



Report from the Citizens Advisory Committee

to the Joint Committee on Prison Reform.

63rd Legislature December, 1974

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REPORT OF
THE CITIZENS ADVISORY COMMITTEE
to
THE JOINT COMMITTEE ON PRISON REFORM
of
THE TEXAS LEGISLATURE

NOVEMBER 1974



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(SCR 87, 63rd Legislature, RS)

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November 25, 1974

Senator Chet Brooks
Chairman
Room 335
State Capitol
Austin, Texas 78741

Dear Senator Brooks:

I am pleased to forward the enclosed Report of the Citizen's Advisory Committee to the Joint Committee on Penal Reform.

As you know, the Advisory Committee was appointed by the Joint House-Senate Legislative Committee to examine the Texas Department of Corrections, survey citizen views throughout the state and report its findings and recommendations. Our Report responds to this mandate.

The Advisory Committee was a diverse group of citizens from across the state who served without compensation. Represented in its membership were doctors, lawyers, housewives, ex-inmates, relatives of inmates, professional corrections officials, clergy, blacks, Mexican-Americans, political party officials, labor unions, the press, and others involved or simply interested in corrections.

In order to learn the views of the public, the Advisory Committee held open hearings across the state -- in Austin, Houston, Corpus Christi, Fort Worth, Dallas, Lubbock, San Angelo and San Antonio. We heard testimony from concerned citizens, ex-inmates, families of past and present inmates, and individuals and representatives of groups who both supported and opposed changes in our prison system.

We visited TDC units and talked at length with TDC officials, guards, employees and inmates. We viewed TDC operations as thoroughly as possible. We found many TDC officials and employees cooperative and helpful. We also encountered substantial TDC opposition to our access to the prisons and to disclosure of necessary information. (Such attempts to maintain a closed system, hidden from public view, are among the matters we criticize in the enclosed Report.) In preparing our Report, we had the benefit of the personal experience and observations, the professional expertise, and the research of individual members of our committee; we also reviewed independent studies available to us. In addition we had the invaluable aid of your legislative staff and their expertise. We are particularly grateful for the generous cooperation and help given by the Staff Director, Mr. John Albach, and by staff members, especially Mr. Paul Keeper,

TO: Senator Chet Brooks

Ms. Eugenia James and Ms. Judy Jones; in earlier stages of our work we were helped by Mr. Erasmo Andrade. In addition, we are grateful for the very generous voluntary assistance of a number of law students from the Law School of the University of Texas at Austin, who willingly contributed many, many hours of essential research and aid.

Our Report is based upon all of the information available to us. We would note what must be obvious: we have not hesitated to be strongly critical of much that we have found. By the same token, we have tried to be fair. We have given credit where we believed it due and have tried to limit our critical comments to conditions which we have ourselves observed or which have otherwise been well substantiated. We have attempted to make it clear when we relied upon complaints alone or upon information we have not been able to verify.

We have attempted to frame our criticisms and our recommendations constructively and responsibly. We hope they will be so perceived. It is our sincere wish that this Report and its recommendations will aid the State of Texas in moving further toward establishment and maintenance of a more effective, and humane, corrections system.

Sincerely,

Charles Sullivan

Charles Sullivan
Chairman
Citizens Advisory Committee

CS:jcj

cc: Representative Mickey Leland
Vice-Chairman
Joint Committee on Prison Reform

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THE TEXAS CORRECTIONS SYSTEM: PRESENT AND FUTURE

The proposition that our prison systems have failed at their objectives, and that new programs are urgently needed to deal with convicted offenders is neither new nor radical. Former President Richard Nixon in a 1971 address to the National Conference on the Judiciary said that "the time has come to repudiate once and for all the idea that prisons are warehouses for human rubbish; our correctional systems must be changed to make them places that will correct and educate." A similar call was echoed by United States Chief Justice Warren Burger in a recent speech in which he deplored our present prison conditions, saying "many of our problems flow from having institutions that are too large, are overcrowded, that are poorly located and inaccessible to the family of the inmate, too far away from facilities for work release programs." The Chief Justice could well have been directing his remarks specifically at the Texas Department of Corrections (TDC), for they describe our own state's prisons with unerring accuracy.

The Director of TDC, W. J. Estelle, Jr., has vigorously urged that Texas develop new correctional methods and has strongly endorsed the creation of community correction facilities as both most effective and less expensive for many offenders. In a recent speech, he said ". . . communities and the state together have got to seek some alternatives to imprisonment." Commenting that prisons should be reserved only for those who are thought to be physically violent and dangerous to the community, he went on to declare: "When we use them (prisons) for anything else, I think we are walking down a road of social and economic bankruptcy."

Public officials are not alone in seeking needed changes in methods of confinement and treatment. The United States Chamber of Commerce is prominent among those urging the immediate implementation of alternatives to the present system of confinement. Leading penologists also agree that the current mode of keeping convicted offenders out of sight in large, distant state institutions only contributes to the individual's instability by severing his ties with his family, his job, and his community. The submissive, docile behavior which is demanded in such prisons and which is encouraged by his separation from his community handicaps him when he is released.

The Texas Department of Corrections in its annual report proudly states its goal of helping prisoners maintain family and community ties. Unfortunately, however, the very structure and location of prisons in Texas makes this largely impossible. Although TDC inmates come mainly from urban settings, all TDC units are located in east Texas, and all but one are located in rural areas, out of sight of society and out of touch with common reality. Without benefit of easy access to the courts, and officially isolated from visitors from home or the press, inmates are systematically prevented from meaningful communication with the outside world by rigorous censorship of books, letters, and every form of non-prison contact with the possible exception of television and radio. (See the sections of this report dealing with "Access to Courts and Legal Counsel" and with "Censorship: Publications" and with "Censorship: Mail"). For the inmate in TDC from El Paso, Amarillo, or from any of the hundreds of northwest, southwest, or west Texas towns, the distance to family, friends, and former employees is better measured in years than miles. (See the section of this Report dealing with "Visiting"). And opportunities to let volunteer citizen groups from nearby communities into the prisons, as has been successfully done in other state systems, are not utilized as they might be by TDC; willing groups, such as the NAACP and others, as well as talented individuals, are--with few exceptions--foreclosed from access.

TDC is proud of its agricultural and industrial complex, which lies at the very heart of its operations and the success of which appears to take precedence over almost everything but basic security requirements. Using unpaid prisoner labor, TDC farms tens of thousands of acres of rich east Texas land; unless deemed physically unfit, almost every inmate must spend some of his time working in the fields, and for too many, manual field labor is the only work experience ever obtained in their stay at TDC. With more than half of TDC inmates coming from the Houston, Dallas-Fort Worth, and San Antonio metropolitan areas alone, it is difficult to see how the ability to do field work equips ex-prisoners to compete for jobs in the urban labor markets to which they will return. An ability to "chop cotton" or feed pigs, for example, is not a very saleable skill in downtown Dallas. While, as TDC maintains, any job may teach "good work habits," such habits can as readily be learned while acquiring useful skills and more than "good habits" alone are necessary to earn even a livable wage in today's highly competitive job economy.

To be sure, some of TDC's industrial operations do, in effect, teach marketable skills--upholstery, auto-bus mechanics, and construction trades, for example--but others--license plate or mop manufacturing--do not. Again, the need to man these production units, as with the agricultural programs, tends to become an end in itself, and seems too often to take precedence over direct attempts to achieve long or short range correctional goals. Thus, inmate participation in admittedly highly desirable educational and vocational programs is limited, among other factors, by the time and numbers of workers which can be spared from field and factory.

Security, a wholly proper and, indeed, essential concern in any prison system may be the only interest to which agricultural and industrial production is ever given second place. Though TDC describes its various units as housing different kinds of offenders, it appears to deviate substantially from its own classification system (see the section of this Report titled "Classification") and, with but minor exception, operates only two kinds of prison units, full maximum security and only slightly less maximum security. With the possible exception of the pre-release center, there is nothing in TDC even approaching a minimum security unit, a common and necessary ingredient in any modern prison system.

In short, TDC is a victim in many ways of its own history, its development as a system of large, rural prison farms, concentrated in a single part of the state, offering basically a single kind of maximum security correctional model. TDC's past has prevented it from moving forward as rapidly as it might have to meet today's correctional needs. This is not to say that no advances have been made: TDC has developed a commendably broad educational program; it has a number of very good vocational training programs; but even these are much more limited than they should be. (See the section of this Report titled "Education"). Counselling, medical care and treatment of mentally disturbed inmates is grossly inadequate. (See the section of this Report titled "Medical Care" and the section titled "Mental Health"). (Though Don Kirkpatrick, TDC's assistant director for treatment; has estimated that 75% of TDC inmates have drug or drug-related problems, TDC has no drug counselling program whatsoever. These inmates are relegated to dealing with their problems on their own or finding whatever help they can in the otherwise highly desirable, but not very drug-relevant, Alcoholics Anonymous programs within TDC).

The centralized, almost wholly rural, east Texas location of all TDC units not only prevents maintenance of community and family ties by inmates, but severely limits opportunities for recognized and beneficial correctional efforts such as work release

programs. In addition, it dramatically restricts TDC's ability to recruit and hold able and diversified staff, especially minorities; costly personnel turnover in TDC is substantial, running as high as 80% per year at the entry level. (See the section of this Report titled "Personnel").

Moreover, the closed, isolated nature of the units allows development of a brutal and brutalizing atmosphere which is both inhumane and inconsistent with achievement of correctional goals. (See the section of this Report titled "Discipline" and "Building Tenders").

Some of the problems faced by TDC are obviously not wholly within its control and demand response by other parts of the criminal justice system or by the legislature. The Texas prison population is one of the largest in the nation. TDC Director Estelle has publicly suggested that Texans must ask themselves why the state of Illinois, which has a population comparable to that of Texas and which has a higher crime rate, has only 8,000 felons in its prisons, while Texas has more than 17,000. The reasons, says Estelle, include the fact that Illinois provides more alternatives in punishment and rehabilitation than does Texas, including more community-based programs. In the absence of adequate and essential pre-trial diversion programs, probation systems, and alternatives to traditional prison confinement in Texas, the TDC inmate population continues to grow every year. Yet no less an authority than the Director has estimated that at least 40% of its present inmates do not belong in TDC; they could safely be released if adequate rehabilitation programs existed in local communities, according to Estelle. The problem here lies less, perhaps, with TDC than with other parts of the system, one of which, the parole mechanism, is treated elsewhere in this Report. That some 7,000 men and women are unnecessarily locked up in prisons in this state is itself cruelly and inhumanely criminal. And, surely, for inmates to be told by the Director of the very institutions which confine them that nearly half of them should not be there, can be but little solace to the 17,000 prisoners in TDC, their friends and relatives; such knowledge must be bitter, at best, and hardly conducive to generating the kind of attitude one would hope to be the objective of a correctional institution.

To be sure, the production of TDC's farms and factories may contribute to lessening the total short-range costs of our prisons as presently structured. But we must ask whether the present methods really are less costly, in both overall and long-range terms. We pay dearly--in the costs of crime and police protection--for substantial recidivism among inmates who too often emerge from the present prison system hardened, alienated, and ill-equipped to deal in non-criminal terms with the complex, challenging society to which, almost without exception, they all must return. And yet, while other states adopt successful modern models of penology, which promise effective corrections and cost less than traditional prisons, TDC--under the constant press of ever-increasing numbers--feels compelled to continue construction of overly large, rural farm-factory units in the same geographic area. TDC is currently building a 4,000 inmate unit at an estimated cost of almost \$20 million, not including the cost of annual maintenance and staffing. This staggering price tag is firmly affixed to a unit deep in the farm country of northeast Texas, a unit which grew from an originally approved 1,000 inmate capacity, a unit which depends upon 18,000 acres of farm land and a meat packing plant to "correct" offenders against society. Adoption of a community-based corrections system would not only lower operating costs, but given the substantial reduction in prison population, would allow the closing of a number of our present more costly and outmoded institutions, as well, perhaps, as sale or lease of some existing properties at a

substantial profit to the state.

If the existing programs are not effective or are too costly, what sort of programs should replace them? A number of programs which come under the broad heading of "alternatives to confinement" are already in operation in other parts of the United States. The theory underlying these programs is simple: keeping the offenders in or near the community from which they come will provide a minimum amount of disruption of family life, enable the person to continue at a job or to take vocational training, receive the varied supportive and corrective benefits of local agencies and programs, avoid the negative impact of massive institutionalization, and help offenders to better cope with problems encountered in attempting to behave in accordance with the norms of society. These goals do not constitute "coddling," nor do they pose a threat to Texas' criminal justice system. They save money and are more likely to restore offenders to socially useful lives. Director Estelle agrees: "As far as I am concerned, the further away you move the man from the problem, the less likely you are to solve it," he has said. Similarly, the report of the President's Commission on Law Enforcement and the Administration of Justice recommended that small, urban correctional institutions should be established to make use of community services and facilities. Existing programs such as out-patient mental health clinics, vocational and technical training schools, and state employment and rehabilitation services could all be integrated into a community correctional system. The specific type of community-based correctional program which Texas adopts of course must be designed with careful consideration of the particular correctional problems which the state is facing.

There are three basic types of alternative programs which have been successfully employed in other states: non-residential treatment, residential treatment, and regional corrections facilities. The non-residential centers offer programs in which offenders can live at home but still benefit from daytime training and counselling in the locale. The offender is able to maintain family and community ties, and the cost of the program is usually about half that of keeping offenders in a traditional closed institution. Participants in variations of the non-resident corrections model have been found to have significantly lower rates of recidivism.

A second type of alternative is residential treatment. This kind of program usually involves a group setting with up to twenty-five residents. The supervision provided here is much closer than that in a non-residential center. There is a full-time professional staff and subprofessional staff to provide 24-hour supervision. While such "halfway houses" have traditionally been used for releasees, there has been an increase in their use as an alternative to commitment to "total" institutions. The Des Moines, Iowa, program is generally regarded as a national model of this kind.

The cost of such programs are greatly reduced by the fact that many of the residents hold jobs in the community and pay for their own room and board. This is one factor which holds down program costs, especially when compared to the cost of typical institutionalization.

A third type of alternative is the regional correctional center. Although closer in structure to the traditional correctional institution, it should be seen as being part of the community and able to draw on its resources. Such institutions were strongly supported by the President's Commission on Law Enforcement and the Administration of Justice. A number of immediate advantages are to be realized from such locally-based, minimum security institutions. From the view of the inmate, the knowledge that the correctional facility is maintained within the proximity of the community and the court provides at least a psychological connection between his offense, his sentencing, and his internment. From the view of the correctional facility officials, the proximity of rehabilitation

sources (family, employers, counselors of all kinds) provides speedier evaluation and release of the offender. An inmate paroled within the city in which he has been incarcerated would seem less likely to evidence the potentially drastic "release response" which would quickly return him to prison. Possibilities for hiring staff members with a more urban background than those TDC currently employs would be increased. The list of advantages is convincing in both its length and content.

The term "community-based corrections" has been used to describe a number of types of alternatives to incarceration such as probation, parole, halfway houses, and correctional centers located in the community. There is a need for dissemination of accurate information to the general public to avoid the problems which arise when a community feels that an ill-planned, totally experimental, or unsafe program is being forced upon it. Service to, and safety of, the community are after all the major reasons for these programs. While cost differences make a compelling argument for such programs they should not dominate the entire picture. Offenders must be seen as human beings who, unless provided with a meaningful corrective experience, will be even more likely to commit offenses against other members of society.

The objections usually raised hinge primarily on citizen anxiety over housing offenders in the community, but given understanding of the goals of community correction citizens will support this program. Public officials, business leaders, and professional and lay religious members must take the lead in explaining the program's benefits. Security for the community will be achieved by a careful screening of those who are placed into the various programs. Certainly there will always be those who have proved themselves to be too dangerous to be released from a maximum security institution, and these inmates should not be placed in community-based corrections units. But, for the rest, well supervised, well managed, safely operated community corrections programs are essential. As Director Estelle has put it, experience elsewhere has "proved beyond a shadow of a doubt that it's cheaper and more effective."

Texas is faced with a choice: it can continue to rely solely on confinement within traditional prisons and add to the problem of a growing inmate population, or it can embark on economically sound programs which have been tested in other states, programs designed to lessen the chances an offender will repeat his crimes. We strongly recommend the choice of alternative and community-based corrections as a method of dealing with appropriate offenders against society.

RECOMMENDATIONS:

1. TEXAS SHOULD PROMPTLY DEVELOP AND IMPLEMENT A BROAD, MODERN CORRECTIONS PROGRAM, CAREFULLY CONCEIVED TO PROVIDE DIVERSIFIED ALTERNATIVES TO THE PRESENT SINGLE TYPE OF GEOGRAPHICALLY REMOTE AND CONCENTRATED, MAXIMUM SECURITY PRISON NOW OPERATED BY TDC. THE DESIGN, WHILE CENTERED AROUND PROVEN, ECONOMICALLY SOUND AND SAFE ALTERNATIVES, SUCH AS COMMUNITY CORRECTIONS AND EXPANDED PROBATION AND PRE-TRIAL INTERVENTION AND DIVERSION PROGRAMS, SHOULD ALSO INCLUDE PROVISION FOR CAREFULLY MONITORED AND LIMITED EXPERIMENTAL PROGRAMS DESIGNED TO KEEP TEXAS AT THE FOREFRONT OF DEVELOPING KNOWLEDGE.

2. THE 40% OR MORE OF INMATES WHOM TDC DIRECTOR W. J. ESTELLE, JR., HAS SAID ARE NOW UNNECESSARILY CONFINED IN EXISTING TDC PRISONS SHOULD BE PROMPTLY IDENTIFIED AND ACTION TAKEN BY THE

LEGISLATURE, PAROLE BOARD, TDC, AND OTHER RELEVANT INSTITUTIONS TO ALLOW THEIR PROMPT TRANSFER TO PAROLE OR TO OTHER APPROPRIATE PROGRAMS OR INSTITUTIONS. THE RESULTING DECREASE IN PRISON POPULATION WILL PRODUCE AN IMMEDIATE AND SUBSTANTIAL REDUCTION IN COSTS AND PERMIT THE CLOSING OF OLDER, MORE OUTDATED TDC FACILITIES. THERE IS NO POSSIBLE JUSTIFICATION FOR CONTINUED INCARCERATION OF THOSE FOR WHOM IT IS BOTH UNNECESSARY AND DESTRUCTIVE.

3. THE TEXAS LEGISLATURE SHOULD IMMEDIATELY ESTABLISH A MORATORIUM ON CONSTRUCTION OF NEW, HIGH-COST, TRADITIONAL, RURAL FARM PRISON FACILITIES, AND, INSTEAD, DEVELOP THE KINDS OF ALTERNATIVE FACILITIES RECOMMENDED ABOVE.

4. TO THE EXTENT PRESENT PRISON INSTITUTIONS ARE RETAINED, THEY SHOULD BE OPERATED IN A MORE OPEN FASHION, TO ALLOW AND TAKE ADVANTAGE OF AVAILABLE CITIZEN AND GROUP AID, AS OTHER STATE SYSTEMS HAVE SUCCESSFULLY DONE. IN ADDITION THEY SHOULD INCORPORATE THE OTHER RECOMMENDATIONS CONTAINED THROUGHOUT THIS REPORT.

MEDICAL CARE

Many factors affect the success or failure of a program designed to maintain or improve the health of prison inmates. Provision of adequate staff and facilities for medical treatment is obviously a primary concern. But corresponding attention must also be given to food services, sanitation, industrial safety, and opportunities for recreation; all have a serious impact on inmate health. (A number of these topics are treated elsewhere in this Report; see, for example, the sections on "Safety" and "Recreation.") Indeed, the entire environment of the prison affects the health of the inmate. The conditions of confinement can produce boredom, loneliness, frustration, anxiety and tension, each of which has a decidedly negative effect on physical and mental well being. (See the section of this Report dealing with "Mental Health.")

This section of our Report deals primarily with delivery of general medical services within TDC. We reluctantly conclude that such services are woefully inadequate.

Among the most numerous complaints we received from inmates and their families were those concerning medical care. Even a cursory review of TDC's medical program discloses extremely serious inadequacies. There is a severe shortage of trained and competent medical personnel -- doctors, nurses, and technicians. At various times during our study of TDC, there were from one to three full-time doctors on the staff; their services are supplemented by use of a number of part-time physicians from the Huntsville area and localities near other units. But this is still not enough. One of the full-time doctors, Dr. Ralph Gray, the TDC Medical Director, has administrative and supervisory responsibility for all medical care for the entire system of 17,000 inmates; in addition, he is chief medical officer of the several hundred bed prison hospital, performs the physical examinations of all new male inmates (over 500 per month), and makes rounds at two units. According to our last report, the two other full-time doctors have resigned, leaving the already greatly over-worked Dr. Gray to bear sole full-time responsibility for 17,000 inmates. Dr. Gray is committed and seems to care about the health of those in his charge, but the demands are many times in excess of one man's capabilities. (It should be noted, that Dr. Gray, the hospital administrator, and others in the TDC medical system, were especially cooperative with our inquiries and seemed generally concerned about the inadequacies in medical care, though unable themselves to effect much change.)

Medical services are regularly delivered by inmates who lack any formal training or background. Some of these inmate "doctors" and "nurses" perform with remarkable skill and commitment, as do most -- but not all -- of the TDC-employed medical personnel. But they work against immense odds and without adequate resources or benefit of either the recognition or training which their responsibilities demand. Moreover, there is again a question of TDC priorities -- securities judgments take precedence over medical needs; seriously ill inmates are sometimes denied essential medical care by the decisions of security officers, notwithstanding judgments of acute medical need by TDC doctors.

The system is cruel and inhumane. It causes unjustifiable pain and suffering to inmates; it sometimes results in needless death or crippling disease or injury. But even the less dramatic consequences are self-defeating; any short-run dollar savings are more than outweighed by the costs of returning less than healthy men and women to a society in which they already have had difficulty succeeding.

NEW INMATES:

Every new inmate receives a physical examination upon his or her arrival at TDC as part of the "classification" process. (See the section of this Report dealing with

"Classification.") Essentially, this is a routine, but cursory, attempt to assess the new inmate's physical condition. Most of the information is collected by a paramedic or by a fellow inmate; the new arrival may actually see a doctor for only a few minutes. Inmates fill out a medical history form which seeks information about past and current ailments. All medications currently being taken by an inmate are suspended until verified by TDC with the inmate's "free-world" doctor or hospital. In some cases, delays in confirmation have caused substantial gaps in crucial treatment. In one case, an inmate died from a heart attack he suffered during an epileptic seizure apparently caused by the denial of essential medication. (TDC has indicated that this policy of taking new inmates off all free-world medication has now been altered to permit prompt confirmation by telephone when an inmate has an existing program of medication and treatment. Whether this new procedure is being generally followed, we do not know; nor do we know what is done when TDC is unable to reach the outside attending physician without delay.)

Based on the intake physical exam, an inmate is classified in a medical category from 1 through 5, with 1 being most fit and 5 requiring continued medical treatment. This categorization is used to select a suitable work assignment.

The brief intake physical is the only routine medical examination an inmate will receive during his entire stay at TDC, no matter how long. Absent a specific illness or medical complaint by him, he will normally never see a doctor again. There is not even a minimum-level preventative health program in TDC. Notwithstanding the general recognition among medical experts of the need for routine periodic examinations, none are given in TDC. Though, for example, regular "Pap" tests are consistently recommended by medical authorities as an inexpensive, effective way to detect early stages of cervical cancer in women, and though many women in the free world have such tests regularly, no such tests are given to women in TDC; indeed, our conversations with women inmates at Goree suggest that they may not even be available upon request. Similarly, notwithstanding recognized general medical practice, there are no regular dental or visual check-ups for TDC inmates, no matter how long they remain in prison.

General Medical Care:

The basic method of delivering medical services is a daily sick call at each unit. This usually takes place at 5:30 in the morning so that those who require only slight treatment and those who are refused treatment may still report to their daily work assignments. A number of inmate complaints have focused on the denial of the right to attend sick call by a guard or building tender; the denial usually takes the form of a curt response and order: "there is nothing wrong with you, go to work." If an inmate persists in demanding the right to go on sick call, he may be punished for "refusing to obey an order" (to go to work), "laziness," "refusing to work," or "malingering." Another common complaint in some units was that permission to attend morning sick call had to be requested the night before, so that those who became ill during the night were not able to receive prompt medical care. If the inmate is allowed to go on sick call, he is examined by a "medical assistant," a TDC employee who serves as the primary medical staff for each unit. With the exception of one woman, all are white males who have generally come from military paramedical programs. Although basically dedicated people, their effectiveness is limited by the way in which the system over-relies on them to provide all basic medical care. The risks of such dependence on these assistants is magnified by the absence both of any certification or other process designed to assure

competency and of any program to update and upgrade the skills of these paramedics (such as the federal prison system's intensive training course at the Bureau of Prisons medical center in Springfield, Missouri).

When the medical assistant examines an inmate at sick call, he or she can do one of several things: refuse treatment; place the patient under observation or treatment in the unit infirmary or in his or her cell; place the patient on a list to be seen by the doctor at the next visit to the unit; send the patient to the TDC hospital at Huntsville or to John Sealey Hospital in Galveston; or, in an extreme emergency, send the patient to a local hospital.

Other than Diagnostic, each unit is served by a part-time doctor one or two days a week -- but this does not mean a full day's service at each unit each week. In some cases, at least, the doctor spends only an hour or two at the unit. Medical services are limited by the length of time the visiting doctor is available or is willing to give on that day, not on inmate needs. We heard that inmates in need of medical attention who were waiting to see the doctor never got to do so, simply because he left before their turn came; their need for medical care was met by self-treatment or they had to wait until the doctor's next visit, which in some cases, could be as much as a week away. In the case of absolute emergencies, inmates are either taken to the "Walls" prison hospital unit in Huntsville or are treated by a doctor who is "on call" for such purposes.

The equipment at most unit infirmaries is very limited. It usually consists of a few beds and some first aid equipment. Other than the medical assistants, there are generally no trained professional staff available at any unit on a daily basis. (The Goree unit for women does have an LVN on duty during the day.) The medical officers are assisted by inmates who are, as a practical matter, generally in charge of the infirmary and medical services during the medical officer's off-duty hours. Minor surgery, including plastic surgery, is performed in at least one of the better equipped unit infirmaries.

Because of the extremely limited opportunities to actually see a doctor, and because some security personnel and some medical assistants tend to view inmates' physical complaints with suspicion and to treat inmates as "malingerers" who are faking symptoms, many real illnesses remain undiagnosed for some time and often reach a critical stage before medical treatment is actually given. Thus, one surgeon who worked at the TDC hospital unit reported that almost all appendectomies involved a "burst appendix," something only rarely found in the free-world practice where early and competent diagnosis avoids this dangerous condition. While some skepticism of inmate complaints is undoubtedly warranted, the extent to which it is carried in TDC is both cruel and dangerous; the obvious need is for more medical personnel so that professional medical -- and not lay -- judgments will control access to treatment.

(The particular nature of prison medical practice is often quite revealing. In addition to the unduly high incidence of "burst appendix" cases, already mentioned, doctors at the prison hospital told us that they have become experts in an almost unique area of service -- the repair of severed Achilles tendons, the tendon in the ankle. It appears that inmates often cut this tendon themselves or get others to do it for them. At one time TDC treated these inmates as mentally or emotionally disturbed but has now begun treating such inmates as disciplinary problems and punishes them for "self-mutilation," a violation of TDC rules; the charge appears to be based on the belief that the inmates' action is a function simply of laziness or a desire to escape work. We, however, are impelled to different conclusions: either the inmate is indeed mentally disturbed and should be treated as such, not punished, or if normal, is acting to escape apparently

intolerable conditions in his unit; it seems to us highly unlikely that any wholly sane person cuts his Achilles tendon simply to avoid a normal work routine.)

Dental services are provided to the 17,000 TDC inmates by, at the last report, two full-time and a number of part-time dentists. This care was also the subject of numerous complaints particularly from Goree, the TDC women's unit, that the usual treatment for a toothache was to pull the tooth, almost never to fill it. Similarly, we were told by a number of inmates that there were unduly long delays in securing false teeth, dental plates and bridges and that, as a result, inmates sometimes were compelled to remain on unhealthy, restricted diets for long periods. We have not verified these complaints, but it is significant that a number of inmates believe them to be true, and, consequently, avoid even necessary dental care.

The "Walls" Hospital:

Seriously ill inmates and inmates who need surgery or more complex care than can be provided in the units are transferred to the TDC prison hospital located in the "Walls" unit in Huntsville. The hospital is under the general medical direction of Dr. Gray, the TDC Medical Director; he is assisted by a hospital administrator, a former military medical corpsman (not an M.D.) who in addition to his administrative responsibilities must also serve as the hospital x-ray technician. Medical services are performed by Dr. Gray and such other full-time physicians as may from time to time be on the TDC staff. Additional surgeons also seem to be used on a part-time basis from time to time.

Some specialized medical services, such as ophthalmology and plastic and oral surgery, are furnished on a consultant basis by personnel from either the Baylor Medical School in Houston or John Sealey Hospital in Galveston. These specialists come to the Huntsville hospital on a regular weekly basis. TDC has recognized the importance of plastic surgery to rehabilitation and provides this service by its cooperation with Baylor Medical School in a residency training program. In addition, for the past two years, there has been a summer residency program which has brought medical students to the various units as a part of their medical school curriculum. Available reports indicate that the care delivered by these specialists and the participants in the residency programs has been uniformly good. Because state law apparently prohibits use of appropriated funds for travel expenses by those who are not state employees, the common practice has been to reimburse such expenses from monies earned by the prison rodeo and commissaries, profits supposedly set aside for inmates' recreation and education; this practice ought to be promptly remedied.

Notwithstanding its extensive reliance on outside surgeons, the level of patient care at the Walls hospital is sadly lacking. In December, 1973, the Texas Hospital Association conducted a detailed survey of the TDC hospital. The prison hospital unit was found to be substandard on 200 (or over 60%) of 318 applicable matters; in short it was found to be seriously inadequate to meet basic patient needs, much less minimum standards for certification or accreditation. Among other items cited - apart from staffing and direct medical care deficiencies -- were generally unsanitary or dirty conditions; inadequate and unsanitary toilet, shower, and patient-care facilities; insect and rodent problems; deficiencies in general housekeeping and sanitation in food preparation; completely inadequate medical records on administration of medications, tests, and other treatment given patients; and unavailability of certain kinds of special, medically necessary diets for patients.

Visits to the hospital and talks with doctors, patients, security guards, and inmate staff readily confirm the many very serious problems in the hospital.

The hospital building itself was described by guards, doctors, and some TDC staff as a "fire-trap." Non-ambulatory patients are kept on the upper floors. Ambulatory tuberculosis patients are kept in locked wards on the top floor. Access above-ground level is limited to one set of very narrow stairs and one elevator which is frequently out of order. There are no fire escapes, and patients could not be reached by ladder through the windows because they are all barred. In the event of a fire, patients simply could not be quickly evacuated. The hospital has absolutely no disaster or evacuation plan -- a primary precaution in any medical care facility -- because, as we were told by several officials, conditions are so bad that there is no sense in even attempting one. While the building structure is stone and brick, the danger of fire and of deaths from heat and flames is real; any major fire would, indeed, turn the hospital into a "death trap."

Many of the unsanitary conditions and lack of facilities, including showers and toilets, noted in the Texas Hospital Association (THA) report are a function of the age and general condition of the building. A number of the wards seem crowded and in some there is little or no space not occupied by beds; patients are restricted to their ward and in some cases this means little or no chance to move about or to do anything but sit in bed or on a hard bench and watch TV, read, or play dominoes. While some conditions could be remedied (ceiling stains from recent water leaks were noted by Committee members), others are structural and inherent in the building itself. A new hospital is obviously badly needed.

Worse even than the physical conditions, however, are the staffing problems. Notwithstanding the commendable arrangements worked out with Baylor and John Sealey, there is an acute shortage of trained, competent medical personnel. The hospital is completely dependent upon inmates to provide basic, and even more sophisticated, medical care.

Primary nursing care -- indeed almost all nursing -- is provided by inmates. There are no licensed registered nurses (RN's) and only two licensed vocational nurses (LVN's), neither of whom are on duty at night. There is no medical doctor on the premises at night, though one is "on call" from his home in Huntsville. The presence of an M.D. during the day seems to depend on surgical schedules and medical demands outside the hospital.

There is no formal training program for inmate-nurses, all of whom are male, as are all the inmate-patients. (Women inmates are treated either at the small hospital in the Goree unit or sent elsewhere. See the section on "Medical Care for Female Inmates"). It appears that unless trained before arriving at TDC, inmates assigned to work at the hospital simply learn whatever they can from those inmate-workers already there. This on-the-job training, while well intentioned, is limited at best and gives no general assurance of competence. Not all inmate-nurses "learn" and not all are committed to adequate patient care, though on the whole we were impressed by the desire of inmates to care for their fellows who were patients. In any event, whatever learning there may be is at the expense of the patients and of good medical practice.

TDC procedures require that no drugs be administered by inmates; all such medications are to be given by TDC guards. The practice as we were told, however, often does not conform to the rules. Hospital guards have no medical training and many lack either the ability or the inclination to administer hypodermics or other medications and frequently give the job over to the inmates.

Surgery is performed with the assistance of inmates who serve as operating-room technicians. While several of the inmates filling this function were reported to have been certified and licensed for this recognized para-medical specialty before being sentenced to TDC, several had not, and were either "self-taught" or were "trained" by fellow inmates. The same variations appeared to exist with respect to other technical medical specialties-laboratory technicians and the like. The availability of formally and professionally trained staff in the hospital is wholly fortuitous -- it depends upon who happens to be convicted and sentenced to TDC.

