drug testing and, when appropriate, counseling can be an effective tool in the context of probation and as a condition of pre-trial release. Drug testing can put teeth into the courts' requirements that a defendant not use illegal narcotics. Joan Petersilia, a criminal justice expert with the Rand Corporation, has said that drug testing provides a long-term solution to treating drug offenders so that they really get off drugs, get employed, and become legitimate members of society.

Recommendation: The Task Force strongly recommends that drug testing and rehabilitation be utilized whenever appropriate as a condition of probation and at all stages of the criminal justice process where release from confinement or reduction in the level of sanction restriction is considered.

6.3 Make Continuing Education a Condition of Probation

Issue: Besides drug abuse, probably no factor has more impact on the crime equation than lack of education. The Bureau of Justice Statistics has found that offenders who have not completed high school are more likely to become repeat offenders. As noted in the analysis of crime in Texas, a profile of inmates in TDC showed that 91 percent did not complete high school, and the average grade level of achievement is slightly more than sixth grade. This condition can spread like a ripple on a pond into other areas of an individual's life and bring about the kinds of failures that can lead to the commission of crimes.

In a manner similar to drug testing and rehabilitation, a requirement to attend remedial or continuing education classes could be a very effective tool for judges and probation offices. A well-rounded program of prevention and rehabilitation during the period of probation should include strong education features.

Recommendation: The Task Force recommends that involvement in education programs be a condition of probation whenever appropriate.

6.4 Increase Funding for Probation Alternatives to Incarceration Through Enhanced Supervision Models

Issues: The Texas Adult Probation Commission currently provides funding to individual probation offices for operation of a number of innovative supervision programs. Included in this category are court residential treatment centers, restitution centers, intensive supervision probation, specialized caseloads (for

mentally retarded, sex offenders, physically handicapped, etc.), surveillance probation, and electronic monitoring. These promising programs can be key elements in a broad continuum of sanctions.

Recommendation: The Task Force recommends increased funding for probation alternatives to incarceration through enhanced supervision models such as intensive supervision probation and electronic monitoring. At a time when prison capacity is becoming an increasingly scarce resource, it is necessary to review the availability of every sanction at our disposal. The Task Force believes that these programs can make a significant contribution to the efforts to manage the state criminal justice system more effectively.

6.5 Allow Judges the Discretion to Order a Probation Fee to Benefit Local Crime Stoppers Programs

Issue: Criminals take a great deal away from the communities where they live. As crime and fear of crime grow, the quality of life suffers. Punishment for crime does not often enough involve giving something back to the community that was victimized by the crime. There is no sanction more appropriate and more helpful to the community than an offender's contributing to a program that helps catch other criminals.

Crime Stoppers is the most successful citizen involvement anti-crime program in the country. The first Crime Stoppers program in Texas was established in El Paso in September of 1978, and other communities soon started programs. The spread of Crime Stoppers in Texas led to the passage of House Bill 1681 which became article 4413 (50), Texas Revised Civil Statutes Annotated. The new law, signed by Governor Clements, became effective on September 1, 1981, and created a five-member Texas Crime Stoppers Advisory Council, provided for the confidentiality of Crime Stoppers records, and contained criminal penalties for misuse of information. Today there are 186 local Crime Stoppers programs operating in Texas, more than in any other state.

Crime Stoppers is so successful because citizens take an active role in actually solving crime. Local programs form a non-profit corporation and establish a partnership with the media and law enforcement agencies in soliciting criminal information from the community. The media contribute greatly to the success of the program by publicizing "Crimes of the Week" and other Crime Stoppers programs as a service to the community. Because Crime Stoppers relies on cooperative effort between the police and the community, a by-product of the program has been improved lines of communication between law enforcement agencies and citizens.

If the information provided leads to the arrest and grand jury indictment of a crime offender, the caller is eligible for a cash reward of up to \$1,000. The program offers complete anonymity to the callers, if desired. The money expended on cash rewards and administrative costs is donated by individuals and businesses in a particular community. Collectively, Crime Stoppers programs in Texas have assisted in the solution of 45,000 felony cases resulting in the arrest of over 32,000 suspects, and recovering in excess of \$320 million in stolen property and illegal narcotics bound for our Texas streets. Just one example is the witness who provided crucial

testimony recently in a trial for a brutal nine-year-old unsolved murder after responding to a Crime Stoppers "Crime of the Week" re-enactment in Austin and refusing the reward money. For these impressive results, the Texas programs have expended approximately \$5 million in donated money for cash rewards. Crime Stoppers is a very cost-effective program in that, for every \$1 expended for cash rewards, \$64 in stolen property and illegal narcotics are recovered.

However, despite the success of Crime Stoppers programs in solving crimes through the offering of rewards, a faltering economy and an ever-increasing crime rate have caused difficulty in raising sufficient funds. To combat this problem, many state district judges began ordering defendants to make payments to Crime Stoppers programs as a term and condition of probation. The validity of this procedure was confirmed by Texas Attorney General Jim Mattox, in his opinion JM-307. As a result of an amendment to a probation reform bill passed by the 70th Legislature, the discretionary authority of judges to impose the payment to a Crime Stoppers program as a term and condition of probation was totally removed.

Recommendation: The Task Force recommends the passage of a bill to amend section 6, article 42.12, Code of Criminal Procedure, by adding subsection (m) to read as follows:

(m) In addition to any other terms and conditions imposed under this section, the court may require the probationer as a condition of his probation to make one or more payments, in amounts determined by the court, to a local Crime Stoppers program as defined by Chapter 384, Acts of the 67th Legislature, Regular Session, 1981 (Chapter 414, Texas Government Code) and as certified by the Texas Crime Stoppers Advisory Council. In imposing the condition, the court shall consider the ability of the probationer to make the payments and the effectiveness and fiscal responsibility of the local Crime Stoppers program.

