

TEXAS COMMISSION ON JAIL STANDARDS

ANNUAL REPORT TO THE GOVERNOR,
LIEUTENANT GOVERNOR AND SPEAKER OF
THE HOUSE OF REPRESENTATIVES OF TEXAS

January 31, 1980

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ACQUISITIONS

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LIEUTENANT GOVERNOR AND SPEAKER OF
THE HOUSE OF REPRESENTATIVES OF TEXAS

January 31, 1980

COMMISSION MEMBERS
(As of January 31, 1980)

Stephen H. Suttle, Chairman
Robert J. Uhr, Vice-Chairman
Hanes H. Brindley, M.D.
Judge Albert Bustamante
James Goode
Sheriff Jack Heard
Andrew McMullen
Ronald Ramey
Sheriff Dallas Smith

January 31, 1980

The Honorable William Clements, Jr., Governor, State of Texas
The Honorable William Hobby, Lieutenant Governor, State of Texas
The Honorable Bill Clayton, Speaker, House of Representatives, State of Texas

Gentlemen:

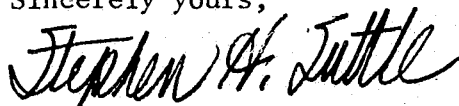
This is the third annual report to you by the Texas Commission on Jail Standards as required by Sec. 10, Art. 5115.1, V.A.C.T.Civ.S. 1977 was the first year that the Commission was fully staffed.

The report will provide you with background information concerning the creation of the Commission, the duties of the Commission delegated by the Legislature, and its accomplishments and activities during 1979.

We think that you will be impressed with the services that this small Commission has provided to our State, the support of its work by county officials, and the value of the Commission's existence, all of which compliment and justify the foresight of the Texas Legislature in creating this agency.

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

Sincerely yours,



Stephen H. Suttle, Chairman
Texas Commission on Jail Standards

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I. CREATION OF THE COMMISSION

By 1975, many county jails in Texas had become deteriorated (60% of the jails were built prior to 1940), and unsanitary (35% had commodes that would not flush). Moreover, they were unsafe and insecure for inmates and jail personnel alike (121 had prisoners unattended at night; 71% had no adequate emergency exits). Suits, particularly in federal courts, against county commissioners and sheriffs were on the increase (approximately 40% of the sheriffs and/or commissioners courts in the state were involved in litigation). Jail conditions and lawsuits were detracting from and deterring law enforcement efforts. A number of professional and civic organizations (See Appendix I) strongly encouraged the 64th Legislature to act to protect county authorities from conflicting, inconsistent and non-uniform federal court orders and to improve the jail environment for both inmates and guards. Acting responsibly to meet these needs and situation, the Legislature revised Article 5115 VACS to create "a commission on jail standards with the authority and responsibility to administer . . . laws relating to standards for county jails."

II. DUTIES OF THE COMMISSION

H. B. 272 (Article 5115.1) established the Texas Commission on Jail Standards and required it 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

III. EARLY ACCOMPLISHMENTS 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 constitutional 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 was 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, supervisory and sophisticated equipment and safety functions) technical assistance has continued to be an important ongoing activity, demanding significant effort, expertise and 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 architectural firms by December 20, 1976. This service has become one of the most extensive and best received by county authorities and their architects, and counties have realized significant economic benefit from the suggestions and coordinated planning of the Commission, architects, county commissioners, and sheriffs.

IV. 1979 ACTIVITIES

A. Jail Inspections.

During the year, 291 jail inspections were conducted. In some instances, a jail was inspected more than once, at the request of the county. For instance, El Paso County Jail requests inspections quarterly so that the Federal Court remains assured of its continued adherence to Court directed action as evidenced by inspections. Every operating jail, lock-up and low-risk facility in the state (approximately 265 in all) was inspected at least once.

