

Texas Commission on Jail Standards



2012 Annual Report

January 31, 2013

Empowering local government to provide safe, secure and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas.

Brandon Wood
Executive Director

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This report is made pursuant to Chapter 511, Section 511.015 Government Code and covers activities of calendar year 2012.

I. Mission Statement

The mission of the Texas Commission on Jail Standards is to empower local government to provide safe, secure, and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas.

During its regular session of 1975, the 64th Legislature enacted House Bill 272 creating the Texas Commission on Jail Standards in an effort to end federal court intervention into county jail matters and return jail control to state and local jurisdictions. Formerly through Title 81 of the Civil Statutes and currently through Chapters 499 and 511 of the Government Code, the state has evinced a strong commitment to improving conditions in the jails by granting the Commission the authority and responsibility to promulgate and enforce minimum standards for jail construction, equipment, maintenance, and operation. Related duties and rules are set forth in Chapters 351 and 361 of the Local Government Code, Title 37 of the Administrative Code, and Minimum Jail Standards.

The Commission serves the citizens of Texas with programs and services for the custody, care, treatment, and supervision of adult inmates in county jails. Although we retain the responsibility to regulate privately operated municipal facilities, most of our activities are oriented toward county functions. Our principal operations include on-site inspections of jails to verify compliance with Standards, review of proposed construction and renovation plans to assess conformity to Standards, provision of jail management technical assistance and training, administration of inmate population reports and audits, resolution of prisoner grievances, and various other activities relating to policy development and enforcement. Contrary to popular belief, the Commission does not have authority over the state prison system or juvenile detention facilities. We do have facilities under our authority which contract with the Texas Department of Criminal Justice and federal systems to house state and federal inmates. We also regulate any Texas facility housing out-of-state inmates.

We work closely with city, county, and state government officials in our duties to enforce jail standards. Primary relationships exist with county judges, commissioners, sheriffs and private management companies to provide consultation and technical assistance; review and comment on plans for construction, modification, and renovation of jails; and regular inspections of jails to ensure compliance with state law. Secondary relationships extend to architectural and criminal justice professional associations and to regulatory agencies concerned with fire safety, legal issues, civil liberties, health and mental health. Jail inmates awaiting criminal trial or administrative hearings, serving misdemeanor sentences, or awaiting transfer to the Texas Department of Criminal Justice after felony convictions benefit from our efforts by being housed in safe and sanitary environments. We provide a service to the citizens of Texas communities through our Standards, which mandate secure jail design and operation, effective inmate management, use of accepted correctional methods, and programming based on available resources.

II. Organization

Our policy-making body consists of nine Commission members appointed by the governor to staggered six-year terms expiring on January 31 of odd-numbered years.

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The Commission consists of a sheriff from a county with a population of more than 35,000, a sheriff from a county with a population of 35,000 or less, a county judge, a county commissioner, a practitioner of medicine, and four private citizens, at least one of whom is from a county with a population of 35,000 or less. The chairperson is designated by the governor, with the vice-chairperson elected by the membership. Our Commission holds regular meetings each calendar quarter as required. Special meetings are held as needed. Responsibilities of the Commissioners include promulgation, adoption, revision, amendment, and repeal of rules; enforcement of rules through remedial action or action in district court; and consideration of applications for variances to minimum standards. Members are not compensated for their work except for allowable travel and per diem expenses.

Commission members as of December 31, 2012 were as follows:

| <u>Member</u> | <u>City</u> | <u>Term Expires</u> |
|-------------------------------|-------------|---------------------|
| Judge Donna Klaeger (Chair) | Burnet | 2013 |
| Commissioner Stanley D. Egger | Abilene | 2017 |
| Ms. Irene A. Armendariz | El Paso | 2015 |
| Michael M. Seale, M.D. | Houston | 2017 |
| Mr. Jerry Lowry | New Caney | 2013 |
| Mr. Larry May | Sweetwater | 2013 |
| Mr. Allan Cain | Carthage | 2017 |
| Sheriff Tam Terry | Panhandle | 2015 |
| Sheriff Gary Painter | Midland | 2015 |

At the end of 2012, the staff consisted of the following positions:

| | |
|------------------------------------|--------|
| Executive Director | Exempt |
| Manager I | B22 |
| Manager I | B22 |
| Staff Services Officer I | B19 |
| Accountant II | B15 |
| Inspector VI | B19 |
| Inspector V (4 positions) | B17 |
| Project Design Assistant | B17 |
| Research Specialist II | B17 |
| Program Specialist II | B18 |
| Program Specialist I (2 positions) | B17 |
| Network Specialist II | B18 |

The Commission on Jail Standards is headquartered in Austin, Texas.

