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TEXAS COMMISSION ON JAIL STANDARDS
ANNUAL REPORT TO THE GOVERNOR
LIEUTENANT GOVERNOR AND SPEAKER OF
THE HOUSE OF REPRESENTATIVES OF TEXAS

JANUARY 31, 1987

112085

U.S. Department of Justice
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(As of December 31, 1986)

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Robert J. Uhr, Vice-Chairman
Hanes H. Brindley, M.D.
Sheriff Joe Corley
Sheriff John Klevenhagen
Pat Newhouse
Roy Lee Orr

TEXAS COMMISSION ON JAIL STANDARDS



COMMISSION MEMBERS

Mrs. William R. Cree, Chairman, Abilene
Robert J. Uhr, Vice-Chairman, New Braunfels
Hanes H. Brindley, M.D., Temple

Sheriff Joe A. Corley, Conroe
Sheriff John J. Klevenhagen, Houston
Mrs. Dean Newhouse, Honey Grove

Judge Pat F. O'Rourke, El Paso
Ronald L. Ramey, Houston

EXECUTIVE DIRECTOR

Robert O. Viterna

January 31, 1987

The Honorable William Clements, Governor, State of Texas

The Honorable William Hobby, Lieutenant Governor, State of Texas

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

Gentlemen:

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

The report will provide background information concerning the creation of the Commission, the duties of the Commission intended by the Legislature, and its accomplishments and activities during 1986.

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

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

Sincerely,

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

Robert O. Viterna
Executive Director
Texas Commission on Jail Standards

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JANUARY 31, 1987

INTRODUCTION

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

This report covers activities of calendar year 1986.

CREATION OF THE COMMISSION

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

DUTIES OF THE COMMISSION

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

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

EARLY ACOMPLISHMENTS OF THE COMMISSION

A. Drafting of Minimum Standards

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

B. Staffing

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

C. Assistance to County Officials

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

D. Plan Reviews

Review of construction and renovation plans of county jail facilities began in 1976 as well. Comments and suggestions had been furnished to 21 counties and their architectural agents by December 20, 1976. This service has become one of the most extensive and best received by county authorities and their architects. Counties have realized significant economic benefit from the suggestions and coordinated planning efforts of the Commission, other appropriate state agencies, (State Fire Marshal; Architectural Barriers, Historical Commission) architects, county commissioners and sheriffs.

1986 EVENTS

A. Jail Inspections

During the year, 303 jail inspections were conducted. As in 1985, some jails were inspected more than once, at the request of the county. Bell, Bexar, Brazos, Deaf Smith, Denton, Erath, Johnson, Jim Hogg, Kaufman, Limestone, McLennan, Nacogdoches, Palo Pinto, Robertson, Smith, Tarrant, and Travis County Jails for example. Some of these counties requested additional inspections to ensure construction plans previously approved were being adhered to by contractors. Other counties were found to be experiencing difficulties in achieving compliance and were inspected more frequently to encourage their effort to achieve compliance. Other counties requested inspections for assistance in achieving correct completion of efforts that would ensure compliance.

B. Assistance to Counties

No on site technical assistance was provided to counties in jail operations after January 1, 1986 due to fund limitations. Technical assistance in jail matters (structure, life safety, operations) however was provided to county officials on 247 occasions, down 74 from last year.

On most occasions, the county authorities or their agents visited the Austin office where the discussions were conducted. Ninety one (91) requests for technical assistance were handled by telephone. Two hundred and fifty six (256) consultations and discussions, up 86 from last year, were also conducted with county judges and commissioners court and sheriffs concerning the most economical and feasible way to achieve compliance with the state law and in some instances existent federal court orders. While this is one of the best received commission programs, it was severely restricted as the hiring freeze (Executive Order 39) prevented filling the position of Assistant Planner, vacated in January. Subsequent budget cuts further reduced this program by eliminating travel funds associated with the position.

Municipalities requested, on 85 occasions, down 3 from last year, information and assistance on jail construction or renovation. While municipal jails are not required to conform with jail standards, these municipalities all stated confidence in the Commission to provide them unbiased information and guidance upon which to base decisions concerning construction or operations.

