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STANDARDS
FOR
ADULT PROBATION SERVICES
IN
TEXAS

104850

NCJRS

MAR 16 1987

ACQUISITIONS

FOREWORD

This document is designed to provide adult probation decision-makers the goals and regulations of the Texas Adult Probation Commission.

The Standards are an effort to establish a comprehensive set of objectives for adult probation departments. They are the product of the Judges and Probation Officers of the State who have shared their concerns and goals with the Commission and its staff. Without their input, the Standards would not have been developed. Much time and consideration has been devoted to developing standards which will lead to orderly improvement and standardization without causing undue hardship at the local level, and at the same time provide for accountability.

We at the Commission take pride in the cooperative spirit which has developed between the Commission, the Judges and the departments; and between the departments themselves. Thank you for your continuing support.

As we learn from experience, and consider the evolving needs of probation services, the Commission will consider and make necessary modifications to the Standards, to better reflect the goals and objectives of probation as defined by the law and community needs.

We trust this publication will be a practical reference book for those involved in providing probation services.

104850

U.S. Department of Justice
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TAPC STANDARDS
February, 1987
Edition

As the Standards are modified, replacement pages will be reprinted and distributed with date of printing noted in upper right corner of page.

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These rules are promulgated under the authority of Article 42.121, Section 3, Texas Code of Criminal Procedure.

321.1 Administration

a. Public Protection. Probation departments should recognize their responsibility to the community by rehabilitation of the offender, and by initiating action to remove promptly from the community those probationers who through their conduct have indicated their inability to follow the rules of probation imposed by the court.

b. Community Education. Probation departments should recognize their position as a public agency, always responsive to the needs of the community, making every reasonable effort to educate the community to the duties, responsibilities and accomplishments of the probation system.

c. Professional Competence. Probation departments should be impartial, non-political, professionally competent, and should devote the necessary time for full consideration of each case.

d. Administrative Manual. Probation departments should develop an administrative manual defining general purpose and functional objectives, incorporating all written policies and procedures, assuring that they are distributed to all staff members. These policies and procedures should be reviewed annually and revised as necessary.

e. Job Description. Probation departments should write job descriptions for all positions. Probation officers should be released from routine clerical and record keeping responsibilities which may be performed by clerical personnel. Job descriptions should be reviewed and revised at least annually.

f. Training Officer. Probation departments should designate one officer to monitor the skill levels and training needs of individual staff members and develop a plan for meeting those needs. To facilitate the training function, the officer may conduct internal audits of direct supervision cases to check for technical compliance, for utilization of case classification, and for supervision planning.

g. Entry Level Salary. Probation departments should establish the entry level salary of probation officers based upon educational requirements as provided by law, experience, levels of responsibility and the prevailing wage structure for comparable positions at the local level.

h. Automobile Allowance. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(f), and (i)). Probation departments should establish an automobile allowance for the use

of personal automobiles on official business by authorized department personnel to be paid from Judicial District funds. Personal automobile allowance should not be less than the state allowance per mile. Flat rate monthly payment based on approximate mileage computed at not less than the current state rate per mile is not prohibited. Departments paying flat rate monthly allowances should maintain written documentation within the probation department of business mileage. This documentation should include the officer's name, month, and officer's signature. The form should also contain the date, beginning odometer reading, ending odometer reading, total miles driven, and purpose of trips for each business day. These forms should be available for review by the Texas Adult Probation Commission (TAPC) auditors.

i. Per Diem. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(i)). Probation departments should establish per diem allowances for employee expenses at a rate not less than the rate allowed state employees.

j. Records. (Texas Code of Criminal Procedure, Article 42.121, sec. 3.02, 4.03, 4.04). Probation departments should provide fiscal records and statistical data consistent with the statutes.

k. Audits. (Texas Code of Criminal Procedure, Article 42.121, sec. 4.03, 4.04). TAPC shall conduct a fiscal audit of each probation department at least once every two years. Outside audits are not required unless requested by TAPC.

l. Budget. (Texas Code of Criminal Procedure, Article 42.121, sec. 4.03, 4.04). Probation departments should prepare and operate from an annual budget developed in a form consistent with good accounting practices and approved by the judge or judges of their judicial district. A copy of the budget should be provided to the Texas Adult Probation Commission.

m. Annual Report. (Texas Code of Criminal Procedure, Article 42.121, sec. 3.02). Probation departments should publish an annual report to the judge or judges of the judicial district covering its operations and the condition of probation services in its judicial district during the previous year making whatever recommendations it considers necessary. A copy of this report should be provided the Texas Adult Probation Commission.

n. Pre-Sentence Capability. Probation departments should have the necessary staff and resources to permit a pre-sentence investigation and written reports of its results.

o. Equal Employment Opportunity. Probation departments should comply with the Equal Employment Opportunity Act.

p. Ethics. Probation departments should provide each probation officer with a copy of the Code of Ethics adopted by the Texas Adult Probation Commission and a copy of the procedure developed by the department to be used in investigating and reviewing any alleged violation. Probation departments shall see that the Code of Ethics is complied with and take disciplinary action for non-compliance.

q. Probation Transfer. (Texas Code of Criminal Procedure, Article 42.12, sec. 5, sec. 9). Probation departments should notify other jurisdictions when probationers will be working or residing in that jurisdiction temporarily. If the probationer will be in another jurisdiction more than thirty days courtesy supervision should be requested.

r. Extradition. Probation officers should not transport prisoners.

s. Multi-Department Districts. Judicial districts composed of more than one county may apply to the Texas Adult Probation Commission for authorization to establish more than one probation department within that judicial district. The application should explain how the creation of more than one department will promote:

1. Administrative convenience,
2. Economy, or
3. Improved probation services, and other reasons, if any.

The application should indicate the financial impact and the approval of all district judges hearing criminal cases of the judicial district or districts affected by the change.

t. Automobile Liability Insurance. Probation departments should require probation officers to provide documentation of liability insurance coverage or fiscal responsibility as required by law for personal motor vehicles used in the conduct of official business.

u. Automobiles Purchased or Leased by Judicial Districts. Probation departments should insure that economical use of judicial district adult probation funds is considered if the judicial district purchases automobiles to be used by adult probation personnel. Automobiles with four or six cylinder engines and high EPA mileage estimates should be given strong consideration.

v. Courtesy Supervision. Departments providing direct supervision to probationers transferred from other jurisdictions within Texas should monitor payments of court ordered fees, costs, and restitution, and cooperate with the department of original jurisdiction in enforcing all conditions of probation.

w. Intra-state Transfer. Probation departments should utilize uniform transfer procedures approved by the TAPC.