B. Assistance to Counties.

Technical assistance and consultation on jail matters (structure, life safety, management) was provided to county officials on 115 occasions. Much of this assistance was rendered in the particular county. On other occasions, the county authorities or their agents visited the Austin Office where the discussions were conducted. In all, 318 discussions were conducted with County Judges and Commissioners Court and Sheriffs concerning the most economical and feasible way to achieve compliance with the state and federal law. In addition, municipalities requested, on 9 occasions, information and assistance with jail construction or renovation. While municipal jails are not required to conform to Jail Standards, these municipalities all stated confidence in the Commission to provide them unbiased information and guidance upon which to base decisions.

C. Investigation and Resolution of Complaints.

The Commission investigated forty-two (42) such complaints received directly or referred from the Governor's Office, Legislators, other state agencies, civic organizations or prisoners. The investigations either alleviated conditions in need of correction or established the falsity of the allegation and eliminated the capricious filing of a lawsuit.

D. Construction Plan Reviews.

Twenty-seven (27) counties submitted construction renovation plans for review in 1979. Arranged in three stages, the time required for review can vary from two hours to two days depending upon the size and complexity of the facility.

E. Determination of Reasonable Variance Requests.

Requests for variances were received and processed from 108 counties. Each of these 535 separate requests were individually analyzed and determined by the Commissioners during the year's six meetings.

F. Enforcement Proceedings.

Letters of Non-Compliance were sent to fifty-eight (58) counties whose jails were not in compliance and had taken little or no action toward resolving their problems. In almost every instance, the counties receiving the notices have taken responsible action toward upgrading their facilities to meet the requirements of state law.

G. Counties in Compliance.

During the year, 20 county jails achieved complete compliance with the Texas Minimum Jail Standards.

Aransas	Erath	Orange	Upshur
Cass	Falls	Palo Pinto	Van Zandt
Coryell	Goliad	Roberts	Washington
Denton	Hood	Scurry	Wood
DeWitt	Lamar	Shackelford	Yoakum

H. Voluntary Jail Closings.

During the same period, 11 counties voluntarily closed their jails. In all instances, these jails were marginally maintained and operated and average daily population was one (1) inmate or less. The counties determined that it was economically burdensome to continue jail operations opted to board their few prisoners in any adjacent county at a lower cost than maintaining their own facilities. These counties using the

jails of adjoining counties are:

Borden	Donley	Jeff Davis	McMullen
Brisco	Glasscock	Kenedy	Throckmorton
Concho	Hall	Kent	

I. New Jail Opened.

Six (6) counties opened new jails for operation during the year:

Eosque	Hays	Real
Collins	Kerr	Yoakum

J. Major Renovations Completed.

Bexar	Goliad	Marion	Williamson
Comal	Kimble	Scurry	Washington

V. Other 1979 Events

A. Sheriff's Resource Council and Coordination with County Judges and Commissioners.

In July, the Jail Commission and the Sheriffs' Association of Texas established a Resource Council. This council, composed of eight (8) sheriffs represents all geographic areas of the state as well as representative size jails. The Council meets with the Jail Commission semi-annually to present problems and viewpoints to the Commission and to discuss issues which relate to jail management, operation and structure and to the Jail Standards. The first meeting was held December 11, 1979. (See Appendix 2).

Similar comments and suggestions will be solicited from members of the Texas County Judges and Commissioners Association. That Association

has requested the Executive Director to attend their meetings, where time will be made available on the agenda for discussions of the minimum standards and their application. The first meeting of this nature occurred on November 26, 1979.