7.0 CORRECTIONS

When all the essential preventive measures have failed, a functional prison system is imperative. The intervention of the federal courts and the court-ordered depopulations have changed the face of corrections today. As demonstrated by the frequent closures at TDC and the intolerable backlog of convicted felons in county jails waiting to be transferred to prison, Texas is continuing to experience a severe shortage of prison capacity. There is nothing to engender change in the behavior of criminally prone individuals when the spectre of real punishment, the cold reality of a long stretch behind bars, has all but disappeared. Criminals like Daniel Campos, sentenced to 35 years in prison for stabbing a man 52 times while his wife watched, are being released after serving only small portions of their sentences. The Task Force holds that the welfare of Texas citizens is not protected by the early release of violent and repeat offenders, and justice is not served when the reasonable sentences determined by judges and juries are undermined by the need to relieve prison overcrowding. The Task Force also holds that we can help end the revolving doors in our prisons by preparing incarcerated offenders to function more successfully in the outside world when they are released. Continuing education, drug and alcohol

treatment, and specialized counseling can be used to enable inmates to avoid the situations and failures that so often lead to recidivism. Therefore, the Task Force recommends the following:

7.1 Enhance Texas Department of Corrections Capacity and Rehabilitative Programs

Issue: Texans can hardly pick up a newspaper today without reading of the frustration expressed by victims, law enforcement officers, prosecutors, judges, jailers, and outraged citizens over the problems caused by lack of prison capacity. The head of the San Antonio Police Officers Association summed up the feelings of many law enforcement professionals: "Right now there is no prison system. The appeals court and the parole board are sending them back into the streets as quickly as we can get them in. The criminals know nothing will happen with them when we arrest them. We're losing the war." Said Bexar County Judge Tim Johnson: "It makes you sick. I have imposed some sentences I wouldn't have just because of jail overcrowding." Major Bob Knowles of the Dallas County Sheriff's Department stated: "It is no longer a deterrent. The criminals are well aware that if they get caught, they're not going to be punished. After two or three months served on a 2-to-10-year sentence, they're out on parole. And down there (in jail), it's like a reunion — they all know each other."

Testimony before the Task Force hearings pointed out that insufficient TDC capacity causes problems at virtually every stage of the criminal justice process. One serious ramification is the backlog of inmates clogging our county jails while awaiting transfer to TDC. This backlog puts immense fiscal pressure on local elected officials. The ripple effect of insufficient capacity then reaches out into law enforcement, the courts, probation, parole, and on and on.

Countless violent and repeat offenders are being released from TDC after serving only a fraction of their sentences. As noted in the analysis of crime section, there has been a real decline in the proportion of offenders who are incarcerated. In 1980, 16.9 percent of the 168,099 offenders under supervision by criminal justice authorities were in prison. By 1987, there were 369,449 offenders under supervision, and the percentage in prison had declined to 10.6 percent. Furthermore, the average time served by most inmates released in 1987 was 12 months, less than one-fourth of their sentence. Five years ago, the average length of stay in the Texas Department of Corrections (TDC) was over half of the sentence.

The necessity for early releases has strained the ability of the Board of Pardons and Paroles to use discretion in reaching parole decisions. To stay within court-ordered prison population guidelines, the board is now approving three out of every four convicts for parole as soon as they become eligible. It is now possible to be released on parole after completing 3 months of a 2-year sentence, 7.6 months of a 5-year sentence, and 15.2 months of a 10-year sentence. The number of parolees under supervision nearly tripled from 1980 to 1987.

Criminals who have demonstrated their lack of respect for our laws are coming to have less and less fear of the consequences of breaking those laws. A swift and sure punishment, once the hallmark of our criminal justice system, is made all but impossible by the overcrowded conditions in our prisons. It is unfortunately true

that jokes abound in Texas jails and courtrooms about how soon a dangerous criminal will be back out on the streets, once again having beaten the system and emerged, for all intents and purposes, unpunished and unchanged.

Even with the first phase of construction authorized by the 70th Legislature, a continued crisis in capacity is anticipated if no additional construction is made possible. In preparation for the February Criminal Justice Summit, the Criminal Justice Policy Council made projections on the depletion of new prison capacity. The projections showed that, even with the completion of the 13,000 beds now under way, there will likely be a shortfall of 7,500 beds by fiscal year 1991 (based on available population growth estimates). A preliminary analysis by the Policy Council estimates that the backlog of convicted felons in county jails will be reduced incrementally as the new capacity authorized by the 70th Legislature comes on line. However, the analysis also shows that unless additional capacity is built the county jail backlog could begin to build once again as early as June 1990.

The two key components of functionality in a corrections system are adequate capacity and viable programs of rehabilitation. We must have a functional prison system to lock up the violent and habitual criminal, while at the same time rehabilitating the offender who is willing to learn from the experience of incarceration and turn his or her life around. The current crisis caused by the lack of capacity in the Texas Department of Corrections has taken the corrections out of our corrections system.