321.2 Probation Officers

a. Eligibility. (Article 42.12, sec. 10(c), (d), (e)). All probation officers should meet the statutory requirements. Judicial districts may apply to TAPC for exemption of the one year of experience required in Subdivision (B), Subsection (c). The application should document that reasonable efforts were made to employ a probation officer with one year experience and state why, in their opinion, the efforts were unsuccessful.

Probation officers requiring a waiver under this rule should be hired at a salary lower than the entry level salary of probation officers with experience.

b. Training. Probation officers should be provided not less than 20 hours professional training annually.

c. Professional Membership. Probation departments should encourage membership in the appropriate professional organizations and maintain a current library of professional journals and publications available to all personnel. Departments may secure one organizational membership in professional organizations for use by the probation staff. Departments are not permitted to secure individual memberships for employees.

d. Conference. Probation departments should encourage continual professional development and the exchange of information and concepts. Departments should encourage as many of their personnel as practically possible to attend regional, state and national training and professional conferences. These opportunities should be made available to all professional staff on a rotating basis.

321.3 Supervision

a. Pre-sentence Investigation Report (PSIR). Probation departments should, at the direction of the court, prepare a PSIR on felony cases prior to disposition. The purposes of the PSIR are to provide the court with accurate, objective, and relevant information that will assist the court in determining the appropriate disposition and assist all correctional personnel with effective supervision of the offender.

The PSIR should include the name of the officer preparing the report and should endeavor to provide verification of objective and subjective information. The PSIR should indicate the

information that is not verified.

1. Pre-sentence Investigation Report Funds. Probation departments that receive PSIR funds from TAPC should use the TAPC approved coversheet and format.

2. PSIR Audits. The probation department should make copies of the PSIR available to the TAPC as requested for the purpose of audits of compliance with TAPC standards. The TAPC will require periodic reports giving information on PSIR's conducted.

b. Sentencing. Sentencing evaluations, when requested, should be based upon the circumstances of the particular offense, the needs of the community, social history and prior criminal conduct of the individual offender and all available resources.

c. Initial Interview. An initial supervisory interview with the probationer should be conducted immediately following the court placing the defendant on probation. This interview with the probationer should include a thorough discussion of the conditions of probation, assuring that the probationer clearly understands his responsibilities. The probation officer should determine that the probationer has received a copy of the conditions of probation ordered by the court as provided by law.

d. Case Records. Probation departments should develop written administrative policies and procedures regarding case record management, assuring that each case record should contain a chronological recording of all significant actions, decision, services rendered, and periodic evaluations. Each case record should contain a copy of the person's criminal history record issued by the Department of Public Safety or the arresting agency. If the probationer has no previous record or if the record has not been received from the law enforcement agency, the case record should contain a copy of the request showing the agency from which it was requested and the date of the request.

e. Confidentiality. Pre-sentence Investigation reports and case records, including criminal history, should remain confidential and departmental policy should clearly state the circumstances under which information may be released.

f. Violations. Probation departments should develop standards setting forth the conditions upon which violations may be handled administratively. Standards should clearly state the conditions under which violation reports are to be submitted to the court.

g. Incarceration Reports. (Texas Code of Criminal Procedure, Article 42.12, sec. 4). Available pre-sentence investigation reports together with a summary of rehabilita-

tive efforts that appear successful and those that failed, projected efforts that were deemed appropriate but not reached, rehabilitative efforts interrupted by incarceration, and suggestions that might be helpful to a parole officer as supervisor, should be sent to the receiving institution on every offender incarcerated.

h. Courtesy Supervision. Departments providing direct supervision to probationers transferred from other jurisdictions should extend the same level of services afforded persons placed under supervision within the local jurisdiction. Separate caseloads for Courtesy Supervision to probationers is not prohibited, however the size of these caseloads should not differ substantially from caseloads of local probationers.

321.4 Caseloads

a. Case. A case is defined as an adult assigned to a probation officer for supervision. Included are felony and misdemeanor probationers.

b. Supervision. Supervision is a relationship that exists between a probation officer and an adult as ordered by the court.

c. Case Classification. Case classification is defined as a system of evaluating the degree of supervision needed by each individual based on needs and/or risk. As ordered by the court, the probation department, subsequent to evaluation of each case, should classify each case, taking into consideration the needs of the individual and the protection of the community.

1. Direct Supervision is defined as supervision which includes regular personal contact between the probation officer and the probationer who resides and/or works in the jurisdiction.

A. Maximum: Cases in need of a high level of supervision who report in person to the probation officer once each month (more often if required by the court) and are seen by the probation officer not less than once each month outside the probation office and more often if circumstances of the case indicate.

B. Medium: Cases in need of average supervision who report in person to the probation officer each month and are contacted by the probation officer outside the probation office not less than once each three months.

C. Minimum: Cases which have demonstrated responsible behavior and report to the probation officer in person not less than once each three months and submit written reports by mail monthly.

2. Indirect supervision is defined as the maintenance of a file and/or record of an adult under supervision who is not being seen per-

sonally by the probation officer on a regularly scheduled basis. Included are the following:

A. Probationers who neither reside nor work within the jurisdiction of the judicial district probation department and receive supervision in other jurisdictions.

