

# **Texas Commission on Jail Standards Workshop Workbook**

**August 1, 2012  
1:00 p.m.**



**John H. Reagan Bldg.  
105 W. 15th Street  
1st Floor, Room 120  
Austin, Texas**

## TEXAS COMMISSION ON JAIL STANDARDS

### WORKSHOP AGENDA

Date: August 1, 2012

Time: 1:00 p.m.

Place: John H. Reagan Bldg.  
1st Floor, Room 120  
105 W. 15th Street  
Austin, TX 78701

I. Meeting called to order

II. Roll call of commission members

Judge Donna Klaeger, Chair  
Commissioner Stanley Egger, Vice Chair  
Ms. Irene Armendariz

Mr. Allan D. Cain  
Mr. Jerry W. Lowry  
Mr. Larry S. May

Sheriff Gary Painter  
Dr. Michael M. Seale, M.D.  
Sheriff Tam Terry

III. Workshop Review of Process and Goal

IV. Standards to be Discussed

A. General

251.6 (d) Complaints

259.138 (d) Remote Holding Cells

259.167 Audible Communications

275.7 Supervision Outside the Security Perimeter

289.4 Work Assignments

V. New Business

A. Discussion of any proposed changes to standards.

The Board may meet in Closed Session on any item listed above if authorized by the Texas Open Meetings Act, Texas Government Code Ann. Ch. 551.

This meeting will be streamed live from <http://www.capitol.state.tx.us/>. Click on the link for House video broadcasts.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters or persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Rodney Valls at 512/463-8084 two (2) working days prior to the meeting so that appropriate arrangements can be made.

## Workshop Review-Process and Goals

At the end of the May 2012 workshop session, all current standards had gone through a public comment period and had been discussed in the workshop setting. Standards that have received multiple or dissenting comments will be carried forward into future workshop sessions for further discussion and possible assignment to a committee for resolution. Standards not receiving comments or those that the commission believes to be resolved may be acted upon at its discretion.

One submission regarding 275.3 Correctional Officer Pay was received since the last meeting. This standard has been identified by staff as unenforceable and repeal recommended. The submission requested clarification on the intent of the rule.

Since last workshop and commission meeting, four issues were sent to committees which met via teleconference to discuss their charges. A summary of each is provided in the workbook under the section that is applicable

Complaints

Remote Holding Cells

Audible Communications

Supervision outside the Security Perimeter

A color coded matrix is included listing all standards and their status. This matrix will be updated following each workshop and commission meeting in order to accurately reflect the status of each standard in the process.

At this time, the only standards that have advanced out of the workshop phase are the two associated with the use of restraints on pregnant inmates. They were published in the Texas Register for official comment, and with no comments received, will be an action item during the commission meeting.

If directed by the Commission, staff will identify standards that have completed the process and are ready for the next phase for inclusion on the November 2012 Commission Meeting agenda for possible action. In addition, staff will include any recommendations from the Commission on standards that they believe should be included on the November agenda for possible action. Any standard so identified will be placed on the workshop agenda for final review and comment in addition to the meeting agenda.