Recommendation: Based on projections by the Criminal Justice Policy Council and expert testimony from a number of corrections officials, the Task Force is recommending addition of the following capacity at the Texas Department of Corrections:

<u>Number and Type of Facility</u>	<u>No. Beds</u>	<u>Cost</u>
(3) Michael Prototype Maximum-Security Units	6,750	\$192,600,000
(3) 1000-Bed Regional Medium-Security Units	3,000	66,000,000
(2) Regional Psychiatric Units and 60-Bed Infirmary (Infirmary beds do not count toward capacity)	1,000	84,000,000
(1) Geriatric Dormitory	<u>59</u>	<u>553,435</u>
TOTALS	10,809	\$343,153,435

Illustrative breakdowns of each type of unit and the costs of construction are provided on the following pages. Additional expansion of the system is critically needed to bring the system back into equilibrium and carry us comfortably into the 1990's.

The Task Force also recommends that the increased budget requests of the Texas Department of Corrections for drug and alcohol counseling and other services to inmates be approved in recognition of the fact that the root causes of crime must be attacked to reduce recidivism. Education, treatment, and job training components of the prison system must be expanded to allow a continuum of rehabilitative programs from probation through parole.

7.1.1 Summary of construction costs:

A. (3) Michael 2,250-Bed Prototype Units Construction Costs: \$64,200,000/unit x 3	\$192,600,000
B. (3) 1000-Bed Regional Reintegration Centers Construction Costs: \$22,000,000/unit x 3	\$ 66,000,000
C. Northern Region 500-Bed Psychiatric Facility Construction Costs:	\$ 39,000,000
D. Southern Region 500-Bed Psychiatric Facility and 60 Infirmary Beds Construction Costs:	\$ 45,000,000
E. Geriatric 59-Bed Unit Construction Costs:	\$ 553,435
Total, Projects A, B, C, D, E	\$343,153,435
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Total Number of Beds (Infirmary beds do not count toward capacity)	10,809
Total Number of Employees	4,131

7.1.2 Michael Prototype Units (3)

Three new 2,250-bed medium/maximum, Mark W. Michael type-facilities are to be constructed on owned or donated sites to be determined. Construction documents for Michael Unit prototypes are to be adjusted to accommodate conditions at the identified site. The 6,750 additional beds will assist in meeting projected population growth and allow for compliance with the Ruiz overcrowding stipulation.

The state-of-the-art Michael Unit in Palestine has proven to be both operationally efficient and secure and is generally agreed to be the model by which additional medium/maximum-security beds should be constructed.

Capacity Provided:	5,184	Medium/Close Beds in Double-Occupancy Cells
	1,566	Maximum/Administrative Segregation Beds in Single Occupancy Cells

	6,750	Beds
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Construction Cost:	Utility Extensions	\$ 21,335,367
	Street and/or Extension	1,100,574
	Site Construction Cost	1,100,574
	Bldg. Construction Cost	141,075,000
	Contingency	7,108,779

Services:

A. Survey, Soils Investigation and Testing	723,965
B. Architect-Engineer	10,859,473
C. Institutional/Agency Administration and Inspection	4,524,781
D. Other Services/Fees	271,487

Furniture and Equipment	4,500,000
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Total Construction Cost	\$192,600,000
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	<u>Per Unit</u>	<u>3 Units</u>
Annual Operating Cost:	\$ 5,384,607	\$ 16,153,821
Annual Payroll:	16,556,049	49,668,147
Number of Employees:	795	2,385

7.1.3. Regional Reintegration Centers (3)

Three new 1,000-bed regional centers with medium- and minimum-security cells are to be constructed on owned or donated sites to be selected. These facilities are intended to increase community contacts, bring inmates closer to their families, emphasize basic literacy and job skills, and provide work opportunities and reintegration into society. Buildings will be in a "campus" layout sharing a common core, with incremental construction of housing compounds possible.

In addition, the 3,000 regional beds will assist in meeting projected population growth and allow for compliance with the Ruiz overcrowding stipulation.

Capacity Provided:	3,000 Medium/Minimum Beds in Double Occupancy Cells	
Construction Costs:	Utility Extensions	\$ 7,128,368
	Street and/or Extension	\$ 377,144
	Site Construction Cost	377,144
	Bldg. Construction Cost	47,250,000
	Contingency	2,381,357
	Services:	
	A. Survey, Soils, Investigation and Testing	242,475
	B. Architect-Engineer	3,637,119
	C. Institutional/Agency Administration and Inspection	1,515,466
	D. Other Services/Fees	90,928
	Furniture and Equipment	3,000,000
	Total Construction Cost	\$ 66,000,000
	<u>Per Unit</u>	<u>3 Units</u>
Annual Operating Cost:	\$ 2,132,911	\$ 6,398,733
Annual Payroll:	5,490,842	16,472,526
Number of Employees:	261	783

7.1.4 Northern Regional Psychiatric Facility

One new 500-bed psychiatric unit is to be constructed on an owned or donated site adjacent to an existing northern regional state facility. The psychiatric facility is in accordance with the TDC four-year expansion plan. In addition, the 500 beds will assist in meeting projected population growth and allow for compliance with the Ruiz stipulation.

Capacity Provided:	500 Psychiatric Beds	
Construction Costs:	Utility Extensions	\$ 4,309,113
	Street and/or Extension	222,858
	Site Construction Cost	222,858
	Bldg. Construction Cost	28,500,000
	Contingency	1,436,143
	Services:	
	A. Survey, Soils, Investigation and Testing	146,255
	B. Architect-Engineer	2,193,831
	C. Institutional/Agency Administration and Inspection	914,096
	D. Other Services/Fees	54,846
	Furniture and Equipment	1,000,000
	Total Construction Cost	\$ 39,000,000
Annual Operating Costs:		\$ 1,467,000
Annual Payroll:		\$ 11,033,000
Number of Employees:		479

7.1.5 Southern Regional Psychiatric Facility

One new 560-bed psychiatric and infirmary unit is to be constructed on an owned or donated site adjacent to the existing southern regional state facility. The psychiatric facility is in accordance with the TDC four-year expansion plan. In addition, the 560 beds will assist in meeting projected population growth and allow for compliance with Ruiz stipulation.