B. Probationers who neither reside nor work within the jurisdiction but continue to submit written reports on a monthly basis because they are ineligible or unacceptable for supervision in another jurisdiction.

C. Probationers who have absconded or with whom there has been no contact with the probation officer in person within three months.

D. Probationers who reside and/or work in the jurisdiction, but who with the permission of the court, do not meet the criteria for direct supervision.

d. Caseload. A caseload average within a department should be calculated by dividing the number of cases under direct supervision by the number of officers within the department devoting 80 percent or more of their time to direct case supervision.

The average caseload of a probation officer in a department should not exceed 100 cases.

If the department structures caseload size on a workload formula approved by the Texas Adult Probation Commission (TAPC), the average department caseload size may be waived if the workload of a probation officer permits sufficient time for proper evaluation and supervision.

e. Case Classification System. Probation departments should implement the TAPC Uniform Case Classification and the Case Management System for all felony cases admitted to probation supervision. This system should be implemented no later than August 31, 1985.

f. Case Supervision Plan. Based on probationer needs and risk factors, the probation officer should write an individualized case supervision plan designed to address problem areas needing resolution and the appropriate methods of achieving responsible behavior of the probationer while under supervision.

g. Re-evaluation of Supervision Plan. Supervision plans should be re-evaluated periodically, necessary modification of the supervision plan and level of supervision should be indicated in writing in the case file.

321.5 Programs

a. Case Work Orientation. Emphasis should be placed on the responsibilities of a probation officer to be a case work manager,

utilizing all the available resources within the community.

b. Community Resources. Probation departments should establish a close liaison with all city, county, state and federal agencies in order to utilize all available resources in the criminal justice and social service field.

c. Referral Procedures. Referral procedures should be clearly defined and whenever possible, contracts which specify the responsibilities of both the providing and receiving agencies should be negotiated with cooperating agencies.

d. Information for Probationer. Probation departments should develop in written form information describing purposes, functions and services to be made available to each probationer and to the public.

e. Services for Probationer. All programs should be designed for the benefit of the probationer and every effort should be made to make these programs available and applicable to the needs of the probationer. Participation by the probationer may be ordered as a condition of probation; however, efforts should be made to present the services at a time, place and in a manner which assists successful adjustment.

f. Cooperative Efforts. The probation department or departments contracting together should provide programs to meet the needs of probationers not available from other sources including, but not limited to, employment placement, academic and vocational education, physical and mental health treatment and counseling.

g. Local Regional Planning. Probation departments should participate in local and regional planning and cooperate in the providing of information and data to official agencies and universities doing research.

h. Program Planning. Program planning in probation departments should take into account information regarding broad cultural, social and political change, relationships between probation departments, government and private agencies, and the community at the county, state and federal level. Planning should carefully consider changes in cultural and socio-economic conditions.

i. Community Involvement. Probation departments should encourage community education and involvement in the correctional process. Probation departments should seek opportunities to provide speakers to professional, civic, labor and other public groups.

j. Volunteers. Probation departments should establish volunteer programs and provide orientation and training for citizen volunteers.

k. Victims. Probation departments should recognize the rights of the victims of crime and make every effort to collect restitution in all cases applicable.

l. Community Service Restitution. Probation departments should make every effort to contract with governmental and/or non-profit agencies and organizations to assist probationers in complying with court-ordered community service restitution.

321.6 Facilities

a. Facilities Other than Restitution Centers.

1. Minimum Facilities. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(g)). Each probation officer should be provided a private office, or in the alternative a private office should be available to the probation officer for interviewing and counseling. Each office should have the necessary lighting, air conditioning, telephone, furniture, equipment, privacy and decor to provide and promote professional conduct and the establishment of good rapport with the probationer.

2. Location. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(g)). Each probation office providing direct court services should be located in the courthouse or as near the courthouse as practically possible to promote prompt and efficient services to the court.

3. Satellite Offices. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(g)). Satellite probation offices should be established in the area of the judicial district to provide efficient services to the probationer as is practically possible.

4. Correctional Facilities. (Texas Code of Criminal Procedure, Article 42.12, sec. 10(g)). Each probation department should promote the establishment of community-based correctional facilities other than jails and prisons.

b. Expenditure of District Funds for Facilities, Utilities, and Equipment for Probation Offices.

1. Expansion. Judicial district funds may be expended only for expansion of the probation office. The county, or counties, must continue to provide all costs associated with current level operation.

2. Public Meeting. Requests for expanded facilities, utilities, and equipment must be placed in the county's budget and be reviewed in a public meeting.

3. Certification Information. If the county determines that funds are not available, then a certification must be issued to the district judge indicating that funds are not available.

As part of the certification, the county must provide the following information:

A. the total dollar amount of the county's general revenue financial contribution to the adult probation department for the county fiscal years of 1979, 1980, 1981, 1982, and 1983;

B. the total dollar amount of the county budget for the preceding four county fiscal years plus the current fiscal year;

C. the total dollar amount of the county tax roll for the preceding four county fiscal years plus the current calendar year; and

D. the population of the county for the preceding four calendar years plus the current calendar year.

4. Information for Texas Adult Probation Commission. The district judge will forward the county certification document, with the attachments, to the TAPC. In addition to the certification information, a listing of expansion items and their approximate cost, should be included. The listing for equipment must be itemized with an approximate cost for each item. A cover letter indicating agreement with the county certification must be signed by the district judge.

5. Approval of Items. The TAPC staff will review the request for expansion items and return an approved listing of items that may be purchased with judicial district funds. All facility, utility, and equipment purchases, including rent or lease contracts, charged to the judicial district fund must be approved by the Executive Director of the TAPC before the purchase is made.