# Standards Timeline

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>General</b>							
251.1	Authority	None	Not Applicable	2/12			
251.2	Severability	None	Not Applicable	2/12			
251.3	Opinions/Advice	None	Not Applicable	2/12			
251.4	Captions of Rules	None	Not Applicable	2/12			
251.5	Precedent	None	Not Applicable	2/12			
251.6	Complaints	Yes	Yes-5/23	2/12, 5/12, 8/12			
<b>Definitions</b>							
253.1(1)	Admin. Sep.	Yes	Yes-4/30	2/12 & 5/12			
253.1(2)	Allied Health Personnel	None	Not Applicable	2/12			
253.1(3)-(5)		None	Not Applicable	2/12			
253.1(6)	Correctional Facility	Yes-For	Not Assigned	2/12 & 5/12			
253.1(7)	County Jail	Yes-For	Not Assigned	2/12 & 5/12			
253.1(8)	Direct Supervision	Yes-For	Not Assigned	2/12 & 5/12			
253.1(9)-(11)		None	Not Applicable	2/12			
253.1(12)	Guard Station	Yes-For	Not Assigned	2/12 & 5/12			
253.1(13)-(15)		None	Not Applicable	2/12			
253.1(16)	Holding Cell	Yes-For	Not Assigned	2/12 & 5/12			
253.1(17) & (18)		None	Not Applicable	2/12			
253.1(19)	Jailer	Yes-For	Not Assigned	2/12 & 5/12			
253.1(20)-(35)		None	Not Applicable	2/12			
253.1(33)	Supervisor	Yes	Yes-4/30	2/12 & 5/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Rule Making Procedures</b>							
255.1-.3		None	Not Applicable	2/12 & 5/12			
255.4	Petition of Interested Persons	Yes-For	Not Assigned	2/12 & 5/12			
255.5	Validity	None	Not Applicable	2/12 & 5/12			
<b>Construction Approval Rules</b>							
257.1-.8		None	Not Applicable	2/12 & 5/12			
257.9	Laws Applicable	Yes	Yes-4/13	2/12 & 5/12			
257.10	Accessibility Review	None-Staff	Not Applicable	2/12 & 5/12			
257.11	Facilities Exempt from New Standard Requirements	None	Not Applicable	2/12 & 5/12			
<b>New Construction Rules</b>							
259.1-.3	General	None	Not Applicable	2/12			
259.100-.114		None	Not Assigned	2/12			
259.115	Functions	Yes	Yes-4/30	2/12 & 5/12			
259.116-.121		None	Not Applicable	2/12			
259.122	Control Rooms	Yes	Yes-4/30	2/12 & 5/12			
259.123-.137		None	Not Applicable	2/12			
259.138	Holding Cells	Yes	Yes-4/12	2/12 & 5/12			
259.139-.142		None	Not Applicable	2/12			
259.143	Furnishings for Inmate Housing Areas	Yes	Yes-4/13	2/12 & 5/12			
259.144-.149		None	Not Applicable	2/12			