C. Investigation and Resolution of Requests for Inmate Assistance

The Commission received 120, up 22 from last year, requests for inmate assistance this year. This figure represents a decrease over last year. Some requests were redundant or ones over which the Jail Commission has no purview. These were referred to an appropriate agency for response. Additionally, some requests were referred back to the originator with instructions to use the grievance procedures which the jail had established to address such matters. Inquiry into the remainder of the requests either alleviated conditions in need of correction or established the fallaciousness of the allegation and aided in eliminating

frivolous litigation.

D. Construction Plan Review

Construction/renovation plans for counties were reviewed in 93 instances, down 10 from last year. Approximately 930 manhours were devoted to this task. (Note: Each project is reviewed formally at least twice and most three times).

E. Determination of Reasonable Variance Requests

Requests for variances were received and processed from 18 counties, down four from last year. Each of the 32 separate requests were individually analyzed and acted upon by the Commissioners during the year's six meetings.

F. Enforcement Proceedings

Notices of Non-Compliance were sent to 90 counties, up 12 from last year, whose jails were not in compliance. In every instance, the counties receiving the notices have taken positive and responsible action toward eliminating cited deficiencies to meet the requirements of state law. Counties which were not, in the opinion of the Commission, acting expeditiously to resolve deficiencies, were requested to attend public commission meetings. These meetings resulted in firm commitments from the county concerned, or a remedial order being issued by the Commission, which eliminated the deficiencies.

Remedial Orders, 9 in all, one more than last year, were issued to wit:

Caldwell County - limiting population

Eastland County - limiting population

Johnson County - limiting population

Jones County - correct deficiencies or close

Palo Pinto County - closed until deficiencies are corrected

Smith County - limiting population

Tarrant County - provide for population or be capped

Waller County - correct deficiencies or close

Williamson County - provide for population or be capped

G. Counties in Compliance

During the year, 194 county jails were found certified, up ten from last year, as being in compliance with Texas Minimum Jail Standards. This includes twenty three which were certified for the first time, or which were subsequently recertified after having lost certification. These jails are marked with an asterisk. As of December 31, 1986 171 jails remained certified.

JAILS IN COMPLIANCE

Andrews	Deaf Smith	Jim Hogg	Randall
Angelina	Delta	Jim Wells	Real
Aransas	DeWitt	Karnes	Red River
Archer	Dickens	Kendall	Refugio
Armstrong	Dimmitt	Kenedy	Roberts
Atascosa	Donley	Kerr	Runnels
Austin	Duval	Kimble	Rusk
Bailey	Falls	Kinney	Sabine
Bandera	Fannin	Kleberg	San Augustine
Baylor	Fayette	Knox	San Jacinto
Blanco	*Fisher	Lamar	San Patricio
*Brazoria	Foard	Lamb	San Saba
Brewster	Fort Bend	Lampasas	Schleicher
Brooks	Freestone	La Salle	Scurry
Brown	Gaines	Lavaca	*Schackelford
Burleson	Galveston	Lee	*Shelby
*Burnet	Garza	Leon	Smith
Calhoun	Gillespie	Liberty	Somervell
Callahan	Glasscock	Lipscomb	Sterling
Camp	*Goliad	Live Oak	Stephens
Carson	Gonzales	Llano	Starr
Cass	Grayson	Loving	Sutton
Castro	Gregg	Madison	Swisher
Chambers	Grimes	Marion	*Taylor
Childress	Hall	Martin	*Terrell
Clay	Hamilton	Mason	Trinity
Cochran	Hansford	Medina	Upton
Coke	Hardin	Menard	Uvalde
Coleman	Harrison	Mills	*Val Verde

Collin	Hartley	Montague	Van Zandt
*Collingsworth	Haskell	Moore	Victoria
Colorado	Hemphill	Morris	*Walker
Comal	Hidalgo	McCulloch	Washington
Cooke	Hill	Newton	*Webb
Coryell	Hockley	Nolan	Wharton
Cottle	Hopkins	Ochiltree	Wilbarger
Crane	Houston	Oldham	Wilson
Crockett	Howard	Orange	Winkler
Crosby	Hunt	Palo Pinto	Yoakum
Culberson	*Hutchinson	Panola	Young
Dallam	Jack	Parmer	Zapata
Dallas	Jasper	Presidio	Zavala
Dawson	Jefferson	Rains	

Thirty-five jails in compliance during 1985, up 12 from last year,
lost certification because of deficiencies found.