6. First Priority Purchases. First priority will be given to those items that are directly related to new probation officer positions. This includes facilities, utilities, desks, chairs, cabinets, etc.

7. Second Priority Purchases. Second priority will be given to those items directly related to new support positions. This includes facilities, utilities, desks, chairs, file cabinets, typewriters, calculators, etc.

8. Third Priority Purchases. Third priority will be given to technologically advanced equipment such as word processing systems and computer equipment. The purchase of these items will be approved only if additional officers have been hired and the purchase of these types of equipment can be offset against the hiring of additional support staff.

9. Source of Funds for Facility, Utility, and Equipment Purchases. All facility, utility, and equipment purchases charged to the judicial district fund must be purchased from the general operating funds. No funds from the special program funding category will be specifically allocated by the TAPC for the purchase of facilities, utilities, and equipment for probation offices.

c. Expenditure of District Funds for Facilities, Utilities, and Equipment for Community-Based Correctional Program.

1. Types of Programs. Judicial district funds may be expended for new programs, current level existing programs, or expansion of existing programs identified as community-based correctional programs.

2. Public Meeting. Requests for facilities, utilities, and equipment for community-based correctional programs must be initially requested from the county and reviewed in a public meeting.

3. Certification Information. If the county determines that funds are not available, then a certification must be issued to the district judge indicating that funds are not available. As part of the certification, the county must provide the following information:

A. the total dollar amount of the county's general revenue financial contribution to the Adult Probation Department for the county fiscal years of 1979, 1980, 1981, 1982, and 1983;

B. the total dollar amount of the county budget for the four preceding county fiscal years plus the current fiscal year;

C. the total dollar amount of the county tax roll for the four preceding county fiscal years plus the current fiscal year; and

D. the population of the county for the four preceding calendar years plus the current calendar year.

4. Information for the Texas Adult Probation Commission. The district judge will forward the county certification document, with the attachments, to the TAPC. In addition to the certification information a listing of the facility, utility, and equipment items to be purchased must be forwarded with the approximate cost of each included. A cover letter indicating agreement with the certification must be signed by the district judge.

5. Approval of items. The TAPC staff will review the request and return an approved listing of items that may be purchased with judicial district funds. All facility, utility, and equipment expenditures, including rent or lease contracts, charged to the judicial district funds must be approved by the Executive Director of the TAPC before the purchase is made.

321.7 Equipment

a. Minimum Equipment. (Article 42.12, sec. 10(g)). Each probation officer should be furnished adequate furniture, telephone, recording and transcribing equipment, copy making equipment, and other equipment as necessary and consistent with efficient office operations.

b. Identification. (Article 42.12, sec. 10(g)). Each probation officer should be fur-

nished identification which clearly states his authority and is easily recognized by the public and other agencies.

321.8 Fiscal

a. Requested Information. (Article 42.121, sec. 4.03). Probation departments should present to their district judge, or judges, data determined necessary by the Commission to calculate the amount of state financial aid needed for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails or prisons in the district.

b. State Aid Deposit. (Article 42.121, sec. 4.03, 4.05(b)). State-aid received by the district should be deposited in a special fund of the county treasury, to be used solely for the provision of adult probation services and adult community-based correctional programs and facilities other than jails and prisons.

c. Fees Deposit. (Article 42.121, sec. 4.03, 4.05, Article 42.12, Sec. 6a). Adult probation fees collected by the court should be deposited to the same special fund of the county treasury receiving state financial aid and should be used solely for the provision of adult probation services.

d. Fee Restrictions. (Article 42.12, sec. 10(g), Article 42.121, sec. 4.03). No funds from state financial aid or probation fees should be used by the county to provide physical facilities, equipment and utilities for probation departments as required by the statutes.

e. Available Records. (Article 42.121, sec. 3.05, 4.03). Probation departments and/or the fiscal officer should make financial records available to representatives of the Texas Adult Probation Commission as provided in the statutes.

f. Distribution. The judicial district having jurisdiction of the case should receive the probation supervisory fee. The judicial district providing direct supervision should receive the state aid.

g. Fees for Fiscal Services. (Article 42.12, sec. 10(g), Article 42.121, sec. 4.03). The judicial district may use up to 3% of the state funding received in the first quarter of the state fiscal year (September) to contract annually with the county or counties providing services of auditing, bookkeeping and those services set forth in the statutes and other services deemed necessary by the judicial district other than those services required to be provided by the county or counties in Article 42.12, sec. 10(g).

h. Honesty Bond. Probation departments should insure that all public monies are protected by requiring that all employees with access to monies are covered by honesty bonds. The fee for these bonds may be paid from the Judicial District Adult Probation fund.

i. Investment of Idle Funds. The chief probation officer should consult with the fiscal officer to determine what appropriate amount of idle funds may be invested. Idle funds herein refer to state aid and probation fees only. The investment should provide for a reasonable interest rate, necessary protection of principal, and flexibility. Interest received shall be considered locally generated monies for determining the surplus apportionment at the end of the fiscal year.

j. Proceedings on Violation of Standards.

1. The following are definitions for terms used in this subsection.

A. Verified complaint means a written complaint from a source outside the TAPC which alleges that a department is not in compliance with one or more of these standards and which has not been resolved after receiving TAPC staff evaluation, investigation, and action, and which contains allegations sufficient to raise an issue of suspension of state aid to the department.

B. Noncompliance report means a report from the TAPC staff to the Commission charging that a department is not in compliance with one or more of these standards, that the violation has not been resolved after staff investigation and action, and that the violation is sufficient to raise an issue of suspension of state aid to the department.

2. The TAPC staff shall not present a verified complaint or a noncompliance report to the Commission unless the staff has taken every reasonable action to resolve the matters raised by the allegations and there remain one or more unresolved violations which are sufficient to raise the issue of suspension of state aid to the department.