Two of the most important medical positions in the hospital are regularly held by inmates. Their functions are key to the hospital operation. As a practical matter, they serve as what in a "free world" hospital would be a combination of chief resident (i.e., staff doctor) and head nurse in charge of actual patient care and treatment; in many cases they are the first line of emergency care. The pair of inmates work 12 hour shifts every day, constantly relieving each other at shift's end, day in and day out. The inmate with night duty is, in effect, in total charge of the hospital -- at least so far as medical services are concerned. Though there is a doctor "on call" off the premises, he is contacted only in the most serious cases when the inmate-physician can't handle the situation; the more usual practice, we were told, even in some serious cases, is for the inmate to call the doctor and check his diagnosis and proposed treatment and if it is approved, to go ahead himself. These inmates prescribe medications, give treatment, and do even some surgery. Both work very hard and are totally committed to giving good medical care and to the interests of their patients. Both are remarkable men and one especially was highly praised for his competence by staff, doctors, and patients. Reportedly a truck driver before his arrival at TDC, he was wholly self-trained and there is good reason to think he performed more than adequately, even given his heavy responsibilities. His role, however, in literally running significant portions of the hospital operation, was not unique. At the time of a recent visit by Committee members, he was himself in the process of "training" his inmate successor to take over his job upon his impending scheduled release. As competent as he may have appeared, there is no assurance that his successors or others who carry similar responsibilities will be equally able.

Staff:

We have no inherent objection to inmates aiding in the delivery of medical service -- in their serving as nurses, paramedics, or medical technicians in the prison hospital or in the units - if they are well trained and qualified to perform those tasks. As it stands now, inmates perform these professional functions and more, and there is no assurance at all that they are competent to do so -- though some obviously are. Unless trained before arriving at TDC, they learn only what they can pick up from their fellow inmates and from what little help the small staff of professionals can offer. It is obvious nonsense to pretend that the few doctors and other qualified professional medical personnel in TDC give adequate professional training to the inmate "nurses," "doctors," and "medical-technicians" with whom they work, when they do not even have enough time to deliver adequate basic medical care to their patients. And, although there is a growing need for medical personnel of all types, not only in TDC, but throughout the state and the nation, even those inmates who are able to "pickup" the requisite skills are ordinarily severely handicapped in, if not altogether prevented from, similar employment

upon release because of professional licensing restrictions. (See the section of this Report dealing with "Civil Disabilities.")

We most strongly recommend that TDC promptly initiate a formal program to train inmates in relevant allied medical specialties, as nurses, medical technicians, and paramedics, among others. This program would not only assure that the health needs of TDC's own inmates were met by skilled, competent personnel, but would prove useful to inmates upon their release and would help meet the needs of the general public. As an essential ingredient of this program, TDC should immediately seek the cooperation of relevant state licensing boards to assure that its trainees will be tested, certified, and licensed upon completion of the program; in addition, the legislature should take immediate steps to authorize and finance such a program.

These measures would go some way to help bring TDC medical standards up to minimally acceptable levels. But they alone are not enough. Obviously additional doctors and other licensed professionals are needed to provide training as well as primary medical services. Because of the location of the hospital and the prison units, because of the apparent unattractiveness of prison medical practice, and because of inadequate pay scales, TDC has had great difficulty in filling even its existing few positions. As noted, TDC at present has but one full-time doctor and has had during the several months of our study no more than three. Under the minimum standards of care recommended almost 10 years ago by the American Correctional Association, a professional association of state and federal corrections officers, including representatives of TDC, a prison system the size of TDC should have at least 23 full-time doctors, not one, or two or three; there should be 14 full-time psychiatrists, 14 full-time psychologists, 23 dental officers, and 81 medical technicians, all with appropriate training and certification. And these figures do not take specific account of some of the special hospital needs, including a dietician. TDC obviously does not come even close.

A new hospital, higher salaries, and a full-scale training program are essential. In addition, there should be a full review of the adequacy of medical services funding. We were told by a TDC medical official that the medical staff recently ran out of funds to purchase medications and that for some time aspirin -- a staple of the TDC pharmacy -- had to be bought in less than \$100 lots (any purchase over that amount requiring central TDC approval, which is often a difficult prospect). Again, a case of medical need coming out second best to other managerial concerns.

Transfer to other Hospitals:

Inmates needing treatment or surgery not available at the prison hospital may be sent to John Sealey Hospital in Galveston, but this requires that a special procedure be followed. First, the TDC doctor must make the necessary medical judgment and submit a request for the transfer to TDC central security administrators. We were told by TDC doctors of a number of cases in which security personnel have refused to permit inmates to go to John Sealey for medically essential treatment. Such refusals are based on a judgment by TDC administrators that John Sealey will not provide adequate security for the inmate; the net result is that these inmates remain at the Walls hospital and do without adequate care. The security judgment simply supersedes the medical judgment. If the relevant security officials do approve, TDC procedures next require that a so-called "medical reprieve" be obtained from the Parole Board. These cumbersome and bureaucratic procedures seem unnecessary and productive of delay, or worse. Moreover,

they reverse the relevant priorities: the medical judgment should be controlling. We do not suggest that security needs be disregarded, but that where special security arrangements are required, they should be made, in stark contrast to the present procedure. Indeed, we were told that in cases of dire and immediate emergency, TDC doctors occasionally took it upon themselves to send an injured inmate directly to Houston or Galveston, relying upon verbal approval, subject to later confirmation, or simply taking the chance that the OK would later follow. But this practice seems largely confined to cases of traumatic injury occurring at one of the units and does not meet general medical needs; in any event, it leaves the doctors to act at their peril.

(It should be noted that the medical services received by inmates actually sent to John Sealey are reported to be generally excellent with no differentiation being made between the care received by regular patients and that rendered to inmate-patients.)

Women Inmates: Medical Treatment

The Goree unit for women maintains a small medical treatment facility and infirmary to handle daily complaints and temporary illnesses much as do the men's units. While male inmates may be transferred to the Walls unit hospital for surgery or more intensive care, women can not because of the unavailability of overnight accommodations for them. Women needing special medical treatment not available at Goree, or an outpatient basis at Walls, may be transferred to John Sealey Hospital in Galveston.

Women inmates enjoy no favored treatment with respect to annual examinations or health care education. Standard gynecological examinations are part of the diagnostic procedure upon arrival at TDC, but unless an inmate has a specific complaint, she may not receive another during her incarceration, no matter its length. There is no gynecologist on the TDC staff to serve the more than 600 female inmates, and as noted, no regular Pap tests are given.

Pregnant inmates are provided with a program of prenatal care which consists of a monthly blood and urine test and vitamin supplements. Pregnant inmates are counselled by a welfare worker either to have the baby offered for adoption or to place it with a relative during the mother's incarceration. No Goree policy exists on abortion, because, according to the supervising medical officer, "none of the girls have ever asked for one."

Daily medical care and a sick-call are handled at Goree in much the same manner as in the men's units. There is a nurse on during the day and a doctor visits the unit for several hours a week. Again, the number of patients he sees is determined by the amount of time he is able or willing to give on any visit, not by inmate needs. The infirmary has a few rooms that can be used for inmates whose illnesses require that they be isolated. These rooms are tiny, dark, and essentially airless cubicles that look as if they were designed to serve as solitary punishment cells; indeed, the cells now actually used at Goree for solitary punishment are, by comparison, almost bright and cheerful.

Women inmates were particularly vocal in their condemnation of the medical and dental care afforded them. They termed it brutal, insensitive and essentially inadequate and unresponsive.

(For a discussion of hygiene, diet, and general sanitary and environmental health conditions affecting women inmates, see the section of this Report titled "The Goree Unit for Women".)

Organization:

At present, the TDC physical and mental health programs are under the supervision and control of an Assistant Director for Treatment, who is not himself a medical doctor or psychiatrist. Dr. Gray, an M.D., for example, reports and is responsible to this assistant director who is a Ph.D. in psychology. Food services are the responsibility of the Assistant Director for Business. There is, so far as we can tell, no single assigned responsibility to maintain or assure general sanitation, hygiene, safety, or environment standards. All of these functions should be combined under a single Assistant Director -- a medical doctor -- with full responsibility for all physiological, psychological, health, hygiene and related programs. Only in this way will all aspects of health services be accorded the priority they demand. (At least one member of this Committee, himself a physician, felt so strongly about the need for full professional responsibility that he recommended that all such services be put under the control of an officer who would report directly to the TDC board, not through the Director of TDC; the Committee, while recognizing the importance of the principle involved, believes our recommendation is more likely to be accepted.) Food services should be brought within this assistant directors' over-all control, given their vital relation to health, and should be under the immediate supervision of a qualified dietician, as is done in the military. Medical and psychiatric specialties should be recognized in the expanded membership of the TDC Board, itself. (See the first section of this Report dealing with "TDC: Present and Future.")

RECOMMENDATIONS:

1. ALL MEDICAL DECISIONS IN TDC SHOULD BE MADE BY QUALIFIED MEDICAL PERSONNEL; SECURITY PERSONNEL SHOULD NOT BE ABLE TO DETERMINE WHETHER OR NOT AN INMATE RECEIVES MEDICAL CARE, OR THE EXTENT OR KIND OF MEDICAL CARE GIVEN. SPECIAL SECURITY NEEDS SHOULD BE MET BY MAKING SUCH SPECIAL SECURITY ARRANGEMENTS AS MAY BE NECESSARY, NOT BY DENYING ESSENTIAL MEDICAL CARE.

2. ALL MEDICAL CARE SHOULD BE ADMINISTERED ONLY BY QUALIFIED AND COMPETENT PERSONNEL. TDC SHOULD IMMEDIATELY INSTITUTE SUCH PROGRAMS AS ARE NECESSARY TO ASSURE THAT THIS IS DONE.

3. TDC SHOULD IMMEDIATELY IMPLEMENT A POLICY WHICH REQUIRES THAT ANY CONFLICT BETWEEN MEDICAL NEED AND PRISON RULES BE RESOLVED IN FAVOR OF THE FORMER.

4. ALL MEDICAL AND HEALTH RELATED SERVICES IN TDC -- INCLUDING ALL PHYSIOLOGICAL, PSYCHOLOGICAL, HYGIENE, FOOD, ENVIRONMENTAL CONTROL, AND SAFETY PROGRAMS -- SHOULD BE BROUGHT UNDER THE DIRECT AND FULL SUPERVISION OF A SINGLE ASSISTANT DIRECTOR WHO IS A LICENSED PHYSICIAN.

5. AT LEAST TWO MEMBERS OF AN EXPANDED BOARD OF TDC SHOULD BE LICENSED PHYSICIANS.

6. IMMEDIATE STEPS SHOULD BE TAKEN BY TDC AND THE LEGISLATURE TO BEGIN MEETING -- AT A MINIMUM -- THE MEDICAL STAFFING STANDARDS SET BY THE AMERICAN CORRECTIONAL ASSOCIATION.

7. TDC SHOULD CONDUCT AN EXPANDED AND VIGOROUS RECRUITING PROGRAM TO HIRE AND RETAIN FULL TIME MEDICAL PERSONNEL; THE

LEGISLATURE SHOULD ACT TO INCREASE AUTHORIZED MEDICAL JOB POSITIONS IN TDC AND RAISE PROFESSIONAL SALARIES TO A REALISTIC AND COMPETITIVE LEVEL.

8. TDC SHOULD DEVELOP PROGRAMS FOR FULL AND EFFECTIVE PROFESSIONAL TRAINING OF INMATE MEDICAL PERSONNEL. THESE PROGRAMS SHOULD SEEK TO MAXIMIZE THE USEFULNESS OF SUCH PERSONNEL IN MEETING EXISTING PRISON HEALTH NEEDS WHILE PROVIDING MEANINGFUL AND MARKETABLE SKILLS FOR USE IN CIVILIAN LIFE. SUCH PROGRAMS SHOULD BE COORDINATED WITH RELEVANT STATE AUTHORITIES TO PROVIDE FOR CERTIFICATION IN THE PARTICULAR FIELD IN WHICH THE INMATE IS TRAINED. ANY AUTOMATIC LEGAL DISABILITIES LIMITING OR PROHIBITING THE PRACTICE OF THESE SKILLS IN THE FREE WORLD BY EX-INMATES SHOULD BE ELIMINATED BY THE RELEVANT STATE LICENSING BOARDS OR THE LEGISLATURE, AS NECESSARY.

9. TDC SHOULD PROMULGATE STANDARDS GOVERNING THE HANDLING OF PHARMACEUTICAL SUPPLIES AND THE FILLING OF PRESCRIPTIONS. THE STANDARDS SHOULD INCLUDE ORDERING, STORAGE, AND DISPENSING PROCEDURES. TDC AND THE LEGISLATURE SHOULD ACT TO ASSURE THAT NECESSARY MEDICAL CARE IS NOT DENIED BECAUSE OF LACK OF ADEQUATE BUDGETING, PLANNING, OR FUNDING.

10. TDC SHOULD REQUEST THAT THE JOINT AMERICAN MEDICAL ASSOCIATION - AMERICAN BAR ASSOCIATION - AMERICAN CORRECTIONAL ASSOCIATION - NATIONAL SHERIFF'S ASSOCIATION PILOT CERTIFICATION PROGRAM FOR PRISON MEDICAL FACILITIES INCLUDE TEXAS AS ONE OF THE SIX TEST STATES. IF SUCH PARTICIPATION IS NOT POSSIBLE, THE TEXAS MEDICAL ASSOCIATION SHOULD BE REQUESTED TO STUDY AND EVALUATE THE ENTIRE HEALTH CARE SYSTEM IN TDC AND TO RECOMMEND SPECIFIC STEPS WHICH CAN BE TAKEN TO IMPROVE THE PROGRAM AND FACILITIES.

11. STEPS SHOULD BE PROMPTLY UNDERTAKEN TO REMEDY THE MANY SERIOUS DEFICIENCIES IN THE TDC HOSPITAL AS FOUND IN THE RECENT STUDY CONDUCTED BY THE TEXAS HOSPITAL ASSOCIATION.

12. THE SPECIFIC RECOMMENDATIONS OF THE TEXAS HOSPITAL ASSOCIATION REPORT REGARDING ESSENTIAL IMPROVEMENTS IN PATIENT CARE NECESSARY TO BEING THE TDC HOSPITAL UP TO ACCEPTABLE, CERTIFIABLE STANDARDS SHOULD BE PROMPTLY IMPLEMENTED.

13. A STUDY SHOULD BE PROMPTLY UNDERTAKEN TO DETERMINE WHETHER THE PHYSICAL PLANT OF THE EXISTING TDC HOSPITAL CAN BE RENOVATED AND IMPROVED TO ADEQUATELY MEET PROJECTED PATIENT NEEDS: EITHER SUCH WORK SHOULD BE COMMENCED WITHOUT DELAY OR PLANNING FOR A NEW HOSPITAL SHOULD BE BEGUN.

14. INMATES WHO HAVE COMPLAINTS WITH REGARD TO THE DELIVERY OF HEALTH CARE SHOULD HAVE ACCESS TO PROPOSED INMATE GRIEVANCE PROCEDURES. (SEE THE SECTION OF THIS REPORT DISCUSSING "GRIEVANCE PROCEDURES.")

15. HEALTH CARE, SANITATION, HYGIENE, FOOD PREPARATION, AND INDUSTRIAL AND AGRICULTURAL SAFETY AND OPERATIONS SHOULD ALL BE SUBJECT TO THE SAME STATE REGULATION, INSPECTION, LICENSING AND QUALITY CONTROL AS GOVERN OTHER AGENCIES AND ACTIVITIES THROUGHOUT THE STATE. TDC SHOULD BE ACCORDED NO SPECIAL IMMUNITY FROM LEGAL REQUIREMENTS WHICH APPLY TO ALL OTHERS.

MENTAL HEALTH

Although TDC makes a nominal effort to identify and separate from the general prison population inmates with mental health problems, the methods employed range from inadequate to inhumane. TDC estimates that 10-15% of its 17,000 inmates are mentally retarded and that an even greater number are emotionally disturbed. Other mental health classifications include homosexuals, drug addicts, and alcoholics -- yet, TDC's treatment programs for most of these categories range from inadequate to non-existent. For example, although TDC's assistant director for treatment has estimated that 75% of all inmates have drug or drug-related problems, TDC has no drug treatment or counseling program whatsoever.

Inmates that evince psychological problems are ostensibly referred to TDC's counseling program, but at last report there were no full-time psychiatrists and many too few psychologists working on a full-time basis to meet essential demands among a population of 17,000 inmates.

Some counseling is done, of course, both on a group and individual basis, but the shortage of professional personnel prohibits any meaningful effort to meet even immediate needs; any attempt at maintaining a preventive program which would deal with mental problems before they became serious or disabling--something which happens too often in the institutional context--simply is impossible.

TDC's attempts to identify those in need of psychological help are inadequate. No standard procedure is used to interpret the tests which are routinely given at the Diagnostic unit to newly arriving inmates. In fact, Committee members were told by TDC officials that TDC has no one available at Diagnostic even qualified to interpret one of the important tests given to new inmates.

It appears that many, perhaps most, mental cases in TDC are self-identified, that is, an inmate will simply "crack," lose control, or become violent or non-functional after being assigned to the regular inmate population in one of the prison units. A recurring complaint of ranking unit security officers was that when this happened, the only thing they could do was put these inmates in isolated ordinary cells and drug them until an assigned psychologist or psychiatrist arrived, a process which often involved several days' wait.

Inmates who are regarded as most actively disturbed may be assigned to the "Treatment Center" at the Walls unit in Huntsville. The Center is essentially no more than an ordinary cell-block reserved for inmate mental patients. The facilities were recognized to be inadequate but no others were available within TDC for the purpose, we were told.

Only limited recreational facilities are available for Center inmates, though planned and supervised activities could be used as part of the therapeutic program. Counseling is limited, and insufficient follow-up is made of inmates upon their release from Center and their return to their "home" units.

A new development in TDC therapy involves the use of something called a "Neurotone" machine. TDC officials were unwilling to give staff members a description of the function or purpose of the machine, but after a series of exchanges the staff was told that TDC was experimenting with alpha wave therapy. It is not known if TDC is continuing to use the machine, but as late as July, 1974, inmates were still being experimented upon. The device is apparently still in the experimental stage; indeed, the director of the treatment center told us that he was "experimenting" with it. While not

expressly disapproved by the American Psychiatric Association, the machine is not on its list of approved therapeutic devices.

Drug therapy appears to be a major method of treatment at the Center. Drugs can have great therapeutic value in the treatment of mental illness, but the TDC program has significant shortcomings.

A primary weakness is the overdependence on depressant hypnotic sedatives to keep patients "turned off." Having no therapeutic effects whatever, these sedatives are used for the benefit of the staff-not the patient. Some sedatives used by TDC are seriously outdated (e.g., Triclose, Choral Hydrate) and they are no longer approved for use in our other state-run mental institutions which now rely on phenothiazine tranquilizers for a more modern chemotherapy program. While it is conceivable that sedation may at times be required for safety in emergency situations, the routine administration of outmoded sedatives for the inducing of semi-conscious lethargy for ease of handling should be ended.

The use of all non-FDA-approved drugs should be banned. Triclose, for example, is currently in use by TDC, but has never been approved for therapeutic purposes by the FDA; prolonged use is discouraged even by the manufacturers of Triclose.

Safety precautions recommended by the producers of approved treatment drugs or by the FDA should be strictly observed. Many drugs, for example, because of their effect on bone marrow, require blood counts (WBC) to be taken at regular intervals (e.g., Mellaril, Triclose, Lithium Carbonate), and although psychiatrists working for TDC agree that the prison hospital does have facilities for such checks, they have been conducted only when expressly required by the treating psychiatrist-not at the officially recommended periodic intervals. Such neglect needlessly increases the potential risks involved in the use of these powerful drugs.

There is also a serious lack of coordination and education between the psychiatrists prescribing the medications and the inmate "green shirt" or medical aide who administers prescriptions at the local units. These inmate "medical assistants," almost all of whom lack any formal medical training, displayed little or no understanding of the drugs they handled, not realizing, for example, that Artane was prescribed only to counteract the serious side effects of drugs such as Stellazine, and if Artane or similar-purpose drugs become suddenly unavailable, Stellazine must not be administered (the risk being one of serious, potentially irreversible physical harm). Another example is the lack of understanding and coordination on the part of unit guards and staff personnel. Thorazine, in common use for mentally disturbed prisoners, creates serious skin sensitivity to sunlight. Few guards know this and patients on thorazine are commonly sent out into direct sunlight and forced to work alongside the general population, resulting in "mysteriously" severe sunburns.

One of the needs of the TDC mental health program not now being met is that of providing adequate facilities for the severely disturbed psychopathic, sociopathic, or schizophrenic patients whose prognosis for cure depends heavily on long-term, concentrated psychiatric care. The treatment demands made by such patients, in terms of financial costs, staff expertise, and concentration of professional attention, are simply out of the reach of current TDC Treatment Center capabilities. Such patients also constitute a serious disruptive influence on other less disturbed mental patients when housed in the close proximity required by the limited space allotted to the Center, as well as a potential source of danger to other inmates and prison staff personnel. The only current alternative to treating these individuals within the confines of the TDC Treatment Center

is to transfer them to the Maximum Security Unit of Rusk State Hospital. Those most seriously ill are sometimes sent to the Rusk, but the number of such referrals is severely limited by Rusk because of space problems, asserted security limitations, and a perhaps justified concern about the impact of TDC inmates on its own patients and programs. Both security and mental health personnel at TDC complained that TDC was left to care for too many inmates who medically should have been in a mental, not a penal institution. We were told that even those in need of intensive, but temporary, care not available in TDC were often refused or returned untreated by Rusk, creating serious problems in TDC.

It is clear that even at this late date TDC's mental health program is still in its early and formative stages. In fiscal year 1975, for example, TDC's official budget did not allocate funds to pay the salary of the Chief of Psychological Services. His pay has come instead from prison commissary and rodeo profits. Both the present budget and conversations with program officials indicate that even the primitive existing programs have gained only a suspicious and precarious acceptance within TDC.

TDC's 1976-77 budget submitted for consideration by the next session of the Texas Legislature commendably recognizes the severe shortcomings of existing programs and seeks, at its higher levels, additional funding to allow employment of a professional staff of psychiatrists, clinical and general psychologists, and other essential personnel capable of beginning some of the programs so desperately needed. The "level 4" budget calls for two full-time psychiatrists (at approximately the same dollar cost as is now expended on four part-time psychiatrists), one Chief of Psychological Services, nineteen psychologists (compared to the present five), and various other additions to the current psychological services staff.

An adequate mental health program is essential in TDC, not only because returning clinically "sick" inmates to society upon their release is self-defeating and senseless, but because their presence untreated within TDC can only increase tensions and security problems and hinder achievement of correctional objectives among healthy inmates. Moreover, the very nature of prison causes or contributes to mental breakdown of some inmates, and common sense suggests the wisdom of identifying and treating such conditions at an early stage before more serious problems develop.

The TDC treatment center is apparently the only mental health treatment facility in the State of Texas--public or private--which undergoes no form of certification, licensing, or quality assurance inspection program. One should be implemented as soon as possible. What assistance and instructional benefits other institutions in the state derive from such programs surely cannot be denied to TDC.

There are several alternatives, any one of which would be a significant improvement over present conditions. The Joint Commission on the Accreditation of Hospitals is the national organization recognized among the health care community, including the State Department of Mental Health and Mental Retardation (MHMR), as the general accrediting body for operations such as the TDC treatment center. If it was brought in, its inspections would be directed primarily at the adequacy of the physical plant involved. The inspection would be professionally handled and extensive. The Texas Department of Health is another organization capable of providing the same service, but there are intrinsic disadvantages in asking one state agency to inspect another; and in any case the Department of Health would have to limit its inspection to the non-program areas.

In addition to an inspection of the physical plant, there should be a full-scale, in-depth inspection of the treatment program. Inspections should be no less frequent than

once a year and should be held on random dates with minimal prior notice. MHMR is now required by new federal funding programs to submit to such a programmatic inspection scheme and has contracted with the Texas Medical Foundation (part of the Texas Medical Association) to provide the expertise required to effectuate its own new "Quality Assurance Inspection Project". This would seem to be an excellent approach for TDC to follow as well.

RECOMMENDATIONS:

1. THOROUGH PSYCHOLOGICAL TESTING OF EVERY ENTERING INMATE SHOULD BE A REQUIREMENT BEFORE FINAL CLASSIFICATION IS MADE. ALL AVAILABLE INFORMATION FROM INMATES' FAMILIES, PREVIOUS INCARCERATION RECORDS, AND PERSONAL INTERVIEWS SHOULD BE COLLECTED IN A CENTRAL FILE AVAILABLE FOR ASSESSMENT BY FULLY QUALIFIED AND COMPETENT PROFESSIONAL PERSONNEL.

2. ADEQUATE PROFESSIONAL COUNSELING SHOULD BE AVAILABLE TO ALL INMATES WHO NEED AND DESIRE SUCH HELP.

3. THE TREATMENT CENTER SHOULD BE TRANSFERRED FROM ITS PRESENT CELL BLOCK LOCATION TO A MORE SUITABLE, TREATMENT-ORIENTED FACILITY WITH ADEQUATE STAFF.

4. TDC SHOULD REQUEST AN IMMEDIATE INSPECTION BY THE TEXAS MEDICAL ASSOCIATION OR OTHER APPROPRIATE, IMPARTIAL AUTHORITY TO EVALUATE ITS DRUG THERAPY AND TREATMENT PROGRAMS, AS WELL AS ITS PHYSICAL FACILITIES. USE OF UNAUTHORIZED DRUGS OR MECHANICAL DEVICES SHOULD IMMEDIATELY BE DISCONTINUED. STEPS SHOULD BE IMMEDIATELY TAKEN TO ASSURE THAT ONLY QUALIFIED PERSONNEL PRESCRIBE AND ADMINISTER TREATMENT OF ANY KIND.

5. THE TREATMENT CENTER'S STATUS AS THE ONLY MENTAL HEALTH TREATMENT FACILITY IN THE STATE OF TEXAS-PUBLIC OR PRIVATE-WHICH UNDERGOES NO FORM OF LICENSING, CERTIFICATION OR ASSURANCE OF QUALITY INSPECTION PROGRAM SHOULD BE ENDED IMMEDIATELY. TDC'S FACILITIES SHOULD NO LONGER BE TREATED AS AN EXCEPTION AND SHOULD BE MADE SUBJECT TO THE SAME REQUIREMENTS AS OTHER STATE OPERATED MENTAL HEALTH FACILITIES.

6. TDC'S MENTAL HEALTH PROGRAM SHOULD BE UNDER THE IMMEDIATE DIRECTION OF A WELL-TRAINED, FULL-TIME STAFF PSYCHIATRIST WHO, WITH SUCH HELP AS IS NEEDED, SHOULD PROMPTLY RECOMMEND DEVELOPMENT OF A FULLY INTEGRATED AND STAFFED MENTAL HEALTH PROGRAM.

7. APPROPRIATE ARRANGEMENTS SHOULD BE MADE TO FACILITATE AND ASSURE PROMPT AND APPROPRIATE TEMPORARY REFERRAL AND, WHERE NECESSARY, LONG TERM COMMITMENT OF SEVERELY MENTALLY ILL TDC INMATES TO APPROPRIATE MENTAL HEALTH INSTITUTIONS WHERE ESSENTIAL CARE AND TREATMENT CAN BE GIVEN.

8. TDC SHOULD ESTABLISH A LIASON PROGRAM, EITHER THROUGH THE PAROLE BOARD, TEXAS REHABILITATION AGENCY, DIRECT CONTACT WITH LOCAL REHABILITATIVE AGENCIES, OR OTHERWISE TO ASSURE THAT RELEASED INMATES WITH MENTAL HEALTH PROBLEMS HAVE NECESSARY SUPPORTIVE SERVICES AVAILABLE TO THEM.

EDUCATION

TDC operates broad and varied inmate education programs ranging from basic elementary to college courses. Enrollment in numerical terms is impressive, with well over half of TDC inmates participating in some way, or to some extent in educational programs. TDC proudly and appropriately notes that its nine-year-old college level program is one of the largest of its kind in the nation.

TDC's development and expansion of its education program in recent years is significant and commendation is proper. But the educational needs of the inmate population are immense. By TDC's own estimates, approximately 15% to 20% of all entering inmates are illiterate, 90% are school drop outs, more than half have I.Q.'s below 100 (with figures for 13% not determined), and about half have the equivalent of less than a seventh grade education. Thus, without being critical of past advances or achievements, and without minimizing what has been accomplished, it is imperative to note that much remains to be done.

Though TDC has acknowledged the crucial importance of education and job training to achievement of correctional goals, its present programs are insufficient to meet recognized needs. This is the judgment both of teachers and officials in TDC and its constituent school district and of independent state education officials. The problems include ones of emphasis, limits on participation in some classes, frequency and quality of classes, and adequacy of staff, materials, and facilities.

TDC has basically two program divisions: elementary and secondary education provided by the Windham School District, and college education. Each division has both academic and vocational programs. In addition, there are a number of special education classes, as well as a limited bilingual education program.

WINDHAM SCHOOL DISTRICT:

The Windham School District was created by the Texas Legislature in 1969 to make TDC eligible to receive state educational funds through the state Minimum Foundation School Program. The TDC Board doubles as the school board for the District, which hires its own teachers and runs the elementary, secondary, special education and bilingual classes for TDC inmates.

Participation in the educational process beyond the fifth grade is optional and in order to participate inmates must meet certain disciplinary standards and be approved by a prison committee. Upon satisfactory completion of the secondary program, the inmate receives a high school diploma from Windham or his home high school if it is cooperative. As an alternative to formal graduation, inmates may take the General Equivalency Test and receive a certificate (G.E.D.) which is generally accepted as a diploma-surrogate. Provision of G.E.D. certification allows an early reward schedule for those students wishing to complete the program quickly.

All inmates with less than a fifth grade education are required to go to classes, though most of them -- like most other students in TDC -- are allowed to attend school only one day a week, a serious shortcoming according to many educators. At that basic level particularly - but also on through high school - one day of schooling at a time, separated by six days of "forgetting," is too often ineffective. The difficulty is a function of priorities, apparently: the desire to man TDC's farms and factories supersedes the commitment to education; indeed, it is not uncommon for an inmate's work supervisor

to order him to report to work rather than to class, even on his single school day.

Another limitation on the effectiveness to TDC's program lies in the use of materials, especially pre-secondary reading skills textbooks, which are designed for young children -- materials which have little if any interest or appeal for mature men and women. The teaching of basic skills to adults may be one of the most difficult tasks faced by the school district. Reliance on texts designed for six-year-old children seems unwise and self defeating.

Two other problems raised in a recent study of the District program by the Texas State Education Agency (TEA) related to staffing. Windham teachers, many of whom have never even been inside a prison before, receive only a brief training period before assuming full teaching responsibilities. The TEA report recommended, in addition to other staffing matters, that Windham develop and utilize a comprehensive training program of sufficient quality and depth to acquaint teachers with the unique requirements of correctional education. TEA also urged that Windham develop a teacher salary schedule sufficient to attract and hold the high quality faculty necessary to meet the demands of institutional instruction.

A serious problem in Windham involves the securing of state educational funds. Funds are allocated to Texas school districts on the basis of their average daily attendance. Because most of its students attend classes only one day a week, Windham's student population is in fact five times greater than its average daily attendance. Thus, it does not readily fit into the state funding formula and receives less funds than it should. TDC has recommended that an alternate form of computing state funding be devised for use by Windham, but, strangely the suggestion seems not to have been actively pursued.

COLLEGE PROGRAM:

TDC has entered into contractual agreements with nearby colleges and junior colleges to provide post-secondary education for inmates. The junior college program has been in operation for a number of years and is now available at most units. The senior college program is new and still very limited. Admission to both programs requires, in addition to academic qualification, maintenance of certain disciplinary status. The current senior college population is comprised totally of trustees, although no particular TDC rule seems to require this.

Junior college courses seem to cover a number of the subjects found in a free world junior college: mathematics, business administration, history, English, Spanish, accounting, geography and economics. Two areas which are deficient are the laboratory sciences and criminal law. Interviews with college personnel produced the information that TDC officials feel that the presence of some of the laboratory materials might constitute a security threat; no information was available on the lack or availability of courses on criminal law, an area one would think inmates would be eager to study.

All three hour classes meet one time per week for three hours, while all four hour classes meet twice a week, once as a three hour lecture and once for a one hour lab. Classes begin at various times, ranging from 6:00 a.m. to 7:00 p.m., some of which are arranged to fit an individual professor's travel schedule while other courses are arranged around inmate work schedules. With a few exceptions for specific vocational classes and laboratories, all college classes are taught within the units.

The average class size in the spring of 1974 was 27.16 students, with an expected

rise to 35 students per class by fall of 1975.

While Windham's academic program is largely a remedial in-house operation, the college program tries to offer students a comparable free world educational experience. The college teaching staff reports average or better than average student work. In a study of teacher satisfaction with the TDC student body in 1971, college faculty rated TDC students high in their enthusiasm for learning, in their class attitude, in the quality of their work, and in their intellectual curiosity. TDC's expansion of the program to offer senior college classes to the inmates is commendable.

However, criticism mentioned by several of the college students and the lowest-ranked item on the faculty satisfaction survey is the inadequacy of the unit libraries; the TEA survey lists this criticism as well. The security concerns of TDC create an unnecessary hardship on the teaching staff and on the student body. Admittedly, TDC's reluctance to allow explosive chemicals or other dangerous materials into the unit is understandable. But, to permit the teaching of a course of instruction and to deny free access to related library books is unreasonable.

VOCATIONAL EDUCATION:

Vocational courses are offered at both the high school level (by Windham School District) and the college level (by contracting colleges). The courses cover a fairly wide range of training (air conditioning and refrigeration repair, radio and television repair, upholstery, dental laboratory work, cosmetology, construction trade skills, and automobile mechanics and body repair, among others), and seem on the whole to be well selected and well designed. One of the best programs offered is the Texas A. and M. project at the Walls unit in Huntsville. Offering three courses, one in heavy equipment (thirteen students over an eight week period), one in water utilities (four students over a twelve week period), and one in electric highline (five students over a six month period), the project offers the inmate one of the best chances of being assigned to a useful job once he returns to his unit and one of the best chances for employment upon his release.