III. Agency Objectives & Funding

In order to fulfill our mission, the Commission allocates its resources and carries out its statutorily-mandated duties through six distinct but related strategies. Although inspection of

jail facilities and enforcement of Minimum Jail Standards is our most critical and visible strategy, the Commission's remaining five strategies are vital as well and assists counties in achieving and maintaining constitutional standards— the primary goal of the agency.

National research, statewide input, and case law are among the resources considered when developing or revising the Standards. The jail standards process reviews and amends minimum standards for the purpose of building and maintaining safe, secure, and efficient jail operations. Proposed revisions to the Standards, after Commission approval, are published in the Texas Register for public comment and these comments are reviewed in order to ascertain whether revision would be appropriate. The final version, whether altered from the original or not, is again presented to the Commission for approval and again published in the Texas Register.

In addition to the appropriated funds, the agency charges inspection fees in order to cover the cost of inspecting facilities housing 30% or more non-Texas sentenced inmates or for conducting a re-inspection if the areas of non-compliance have not been corrected. These inspection fees combined with appropriated receipts from the sale of manuals account for 2% of the agency's budget.

In order to meet agency objectives, each strategy is allocated a specific number of full-time equivalent positions.

A. Inspection & Enforcement

(6 full-time positions) Inspection activities consist of fair and impartial monitoring and enforcing compliance of adopted rules and procedures. This objective includes development and implementation of a uniform inspection process. Uniform inspection reports and procedures for inspecting jail facilities are developed under the provision of Chapters 351 and 361 of the Local Government Code and Chapter 511 of the Government Code.

At least once each fiscal year, each facility that is under the Commission's authority is inspected in order to determine compliance with minimum jail standards. Each of these inspections reviews security, control, general conditions, and takes into account not only the operations of the facility, but the physical plant aspects as well. Special inspections may be conducted on facilities that have either been identified as high-risk or found to be in non-compliance. These unannounced inspections may also be performed when county officials indicate that the non-compliant items have been corrected, in which case the inspector must personally examine the areas that required correction. This is especially critical when the issues involve safety and/or security issues.

Following the Executive Director's review of the inspector's report, a certificate of compliance is sent to facilities found to be in compliance. If deficiencies were noted, however, a notice of non-compliance is issued, which specifies the Standards with which the facility has failed to comply and includes detailed information as to specific steps that must be taken to correct the deficiencies.

B. Construction Plan Review

(1 full-time positions) The construction facility planning staff provides consultation and technical assistance to local governments for jail construction that meets Standards. There is extensive consultation and interaction with state and local officials, design professionals and consultants. Plan documents are reviewed at three phases: schematic design, design development, and construction documents. At each phase, items requiring resolution are noted and satisfied prior to proceeding to the next phase. This process assists in ensuring that counties understand jail requirements, and also helps to provide more efficient, effective and economic jails that comply with Minimum Standards. On-site consultations are desirable, when possible, and are often a more productive method of consultation with designers, architects, construction contractors, sheriffs and other county officials, once construction has begun. The facility planning staff also conducts facility needs analyses at a county's request, using population projections and other pertinent data to provide assistance to counties in determining their future incarceration needs.

C. Management Consultation

(4 full-time positions) Commission staff also provides needed jail management training and consultation to counties by working with county representatives in our Austin office, on the phone, through written correspondence, regional training classes, and on-site visits. Technical assistance on matters such as structural issues, life safety, and overall jail operation is provided on an on-going basis. Counties also receive assistance with analyses of jail staffing needs to assist counties in operating safe and secure facilities, and in developing and implementing operational plans that meet Minimum Standards. Operational plans include procedures for classification of inmates, health services, discipline and grievance, inmate services and activities, and seven additional areas. This strategy is very important, in that it is focused on assisting counties to achieve and maintain compliance with Standards, transmitting to county jails the knowledge and tools required to run a safe and secure jail – a facility that is less likely to be a liability to the county.

D. Auditing Population & Costs

(1 full-time position) This strategy requires the collecting, analyzing and disseminating of data concerning inmate populations, felony backlog, immigration, licensed jailer turnover and jail operational costs. Counties are assisted in completing their jail population reports, and technical assistance is provided. Statistical data is collected, analyzed and provided to agencies to assist in planning and predicting trends in incarceration at the state and local level. We also receive audits of the commissary and general operations of the county jails. These audits are analyzed by Commission staff to assess jail program costs and to develop Average Daily Cost estimates – information that is often requested by other state agencies and counties, as well as members of the Legislature.