Capacity Provided: 500 Psychiatric Beds
 60 Infirmary Beds (Infirmary beds do not count toward capacity)

560 Beds

Construction Costs:	Utility Extensions	\$ 4,991,344
	Street and/or Extension	257,144
	Site Construction Cost	257,144
	Bldg. Construction Cost	33,000,000
	Contingency	1,662,857

Services:

A. Survey, Soils, Investigation and Testing	169,349
B. Architect-Engineer	2,540,229
C. Institutional/Agency Administration and Inspection	1,058,429
D. Other Services/Fees	63,506

Furniture and Equipment	1,000,000
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Total Construction Cost	\$45,000,000
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Annual Operating Costs:	\$ 1,467,000
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Annual Payroll:	\$11,033,000
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Number of Employees:	479
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7.1.6 Geriatric Unit

Special dormitory housing for 59 older inmates is to be constructed on an owned or donated site adjacent to an existing state facility. The geriatric unit will help meet the special needs requirements of future older inmate population growth, and allow for compliance with the Ruiz stipulation.

Capacity Provided:	59 Special Dormitory Housing for Geriatrics	
Construction Costs:	Utility Extensions	\$ 61,240
	Street and/or Extension	3,162
	Site Construction Cost	3,162
	Bldg. Construction Cost	404,978
	Contingency	20,407
	Services:	
	A. Survey, Soils, Investigation, and Testing	2,078
	B. Architect-Engineer	31,174
	C. Institutional/Agency Administration and Inspection	12,989
	D. Other Services/Fees	779
	Furniture and Equipment	13,465
		<hr/>
Total Construction Cost:		\$553,435
Annual Operating Costs:		\$ 75,360
Annual Payroll:		\$104,770
Number of Employees:		5

7.2 Consider Alternate Methods of Financing Construction

Issue: Contraction in the Texas economy has caused a diminished flow of dollars into our state treasury. The resultant budget crunch could not have come at a worse time given the urgent need for additional prison capacity.

Although Texas has traditionally followed the pay-as you-go route even for large projects such as prisons, the idea of financing construction costs has begun to make more and more economic sense. Since the benefit of a prison unit accrues to taxpayers over a great number of years, it appears appropriate for those taxpayers to bear the burden of payment over a like or similar period.

The 70th Legislature passed, and Governor Clements ultimately signed, bills providing for bond financing of a significant expansion of TDC capacity. Texas voters subsequently approved the issuance of economically sound general obligation bonds to finance this major expansion.

Recommendation: The Task Force recommends that the appropriateness of bond financing be considered in the discussion of additional expansion of TDC capacity. On the following pages are two sample financing scenarios based on current market conditions. The construction schedule for the 1988-89 biennium is also included to provide a framework for the consideration of additional capacity during the 1990-91 biennium.

7.2.1 SAMPLE BOND FINANCING SCENARIO FOR \$340 MILLION ISSUE
30-YEAR MATURITY AT 7.5%

57

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
04/01/89			6,375,000.00	6,375,000.00	6,375,000.00
10/01/89	3,120,000.00	7.500000	12,750,000.00	15,870,000.00	
04/01/90			12,633,000.00	12,633,000.00	28,503,000.00
10/01/90	3,360,000.00	7.500000	12,633,000.00	15,993,000.00	
04/01/91			12,507,000.00	12,507,000.00	28,500,000.00
10/01/91	3,625,000.00	7.500000	12,507,000.00	16,132,000.00	
04/01/92			12,371,062.50	12,371,062.50	28,503,062.50
10/01/92	3,905,000.00	7.500000	12,371,062.50	16,276,062.50	
04/01/93			12,224,625.00	12,224,625.00	28,500,687.50
10/01/93	4,210,000.00	7.500000	12,224,625.00	16,434,625.00	
04/01/94			12,066,750.00	12,066,750.00	28,501,375.00
10/01/94	4,535,000.00	7.500000	12,066,750.00	16,601,750.00	
04/01/95			11,896,687.50	11,896,687.50	28,498,437.50
10/01/95	4,890,000.00	7.500000	11,896,687.50	16,786,687.50	
04/01/96			11,713,312.50	11,713,312.50	28,500,000.00
10/01/96	5,270,000.00	7.500000	11,713,312.00	16,983,312.50	
04/01/97			11,515,687.50	11,515,687.50	28,499,000.00
10/01/97	5,685,000.00	7.500000	11,515,687.50	17,200,687.50	
04/01/98			11,302,500.00	11,302,500.00	28,503,187.50
10/01/98	4,125,000.00	7.500000	11,302,500.00	17,427,500.00	
04/01/99			11,072,812.50	11,072,812.50	28,500,312.50
10/01/99	6,605,000.00	7.500000	11,072,812.50	17,677,812.50	
04/01/ 0			10,825,125.00	10,825,125.00	28,502,937.50
10/01/ 0	7,115,000.00	7.500000	10,825,125.00	17,940,125.00	
04/01/ 1			10,558,312.50	10,558,312.50	28,498,437.50
10/01/ 1	7,670,000.00	7.500000	10,558,312.50	18,228,312.50	
04/01/ 2			10,270,687.50	10,270,687.50	28,499,000.00
10/01/ 2	8,270,000.00	7.500000	10,270,687.50	18,540,687.50	