Admission to Windham and college vocational programs is more difficult than admission to the academic programs. Though basic education and other requirements parallel those for the academic programs, applicants to the college vocational courses must in addition be at least 21 years old, and applicants must obtain the specific approval of their warden. Inmates in the vocational program attend classes five days a week (as opposed to the one day a week academic program), and the inmate's daily job assignment coterminous with his daily education. Since vocational classes frequently allow inmates to have more interesting jobs than the regular work assignments, the vocational education assignments are rare and desirable. Thus, allowance of enrollment in a vocational class has a potential for use as a "reward" rather than as an essential and important ingredient of an inmates' development and training.

The major shortcoming of the vocational program, however, is its size. Notwithstanding the importance of adequate job training in assuring an inmate's success in seeking a law-abiding role upon release, the vocational courses have the smallest enrollment of any TDC's regular educational programs, other than the new senior college program. Openings are much too severely limited. TDC's last annual report shows that only about seven percent of its inmates participate in the secondary and college level vocational programs as against over ten percent in the academic junior and senior college programs alone. At one unit we visited, only three of four scheduled vocational courses

were being taught and only 60 inmates of approximately 1700 were participating.

Part of the problem may be funding, as equipment needs in some of these training programs is expensive, but this certainly is not the entire answer. It appears that the limitations on enrollment may once again be a function of the preference to man prison industries and farms rather than release workers to five day a week training programs.

TDC's only unit for women, Goree, offers academic and special education programs which are similar to those offered in the male units. The vocational program, however, reflects little of the diversity of those found in the male units. Courses in home management, secretarial skills, cosmetology, and the like reflect mainly stereotypical female roles. Goree has one of the few work-release programs in TDC and places its female inmates in the local sawmill. Vocational administrators apparently see nothing odd in this.

SPECIAL EDUCATION:

Many students cannot be educated in normal classroom situations because of mental retardation or emotional disturbance. These two kinds of problems in learning require distinctly different kinds of teaching approaches. TDC has estimated that as many as 2,000 of its inmates are mentally retarded and that an even larger number are emotionally disturbed. Despite their own estimates, only about 800 students - perhaps 25% or less of those requiring it--are in special education classes, grouped together without regard to the type of learning problem involved. For these students, TDC has twenty teachers, each of whom are certified in one of the two types of special education. One would expect that the larger percentage of teachers would be certified for teaching the greater number of emotionally disturbed students, yet the opposite is overwhelmingly the case: nineteen teachers are certified for instruction of the mentally retarded and only one for teaching the emotionally disturbed. State law requires that all school districts--including Windham--must operate separate classes for separate learning disabilities by 1976; Windham, at last report, had no plan developed to begin meeting this requirement.

Other serious problems abound in special education. Entrance to the program is regulated by the number of spaces in the class, rather than the needs of students. The school district has failed to use all of the specially allocated funds available from the state to hire special education teachers. Contrary to good educational practice, students are "promoted" out of the program once they have demonstrated the mastering of basic skills.

Especially serious is the fact that most special education students--like others in TDC--attend class only one day a week. This practice was a focus of special criticism in the TEA report, and properly so, for continuity in training is crucial in special education. Even the benefits of one-day-a-week schooling are sometimes lost by these already handicapped students since they too are periodically prevented from attending classes when their work supervisor wants them to remain on their regular job.

Other problems include lack of adequate teaching materials and deficiencies in testing and screening of inmates to identify those in need of a special education.

These practices are not only unfair and potentially injurious to these already handicapped inmates, but do much less than should be done to equip them to return to society with that very minimum of skills which might allow them to survive without returning to criminal conduct.

BILINGUAL EDUCATION:

Windham School District presently operates a limited program of bilingual education. One part of the program provides an opportunity for self-paced instruction in the English language at a number of units. The Goree unit for women houses the only two bilingual special education classes in TDC--the other part of the program. Taught by a native-speaking special education teacher, these classes have an enrollment of seventeen students.

Initiation of the bilingual program by Windham indicates recognition of the special problems faced by those inmates whose primary language is other than English. This is a progressive step and Windham is to be commended.

But the compliment must be qualified. The overall enrollment of about 300 students in both programs represents only about 15% of the total Mexican-American population of TDC; it is clear that there is a wide gap between the number of inmates being served and the potential to be served. In addition it appears that the limited size of the program fails to meet the standards of either Texas law or of a recent Supreme Court decision. Moreover, the program completely ignores the requirement of the Texas Education Code that bilingual education also provide bicultural input; the teaching method employed fails to follow the guidelines promulgated by the Texas Education Agency.

The TDC supervisor for bilingual education, a former assistant principal, has developed a Spanish translation of one of the tests given to new inmates upon entering TDC. But Spanish versions of the other tests are not available for those whose language is Spanish or who are ill-equipped to perform well in English. To the extent test results are used in classifying inmates or determining eligibility or need for certain programs, there is great room for error and unfairness.

The grant under which the bilingual reading program operates will terminate this year; an initial proposal for refunding for next year has been rejected. Clearly, a program of bilingual-bicultural education is essential to any comprehensive educational and rehabilitation scheme in TDC and prompt steps must be taken to obtain further funding, either through state or federal sources to assure not simply continuation, but a substantial expansion of bilingual education.

GENERAL OBSERVATIONS:

In discussing the educational system within TDC, teachers, correctional officers, inmates, and administrative personnel repeatedly reiterated the limitations created by a class schedule of one day a week for six hours a session. When viewed from the perspective of either the student or the teacher, the inherent weaknesses of a correctional educational system are multiplied when student/teacher contact is separated by passage of a full week between classes. That any of the special education classes are operated on this basis is contrary to any effective professional commitment to rehabilitation.

Moreover, the success of the educational effort in any unit is strongly influenced by the attitude of the individual warden, who may or may not be committed to the program. While the establishment of Windham School District and the development and expansion of the college program stand out as credits, the conflict between production and education remains. As one Windham teacher wrote, "... there is, and will continue to be competition between work and school within TDC; work is deemed more

important . . . " The fact that Windham and the college program have been able to raise the priority of education to its present level in TDC is to their credit.

Another criticism commonly raised concerned the availability of facilities for education. Although a few of the units have expanded to include separate education buildings, the amount of space for classrooms and administration is far from sufficient. The need for more and better facilities should be recognized by TDC and made part of an on-going implementation program.

A general weakness throughout the educational system is the lack of adequate counseling. The duties of the Education and Recreation officer are frequently subordinated to the amount of paperwork which accompanies them. A source should be available who could provide guidance for inmates who wish to choose intelligently among the various educational programs. If the position of the Education and Recreation officer is to be continued, applicants should be screened or trained for some expertise in educational counseling and guidance; the absence of any such requirement was a point of criticism in the TEA report. Most desirable, however, would be the establishment of a qualified permanent education counselor for each unit.

RECOMMENDATIONS:

1. TDC SHOULD GUARANTEE ALL INMATES AN EDUCATION THROUGH THE EIGHTH GRADE WITHOUT EXCEPTION, WITH CLASSES HELD ON A REGULAR BASIS FIVE DAYS A WEEK IN TWO OR THREE HOUR UNITS EACH DAY, USING APPROPRIATE TEACHING MATERIALS.

2. POST-EIGHTH GRADE EDUCATION SHOULD BE GENERALLY AVAILABLE TO INMATES AND SHOULD NOT BE SUBJECT TO ENTRANCE REQUIREMENTS OTHER THAN THE DESIRE TO PARTICIPATE, WITH CLASSES HELD ON A FIVE DAY A WEEK BASIS WITH TWO OR THREE HOUR UNITS EACH DAY.

3. THE SPECIAL EDUCATION PROGRAM SHOULD BE EXPANDED TO BE AVAILABLE TO ALL STUDENTS WHO NEED IT, WITH SEPARATE CLASSES FOR THOSE WHO ARE MENTALLY RETARDED AND THOSE WITH OTHER DISABILITIES. STUDENTS SHOULD BE ALLOWED TO ATTEND SUCH CLASSES FIVE DAYS A WEEK WITHOUT EXCEPTION, AND SHOULD BE TAUGHT BY PERSONNEL QUALIFIED TO MEET THEIR SPECIAL EDUCATION NEEDS, USING PROPER TEACHING MATERIALS.

4. THE PRESENT BILINGUAL EDUCATION PROGRAM MUST BE REFUNDED AND EXPANDED TO REACH ALL INMATES WITH ENGLISH LANGUAGE DEFICIENCIES AND TO ENCOURAGE VOLUNTARY PARTICIPATION.

5. ADMISSION TO CLASSES SHOULD BE BASED ON NEED, INTEREST, AND UTILITY UNDER GENERAL CRITERIA; THE GRANT OR DENIAL OF EDUCATIONAL OPPORTUNITIES SHOULD NOT BE OPEN TO USE AS A DISCIPLINARY DEVICE OR REWARD.

6. VOCATIONAL PROGRAMS SHOULD BE SIGNIFICANTLY EXPANDED TO ALLOW MORE STUDENTS TO PARTICIPATE; PROGRAMS FOR WOMEN SHOULD BE EXPANDED TO INCLUDE A BROADER CATEGORY OF OPPORTUNITIES.

7. A REVISED METHOD OF COMPUTING STATE FUNDING FOR THE TDC EDUCATIONAL PROGRAMS SHOULD BE WORKED OUT WITH THE COOPERATION OF THE TEXAS EDUCATION AGENCY TO REFLECT THE ACTUAL NUMBER OF TDC STUDENTS.

PRISONERS' ACCESS TO COURTS AND LEGAL COUNSEL

Many inmates in TDC are effectively prevented from receiving necessary legal assistance because of TDC rules and practices. Although TDC operates an inmate legal assistance program which works fairly well, the legal service is still too limited to meet either constitutional requirements or practical needs. Moreover, TDC places substantial and improper obstacles in the way of inmates who would seek to protect their rights. In addition, the constitutional privacy of legal documents and communications is violated or open to violation. And in some cases, TDC officials appear to be engaged in a program of harassment of, and retaliation against, inmates it deems too active in seeking to protect their constitutional rights.

Inmates generally need two types of legal aid: one for help in preparing appeals of their convictions or with other personal or family problems; another for help in protecting their civil rights against violation by TDC itself. The TDC inmate counsel program allows its staff attorneys to help inmates in only the first type of case. If an inmate has a complaint against a prison official or wishes to challenge the constitutionality of prison conditions, he is on his own and cannot apply to the legal assistance program.

TDC rules prohibit one inmate from helping another in legal matters. As a result of this rule, TDC was found by the courts to be acting unconstitutionally and was compelled to institute the existing inmate counsel program. As a result of a more recent Supreme Court case, TDC will either have to change the rule or establish a program to provide counsel for inmates in civil rights actions. At present, TDC creates a situation in which only those inmates who can afford to pay for an attorney or who are able to represent themselves legally have access to the courts in civil rights suits. Those without funds or legal ability must simply suffer.

In response to another court decision in 1971, TDC has established a limited law library in each unit for inmate use. Unless these "writ rooms" are generally much better than the ones we examined, they are inadequate to meet inmate needs. Necessary law books are often not included and librarians are not adequately trained. An inspection of the library at one unit disclosed missing volumes, outdated statutory sources, and a complete absence of other essential research materials. An experienced lawyer would have extreme difficulty in effectively using such inadequate, disordered, and ill-maintained facilities. How inmates untrained in legal research are to use the libraries when a trained professional would have difficulty is an obvious question.

TDC requires inmates to keep all personal legal papers in the prison law library or "writ room." Files cannot be locked, and any person--employee or inmate--can read or destroy legally private research and papers which may have taken months to prepare. Inmates are not allowed to keep legal papers in their cells, the only place in the prison in which individual inmates can exercise even limited privacy. Members of the Committee have been told that inmates frequently try to hide their papers in innocent-looking shoe boxes left in various places in the "writ room" or in large books which are seldom used in order to protect their work.

Even if an inmate can succeed in preparing legal documents without help, other obstacles block his path. In order to have legal papers notarized, the inmate often must give the paper to the writ room officer for notarization (a function sometimes reserved to the warden himself or a high ranking security officer). Sometimes officials refuse to notarize legal papers that they do not like. We have been told that the wait for

notarization is often lengthy, and during this time the officer may read these legally private papers. Inmates claim officers sometimes "lose" important documents or try to "persuade" inmates to abandon their legal claims. At best, communication with courts and counsel is unjustifiably delayed and inmates are intimidated in exercising their constitutional rights.

Another questionable TDC rule is the one which permits officials to open and inspect mail to or from attorneys and provides that "such inspection need not be in the presence of the inmate." That TDC feels that it is necessary to inspect mail for contraband is not at question; that inmates are not in a position to observe the search is. Clearly, TDC may abuse this right to inspect mail by reading constitutionally private and confidential communications. Inmates have no recourse or defense and are again improperly deterred or intimidated from asserting their legal rights. Members of the Committee have heard reports from attorneys in TDC's own inmate counsel program that their communications with inmates are sometimes read and censored, even though they also are TDC employees. If this is true, it appears that at least some TDC officials have little respect for the importance of the attorney-client privilege.

Still another unfair and unnecessary rule, only recently adopted by TDC, bars all mail privileges for inmates who are in solitary confinement. Until amended earlier this year - in an apparent punitive move - the rule permitted the sending and receiving of "privileged" mail, that is, mail to or from courts, judges, attorneys, and state and federal officials. The only permitted exception to the blanket prohibition created by the new rule is mail to or from a court in the event of an "emergency." But the determination of whether or not an emergency exists is left to the sole discretion of the individual warden and there is no definition either of what constitutes an emergency or how the warden is to decide if there is one. Apparently, he must either read the inmate's mail - something he is not entitled to do - or, in the case of incoming mail, must write the court to ask if it is an "emergency," by which time any real emergency may have passed.

This new and overly strict rule is, at best, of doubtful constitutionality and serves no justifiable purpose. In our view, there is no reason ever to curtail any mail privileges, except where those privileges themselves have been abused and the restriction is necessary to prevent further violations; certainly, prohibition of privileged mail is never justified, for that may be an inmate's sole recourse to prevent or protect against abuse of his rights. The idea of holding anyone completely incommunicado, keeping him from absolutely any contact with the outside world, is foreign to any concept of American procedure, no matter what the offense. And to deny all recourse to legal redress particularly when an inmate may most need it - that is when he is suffering special punishments - is, we firmly believe, unconstitutional. This rule should be changed at once.

As an adjunct of this correspondence policy, TDC prevents inmates from doing any legal work while in solitary confinement. Here again, the TDC practice is indefensible. Whatever other restrictions might be imposed, this policy can effectively deny an inmate constitutionally guaranteed rights. A number of inmates who were compelled to represent themselves in civil rights or other cases told of instances in which they were delayed in preparing essential documents to submit to the courts, documents due by specified deadlines which the court might or might not waive. Again, there is no reason why TDC should have the power to suspend the constitutionally protected right of access to the courts. Under no sensible interpretation can it be said that maintenance of discipline requires it or that the constitution allows it. This restriction should also be promptly abolished.

Finally, and perhaps worst of all, it appears that assertion of legal claims against TDC immediately brands an inmate as a "writ writer" and "troublemaker" in the eyes of some officials and puts him in real or apparent peril of formal or informal retaliation from them. While it may be expected that officials would not be pleased at being named as defendants in prisoners' law suits, it is not to be expected that they will create an atmosphere of fear and intimidation to deter those who would ask what the Constitution guarantees.

A solution to some of these problems may come when a program for providing legal counsel for civil rights actions is established to meet the requirements of the Constitution as spelled out in the recent Supreme Court decision. It is vital that in any such new program, there must be sufficient funding, an adequate number of well-qualified attorneys who are completely independent of TDC authority, and firm assurances of full and complete access to inmates. An appropriate vehicle would be separate entity, modeled, perhaps, after the new national legal services corporation. Once established, the existing inmate assistance program should be combined with the new entity to create a single, integrated legal program. The suspicion and distrust with which many inmates now view program attorneys because they are TDC employees would thus be eliminated. Whether or not integrated, however, the existing program will have to be changed to ameliorate its other problems. Inmate attorney turnover is unduly high because of low pay, little (if any) chance for advancement, and, in some cases, open hostility of TDC officials at the unit level. The latest information from Huntsville recently revealed that the director of the program has resigned and that a number of unfilled vacancies exist at the staff level.

RECOMMENDATIONS:

1. THE EXISTING INMATE LEGAL ASSISTANCE PROGRAM SHOULD BE COMBINED WITH THE CONSTITUTIONALLY REQUIRED PROGRAM OF LEGAL AID FOR INMATE CIVIL RIGHTS CASES IN A SINGLE INTEGRATED LEGAL AID OFFICE INDEPENDENT OF TDC.

2. UNIT LAW LIBRARIES SHOULD IMMEDIATELY BE SUPPLIED WITH ADEQUATE AND CURRENT MATERIALS, MAINTAINED IN ORDERLY AND ACCESSIBLE FASHION. THESE FACILITIES SHOULD PROVIDE SECURED LOCKER SPACE FOR EACH INMATE'S LEGAL PAPERS, OR INMATES SHOULD BE ALLOWED TO KEEP THEM IN THEIR CELLS.

3. NOTARIZATION OF LEGAL DOCUMENTS SHOULD BE AVAILABLE WITHOUT DELAY AND UNDER CIRCUMSTANCES WHICH DO NOT PERMIT TDC OFFICIALS TO READ INMATES' LEGAL DOCUMENTS.

4. THE ATTORNEY-CLIENT PRIVILEGE OF CONFIDENTIALITY MUST BE RIGOROUSLY RESPECTED. MAIL TO OR FROM ATTORNEYS SHOULD NOT BE OPENED OR, IF INSPECTION MUST CONTINUE, IT SHOULD OCCUR ONLY IN THE PRESENCE OF THE INMATE AND WITHOUT OPPORTUNITY FOR READING BY TDC OFFICIALS.

5. THE SENDING OR RECEIPT BY INMATES OF "PRIVILEGED MAIL," THAT IS, MAIL TO OR FROM THE COURTS, JUDGES, ATTORNEYS, AND STATE AND FEDERAL OFFICIALS, SHOULD NOT BE RESTRICTED OR STOPPED, EVEN TEMPORARILY, REGARDLESS OF AN INMATE'S STATUS. INSOFAR AS TDC RULES AUTHORIZE SUCH UNCONSTITUTIONAL LIMITATIONS, THEY SHOULD BE PROMPTLY CHANGED.

6. THE PRACTICE OF DENYING INMATES THE RIGHT TO WORK ON THEIR OWN LEGAL MATTERS WHILE IN SOLITARY CONFINEMENT SHOULD BE ENDED AT ONCE.

7. PUNISHMENT, HARASSMENT AND INTIMIDATION OF "WRIT WRITERS," INMATES WHO EXERCISE THEIR LEGAL RIGHTS, MUST CEASE AND PROMPT, EFFECTIVE DISCIPLINARY ACTION SHOULD BE TAKEN AGAINST OFFICERS AND OFFICIALS WHO VIOLATE THIS PRINCIPLE.

RACIAL AND ETHNIC SEGREGATION AND DISCRIMINATION

While there doubtless has been much improvement in the treatment of blacks and Mexican-Americans in TDC over the years, there is unequivocal evidence that open, widespread, and clearly unconstitutional racial and ethnic discrimination continues to exist within our state prisons. A number of units maintain segregated work crews and most of the units within TDC maintain separate wings for housing some or all their black and Mexican-American inmates. In addition, the use of racial epithets by correctional officers appears to be widespread and there is some evidence that at least certain punishments are imposed more often on minority group members than on whites.

HOUSING:

Although TDC assigns substantial numbers of white, black, and Mexican-American inmates to each of its units so that no single unit is identifiable as, for example, a "black" or "white" unit, there is extensive segregation of inmates within almost every unit. Housing in the prison units is ordinarily arranged by wings or blocks of cells. A study of TDC's own figures shows that more than 50 percent of all TDC inmates live in segregated wings or cell blocks. The study of TDC data by staff of the Joint Committee "resolved every doubt in favor of the Department. If a particular unit had any mix of the three groups--whites, blacks, and Mexican-Americans--no matter how disproportionate,..." the particular wing or cell-block was counted as "integrated." Thus, even if a wing had only a few blacks and Mexican-Americans among many, many whites, it was not counted as segregated.

Even given this very conservative approach--probably too conservative to satisfy a court--ten of fifteen TDC units examined--fully two-thirds were found to keep over half of their population in segregated housing, as does the system as a whole. The only possible and perhaps legally permissible justification for these housing patterns--"security" demands--simply is not applicable to defend this pattern.

First, any racial or ethnic segregation justified on "security" grounds must be based on individual judgments about threats of violence by specific individuals, not on group judgments based solely on racial or ethnic characteristics, the very essence of racism. So far as we can tell, TDC makes no meaningful attempt to identify and separate only those individuals shown to have a tendency toward racially-directed violence which ordinary security measures cannot control.

The second reason why TDC's segregation cannot be justified on "security" grounds is that there is no apparent correlation between security needs and the degree of segregation among units. For example, Ellis unit, even though it is the unit to which "trouble-makers," discipline problems, and high security risks are sent, is only 14% segregated, the lowest rate among all units. The Ramsey II Unit, which is supposed to house young first offenders and recidivists is nonetheless completely (100%) segregated. If segregation were in fact based on security needs, quite the opposite result would be expected. That is, the highest degree of segregation--not the lowest--should be found in maximum security units like Ellis.

The wide disparities in the degree of segregation--ranging from approximately 14% to 100%--strongly suggest that such discrimination is practiced at the discretion of the administrators of each unit, with little or no effort to eliminate or minimize segregation at the top levels of the system.

WORK CREWS:

One need do no more than visit several of the TDC farms to see segregated crews of inmates working in the fields. At the Ellis unit, for example, there are three field crews--one all Mexican-American, one all black, and one integrated. When asked by a committee member how and by whom the field crew assignments were made, a TDC official first asserted, somewhat uncertainly, that the wardens made the decisions on the basis of vaguely described security consideration; later, another official conceded that he was personally responsible for the assignments at his unit and that "security" had nothing to do with the decisions.

It appears, that segregation of work crews, like segregation in housing assigning assignments, is not mandated at the highest levels of TDC. However, when segregation surfaces, nothing is done to stop it. Both constitutional requirements and rehabilitative goals require an effectively enforced system-wide policy against racial and ethnic segregation.

OTHER WORK ASSIGNMENTS:

It would be incomplete not to note that we did not observe or find evidence of racial or ethnic discrimination in other work assignments. Indeed, at several units, TDC officials were quick to point out, and in those cases justifiably, that minority group members held an apparently fair percentage of certain "good" jobs. And when we visited various work-training programs and classrooms, there was a similar visual impression of significant minority representation. Moreover, it should be said, we received few inmate complaints of discriminatory denial of access to such programs or jobs. If any such discrimination exists, its indications escaped us.

If our perceptions are correct, then, it seems clear that when TDC wishes to do so, it can eliminate discrimination and segregation and reasonably assure fair treatment of minority inmates.

RACIAL ATTITUDES:

We received numerous complaints from inmates, former inmates, and their families about the use of racial or ethnic epithets by TDC personnel. In addition, a number of TDC officers used such terms in some of their conversations with us. We suspect that a great deal of this may be less a function of genuine malice than of the speech habits of rural East Texas. Even so, allowing such practices to continue within TDC does a great deal of harm and no discernible good.

An inmate who perceives himself to be surrounded and dominated by "racists" has two choices: he can fight back by returning the disrespect in kind or he can pretend not to notice and turn all the inevitable anger inward. Neither choice makes him a likely candidate for genuine rehabilitation, although in the latter case the inmate may manage to keep up his facade in order to gain release. Perhaps some inmates really feel no anger when they or their families are the object of racial slurs, but those who do are likely--since there is no immediate, legitimate outlet for anger--either to become security risks or to vent their anger in crime or other anti social activities upon release.

One small step towards solving the problem would be a system-wide customary form

of address both for inmates and for correctional officers. Many officers honestly may not realize that calling an urban black "boy" might to him be the same thing as calling him "nigger," depending on the context, though both seem to be widely used. If all inmates were customarily addressed as "Mister, Mrs., Miss or Ms." this cultural gap could be minimized. Even a policy of calling inmates by their last name would be an improvement.

A standard form of address for correctional officers is also needed, one that recognizes the difference between respect for authority and abnegation. The term "boss," sometimes used as a required form of address to officers, particularly on the farms, is reminiscent to many inmates of the plantation-slavery mentality and is viewed as extremely self-demeaning. Either an inmate really begins to see himself as an inferior person--in which case he can succeed on the inside but not on the outside--or he learns to maintain a false face towards correctional officers and therefore his cooperation with the rehabilitative process becomes highly questionable.

An obviously significant factor affecting racial attitudes within TDC is the fact that there are relatively few black or Mexican-American correctional officers and almost no minority group members at higher levels. Similarly there are very few bilingual officers. Statistics showing the makeup of TDC personnel are discussed elsewhere in this report but it is appropriate to note here that it is imperative that TDC aggressively recruit and promote black and Mexican-American and bilingual officers and officials.

DISCIPLINE:

While we feel that simple courtesy is more important than most people realize, racial discrimination takes a more obviously destructive form in disciplinary proceedings. In the 13 units for which we were able to compile figures, all but Retrieve indicated a greater likelihood of blacks or Mexican-Americans getting time in solitary than whites. If these figures could be explained by blacks and Mexican-Americans being simply more likely to cause trouble, then the difference in percentage of the three groups put in solitary should be somewhat uniform as between units. In fact, the racial disparity ranges from a relatively insignificant 4.4% at Huntsville to an astounding 24% at Darrington.

Another possible explanation is that blacks and Mexican-Americans are concentrated in the "bad" units. But the available data show that racial or ethnic status is a better predictor of likelihood of doing time in solitary than is type of unit (first offender v. maximum security). And in fact, the "toughest" unit (in terms of the absolute numbers of all inmates getting solitary) is Clemens, with 46.5%--but Clemens shows the third lowest degree of racial disparity in imposition of solitary in all TDC.

Racial or ethnic discrimination, it should go without saying, serves no rehabilitative purpose. Whether it is manifested by a passing insult or 15 days in solitary, it makes the inmate on the receiving end less likely to desire a productive role in society and therefore less likely to make the effort necessary to gain one.

RECOMMENDATIONS:

1. RACIAL AND ETHNIC SEGREGATION SHOULD BE ELIMINATED IN HOUSING AND WORK ASSIGNMENTS.

2. TDC SHOULD ADOPT AN AFFIRMATIVE PROGRAM TO ELIMINATE RACIAL AND ETHNIC DISCRIMINATION BOTH IN DISCIPLINARY MATTERS AND IN DAY-TO-DAY LIFE WITHIN THE SYSTEM.

BUILDING TENDERS AND PHYSICAL BRUTALITY

Physical beatings of inmates and other physical brutality is prohibited by the United States Constitution. The use of inmates as guards to control and punish other inmates is expressly prohibited by Texas law. Yet these practices continue unabated in TDC. Many inmates live in constant fear of beatings and physical retaliation. Certain TDC units have notorious reputations for brutality. Inmates fear assignment to them and officials know of them. Illegal physical punishment, harrassment, and intimidation are consciously used to "break" inmates, especially those who make any attempt to resist. Rule by threat, fear, and brutality in these units is either encouraged or sanctioned by those immediately in charge and is apparently tolerated by those in the higher echelons. In many cases, we found inmates afraid to talk with Committee members; they were completely intimidated by their concern that any information given us would be repaid by physical reprisal or other punishment. There is no justification for such inhumane conditions; they should be ended immediately and the offenders punished.

The State of Texas has expressly and affirmatively outlawed use of so-called "building tenders" in Texas prisons. In 1973, the 63rd Legislature enacted, and the Governor signed, House Bill 1056 absolutely forbidding use of any inmate to act in a disciplinary, supervisory or administrative capacity over another inmate. This clear attempt to end the "convict-guard" system within the Texas Department of Corrections has, however, been completely frustrated. Evidence gathered by the Committee overwhelmingly indicates that the building tender system continues to be used by TDC in defiance of state law.

Though now given various names, such as "floor tender," "cell-boy," or "turn-key," there are inmates in every TDC unit who function essentially in the same fashion as those who were previously designated "building tenders." TDC officially maintains that these inmates exercise janitorial duties only, but remarks of more candid TDC officers, direct observation by Committee members and staff, testimony before this Committee, and letters to the Joint Committee, all compel the conclusion that inmates are presently used to enforce discipline and to carry out supervisory duties in violation of H.B. 1056.

One TDC inter-office memo (dated December 5, 1973 — long after the effective date of H.B. 1056) details the duties of "Wing Floor Tenders," simply another name for building tenders. According to this memo from the Jester unit, "primary responsibility of the Wing Floor Tender is maintenance of a clean and orderly wing...." (emphasis supplied.) It is clear from the memo that the "B.T." exercises administrative, supervisory, and disciplinary control over other inmates. Though the memo is from the Jester unit, the practice is common to all of the units. TDC is unmistakably violating the spirit and letter of Texas law.

We quote from a staff report:

The Committee staff has been told repeatedly that 'BT's' are used to enforce discipline and to carry out physical punishment on other inmates. The Committee has received letters which detail hundreds of cases in which inmates are allegedly beaten by 'BT's' either directly or indirectly under the authority of the prison officials. The staff has seen too many 'Incident Reports' in which one of the two parties to an 'altercation' turned out to be a 'Building Tender' to believe that everything the inmates say is a lie.

In addition to being the source of much of the physical brutality which exists in TDC, building tenders often exercise effective control of inmate access to sick call, the

commissary, the library, or the writ room. These coercive powers are subject to great abuse and reinforce a highly structured inmate subculture destructive of correctional goals.

If TDC wished, it could eliminate much of the brutality inherent in this system which gives some inmates quasi-official authority over other inmates. TDC may feel compelled, partially by its own inadequate staffing, to continue some use of building tenders for some limited purposes. However, House Bill 1056 is the law of Texas enacted by the Legislature, and must be followed. Complete elimination of any reliance on building tenders will require either a reduction in inmate population or an increase in TDC staffing, or a combination of both.

Such action alone will not eliminate all brutality in TDC, for building tenders are not the sole source of physical abuse. Although we are not unaware of the need to be greatly skeptical of inmate claims of brutality, too many incidents have surfaced for all to be disregarded. And too many involve physical violence allegedly directed, sanctioned, or imposed by TDC officials. While we could not and did not attempt to verify all incidents, a clear pattern emerges. Several well substantiated cases directly involve higher level unit officials; brutality is not limited to isolated acts of individual guards. In one well corroborated recent case, a TDC major and several other officers drove an inmate to an isolated spot, handcuffed him, and then proceeded to beat him badly, apparently because they thought he was uncooperative and not working hard enough. There is evidence that the inmate had been working slowly, but because of an injured knee. In another case, TDC has admitted and, incredibly enough, seems to have defended, an organized beating administered by guards to a group of inmates who objected to working in the fields on a weekend. The warden who ordered the beating was reportedly later transferred to another high-level job in TDC. To the best of our knowledge, not even a public reprimand was ever issued.

One need only visit certain units and talk to inmates to sense the heavy air of physical intimidation and oppressive fear openly fostered in an attempt to break grown men to passive submissiveness.

RECOMMENDATIONS:

1. THE BUILDING TENDER SYSTEM MUST BE ELIMINATED WITHIN THE TEXAS DEPARTMENT OF CORRECTIONS. TO ACHIEVE THIS END, THE LEGISLATURE MUST ACT TO INCREASE PRISON STAFF, OR PREFERRABLY, TO IMPLEMENT ALTERNATIVE CORRECTION METHODS, AS OUTLINED ELSEWHERE IN THIS REPORT, TO ALLOW REDUCTION OF THE PRISON POPULATION.

2. PHYSICAL BRUTALITY AND RULE BY FEAR AND INTIMIDATION MUST STOP. THE TOP LEVELS OF TDC ADMINISTRATION MUST MAKE IT UNMISTAKEABLY CLEAR THAT SUCH CONDUCT WILL NOT BE TOLERATED AND WILL BE PROMPTLY AND SEVERELY PUNISHED, WHETHER PERSONALLY UNDERTAKEN OR SANCTIONED, DIRECTLY OR INDIRECTLY, BY INMATES, GUARDS, OR RANKING OFFICERS.

INTERNAL DISCIPLINE AND PUNISHMENT

A prison disciplinary system is of crucial importance, not only because those it governs have already shown a willingness to ignore or break society's rules, but because it must serve as part of the correctional process itself. A system that is vague and arbitrary and works to impose uneven and unfair punishments is, as one respected court has put it, "more likely to breed contempt of the law than respect for, and obedience to it"; it serves no legitimate purpose and functions only to produce unrest, bitterness, and resentment—attitudes that defeat correctional objectives and, ultimately, threaten institutional security.

A fair and impartial application of just rules and regulations is essential. Unfortunately TDC's disciplinary system meets neither this standard nor constitutional minimums. TDC's rules as written are vague and uncertain; they are applied capriciously and with slight regard for Due Process.

Our analysis of TDC disciplinary practices is based upon examination of TDC rules and disciplinary records and documents, discussions with numerous officials and inmates, and first-hand observation of TDC disciplinary hearings and methods of punishment. We had the benefit of several studies of the TDC discipline system. Members of our committee, staff, and research aides sat in on a total of more than 100 disciplinary hearings conducted at TDC units.

Disciplinary Offense:

TDC publishes a booklet of formal Rules and Regulations designed for distribution to all new inmates. The publication is printed only in English and thus is of limited benefit to the many TDC inmates whose primary language is Spanish. In addition, copies of the booklet are not always available for distribution and many inmates have never received or even seen it. (Nonetheless, one of the rules declares that "Ignorance of any provision will not excuse anyone from punishment for violation".) In addition to the 19 offenses set out in the "Rules and Regulations", there is another list of almost 100 specific offenses for which solitary confinement may be imposed. This "Solitary Offense Code" is used by all unit disciplinary committees, but is not posted, distributed, or explained to inmates.