Archer County - classification
 Bastrop County - population
 Bee County - population
 Bosque County - classification
 Caldwell County - population
 Cameron County - staffing
 Cherokee County - population
 Comanche County - staffing
 Eastland County - population
 Ellis County - classification
 Floyd County - staffing
 Franklin County - classification
 Gray County - lighting/life safety
 Guadalupe County - population
 Hale County - staffing
 Hardeman County - lighting/life safety
 Henderson County - classification
 Jackson County - lighting

Limestone County - population
Lynn County - staffing
Matagorda County - staffing
Maverick County - management
Mitchell County - lighting
McLennan County - population
Nacogdoches County - classification
Parker County - population
Reagan County - classification
Reeves County - staffing
Sherman County - lighting
Stonewall County - lighting
Tarrant County - population
Terry County - population
Titus County - classification
Waller County - staffing
Wheeler County - staffing

Action is being taken by all of the above thirty five (35) counties to correct the deficiencies and achieve compliance.

H. Jail Closings

During 1986, 13 counties had closed jails. In most instances, these jails were marginally operational. Average daily populations were very small. These counties determined that it was economically burdensome to continue jail operations and opted to board their few prisoners in an adjacent county at a lower cost than maintaining their own facilities. One jail, Edwards County, was closed by Remedial Order in 1985 and remained closed. It is interesting to note however that several of these counties have approached the Commission concerning the re-opening of their jail.

Discussions are continuing. These counties are marked with an asterisk.

Those counties using the jails of adjoining counties are:

Borden	Irion	McMullen
*Briscoe	Jeff Davis	Motley
*Concho	Kent	Palo Pinto (re-opened and certified)
*Edwards	King	*Rains (new jail opened and operating)
		*Throckmorton

I. NEW JAILS OPENED

Sixteen counties, up three from last year, opened new jails for operation during the year.

Collin	Kendall	Starr
Deaf Smith	Rains	Tarrant
Jasper	Reeves	Travis
Johnson	Shelby	Upshur
Kaufman	Smith	Webb
		Williamson

J. MAJOR RENOVATIONS COMPLETED.

Five counties, down seven from last year, completed major renovation during the year.

Bowie	Palo Pinto
Crosby	Smith
Johnson	

K. JAILS UNDER PLANNING OR INTO CONSTRUCTION

Thirty-two counties commenced planning new jails or renovation during the year, down six from last year. Forty-five (45) counties entered into construction during the year, up fourteen from last year.

Planning

Bell (N)	Galveston (N)*	Midland (R)	Tarrant (N)
Bexar (N)	Guadalupe (N)	McLennan (N)	Travis (N)
Brazos (R)	Harris (N)	Montgomery (N)	Tyler (N)
Cooke (R)*	Hays (N)	Navarro (N)	Waller (N)
Dallas (Low Risk)*	Hood (R)	Panola (N)*	Webb (R)*
Denton (N)	Jackson (R)*	Polk (N)	Wichita (R)*
Ellis (T)	Live Oak (R)*	Reagan (N)	Wise (N)
Frio (N)	Lubbock (R)	Rusk (N)	Wood (N)

Construction

Anderson (N)	Concho (N)	Harris (R)	Nacogdoches (R)
Archer (R)	Crockett (R)(P)*	Henderson (N)	Nueces (R)
Atascosa (R)*	Dimmit (N)*	Hill (R)*	Palo Pinto (R)*
Bastrop (R)	Eastland (N)(P)	Johnson (N)	Parker (N)
Bosque (R)	Ellis (N)	Lamar (R)*	Potter (N)
Brewster (N)*	Edwards (N)	Lampasas (R)*	Presidio (N)(P)*
Caldwell (N)	Erath(N)	Limestone (N)	Robertson (N)
Cherokee (N)	Franklin (N)	Lubbock (N)(P)	Rockwall (N)
Collin (R)*	Freestone (R)*	Milam (R)	Smith (R)*
Tarrant (N)	Travis (R)	Willacy (N)	Young (N)*
Throckmorton (N)	Wilbarger (N)*	Williamson (N)	Zapata (R)*
			Zavala (N)(P)*

* = Certified

(P) = Developed under private auspices

OTHER 1986 EVENTS

A. Legislative Events

The falling price of oil in 1986 created a depressed economy across the state of Texas. This resulted in a shortfall of revenues for the state. To respond to this anticipated deficit, Governor White issued Executive Order 36, dated February 18, 1986. This Order immediately put a halt to all hiring and required agencies to achieve a 13% reduction in their FY 86 budget.