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
04/01/ 3			9,960,562.50	9,960,562.50	28,501,250.00
10/01/ 3	8,915,000.00	7.500000	9,960,562.50	18,875,562.50	
04/01/ 4			9,626,250.00	9,626,250.00	28,501,812.50
10/01/ 4	9,610,000.00	7.500000	9,626,250.00	19,236,250.00	
04/01/ 5			9,265,875.00	9,265,875.00	28,502,125.00
10/01/ 5	10,355,000.00	7.500000	9,265,875.00	19,620,875.00	
04/01/ 6			8,877,562.50	8,877,562.50	28,498,437.50
10/01/ 6	11,165,000.00	7.500000	8,877,562.50	20,042,562.50	
04/01/ 7			8,458,875.00	8,458,875.00	28,501,437.50
10/01/ 7	12,035,000.00	7.500000	8,458,875.00	20,493,875.00	
04/01/ 8			8,007,562.50	8,007,562.50	28,501,437.50
10/01/ 8	12,970,000.00	7.500000	8,007,562.50	20,977,562.50	
04/01/ 9			7,521,187.50	7,521,187.50	28,498,750.00
10/01/ 9	13,980,000.00	7.500000	7,521,187.50	21,501,187.50	
04/01/10			6,996,937.50	6,996,937.50	28,498,125.00
10/01/10	15,070,000.00	7.000000	6,996,937.50	22,066,937.50	
04/01/11			6,431,812.50	6,431,812.50	28,498,750.00
10/01/11	16,245,000.00	7.500000	6,431,812.50	22,676,812.50	
04/01/12			5,822,625.00	5,822,625.00	28,499,437.50
10/01/12	17,510,000.00	7.500000	5,822,625.00	23,332,625.00	
04/01/13			5,166,000.00	5,166,000.00	28,498,625.00
10/01/13	18,875,000.00	7.500000	5,166,000.00	24,041,000.00	
04/01/14			4,458,187.50	4,458,187.50	28,499,187.50
10/01/14	20,350,000.00	7.500000	4,458,187.50	24,808,187.50	
04/01/15			3,695,062.50	3,695,062.50	28,503,250.00
10/01/15	21,935,000.00	7.500000	3,695,062.50	25,630,062.50	
04/01/16			2,872,500.00	2,872,500.00	28,502,562.50
10/01/16	23,645,000.00	7.500000	2,872,500.00	26,517,500.00	
04/01/17			1,985,812.50	1,985,812.50	28,503,312.50

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
10/01/17	25,485,000.00	7.500000	1,985,812.50	27,470,812.50	
04/01/18			1,030,125.00	1,030,125.00	28,500,937.50
10/01/18	27,470,000.00	7.500000	1,030,125.00	28,500,125.00	
04/01/19					28,500,125.00

DATED 01/01/89 WITH DELIVERY OF 01/31/89

BOND YEARS 6,951,920.000

AVERAGE COUPON 7.500

AVERAGE LIFE 20.447

N I C % 7.500000 % USING 100.0000000

7.2.2 SAMPLE BOND FINANCING SCENARIO FOR \$340 MILLION ISSUE
30-YEAR MATURITY AT 8.0%

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
04/01/89			6,800,000.00	6,800,000.00	6,800,000.00
10/01/87	2,820,000.00	8.000000	13,600,000.00	16,420,000.00	
04/01/90			13,487,200.00	13,487,200.00	29,907,200.00
10/01/90	3,060,000.00	8.000000	13,487,200.00	16,547,200.00	
04/01/91			13,364,800.00	13,364,800.00	29,912,000.00
10/01/91	3,315,000.00	8.000000	13,364,800.00	16,679,800.00	
04/01/92			13,232,200.00	13,232,200.00	29,912,000.00
10/01/92	3,590,000.00	8.000000	13,232,200.00	16,822,200.00	
04/01/93			13,088,600.00	13,088,600.00	29,910,800.00
10/01/93	3,890,000.00	8.000000	13,088,600.00	16,978,600.00	
04/01/94			12,933,000.00	12,933,000.00	29,911,600.00
10/01/94	4,210,000.00	8.000000	12,933,000.00	17,143,000.00	
04/01/95			12,764,600.00	12,764,600.00	29,907,600.00
10/01/95	4,565,000.00	8.000000	12,764,600.00	17,329,600.00	
04/01/96			12,582,000.00	12,582,000.00	29,911,600.00
10/01/96	4,945,000.00	8.000000	12,582,000.00	17,527,000.00	
04/01/97			12,384,200.00	12,384,200.00	29,911,200.00
10/01/97	5,355,000.00	8.000000	12,384,200.00	17,739,200.00	
04/01/98			12,170,000.00	12,170,000.00	29,909,200.00
10/01/98	5,800,000.00	8.000000	12,170,000.00	17,970,000.00	
04/01/99			11,938,000.00	11,938,000.00	29,908,000.00
10/01/99	6,285,000.00	8.000000	11,938,000.00	18,223,000.00	
04/01/ 0			11,686,600.00	11,686,600.00	29,909,600.00
10/01/ 0	6,810,000.00	8.000000	11,686,600.00	18,496,600.00	
04/01/ 1			11,414,200.00	11,414,200.00	29,910,800.00
10/01/ 1	7,375,000.00	8.000000	11,414,200.00	18,789,200.00	
04/01/ 2			11,119,200.00	11,119,200.00	29,908,400.00