There are still other rules which inmates must follow or be punished; these too are not printed in the rule book. Individual TDC units have their own informal rules to which inmates must adhere. However, they largely appear either to be unwritten or unavailable; each time we asked officials of a given unit for a copy, one could not be found. How inmates were supposed to know of them was left unclear. Nonetheless, a substantial number of the hearings which we or staff observed involved charges based upon these special unit rules. When a number of inmates said they had no knowledge of the rule, they were told that the disciplinary committee would not accept that as a defense. Sometimes they were informed that the officer in charge of orientation to the unit told new inmates about all the units' rules upon their arrival; whether this in fact is the practice is unclear, but even if followed, it hardly substitutes for posting or distributing copies of the rules.

It is obviously unjust and a clear violation of most fundamental constitutional principles to punish inmates for infractions of rules of which they have not been made fairly aware. Yet this seems to be a regular occurrence in TDC.

Even those rules which do exist in writing and may be made available to inmates are

unduly vague and ambiguous. They prohibit such inspecific conduct as "agitation", "unnecessary noise", "laziness", and "disrespectful attitude." Each of these charges, as well as others like "malingering," can result in severe punishments--solitary confinement, loss of good time, or a change in class. The vagueness of such violations gives officials an almost unrestrained discretion to impose arbitrary and capricious punishment. If an antagonistic officer wills otherwise, it is almost impossible for an inmate -- no matter how blameless his conduct -- to prevent his being charged with an infraction. (And, given the nature of the disciplinary hearing, described below, it is almost impossible for him to escape being punished for it). The possibilities for abuse are almost unlimited. Such risks would be less troublesome if vaguely defined offenses were seldom charged. But several studies of TDC disciplinary proceedings indicate that charges of "laziness" and "disrespectful attitude" are among the most frequently used, accounting in one sample to over one half and in another to approximately a third of the offenses. A spot check at one unit indicated that more than half of the men confined in solitary on that day had been found guilty of either "laziness" or "disrespectful attitude." It is likely that these offenses are so often used precisely because they are so vague and adaptable; and it is precisely those qualities which makes their use unconstitutional.

Not only may inmates not know what is illegal, but one violation may subject the inmate to several charges. For example, talking back to an officer may be categorized in any or all of the following ways: Mutiny, Agitating Mutiny, Inciting Mutiny, Disrespectful Attitude, Disrespectful Action, General Agitation, Creating Unnecessary Noise, or Threatening an Officer. Each of these constitute an offense subject to maximum punishment, including solitary confinement and loss of good time.

Still another problem with the formally stated rules published in the official booklet is the fact that there is no specific relationship between any given rule and the punishment which may be imposed for its violation. Possible infractions are listed in one section and approved punishments in another, later on. Nowhere in the Rules are specific infractions matched with specific punishments so that an inmate can know the consequences of a certain misdeed. Thus any violation of any rule can be met with any of the listed punishments which range from a single reprimand to solitary or loss of good time. The unpublished "Solitary Offense Code" is not an effective limit and would be of almost no help even if available to inmates because the number of violations and their vagueness leave almost nothing excluded. The possibility of unevenness and unfairness in imposing punishment is evident.

The Disciplinary Process:

Published TDC Rules require a formal written charge and a hearing before a unit disciplinary committee before an inmate may be punished. The procedures which may appear adequate on paper are sadly lacking in practice.

The formal charges themselves are often wholly inadequate to inform the inmate of what he has done wrong. An inmate may be accused simply of "laziness" or of having had an undefinable "disrespectful attitude". The description of the infraction found in offense reports is often vague and over simplified. One example:

The above captioned inmate agitates continuously and he has been warned repeatedly. He agitates mutiny in the wing and in the squad. He tries to agitate the officials on the custodial officers by writing letters when investigated proved to be lies. (Sic) Although he has tried to agitate he has never actually caused any trouble

by his own actions, but is constantly stirring up trouble through other inmates. Nowhere is a specific instance of "agitation" given. Nowhere is it explained how the inmate's letters proved to be lies. (Even if they were, this is not a constitutionally punishable offense). The phrase "stirring up trouble" is obviously too vague to form the basis for any charge; and, though the report notes that the inmate "had never actually caused any trouble by his own actions," he was convicted by the disciplinary committee and spent thirteen days in solitary.

Unfortunately, too many offense reports are like this one. Sometimes the description of the circumstances is so incomplete that the committee must question the inmate before it can even understand what the circumstances were.

Though TDC rules require that the charges be investigated prior to the hearing and that "a full and complete report of the findings of the investigation" be made, including "the inmate's version of the offense", this rarely occurs. The omitted process is not a mere formality. In one unit where such investigations were made, a substantial proportion of the inmates were found to be innocent of the charges brought against them -- something that only rarely occurred in the hearings observed elsewhere.

The unit disciplinary committee is usually composed of three members -- two security officers and a major or the assistant warden. The only evidence before them is often the charge itself, as written by the charging officer or as transcribed from his verbal report, sometimes made through intermediaries. Oral testimony against the inmate may consist of second or third-hand reports offered by other officers who happen to be present at the hearing or by members of the committee themselves. Often, the charging officer will not even be available for further questioning, having left the unit at the end of his shift. The inmate is not given an opportunity to present witnesses or otherwise to confirm his version of events, if he is allowed to speak in his own defense at all. Normally he is read the charge upon being called before the committee; this may be the first time he is made aware of the specific nature of his offense. The hearings are geared to prison security. A presumption of irrefutable guilt hovers over the proceedings. Inmates do not take active part in their own trial and defenses are discouraged and in some subtle ways, prevented. Many inmates do not even understand their offense. The hearing is short, usually lasting only a few minutes. The punishments for identical offenses vary with the unit in which the offense was committed.

The question of guilt or innocence is seldom addressed by the disciplinary committee. Instead, the central question is the punishment to be imposed. Pleading guilty or not guilty seems to have no particular significance. The charge is taken to be self-evidently true. The very composition of the committee -- made up of security personnel, often including the charging officer's superior who may have approved the bringing of the charge in the first instance -- lessens any chance of impartiality.

Ordinarily, any discussion of the case is brief and centers only on what the punishment should be; usually, the suggestion of the presiding officer is accepted immediately and without question. Following is a typical conversation among the officers on the disciplinary committee at one unit; it represents the entire hearing accorded the inmate:

Presiding Officer: (reading from the written charge) On this date the above captioned inmate was not doing his work in a proper manner. The inmate continued to work in a lazy manner all day even after repeated warnings to get to work. He was placed before the Unit Disciplinary Committee for their decision. What's your decision, men?

1st Officer: Sounds like solitary to me. I'll go solitary on this one.

2nd Officer: I'll go with him. Solitary.

3rd Officer: (Nods).

Presiding Officer: (To the inmate). Report to the desk. You're sentenced to solitary until you decide to do some work.

Deviations from this pattern do occur, both at this unit and others. But even when there is a discussion of the case it often focuses on either the officers' personal knowledge of the particular individual being tried or what the officers have heard from other officers about the individual. At almost no time are outside sources of information sought so that the inmate could confront them.

In none of the hearings observed at one unit was the inmate ever asked about his version of the incident. When an inmate attempted to address the committee he was permitted to speak. But at two of the hearings the inmate was told to "talk and talk fast". In one case the inmate gave as a reason for his "improper work" the fact that his brother-in-law had died and that he was "still in mourning". Apparently not really caring about these circumstances, one officer stated he simply did not believe the inmate. This officer and a second officer then proceeded to make jokes about brothers-in-law. The inmate appeared by his facial expression all the more grieved about this lack of respect. The inmate was immediately sentenced to hospital solitary and told to leave the room.

Some sentencing at this same unit appeared to be racially motivated. On one occasion a Mexican-American was sentenced to solitary "because we've been having lots of trouble out of them Mexicans". As the inmate left the hearing room the officer remarked, "Maybe I'm a little bit prejudiced, but that's just the way it is". When a black inmate was facing sentencing before the committee, one officer recommended that he be placed in cell restriction. A second officer said the inmate should go to "regular solitary because he's a heathen". Exactly what was meant by "heathen" was unclear.

The same committee was capable of some degree of mercy. In two cases inmates initially recommended for solitary were instead given seven days cell restriction. The mitigation of penalty was given in one case because the inmate had "just had a bad day". This was also the inmate's first offense.

In some hearings at this and other units, the disciplinary committee's discussions are longer. When a history of the inmate's prison disciplinary record is available (as it is in some units), the committee will discuss prior rules violations. For example, if an inmate offers a plausible explanation of the current charge, he may be challenged to explain his past behavior. And the past record is regularly used in determining current punishment.

Punishment:

The disciplinary committee can choose among a variety of punishments for an inmate -- ranging from only a reprimand to solitary confinement or a recommendation that the inmate forfeit any good time already earned and be demoted in class. Intermediate punishments may include loss of privileges -- going to school or restriction to the cell block - or transfer to a less desirable job. Other sanction possibilities in some units are extra work assignments -- shelling peanuts or polishing brass during what otherwise would be off-duty hours -- or standing in the main hallway for long periods, like an errant school child.

TDC regulations distinguish between "punitive segregation", which is punishment, and "administrative segregation" which is not. Actual practice does not always conform to the rules, however.

Since administrative segregation is not considered punishment, no disciplinary hearing is provided or required. All that is necessary is an order from a senior officer. Administrative segregation is supposed to be used where necessary to protect either the inmate or the general population, or pending investigation of charges or pending trial for a crime.

Under TDC rules, the conditions of administrative segregation, including food service, are to be generally the same as for nonsegregated inmates. Moreover, no inmate is to be held in administrative segregation for more than three days without formal charges being filed unless there for protective purposes or at his own request.

In spite of all of these express limitations, it clearly appears that TDC officials use administrative segregation as a punitive sanction in violation of TDC rules and in violation of constitutional requirements. Conditions in administrative segregation are often much worse than among the general population: meals may be smaller or severely restricted. At one unit, Ramsey, administrative segregation facilities were recently expanded; windows were painted over to cut available light. Extra bunks were added to cells so that "segregation" meant confinement in a single cell with one, or in some cases two, other occupants. The remodeled quarters seem to have been reserved for use to punish those regarded as "troublemakers".

At Ramsey and elsewhere, inmates are held in supposedly nonpunitive segregation for periods well beyond the 3-day limit, some with no charges at all, many for months at a time. Administrative segregation is also widely used to further punish inmates who, under TDC rules, must be released from punitive solitary after 15 consecutive days. Frequently inmates are placed in administrative segregation immediately upon release from solitary, held there only a few days, and then returned to solitary. The 15-day limit on any single confinement recognizes the physical and mental harm which can result from the harsh conditions of solitary. But the brief respite in administrative segregation and the prompt return to solitary makes the limit of little effect. Moreover, in at least one unit, the same cells are used both for solitary and administrative segregation, the only difference being that for solitary, the solid cell doors are kept open, rather than closed.

The TDC rule book describes solitary confinement as follows:

Solitary confinement is the confinement of inmates in a punishment status. They are placed on a restricted diet with loss of privileges and are placed in special facilities for a comparatively brief period. Ordinarily, no inmate should be retained in punishment segregation on restrictive diet for more than 15-days, and normally a shorter period is sufficient. Punitive segregation is not for indefinite or permanent segregation.

The physical aspects of solitary are stark. There is nothing in the cell except a mattress. The only other fixture is a combination sink-toilet. At Darrington, one inmate who had been sentenced to solitary did not have any toilet paper in his cell. The only reading material allowed is a copy of the Bible. According to TDC rules, a full meal need be fed only once every three days; almost all inmates placed in solitary suffer a serious weight loss. TDC rules require that the solid steel doors of solitary cells be left open unless the inmate creates a noisy disturbance or a security problem is presented. Nonetheless, at the Walls, Central, and Ramsey units, the solid outer doors were all kept shut. Without the door open, there is little or no air circulation. Ventilation fans are often inadequate, and are the only means of airing the cells. At Ramsey -- where the solitary cells are located in a separate one-story building which bakes in the summer

sun -- only one of two small fans was operating in the entire cell block; nonetheless, the solid steel doors were kept closed as was the regular practice. This was pointed out to an apparently indifferent high official of the unit; when checked a week later, the fan remained unrepaired and the doors closed. The cells remained almost totally airless and stifling in the hot mid-summer sun.

Inmates sent to solitary ordinarily receive no specific term to serve there; it is assumed they will spend the maximum of 15 days in solitary, subject only to the warden's discretion to release them earlier if he believes it appropriate. And as noted, the 15-day limit can generally be avoided in practice by placing the inmate in administrative segregation status for a few days, and then returning him to solitary for another 15 days.

Numerous authorities have testified that solitary is more than simple, hard punishment; it is physically and mentally harmful. TDC authorities themselves recognize its debilitating effects by requiring periodic weighing and regular medical examinations of inmates in solitary and by recommending that inmates who have been solitary be given a period of restricted work before being returned to their regular jobs. If we could be confident that these requirements were always met, we would see less danger in the use of solitary. Similarly, our concerns would be reduced if, as TDC rules recommend, solitary were "used judiciously." But it is one of the most common - though harshest of TDC punishments; in one group of 45 inmates found guilty of disciplinary infractions, approximately half were sent to solitary.

Isolation may indeed be required in some cases, but not under the potentially harmful conditions of solitary as it now exists. Segregated confinement under the conditions specified for administrative segregation are sufficient punishment for any offense. The potential for abuse in the combination of vague rules and less than impartial hearing procedures, the ability to keep inmates in solitary for long -- and only briefly interrupted periods - the widespread use of solitary, and the great threat posed to physical and mental health by the harsh conditions and near total isolation all more than justify an end to this cruel practice.

TDC's use of solitary and other punishments is arbitrary in several respects in addition to those already noted. The severity of punishment varies greatly among the units; there is little uniformity in use of sanctions. In addition, there is variation in punishment by race. As noted in more detail in our discussion of "Racial and Ethnic Segregation and Discrimination" elsewhere in this Report, an analysis of data supplied by TDC disclosed that solitary is more often imposed on Mexican-Americans and blacks than on whites, and that the degree of apparent racial bias in such punishment varies significantly among the 13 TDC units for which figures were available.

We conclude that TDC's disciplinary powers are subject to broad abuse, that they utilized unfairly and unevenly, and that TDC's self-imposed rules, limitations, and procedures are not followed by officials in the units. The system lends itself to unjustified and discriminatory punishment of members of racial, ethnic, and ideological minorities, including those who are identified by TDC officials as "troublemakers" simply because they refuse to be emotionally and psychologically broken, or because they use legal means to assert their rights or protest official abuses. In addition to the formal punishments described in this section, many TDC inmates, and especially those thought to be "troublemakers," are subject to overtly illegal informal punishments -- beatings and other forms of physical brutality as described in detail elsewhere in this Report.

As the National Advisory Commission on Criminal Justice Standards and Goals has concluded:

The administration of some form of discipline is necessary to maintain order within a prison institution. However, when that discipline violates constitutional safeguards or inhibits or seriously undermines reformatory efforts, it becomes counter-productive and indefensible.

The very nature of a closed, inaccessible prison makes safeguards against arbitrary disciplinary power difficult. The correctional administration has power to authorize or deny every aspect of living from food and clothing to access to toilet facilities. It is this power, more than perhaps any other within the correctional system, which must be brought under the "rule of law".

RECOMMENDATIONS:

1. TDC INMATES SHOULD BE SUBJECT TO PUNISHMENT ONLY FOR VIOLATION OF CLEARLY STATED, WRITTEN RULES, OF WHICH THEY HAVE FAIR NOTICE. TDC'S RULES SHOULD BE REVISED AND SIMPLIFIED TO ELIMINATE AMBIGUITY; VAGUELY STATED OFFENSES THAT ALLOW OFFICIALS ALMOST UNLIMITED DISCRETION TO PUNISH INMATES SHOULD BE ELIMINATED. IT IS AN ELEMENTAL PRINCIPLE OF DUE PROCESS THAT NO PERSON CAN CONSTITUTIONALLY BE PUNISHED UNLESS HE HAS BEEN GIVEN CLEAR NOTICE OF WHAT CONSTITUTES A VIOLATION OF REQUIRED STANDARDS OF CONDUCT.

2. WRITTEN COPIES OF ALL RULES SHOULD BE DISTRIBUTED TO ALL INMATES; RULES SHOULD BE PRINTED IN BOTH ENGLISH AND SPANISH.

3. OFFENSES SHOULD BE SPECIFICALLY DIVIDED INTO MAJOR AND MINOR CATEGORIES, AND THE MORE SEVERE PENALTIES -- SOLITARY CONFINEMENT, LOSS OF GOOD TIME DEMOTION IN CLASS, ETC. -- EXPRESSLY LIMITED TO DEFINED MAJOR VIOLATIONS. SPECIFIC VIOLATIONS SHOULD CARRY SPECIFIC PENALTIES, OR IF NECESSARY, A LIMITED RANGE OF PENALTIES, SO THAT INMATES MAY KNOW IN ADVANCE WHAT THE PUNISHMENTS ARE FOR ANY GIVEN INFRACTION AND SO THAT OFFICIALS DO NOT HAVE UNLIMITED DISCRETION IN ASSESSING SANCTIONS.

4. EACH ALLEGED OFFENSE SHOULD BE INVESTIGATED AND A FULL WRITTEN REPORT FILED PRIOR TO THE DISCIPLINARY HEARING, AS REQUIRED BY TDC RULES WHICH ARE NOW GENERALLY IGNORED. THE INMATE SHOULD BE GIVEN A COPY OF THE REPORT IN ADVANCE OF HIS HEARING.

5. UNIT DISCIPLINARY COMMITTEES SHOULD BE RESTRUCTURED TO INCREASE THE POSSIBILITY THAT THEY WILL ACT AS IMPARTIAL TRIBUNALS. THEIR MEMBERSHIP SHOULD INCLUDE NON-SECURITY PERSONNEL; OFFICIALS SHOULD NOT SIT ON CASES IN WHICH THEY HAVE APPROVED THE BRINGING OF CHARGES OR IN WHICH THE CHARGES ARE BROUGHT BY THEIR IMMEDIATE SUBORDINATES.

6. MEMBERS OF THE DISCIPLINARY COMMITTEE SHOULD NOT BE PERMITTED TO OFFER TESTIMONY AGAINST AN INMATE; OFFICIALS WITH PERSONAL KNOWLEDGE TO OFFER ABOUT THE ALLEGED OFFENSE SHOULD BE DISQUALIFIED FROM SERVING ON THE COMMITTEE.

7. TDC SHOULD PROMPTLY REVISE BOTH ITS RULES AND PRACTICES TO COMPLY WITH AT LEAST CONSTITUTIONAL MINIMUMS, RECENTLY DECLARED BY THE SUPREME COURT TO INCLUDE THE FOLLOWING:

(a) "WRITTEN NOTICE OF THE CHARGES MUST BE GIVEN TO THE DISCIPLINARY ACTION DEFENDANT IN ORDER TO INFORM HIM OF THE CHARGES AND TO ENABLE HIM TO MARSHAL THE FACTS AND PREPARE A DEFENSE. AT LEAST A BRIEF PERIOD OF TIME AFTER THE NOTICE, NO LESS THAN 24 HOURS, SHOULD BE ALLOWED TO THE INMATE TO PREPARE FOR THE APPEARANCE BEFORE THE... DISCIPLINARY COMMITTEE.

(b) "THERE MUST BE A WRITTEN STATEMENT BY THE FACTFINDERS AS TO THE EVIDENCE RELIED ON AND REASONS FOR THE DISCIPLINARY ACTION."

(c) "THE INMATE FACING DISCIPLINARY PROCEEDINGS SHOULD BE ALLOWED TO CALL WITNESSES AND PRESENT DOCUMENTARY EVIDENCE IN HIS DEFENSE WHEN PERMITTING HIM TO DO SO WILL NOT BE UNDULY HAZARDOUS TO INSTITUTIONAL SAFETY OR CORRECTIONAL GOALS." (WHEN AN INMATE IS NOT ALLOWED TO CALL WITNESSES, THE DISCIPLINARY COMMITTEE, SHOULD AS THE SUPREME COURT HAS SUGGESTED, STATE ITS REASON FOR THE REFUSAL.)

8. PRISON OFFICIALS SHOULD BEAR THE BURDEN OF PROVING THE VIOLATION CHARGED AND THE INMATE SHOULD BE ALLOWED TO CROSS-EXAMINE THE WITNESSES AGAINST HIM, AS IS NOW PERMITTED IN MORE THAN HALF OF THE STATES.

9. INMATES SHOULD BE ALLOWED THE ASSISTANCE OF COUNSEL OR OF A COUNSEL-SUBSTITUTE IN ALL CASES IN WHICH A "MAJOR VIOLATION" IS CHARGED.

10. TDC SHOULD PROVIDE FOR A CLEAR, SIMPLE AND READILY AVAILABLE METHOD OF APPEAL FOR ALL INMATES FOUND BY THE DISCIPLINARY BOARD TO HAVE VIOLATED THE RULES. THE APPEAL SHOULD BE TO AN IMPARTIAL TRIBUNAL AND INMATES SHOULD ALWAYS BE INFORMED OF THIS RIGHT TO APPEAL.

11. TDC SHOULD TAKE IMMEDIATE STEPS TO END THE ABUSE OF ADMINISTRATIVE SEGREGATION: THE USE OF ADMINISTRATIVE SEGREGATION AS PUNISHMENT SHOULD END: THE HOLDING OF INMATES IN ADMINISTRATIVE SEGREGATION FOR LONG PERIODS SHOULD BE STOPPED, EXCEPT WHEN THE SEGREGATION IS AT THE REQUEST OF THE INMATE OR CLEARLY DEMONSTRATED TO BE NECESSARY AS A PROTECTIVE STEP; ADMINISTRATIVE SEGREGATION SHOULD MEAN ONLY SEGREGATION FROM THE GENERAL PRISON POPULATION AND SHOULD INVOLVE NO LOSS OF PRIVILEGES OR CHANGE IN LIVING CONDITIONS EXCEPT AS NECESSARY TO GIVE EFFECT TO THE FACT OF SEGREGATION.

12. SOLITARY CONFINEMENT AS USED IN TDC THREATENS BOTH THE PHYSICAL AND MENTAL HEALTH OF INMATES; IT IS AMONG THE MOST FREQUENT OF PUNISHMENTS AND IS IMPOSED WITHOUT RESTRAINT OR DISCRETION; TDC'S OWN RULES REGARDING SOLITARY ARE WIDELY DISREGARDED. ABUSE OF SOLITARY BY TDC OFFICIALS AND ITS INHERENTLY CRUEL AND DEHABILITATING NATURE MORE THAN JUSTIFY ITS

PERSONNEL

DISCONTINUANCE. TDC SHOULD END ITS USE OF SOLITARY CONFINEMENT IN ITS PRESENT FORM; TO THE EXTENT THAT PUNITIVE SEGREGATION IS NECESSARY, THE CONDITIONS OF SUCH SEGREGATION SHOULD BE NO WORSE THAN TDC'S PRESENT RULES PRESCRIBE FOR ADMINISTRATIVE SEGREGATION.

13. TDC SHOULD TAKE STEPS TO ASSURE THAT THE PUNISHMENT IMPOSED FOR ANY GIVEN VIOLATION DOES NOT VARY FROM UNIT TO UNIT AS IS NOW THE CASE.

14. TDC SHOULD TAKE STEPS TO ASSURE THAT PUNISHMENTS ARE FAIRLY IMPOSED AND ARE NOT INFLUENCED BY RACE, ETHNIC, OR IDEOLOGICAL FACTORS AS NOW APPEARS TO BE THE CASE.

15. THE USE OF CORPORAL PUNISHMENT, BEATINGS, PHYSICAL THREATS AND INTIMIDATION SHOULD BE ENDED AT ONCE.

16. INMATES MUST NOT BE PUNISHED FOR EXERCISING CONSTITUTIONAL RIGHTS, PROTESTING ALLEGED ABUSES OF AUTHORITY, OR HOLDING VIEWS UNCONGENIAL TO TDC OFFICIALS.

The Texas Department of Corrections employs approximately 2,600 men and women to run a prison system with nearly 17,000 inmates. The majority (over 60%) of these employees work in a security-custodial capacity overseeing inmates within the buildings or at labor in the factories and fields. Because most of TDC's employees come from small towns surrounding TDC units, the sight of prison farms and convict teams have been part of their culture and the culture of their families within Texas, in some cases, for over a hundred years. And, in many respects the typical prison employee of a hundred years ago bears a certain statistical similarity to the average TDC employee of 1974 a white male, about 30 years of age, born in Texas, and raised on a small town near one of the TDC units.

The similarity ends there, however, for the situation of the average employee has changed significantly, and many of the changes are quite recent. Due primarily to changing inmate populations, changing laws, and changing attitudes, the average TDC employee finds his lot much different from that of his predecessors. To begin, while over 60% of TDC's employees are products of small towns, over 60% of TDC's inmate population comes from Texas' four largest cities. Whereas in the past, prison authorities were generally regarded as having almost wholly unlimited control over all aspects of an inmates' person and conditions of existence, the law has now afforded some constitutional protections and at least some recourse against the worst abuses of authority. And finally, Texas has responded at least partially to the philosophy of correctional treatment of inmates, so that they may attend school, learn trades, and participate in other beneficial programs. For each of these activities and many others, a TDC employee must supervise and account for inmate actions.

In the midst of these changes, the TDC employee has had to adapt, frequently with major increases in responsibility and, frequently, without corresponding increases in training or salary. TDC Director W. J. Estelle, Jr., properly complains that some of his employees must participate in the Federal Food Stamp Program in order to feed their families. Salary deficiencies are symptoms of larger problems, however.

Through observation of prison operations, conversations with employees and officials, and research by staff members, the Committee has tried to identify the most serious personnel problems in TDC. We conclude:

1. Given present inmate population, TDC is understaffed in the area of security, as well as professional personnel.
2. Minority group members are grossly underrepresented on TDC payrolls.
3. In the most crucial types of prison jobs, a high percentage of the employees do not meet the minimum educational requirements as outlined in TDC's own job descriptions.
4. TDC suffers from an extremely high employee turnover rate, especially among lower-ranking correctional officers.
5. Recruitment of highly qualified personnel is severely hindered by the rural locations of the units.
6. Some of TDC's employment policies greatly limit its ability to hire especially qualified people or those with particularly valuable backgrounds or experience.

This Committee does not question the dedication of most TDC employees. We have often been impressed by the commitment of many of these people who have been given

one of the hardest jobs in society. We believe that attention to the matters discussed here will help them do that job.

INADEQUATE STAFF:

An acute shortage of staff was reported at almost every unit we visited. TDC personnel regularly complained that inadequate staffing was severely hampering security functions and the provision of necessary job training, educational opportunities, and even medical services for inmates. Indeed, in at least one unit, we were told that even normal work functions were severely curtailed by the absence of a sufficient number of security officers; fully one-third of the agricultural work force at this unit was "laid in" every day because there were no officers available to supervise them. Staff vacancies ranged 20% and more, we were informed.

HIRING:

The Department has a personnel office which hires all regular TDC personnel. As listed in the personnel brochure, the minimum requirements for the job of "Corrections Officer" include: age of 18-55 years, good physical condition, and a high school diploma or G.E.D. Prospective employees are also expected to have short hair and no beard or mustache. While it seems but a minor thing, this requirement creates considerable problems in attracting young, urban employee prospects. While this rule is apparently regularly enforced, TDC records reflect, paradoxically, that its own stated educational requirements are sometimes overlooked. About 10% of TDC Correctional Officers have neither a high school diploma or G.E.D., apparently in direct violation of TDC's own personnel standards. If TDC's priorities focus more on good grooming than adequate education, the personnel problems in TDC must create serious consequences.

Educational inadequacies are not confined to the Correctional Officer level, however. Of the total TDC workforce, almost 15% do not possess the specified educational requirements for their job position, and the more important the job, the greater the deviation from stated standards, apparently. For example, the supervisory security personnel at TDC include Warden, Assistant Warden, Major, Captain, and Lieutenant; TDC personnel requirements specify that all of these positions be filled with persons holding college degrees in specific fields. Of the 152 supervisory personnel in TDC, 122, or 81%, do not meet TDC's stated minimum requirements. Four of the six people, or 67%, of those in Sociologist II positions do not meet TDC minimum requirements. In the Educational Consultant positions, three of the seventeen employees, or 18%, do not meet TDC requirements.

Not only is the adequacy of an employee's educational background often overlooked, but potential employees who are unusually well qualified or who have more than the minimum educational background are in fact discouraged from applying. Current TDC hiring practice requires that every new security employee enter the TDC system at the same position and at the same salary. Under the system, then, a potential Correctional Officer with a college or graduate degree in penology or criminology will be paid no more or be given no greater amount of responsibility than a potential employee who may or may not have even a G.E.D. In virtually every other state agency and private business, prior qualification and education is honored and reimbursed accordingly. We suggest that TDC follow suit.

SALARY:

Eight out of every ten persons (80%) hired by TDC as Correctional Officers I (CO-I) quit within the first year. This startlingly high percentage reflects the highest employee turnover rate in any state agency in Texas. While a recent TDC personnel study discloses that the explanation most often given for resigning was "personal reasons" (53.5%), another 23.7% gave "inadequate salary" as the justification for leaving.

Salaries of TDC employees range from about \$36,000 yearly for the Director to \$6,840 yearly for a Correctional Officer I (CO-I). While salary at lower levels is most crucial to TDC's employment problems, inadequate pay scales have also prevented the filling of some important professional positions. For example, the Department cannot hire doctors at the present salary level.

Entry level salary, about \$570 per month for a new CO-I, is made more attractive with the addition of free bachelor housing, free meals served in the officers' dining hall, free laundry and dry cleaning, low-cost food, low-rent houses, and rent-free mobile home sites. An unmarried officer living in the bachelors' quarters may find the package livable; the married officer faces a different situation entirely. The low-rent houses and rent-free mobile home sites are in great demand and frequently are not available. The low-cost food allocation is helpful, especially to those with families, with meat available, for example, at 30 cents a pound, eggs at 35 cents a dozen, and milk at 50 cents a gallon. A high level official may receive, in addition, a rent-free house, a car, and a "houseboy" or cook. But even with these added benefits, compensation in TDC is a handicap to recruitment, particularly at lower levels.

A special report of the State Auditor's office concluded that although TDC salary levels are competitive within the immediate Huntsville area (where TDC is the dominant employer), TDC has difficulty competing with nearby industries at other prison locations, and that many prospective job applicants had economic and other reasons to view similar work with the Department of Public Safety, the Houston Police Department, or the sheriff's department of several of the surrounding counties as more attractive. TDC is in a poor bargaining position to attract well-qualified personnel - especially minority employees who are so badly needed, given the great number of minority group inmates.

PROMOTIONS:

The promotion of officers from CO-I to CO-II and CO-III is essentially under the control of individual unit wardens. Promotions are supposedly based on employees' performance ratings, the positions to be filled, and employees' education and experience. Director Estelle has said that TDC will initiate a training program by which employees may be promoted according to the amount of training they have received, much as the State Department of Public Safety promotion system operates. The Committee believes that this innovation is a worthwhile step, depending, of course, on the type of training available, and given an assumption that attendance at training courses is not the sole criterion for promotion.

The complaints about TDC promotion policies which have been brought to our attention by TDC employees usually focus on four areas. First, numerous employees complain that TDC gives unfair advantage to employees who have relatives within the TDC hierarchy; in order to reach a top salary position, employees have complained, one either has to be a son-in-law or nephew, for example, or a "fishing buddy" of a higher official. Second, employees have said that the existing performance rating system is

outmoded, unfair, and inadequate. Third, young officers have suggested that TDC is losing some of its best young employees because some unit officials show racial and ethnic prejudice. Fourth, it was also suggested that young officers with better educational qualifications and more progressive ideas were the ones most likely to be denied promotions and salary hikes. Two separate studies of TDC personnel have indicated that employee dissatisfaction is highest among those who are best educated.

While we have not verified the factual accuracy of these complaints, the very fact that they were repeatedly made is itself significant, for they indicate the way the system is viewed by many of those who work within it; their attitudes and willingness to stay in TDC are directly influenced by their own perceptions.

WORKING CONDITIONS:

As noted, TDC suffers from a very costly and disruptive employee-turnover rate -- a rate far exceeding that of all other state agencies and far above the national average. Salary is an important factor, but it is not the only one, and perhaps not even the most important, as shown by the fact that many new TDC officers quit after only a few weeks on the job. Clearly, the overall conditions under which a Correctional Officer works is an important factor in determining whether he stays in his job or leaves. A study by a Presidential task force found the correctional officer's situation bleak. In general, he is poorly paid, involved in boring and menial tasks, insufficiently trained, and suffers a low status in the general community. On the job, he stands as an isolated authoritarian figure with little constructive interaction with inmates and is often viewed with hostility by them.

A 1972 study for the Institute of Contemporary Corrections described TDC as a "paramilitary organization employing a central headquarters and fourteen relatively autonomous units". This excellent study found that the new officers coming to TDC find their jobs boring and unsatisfying. It also found that in many cases, the only significant contact many guards had with inmates was through building tenders.

Many TDC employees -- especially new ones -- are motivated to help people, but the system soon frustrates this desire. In TDC, the Correctional Officer's job is to maintain "security" -- another division is charged with treatment. TDC could do much to change the role played by its line staff. TDC line officers -- those who have the most direct and frequent contact with inmates -- are, in effect, prohibited by TDC rules from having any communication with inmates other than to give orders, or as necessary to maintain security or fulfill simply basic functions.

Whatever impact prison has on inmates -- positive or negative -- is probably most directly influenced by the actions and attitudes of the correctional officers who are in immediate control of, and in constant contact with the inmates. In a very real sense, correctional officers are TDC's most important employees. TDC would do well to recognize this state of affairs by ending the arbitrary and artificial dichotomy between "security" and the "treatment" functions.

MINORITY GROUP EMPLOYEES:

A substantial impediment to achievement of correctional goals is the glaring lack of black and Mexican-American employees in TDC. While over 60% of TDC inmates are from minority groups, only 6% of TDC's staff is black and only 3% is Mexican-American.