3. Each verified complaint and noncompliance report presented to the Commission will be considered in an open meeting. The Commission may decide that no action should be taken or may refer the matter back to the staff for further action. If the Commission decides that the verified complaint or noncompliance report contains allegations which, if true, would support a determination to suspend state aid to the department, then it will set the matter for a suspension hearing before the full Commission. The suspension hearing may be at a regular meeting or at a special meeting called for that purpose in accordance with the Texas Code of Criminal Procedure, Article 42.121, Section 2.06(b). The meeting shall be open to the public.

4. The department which is the subject of the verified complaint or noncompliance report shall be a party to the hearing. The department, the chief probation officer, and the district judge or district judges trying criminal cases in that judicial district shall be given at least 30 days notice of the suspension hearing. In all other respects the hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

5. If the evidence at the hearing fails to prove the allegations, the verified complaint or noncompliance report shall be dismissed. If the Commission finds that the evidence proves the allegations it may:

A. take no action;

B. suspend permanently all state aid or state aid to a particular program where a violation exists;

C. suspend for a specified period of time all state aid or state aid to a particular program where a violation exists;

D. suspend all state aid or state aid to a particular program where a violation exists until such time as the department has successfully completed such remedial action as the Commission directs it to take, or;

E. delay its decision to suspend state aid conditioned on the department's successful completion of such remedial action as the Commission directs it to take.

6. If the Commission suspends state aid to the department permanently, the department may not receive state aid again until it has submitted a new application and has satisfied the Commission that it will comply with TAPC Standards.

321.9 Waiver to Standards

Waiver. The Texas Adult Probation Commission may grant a waiver to a judicial district probation department from standard or standards upon receipt and approval by Texas Adult Probation Commission of a plan to adopt said standard or standards by a certain date, and an explanation of why standard or standards cannot be complied with immediately.

Application for waiver of standards should be received by the Texas Adult Probation Commission not less than 60 days prior to the beginning date of the quarter of the state fiscal year in which funding is requested.

321.10 Objectives

a. The objectives of the standards in Section 321.1 - 321.12 of this title (relating to Standards) are:

1. to make probation services available to every judicial district in Texas;

2. to make probation effective as an alternative to incarceration;

3. to assist probation departments in providing protection to the community by rehabilitation and adequate supervision of the offender;

4. to assist in the establishment, improvement and expansion of community-based alternative programs;

5. to fully utilize available services from Federal, State and local resources;

6. to establish uniform probation administration standards;

7. to increase and improve citizen involvement and pride in probation and other community corrections;

8. to improve the self-image of probation personnel as professionals in the judicial system;

9. to establish a statewide statistical information service;

10. to establish a service center to provide assistance to probation departments;

11. to enhance the professional knowledge and skills of probation department personnel by providing statewide and regional education and training and by providing assistance to in-service training within the departments; and

12. to establish an on-going study of probation and community-based correctional methods and systems.

321.11 Intensive Supervision Probation (ISP)

a. Department Eligibility. All probation departments participating in the TAPC state aid program and meeting the minimum standards of the TAPC are eligible to apply for participation in the Intensive Supervision Probation (ISP) program.

b. Community Based Sanction. The Judicial District Court should use the ISP program as a sentencing alternative to incarceration in the Texas Department of Corrections; not as a sentencing alternative to regular probation.

c. Court Order. The probation department should place a probationer in the ISP program only after an order by the court, and release a probationer from the ISP program only by order of the court.

d. Probationer Eligibility. Eligibility for placement in the ISP program is restricted to offenders diverted from incarceration in the TDC by:

1. being placed on probation and ordered into the ISP program by the court; or

2. being placed on probation after incarceration (shock probation) and ordered into the ISP program by the court; or

3. being continued on probation by the court after a revocation hearing as the result of a subsequent arrest, behavior seriously in con-

flict with the conditions of probation, or failure to report to the probation officer, in lieu of revocation and incarceration in TDC; and

4. demonstrating one or more of the indicators of need.

e. Indicators of Need. The probation department should identify one or more of the following indicators of high risk and/or high need of each probationer assigned to the ISP program:

1. one or more prior commitments to prison or jail;
2. one or more convictions;
3. documentable chronic unemployment problem;
4. documentable alcohol dependency problems;
5. documentable drug dependency problem;
6. documentable limited mental capacity problem (example, mental retardation, learning disability); and/or documentable emotional/mental health problems (example, severe depression, severe anxiety);
7. seriousness of the current offense.

f. Pre-sentence Investigation. The probation department should conduct a pre-sentence investigation or a post sentence investigation on each offender placed in the ISP program.

g. Case Classification. The probation department should utilize the TAPC Case Classification System and the Case Management System as a part of the intake, assessment, reassessment, and termination processes.

h. Individualized Supervision. The probation department should require the ISP officer to prepare an individualized supervision plan for each probationer. The plan should be based on the needs identified in the pre-sentence or post sentence investigation report and by the Case Classification System.

i. Term of Participation. The court-ordered conditions of probation should not require participation in ISP for more than one year. The probation department should seek court approval to transfer the ISP probationer to a regular probation caseload as soon as the goals of the supervision plan have been met as indicated by the case classification reassessment process. If the goals have not been met at the end of one year, the probation department should request amendment of the conditions to continue the probationer in the ISP program for not more than one additional year.

j. Supervision. The probation department should provide services and supervision to ISP probationers consistent with the need and risk factors identified, and use available

community resources, including purchase of services if necessary, to provide safety to the community and promote responsible behavior by the probationer. These services and supervision should be at a more intense level than normally provided to maximum supervision probationers.

k. Post ISP Supervision. The probation department should, using the TAPC Case Classification System, re-evaluate the probationers who have been transferred from ISP to regular probation every six months for at least two years or until the probationers are terminated from probation.

l. Training. The probation department should require probation officers supervising ISP probationers to participate in Case Classification and Case Management System training sponsored by the TAPC.