259.150	Food Passes	Yes	Yes-4/13	2/12 & 5/12			
259.151-.166		None	Not Assigned	2/12			
259.167	Audible Communication	Yes	Yes-4/30	2/12 & 5/12			
259.168-.170		None	Not Applicable	2/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
259.200-.215		None	Not Applicable	2/12			
259.216	Functions	Yes	Yes-4/30	2/12 & 5/12			
259.217-.222		None	Not Applicable	2/12			
259.223	Control Rooms	Yes	Yes-4/30	2/12 & 5/12			
259.224-.238		None	Not Applicable	2/12			
259.239	Furnishings	Yes	Yes-4/13	2/12 & 5/12			
259.240-.245		None	Not Applicable	2/12			
259.246	Food Passes	Yes	Yes-4/13	2/12 & 5/12			
259.247-.262		None	Not Applicable	2/12			
259.263	Audible Communication	Yes	Yes-4/30	2/12 & 5/12			
259.264-.264		None	Not Applicable	2/12			
259.300-.312		None	Not Applicable	2/12			
259.313	Functions		Yes-4/30	2/12 & 5/12			
259.314-.317		None	Not Applicable	2/12			
259.318	Control Rooms		Yes-4/30	2/12 & 5/12			
259.319-.332		None	Not Applicable	2/12			
259.333	Furnishings		Yes-4/13	2/12 & 5/12			
259.334-.339		None	Not Applicable	2/12			
259.340	Food Passes		Yes-4/13	2/12 & 5/12			
259.341-.356		None	Not Applicable	2/12			
259.357	Audible Communication		Yes-4/30	2/12 & 5/12			
259.358-.359		None	Not Applicable	2/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
259.400-.412		None	Not Applicable	2/12			
259.413	Functions	Yes	Yes-4/30	2/12 &5/12			
259.414-.417		None	Not Applicable	2/12			
259.418	Control Rooms	Yes	Yes-4/30	2/12 &5/12			
259.419-.431		None	Not Applicable	2/12			
259.432	Furnishings	Yes	Yes-4/13	2/12 &5/12			
259.433-.437		None	Not Applicable	2/12			
259.438	Food Passes	Yes	Yes-4/13	2/12 &5/12			
259.439-.452		None	Not Applicable	2/12			
259.453	Audible Communication	Yes	Yes-4/30	2/12 &5/12			
259.454-.455		None	Not Applicable	2/12			
259.500-.513		None	Not Applicable	2/12			
259.514	Guard Stations	Yes	Yes-4/30	2/12 &5/12			
259.515-.519		None	Not Applicable	2/12			
259.520	Audible Communication	Yes	Yes-4/30	2/12 &5/12			
259.521-.522		None	Not Applicable	2/12			
259.600-.613		None	Not Applicable	2/12			
259.614	Guard Stations	Yes	Yes-4/30	2/12 &5/12			
259.615-.619		None	Not Applicable	2/12			
259.620	Audible Communication	Yes	Yes-4/30	2/12 &5/12			
259.621-.622		None	Not Applicable	2/12			



Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
259.700-.714		None	Not Applicable	2/12			
259.715	Functions	Yes	Yes-4/30	2/12 &5/12			
259.716-.721		None	Not Applicable	2/12			
259.722	Control Rooms	Yes	Yes-4/30	2/12 &5/12			
259.723-.744		None	Not Applicable	2/12			
259.745	Furnishings	Yes	Yes-4/13	2/12 &5/12			
259.746-.751		None	Not Applicable	2/12			
259.752	Food Passes	Yes	Yes-4/13	2/12 &5/12			
259.753-.768		None	Not Applicable	2/12			
259.769	Audible Communication	Yes	Yes-4/30	2/12 &5/12			
259.770-.771		None	Not Applicable	2/12			
<b>New Construction-County Correctional Center</b>							
260.1-.3		None	Not Applicable	2/12			
260.100-.112		None	Not Applicable	2/12			
260.113	Functions	Yes	Yes-4/30	2/12 &5/12			
260.114-.117		None	Not Applicable	2/12			
260.118	Guard Stations	Yes	Yes-4/30	2/12 &5/12			
260.119-.136		None	Not Applicable	2/12			
260.137	Furnishings	Yes	Yes-4/13	2/12 &5/12			
260.138-.143		None	Not Applicable	2/12			
260.144	Food Passes	Yes	Yes-4/13	2/12 &5/12			
260.145-.160		None	Not Applicable	2/12			
260.161	Audible Communication	Yes	Yes-4/30	2/12 &5/12			
260.162-.163		None	Not Applicable	2/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Existing Construction</b>							
261.100-.114		None	Not Applicable	2/12			
261.115	Functions	Yes	Yes-4/30	2/12 & 5/12			
261.116-.121		None	Not Applicable	2/12			
261.122	Guard Stations	Yes	Yes-4/30	2/12 & 5/12			
261.123-.166		None	Not Applicable	2/12			
261.167	Audible Communication	Yes	Yes-4/30	2/12 & 5/12			
261.168-.171		None	Not Applicable	2/12			
261.200-.214		None	Not Applicable	2/12			
261.215	Functions	Yes	Yes-4/30	2/12 & 5/12			
261.216-.221		None	Not Applicable	2/12			
261.222	Guard Stations	Yes	Yes-4/30	2/12 & 5/12			
261.223-.261		None	Not Applicable	2/12			
261.262	Audible Communication	Yes	Yes-4/30	2/12 & 5/12			
261.263-.266		None	Not Applicable	2/12			
261.300-.311		None	Not Applicable	2/12			
261.312	Functions	Yes	Yes-4/30	2/12 & 5/12			
261.313-.316		None	Not Applicable	2/12			
261.317	Guard Stations	Yes	Yes-4/30	2/12 & 5/12			
261.318-.356		None	Not Applicable	2/12			
261.357	Audible Communication	Yes	Yes-4/30	2/12 & 5/12			
<b>Life Safety</b>							
263.1-.50		None	Not Applicable	2/12			
263.51	Smoke Management	Yes	Not Assigned	2/12			
263.52-.90		None	Not Applicable	2/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Admission</b>							
265.1	Receiving	Yes	Not Assigned	2/12 & 5/12			
265.2	Search	Yes	Yes-4/30	2/12 & 5/12			
265.3-.10		None	Not Applicable	2/12			
265.11	Shower	Yes	Yes-4/30	2/12 & 5/12			
265.12	Communicable Disease	None	Not Applicable	2/12			
<b>Release</b>							
267.1-.5	Release	Yes	Not Assigned	5/12			
<b>Records &amp; Procedures</b>							
269.1-.4		None	Not Applicable	5/12			
269.10-.14		None	Not Applicable	5/12			
269.20-.32		None	Not Applicable	5/12			
269.40-.43		None	Not Applicable	5/12			
<b>Classification &amp; Separation of Inmates</b>							
271.1-.2		None	Not Applicable	5/12			
271.3	Training	Yes	Yes-4/30	2/12 & 5/12			
271.4-.7		None	Not Applicable	5/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Health Services</b>							
273.1	Health Services	None	Not Assigned	5/12			
273.2	Health Services Plan	Yes	Yes-4/12	2/12 & 5/12	5/12	8/12	
273.3-.4		None	Not Assigned	5/12			
273.5	Mental Disabilities	Yes	Not Assigned	5/12			
273.6	Restraints	Yes	Yes-4/12	2/12 & 5/12	5/12	8/12	
273.7	Tuberculosis	None	Not Assigned	5/12			
273.8	Health Services	Yes	Not Assigned	5/12			
<b>Supervision of Inmates</b>							
275.1	Regular Observation	Yes	Yes-4/30	2/12 & 5/12			
275.2	C.O. Training	Yes	Yes-4/30	2/12 & 5/12			
275.3	C.O. Pay	Yes	Not Assigned	2/12			
275.4	Staff	Yes	Yes-4/30	2/12 & 5/12			
275.5	Census	Yes	Yes-4/30	2/12 & 5/12			
275.6	Searches	None	Not Applicable	5/12			
275.7	Supervision Outside	Yes	Yes-4/30	2/12 & 5/12			
<b>Clothing, Personal Hygiene &amp; Bedding</b>							
277.1-.6	None	None	Not Assigned	2/12			
277.7	Beddings & Linens	Yes	Not Assigned	2/12 & 5/12			
277.9-.10	None	None	Not Assigned	2/12			
<b>Sanitation</b>							
279.1		Yes	Not Assigned	2/12 & 5/12			
279.2-.3	None	None	Not Applicable	5/12			