Just as officers with rural backgrounds have difficulty communicating and dealing with inmates from urban areas, TDC's overwhelmingly white staff is hindered in its relations with a predominantly black and Mexican-American inmate population. The absence of adequate minority group representation among officers increases inmate hostility and mistrust; it increases the likelihood of racial and ethnic discrimination in its various forms, overt and subtle; it generally, but dramatically, inhibits creation of the kind of conditions and atmosphere which are essential to rehabilitation and treatment. In short, the stated need for increased minority representation in TDC staff does not represent simply an abstract demand for racial justice, but, more directly, an essential ingredient in a modern, effective correctional system. While TDC has made advances in recruiting and hiring black and Mexican-American officers at the entry and lower levels, much remains to be done even there. In ranking positions, the situation is worse: there are, for example, no black or Mexican-American wardens, majors, captains, medical assistants, chaplains, or Sociologists II. There is one black assistant warden and one Mexican-American lieutenant. The trend in TDC seems to be the higher the rank, the lower the proportion of minority employees.

A word should also be said about the status of female employees in TDC. Women are underrepresented in every category of employment within the Department except for clerical positions. Of 38 high officials and administrators in the Department, only one is a female. Only seven out of the 281 professionals are women, and only nine of the 169 "technicians" are female. Only one of the 45 "paraprofessionals" is female.

There are indications that these underrepresented groups may have to meet higher requirements than present white male employees. System-wide, 15% of white male employees do not meet the educational requirements for their jobs, while only 4%, 5%, and 3% of blacks, Mexican-Americans, and women respectively are not "qualified" for the positions they hold.

The Affirmative Action Program adopted by TDC to deal with these problems is not sufficiently aggressive. The plan sets no goals for minority hiring in higher positions. Moreover, even if met, the goals for fiscal year 1973-74 would have resulted in increasing the percentage of women in this field only from 3.1% to 3.4%, and overall percentage of minority members from 9.1 to 11.3%. These relative percentages assume no increase in the total number of employees within this period; if this assumption is incorrect, the relative percentages decrease accordingly.

Still another problem is the rarity of Spanish-speaking officers and officials in TDC. A large number of TDC inmates speak only Spanish and many are limited in their use of English. Bilingual officers would be very helpful not only with such inmates, but also with the many Spanish-speaking relatives and visitors of inmates.

SCREENING OF EMPLOYEES:

Notwithstanding changes in the law, the correctional officer, as a practical matter, still occupies a position of near absolute control over the day-to-day lives of inmates. Many security problems arise from the hiring of employees who are not equipped psychologically to handle such authority. This Committee has received conflicting reports on whether TDC has a psychological screening program for its employees. If not, or if the current program is incomplete or ineffective, a careful and thorough effort should be made to screen out applicants and existing personnel who are prone to abuse of authority.

USE OF EX-INMATES:

Subject to developing effective screening methods, it should be possible to consider qualified ex-offenders with good rehabilitation records for jobs with TDC. Such employees are likely to be trusted by inmates, to understand their problems, and to be able to communicate and work with them extremely well. Other states have reported positive results from rehabilitation programs employing ex-offenders. Moreover, it is difficult to see how TDC can be effective in persuading private employers to disregard the stigma of ex-offender status if TDC itself does not do so.

RECOMMENDATIONS:

1. THE SALARIES OF TDC PERSONNEL SHOULD BE INCREASED SUFFICIENTLY TO BE COMPETITIVE WITH THOSE SALARIES OFFERED IN THE STATE'S LABOR MARKET AS A WHOLE AND TO BE AT LEAST EQUAL TO THE NATIONAL AVERAGE FOR CORRECTIONAL PERSONNEL.

2. SUFFICIENT FUNDS SHOULD BE APPROPRIATED TO TDC TO ALLOW RECRUITMENT OF FULLY QUALIFIED AND BETTER EDUCATED EMPLOYEES AND, UNLESS THE INMATE POPULATION IS SIGNIFICANTLY REDUCED, TO ALLOW A SIGNIFICANT INCREASE IN THE NUMBER OF CORRECTIONAL OFFICERS AND PROFESSIONAL STAFF.

3. TDC SHOULD UNDERTAKE YEARLY RECRUITING TRIPS TO CAMPUSES OF COLLEGES AND UNIVERSITIES. TDC OFFICIALS SHOULD OPEN AND MAINTAIN CONTACTS WITH THE GOVERNMENT, SOCIOLOGY, EDUCATION, PSYCHOLOGY AND OTHER RELEVANT FACULTIES OF TEXAS COLLEGES AND UNIVERSITIES WITH THE OBJECT OF IDENTIFYING AND RECRUITING PROMISING PROSPECTIVE GRADUATES WHO MIGHT BE ATTRACTED TO A CAREER IN THE CORRECTIONS FIELD.

4. NEW EMPLOYEES WITH ABOVE AVERAGE QUALIFICATIONS OR EDUCATIONAL BACKGROUNDS SHOULD BE PERMITTED TO ENTER TDC AT AN APPROPRIATE LEVEL OF RESPONSIBILITY AND PAY.

5. TDC SHOULD ELIMINATE RESTRICTIONS ON INFORMAL HAIR STYLES AND ALLOW NEATLY KEPT MUSTACHES, BEARDS, AND LONGER HAIR, ESPECIALLY AMONG PERSONNEL IN DIRECT CONTACT WITH YOUNG INMATES.

6. PROFICIENCY IN THE SPANISH LANGUAGE SHOULD BE GIVEN SUBSTANTIAL CONSIDERATION WHEN SCREENING JOB APPLICATIONS AT TDC, REGARDLESS OF THE ETHNIC BACKGROUND OF ANY PARTICULAR SPANISH SPEAKING APPLICANT.

7. EDUCATIONAL STANDARDS FOR EMPLOYMENT AT TDC SHOULD BE APPLIED EQUALLY WITHOUT REGARD TO SEX, RACE OR ETHNIC BACKGROUND.

8. THE GOALS FOR HIRING MINORITIES AND WOMEN IN TDC'S AFFIRMATIVE ACTION PROGRAM SHOULD BE SUBSTANTIALLY EXCEEDED.

9. THE PRESENT BAN ON THE CONSIDERATION OF EX-OFFENDERS FOR POSITIONS IN TDC SHOULD BE ELIMINATED.

10. AN EFFECTIVE PSYCHOLOGICAL SCREENING PROGRAM SHOULD BE UNDERTAKEN TO DETECT TDC JOB APPLICANTS AND STAFF PRONE TO ABUSE

OF AUTHORITY.

11. CORRECTIONAL OFFICERS SHOULD BE GIVEN A MORE SUBSTANTIAL ROLE IN THE REHABILITATION FUNCTIONS OF TDC.

12. THE SUGGESTIONS OF TDC EMPLOYEES THAT PROMOTIONS ARE BASED ON FRIENDSHIP, FAVORITISM, NEPOTISM, AND AVOIDING DISPLAYS OF INNOVATIVE THINKING SHOULD BE INVESTIGATED AND CORRECTED, IF FOUND JUSTIFIED.

13. STEPS SHOULD BE TAKEN TO ASSURE THE EXISTENCE OF FAIR AND ADEQUATE GRIEVANCE MECHANISMS TO HANDLE EMPLOYEE COMPLAINTS.

14. THE MEMBERSHIP OF THE TEXAS BOARD OF CORRECTIONS, WHICH HOLDS ULTIMATE SUPERVISORY AUTHORITY OVER TDC, SHOULD BE EXPANDED TO INCLUDE FAIR REPRESENTATION OF MINORITY ETHNIC AND RACIAL GROUPS.

CENSORSHIP: PUBLICATIONS

Most of TDC's policies governing inmate access to books, newspapers and magazines are set out in its rules and seem, at face value, to be generally reasonable. Actual practice, however, does not conform to the written regulations and, in a number of instances, is inconsistent with legal requirements. According to TDC regulations, the only valid reason for denying an inmate access to any publication is that the publication "creates a clear and present danger of a breach of prison security." In fact, publications are often excluded according to each warden's personal idea of propriety or general appropriateness.

Since no list of disapproved publications is posted or distributed for inmates, an inmate has no way of knowing whether a given publication--which, under TDC rules, must be paid for in advance--will or will not be delivered. Contrary to TDC rules, inmates are generally not allowed to review excluded publications, and in some cases inmates apparently are not told that their reading matter is being withheld or that TDC regulations allows the right to appeal.

The Director's Review Committee, to which the units send between ten and thirty publications every two weeks for approval, sometimes seems no less arbitrary than the wardens. In fact, the committee generally does not function as a committee; one member reviews the publications and makes rulings in the committee's name. It is uncertain what "clear and present danger" means to this member. When asked by an interviewer to explain his criteria for determining dangerous material, all he could say was that other than publications which "could incite violence," he simply "knew it" when he saw it. He added that he could often tell by reading a single page.

A number of books which have received serious literary notice are excluded, such as Candy, Yellow Back Radio Brokedown, and Last Tango in Paris, while other books with similar content and no more literary merit are allowed: e.g., The Happy Hooker and Fanny Hill. Books by "black activists" have received similarly contradictory treatment, with Cleaver's Post Prison Writings and Speeches, Seale's Seize the Time, and Davis' If They Come in the Morning being excluded while Cleaver's Soul On Ice, Jackson's Soledad Brother, and Malcolm X Speaks are allowed.

There is simply no reason to deprive inmates of reading material that poses no "clear and present danger" of disruption or realistic threat of breach of discipline. The First Amendment rights which we in the "free world" take for granted should be limited by TDC only where demonstrably necessary to preserve order.

RECOMMENDATIONS:

1. TDC SHOULD PERMIT INMATES TO RECEIVE ALL PUBLICATIONS AND EXCLUSION OF ANY PUBLICATION SHOULD BE THE RARE EXCEPTION.

2. THE BURDEN OF DEMONSTRATING THE UNACCEPTABILITY OF ANY PUBLICATION SHOULD FALL ON TDC.

3. WHEN BANNING A PUBLICATION, TDC SHOULD GIVE PROMPT NOTIFICATION TO THE INMATE. THE INMATE SHOULD BE ALLOWED TO EXAMINE THE ALLEGEDLY OFFENDING PUBLICATION, SHOULD BE GIVEN THE REASONS FOR THE DECISION, AND SHOULD BE TOLD OF, AND AFFORDED, AN OPPORTUNITY FOR MEANINGFUL REVIEW OF THE UNIT DECISION.

4. TDC SHOULD ADOPT A MORE CLEARLY STATED POLICY WITH RESPECT TO THE STANDARDS AND CRITERIA UTILIZED TO DETERMINE THE ACCEPTABILITY OF ANY PUBLICATION; THESE STANDARDS SHOULD BE PUBLISHED AND CIRCULATED TO ALL INMATES ALONG WITH A LIST OF THOSE INDIVIDUAL PUBLICATIONS WHICH HAVE, IN INDIVIDUAL CASES, BEEN DENIED TO INDIVIDUAL INMATES.

CENSORSHIP: MAIL AND ACCESS TO THE MEDIA

Correspondence by TDC inmates is subject to extensive regulation and censorship, often without purpose or reason and often in violation of the United States Constitution and of TDC rules themselves. Although TDC maintains several categories of correspondence subject to varying degrees of control or censorship, all are subject to abuse.

While authorities are obviously entitled to take action to prevent weapons, drugs and other dangerous or contraband materials from entering the units, TDC extends its control and censorship well beyond any justifiable demands of security.

TDC rules recognize several categories of mail and provide for different treatment of each.

Privileged Correspondence:

TDC rules permit private, uncensored mail communication with specified groups of state and federal officials, including judges, legislators and members of law enforcement agencies. Though this class of "privileged" mail is supposedly not subject to inspection by TDC officials, we (and the Joint Committee) have received many complaints that mail is being opened, read and, in some cases, not even delivered to the inmate or official addressee.

Even in cases where this does not occur, TDC's methods of handling such mail have the practical effect of destroying any privacy or "privilege." When an inmate receives a piece of privileged mail, he is called to the unit law library (the "writ room") where he is required to open and read it in the presence of a TDC officer. Since under TDC rules, all inmate legal materials (except for a few law books) must be kept in the writ room, the inmate is compelled to make a choice: he can leave the letter in the writ room where, because there is no secure storage space, it is open to guards, officials and other inmates, or he can allow the officer to read the letter to be sure that it is non-legal mail which the inmate can then take back to his cell. Either way, the privacy of the communication is destroyed and the mail ceases to be privileged.

There is no justification for TDC officials to read or examine an inmate's communications to or from public officials.

Legal Correspondence:

Some of the problems involved in legal correspondence by TDC inmates is outlined in the section of this Report discussing "Access to Courts and Legal Counsel." As there noted, TDC Rules permitting inspection of legal mail out of the presence of the inmate allows too great an opportunity for invasion of the constitutional privacy of legal correspondence. The requirement that "legal" mail must be left in the writ room, where there is no guarantee of privacy whatsoever, simply compounds the potential for violation of the attorney-client privilege. Other state prison systems have found methods which adequately meet security requirements and still respect legal and constitutional rights. TDC should do no less.

Personal Correspondence:

TDC Rules limit inmates to a personal correspondence list of ten persons, each of whom must be approved by prison authorities. The reason for this requirement is not

altogether clear: it may go either to security or to holding down the volume of mail, or as is most likely, a combination of both. In any event, it does not seem warranted.

All personal mail is subject to censorship. The formal rules list only five specific reasons for rejection or censorship of mail:

- 1) It may contain threats, or forbidden goods or information or plots to escape, or imply blackmail and/or extortion;
- 2) It may discuss criminal activities;
- 3) It may contain codes to circumvent understanding of contents;
- 4) It may contain plots to use overt action to overthrow lawful authority;
- 5) It may contain solicitation of personal property or funds.

Nonetheless, mail room officers are supplied with a larger list, of approximately a dozen reasons, for barring correspondence, including:

"Information not in best interest of receiver."

"Not allowed to mention names of officers or other inmates."

"No institutional gossip or rumors allowed."

"Vulgarity."

These latter reasons are patently inconsistent with recent Supreme Court opinions, which have made it clear that inmate mail may not be censored simply to prevent criticism of the prisons or of prison authorities. In addition, a number of the standards are so vague as to allow officials an almost unrestrained freedom to impose any limits they think proper; such standards also violate Constitutional norms.

We do not assert that TDC should not have the right to prevent contraband or weapons from entering the prisons. Inspection of packages is not only appropriate but necessary. Reading and censoring of all mail is not required, however. A number of courts have held that other methods can and should be used to meet security needs. Contraband can be detected by florescope or other X-ray-like devices, without violating the privacy of communications. Having officials open and inspect (but not read) mail in the presence of inmates is another, if all mail must be examined. The argument that all mail must be read to avoid discussion of escape plans for other criminal conduct is non-convincing for two reasons: it seems unlikely that anyone would take the risk of putting such plans in any writing that goes through officials hands; moreover, any such secret arrangements could as well -- and more safely -- be made orally during any visit to see an inmate. Examination only of mail of those inmates who present particular security risks is a still different possibility, though this procedure would present great risk of abuse. Other prison systems have found ways to avoid the massive program of censorship to which TDC seems to have committed itself.

The National Advisory Commission on Criminal Justice Standards and Goals has described the problem well:

In censoring and regulating mail, correctional authorities have not limited themselves to keeping out harmful or potentially dangerous objects or substances. The censorship of mail all too often has been utilized to exclude ideas deemed by the censor to be threatening or harmful to offenders or critical of the correctional agency. These efforts result in the diversion of manpower from other tasks and, to avoid excessive manpower drains, limitations on the volume of correspondence permitted. Censorship and limitations on correspondence directly generate inmate hostilities and serve to make correctional progress more difficult.

A final problem is presented by the TDC practice of limiting or suspending mail privileges as a punishment, for example, for inmates in segregation. An inmate's maintenance of communication with the outside world is often crucial to achievement of correctional goals; it may also be the only way an inmate can bring abuses to light. Correspondence should be subject to limitation or suspension only as necessary to prevent its use for illegal purposes.

Access to Media:

Access to media involves the rights not only of inmates but of the public as well. As the National Advisory Commission has said:

While mail and visitation allow offenders contact with specific individuals, access to the communications media provides contact with the public generally. The public has the right to be informed of their government's activities through customary mass communications. Offenders have a right to have their story told as well as to be informed of events in the free society.

No state institution should be immunized from public scrutiny. Prisons neither need nor are entitled to a blanket exemption. Media representatives should have full access to the prisons and to inmates for interviews, except when authorities demonstrate that there is a specific clear and present danger to security or discipline. Similarly, inmates should be able to correspond freely with the press and other media and to request and secure interviews, when the media are responsive.

RECOMMENDATIONS:

1. AS THE NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS HAS RECOMMENDED, INMATES SHOULD HAVE THE RIGHT TO COMMUNICATE OR CORRESPOND WITH PERSONS OR ORGANIZATIONS AND TO SEND AND RECEIVE LETTERS, PACKAGES, BOOKS, PERIODICALS, AND ANY OTHER MATERIAL THAT CAN BE LAWFULLY MAILED.

2. TDC RULES AND PRACTICES SHOULD BE CHANGED TO ALLOW ALL CORRESPONDENCE, SUBJECT ONLY TO SUCH EXAMINATION AS IS NECESSARY TO PREVENT SMUGGLING OF WEAPONS AND CONTRABAND INTO THE PRISON; THE METHOD OF INSPECTION ADOPTED SHOULD NOT VIOLATE THE PRIVACY OF THE CORRESPONDENCE. THERE IS NO JUSTIFICATION FOR EXAMINATION OF OUTGOING MAIL. IF THE METHOD OF INSPECTION REQUIRES THE OPENING OF MAIL, THE EXAMINATION SHOULD TAKE PLACE IN THE PRESENCE OF THE INMATE.

3. INMATES SHOULD BE ALLOWED TO SEND AND RECEIVE "PRIVILEGED" AND "LEGAL" MAIL WITHOUT EXAMINATION, READING, OR CENSORSHIP BY OFFICIALS; TDC PROCEDURES SHOULD BE REVISED TO ASSURE THE FULL PRIVACY OF SUCH COMMUNICATIONS AND ELIMINATE OPPORTUNITIES WHICH MERELY INVITE VIOLATIONS OF THE RECOGNIZED RIGHT OF CONFIDENTIALITY.

4. TDC SHOULD IMMEDIATELY END ITS REJECTION OR CENSORSHIP OF MAIL ON PATENTLY UNCONSTITUTIONAL GROUNDS.

5. TDC SHOULD ELIMINATE ITS RESTRICTIONS ON THE NUMBER OF PEOPLE WITH WHOM AN INMATE MAY CORRESPOND AND ON THE VOLUME OF MAIL AN INMATE MAY SEND AND RECEIVE.

6. MEDIA REPRESENTATIVES SHOULD HAVE UNCENSORED ACCESS TO THE PRISONS AND TO INMATES, SUBJECT ONLY TO REASONABLE REGULATION AS TO TIME, DURATION, AND THE LIKE.

7. THE FLOW OF INFORMATION BETWEEN THE MEDIA AND INMATES SHOULD BE FACILITATED BY TDC AND SHOULD NOT BE LIMITED TO PUBLIC

RELATIONS TOURS OR PROGRAMS CONDUCTED BY TDC. TDC SHOULD NOT BE ABLE TO LIMIT THE INFORMATION TO WHICH THE PUBLIC HAS ACCESS, EXCEPT IN CASES OF EMERGENCIES, SUCH AS INSTITUTIONAL DISORDERS, OR AS NECESSARY TO PROTECT INDIVIDUAL INMATE'S DESIRES FOR PRIVACY.

8. TDC INMATES SHOULD BE ALLOWED TO MAKE THEIR VIEWS KNOWN TO THE COMMUNICATIONS MEDIA, EXCEPT WHEN AUTHORITIES DEMONSTRATE THAT THERE IS A SPECIFIC CLEAR AND PRESENT DANGER TO SECURITY OR DISCIPLINE. INMATES SHOULD HAVE THE RIGHT TO GRANT CONFIDENTIAL AND UNCENSORED INTERVIEWS TO THE MEDIA AND TO SEND UNCENSORED LETTERS TO THE MEDIA, SUBJECT ONLY TO REASONABLE AND NEUTRAL REGULATIONS MINIMIZING DISRUPTION OF REGULAR PRISON SCHEDULES AND ACTIVITIES.

CLASSIFICATION

When an inmate is committed to the custody of TDC, the department is faced with a number of administrative decisions. The inmate must be housed in one of the fourteen prison units; the inmate must be given one of the thousands of inmate jobs; he or she must be checked for disease; any previous history of escape or violent behavior must be determined. In short, TDC is faced with a relatively unknown individual for whom it assumes near total responsibility for a substantial period of time. In order to assess the new inmate, his probable relation to the rest of the inmate population as well as to the staff, and his needs as well as those of the Department, the inmate should be interviewed and tested, so that he can be assigned to appropriate classifications for various purposes. Authorities agree that the adequacy, accuracy, and efficacy of this classification process can be crucial to the inmate, the institution, and the likelihood that his ultimate return to society will be successful.

Members of the Committee and the staff have made a number of trips to the Diagnostic and Goree units, the sites at which all entering male and female inmates, respectively, are classified. It is our conclusion that TDC's methods of classification, categories of classification, and use of classification do little more than locate the inmate within a unit within the system. While the Diagnostic unit seems efficiently run, its final product, prisoner classification, does little to serve either the inmate's needs or affirmative correctional goals. The Committee believes that in order to preserve the spirit and fact of any form of "corrections" within the state's Department of Corrections, the inmate classification procedure must be completely restructured.

Classification is the end result of four phases of the diagnostic procedure. Once an inmate has been processed, he or she is assigned a number of classifications -- each ostensibly determined by the Classification Committee. In order to understand how the Classification Committee arrives at its decisions, it is necessary to examine briefly each of the four phases of the diagnostic procedure.

MEDICAL:

Each inmate is given a medical examination, consisting of a personal medical history report filled out by the inmate and a brief examination by a TDC physician. The completeness of the medical report, obviously, is a function of the cooperation and memory of the individual inmate. The medical examination lasts for only a few minutes, in the most part due to extreme time constraints on the doctor. Inmates are given a chance to describe what sorts of medication they have been receiving for specific ailments. However, all medications are taken away from inmates upon arrival and no medicines, even those previously prescribed, can be taken by inmates until TDC checks with the inmate's home physician or hospital to verify his claims, a process which ordinarily takes from a few days to a few weeks. Recently, while waiting for TDC to verify that he was an epileptic with a heart condition, an inmate -- denied his medications under TDC's routine practices -- had a seizure and died. TDC has now said that it will endeavor to hasten its inquiries in similar cases.

The inmate's medical classification may range from Medical Class I (fit for field work) to Medical Class V (confinement in the Walls hospital). That the inmate's health classification is predicated largely on his ability to work seems an outright statement of

TDC's emphasis on production rather than on rehabilitation or "correction."

TESTING:

Inmates are given a battery of tests to determine their educational level, vocational abilities, IQ, and potential for aberrant behavior. This final area is probed with a test known as the Minnesota Multiphasic Personality Indicator, a fairly well-respected psychological test form. Although TDC gives this test in both English and Spanish, there is no one at the Diagnostic unit who is qualified to interpret it. The information is filed, however, in case the information is ever needed, but no use is made of it in evaluating the inmate.

While giving tests to inmates is a good standard procedure, certain rules of common sense and judgment must govern their administration. First, all tests should be given in both Spanish and English; TDC's Spanish-speaking population accounts for about 16% of all inmates. Currently, those who can not understand the instructions or the wording are simply not tested. Second, a trained testing counselor should be available to administer and interpret the tests in a responsible fashion. Third, tests should be given under proper circumstances. Inmates are bussed into Diagnostic from all over the state, locked in cells for several days, crowded into a classroom, and are then tested. Common sense and almost all expert opinion indicates that these conditions may easily render the test invalid due to anxiety, discomfort, and fear. Nonetheless, the possibly unreliable test results are used in important determinations; they affect an inmate's classification and eligibility for a variety of educational and other programs.

OFFENDER AND REHABILITATIVE RATINGS:

Inmates undergo several "interviews" during his stay at Diagnostic. The inmate is brought into a waiting room and told to sit on long wooden benches in the company of sixty to seventy other inmates to wait his turn to see a "Sociologist." When he is called, the inmate is placed in a cubicle with an officer in TDC uniform. The officer sits behind a typewriter and asks the inmate questions which are listed on a form. The officer may not look up during the questioning, and sits impassively typing the inmate's responses to the same questions the officer has been asking hundreds of inmates for what may have been years.

Later, the inmate is given a chance to talk to a "Psychologist," another TDC officer in a TDC uniform. During this "interview" the inmate is allowed to tell his side of the story of how he found himself in prison. This is included in his file, along with a copy of the official version of crime. The exact purpose of this line of questioning is unclear. It may be used as a basis for gauging the inmate's attitude toward his conviction and imprisonment. It is possible that a man whose version of the crime asserts his innocence or who paints himself as a victim of circumstances may, simply because of that, be evaluated as unwilling to accept his assumed need for punishment and rehabilitation. Such a judgment affects his rating and may damage his chances for parole.

It is, at best, unclear what qualifications either of the officers have to conduct the interviews. We were told that a number of officers were recently promoted to "Sociologist" and "psychologist" as a way of giving them a raise in pay, even though they did not meet TDC's own minimum qualifications for the job. (According to information available to us, four of six people holding the position of "Sociologist II" do

not have the required educational qualifications.)

Nonetheless, on the basis of these interviews, the inmate is given two classifications, the first, a security (offender) rating, has two categories: minimum and maximum. The second classification, rehabilitative, has four categories ranging from I (excellent) to IV (poor). The first classification is made largely on the basis on the type of offense the inmate has committed. The second is based on TDC's estimate of whether or not the inmate has decided to accept rehabilitation.

Although the gathering of information on an inmate's background may be helpful, it in no way is a substitute for a competent psychological or psychiatric interview -- something not given by TDC. No professional effort is made to identify the sources of an inmate's anti-social behavior or to identify significant psychological or psychiatric problems, or, incidently, to treat them. (See the section of this report dealing with "Mental Health"). And, to make an unqualified assessment of an inmate's ability to change on the basis of inadequate methods places what may be the unfair burden of all upon the inmate.

It should not go unnoted that, whether so intended or not, the "sociological" and "psychological" interviews may serve a function in addition to determining an inmate's offender and rehabilitative status. One of the questions on the interview forms asks if the inmate uses alcohol or narcotics. Whether the inmate drinks a beer after work, has occasionally smoked marijuana, or enjoys a cocktail on weekends, the information is turned over to the Parole Board which frequently translates an undetailed affirmative response into "alcoholism" or "narcotics addiction". Inmates are never told that the information they are giving -- ostensibly for "treatment" purposes -- can and may be used against them in parole consideration. If the obviously shallow interview is to have any integrity at all, it should not be released in its existing form for the Parole Board's use.

One potential source of highly valuable information would be a pre-sentence report prepared for use by the court which tried the inmate. This thorough background study of the inmate, designed for use by the trial judge in deciding upon a sentence, should be available to TDC for use in its classification process. (It would also greatly aid the Parole Board in its determinations: see the Section of this Report discussing "Parole"). Unfortunately, however, it generally is not given to TDC and in many parts of the state is not even prepared for the trial court.

CLASSIFICATION:

All of this information is translated into coded ratings and is given to the Classification Committee, which, according to statute, is supposed to be made up of the Director of the Department of Corrections, the Diagnostic unit warden and assistant warden, the Assistant Director for Classification, a chaplain, and a doctor. TDC has not been following the statute, however, and has been substituting for them the Assistant Director for Classification and Records and two of his assistants along with a chaplain. We understand that when one of these Classification Committee "members" are absent a "Sociologist II" is drafted to fill his position.

The culmination of this group's efforts is essentially the assigning of an inmate to a unit, nothing more. No treatment decisions are made, no "corrections" pronouncements are deemed appropriate. There are thirteen units to which an inmate may be assigned if male, or one unit to which she may be assigned if female. Each of the male units supposedly houses only certain categories of offenders, but TDC seems to have a great

deal of difficulty in keeping within its own guidelines. For instance, recent TDC data shows that although Darrington is supposed to be used for "recidivists between 22 and 25", more than half (52.4%) of its inmate population has never been in prison before. Similarly, the Ramsey unit is supposed to hold recidivists over 25, yet TDC data indicates that almost half of its inmates are in prison for the first time. One can continue the list, but the point is that the present system is obviously in need of serious overhauling: Not only does it not provide any meaningful "diagnosis" or "classification", but, under it, TDC cannot even meet the most limited of objectives -- on the simple, but generally agreed, highly desirable, goal of separating first offenders, particularly young ones, from more hardened recidivists.

WOMEN INMATES:

Unfortunately, the situation facing women inmates is only slightly better. Since TDC has only one women's facility, Goree, there is no latitude in unit assignment for recidivism, age, or seriousness of crime. All women inmates are placed in the same prison, immediately upon arrival at TDC.

Female prisoners see the Diagnostic unit only when a group of them is taken there for the few medical tests. When this is done, Diagnostic must close down its own process and return all of the men to their cells while the women are present in the medical area. At no time do the women stay at the Diagnostic unit. Some remodeling is apparently planned for Goree to allow all of the women's medical evaluation to be done there. This would avoid the disruption of the process at the Diagnostic unit and would also give the Goree unit a far better medical facility than it now has.

Goree's version of the diagnostic procedure is called "quarantine", which consists of essentially the same testing and interviewing process. The Goree Classification Committee, made up of the Classification Officer, the Assistant Warden, the Educational Consultant, a registered nurse, the Information Officer, the Supervisor of the Garment Factory, and a Building Major, assign each inmate a cell, a job, and a "rehabilitation" program. Inmates are allowed to question a member of the Committee concerning their classification. At least structurally, the classification procedure at Goree seems to be more responsive to individual needs than the classification procedure for men.

SUMMARY:

TDC's Director, chief medical officers, probation officers, and line Correctional Officers have estimated that 20-40% of all newly entering inmates should not be confined to TDC but should be released to some sort of alternative correctional program. That the state maintains these and other inmates in a traditional prison setting and within the confines of rigidly structured categories which bear little relation to real needs of individual inmates is shocking and shows little commitment to any meaningful philosophy of rehabilitation on "correction". It is essential that there be a major restructuring of the entire classification process and the prompt creation of alternative correctional programs, of which TDC can avail itself to implement the individualized corrections plan which should be developed for each inmate as part of the classification process.

RECOMMENDATIONS:

1. TDC SHOULD HIRE AN ADEQUATE STAFF OF FULLY QUALIFIED PROFESSIONAL PERSONNEL TO DETERMINE ACCURATELY EACH INCOMING INMATE'S CAPABILITIES, MENTAL AND PHYSICAL HEALTH, AND EDUCATIONAL AND VOCATIONAL NEEDS.

2. TDC SHOULD REEVALUATE ITS CLASSIFICATION GROUPINGS, BOTH ON A BROAD BASIS (INSTITUTIONAL CLASSIFICATIONS) AND ON A NARROW BASIS (INDIVIDUAL MEDICAL, REHABILITATIONAL, AND OFFENDER). THE END RESULT SHOULD BE THE ASSEMBLY OF INFORMATION ALLOWING DESIGN OF A CAREFULLY CRAFTED INDIVIDUAL CORRECTIONS PLAN FOR EACH INMATE.

3. ALL TESTS SHOULD ALSO BE OFFERED IN SPANISH.

4. ALL CLASSIFICATION INTERVIEWS SHOULD BE RESTRICTED TO PERTINENT INFORMATION AND SHOULD NOT BE MADE AVAILABLE TO PAROLE OFFICIALS IN PRESENT FORM.

5. TDC SHOULD FOLLOW ITS OWN UNIT CLASSIFICATION STANDARDS, SO THAT FIRST OFFENDERS ARE SEPARATED FROM RECIDIVISTS AND YOUNG OFFENDERS ARE NOT HOUSED WITH OLDER HARDENED INMATES.

6. THE LEGISLATURE SHOULD ASSURE THAT PRE-SENTENCE REPORTS DESIGNED TO AID THE TRIAL COURT IN SETTING SENTENCE ARE PREPARED FOR ALL THOSE CONVICTED OF CRIMES IN TEXAS AND THAT COPIES OF SUCH REPORTS BE MADE ROUTINELY AVAILABLE TO TDC AND THE PAROLE BOARD.

7. INSOFAR AS POSSIBLE, INMATES SHOULD BE ASSIGNED TO THE UNITS CLOSEST TO THEIR HOMES.

8. A MAJOR RESTRUCTURING OF THE ENTIRE CLASSIFICATION PROCESS SHOULD BE PROMPTLY UNDERTAKEN; THE END RESULT OF THE CLASSIFICATION PROCESS SHOULD BE THE DEVELOPMENT, ON THE BASIS OF ACCURATE AND COMPLETE INFORMATION, OF A PROFESSIONALLY RESPONSIBLE AND EFFECTIVE INDIVIDUALIZED CORRECTIONS PLAN FOR EACH INMATE, INCLUDING, WHERE APPROPRIATE, REFERRAL TO ALTERNATIVE OR COMMUNITY PROGRAMS BEST SUITED TO SERVE THE CORRECTIONS NEEDS OF THE INMATE.

VISITING

Continuing contact with family and friends is essential to maintaining ties with the free world and is an important factor in the inmate's successful return to society. The National Advisory Commission on Criminal Justice Standards and Goals states: "Whether a person is confined across town in a jail, or across the state in a prison, confinement totally disrupts his relationship with his community. The longer confinement persists, the more alienated the individual becomes. Strained ties with family and friends increase the difficulty of making the eventual transition back to the community."

TDC states in its rules that it "wants to help inmates keep in touch with their family and friends." Despite this declaration, however, the general attitude of some officials and the effect of some TDC policies seem to be that visitation is more tolerated than encouraged. A number of practices appear to be more oriented to administrative convenience than either the rehabilitation of the inmate or the convenience of his visitors. Visitors are presumably due the same degree of civility and concern that any citizen and taxpayer is entitled to expect from any state agency.