The immediate effect of this Order was to preclude hiring a replacement for the agency's Planning Assistant, the deliverer of Technical Assistance (this position had been vacated in January with the resignation of the incumbent). The lack of this person meant that the responsibility for Technical Assistance would now be shared by other staff. However, the 13% reduction in the FY 86 budget eliminated all travel funds associated with the position as well as the salary for the position. For all practical purposes on site Technical Assistance was eliminated.

The Legislature met in Special Session on August 6, 1986 and September 5, 1986. During these sessions, the reduction in FY 86 budget was ratified. Further, the Legislature required that FY 87 budgets be reduced by 10%. The impact of this reduction will be addressed in the CY 1987 report.

B. Sheriffs Resource Council

The Sheriffs Resource Council met with staff of Texas Commission on Jail Standards in El Paso, July 29, 1986. The Council presented a Resolution to be sent to all Legislators at the beginning of the next regular legislative session urging them to restore to the Commission the funding to perform Technical Assistance.

A new Sheriffs Resource Council was appointed July 30, 1986. This council met with the staff of Texas Commission on Jail Standards in Huntsville, October 23, 1986 during the Jail Management Conference. The only subject of discussion was one sheriffs' complaint on the results of an inspection.

C. Commissioners Court Activities

The Executive Director of Texas Commission on Jail Standards attended the following annual conferences.

February 25 and 26, 1986 - 28th Annual County Judges and Commissioners Training Conference - College Station.

March 26 and 27, 1986, West Texas Judges and Commissioners Conference - Abilene.

June 11 - 12, 1986, North and East Texas Judges and Commissioners Conference - Texarkana.

June 25 - 26, 1986 South Texas Judges and Commissioners Conference - Laredo.

October 9 and 10, 1985 - Texas Judges and Commissioners Conference - Beaumont.

These conferences were well attended and the Judges and Commissioners all appeared to be aware of individual jail situations. The Executive Director was immediately available to all and consultations were frequently held concerning jail population reductions means and additional jail space. This awareness and self motivation and self activation appears to be the result of Texas Commission on Jail Standards policy of education, facilitation and technical assistance towards counties on jail matters. On two occasions the Executive Director addressed the assembly on the impact fourth degree felony legislation would have on County Jails.

At the Texas Judges and Commissioners Conference in October, the assembly adopted a Resolution urging the Legislature to restore funding to the Jail Commission to permit Technical Assistance to again become available.

D. Training Activities

January 15 - 17 - Testing and Standardization of Detention Equipment - attended by Executive Director - San Diego.

January 21 - Electronically Supervised House Detention - attended by Executive Director - Austin.

February 2 - 7 - Jail Architecture Plans Review attended by Planner - Boulder.

February 4 - 6 - State Fiscal Officers Conference - attended by Fiscal Officer - Kerrville.

February 27 - AIDS Workshop (Sponsored by TCJS and SAT) - attended by

Executive Director and staff - Waco.

April 29 - Revenue Enhancement - attended by Executive Director - Austin.

May 1 - Mentally Retarded Offender - attended by Executive Director - Austin.

June 8 - 10 - Southern Regional Jail conference. Attended by Planner.

July 15 - Computer Assisted Design - attended by Executive Director and staff - Austin.

July 25 - New Generation Direct Supervision Jails - attended by Planner.

July 27 - 30 - Sheriffs Association of Texas Conference - attended by Executive Director and staff - El Paso.

August 11 - 12 - American Correctional Association Congress - attended by Executive Director - Las Vegas.

October 22 - 24 - Annual Jail Management Conference - attended by Executive Director and staff - Huntsville.

December 19 - NIC Jail Managers Workshop attended by Executive Director - Huntsville.