m. ISP Officers. A probation department participating in the ISP program should designate an individual probation officer to supervise ISP probationers. This officer should be experienced in probation or experienced in counseling with knowledge of assessment and evaluation.

n. ISP Funds. A probation department with 25 or more ISP probationers should maintain a separate account within the judicial district fund for ISP funds, and provide to the TAPC fiscal information as requested.

o. Per Capita Funding Claims. The probation department should not include any ISP probationers in claiming TAPC per capita funding.

p. Reimbursement of Cost of Pre-sentence Investigations. The probation department may reimburse the district fund for the cost of PSI's completed on probationers placed in the ISP program provided:

1. the reimbursement does not exceed \$200 per pre-sentence investigation;
2. the department has not been reimbursed for the PSI by the TAPC;
3. the PSI is done by an officer whose salary is not paid from ISP funds; and
4. the TAPC uniform coversheet and format is used.

q. Average Caseload. The probation department should not include probation officers with 25 or more ISP probationers, or ISP probationers in the calculation of the department caseload average.

r. ISP Caseload Size. The probation department should limit the caseload of an officer supervising only ISP cases to a minimum of 25 and a maximum of 40.

An officer beginning a new ISP caseload after September 1, 1983 may continue to supervise

regular probationers while the ISP caseload is being established if the department:

1. reduces the caseload of regular probationers to no more than 125 prior to the officer receiving the first ISP case, and
2. reduces the regular probationer caseload by 5 each time a new ISP case is received.

s. Facilities, Equipment and Utilities.

The probation department should not use ISP funds for the provision of physical facilities, equipment or utilities except as provided by Texas Code of Criminal Procedure, Article 42.12, Sec. 10(j) - (n) and TAPC Standards relating to this section.

t. ISP Program Funding. The probation department will receive funding at a rate to be determined by the TAPC based on the cost of supervision of ISP cases and available funds.

u. TAPC Authority. The provisions of Texas Code of Criminal Procedure, Article 42.121, apply to the ISP program.

321.12 Restitution Center

a. Sentencing Alternative. The Judicial District Court should use the Restitution Center as a sentencing alternative to incarceration in the Texas Department of Corrections not as a sentencing alternative to regular probation or intensive Supervision Probation. In utilizing this sentencing alternative, the District Court should give priority to Restitution Center placements to offenders on whom there has been a motion to revoke probation, and to offenders whose pre-sentence investigation reports have indicated the need for incarceration at the Texas Department of Corrections were the Restitution Center Alternative not available.

b. Reaching Capacity. The Judicial District Court and adult probation department should ensure that a sufficient number of eligible offenders are placed in the Restitution Center so that it will reach at least fifty percent of its capacity within three months and ninety percent capacity within six months after commencing operation.

c. Eligibility for Placement. Offender eligibility requirements for placement in a Restitution Center include:

1. must have been sentenced for a felony offense other than those under the Penal Code, Title 5, (including but not limited to murder, capital murder, voluntary manslaughter, involuntary manslaughter, criminally negligent homicide, false imprisonment, kidnapping, rape, sexual abuse, indecency with a child, assault, or robbery) or other than those under the Texas Controlled Substances Act (Texas Civil Statutes, Article 4476-15, including but not limited to

to unlawful manufacture, delivery or possession of a controlled substance);

2. must not have caused bodily injury as a result of the commission of the offense;

3. did not use a deadly weapon during the commission of or flight from the offense;

4. must not have an extensive history of drug or alcohol abuse;

5. must be employable; and

6. would have been incarcerated at the TDC if it were not for the availability of the Restitution Center.

d. Court Order. The probation department should place an offender in a Restitution Center only after an order by the court and release a probationer from a Restitution Center only by order of the court.

e. Pre-Sentence Investigation. If the district court does not order a pre-sentence investigation, the probation department should have a post sentence investigation report written for each offender placed in a Restitution Center. This report should be in compliance with TAPC Pre-sentence Investigation Report Standards.

f. Term of Residency. The probationary sentence ordered by the court to be served in a Restitution Center should be for a period of no less than six months nor more than twelve months.

g. Community Advisory Council. A Community Advisory Council of not less than seven persons representative of the community should be appointed by the District Judge or Judges to advise the probation department in its establishment and maintenance of the Restitution Center. The Community Advisory Council should meet at least once in each calendar quarter.

h. Appointment of the Director. The Chief Adult Probation Officer should appoint a director of the Restitution Center who is familiar with the operation of a residential program, the goals and procedures of an adult probation department, and the diversionary purpose of the Restitution Center.

i. Maximum Resident Capacity. The probation department should establish the maximum resident capacity limit of the Restitution Center prior to commencing operations at the center. The limit shall not be exceeded under any circumstances.

j. Denying Admission. The Judicial District Court and the Adult Probation Department should give the Restitution Center Director the authority to deny admission of a prospective resident if that offender is not eligible for placement in a Restitution Center or if the Restitution Center has reached its capacity.

k. Prohibited Uses. The Judicial District Court and the Probation Department should not use the Restitution Center as a diagnostic facility to determine offender eligibility for Restitution Center services or as an emergency shelter for probationers experiencing crisis situations or to alleviate overcrowding at the county jail.

l. Fiscal Management. The probation department should maintain a separate account within the Judicial District Fund for Restitution Center funds and use a Restitution Center fiscal management system approved by the TAPC.

m. Data. The probation department should submit on a timely basis the Restitution Center data requested by the TAPC.

n. Employment Opportunities and Placement. The probation department should ensure that the Restitution Center Director assists residents in obtaining and maintaining employment. To this end, programs should be available to enhance the employability of the residents.

o. Reports to TDC. If the probation of a resident at the Restitution Center is revoked, the probation department should forward to TDC with the commitment papers, a copy of the written evaluation report, the PSI, and other information as required by TAPC Standards.