For the visitor, seeing an inmate at a TDC unit is likely to be a long, difficult, expensive, and frustrating experience. The fact that all TDC units are located in rural East Texas means that getting to the unit in the first place is difficult, either by automobile or, especially, by public transportation. For instance, in order to visit any of the units in the Huntsville area, a visitor without an automobile must take a bus to Huntsville and then a cab to the particular unit. In the case of the Eastham Unit, the cab trip is 31 miles each way. Members of the Committee spoke with one woman who had to ride a series of buses from Odessa to Huntsville, a sixteen hour trip each way, for a two hour visit. For someone living in El Paso or the Panhandle, a trip to the closest TDC unit is about 700 miles, more than a day's drive each way. The expense is great and meals and overnight housing is required. Bus or private automobile may be the only available means of transport to the prison units from many places in Texas, and air transportation, even when it exists, is ordinarily too expensive for the many poor or non-wealthy relatives of inmates.

Because of the inaccessibility of TDC units, many relatives and friends of inmates find it virtually impossible to make visits with any sort of regularity. Cost, difficulty of travel, and loss of time from work too often prove insurmountable obstacles to even the most devoted relatives, and periods of years without a visit from a parent or friend are not uncommon.

A visitor arriving at the gate of a TDC unit is confronted with the TDC visitation system itself. In summary, the TDC Regulations allow each inmate not in administrative or punitive segregation to have two two-hour visits per month on weekends with persons whose names appear on the inmate's visitation-correspondence list of ten names. Two adults are allowed per visit. For those visiting from more than 500 miles away a four-hour visit is allowed. The 500-mile limit was recently increased from 250 miles, perhaps because cooperative programs providing low-cost bus transportation were bringing in substantial numbers of visitors from San Antonio and other cities less than 500, but more than 250 miles from most of the units.

However, the system as it works in practice often provides even less access than the rules permit. Visitors are not always allowed two hours from the time of their arrival; rather, at some units the visiting day is broken up into designated two-hour blocks, and a

visit which begins after the start of the block can run only to the end of that block, when the visiting room is cleared for the next group of visitors and inmates. Moreover, at many units the substantial time spent processing visitors, i.e., ascertaining their identity, assigning them a seat number, etc., is counted against the two-hour visitation period. In at least one unit, the Sunday visiting hours have been reduced by an hour from those listed in the TDC Rules and Regulations. In addition, despite the existence of TDC rules requiring that relatives be informed when an inmate is in solitary or otherwise unavailable for visiting, a number of relatives told the Committee of arriving at a unit only to then learn that the inmate had been placed in solitary or moved to another unit. Some people also reported instances of apparently arbitrary exclusion of visitors by a warden or assistant warden. Such reports are difficult to confirm, but their frequency would tend to indicate that there may be abuses of authority.

The visit itself takes place in a crowded room with glass, steel bars, and steel mesh separating the inmate from the visitor at all times. No touching of any kind is allowed between prisoners and visitors. Visitors may purchase soft drinks and, in many cases, commissary items for themselves and the inmate. The visits are closely supervised by TDC personnel. For example, in Ellis unit, at either end of the caged area in which inmates are seated during the visits, there are raised platforms for guards to give a good view of the inmates. In addition, guards patrol the cage at floor level, often stopping near particular inmates. This extremely close supervision tends to destroy any sense of privacy.

It should be noted that in a number of instances individual wardens have acted warmly and humanely to waive rules to accommodate visitors and inmates in hardship situations. Also, appropriately, TDC has allowed some more open settings for visits. In the pre-release program, a few inmates are permitted to attend church and have picnics with their families. For the past two years at some units, TDC has sponsored a Mother's Day program allowing inmates and their families to see each other on a more informal basis than is ordinarily the case. TDC is to be complimented for these programs. But, in addition, these few exceptions to usually strict visiting conditions show what can be done; they also serve to emphasize that most TDC inmates, whether in a maximum or minimum security unit, are not allowed to embrace their spouses or even touch, much less hold or kiss their children during the entire time they are in prison. This harsh regime is unnecessary in TDC; other prison systems do not follow it. At the Federal maximum security unit at Leavenworth, visitors and inmates sit across an open table and may touch and embrace. In several states and foreign countries, conjugal visits are permitted inmates, and in many cases these programs have been successfully operating for some time. The jurisdictions having such programs include Mississippi, Arkansas, California, Florida, Saskatchewan, Mexico, Bolivia, Brazil, Colombia, Ecuador, El Salvador, Guatemala, and Honduras. In Texas, on the other hand, a female inmate must get special permission even to hold her own new-born child in the warden's office.

The complete isolation of men and women from all sexual activity of a heterosexual nature over long-extended periods is completely unrealistic and results in homosexual behavior or in the displacement of the sexual drive in hostile, aggressive and sometimes dangerous conduct toward other inmates and prison personnel. This isolation is exacerbated by the frustration created by the limited visitation privileges for families and the pressures of daily prison life. The stress on both sides of the family unit can become intense and demoralizing to all--wife, husband and children--with obviously destructive results. Maintenance of family integrity by allowing an inmate some private association with his wife and children would certainly lessen the high number of divorces which

occur after a man goes to prison; it would also help provide a more stable living situation upon his return. Either an equitable system of conjugal visits or home furloughs for trustworthy inmates, successfully used in other prison systems, would go a long way to meeting these needs.

RECOMMENDATIONS:

1. THE LEGISLATURE SHOULD MAKE PROVISIONS FOR REASONABLE COST TRANSPORTATION FROM THE STATE'S MAJOR POPULATION CENTERS TO TDC UNITS; A MODEL MIGHT BE FOUND IN THE BUS TRIPS CURRENTLY ORGANIZED BY PRIVATE CO-OPERATIVE CHARITABLE GROUPS FROM AUSTIN, CORPUS CHRISTI, EL PASO, FORT WORTH, LUBBOCK AND SAN ANTONIO.

2. TDC SHOULD ESTABLISH WEEKDAY VISITING HOURS.

3. TDC SHOULD ESTABLISH AN EFFECTIVE SYSTEM TO KEEP PERSONS ON INMATE VISITING LISTS INFORMED AS TO THE AVAILABILITY OF THE INMATE FOR VISITATION.

4. TDC SHOULD ELIMINATE THE RESTRICTION OF INMATES' VISITATION LISTS TO TEN PERSONS.

5. TDC SHOULD TAKE STEPS TO ASSURE THAT VISITS ACTUALLY LAST AS LONG AS PROVIDED FOR IN THE REGULATIONS.

6. TDC SHOULD REDUCE THE DISTANCE THAT JUSTIFIES A FOUR-HOUR VISIT.

7. TDC SHOULD TAKE STEPS TO ASSURE THAT VISITING PRIVILEGES ARE NOT ARBITRARILY DENIED TO INDIVIDUAL INMATES OR WOULD-BE VISITORS.

8. TDC SHOULD INSTITUTE PROGRAMS ALLOWING FOR INCREASED CONTACT AND PRIVACY BETWEEN INMATES AND VISITORS, INCLUDING, ON AN EXPERIMENTAL LEVEL, CONJUGAL AND FAMILY VISITING PROGRAMS, AND INMATE FURLOUGH PROGRAMS, WHERE CONSONANT WITH THE NEEDS OF SECURITY.

SAFETY

In general, TDC units are usually clean and physically sanitary institutions. Floors, halls and cells were neat and sanitary in almost every unit we visited, though overcrowding was a problem in some places and in a few instances, discussed elsewhere, facilities and sanitation were inadequate. The general inmate population showers daily and each prisoner is issued a change of uniform (clean, neat whites) each day. But, as one court recently declared, "Government owes to those whom it has deprived of their liberty an even more fundamental constitutional duty to use ordinary care to protect their lives and safety while in prison." There is reason to doubt whether, overall, TDC is meeting this standard as well as it might. TDC conducts very extensive agricultural and industrial operations. Yet it is far from clear that adequate health and safety precautions are undertaken. Inmates are sometimes compelled to work under dangerous or unhealthy conditions. Without choice as to where they are assigned or which equipment they use, inmates are at the mercy of TDC's self-imposed standards of health and safety.

As an example of the severity of the injuries which inmates have sustained in TDC is the case of the inmate who lost both arms in an agricultural accident. Forced to hand-feed a harvesting machine which had a faulty picking mechanism, the inmate got both hands caught in the machinery. TDC work supervisors knew or should have known that the machine was defective and that the machine's manufacturer had warned against putting hands near the loading device.

In cases such as this, the injured are not protected by Workmens' Compensation nor does the state guarantee any responsibility for rehabilitation. Inmates daily face loss of fingers and hands in construction accidents, injury to their respiratory systems in the sawmills and auto-painting shops, and snakebite in working in the fields. Inmates maimed in beatings or debilitated by disease are at best treated for injuries and returned to work.

While TDC does have standards prohibiting outdoor or field work in bad weather, they should be refined to take account of such matters as "chill factor" and heat-humidity combinations, as do U.S. military regulations. TDC rules do limit outside work at temperatures below 42 degrees F. (36 degrees F. for construction workers) but, for example, they make no specific allowance for wind velocity, except to commit its consideration to the warden's discretion. (According to charts prepared by U.S. Army Engineers, for example, a temperature of 40 degrees F. accompanied by a 20 m.p.h. wind is the "cold" equivalent of a temperature of -10 degrees F. and a very light wind.) Moreover, we have heard complaints that even the existing regulations are not always followed. There have also been complaints that TDC-issued work clothes are inadequate for outside, and even some inside work, in winter. Work pace, especially in the fields, is too often debilitating and beyond the physical capacity of some who are assigned there. We have heard a number of reports of heart attacks, sunstroke, and heat prostration as a result of field work. And while inmates shower each day, in some of the units adequate shelter facilities are lacking and prisoners must completely undress outside to await showers, even in inclement weather and during the winter.

Much of the highly strenuous and health-threatening physical labor now performed by inmates in TDC could be undertaken more efficiently and effectively by increased use of machinery, especially in the fields. Not only would increased mechanization make economic sense and increase TDC production, but it would also allow some inmates to learn the related mechanical skills and would release many others for educational or

job-training programs which will realistically prepare them for employment upon completion of their sentences.

Sometimes justified as a health or safety measure, and sometimes simply as a disciplinary device, restrictions on hair styles and the wearing even of neat beards or mustaches are common, at least in some TDC units. While perhaps warranted in some limited circumstances, the need for such general rules seems highly questionable, especially when, as we have been told, they are sometimes quite strictly applied to blacks who would wear "natural" or "Afro" styles, but not to whites who wear their hair in somewhat lengthy fashion. The military services have been able to maintain discipline, health and safety while still allowing longer hair and neat beards and mustaches. There would seem to be no reason why TDC cannot do the same. If long hair is no problem for women inmates, it is difficult to see why it should be one for men.

Bodily injuries and damage to health which occur in prison can only serve as impediments to achieving the correctional objectives of TDC. The goal of releasing inmates who are better able to live productive and socially useful lives than they were at the time of their imprisonment cannot be attained in the case of inmates who at their release suffer from prison-incurred disabilities which make only more difficult, if not impossible, their readjustment to a law-abiding society.

RECOMMENDATIONS:

1. A PROGRAM SIMILAR TO WORKMENS' COMPENSATION SHOULD BE EXTENDED TO COVER ALL PRISONERS WHO WORK IN TDC AGRICULTURAL AND INDUSTRIAL OPERATIONS.

2. TDC SHOULD BE VIGOROUSLY PRESSED FOR IMMEDIATE COMPLIANCE WITH THE STATE'S HEALTH AND SAFETY STATUTES AND CODES; REGULAR ON-SITE INSPECTION VISITS SHOULD BE MADE TO EVERY UNIT BY INDEPENDENT HEALTH AND SAFETY OFFICIALS.

3. THE LEGISLATURE SHOULD PROMPTLY ENACT AN ADEQUATELY FUNDED AND RIGOROUSLY PROSECUTED SAFETY PROGRAM REACHING ALL ASPECTS OF TDC OPERATIONS.

4. FIELD WORK WEATHER STANDARDS SHOULD BE REVISED AND STEPS TAKEN TO ASSURE THAT WORK PACE IS REASONABLE AND THAT THOSE WHO ARE PHYSICALLY UNFIT BE EXCLUDED FROM FIELD WORK OR, WHERE POSSIBLE, BE GIVEN A TIME PERIOD TO ADJUST TO THE HIGHLY STRENUOUS WORK. WORK CLOTHES, SUITABLE FOR THE SEASON AND WEATHER OF THE DAY, SHOULD BE AVAILABLE TO ALL INMATES.

5. APPROPRIATE INDOOR SHELTERS SHOULD BE PROVIDED AT EACH UNIT TO AVOID THE NEED TO UNDRESS OUTSIDE IN WINTER AND INCLEMENT WEATHER BEFORE SHOWERS.

6. OVERLY STRENUOUS AND DEBILITATING LABOR BY INMATES IN TDC CONTRIBUTES TO POOR HEALTH AND TEACHES NO SKILLS RELEVANT TO THE FREE-WORLD JOB-MARKET IN WHICH INMATES MUST COMPETE UPON RELEASE. ALL SUCH LABOR SHOULD BE REDUCED TO AN ABSOLUTE MINIMUM BY INCREASED MECHANIZATION OF TDC OPERATIONS, PARTICULARLY IN AGRICULTURAL FIELD PRODUCTION, THEREBY INCREASING EFFICIENCY - AS ALREADY DONE BY PRIVATE BUSINESSES - AND ALLOWING INMATES TO LEARN USEFUL AND SALEABLE SKILLS WHICH WILL INCREASE THE LIKELIHOOD OF THEIR SUCCESSFUL REENTRY TO SOCIETY.

7. EXCEPT AS SPECIFICALLY REQUIRED FOR SPECIAL, TEMPORARY HEALTH OR SPECIFIC JOB SAFETY REASONS WHERE OTHER PROTECTIVE MEASURES ARE INADEQUATE, INMATES SHOULD BE ALLOWED TO HAVE

INFORMAL HAIR STYLES, INCLUDING "NATURALS" OR AFROS, AND TRIM BEARDS OR MUSTACHES, SO LONG AS KEPT NEAT AND CLEAN.

RECREATION; RELIGION

RECREATION:

It is difficult to disagree with the proposition that adequate recreational opportunities in the prisons would contribute significantly to reduction of tensions and would further correctional goals, to say nothing of contributing to the physical and mental health of each unit as a whole. While TDC does run some excellent programs, unfortunately they reach too few inmates. While the situation may vary among units, the only recreational outlets for many prisoners appear to be television, dominoes, a few movies, or an occasional trip to the gym. The inmate whose job does not entail outdoor work may almost never have an occasion to leave his building for fresh air or sunshine.

Presently, basketball and baseball games between units permit participating inmates and spectators one of the few healthy outlets for releasing stored energies and anxieties. However, many inmates never see these games, and the vast majority never participate in them. We suggest these events could be expanded by developing sports programs within each unit. For a minimal cost tournaments could be organized, for example, in soccer, football, dominoes, volleyball, table tennis, checkers, and chess. An adequate supply of recreational equipment would be necessary to insure maximum participation by all inmates. Adequate indoor recreational facilities should be provided and should be open for inmate use for the maximum number of hours. Supplemental activities also might include bringing outside amateur and professional teams as well as musicians and other entertainers to perform. It should also be possible to encourage development of, and performances by, additional inmate groups. While, for example, there are inmate bands and choirs at some units, there is room for expansion. Provision should be made for arts and crafts and music practice in those units in which it is not now permitted. When given the opportunity, TDC inmates have proved themselves interested and talented in these areas, as demonstrated by existing TDC sponsored arts and crafts shows. In short, an expanded program of recreation should be available for inmates at each unit.

No matter what type of activity is involved, the inmate who has a recreational event to look forward to may be easier to deal with, for both his fellow inmates and the prison officials. TDC officials have expressed the view that keeping inmates locked up in their cell blocks all weekend--as is done in some units--generates tensions and creates many disciplinary problems that could be avoided had the inmates something to do other than simply sit. We suggest that general recreation be used to fill this void, whether through participating in physical exercise or listening to music. A recreational "break" would relieve the tensions and boredom that inevitably result from endless idle hours in the cell block. Even simply going outdoors would be an innovation in those units which lack enclosed exercise yards.

RELIGION:

While TDC does employ chaplains, we have heard a number of complaints about the availability of religious activities among inmates. Many inmates have expressed doubts about the extent to which they can confide in and utilize TDC chaplains as full religious and spiritual advisors; we in no way mean to impugn the character, ethics, integrity or commitment of these chaplains, but merely report that as TDC employees they are viewed with some suspicion by a number of inmates. To solve this problem, and to meet

the needs of inmates whose denominational preferences are not represented among the staff chaplains, TDC has permitted some outside religious leaders to enter the prisons either to conduct services or to meet with individual inmates. However, these practices seem unduly limited and TDC could take better advantage of the work and efforts of outside volunteer clergy and religious groups. So far as we can tell, there are no publicly stated criteria to determine which non-employee clergymen or religious representatives will be allowed in the prisons and we have received complaints about some exclusions of apparently qualified groups and individuals and, in particular, about the lack of access by black and minority clergy. While we have not independently verified these claims, there would be positive benefit from encouraging outside clergy and lay religious representatives to enter the prison, hold services, and offer religious counseling to those inmates wishing to participate. Of course, determinations as to qualified individuals and groups should be made on the basis of uniformly applied, publicly declared, non-discriminatory standards. Similarly, bilingual services should be made available for Spanish-speaking inmates. And, as also suggested elsewhere in this report, friends and relatives of inmates should, where consistent with security requirements, be encouraged and allowed to participate in religious services with inmates, as many other states have done and as TDC itself has on occasion permitted.

It is our understanding that at the present time, no TDC funds are specifically budgeted for either recreation or religious purposes, but that they must be paid for, if at all, from commissary and prison rodeo profits. Both activities are essential parts of any correctional process and, as such, should be directly and adequately funded by the Legislature, as are other facets of TDC operation.

While expanded religious and recreational programs may involve some slight short-term security problems, we have no doubt that TDC is fully capable of dealing with them. Moreover, the value of providing physical and psychological outlets is sufficient to warrant such program development and should in the long-run lessen the likelihood of challenges to security.

RECOMMENDATIONS:

1. TDC SHOULD EXPAND ITS PRESENT ATHLETIC AND RECREATIONAL ACTIVITIES SO THAT A FULL PROGRAM IS AVAILABLE TO EACH UNIT TO MEET A VARIETY OF INTERESTS,

2. TDC SHOULD EXPLORE THE POSSIBILITIES OF BRINGING PROFESSIONAL AND AMATEUR ATHLETIC TEAMS, AND OTHER ENTERTAINMENT OR PERFORMING GROUPS FOR INMATE AUDIENCES, AND FURTHER ENCOURAGE DEVELOPMENT OF INMATE GROUPS AND INDIVIDUAL TALENTS, AS OTHER PRISON SYSTEMS HAVE DONE QUITE SUCCESSFULLY.

3. TDC SHOULD PROVIDE AT LEAST OPEN OUTDOOR EXERCISE AREAS IN EACH UNIT SO THAT ALL INMATES HAVE REGULAR AND REASONABLE ACCESS TO SUN AND FRESH AIR OVER WEEKENDS AND DURING NON-WORKING HOURS.

4. RELIGIOUS COUNSELING AND SERVICES SHOULD BE AVAILABLE TO ALL INMATES WHO DESIRE THEM; THE SERVICES OF TDC CHAPLAINS SHOULD BE SUPPLEMENTED BY THE USE OF OUTSIDE CLERGY AND RELIGIOUS GROUPS WHOSE PARTICIPATION IN PRISON RELIGIOUS ACTIVITIES SHOULD BE ENCOURAGED BY TDC; ACCESS TO WILLING INMATES SHOULD BE AVAILABLE

TO CLERGY WHO MEET SUCH UNIFORM, PUBLICLY DECLARED, AND GENERALLY APPLIED, NON-DISCRIMINATORY STANDARDS AS MAY BE REQUIRED BY REASONABLE SECURITY DEMANDS.

5. THE AVAILABILITY OF RELIGIOUS AND RECREATIONAL ACTIVITIES SHOULD NOT DEPEND UPON COMMISSARY AND PRISON RODEO PROFITS; THESE ESSENTIAL ACTIVITIES SHOULD BE BUDGETED AND FUNDED IN ORDINARY COURSE AS ARE OTHER TDC FUNCTIONS.

COMPENSATION OF INMATES

Texas is one of only twelve states in which prison inmates receive absolutely no pay for their work. Paying inmates some wage would help eliminate their prevalent denigrating self-image as slave laborers. It would allow them to accumulate a small savings to help them adjust upon release and to reduce economic pressures to return to crime or incur immediate debt. Paying a wage to inmates and allowing their families to receive a portion would relieve welfare costs and permit inmates to continue a firm psychological tie with their families. It would free inmates from dependence upon receiving money from the outside for commissary expenses. Allowing an inmate to earn money would contribute to his sense of self worth, one of the prime TDC rehabilitative goals.

RECOMMENDATIONS:

1. WE RECOMMEND THAT INMATES BE PAID A REASONABLE WAGE FOR THEIR LABOR, AND THAT PROCEDURES BE ESTABLISHED TO ALLOW INMATES TO USE THESE EARNINGS IN THE COMMISSARY, SEND THEM TO THEIR FAMILIES, OR INVEST THEM IN INTEREST-BEARING SAVINGS ACCOUNTS FOR USE ON RELEASE.

CIVIL DISABILITIES

A person convicted of crime suffers penalties in addition to any prison term imposed by the sentencing court. By operation of law, he automatically loses a number of his civil, political and other rights, and these civil disabilities continue for life, long after a person has served his term and "paid his debt to society" in full.

The President's Commission on Law Enforcement and Administration of Justice has declared:

"As a general matter (civil disability law)...has simply not been rationally designed to accommodate the varied interests of society and the individual convicted person. There has been little effort to evaluate the whole system of disabilities and disqualifications that has grown up....As a result, convicted persons are generally subjected to numerous disabilities and disqualifications which have little relation to the crime committed, the person committing it or, consequently, the protection of society."

Civil disabilities in Texas include denial of the right to vote, to run for certain offices, and to serve on juries, restrictions on occupational choices which require licenses, and the omnipresent handicap of a criminal record long after the state has every reason to consider the matter closed.

Blanket imposition of civil disabilities is totally inconsistent with rehabilitative goals. Rehabilitation requires reintegration of the ex-offender into the social order while civil disabilities have precisely the opposite effect of keeping the ex-offender set apart, as a person who has no stake in society and therefore no reason to refrain from anti-social conduct.

While law-abiding citizens certainly must be protected from potential criminals, most civil disabilities do nothing to further this goal. It is difficult to see how society is protected by keeping all felons, years after their sentences have been served, from being licensed, for example, as veterinarians or dental hygienists.

The idea that civil disabilities may deter crime is foolish. A person who does not fear going to prison is unlikely to fear loss of the opportunity to follow an occupation in the distant future.

Not only do most civil disabilities serve no socially useful function, some of them undercut the taxpayers' investment in educational and job training programs run by TDC. Ex-offenders who are trained in cosmetology, to cite a more helpful example, are regularly licensed thanks to the laudable cooperation between TDC and the Cosmetology Board, but should this cooperation break down, ex-offenders could by law be excluded. Difficulty in getting bonded may make some job training useless. Also, some vocational training possibilities, such as nursing, have not been undertaken by TDC for the perfectly sensible reason that even the most skillful ex-offender could be excluded from work because of licensing requirements.

The State itself should set an example by hiring ex-inmates strictly on the basis of individual merit; in the absence of such leadership, the state can hardly persuade private employers to give former offenders a fair chance.

Lack of job opportunities and alienation make recidivism more likely. Both of these factors are brought about or aggravated by imposition of civil disabilities, with no balancing protection, of society that might make the disabilities worth the social cost.

RECOMMENDATIONS:

1. PRESENT AUTOMATIC IMPOSITION OF DISABILITIES SHOULD BE ENDED. CIVIL DISABILITIES SHOULD BE IMPOSED BY THE SENTENCING COURT, ONLY ON A FINDING THAT THE SPECIFIC DISABILITY IS DIRECTLY RELATED TO THE CRIME INVOLVED--AS SUGGESTED BY THE AMERICAN BAR ASSOCIATION PROJECT ON STANDARDS FOR CRIMINAL JUSTICE. IMPOSITION OF DISABILITIES SHOULD BE APPEALABLE SEPARATELY FROM THE CONVICTION.

2. THE LEGISLATURE SHOULD ENACT A STATUTE SIMILAR TO THE RECENT FLORIDA LAW WHICH ALLOWS DENIALS OF PROFESSIONAL LICENSES ONLY ON A SHOWING OF A RELATIONSHIP BETWEEN THE DESIRED OCCUPATION AND THE CRIME, AND WHICH EXCEPTS LAW ENFORCEMENT AGENCIES.

3. THE LEGISLATURE SHOULD ENACT AN EXPUNGEMENT STATUTE, AS OTHER STATES HAVE DONE, TO REMOVE EXISTING CIVIL DISABILITIES AND MAKE RECORDS OF CONVICTION CONFIDENTIAL AFTER A REASONABLE PERIOD OF TIME IN WHICH THE EX-INMATE MAINTAINS A CLEAR RECORD. THE RECORDS OF THE CONVICTION SHOULD BE SEALED SUCH THAT THEY COULD BE OBTAINED ONLY BY A COURT ONLY AFTER A SUBSEQUENT CONVICTION, TO AID IN SENTENCING.

4. ALL STATE AGENCIES SHOULD CONSIDER THE EMPLOYMENT APPLICATIONS OF EX-OFFENDERS ON THE SAME BASIS AS THOSE OF OTHER APPLICANTS.

THE GOREE UNIT FOR WOMEN

Goree, the only women's prison unit in TDC, is the second largest sexually segregated women's prison in the world. The 650 women inmates in TDC make up only about 4% of the total TDC inmate population; the disparity between the percentage of women in the general population and those within the Texas prison system is the greatest of any single group in TDC.

As a minority within TDC, women inmates both benefit and suffer from differences in treatment between them and their male counterparts. Some of the distinctions are a function of their number and of the fact that there is in Texas but one women's unit. Thus, for example, while separation of inmates with a history of violence from those without a violent background constitutes one of the most basic and reasonable classification decisions, women inmates in TDC are placed in a single unit without regard for age, nature of offense, or previous commitment.

Unique differences in educational opportunities, internal security, physical facilities and medical treatment -- to name a few -- make Goree in need of unique changes. (The singular inadequacies of medical care for women in TDC is discussed in the section of this Report titled "Medical Care.") Not all of the areas of difference are negative, however. Labor conditions, counseling opportunities, and toleration of individual differences are sufficiently better at Goree to prove that TDC can restructure itself if it wishes. This section will review some of the ways in which Goree maintains its prison population.

GENERAL CONDITIONS:

In general, the atmosphere at Goree is much more humane, relaxed, and pleasant than at perhaps any other unit we visited in TDC. Nonetheless, it is a prison and functions as one and its shortcomings are substantial. It is subject to many of the same problems which beset the men's units and which are described throughout this Report.

One significant factor in life at Goree is that security, while important, is not the same kind of compulsive, overriding concern as in the men's units. The atmosphere seems less rigid and less martial than elsewhere in TDC; women, while viewed as potentially dangerous, are not perceived as posing the constant threat that men are. Unlike some of the men's units, Goree permits women to talk in the halls and in the inmate dining room. Inmates are allowed to wear cosmetics, which are available in the commissary. (Until recently there was some concern that the commissary did not carry special cosmetics desired by some minority inmates; we have been told that this need has now been met.) The women are issued skirted uniforms which fit and which, within limits, they can wear either short or long, as they desire. (Inmates holding certain kinds of jobs -- in the kitchen or clean-up crew, for example -- are issued work coveralls.) The women have access to hair styling facilities run by other inmates (apparently as part of the cosmetology training program). In short, to the extent they so desire, Goree inmates are able at least in these matters to retain their identity as women.

The Goree administration allows some other privileges not available elsewhere in TDC. For example, inmates on good behavior are occasionally allowed to make a telephone call home. On special occasions, inmates are permitted to wear "civilian"

dresses. A "carnival" with games and food was held in the unit recently to raise money for charity; the warden told us that a group of inmates was taken into nearby Huntsville to go bowling on a Sunday afternoon when the alleys were not otherwise in use. A volley-ball tournament was organized within the unit and an inmate "all-star" team was selected to play against a team of Goree officers and officials, including the warden himself. Newer sections of the unit have been repainted in attractive pastel tones, rather than the usual institutionally drab and depressing tones. The brightening change in emotional and psychological atmosphere as one moves from the older areas to the newly repainted ones is striking.

This ability to treat and deal with inmates as human beings is commendable, indeed, and has, according to Goree officials, posed no significant threat to security. The Goree administration was justly proud of these accomplishments, for which the recently appointed young warden, David Myers, appears to be mainly responsible. They demonstrate what TDC can do when so minded and a number of these Goree innovations -- like the permitting of phone calls home, the lessened insistence on a strict, military-like discipline, and the increased informality of official-inmate relations -- could well be adopted in the men's units.

Notwithstanding these generally affirmative indications -- dramatically a typical of TDC as a whole -- the Goree administration is highly paternalistic toward the women; inmates are almost always called "the girls" and too often seem to be regarded and treated as children, an attitude unlikely to foster the kind of maturity essential to an inmate's successful return to society.

A sharp difference between Goree and the men's units was the absence of any significant complaints or evidence of physical brutality toward inmates. (This was apparently not always the case; while disclaiming knowledge of its present existence, longer term inmates gave vivid accounts of physical brutality under a prior female warden.) Psychological and emotional brutality does continue, however, we were told. Nonetheless, there is not at Goree the same atmosphere of fear and intimidation which is so readily observable at other TDC units.

As was the case in a number of the men's units, women inmates frequently complained about food service and the quality of their diet. In a number of respects, their complaints mirrored those of the men. We were told that meat and eggs were only occasionally served during any given week; that even then, primarily, pork and almost no beef was served; that the overall diet was much too starchy and many inmates found it difficult to avoid a substantial weight gain; that sanitary conditions in the kitchen and food service areas were below acceptable levels; and that the food itself was often spoiled or contained bugs or other foreign matter when served. While almost all institutional food leaves something to be desired, our experience with meals at Goree suggests that the quality of food, and its preparation and service were generally below even the low level we found in some of the men's units.

Women inmates also voiced a serious charge repeatedly heard throughout TDC: while good quality meat and other food comes into the unit, it is used to serve officers in the staff dining room and diverted for sale to staff members as "surplus" at dramatically low prices. (See the discussion of "fringe benefits" in the section of this Report on "Personnel"); rarely, if ever, does it appear in inmates' diets. Variations of this story were heard at almost every unit we visited, often from inmates who worked in the kitchen, butcher shop, or food storage facilities and who claimed personal knowledge of the diversion of better food stuffs to guards and staff. "We see it come into the unit, but

it never appears on the inmates' food trays," we were told. We have not verified any of these charges, but they are so numerous and so consistent, and made with such apparent certainty, that they clearly warrant full investigation.

Personal hygiene also appeared to be a problem in Goree. Not only are toilet and bathing facilities inadequate in some of the Goree living units, but limitations on availability of sanitary napkins (inmates are allowed only 12 per month) and douche bags posed difficulties for some of the women. Warden Myers maintains a strong official policy against homosexuality at Goree. Inmates caught in homosexual acts are severely punished. Women identified as aggressive homosexuals are segregated and assigned to single cells in a new wing. Nonetheless, interviews with staff and inmates indicate that homosexuality seems to be a more or less accepted way of life for some of the women. The official policy is strictly and sometimes arbitrarily enforced, however; a frequent complaint was that even simple and innocent friendships were sometimes broken up or discouraged by staff members in an overzealous effort to prevent homosexual relationships.

STAFF:

After a long period under a women warden and a short period under interim leadership, Goree is now supervised by a young male warden, relatively new to TDC. As noted, he is responsible for many of the recent changes at Goree. The assistant warden is female as are most of the security personnel, a number of whom have been at Goree for many years. There are a few black and, we were told, no Mexican-American matrons. There is apparently only one Spanish-speaking matron; she is Cuban. Other non-security positions in Goree are occupied by both women and men. Staff complaints roughly paralleled those heard from employees in the men's units: low pay, poor working conditions, unfair promotions, and racial and ethnic discrimination.

HOUSING:

Goree is greatly overcrowded. All inmates are housed in cells or locked dormitories. The cells in the old wing are tiny, dark, depressing and totally inadequate for the two women occupying them. They are badly ventilated, apparently poorly heated, and become almost intolerably hot in summer. Goree does permit its inmates to display pictures and personal items and otherwise to individualize their cells. While this presents a dramatic contrast to the compulsorily barren starkness of the cells in most of the men's units, it hardly compensates for the inhumanely cramped and poorly ventilated quarters in which too many inmates must live. Cells in the new wing are better. The dormitories in the old wings are basically large, overcrowded wire cages with unhealthfully little space between double-bunk beds and inadequate toilet and bathing facilities.

It is difficult to understand why, if Texas was to continue use of a single women's unit, recent construction continued the pattern of large prison wings with rows of cells. Other states have found correctional objectives to be better (and more humanely) achieved by housing at least women inmates in small cottage-like units.

LABOR:

As in all TDC units, Goree inmates are expected to work eight hours a day. And, as

in other TDC units, inmates may be assigned a variety of jobs. Goree's industrial operations are confined mainly to its garment factory where inmates produce thousands of uniforms for TDC officers and inmates. Each inmate has a single job -- laying out cloth, cutting patterns, sewing on buttons -- which she performs repetitiously for hours; we heard many complaints that while some of the jobs are not essentially unsatisfying, there is little or no opportunity to change from one garment factory job to another to relieve boredom or endless repetition.

Other jobs include general cleaning in the unit or maintaining the grounds, or working in the kitchen; much of the kitchen work is regarded as undesirable and some of the job assignments are apparently used as informal punishments. We also received a number of unverified complaints that minority group members were less likely to receive desirable office jobs in the unit.