B. Federal Courts Return Supervision of Texas Jails to Texas' Commission.

In August, 1979 the Fifth Circuit Court of Appeals (New Orleans) rendered a decision in the Taylor v. Sterrett case. The decision provided a new direction for federal courts in Texas with respect to their supervision of Texas county jails. The Circuit Court ordered the District Court which had therefore assumed continuing jurisdiction over the Dallas jail to "desist". The Fifth Circuit pointed out that the State of Texas had an agency that had assumed the responsibility for proper management of county jails; and that unless a constitutional issue was involved, federal courts were bound to practice a policy of "minimum intrusion". The gist of the decision is:

"Moreover, in 1975, the State of Texas by statute created a Commission on Jail Standards to enforce a state policy "that all county jail facilities . . conform to certain minimum standards of construction, maintenance and operation". . . Unlike the federal courts therefore which "are not prison managers", the Commission is charged with supervising the day to day administration and long term planning in Texas County Jails. The establishment of this body indicates a strong state commitment to improving conditions in those jails Thus, it is apparent that control of county jails must now be returned to local and state jurisdiction. .".

This unequivocal recognition of the Jail Commission by the Fifth Circuit Court of Appeals is the endorsement to justify the establishment of the Commission and endorsement of the job done by the Commission to date.

C. Legislator's Survey of Commission's Effectiveness.

The House Security and Sanctions Committee established in September, 1979 a subcommittee chaired by Representative Jim Rudd, to inquire into the operation of the Jail Commission. Part of this inquiry was a survey questionnaire sent to all county judges and sheriffs during October. The results of the survey were published by Representative Rudd at a meeting of his subcommittee on November 16, 1979. (See Appendix 3). There was substantial support for the Jail Commission and its work (80%-90% affirmative or positive responses) on all questions except one. That question asked whether there should be different standards for rural and urban jails. Fifty percent of persons polled favored a single standard; forty-five percent favored dual standards.

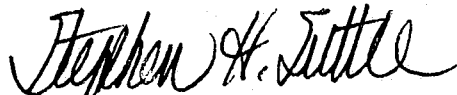
VI. CONCLUSION

1979 was a year of accomplishment for the Jail Commission. Inspection techniques, reviews, procedures and reports were streamlined. Time made available from this increased efficiency was used to deliver more and better technical assistance to counties and their individual problems. Responding to Legislative Budget Board staff criticism, enforcement of the state law was begun in October with the issuing of Notices of Non-Compliance. As of the close of the year, 15% of county jails in Texas were in compliance; 6 new jails had been completed; 8 jails had been renovated and modernized; 47 jails were in the process of new construction or major renovation; 13 counties were in the process of a final study to determine their need in jail matters. As established by a survey conducted

by the House Security and Sanctions Subcommittee, the Jail Commission has received widespread acceptance through the state and has been working harmoniously with Sheriffs and Judges/Commissioners associations to ensure continued, cooperative progress in jail matters.

On the national scene, the Commission, with its construction and administrative standards, its annual inspection, its reasoned enforcement, and its training requirements for jailers, appears to have pioneered for the first time a uniform set of constitutional minimum standards for jail facilities and administrative practices. In so doing, it is respectfully submitted that the Commission has been and is fulfilling the intent of the Legislature and goals of its enabling statute. Moreover, it appears that in receiving the delegation of supervisory authority from the federal courts, the Commission has served the further function of returning Texas jails to Texas administrators and, concomitantly, has provided Texas county officials with a uniform set of standards, predictably and consistently applied - a striking contrast to the expensive, non-uniform unpredictable federal court orders of a few years ago.

Respectfully submitted,



STEPHEN H. SUTTLE
P. O. Box 1440
Abilene, TX 79604
(915) 677-9138

APPENDIX 1

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 on Humanities
12. Texas Junior Bar Association
13. Texas Library and Historical Commission
14. Texas Rural Legal Aid
15. Women in Action

APPENDIX 2

Sheriff's Advisory Council Meets

The Texas Sheriff's Association and the Texas Commission on Jail Standards got together last summer and developed an idea for a council of sheriffs that would meet regularly with the Jail Commission to exchange thoughts, ideas and viewpoints on county jail matters. At the Annual Convention in Corpus Christi, in July, 1979, members of the council were appointed by the Sheriffs Association Executive Committee. They are:

Sheriff Lon Evans, Tarrant County

Sheriff T. L. Baker, Potter County

Sheriff John Gibson, Wichita County

Sheriff Royce Wilson, Leon County

Sheriff Dan Saunders, Martin County

Sheriff Richard Thompson, Presidio County

Sheriff Paul Fields, Kerr County

Sheriff Orval Edminston, Schleicher County

These sheriffs, representing all sizes of jails from large to small, and also representing widespread geographical areas, met in Austin on December 11, 1979, in the conference room of the Texas Commission on Jail Standards. Present from the Jail Commission were Mr. Steve Suttle, Commission Chairman; Bob Viterna, Executive Director of the Commission; Supervising Inspectors Bob Dearing, Joe Slater and Maurice Wood as well as Jack

Crump the Planner for the Commission. Attending also for the Sheriff's Association was Gordon Johnson the executive Director. Topics discussed at the meeting were:

(1) The acceptance of the Texas Minimum Standards on eight occasions in six Federal Courts in Texas and the recognition of their constitutionality;

(2) The suggested repeal of Article 6871, V.A.Tex.Civ.S. which requires an excessive number of jailers;

(3) Visitation rights and/or privileges including contact and conjugal visits, practices and procedures;

(4) The dangers wearing of firearms within the Security perimeter of the jail;

(5) The latest information on training for Jail Guards/Corrections Officers as presented by Mr. Fred Toler, Executive Director of the Texas Law Enforcement Officer Standards and Education Commission; and

(6) The Availability of surplus commodities through the Department of Agriculture service programs to county jails under Section 410 of the Agricultural Act of 1949.

APPENDIX 3

Jail Standards Survey
 House Committee on Security & Sanctions
 October, 1979

RESPONSES, to November 16, 1979

Total 91

1. The Jail Standards Commission was established as a way to avoid federal intervention into local affairs. In what ways has the agency proved beneficial or detrimental to your county in jail operations? Discuss fully.

"Beneficial" 78 = 85%

"Detrimental" 14 = 15%

2. Types of standards enforced by the Commission may be categorized as (a) physical, (b) operational, or (c) safety-oriented. In which of these areas has your county experienced the most interaction with the Jail Standards Commission?

Physical 28 = 26%

Operational 16 = 15%

Safety 41 = 38%

All three 19 = 18%

None 4 = 3%

3. Sheriffs are charged by law with maintaining safe and suitable county jails. In your opinion, has the Jail Standards Commission infringed upon the statutory or constitutional responsibilities of county sheriffs? Discuss as fully as possible.

Yes, have infringed 16 = 18%

No, have not infringed 73 = 82%

4. The Jail Standards Commission operates through a system of written forms. In your opinion, are these forms clear and understandable? Is the information sought in these forms relevant to the agency's responsibilities? Discuss as fully as possible.

Forms are clear, relevant 72 = 91%

Forms unclear 7 = 8%

5. The Standards established by the Commission are the same for both urban and rural jails. Do you believe these standards to be suitable to all types of facilities within the State? If not, please describe problem areas.

Standards should be same 44 = 50%

Standards should be different 39 = 44%

Don't Know 5 = 6%

6. As provided by law, the Commission may grant variances to local officials to meet unique situations. In your opinion, has the agency acted responsibly in granting variances? Please give examples.

Variances granted responsibly 73 = 65%

Not responsibly 2 = 2%

Don't know 13 = 12%

Provided examples 25 = 22%

7. Some counties may be able to save local taxpayers by consolidating efforts with surrounding counties to create "regional" jails. In your opinion, would such an effort be feasible and desirable in your area? Discuss fully.

Would be suitable for own county	<u>21</u>	=	15%
Would not be suitable for own county	<u>67</u>	=	47%
Have already considered	<u>22</u>	=	15%
Cited cost of transporting prisoners	<u>34</u>	=	24%

* * *

Also, twenty-two of the responses mentioned that the Commission had affected local conditions by alerting commissioners courts that funding of improvements is necessary.

END