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
10/01/ 2	7,990,000.00	8.000000	11,119,200.00	19,109,200.00	
04/01/ 3			10,799,600.00	10,799,600.00	29,908,800.00
04/01/ 3	8,655,000.00	8.000000	10,799,600.00	19,454,600.00	
04/04/ 4			10,453,400.00	10,453,400.00	29,908,000.00
10/01/ 4	9,380,000.00	8.000000	10,453,400.00	19,833,400.00	
04/01/ 5			10,078,200.00	10,078,200.00	29,911,600.00
10/01/ 5	10,160,000.00	8.000000	10,078,200.00	20,238,200.00	
04/01/ 6			9,671,800.00	9,671,800.00	29,910,000.00
10/01/ 6	11,005,000.00	8.000000	9,671,800.00	20,676,800.00	
04/01/ 7			9,231,600.00	9,231,600.00	29,908,400.00
10/01/ 7	11,925,000.00	8.000000	9,231,600.00	21,156,600.00	
04/01/ 8			8,754,600.00	8,754,600.00	29,911,200.00
10/01/ 8	12,915,000.00	8.000000	8,754,600.00	21,669,600.00	
04/01/ 9			8,238,000.00	8,238,000.00	29,907,600.00
10/01/ 9	13,995,000.00	8.000000	8,238,000.00	22,233,000.00	
04 01 10			7,678,200.00	7,678,200.00	29,911,200.00
10/01/10	15,160,000.00	8.000000	7,678,200.00	22,838,200.00	
04/01/11			7,071,800.00	7,071,800.00	29,910,000.00
10/01/11	16,420,000.00	8.000000	7,071,800.00	23,491,800.00	
04/01/12			6,415,000.00	6,415,000.00	29,906,800.00
10/01/12	17,790,000.00	8.000000	6,415,000.00	24,205,000.00	
04/01/13			5,703,400.00	5,703,400.00	29,908,400.00
10/01/13	19,275,000.00	8.000000	5,703,400.00	24,978,400.00	
04/01/14			4,932,400.00	4,932,400.00	29,910,800.00
10/01/14	20,880,000.00	8.000000	4,932,400.00	25,812,400.00	
04/01/15			4,097,200.00	4,097,200.00	29,909,600.00
10/01/15	22,620,000.00	8.000000	4,097,200.00	26,717,200.00	
04/01/16			3,192,400.00	3,192,400.00	29,909,600.00
10/01/16	24,505,000.00	8.000000	3,192,400.00	27,697,400.00	

DATE	PRINCIPAL	COUPON	INTEREST	PERIOD TOTAL	FISCAL TOTAL
04/01/17			2,212,200.00	2,212,200.00	29,909,600.00
10/01/17	26,545,000.00	8.000000	2,212,200.00	28,757,200.00	
04/01/18			1,150,400.00	1,150,400.00	29,907,600.00
10/01/18	28,760,000.00	8.000000	1,150,400.00	29,910,400.00	
04/01/19					29,910,400.00