Title		Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Food Service</b>							
281.1-.6		None	Not Assigned	5/12			
<b>Discipline &amp; Grievances</b>							
283.1	Inmate Discipline Plan	Yes	Not Assigned	2/12 & 5/12			
283.2-.3		None	Not Assigned	5/12			
<b>Recreation &amp; Exercise</b>							
285.1-.4		None	Not Assigned	5/12			
<b>Education &amp; Rehabilitation</b>							
287.1-.4		None	Not Assigned	5/12			
<b>Work Assignments</b>							
289.1-.3		None	Not Assigned	5/12			
289.4	Outside Security Perimeter	Yes	Yes-4/30	2/12 & 5/12			
289.5		None	Not Assigned	5/12			
<b>Services &amp; Activities</b>							
291.1-.5		None	Not Assigned	5/12			
<b>Compliance &amp; Enforcement</b>							
291.1-.7		None	Not Assigned	5/12			
297.8	Remedial Order	None	Not Assigned	5/12			
297.9-.14		None	Not Assigned	5/12			

Title	Comments	Committee	Workshop	Propose-Comment	Propose-Adopt	Comment
<b>Variance Procedure Rules</b>						
299.1-6	None	Not Assigned	5/12			
<b>Fees</b>						
300.1-5	None	Not Assigned	5/12			
<b>Rules of Practice-Contested Cases</b>						
301.1-2	None	Not Assigned	5/12			

### **251.6(d) Complaints**

Staff originally proposed amending 251.6(d) Complaints in order to establish a definitive time period that a county would have in order to respond to a request for information regarding a complaint that the agency received. The agency is required to investigate complaints submitted and may conduct a special inspection in order to determine if any areas of non-compliance are present in accordance with statute (511.0071). Comments submitted and testimony provided at the February and May workshop was in opposition to the proposed change and included the following:

SAT: Vigorously oppose. Concerns about Public Information Act

Nueces: Oppose as too broad, possible litigation issues, does not believe TCJS can decertify on this issue

CUC: Oppose as too vague

Denton: Oppose, concern of conflict with privacy laws

Brazoria: Oppose and concur with SAT position

Discussions at the May workshop clarified that the agency is not requiring the county to have the complaint resolved within 10 days and submit their findings only that the county acknowledge that they have received the request and provide the status of the investigation.

Due to the concerns of stakeholders, this proposed change was assigned to a committee for review and members of the committee conducted a conference call regarding the proposed addition of a complaints standard. TCJS staff outlined the issue of a small minority of sheriff offices not responding to a complaint inquiry.

The committee discussed whether it was necessary to add a new standard and remedies to gain compliance from non-responsive sheriffs. The committee suggested new language to the standard and decided to bring the discussion to the full board for further deliberation.

Pre-committee version

251.6(d) Complaints- When a complaint is filed against a facility, the commission may request information from a facility. Sheriff/operators or their designee shall acknowledge the commission's request for information and/or provide a written response to the commission within ~~a reasonable time frame specified by the commission,~~ **usually 10 business days or earlier, if necessary.**

Post-committee version

251.6(d) Complaints- When a complaint is filed against a facility, the commission may request information from a facility. Sheriff/operators or their designee shall acknowledge the commission's request for information and provide a written response to the commission within **10 business days.**



### **259.138(d) Remote Holding Cells**

El Paso County submitted a proposed change to standards regarding Remote Holding Cells. El Paso County contends that holding cells in substations or similar facilities and used for the temporary detention of arrestees who have not been committed to a correctional facility should not be included in the definition of remote holding cells. As a result, TCJS would not have authority to regulate or inspect these cells. TCJS staff believes that Attorney General Opinion MW-559 and statute extends the commission's purview to all remote holding cells regardless of their intended use.

This issue was discussed at the February and May workshop sessions and it was determined that it would be assigned to a committee for further review and discussion. During the conference call representatives from El Paso contended that the definition of inmate and prisoner contained in Government Code 511 does not include arrestees who have not been booked into a correctional facility. Therefore, MW-559 does not apply in this situation. Some members of the committee agreed with the El Paso representatives. TCJS staff proposed that an interested party should request a new opinion from the Attorney General. However, El Paso County and other members believed that the Attorney General would not provide an opinion in this particular issue as it involved questions of fact.

TCJS Chairwoman inquired whether the current interpretation of Commission authority over the holding cells in question was made by the Commission or by staff. Staff indicated its belief that the interpretation was made by staff only. The committee agreed that remote holding cells that are utilized for court holding are within the Commission's purview. TCJS chairwoman proposed that the issue required further deliberation before the full Commission and members concurred.

#### **El Paso County Proposal**

Adds new sub-section "d" to 259.138

Remote Holding cells do not include holding cells separate from the facility that are only used by peace officer to temporarily detain arrestees who have not been committed to a correctional facility.