EDUCATION:

Goree inmates benefit from a relatively new and well-equipped education building. Classrooms are bright and cheerful. Facilities and equipment used in the limited vocational programs seem to be of high quality; for example, the secretarial trainees use new, modern office equipment. But there are still problems. Since the non-college educational programs in TDC are operated by Windham School District, female inmates must satisfy much the same eligibility requirements as male inmates for entry into the elementary and secondary educational programs. The major differences that do exist are not in barriers to admission, but in the extent of mandatory participation and deferments. In all other units but Goree, inmates must attend classes if they test at less than a fifth grade educational level. For Goree inmates, however, failure to have a high school diploma or G.E.D. requires participation in the academic program. Since the average grade attained by Goree inmates is only about 7th grade (compared to about 8th for male inmates), few women are excluded because of academic achievement. On the other hand, if an inmate is over age 40 or has a suitable medical reason, she is not compelled to participate. The reasons for these differences are not clear.

Some of Goree's academic elementary and secondary level education programs surpass those of other TDC units in a number of ways. For example, students in special education classes at Goree go to school for several hours a day, four days a week; Goree is the only unit with bi-lingual special education classes. (See also the general section of this Report discussing "Education.") Unfortunately, however, Goree's vocational programs compare poorly. Goree offers its inmates a choice of horticulture, floriculture, secretarial science, homemaking, and cosmetology -- all traditionally feminine pursuits. In addition to the restricted types of courses available, Goree limits participation in vocational programs to inmates with at least a seventh grade education, but less than a high school diploma; about 60-70% of the inmate population is thus excluded. Only about 10% of all inmates participate in vocational programs at any one time. Criticism of the narrow limitations on the types of vocational training offered go not only to the confining of women to traditional job roles in society, but also to practical results. A study conducted by the Windham School District to determine the effectiveness of its own programs showed the unemployment rate for women trainees to be more than double that of their male TDC counterparts.

Discriminatory limitation of educational opportunities for women is not limited to job training. There is as yet no senior college program for women. At the junior college

level, a much narrower range of courses is available at Goree than at many of the men's units; moreover, there are sometimes not enough spaces in even these few classes to accommodate all the women who wish to enroll. While some of the problems of variety in subject matter may be due to the smaller number of women wishing to enroll in a specific course, given their smaller overall numbers, the variety of courses could well be expanded; the reduced class size would be of affirmative benefit.

WORK RELEASE:

Goree does operate a work release program; according to TDC data, as many as forty inmates have participated, although the total is currently down to only ten. Nonetheless, it is still one of the largest of such programs in TDC. Inmates without a history of violent crimes or use of narcotics, who have been at the unit for at least six months, and who are within two years of discharge or eighteen months of parole eligibility may be considered for work release. Employed as plywood mill workers at a site near Huntsville, the participants are taken to work by a matron and left without prison supervision until returned to Goree at the end of their eight hour shift. Inmates may save their earnings or send them home to their families. TDC demands a \$3.83 a day surcharge for "expenses."

Apparently, no disparity is seen between offering formal vocational training only for traditionally feminine jobs and simultaneously allowing Goree inmates to work in a lumber mill. Given the many applicants for admission to the program, Goree should seek both to expand the work release program and to reevaluate the scope of its vocational education offerings.

DISCIPLINE:

The written rules which Goree follows in disciplinary matters are those contained in the TDC rules and Regulations and generally applicable throughout the system. (These are discussed in the general "Discipline" section of this Report). The vagueness and imprecision of these rules can sometimes lead to bizarre and shocking results; we were told of a case in which a Goree inmate was reduced in class, lost accumulated good time, and was placed in confinement merely for giving a female visitor -- the wife of a Goree staff member -- a look variously described as "belligerent," "lustful," or "luscious."

Each Goree inmate is the subject of a "hall card," on which every formal and informal disciplinary action and the inmate's general conduct are recorded, even to the extent of noting when she does not eat all of her food at mealtimes.

When an inmate is accused of an infraction, she is brought before a disciplinary committee. The inmate is questioned and is allowed to give her side of the story, but inmates are rarely if ever allowed to call witnesses to substantiate their version of events; the supposition is that inmates will "just lie for each other." The hall card is made available to the committee and is commonly used to cast doubt upon the inmate's truthfulness. Punishments for rule violations include withdrawal of privileges and solitary confinement. As is the case in the men's units, the central question in disciplinary hearings regularly seems to be punishment, not guilt or innocence; selection of a sanction often depends upon whether an inmate's hall card looks "good" or not.

The increased flexibility in Goree has evoked some interestingly mixed responses from a few of the longer-term inmates who remember the institution in earlier

periods: perhaps by now overly institutionalized, they have difficulty coping with less rigid procedures; for example, several seemed to complain that they were unsure of what was expected of them now, they appeared to equate individualized discipline with unfairness, and almost seemed to prefer the harsher, prior regime, saying that "at least under (the prior warden), you know where you stood."

COUNSELING AND MENTAL HEALTH:

Inmates at Goree are served by both a psychologist and a part-time psychiatrist who visits the unit once a week; group counseling and individual counseling are available for inmates and training sessions for staff. But the counseling seems quite limited. The psychologist told interviewers that he spends most of his time treating what he described as women with cases of "nerves." Although inmates come to him about problems of homosexuality, he feels precluded by official policy from discussing it with them and all he can tell them is that it is "wrong" and "against the rules"; he also prefers, he said, to avoid discussing family, divorce and pregnancy problems. Obviously, this leaves little to deal with but inspecific complaints about "nerves." Inmates indicated little faith in him. In addition to the psychologist and psychiatrist, Goree has the standard parole counselor (the last because Goree is also the pre-release center for female inmates).

No provision is made to deal with severely disturbed inmates. Women who are mentally ill cannot be placed in the Treatment Center at the Walls unit. Currently, Goree inmates with severe mental problems are either transferred to a state mental hospital or simply held in an ordinary isolation cell, often under heavy sedation.

RECOMMENDATIONS:

1. TO THE EXTENT THAT OVERCROWDING AND USE OF SUBSTANDARD HOUSING IN THE GOREE UNIT IS NOT ADEQUATELY RELIEVED BY TRANSFER OF APPROPRIATELY SELECTED INMATES TO ALTERNATIVE CORRECTIONAL PROGRAMS, AS RECOMMENDED ELSEWHERE IN THIS REPORT, PROMPT STEPS SHOULD BE TAKEN TO PROVIDE ADDITIONAL ADEQUATE HEALTHFUL LIVING QUARTERS FOR INMATES; SHOULD ADDITIONAL STRUCTURES BE NEEDED, SMALL COTTAGE-TYPE BUILDINGS SHOULD BE USED.

2. TDC SHOULD FOLLOW RECOGNIZED CLASSIFICATION PROCEDURES FOR WOMEN INMATES AND END THE PRACTICE OF TREATING AND HOUSING YOUNG FEMALE FIRST OFFENDERS WITH MORE HARDENED RECIDIVISTS. WOMEN INMATES SHOULD BE CLASSIFIED, HOUSED AND TREATED ON THE BASIS OF AGE, TYPE OF CRIME, PREVIOUS INCARCERATION, AND OTHER RELEVANT FACTORS.

3. VOCATIONAL EDUCATION COURSES AT GOREE SHOULD BE EXPANDED AND DIVERSIFIED TO INCLUDE A WIDER VARIETY OF JOB TRAINING. SUCH TRAINING SHOULD BE DESIGNED TO EQUIP WOMEN TO OBTAIN USEFUL, AVAILABLE EMPLOYMENT UPON RELEASE, INCLUDING EMPLOYMENT IN NON-STEREOTYPED JOBS.

4. THE WORK RELEASE PROGRAM FOR WOMEN SHOULD BE EXPANDED.

5. DISCRIMINATION AGAINST WOMEN IN EDUCATIONAL PROGRAMS SHOULD BE ENDED; THE SENIOR COLLEGE PROGRAM SHOULD BE EXTENDED TO GOREE INMATES AND THE NUMBER AND VARIETY OF AVAILABLE JUNIOR

COLLEGE COURSES SHOULD BE EXPANDED.

6. IMMEDIATE STEPS SHOULD BE TAKEN TO PROVIDE FULL AND ADEQUATE COUNSELING TO WOMEN INMATES AND TO ASSURE PROFESSIONAL AND HUMANE TREATMENT OF WOMEN WHO ARE MENTALLY ILL.

7. PARTICULAR ATTENTION SHOULD BE GIVEN TO FOOD SERVICE AT GOREE AND THERE -- AS THROUGHOUT THE SYSTEM -- THOROUGH INVESTIGATION SHOULD BE MADE OF THE CLAIMS THAT INMATES' FOOD IS BEING DIVERTED TO GUARDS AND STAFF.

8. THE RECOMMENDATIONS MADE IN THIS SECTION SHOULD NOT BE REGARDED AS EXCLUSIVE; THE GENERAL RECOMMENDATIONS MADE THROUGHOUT THIS REPORT SHOULD ALSO BE ADOPTED WITH RESPECT TO GOREE, UNLESS CLEARLY INAPPLICABLE. PARTICULAR ATTENTION SHOULD BE ACCORDED THE GENERAL RECOMMENDATIONS ON ALTERNATIVE CORRECTIONS PROGRAMS, PERSONNEL, CENSORSHIP OF MAIL AND PUBLICATIONS, DISCIPLINE, GRIEVANCE PROCEDURES, MEDICAL CARE, AND ACCESS TO COURTS AND COUNSEL.

GRIEVANCE PROCEDURES

In every penal institution we need to open up the means of communication between inmates and the custodians....With proper grievance procedures in a large industrial operation, the hour-to-hour and day-to-day frictions and tensions of employees can be carried up through channels and either guided to a proper solution or dissipated by exposure.

This in essence is what every penal institution must have -- the means of having complaints reach decision-making sources through established channels so that the valid grievances can be remedied and spurious grievances exposed.

If we are really going to have any chance of making inmates useful members of society, the institution is the place to teach the fundamental lesson that life's problems are solved by working within the system-not by riots or the destruction of property.

--Chief Justice Warren Burger

A number of states have heeded Justice Burger's suggestion, but Texas is not among them.

A grievance procedure which is perceived as being fair by inmates is a necessity in any penal or corrections situation. The very nature of a prison assures that disputes will arise in which an inmate perceives himself as having been treated unfairly by the prison administration or its employees. If the inmate who feels he has been wronged cannot take his grievance to a person or institution whom he trusts to resolve it with a modicum of fairness, resentment is sure to develop and possibly lead to the development of inmate unrest. For this reason, an effective grievance procedure is not a matter of catering to complaining prisoners, it is an important aspect of intelligent prison management.

Inmates in TDC are not presently afforded an adequate grievance procedure. When asked recently about grievance procedures, a high TDC official stated that, while the department has no formal procedures for inmate complaints, inmates do have direct access to TDC officials at all times. While realization of such informal access is to be commended, it does not meet the need for a more formal procedure and lacks most of the qualities essential to achieve effectiveness and inmate trust. The present TDC procedure may well require an inmate who believes that he has been mistreated by a TDC employee (a correctional officer, for example) to ask the same officer to allow him to talk to the warden about the alleged abuse. The possibilities for denying access and for intimidating complainants are obvious.

In the absence of an effective internal grievance procedure, there are several existing outside agencies to which an inmate with a complaint against TDC or its employees may turn. The first of these is the Legislature. Inmates are permitted privileged communications with members of Congress or the state legislature. However, these legislators have neither the time nor the staff, or in some cases, the inclination to adequately investigate the numerous complaints they receive.

A second major recipient of inmate grievances are the courts. Courts do have the power to compel a change in policy, if such policy is unconstitutional or illegal. Moreover, correspondence between inmates and courts and judges is privileged. There are, however, drawbacks to using the courts as a resolver of inmate grievances--problems both

from the point of view of the courts and the inmates. First, courts should be used as a last resort when other methods have failed. The courts have no continuing contact with inmates or with the institutions and thus may be less well equipped than other agencies to resolve the underlying disputes in a manner best suited for all interests. Moreover, courts by their very nature tend to be compelled to "all or nothing" results when, in fact, some compromise might be best. It would seem better as a practical matter for the state to create agencies to resolve its own problems, rather than compelling inmates to first seek relief in the federal courts, as they now often must do.

In addition, courts are often slow. Overcrowded dockets and elaborate legal procedures mean that cases often take years to be resolved. This objection cuts both ways, of course: judges would prefer not to have to decide every complaint coming out of the prisons, particularly as the number of inmate suits has drastically increased in recent years; prisoners, on the other hand, are discouraged from pursuing legitimate grievances in the courts because they do not see the possibility of relief within a reasonable period. Another problem is that use of the courts often requires the services of an attorney. Inmates without money or a friendly lawyer may thus be denied effective presentation of legitimate claims. This is true despite the existence of the TDC inmate counsel program, since at present that office is not permitted to handle actions involving allegations that TDC is acting illegally.

The present grievance procedures available to inmates at TDC are inadequate. What is needed is an effective state sanctioned mechanism--a working, workable grievance system--an ombudsman (or complaint board). We do not detail all aspects of such program; successful working systems in other states provide useful models. We do, however, suggest some crucial attributes as essential.

First, the system must be independent from the TDC administration; this is clearly necessary if inmates are to have any faith in it. Independence is required if the board or ombudsman is to be able to function impartially and without worry about being fired because of decisions which could displease TDC. To this end, the ombudsman should not be a TDC employee or former employee. Legislative supervision of employees of the grievance procedure system will further guarantee this independence. Mechanisms to provide this legislative input could take various forms: e.g., the governor could appoint the ombudsman with the advice and consent of the Senate; the Legislature could submit a list of acceptable candidates to the Governor; or a grievance board of three members could be established, with one member each appointed by the House, the Senate, and the Governor.

A second important aspect of the office is that it be able to operate quickly and flexibly. It must have sufficient staff and resources to be able to do its job. It must be assured by law of access to necessary and complete information. The process should have a minimal number of procedural steps so that it can be concluded quickly. Needless to say, the basic complaint procedure should be absolutely confidential and other additional protections should be afforded inmates to prevent possible retaliation against them for voicing grievances.

The procedure should be capable of providing an ultimate resolution. If it cannot, the whole institution is useless. This is a sensitive area in that it speaks to the power of the ombudsman. In general, the Committee feels that the ombudsman should not be empowered to set policy as such; his access to and influence with the TDC administration, the Board of Corrections, the Legislature, the Governor, and the public

should give him the ability to make recommendations as to general policy changes with a good chance that they will be heeded. If a grievance convinced the ombudsman that a change in TDC policy was in order, he would be empowered only to make his recommendation to TDC. If his suggestion was rejected, he could bring the problem to the attention of the Governor and Legislature or the public. However, in the case of a grievance which arises out of an essentially isolated situation, for example, one resulting from an abuse of discretion by a particular TDC employee, the ombudsman's decision on the grievance should be binding. The designation of a particular decision as binding or advisory should be made in the first instance by the ombudsman himself, allowing for the right of appeal.

Of course, the success of the office will depend ultimately on the status and stature of the appointee or appointees. The system must have at its head a person or persons of unquestioned integrity, competence, and impartiality and must be able to command the respect of both inmates and TDC officials.

RECOMMENDATIONS:

1. TDC SHOULD ESTABLISH A FORMAL GRIEVANCE PROCEDURE BY WHICH INMATES CAN LODGE COMPLAINTS AGAINST TDC EMPLOYEES FOR VIOLATION OF ANY TDC RULES, STATE STATUTES, OR FEDERAL OR CONSTITUTIONAL LAW.

2. THE LEGISLATURE SHOULD ESTABLISH THE OFFICE OF INDEPENDENT OMBUDSMAN, INCORPORATING THE ESSENTIALS, DESCRIBED ABOVE, AND SHOULD SPECIFY THE DUTIES AND PRIVILEGES OF THE ROLE IN HANDLING COMPLAINTS.

CONTINUED

1 OF 2

PAROLE

Every inmate serving a sentence in TDC is eligible to be paroled after serving one-third of his maximum sentence, or 20 years, whichever is less. (In Texas "good time" laws allow inmates to gain credit on both their parole eligibility and release dates. The rate at which good time is credited is a function of the inmate's classification.)

Under the present system, over 95% of the 17,000 inmates in TDC will be eligible for parole at one time or another. In 1972 the three man Parole Board, a state agency separate from TDC, considered 12,811 parole cases and released 3,375 inmates. Approximately half of the inmates leaving TDC each year are released on parole. Despite the great number of lives directly affected, the manner in which parole decisions are made is little-known by the general public or even by those most immediately concerned, the inmates themselves and their families.

In preparing this section of the report, the Committee has relied upon testimony given in public hearings, personal observation of Board operations, interviews with Board members and personnel, and independent research, to gather information about the parole system.

In our dealings with parole personnel, we found them to be hardworking and well-intentioned. Their efforts to give individual consideration and counseling to inmates and parolees, however, are dramatically handicapped by extremely heavy workloads which defy adequate handling with present resources. The Board itself has recognized a number of these difficulties, and its newly proposed budget seeks to alleviate some of them by seeking substantial increases in staff, especially among parole officers and counselors. "The workload has just grown to the extent that a small sized agency like this can't handle it anymore," the Board's executive director said in support of the enlarged budget. Though increased numbers of staff are certainly necessary, the system itself is antiquated and needs to be changed.

THE PAROLE PROCESS

Inmates are first exposed to the parole system when they enter TDC at the Diagnostic unit. Each inmate is supposed to be interviewed by parole counselors (personnel who advise inmates on the parole process) and by hearing officers (personnel who submit field reports to the Board at the time of each inmate's parole review). However, with a total of only twelve parole officers for all fourteen TDC units, little time is available for the "extra duty" of interviewing the 1,300 to 1,500 newly arriving cases each month.

Normally, the next contact between Parole Board officials and the inmate after the inmate leaves Diagnostic is at the parole interview, held shortly before the Board considers the inmate's file. This interview is probably the only opportunity the inmate has to communicate directly with the parole officials. Information taken from this interview is forwarded to the Board which then makes its decision; the hearing officer is simply an intermediary, the inmate seldom gets to see or talk to any higher official.

Texas is one of only three states in which the decision-making body itself never meets, sees, or gives a hearing of some sort to the prospective parolee.

If the interviewing officers spent their time solely on interviews, the load would be large; however, each must also spend as much as one week per month doing the

essentially clerical job of filling in the case history for each interviewee by sifting through TDC files (the information given the officers about those eligible is only a computer printout of name and serial number). As an indication of the burden on the hearing officers, it should be noted that there has been no increase in their number since 1967 when the inmate population was almost 5,000 smaller. One problem, according to a Board member, is that good hearing officers are hard to keep since the Texas parole system is in competition not only with private business but with the more lucrative federal parole and probation systems. Evidently Texas' salary and pension plans are not their match.

The interview itself is rather structured with a form listing the information required, used to guide the officer. The information in the interview report includes various factual data plus the inmate's statement and the hearing officer's impressions.

The parole handbook which is prepared and disseminated by the Board lists at least three interviews with each inmate as a prerequisite to consideration-one "primary" interview at Diagnostic, and at least two prior to the actual decision, interspersed with other investigations and interviews with TDC personnel. The reality is a bit different. Usually there is but one interview, lasting only between ten and thirty minutes, according to one Board official. One Board member admitted he did not use the hearing officer's report at all in his decision and the others, while using it, were also careful. Contrary to past practices, the officers no longer make formal recommendations to the Board as to the disposition of a particular interviewee; however, they do record a subjective reaction to the parole applicant. The results of the interview are thus not given as much weight in the parole decision as one might expect of the inmate's only direct opportunity to demonstrate his attitude and readiness. The Board emphasizes the limitations and potential personality clashes in one man's conveying an impression of another; the result is a limited and skeptical use of the interview product.

Another part of the parole file, practically the only indication of criminal activity outside prison, is the Department of Public Safety (DPS) report provided for each file. This picture of the inmate's behavior patterns is often incomplete and misleading. All arrests anywhere within the United States for each inmate are mentioned, but disposition of such arrests are not necessarily included. According to a Board member, reports may arrive with lists of arrests including "suspicion" and "for investigation" and there will be no mention of guilt or innocence, trial or no, or any indication of final result, whether charges were pressed or dismissed. Given the not unlikely circumstance that once denominated a felon, any person is more likely to be picked up again by police in a hunt for suspects, a record of arrests and missing dispositions can be significantly misleading.

One of the few official functional relations between TDC and the Parole Board is the Prison Committee Recommendation (PCR), an evaluation by TDC of each inmate's "attitude, conduct, and adjustment." This report is also part of the file for the Board's consideration. Although purportedly the product of a committee of TDC treatment administrators, in truth one staff member of the TDC Classification Committee, a former security officer, produces these reports. One Board member aware of this was understandably disturbed by the prospect of such discretion in the hands of one man. Under the Board's working relationship with TDC, an inmate receiving an unfavorable PCR will not even be considered for parole; the Board never sees the files of those that TDC rejects, and the inmate has no recourse.

The PCR is based mainly on the rating achieved by the inmate in the Point Incentive Program (PIP), a merit rating system which was almost universally denigrated

by the Board members, Board officials, TDC employees, and inmates with whom the Committee, staff, or other researchers spoke. While scores may range from 0-350, an inmate needs a minimum of 75 to be eligible for parole consideration.

As one might expect, favored inmates - warden's houseboys, for example - manage to accumulate very high PIP ratings. Paradoxically, one Board member said that he was wary of PIP ratings that were too high, indicating that the inmate had become institutionalized beyond a parolable risk. Inmates seem unaware that a very high PIP rating may actually hurt their parole chances and, out of lack of knowledge, will often strive for a large total. Of all officials interviewed, only the Governor's aide for pardons regarded the PIP score as a significant indication of parolability.

The inmate may receive a negative PCR even though he may have sufficient PIP points, and can thus be made ineligible for parole. In addition to being able to block parole by giving an inmate fewer than 75 PIP points or a negative PCR, TDC's control of classification and good time provides two additional powers over parole eligibility. Only those inmates in certain classes are even considered by the Board as eligible for parole. Although every inmate begins his service in a parolable class and in one which allows him to earn good time to move his parole eligibility date forward, TDC can change that class at any time and can always take away earned goodtime credit already accumulated by an inmate.

Utilizing any of these devices, then, TDC can, in effect, unilaterally, deny or delay parole. And once TDC has so acted - by giving an inmate fewer than 75 PIP points or a negative PCR, or by changing his class, or taking away good time - the Parole Board will not even consider his case until TDC acts to make the inmate eligible again. In short, TDC can effectively control not only how an inmate will spend his prison time but also how long that time will be, despite statutory provisions giving the Parole Board sole authority to grant or refuse supervised early exit from the system.

If the formal and informal eligibility requirements are met, however, two members of the Parole Board and three, if necessary, see each inmate's file. Decisions are made by a majority. There are four separate actions that may be taken:

1. A "serve all," the denial of parole and notice that the inmate must serve all of his sentence in prison;
2. A "set off," deferring action to a specific future date;
3. A request for further information, which may include psychological testing or a special report;
4. A conclusion that the situation favors parole and that the case should be further considered.

The decision is made on the basis of various criteria, some of which are listed in the handbook:

criminal history, use of alcohol or narcotics, attitude toward the crime and the future, clear conduct record in prison, manner of commission of crime, ability to earn a living wage, family background and marital history, intellectual and emotional status, PIP score, personal habits and associates, education, age of inmate at first arrest, military record, and time served on sentence.

The application of these and other more specific criteria results in an admittedly subjective and "gut level" decision. Review or prediction of the Board's actions is impossible since they are based upon the members' reaction to the combination of factors affecting each inmate.

As the Board itself concedes, there are simply too many cases for it to handle. One computation of the amount of time that a Board member can devote to any single parole

decision proceeded on the assumptions that each member was able to devote a full forty hours per week exclusively to parole cases, without other interruption (though the Board is responsible for a number of other matters as well, and though parole cases constitute only about half of its total numerical case load) and that only two members saw each file (though, often, three do so). The result was that each member has only between nine and ten minutes to read, review, and evaluate each file. Given less than a sixth of an hour to decide a person's future, something obviously must be sacrificed.

The actual decision process is unclear to both the inmate and his family and has been a source of major and wholly justified complaint. No adequate attempt is made to explain how the Board arrived at its decision. The inmate is notified of the decision on a form which includes the date for his next review, if appropriate, and a list of eighteen pre-printed, formally stated reasons for the action. The Board or staff will check one or more of these brief pre-printed reasons in explanation of the action taken. No other explanation is given or attempted. The Board has conceded the inadequacy of this method of notice and its unfairness to inmates, but shortness of staff may preclude any present alternative. Inmates, families, and even Board staff described cases in which the reasons given made no logical sense. A member of the Board's supervisory staff related an incident in which a Board member denied parole on the basis of the particular inmate's failure to avail himself of educational and vocational programs. It later was brought to the Board member's attention that the inmate was assigned to the Coffield unit where, at the time, no vocational or educational programs were available. We were told of another denial of parole to an inmate who had been sentenced to TDC at age 18 and had served continuously for thirteen years; the reason given for his denial was number five: "Lengthy involvement with or habitual use of narcotics, or alcohol."

No further explanation beyond a checking off of one or more of the printed reasons is available. Indeed, any justifiable concern by the inmate or his family about the reasons for denial or how his chances could be improved is harshly discouraged with this notation at the bottom of the check-off form:

"These reasons for the Board's decision are made a part of your file, and since they have been indicated to you through this notice, the Board will not reply to letters asking for an explanation of the evaluation. Each time your case is reviewed both the favorable and unfavorable factors are carefully weighed, and the Board's discretion and judgment are applied."

All set offs and denials are supposed to be reviewed six months after the initial decision. The inmate is not informed either that the review is under way or of the decision unless favorable and the case is reopened.

If the Board votes preliminary approval of parole, it then gives ten days notice to the arresting officials, prosecutor, and trial judge who handled the original criminal case. Strong protests from any of them can result in a change of plans or even a set off for the inmate. If no serious protests are lodged with the Board, the parole plan of the inmate undergoes a field investigation. If all is favorable, the file is then submitted to the Governor, who is required by the Constitution either to approve or disapprove each parole. The Governor may overrule the Board. Parole cases sent to the Governor by the Board are actually handled by an aide, assisted by two secretaries. The aide makes little or no effort to investigate anything beyond the file as forwarded; this may be no more than a function of the case load. The gubernatorial process thus brings little or no additional expertise or information to the decision-making process and in reality seems merely to add another level of bureaucratic process and subjective judgment.

Final gubernatorial permission for parole in Texas is an historical and constitutional anachronism and was recommended to be eliminated by the Penal Servitude Committee in 1970, all of the Board members (except the Governor's appointee), and almost all of the Board employees interviewed. If any professional credit is to be given the Board, the Governor's veto option on the basis of an opinion which may be affected by popular and political pressures is absurd.

A disturbing practice is that of sending a prospective parolee to the pre-release center at Jester unit after the Board's favorable action but before the Governor's final approval. An inmate can then be told he is going to get out and be enrolled in pre-release, only to be pulled from the line one day and informed that the Governor has denied his parole. Such inmates are frequently locked up to prevent any damage being done by the expected release of their frustrations. The Committee has received information that the Board has now worked out an agreement with TDC to delay the prisoner's move into the pre-release program until after the Governor has approved the parole. This information has not yet been verified; the change would be of recent origin and may still not represent a uniform or settled practice.

TDC AND THE PAROLE DECISION

TDC's influence on the parole system should be minimized other than as an information-gathering and advising body. The problem seems to be that TDC and the Board are working basically at cross-purposes. The goal of the parole decision - the ideal - is to release the inmate at that psychological peak when he is most ready for the outside and when further imprisonment would have only a dysfunctional, embittering effect. To the extent it is possible to approximate such a point (and it is the function the Board is supposed to perform), TDC constraints on parole eligibility may seriously hamper the Board's ability to release an inmate at the best time.

Of necessity, the prison is greatly concerned with internal discipline and security - and in Texas, availability of parole becomes one of several tools available to TDC to help maintain that discipline, perhaps reflecting some failure in the others. TDC's control over an inmate's class, the PRC recommendation, award of PIP points, and other factors give it near unrestrained ability to delay or prevent even consideration of a particular inmate by the Parole Board. The chance of parole can thus be used by TDC as a reward or punishment, depending on the inmate's conformity to rules and regardless of his best interests. The Parole Board certainly is not so preoccupied with security matters; rather it is intent on release as soon as prison has done as much good - or the least harm - possible. Considerations other than recidivism, potential threat to society, and the probability of success as a parolee are largely immaterial and certainly should not present the Board with a fait accompli. The two systems place a very different emphasis on inmate conduct. The type of prisoner who is likely to have no problem getting TDC approval and high PIP points is the one most completely institutionalized, without initiative, willing to have all decisions made for him, following all the rules, giving no one any trouble, and regularly participating in all the expected programs and treatments. This same inmate was recognized by all the Board members interviewed as quite possibly a very bad parole risk, someone who has found a "home" in prison, who cannot face the daily choices demanded of him in the free world, and who very probably can't cope on the "outside." Just as some members see high PIP scores as disadvantageous, so TDC can eliminate the less institutionalized by low scores, classification, or adverse recommendations.

Similarly, it appears the members of the Board are likely to accept greater deviation from prison norms than TDC officials. One offense may result in significant sanctions by TDC against an inmate, while that same incident, as viewed by the Board, might be taken to represent only an acceptable reaction to the frustration generated by institutional life, and treated as harmful to chances of parole only if indicative of a generally destructive behavioral pattern. Again the same question may be asked, why should TDC be able to withhold parole eligibility for behavior that may not be sufficient for denial of parole under Board standards? The only answer those interviewed gave was that it was a long-time Board policy, agreed to as a compromise with TDC in an attempt to prevent individual wardens from actively and personally seeking to influence individual parole decisions. The problem of direct intervention by wardens seems to have dissipated, but TDC retains its control.

One must have significant reservations as to whether TDC disciplinary proceedings should alone be justification for parole ineligibility. According to one Board member, it is difficult for anyone, particularly young inmates, to stay completely out of trouble in TDC and at the same time to keep from being institutionalized, to retain the "spark" of

individuality, or to think for themselves. To be sure, several Board members indicated their awareness that minor infractions of TDC rules should have little impact on their own decision, while insisting that major disciplinary incidents showing a potential for continued conduct dangerous to society at large receive greater consideration. This, of course, is non-objectionable and indeed seems wholly proper. The problem, however, is in attempting to distinguish between major and minor infractions on the basis of TDC disciplinary paperwork, which, on its face, may be inadequate for the purpose or even, wholly unintentionally, quite misleading. Moreover, what in fact might be a relatively minor offense from the Board's point of view can end up being officially described and treated by TDC in a way that suggests a serious major violation. Thus, an untoward or impertinent remark by an inmate to a TDC guard in front of other inmates might be charged (and listed in the Parole Board files) as "disrespectful attitude" (on its face an apparently minor offense), or as "inciting to mutiny," a seemingly very serious violation (both are solitary offenses under TDC rules). Similarly, taking an extra piece of cake at dinner can be described and punished by TDC as "stealing state property," a major offense. (See the section of this Report dealing with "Discipline"). Notwithstanding the resulting possibility of major errors in interpretation, the Board consistently refuses to look behind discipline reports for any explanation, to question the policy of noneligibility for unfavorable PCRs, or to suggest in any way changes in its manner of relating to TDC procedures. "We must have faith in our officials," one said, and they do. The tremendous demand on Board members' time places a low priority on any unofficial investigations into TDC practices and their compatibility with the principles underlying parole.

All inmates statutorily eligible for parole should be considered by the Parole Board itself, regardless of good time status, PIP rating, PCR, pending disciplinary action, or any other matter by which TDC now exercises a unilateral veto.

The Board's methods of getting information about inmates, and of communicating information to them needs to be improved. Some present procedures are not only inadequate, but invite mistakes and are basically unfair and cruel. The Board needs to have more and better reports on each inmate. The short interview, the suspect PCR, and the incomplete test data available from TDC are all inadequate to give an indication of essential motivation and attitude. The interview process needs to be expanded. Presentencing reports could be valuable aids, enlightening the decision-maker on the inmate's pre-prison background and previous problems. However, not all Texas counties prepare such reports, even for their own trial judge. The great utility and desirability of such information was unquestioned by Board members and staff and preparation of such reports was, in fact, recommended by the Senate Penal Servitude Committee in 1970.

Access to his own Board file by each inmate is a reasonable and necessary element of basic fairness in the process. At present, neither the prisoner nor his family has any way of telling whether the Board decision was based on erroneous information, much less, why any particular decision was made. The inmate cannot make any additions or corrections to the file beyond what he can tell the hearing officer at his abbreviated interview. There is no reason to withhold information about himself from an inmate. Procedures can be developed to protect necessarily confidential information and sources, if this is thought essential. From the testimony and letters received by the Committee, this is a particular point of justifiable concern to interested parties dealing with the Board.

The notice system of the Board should be expanded beyond the simple checklist

now employed, as the Board itself has recommended. One can hardly expect any more than bitterness from an unexplained denial of parole, and affirmative good could result from letting inmates and family know what can be done to increase the likelihood of parole. The present method is woefully inadequate and too often operates cruelly.

The most significant and immediate problem facing the Texas Board is simply the enormous volume of cases it has to consider. Regardless of how conscientious or hardworking the members, making up to 3,000 case related decisions each month is a demanding task. As one member said, "something has to give," and that "something" almost certainly must be the individualized consideration and the time accorded each case.

More modern and efficient parole systems tend to have the controlling body involve itself less in individual cases than in efforts directed to policy development and monitoring the decisions of others. In the federal parole scheme, for instance, panels of three hearing officers review each file, interview each inmate, and make a decision as to whether parole should be granted. The full federal Board of Parole hears only refusals or split decisions. Adoption of a similar system is advisable for Texas. By increasing institutional parole staff, a three-person panel could readily be created to begin a transition to the federal model, freeing the Board to consider general policy matters, facilitate administration, and monitor and supervise transition to the modern system.