E. Other Events

In June 1986 the Federal District Court in Austin, Texas dismissed the class action lawsuit Bush v. Viterna. ACLU, attorneys for the plaintiffs indicated an appeal.

In October, 1986 the 5th Circuit Court of appeals in New Orleans upheld the dismissal by the district court of Bush v. Viterna. ACLU, attorneys for the plaintiffs, declined to appeal further.

As of December 31, 1986 the Texas Commission on Jail Standards was

involved in no litigation in federal court. Two cases, including Texas Commission on Jail Standards as defendant, were pending in state district courts.

F. Remedial Orders

Texas Commission on Jail Standards issued nine Remedial Orders in 1986. One jail, Palo Pinto County was closed as a result. However, the County corrected all deficiencies and the jail was reopened and certified. Other counties receiving Remedial Orders, corrected deficiencies in short order or reduced populations to acceptable levels. See page 5.

CONCLUSION

As in 1985, this year saw a reduction in the number of certified jails. At year's end, 171 jails were certified. During the year 23 were certified or recertified after losing certification. 31 jails lost certification during the year. The vast majority which lost certification did so because of population problems. The increases in jail population across the state are caused, primarily, as in last year, by:

1. The Attorney General is stringently enforcing child support orders with the result that miscreants are being sentenced to incarceration for contempt.

2. The mandatory sentencing of repeating DWI offenders is being felt, with increased number of such offenders being sentenced to incarceration.

3. Probation, increasingly used as a means of keeping TDC population controlled, results in proportionately more probation violations. Violators are confined in jail until hearings are being held

to determine disposition.

4. Parole, also used increasingly as a means to control TDC population, results, proportionately, in more parole violations. Violators are held in jail until a hearing is possible, sometimes many weeks passing. All add up to increased jail population for most jails across the state.

Counties with jail population problems are all addressing their situation by planning for additional space and by implementing programs to reduce existing populations through expanded bonding programs or more efficient application of the various facets of the criminal justice system.

The other significant course for lack of certification, or decertification, is staffing. The larger jails in the State are staffed to perform required supervision plus all the ancillary activities associated with a facility. Many of our smaller jails, which in years past have been able to get by with one supervisor on duty around the clock, now find that the sheer logistics of operating a more populated jail is beyond the capability of a limited staff. Yet to insure that purchasing, maintenance, visitation, exercise and transportation to court, hospital, etc. is conducted as required and necessary means additional staff. Smaller (less populated) counties are loath to hesitate to address this problem at its initial revelation. Even so, all counties ultimately do provide adequate staffing for their jails.

On December 31, 1986 there were 24196 County Jail bunks available in the state. The average daily population at that date was 20495. The operational capacity, statewide, based on total bunk availability less 20% was 19357. The operational capacity rate was 106%. Compared with 1985 there has been a 8% decrease in the operational capacity. This despite a

6.9% increase in total bunk availability.

The incarceration rate is 1.23 per one thousand of general population. This is up from the 1985 rate of 1.11. This increased rate reflects the pressures caused by the four factors enumerated above.

Counties continue, for the most part, to take the initiative in recognizing and addressing jail problems. Most counties recognize the reduction in litigation generally, and successful litigation specifically, that has occurred these past seven years. These reductions are directly attributable to the existence of Texas Minimum Jail Standards and the presence of Texas Commission on Jail Standards which enable counties to achieve compliance, either through assistance and consultation or enforcement proceedings.

It is unpredictable as to how long this benevolent climate will exist. The forthcoming regular legislative session must address serious funding and budget problems. Already drastic reductions in funding, personnel and services, may be further reduced. Further, a fourth degree felony may be created as a means of reducing population pressures in the prison system. These felony prisoners would serve sentences, not to exceed two years, in the county jail. If this occurs, it is estimated that there will be an increase in jail population of 4000 the initial 12 months after legislation, increasing to 6000 the next 12 months. Counties will be unable to cope with these populations. The gains of the past ten years will be lost and litigation will again become rampant.

Respectfully submitted,



Amber Cree, Chairman
1450 Tanglewood Road
Abilene, Texas 79605
(915)692-2267

APPENDIX I

ORGANIZATIONS INSTRUMENTAL IN CREATING
THE TEXAS COMMISSION ON JAIL STANDARDS

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