### **259.167 Audible Communication**

In an effort to address the issue of supervision of inmates that are detained in court holding cells, staff proposed that 259.167 Audible Communication be amended so as to allow not only jailers, but licensed peace officers (deputy sheriffs) and court bailiffs to fulfill the audible communication requirement. This proposal was put forward in conjunction with a proposed change that would create a new standard that would address the supervision of inmates outside the security perimeter of the jail.

This proposal was discussed at the February and May workshop sessions. Due to the fact that it is linked to the supervision and remote holding cell issue, it was assigned to committee for further discussion and review. Members of the committee proposed new language to include staff designated by the sheriff.

#### Pre-Committee version

**Audible Communication-Two-way communication shall be available at all times between inmates and ~~corrections officer~~ jailers, licensed peace officers, and court bailiffs.**

#### Post-Committee version

**Audible Communication-Two-way communication shall be available at all times between inmates and jailers, licensed peace officers, court bailiffs, *or staff designated by the sheriff.***

Although originally intended to only address the issue of allowing deputies or court bailiffs to answer intercoms at court holding cells, the proposed language could now possibly allow the sheriff to designate a civilian to answer intercoms at any location. It is recommended that this standard move forward only in conjunction with a resolution to the issue of supervision of inmates in court holding cells, otherwise potential conflict between standards would be created by adopting one without the other.

### **275.7 Supervision Outside the Security Perimeter**

This proposed new standard was brought to the Commission by an interested party; however, many stakeholders oppose the standard as infringing on the sheriff's authority. Staff stated that the intent of the new standard was to ensure that peace officers and bailiffs were included in the supervision of inmates in court holding cells as well as jailers. Members of the committee proposed that the standard should be limited to supervision in court holding cells by including specific language in order to eliminate future misinterpretation or misapplication of the proposed new standard.

The issue of including specific language was also brought up during the April 2012 staffing committee call in regards to **275.1 Regular Observation by Corrections Officers** when it was recommended by the committee that wording be re-worked to address secured perimeter of the jail only and not court holding.

#### Current version with recommended committee changes

275.7 Supervision outside the security perimeter-court holding cells. Inmates shall be observed by a peace officer or a jailer licensed by the Texas Commission on Law Enforcement Standards and Education or bailiff when outside the security perimeter-court holding cells. The sheriff/operator shall have an established procedure for documented, face-to-face observation of all inmates no less than once every 30 minutes. One jailer, licensed peace officer or bailiff shall be provided on each floor where 10 or more inmates are detained, with no less than 1 jailer, licensed peace officer, or bailiff per 48 inmates or increment thereof on each floor for direct inmate supervision. Where required, there shall be a two-way voice communication capability between inmates and staff at all times. Closed circuit television may be used, but not in lieu of the required personal observation.

## 289.4 Work Assignments

Staff recommended that this standard, which addresses the supervision of inmates working outside of the security perimeter of the jail, be amended. The proposed changes would have restricted outside work assignments to minimum security inmates only and required that they be supervised by a licensed jailer. Comments submitted and testimony provided during the February and May workshop sessions were in opposition to the proposed change. Previous committee recommended leaving standard as it currently written. However, during the May conference call, committee representatives suggested adding staff designated by the sheriff to the standard.

### Pre-Committee version

Work Assignments-Outside the Security Perimeter. Only inmates classified as minimum custody should be assigned to work outside the security perimeter and should be supervised by ~~corrections officers~~ **jailers or peace officers licensed by the Texas Commission on Law Enforcement Standards and Education.**

### Post-Committee version

Work Assignments-Outside the Security Perimeter. Only inmates classified as minimum custody should be assigned to work outside the security perimeter and should be supervised by **jailers or staff designated by the sheriff.**

The current committee recommendation retains the permissive language should in regards to inmate classification and supervision but provides guidance to Sheriffs as to what is considered a best practice and expands those that are recommended to supervise inmates on outside work details.