DATED 01/01/89 WITH DELIVERY OF 01/31/89

BOND YEARS 7,051,120.000

AVERAGE COUPON 8.000

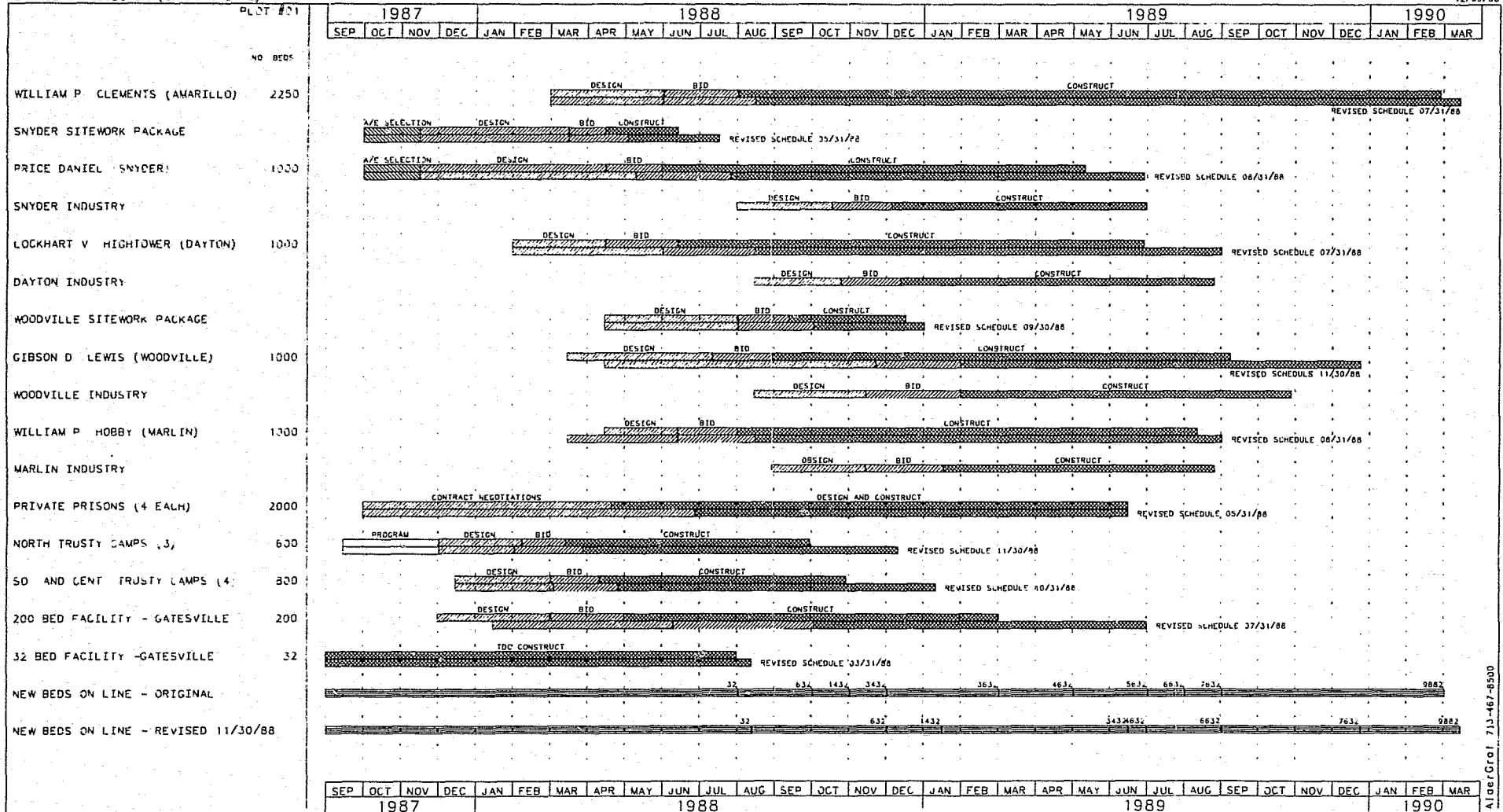
AVERAGE LIFE 20.739

N I C % 8.000000 % USING 100.0000000

TEXAS DEPARTMENT OF CORRECTIONS
FACILITIES EXPANSION AND IMPROVEMENT PROGRAM
PROGRAM SCHEDULE 1988-1989 BIENNIUM
PREPARED BY BROWN AND ROOT - PROGRAM DEVELOPMENT CONSULTANTS

CAPACITY PROJECTS (CHART 1 OF 2)

12/09/88



PREPARED BY BROWN AND ROOT - PROGRAM DEVELOPMENT CONSULTANTS

12/09/88



8.0 PAROLE

The parole decision-making process has been intolerably distorted because of prison overcrowding. The Board of Pardons and Paroles and overburdened parole officers have been placed under a tremendous strain because of the lack of available prison space. As the Criminal Justice Summit stated, releases due solely to overcrowding make sentences meaningless, constitute a threat to public safety, and weaken or remove the deterrent to crime.

However, parole can serve a vital function in an effective continuum of sanctions. While they are on parole, motivated individuals should be able to continue the rehabilitative programs that they started in prison. By the same token, meaningful punishment options should be available for use by parole officers who currently have few tools to keep technical violators of parole conditions in line. The Task Force believes that the following actions should be taken to restore the effectiveness of the sanction of parole:

8.1 Construct Intermediate-Sanction Facilities for Parole Violators

Issue: Of particular note among the innovations being developed by the Board of Pardons and Paroles is a proposal for intermediate-sanction facilities. These would be secure facilities operated under contract with third-party service providers. The in-house programming would be highly structured and oriented toward treatment and rehabilitation. Cases that require an intermediate sanction between regular supervision and revocation to an overcrowded TDC could be placed in these facilities as a special condition of parole/mandatory supervision.

Two factors strongly recommend this program. First of all, return-to-custody facilities would have the potential to clear county jails of those blue-warrant parole cases that are routinely left in custody for extended periods and then eventually released in lieu of revocation. Second, such a program would put the teeth back into field parole supervision. Parole officers at this juncture have very little effective authority over individuals in their caseloads. Releasees are most often aware that, unless they commit a new felony, there is little likelihood of their being returned to TDC custody.

Recommendation: The Task Force recommends that the Board of Pardons and Paroles be authorized to develop and implement plans for 2,000 intermediate-sanction beds.

8.2 Include Drug Testing and Rehabilitation as a Condition of Parole

Issue: Drugs and crime go hand in hand. If we expect to make meaningful progress toward reducing recidivism, the drug abuse treatment programs initiated in prison must be continued during the parole period, when there is great temptation to fall back into old habits even among the inmates who are most motivated to stay off drugs.

The analysis of crime section contained information on a Board of Pardons and Paroles study that showed that two-thirds of those tested were taking drugs. This

clearly shows that parolees continue to have high levels of drug abuse, confirming what field parole officers had known for some time. Taken at face value, the test results demonstrate a disturbing pattern of non-compliance with the terms and conditions of parole. They give rise to a whole new dimension of concern, however, when considered in light of the well-established link between drugs and crime.

Real commitment must be made to ending the vicious circle of drugs and crime. At stake are the further commission of crimes by drug-abusing offenders and the safety of the public. During the period of parole, the Board often requires that offenders undergo some form of counseling, therapy, or training. Regular drug testing and, when appropriate, counseling can be an effective tool in the context of parole.

Recommendation: The Task Force strongly recommends that drug testing and rehabilitation be utilized as a condition of parole whenever appropriate. The process should be designed to reinforce measures started with the offender in the Texas Department of Corrections.

8.3 Make Continuing Education a Condition of Parole

Issue: As mentioned in the probation recommendations in this report, probably no factor other than drug abuse has more impact on the crime equation than lack of education. In a manner similar to drug testing and rehabilitation, a requirement to attend remedial or continuing education classes could be a very effective tool for parole officers in the course of supervising a parolee.

The efficiency of a continuing education program would be enhanced if it were made part of a rehabilitative continuum beginning with programs administered in TDC and following the releasee through his period of supervision. Regional continuing education centers in major metropolitan areas could serve to accomplish this goal.

Recommendation: The Task Force recommends that involvement in education programs be a condition of parole whenever appropriate. It is further recommended that the Texas Department of Corrections make available to the Board of Pardons and Paroles information regarding the educational attainment of releasees so that educational programs started in prison could be continued after release.