p. Training. The probation department should require that the Restitution Center personnel participate in residential services training offered by the TAPC.

q. Equipment Transfer. The probation department should transfer the equipment and any remaining supplies purchased with Restitution Center funds to another Restitution Center or to an adult probation department temporarily or permanently upon request of the TAPC if state aid for the Restitution Center is terminated.

r. Fiscal Guidelines. The probation department should follow TAPC fiscal guidelines for Restitution Centers including, but not limited to:

1. purchase of equipment;
2. leasing of real property or equipment; and
3. contractual services.

s. Autonomy. The probation department should ensure that the Restitution Center is autonomous and separate from other correctional or treatment residential facilities.

t. Case Classification. The probation department should require the Restitution Center to utilize the TAPC Case Classification System as part of the intake, assessment,

reassessment, and termination processes.

u. Operations Procedure Manual. The probation department should require the Restitution Center under its jurisdiction to operate under the guidelines of an operations procedure manual approved by the TAPC. The manual is to include guidelines on at least the following:

1. utilizing the TAPC Case Classification System;
2. providing food service;
3. providing security and discipline;
4. providing employment services;
5. providing fiscal accountability;
6. performing community service restitution;
7. providing the court with timely written evaluation reports;
8. providing for release procedures and intensive supervision upon release from the Restitution Center;
9. developing and implementing mutually agreed upon supervision plans;
10. meeting health and safety standards;
11. providing for the transportation of residents;
12. providing for adequate facilities;
13. implementing sound personnel practices;
14. orienting incoming residents;
15. providing victims with restitution; and
16. restricting resident time away from the Restitution Center.

v. Location. The probation department should ensure that the location of the Restitution Center is suited to the employment needs of the residents, and other factors considered important by the local courts and probation departments. Before selecting the location to be used as the basis for an application for establishing a Restitution Center to be operated by the probation department, the department shall publish a notice of in three consecutive issues of a newspaper of general circulation in the county of the proposed location. The notice shall describe the proposed location or locations in a manner sufficient to enable a reasonable person to locate the premises and identify it from other places in the community, and shall also state the time, date and place of a public hearing on the proposed Restitution Center. The hearing shall be held not less than 10 nor more than 30 days after the date the last notice is published.

w. Regional Restitution Center. Probation departments choosing to cooperate in establishing a Restitution Center should follow the TAPC guidelines for regional Restitution Centers.

x. Caseload Average.

1. The following should not be included in calculating the department average caseload

or in claiming per capita state aid:

A. residents of a Restitution Center;

B. probationers who have been terminated from a Restitution Center and are being intensively supervised within the judicial district in which the Restitution Center is located.

2. Probationers who have been terminated from a Restitution Center and are being intensively supervised in a judicial district other than the one in which they were residents of a Restitution Center, may be included in calculating the department average caseload and in claiming per capita state aid.

323.1 - 323.3 Fund Distribution

The Texas Adult Probation Commission adopted Rules 323.1 - 323.3 concerning the distribution of funds to judicial districts whose probation departments comply with the Standards set forth in Rules 321.1 - 321.9.

The objectives of state aid to judicial districts is to provide financial aid necessary for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails and prisons in the district and to achieve the purposes of 42.121, Sec. 1.01, T.C.C.P.

The Texas Adult Probation Commission intends that the following policies for the distribution of state aid for adult probation services be reasonably stable so as to assist judicial districts and adult probation departments to plan their organization and services wisely. However, the Texas Adult Probation Commission reserves the right to amend their policies as circumstance demands as provided by law.

These rules are promulgated under the authority of Article 42.121, Sec. 4, Texas Code of Criminal Procedure.

323.1 Per Capita Funding

a. **Allocation.** The Texas Adult Probation Commission (TAPC) will make quarterly per capita payments in September, December, March and June to judicial districts whose probation departments comply with TAPC Standards. These payments will be based on (1) the number of adults under direct supervision (as defined in 321.4) as stated in monthly reports supplied to the Commission by departments, and (2) the number of days in the quarter in which payment is made. The TAPC will average the caseloads on the last workday of three consecutive months to determine the number of adults under direct supervision.

b. **First Quarter.** The per capita payments in September will be computed at a

per capita per day rate to be determined by the TAPC, using the number of adults under direct supervision on the last working days of April, May and June.

c. **Second Quarter.** The per capita payments in December will be distributed at a rate determined by the TAPC. The caseload will be determined from the monthly reports supplied to the TAPC by averaging the number of adults under direct supervision on the last working days of July, August, and September.

d. **Third Quarter.** The per capita payments in March will be distributed at a rate determined by the TAPC. The caseload will be determined by averaging the number of adults under direct supervision on the last working days of October, November and December.

e. **Fourth Quarter.** The per capita payments in June will be distributed at a rate determined by the TAPC. The caseloads will be determined by averaging the number of adults under direct supervision on the last working days of January, February, and March.

f. **Transfer of Surplus Funds.** If the maximum per capita per day rate determined by the TAPC is invoked for the second, third or fourth quarter payments, any resulting quarterly fund surplus may be transferred to the program funding described in Rule 323.2.

g. **Qualifying for Funds.** Judicial districts whose probation departments comply with TAPC standards qualify for per capita funding by submitting to the TAPC in writing the following information:

1. the designation of a chief probation officer in accordance with Article 42.12, Sec. 10 (a), C.C.P.;
2. the designation of a chief fiscal officer to administer the special judicial district fund;
3. a statement of intention to participate in state aid under subchapter D of Article 42.121;
4. the completed monthly caseload reporting forms (form TAPC-6002) for the months upon which the quarterly payment is based.