These changes would allow personal contact between the parole applicant and the decision-maker, perhaps in interview form. Case file contents could immediately be verified and/or disputed by the inmate. Denials or set offs could be quickly pronounced and explained to the inmate by one or all of the panel members. The increased concentration of officers per unit would enable the parole counseling role to be fulfilled by the members of the panel to insure their familiarity with inmates and inmate attitudes. Most importantly, no one body would have the burden of deciding every case from every TDC unit. It would lessen the chance that simple time pressures would adversely affect an inmate in the decision-making process.

A surprisingly major consideration in the decision to parole, unrelated to the inmate's chances for success, is the time left to be served before his mandatory release date. According to one member, an inmate with a two or three year sentence is either paroled the first time he comes up before the Board or his case is not seen again because with good time allowances, he will be too close to completion of his full sentence by the time the Board would next consider him. This logic applies to any inmate whose next parole consideration date and release date are separated by a relatively short period of time. It seems the consensus that release under parole supervision is better than release under no supervision at the end of a sentence. There is obviously a better chance of success for an inmate reentering society through the supervised setting of parole than for one being released with only the hundred dollars TDC provides and probably jobless. Common sense militates toward the adoption of a system of supervised release for all inmates. It is perverse logic to provide supervised reentry into society only to those whose records are the best, and who give the greatest promise of success, while repeatedly denying parole or giving serve-alls to the inmates with poor records who constitute greater risks, but who must, under the present system also eventually be released to fend for themselves.

The Committee was not able to undertake any significant review of parole services in the field, that is, to study the work of the parole officers who actually supervise the inmate after his release. However, several things are worth noting.

First, the lack of adequate staffing is not limited to those involved in the decision-making process. The Board's executive director has testified that it is "grossly understaffed in the field." At present, a parole officer's case load averages 70 parolees, exactly twice the number recommended by national standards. If granted requested increases, this will be cut to 43. This shortage of staffing places a practical limit on the number of inmates who can be released on parole. The Board has estimated that given additional staff, it could increase by more than one-half - by over 2,000 - the number of people it paroles each year. Immediate steps should be taken to remedy this shameful situation. That a man or woman otherwise eligible and appropriate for release on parole continues to languish in prison because of a shortage of parole staff to handle his case is tragic and indefensible.

Second, while we have no independent basis on which to judge the quality of field parole officers in general, at least one incident that came to our attention suggests a possibility that post-release supportive services are not always all that they might be. While attending some of the Board's parole revocation hearings at one of the units, we heard testimony from witnesses and from a parolee who was to have his parole revoked because he left the county to which he had been assigned without giving notice to, or getting permission from, his parole officer or the Board. The parolee was subsequently arrested when he failed to report as scheduled to his parole officer and gave no notice of his whereabouts. His explanation, apparently true and seemingly believed by the Board members hearing the case, was that he had left because compelled to do so by the unjustified hostility and threats of the local sheriff. The violation was a technical one and the Board decided to give the inmate an opportunity to develop a new parole plan and job in another county. But the point was clear: the local parole officer had been made aware of the harassment by the sheriff and had either been unable or unwilling to provide any meaningful assistance or advice to the parolee who was in fact in legal and personal jeopardy. The failure, as the apparently unsurprised Board seemed to recognize in its decision, was mainly that of the parole officer and the parole system, not of the parolee. Obviously, the parole field system needs strengthening, at least in some parts of the state.

Moreover, some adjustment seems appropriate in the often overly broad standard conditions which are automatically placed on the activities of all parolees. It is, for example, a literal violation of the standard parole conditions for a parolee to have even a single beer, or to enter a restaurant which serves wine with dinner, whether he drinks it himself or not. Similarly, protections should be afforded against what in some instances are the near unrestrained and arbitrary powers of field officers, in effect, to order the re-arrest of a parolee and to commence the process of parole revocation for seemingly inoffensive conduct which would never justify application of criminal restraints to the normal person. While the parole system may be properly concerned about many aspects of a parolee's life which tend to show the relative success of his readjustment to the free world, to make a number of normal everyday activities a possible trigger for revocation of parole (whether or not ordinarily so utilized, in fact) serves merely to pose a constant threat of arbitrary and unwarranted action against the parolee and to create a source of potential intimidation, abuse, and resentment which must ultimately work against the very purposes of the entire parole system.

RECOMMENDATIONS:

1. PROMPT STEPS SHOULD BE TAKEN TO REVISE THE PAROLE GRANTING PROCESS SO THAT EACH PROSPECTIVE PAROLEE RECEIVES SOME SORT OF HEARING BEFORE THE BODY THAT ACTUALLY MAKES THE DECISION IN HIS CASE; THE FEDERAL PAROLE SYSTEM PROVIDES A GOOD EXAMPLE.

2. EACH PROSPECTIVE PAROLEE SHOULD BE FULLY ADVISED AS TO THE WORKINGS OF THE SYSTEM AT THE TIME OF HIS ENTRY INTO TDC AND SHOULD BE COUNSELLED FULLY ABOUT THE PROCESS PRIOR TO HIS HEARING; HE SHOULD BE GIVEN FULL, ACCURATE, AND UNDERSTANDABLE INFORMATION CONCERNING THE FACTORS TAKEN INTO ACCOUNT BY THE DECIDING AUTHORITY.

3. THE PAROLE DECISION SHOULD BE MADE ON THE BASIS OF ARTICULATED STANDARDS, AFTER FULL APPRAISAL OF AN INMATE'S RECORD AND BACKGROUND, AND AFTER AN ADEQUATE PRE-HEARING INTERVIEW WITH THE INMATE; THE FILE BEFORE THE DECIDING AUTHORITY SHOULD INCLUDE THE INMATE'S PRE-SENTENCE REPORT AND THE RESULTS OF TESTS ADMINISTERED UPON AND AFTER ENTRY INTO TDC, AS WELL AS A FULL DISCIPLINARY RECORD, AND THE RESULTS OF THE PRE-HEARING INTERVIEW AND RECOMMENDATIONS.

4. THE INMATE, OR HIS DESIGNATED ATTORNEY OR REPRESENTATIVE, SHOULD HAVE FULL ACCESS TO THE MATERIALS IN HIS RECORD AND BE ACCORDED AN OPPORTUNITY TO CORRECT ALLEGEDLY ERRONEOUS INFORMATION, REBUT ADVERSE INFERENCES, AND MAKE AN AFFIRMATIVE CASE FOR PAROLE AT THE HEARING OR BY SEPARATE SUBMISSIONS.

5. THE INMATE SHOULD BE AFFORDED A FULL, COMPLETE, AND UNDERSTANDABLE EXPLANATION OF THE REASONS FOR ANY DENIAL OF PAROLE.

6. A DETERMINATION TO DENY PAROLE MAY NOT BE BASED ON ARREST RECORDS, THOUGH PRIOR CONVICTIONS MAY BE TAKEN INTO ACCOUNT.

7. TDC SHOULD HAVE NO POWER - BY CLASSIFICATION, GRANTING OR DENIAL OF PIP POINTS, PRISON REVIEW COMMITTEE REPORT, OR OTHERWISE - TO PRECLUDE OR DELAY CONSIDERATION OF ANY INMATE FOR PAROLE; TDC SHOULD HAVE POWER TO GIVE FULL ADVICE TO THE BOARD BUT IT SHOULD NOT HAVE, AS AT PRESENT, EFFECTIVE VETO POWER.

8. EVERY INMATE SHOULD BE CONSIDERED FOR PAROLE AT REGULAR INTERVALS OF WHICH HE IS ADVISED; NO INMATE SHOULD BE RELEASED WITHOUT SUPERVISION AND SUPPORT UNLESS THE PAROLE BOARD AFFIRMATIVELY DETERMINES THAT SUCH SUPERVISION IS UNNECESSARY IN THE INDIVIDUAL CASE.

9. THE AUTHORITY OF THE GOVERNOR TO GIVE OR DENY FINAL APPROVAL TO PAROLE BOARD DECISIONS SHOULD BE ENDED; BOARD DECISIONS SHOULD BE FINAL. (THE COMMITTEE MAKES NO PRESENT RECOMMENDATION WITH RESPECT TO THE GOVERNOR'S PARDON OR COMMUTATION POWERS.)

10. NO INMATE SHOULD BE TRANSFERRED TO THE PRE-RELEASE PROGRAM PRIOR TO FINAL APPROVAL OF HIS PAROLE.

11. THE EXISTING PRE-RELEASE PROGRAM SHOULD BE EXPANDED AND EXTENDED.

12. THE PAROLE BOARD SHOULD TAKE STEPS TO FULLY INFORM THE

PUBLIC AND FAMILY OF INMATES OF THE NATURE AND WORKINGS OF THE PAROLE PROCESS; MEETINGS WITH INTERESTED GROUPS, A PROCESS ALREADY UNDERTAKEN BY SOME MEMBERS, SHOULD BE CONTINUED AND EXPANDED; BOARD STAFF SHOULD BE AVAILABLE TO RESPOND TO INMATE AND FAMILY REQUESTS FOR INFORMATION, BOTH IN GENERAL, AND ABOUT SPECIFIC CASES.

13. STEPS SHOULD BE TAKEN TO ASSURE THAT BOTH THE NUMBER AND QUALITY OF FIELD OFFICERS AND SUPPORTIVE SERVICES ARE ADEQUATE TO MEET THE NEEDS OF PRESENT AND PROSPECTIVE PAROLEES; NO OTHERWISE PAROLABLE INMATE SHOULD BE COMPELLED TO REMAIN IN PRISON AND NO PAROLEE SHOULD BE ALLOWED TO FAIL BECAUSE OF INADEQUATE FIELD PERSONNEL OR SERVICES.

14. IN EACH CASE IN WHICH RELEASE ON PAROLE IS DENIED OR DEFERRED (SET-OFF), THE PAROLE BOARD SHOULD GIVE CONSIDERATION TO THE DESIRABILITY AND POSSIBILITY OF RECOMMENDING OR EFFECTING TRANSFER OF AN INMATE TO AN AVAILABLE COMMUNITY CORRECTIONS FACILITY AS AN ALTERNATIVE SIMPLY TO CONTINUED CONFINEMENT IN THE TRADITIONAL PRISON SETTING; AMONG OTHER FACTORS IN ANY SUCH DECISION, THE BOARD SHOULD TAKE INTO ACCOUNT THE SECURITY OF THE COMMUNITY AND THE NATURE OF THE AVAILABLE PROGRAMS AND THEIR RELATION TO THE REHABILITATIVE NEEDS OF THE INMATE.

15. IN ORDER TO MAINTAIN AND FOSTER AN INMATE'S TIES TO HIS FAMILY AND COMMUNITY, AND TO INCREASE HIS CHANCE OF SUCCESS UPON ULTIMATE RELEASE ON PAROLE OR OTHERWISE, A LOCAL HOME-TOWN PAROLE OFFICER SHOULD BE ASSIGNED TO AN INMATE AT THE TIME OF HIS SENTENCING. THIS OFFICER WOULD BE A POINT OF CONTACT FOR THE INMATE AND HIS FAMILY DURING SERVICE OF THE SENTENCE, COULD BETTER AID IN DEVELOPING A POST RELEASE PLAN FOR THE INMATE AND HELP HIM IN FINDING EMPLOYMENT, AND COULD CONTINUE HIS COUNSELING AFTER RELEASE; HIS REPORT WOULD ALSO BE USEFUL TO THE PAROLE BOARD AT THE TIME THE INMATE'S CASE CAME UP FOR PAROLE CONSIDERATION.

16. MEMBERSHIP ON THE PAROLE BOARD SHOULD BE EXPANDED TO PROVIDE FAIR REPRESENTATION OF MINORITY RACIAL AND ETHNIC GROUPS AND WOMEN'

17. THE LEGISLATURE SHOULD APPROPRIATE SUCH FUNDS AS ARE NECESSARY TO PROVIDE THE ADDITIONAL STAFF AND FACILITIES NECESSARY TO CARRY OUT THESE EXPANDED ESSENTIAL MINIMUM RESPONSIBILITIES.

CONCLUSION

Our Report has been confined to a discussion of the Texas Department of Corrections; this as we understand it was our primary mandate from the Joint Legislative Committee by which we were appointed.

In describing as we have what our investigations and research have disclosed about TDC, we are not unmindful of the fact that our prisons are but a part of the entire criminal justice process. We believe that we would be remiss not to point out that there are serious problems elsewhere within that system. For example, the inequities in punishment within TDC are mirrored in the dramatic and unjustified disparities in sentences imposed for the same offense by different judges and in different parts of the state; too often, the probability of arrest, the possibility of release on bail, the quality of counsel and the adequacy of defense, the likelihood of acquittal or of probation rather than imprisonment, indeed the very quality of justice, itself, depend on the race, ethnic background, ideology, or economic class of the defendant. We hope that attempts to deal with difficulties in TDC will not prevent the Legislature from grappling with these no less serious problems as well. They too deserve urgent attention.

Though we might well have included a study of youth corrections and local jails in our activities, time and resources effectively precluded consideration of these matters. We should, however, report that in the course of our hearings across the state we heard many citizen complaints about conditions in local jails. These too should be pursued.

The youth corrections system under the direction of the Texas Youth Council has been the subject of an extensive review by a federal court. The case disclosed the existence of shocking conditions -- abuse of our children and a major failure of corrective and rehabilitative efforts. A court order has been entered directing badly needed and extensive reforms, which the responsible state officials have conceded are desirable and appropriate. Yet, state officials continue the litigation while children suffer and court costs mount. We urge prompt compliance with the court order and prompt implementation of changes which all parties seem to agree are necessary.

Though briefly mentioned elsewhere as part of the necessary alternative corrections system, probation services in Texas merit special comment here. Any number of times during our hearings we were told of inadequate local probation programs; we also were told of very extensive, very successful probation programs. What emerges is a clear need for the legislature to act to assure the availability of adequate probation services everywhere in the state; one promising solution is a statewide, state financed probation services program.

In our concentration on the prisons and our comments here, we have not meant to ignore the plight of those who are offended against. The reforms we have recommended in our prison system, we believe, will greatly enhance the effectiveness of correctional efforts and thereby help to reduce recidivism and crime. Reforms elsewhere in the criminal justice system, particularly those relating to juvenile offenders, will move us closer to the same ends. Nonetheless, it seems inevitable that crime will always be with us, and many citizens will continue to be its unjust victims. To help relieve the harms they suffer, we recommend that the Legislature consider and enact a crime victims' compensation act, as other states have done, to provide at least some measure of recompense to those individuals who are most directly and unfairly hurt by the prevalence of crime in our society.

Finally we would note what must be obvious: we have not hesitated to be strongly critical of much that we have found. By the same token, we have tried to be fair. We have given credit where we believed it due and have tried to limit our critical comments to conditions which we have ourselves observed or which have otherwise been well substantiated. We have attempted to make it clear when we have relied upon complaints alone or upon information we have not been able to verify.

We have attempted to frame our criticisms and our recommendations constructively and responsibly. We hope they will be so perceived. It is our sincere hope that this Report and its recommendations will aid the State of Texas in moving further toward establishment and maintenance of a more effective, yet humane, corrections system.



STATE SECURITIES BOARD

DAVID D. ALLEN, MEMBER
16TH FLOOR
1100 MILAM BUILDING
HOUSTON, TEXAS 77002

(713) 225-1021

December 4, 1974

Honorable Chet Brooks
State Senator
Room 326
Capitol Building
Austin, Texas 78711

Re: Citizens Advisory Committee
to the Joint Committee on
Prison Reform

Dear Chet:

Pursuant to my conversation with Mr. Don Reid, who is also a member of the Citizens Advisory Committee, I am sending to you a copy of my "minority report" which consists of my "Statement and Recommendations" prepared as a Member of the Committee. Also enclosed is a copy of my letter which I wrote to Mr. Sullivan expressing my feelings about the Committee's work.

I hope that this information will be of some use and benefit to you.

Kindest regards.

Yours very truly,

David
David D. Allen

DDA:mtc
Enclosures

DAVID D. ALLEN
16TH FLOOR
1100 MILAM BUILDING
HOUSTON, TEXAS 77002

October 30, 1974

Mr. Charles Sullivan
Chairman
Citizens Advisory Committee to the
Joint Committee on Prison Reform
1926 Newning
Austin, Texas 78704

Dear Mr. Sullivan:

I have today on October 29 received your notice of the final meeting of the Citizens Advisory Committee scheduled in Austin for Saturday, November 2, 1974 to consider the draft of the major portions of the proposed final Report and Recommendations of the Citizens Advisory Committee. Unfortunately, because of the very short notice I will be unable to be in Austin on Saturday as much as I would like to be present to hear the final suggestions and comments on the proposed Report.

However, I do want to go on record by stating that I simply do not agree with the majority of the material contained in the proposed Report and I do not consider the Report as being either realistic or reasonable. In this connection, I will continue to express my views, critical or otherwise, regarding the Report. To me this is not a question of fairness but a responsibility to myself and to the citizens of Texas to stand up and speak out on matters of such vital concern to our State.

I think the Report draft is in many instances misleading, and in some cases totally misdirected. In my opinion the Committee has completely missed the mark by zeroing in on just one segment of the criminal judicial system; being the Texas Department of Corrections. The TDC is only one part of the criminal judicial system and to really accomplish any reform that is worthwhile and meaningful; the entire criminal

DDA:mtc

Mr. Charles Sullivan
October 30, 1974
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judicial system needs to be overhauled. The TDC has no control over who enters or leaves its doors or how long a person must stay or under what conditions a person is discharged.

We need to concentrate on overhauling the process that decides who goes to prison and how long he stays and what happens when he leaves prison. If we eliminate the process that sends people to prison who shouldn't be there, then we can do a better job with a person who should be there and also in helping that person after discharge.

There is a narrow limit to what people in the real world are willing to do to help and assist people in TDC versus offering aid to the folks out on the streets who are not in TDC. Texas has certainly done its share for the people in prison, and we now need to do more for the people out on the streets trying to make a living and who are trying to live their lives as law-abiding citizens in very difficult and complex times. We also need to assist the poor people who are victimized by criminal acts committed by the same people in TDC who are being fed, clothed, educated and cared for by the State at taxpayers' expense when some of the poor taxpayers do not enjoy as good food or medical care provided TDC inmates.

It is a fact that the TDC does presently provide free room, board, medical care and better food than many people in the free world enjoy and an opportunity to obtain a college degree and/or other educational and vocational training opportunities not available to some people in the free world. When the time comes that the TDC has to also pay a minimum wage to a convicted felon, then perhaps we will make it attractive for a person to break the law and "enroll" in TDC rather than enroll in a State-financed or private educational institution or to seek gainful employment in the free world.

Respectfully submitted,

David D. Allen

DDA:mtc

STATEMENT AND RECOMMENDATIONS
OF
DAVID D. ALLEN

PREFACE

I will preface my remarks by stating that, in my opinion, when discussing so-called "prison reform" in Texas, one cannot afford to be sentimental or idealistic in attempting to deal with convicted felons.

Secondly, I believe the real injustices and problems in our criminal judicial system occur before a person ever reaches the Texas Department of Corrections ("TDC") and after he is discharged from TDC.

We must remember and consider that the TDC has no control whatsoever over who arrives at its doors nor how long a person will stay, except for those people in prison who have or become involved in disciplinary incidents.

The Committee perspective, from information sent to me, is totally void of any commendation relating to the tremendous progress that the TDC has achieved and the good work being performed by the TDC (within the confines of its resources and physical facilities) in providing inmates with an effective rehabilitation program (as demonstrated by a relatively low recidivism rate) through TDC educational and vocational training activities. To truly appreciate and realize the achievements and progressive attitude of the TDC, one must reflect on the history of the entire Texas penitentiary and jail system (which I will not attempt to do).

Any public institution can be criticized and picked apart, and this seems to be the theme and thrust of the comments of many of the Committee members. In the final analysis a public institution's achievements and how effective it is in carrying out its statutory duties is largely determined and controlled by three factors: (i) the priority given the public institution by the citizens and the legislature; (ii) the money made available to the public institution and the effective use thereof by the public institution; (iii) the quality of personnel of the public institution.

Money is a serious limitation on what any public institution can do. Many of our public as well as our private institutions such as colleges, hospitals, school districts, etc., are having difficult financial problems in a national and international economy.

that is plagued by financial and inflationary problems which will be with us for a number of years to come. Ultimately, priority in spending on public as well as private institutions is going to be given to those institutions that are performing services for people outside the walls of a prison institution, which I believe to be an appropriate and reasonable expectation and priority.

TDC can improve and will continue to improve as a progressive correctional institution whose staff and director have a great deal more concern and compassion for the inmates than people seem to either realize or want to acknowledge.

To some extent I believe that the Committee is engaged in a futile mental exercise because many of the changes and reforms that may need to be instituted in order to make our correctional system function in a manner that not only protects society but is also beneficial to society by providing a correctional atmosphere and environment for people in prisons so they can be afforded the opportunity to be redirected by participation in comprehensive educational, industrial and vocational training programs and hopefully, be returned to the free world as productive and useful citizens, have either already been discussed, suggested and in many cases implemented by TDC or are under consideration by TDC.

We all want a better correctional system. I sincerely believe this is the goal of the TDC staff and director as well as the Board members of TDC. The Committee, as well as all citizens, should be concerned about our correctional system and particularly about the people and the people problems within our correctional institutions.

However, we should be just as concerned for those citizens and their families who have been victimized by criminal actions committed by people serving time in the TDC. We should be also concerned about combatting the increasing and rising crime rate that is not only being experienced in the United States but in most of the other free world countries.

I would like to call the Committee's attention to the conclusion of the "Young Lawyers Section of the American Bar Association", prepared by Mr. James Greenwood III, President of the State Junior Bar of Texas in the summer of 1971 which stated in part: "The Texas Department of Corrections penitentiary system is outstanding. The local jail situation in Houston and presumably around the State is deplorable." The Young Lawyers Section of the American Bar Association concerned with prisons and correctional reform made surveys and visits to other penal systems in other states; their comments and reports were unfavorable in many instances.

GENERAL COMMENTS

I. Injustices and Problems Occurring Prior to a Person Being Sent to TDC. There are some very fundamental problems in our criminal judicial system that we must first attack and remedy if we are ever going to make any additional constructive progress in the area of so-called "prison reform" in Texas. To focus on a few of the more critical problems: (a) great inequities in the way justice is administered and dispensed to persons of different social, economic and racial backgrounds; (b) lack of speedy trials; (c) total lack of any uniformity of sentences for similar or the same offenses and particularly for first offenders; by way of example, although the situation is now partially alleviated by change in the law, why should a 19 year old boy in Lubbock be sentenced to 15 years in prison as a first offender involved in the infrequent "smoking of pot" and a youngster in Houston is given probation or a minimum sentence; (d) totally inadequate presentencing investigation procedures; (e) lack of adequate bonding or personal recognizant procedures during pretrial detention and during appeal; (f) too many people are being sent to prison who should be paroled; (g) the prison population in Texas is tragically high and we need more alternatives other than sending a person to prison; (h) totally intolerable local jail conditions exist for the most part in Texas and this has a very detrimental and dehumanizing effect on a person waiting trial or who is appealing his case in being subjected and exposed to poor treatment as well as "brig like" conditions; (i) all first offenders should be segregated to themselves upon being arrested and detained in local jails and while awaiting trial as well as while their cases may be on appeal and prior to being sent to TDC.

II. Release and Post Release Problems.

(A) Not enough people are being paroled although a better job is presently being done by the Pardons and Parole Board than in years past.

(B) Too many inmates are having to serve out their sentences and therefore are released without any supervision or assistance at a point in their lives when they need it the most. It is ridiculous to expect a person who has lived under controlled conditions for a period of years not to need professional help and assistance in making the adjustment and conversion from the TDC controlled life to life in the free world.

(C) People being released from prison should be assisted in every way possible so that they will have a job upon leaving prison and either adequate funds to become "established" or be able to avail

themselves of some program such as the work of Sonny Wells and his wife, by way of example, so that the person will have not only a job but also adequate food, lodging and clothing during the adjustment process.

(D) I feel strongly that every inmate discharged from TDC should be discharged under some parole or supervisory program so that the inmate will be afforded services and assistance in making the adjustment and transition from prison to the free world. This is exactly where I believe one of our greatest problems results in that at the end of the cycle when an inmate is released without parole and is more or less "kicked out of the back door" to make it on his own. In many cases this totally defeats any good work and progress accomplished by TDC and an inmate during an inmate's incarceration at TDC in the area of the inmate's participation in vocational, educational and other rehabilitation programs at TDC. For an inmate to be able to participate and advance in these programs but to be denied the opportunity to be properly directed upon release from prison so that a discharged inmate can make use of skills developed and educational achievements obtained while in prison is totally ridiculous. In other words, a person who does not have a family or does not have someone to rely on needs direction, help and understanding in order to make it in the free world and not to be back coming in the front door of TDC after being "kicked out" of the back door.

(E) In connection with parole, Texas needs a bigger and better parole system in Texas sufficiently funded and adequately staffed. A person needs to be given and afforded the opportunity to make it after he leaves prison and it is certainly more realistic to do this under supervision, control and direction. To release a man on parole is better for the people of Texas because if the parole system is effective and the releasee wants to make it, the chances are more favorable that you will not see him at the front door of TDC again.

(F) On the other hand, if the person cannot make it in the free world, then, in my opinion, it makes a great deal more sense to return the person to prison for a parole violation rather than burdening the criminal judicial system, which is already overloaded and antiquated, by a new trial, appeal and going through the whole scenario anew. Appropriate safeguards can be afforded a person on parole so he cannot be arbitrarily and capriciously determined to be a parole violator and returned to prison without appropriate due process.

III. The Texas Penal Code. With respect to the Penal Code of Texas, it occurs to me that thought should be given to making it mandatory that a person charged and convicted of a non-violent crime (to be defined in the Penal Code) could not serve more than two years in TDC. Serving more than two years for a so-called non-violent crime is self-defeating because more than two years in prison undoubtedly contributes to the difficulty in being able to make the transition and adjustment from prison to the free world.

IV. The Board of Corrections. The Board is composed of nine good people and in order for the Board to properly carry out its work it appears to me that a Board of more than nine is cumbersome and not particularly efficient. The Board as well as the TDC needs to be centralized so plans and programs can be centralized and coordinated in an effective and efficient manner. Decisions must be made and carried out. Furthermore, what many people do not realize, much of the "success" that the Board has enjoyed with the Legislature has not just been happenstance. The current Director as well as the past Director, Dr. Beto, and the members of the Board have spent numerous hours in Austin communicating with various members of the Legislature concerning appropriation and budgetary matters and problems facing the TDC. These good people who serve on the Board, use their talents, energies, imaginations and whatever friendship or influences which they may have to help the TDC receive adequate funds which has enabled TDC to be as progressive and in many cases to be a national leader in creating new programs and ideas that are beneficial to those people who live within the walls of the various units. The socio-economic or racial balance on the Board is not really important, but what is vital is what the Board as a whole can accomplish and I think that the record speaks for itself.

V. Security and Discipline in TDC.

(A) Inmates, while in TDC, should be carefully supervised under strict security conditions with a program being devised for each inmate with the ultimate goal being to prepare and train the inmate to return to the free world and being able to make the transition and conversion as a productive and free citizen. Not all inmates are capable of being rehabilitated nor can they live "peaceably" in the free world.

(B) There are of course numerous incorrigibles in TDC. In my opinion the only thing to do with them is to put them in a maximum security unit until such time as they can prove to a panel composed of psychiatrists, prison officials, representatives of the parole board and medical doctors that they even merit consideration to participate in some of the progressive rehabilitation programs offered by the TDC.

(C) Discipline is extremely important in TDC. An inmate has to know that if he commits a serious offense while incarcerated, he will be punished accordingly. I totally agree that all of the rules and regulations of TDC should be written, published and made available to all prisoners. It is my understanding that such rules, regulations of TDC are written, published and made available to the inmates.

(D) In addition thereto the rules and regulations, as well as disciplinary action resulting from the breach thereof, should be enforced in a fair and impartial manner. Disciplinary action must be swift and fair and subject to review by TDC staff not involved in the disciplinary action or the punishment process. However, no inmate hearings or "so-called trials" should be permitted although a man should not be arbitrarily placed in solitary confinement without a formal hearing and solitary confinement should be used very discretely. Solitary confinement should not be prohibited per se, but it should be modified to some degree.

(E) I would like to emphasize that it is totally necessary to maintain discipline and order for the safety and well being of the inmates, TDC officials, teachers, visitors and other persons who have occasion to enter within the walls.

(F) A person, under our system of laws, surrenders certain rights when he goes to prison and he does not enjoy equal rights of his citizen counterpart outside of the prison walls.

(G) The certainty of punishment and disciplinary procedures, regardless of the degree of severity, are for the protection and benefit of everyone in the prison system including the inmates themselves. Having a strict disciplinary system helps prevent other disciplinary problems from occurring or that could be fostered from lack of discipline.

VI. Civil Rights After Release. To grant and restore someone's civil rights upon being released from prison as a concept is fine, but it should be done on some type of merit or incentive program rather than to do it without any reservations or conditions. This is why it is particularly important for a person to be discharged under some type of parole or supervisory program that offers him assistance in making the conversion from TDC to the free world successfully.

VII. TDC Personnel. I totally disagree that the racial-ethnic makeup of TDC personnel should be proportionate to the inmate population. This is ridiculous and self-defeating. The TDC policy should be to seek out and hire qualified people who can best accomplish TDC goals and objectives. It will be a step back in the

"Dark Ages" to hire unqualified people who are neither qualified nor capable and who cannot effectively and efficiently carry out their duties. TDC should continue and to also further implement their affirmative action hiring program so as to attract more qualified Blacks and Mexican-Americans and to proceed in an orderly transition to strike a better balance of the racial-ethnic makeup of TDC personnel. However, there should be no compromise with quality.

VIII. Health Care and Mental Health Problems.

(A) Health care afforded TDC inmates is adequate. Certainly it is not the Mayo Clinic. However, I would point out that if one were to carefully review the total health care package available to inmates that they would come to the conclusion that the health care available and afforded inmates in TDC is in many cases exceeds the quality of health care programs offered to many people in the free world. I would certainly make the same comment about the food, diet and menu.

(B) The TDC is severely handicapped in being able to deal with prisoners who have serious psychological and mental problems and who would normally be classified as mentally ill. These people should not even be at TDC but should be in mental health institutions. If TDC is going to continue to be sent people with serious psychological and mental health problems, then there should be a separate facility properly staffed to take care and handle these problems. However, other state institutions were established to handle these problems and these institutions should be properly equipped to receive, deal with and treat these people who have such serious psychological and mental health problems and who are convicted felons. Presently, they need help and they are not receiving it.

IX. Inmate Labor and the Minimum Wage Issue.

(A) It costs the State approximately \$4,000 per year to house, feed, clothe and educate an inmate. If an inmate worked an average of 40 hours a week and was compensated at a rate of \$1.85 per hour for 50 weeks this would come to a total of \$33,700 per inmate multiplied by the number of inmates qualifying for such minimum wage. In addition thereto, if the inmate had dependents, there could be an additional cost to the State for welfare. One does not need a calculator to realize that the cost of maintaining an adequate correctional system in the State of Texas would be financially disastrous if minimum wages were adopted.

(B) The contention that inmate labor is "slave labor" is more of an emotional issue than a factual issue. You must consider that a large number of the inmates at TDC have never been trained to develop "work habits". It is extremely important for many inmates to be exposed to an imposed self-discipline so he can develop work habits and be better able to adjust to the work habit requirements which are required in the free world. Inmate jobs and work, however menial, are an important part of the inmate training process in instilling discipline for work and good work habits.

X. Visitation. I do agree that TDC should design and implement a better inmate visitation program. I would encourage and suggest that the Director, the TDC staff and the TDC Board review totally the inmate visitation program and to see where improvements can be made that will work in the best interest of all people concerned.

XI. Prison Grievance Committees.

(A) If there is a lack of communication and understanding between TDC staff, personnel and inmates, then the concept of an "Inmate Grievance Committee" or "Committees" may have some merit, if in fact the Grievance Committee or Committees are representative of the inmates and can help facilitate understanding and establish a better line of communication. I think this is a big "if" situation. The "Committees" would have to represent units that would not be so small as to make them too individualistic or to make it impossible for the TDC staff to take the time to meet with the Committees or to meet periodically with the Warden or Assistant Warden to discuss gripes and to offer constructive criticism.

(B) Since the TDC and the staff must administer and run the correctional system and facilities, and not the prisoners, any such "Committees" should be without any authority whatsoever.

(C) In this connection, one of the most tragic events that could occur in TDC would be to weaken the system wherein you would have inmates running TDC rather than TDC being run by the TDC staff resulting in a situation where the strong prisoners would prevail and rule the weak prisoners.

CONCLUSIONS

Perhaps one of the problems is that we live in a society having more interest in the punishment of an injury than the person who receives the injury. I think the statement and observation made in the past is correct that "jails and prisons are the complement of schools; so many less as you have of the latter, so many more you must have of the former."

My opinion is that the TDC is doing an outstanding job, but not a perfect job. TDC will continue, by act and deed as well as by word, to be a progressive correctional institution. A primary goal and priority of TDC will be also to continue to offer hope for the future to the inmates and to prepare them for the future by offering and administering meaningful rehabilitation programs primarily comprised of participation in educational and vocational training activities.

While the TDC can strive to create a set of socially acceptable values and expose an inmate to these values, it is totally up to the inmate of whether or not he really wants to accept and adopt these values and more importantly will these values be preserved once he is released from prison.

When a person is punished under our criminal judicial system it should be of some use; when a man is hanged he is good for nothing. I think that the TDC is striving hard and in good faith to be a "success" in seeing to it than an inmate's time serves not only the State well but serves the inmate himself well by hopefully helping him to help himself.

Finally, in conclusion, I must reiterate that (i) TDC has no control over who enters its doors or who leaves its doors, and (ii) the greatest injustices and problems in our criminal judicial system occur and result prior to a person being sent to TDC and on the other end of the cycle immediately after an inmate is released from TDC. These are the particular areas where we can make the greatest progress and reform and where problem solving time with good results could greatly reward all of the citizens of Texas as well as the TDC inmate population now and in the future.

END