8.4 Increase Funding for Parole Alternatives to Incarceration Through Enhanced Supervision Models

Issue: The Board of Pardons and Paroles currently administers a number of innovative supervision programs. Included in this category are intensive supervision parole and electronic monitoring. As discussed in the punishment section of this report, these promising programs can be key elements in a broad continuum of sanctions that includes the availability of the ultimate sanction — time in prison.

Recommendation: The Task Force recommends increased funding for alternatives to incarceration through enhanced supervision models such as intensive supervision and electronic monitoring. Strong alternative programs must be funded and developed for the offender who is eligible to complete his or her sentence outside prison walls without endangering innocent citizens.

Conclusion

The war on crime can be fought on many fronts — in our classrooms, in our courts, and in our prisons. To win the war we must (1) be able to incarcerate violent offenders in prison, as prescribed by law, and (2) attempt to change the behavior of confined offenders, who can and want to become law-abiding citizens. In order to achieve these goals, a comprehensive strategy is required.

It will cost money to improve our criminal justice system. We must spend our dollars wisely — on building needed prison space and funding programs that fight drug abuse and illiteracy. As crime rates and the population increased, prison capacity did not advance at a commensurate rate. Today the prisons are overflowing. Prison capacity must be adequate to stop repeat violent offenders who commit the majority of crimes. At the same time, it is essential to prioritize the sentencing of offenders to make the most effective use of prison capacity. Probation and parole should be used for offenders who can be effectively managed with these sanctions without undue risk to public safety.

The lack of adequate spending in the criminal justice area and corrections has significantly contributed to the overall problem we face in 1989. In 1988, state spending was only 3.0 percent, although crime has become one of our most pressing problems. Texas must continue to make progress against the criminal element by funding the construction of needed prison capacity and innovative programs to stop recidivism. As we address the root causes of crime by improving our preventive and rehabilitative programs, we will change the direction of troubled lives. As we increase capacity for repeat violent offenders, we will keep a great many of our citizens from ever becoming crime victims. Crime threatens the lives and welfare of all Texans. The Texas Criminal Justice Task Force believes the steps incorporated in this document to be the means by which Texas can successfully win the war.

MAJOR AREAS OF STATE SPENDING *

Percentages of Total State Spending

FISCAL YEAR	EDUCATION	SOCIAL SERVICES	TRANSPORTATION	CORRECTIONS	ALL OTHER SPENDING	TOTAL STATE SPENDING
1947	33.1	28.2	28.5	0.9	9.3	100.0%
1948	37.1	24.8	28.7	0.8	8.6	100.0%
1949	37.4	26.9	25.1	1.0	9.7	100.0%
1950	40.2	25.0	22.4	1.0	11.4	100.0%
1951	40.1	21.0	24.1	1.1	13.8	100.0%
1952	41.5	19.5	22.3	1.1	15.6	100.0%
1953	38.2	21.0	24.5	1.1	15.2	100.0%
1954	38.2	22.4	23.6	1.0	14.8	100.0%
1955	40.4	20.3	24.5	1.1	13.7	100.0%
1956	42.4	18.3	26.1	1.1	12.1	100.0%
1957	40.8	18.2	27.8	1.1	12.1	100.0%
1958	39.8	16.9	30.4	1.1	11.8	100.0%
1959	37.2	16.2	34.7	1.0	10.8	100.0%
1960	39.8	15.9	32.6	1.2	10.5	100.0%
1961	39.8	15.8	30.9	1.4	12.1	100.0%
1962	41.0	16.3	28.5	1.4	12.8	100.0%
1963	43.3	16.3	27.1	1.2	12.0	100.0%
1964	42.3	15.9	28.6	1.3	11.9	100.0%
1965	43.4	15.9	27.1	1.5	12.1	100.0%
1966	48.0	14.5	24.4	1.3	11.8	100.0%
1967	45.6	14.4	26.4	1.2	12.5	100.0%
1968	46.1	16.0	22.1	1.4	14.5	100.0%
1969	45.7	15.9	22.2	1.4	14.9	100.0%
1970	44.2	18.7	21.4	1.3	14.3	100.0%
1971	45.2	20.2	19.4	1.3	13.8	100.0%
1972	47.7	20.0	16.0	1.2	15.1	100.0%
1973	47.2	20.2	14.5	1.2	16.9	100.0%
1974	47.3	18.0	14.7	1.3	16.7	100.0%
1975	47.6	17.3	15.5	1.3	18.7	100.0%
1976	50.0	17.6	11.8	1.4	19.3	100.0%
1977	49.7	18.4	10.0	1.5	20.3	100.0%
1978	50.9	17.0	11.7	1.4	19.0	100.0%
1979	50.3	17.5	11.9	1.5	18.9	100.0%
1980	49.4	15.7	15.5	1.5	17.9	100.0%
1981	49.2	16.6	14.5	1.7	18.0	100.0%
1982	52.3	14.9	11.2	2.4	19.1	100.0%
1983	51.4	15.9	11.2	2.4	19.0	100.0%
1984	50.8	16.1	10.0	2.5	20.5	100.0%
1985	53.0	15.0	9.6	2.6	19.9	100.0%
1986	46.7	13.6	13.1	2.7	23.9	100.0%
1987	48.5	16.2	13.7	2.6	19.0	100.0%
1988 **	46.7	15.6	14.3	3.0	20.4	100.0%

*SOURCE: Past and Future Texas State Finances, A Background Analysis for the Select Committee on Tax Equity May 19, 1988, Table 5, Source - State of Texas, Annual Financial Report, various years.

**SOURCE: 1988 State of Texas, Annual Financial Report