323.2 Program Funding

a. **Allocation.** The TAPC has allocated funds for judicial districts who have need of funds for:

1. initial organization of probation departments;
2. departments who cannot meet standards due to unique problems and lack of adequate funds; and,
3. for departments who demonstrate need for special programs.

b. **Priority Programs.** The TAPC will give priority to judicial districts requesting funds to establish new adult probation departments

where none presently exist and departments who cannot meet standards due to unique problems. Special programs may include, but not be limited to, the development of presentence investigation capability, high-risk offender programs, and court residential programs. The TAPC will evaluate applications for program funding and award these funds based on merit and availability of funds.

c. **Program Application Design.** The TAPC will make available a format for designing and requesting program funding which will include, but not be limited to, the following:

1. goals and measurable objectives;
2. organization and/or methodology;
3. budget and narrative explanation of budget;
4. evaluation

Normally the program should be designed in such a way as to achieve self-sufficiency.

d. **Application Deadlines.** Application deadlines for program funding requests will be sixty days before the appropriate Commission meeting. Contact the Program Services Division of the TAPC for deadline dates.

e. **Transfer of Surplus Funds.** Surplus funds in program funding may be transferred to the per capita funding described in Rule 323.1.

f. **Extradition.** Judicial district funds should not be used to pay nor reimburse agencies or persons for the cost of transfer of prisoners.

g. **Intensive Supervision Probation Funding.** The TAPC will provide funds to probation departments participating in the Intensive Supervision Probation Program at a rate to be determined by the TAPC based on the cost of supervision of ISP cases and available funds.

323.3 Determination and Recovery of Judicial District Adult Probation Fund Surplus

a. **Surplus Monies.** All monies deposited and projected to be deposited into the Adult Probation fund of the judicial district are considered in the determination of any surplus monies available after all financial payments and projected financial payments have been completed. The fiscal officer designated by the judicial district will be allowed a period of three months to complete payment of a prior year's financial commitments. The fiscal year will end August 31st. After all revenues have been accrued and all accrued payments have been completed, the remaining fund balance becomes the beginning fund balance of the new fiscal year.

b. Determination of Surplus. At the end of the third quarter of each fiscal year (May 31st), the Texas Adult Probation Commission (TAPC) Fiscal Services Division will project total revenues, total expenditures, and ending fund balance for the fiscal year for each probation department. These projections will be based on quarterly financial reports received from fiscal officers for the first three quarters of the fiscal year.

c. Revenue Percentage Calculation. When the determination is made that projected surplus monies do exist, the TAPC Fiscal Services Division will prepare a schedule identifying all monies deposited and projected to be deposited into the fund for that fiscal year as either locally generated or state generated. Examples of locally generated monies are probation fees and interest on time deposits. Examples of state generated monies are per capita payments and supplemental funding payments. After the sources of monies are identified, a calculation is made to indicate the percentage contributed by each source.

d. Application of Percentage to Surplus Balance. The percentage of surplus monies corresponding to the percentage of state monies deposited will be refunded to the Texas Adult Probation Commission. The percentage of surplus monies corresponding to the percentage of local monies deposited will be retained in the judicial district adult probation funds. These locally retained, unexpended balance monies shall be considered in the succeeding year's operating budget as a source of funding and shall be designated as locally generated monies in the succeeding year's apportionment of judicial district adult probation fund surplus.

e. Special Project Fund Surplus. Funds allocated to judicial district adult probation departments for special projects will not be included as a portion of surplus monies in this method. Any surplus remaining in a special project grant after all payments have been completed will be refunded to the Texas Adult Probation Commission.

323.4 Grant Funding.

a. Authorization. The TAPC may apply for and accept gifts or grants from any public or private source for use in maintaining and improving probation services in Texas.

b. Application Procedures. The TAPC staff shall not submit any application for a grant or other funding unless the application shall first have been approved by the Executive Director. All applications shall be prepared in compliance with applicable statutes,

administrative rules of the TAPC, and requirements of the funding organization or donor.

c. Distribution of Funds. When notification is received that a gift or grant has been awarded to TAPC, the documentation of such gift or grant shall be delivered to the Fiscal Services Division for processing. The funds derived from such gift or grant shall be deposited in the State Treasury in a special account established for that purpose. Funds shall be disbursed from such accounts only for the purposes and in accordance with the terms of the gift or grant.

d. Accounting. Accounting shall be made of gift or grant funds as required by statute, administrative rules of the TAPC, and the terms of the grant.

e. Administration of Funds of an Organization. The TAPC does not authorize any organization to receive, administer or invest any funds that are designated for the benefit of TAPC.

f. Use of TAPC Employees or Property. No employee shall provide any service for which the employee is being compensated by TAPC to any organization or donor who is providing funds to TAPC, or from whom TAPC is seeking funds. No property of TAPC shall be used for the benefit of any such organization or donor. However, TAPC employee services and property may be used in preparing and submitting grant and gift applications, and in any other manner reasonably related to the administration of a gift or grant.

g. Service by TAPC Member or Employee in Organization. No TAPC member or employee shall serve, for compensation other than payment or repayment of expenses in connection with such service, as an officer or director of any organization or donor who is providing funds to TAPC or from whom TAPC is seeking funds. Any member or employee who serves without compensation as an officer or director of an organization or donor must disqualify himself or herself from service to the organization or donor during its consideration of any matter in which the TAPC has a direct interest.

h. Monetary Enrichment of TAPC Member or Employee. No TAPC member or employee shall accept any monetary enrichment from any organization or donor who is providing funds to TAPC, or from whom TAPC is seeking funds, except in accordance with the terms and conditions of an approved grant, or as payment or repayment of expenses in connection with service performed for the organization or donor for which the member or employee is not compensated by TAPC, or as payment of a bona fide honorarium, consulta-

tion fee or other fee customarily paid for services rendered to the organization or donor and for which the member or employee is not compensated by the TAPC.

i. Interpretation Not to Conflict. Nothing in this rule shall be interpreted to conflict with or supersede a requirement of any statute regulating the conduct of any employee of the TAPC or regulating the procedures of the TAPC.