E. Indirect Administration

(4 full-time positions) Indirect administration strategy is to account for functions such as finance, human resources and IT that had previously been allocated among the five existing strategies. This allows for a more accurate representation of the funds and resources utilized not only for each of the five primary strategies, but also allow the agency to properly budget and plan for activities not directly tied to a particular strategy, such as IT needs, which would support employees assigned to several different strategies.

F. Juvenile Justice Survey

The responsibility for administering the juvenile justice survey has been transferred to the Governor's office.

IV. 2012 Operational Performance in Review

A. Changes to Standards

In 2012, the Commission proposed and adopted three changes to Minimum Jail Standards. The standards addressed the documented use of restraints when pregnant inmates were in active labor or delivery.

In addition, in 2012, the Commission continued its comprehensive review of minimum jail standards through Commission workshops and conference calls with committees made up of stakeholders. At the end of 2012, approximately 10 standards were proposed and were placed on the register for public comment.

B. Jail Inspections

During Calendar Year 2012, 242 annual jail inspections were conducted. Legislation has exempted certain private jails from annual inspection since September 1, 2003, and this number may fluctuate during the course of any given year as conditions warrant. Staff also completed 30 special inspections on high-risk and/or non-compliant jails during 2012. Out of the combined 272 inspections, 272 were unannounced, representing 100% of all inspections.

18 occupancy inspections on completed construction projects were conducted during 2012.

1. Compliant Counties

As of January 1, 2012, 238 of jails (86%) complied with Minimum Jail Standards. As of December 31, 2012, 237 of jails were certified, comprising 97% of the county and private facilities under our regulatory review. Two facilities fell out of the Commission's purview during 2012, while none were added.

2. Noncompliant Counties

On December 31, 2012, 7 jails were in a status of noncompliance, representing 2.8% of the facilities on the inspection list. At the end of 2011, there were 8 jails, or 3.25 % in noncompliance. Notices of non-compliance are issued in three categories: Life Safety, Management, and Structural. In most instances, 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 believed to be acting expeditiously to resolve deficiencies, were requested to appear before the Commission to address the corrective action necessary in order to prevent remedial action by the Commission. These meetings resulted in firm commitments aimed at eliminating the deficiencies from the counties concerned. Commission staff conducts monthly risk assessment reviews of noncompliant counties to assess the progress and status of these facilities as they move toward compliance with Minimum Jail Standards.

3. Closed Jails

Presently, 19 counties have closed jails. The following counties opted to board their few inmates in an adjacent county rather than maintaining their own facilities:

| | | | |
|---------|---------|------------|--------------|
| Baylor | Cottle | Jeff Davis | McMullen |
| Borden | Floyd | Kenedy | Motley |
| Briscoe | Foard | Kent | Throckmorton |
| Coke | Hartley | King | Sterling |
| Concho | Irion | Loving | |

C. Juvenile Justice Survey

The responsibility of administering the juvenile justice survey has been transferred to the Governor’s office.

D. Construction Plan Review

Thirteen construction/renovation documents were reviewed in 2012. Several counties are embarking upon renovations of ageing facilities, while others are planning new facilities to replace well-worn facilities or to add additional beds to meet local needs.

1. Construction Completed

Four Counties opened a new facility during the year. These projects represented a total of 564 beds.

| | | | |
|-----------------------------|----|----------------------------|-----|
| Jim Hogg County* | 96 | Tarrant County Jail | 444 |
| Shackelford New Jail | 24 | Brazos Courts | 0 |

*Indicates the county closed an existing facility after completion of new jail.

2. Major Renovations/Additions Completed

Ten counties completed major renovations or additions during the year, adding 1,216 beds. The counties were:

| | | | |
|--------------------------------|-----|-----------------------------------|----|
| Johnson County Addition | 96 | Erath Phase I & II | 82 |
| Brooks County Addition | 106 | Tarrant County Security | 0 |
| Grayson County Addition | 96 | Bexar Courts Addition | 0 |
| Collin County Addition | 0 | Montgomery Intake Addition | 0 |

All construction and renovation/additions projects totaled 944 beds.

3. Jails under Construction or Planning

At the end of 2012, 19 counties were involved in planning or construction projects. These projects are expected to result in an additional 368 beds in 2012. This figure is an estimate based on projects identified on January 1, 2011 and scheduled for completion by December 31, 2011; other projects identified during the year may cause this number to be adjusted further. In addition to plan reviews, the Planning Department completed four Facility Needs Analyses, which assisted counties in determining their future jail needs.

E. Management Consultation

Technical assistance on jail matters such as alternative programs, population control, structural issues, life safety, and overall operations was provided to county officials throughout the year. Although telephone calls are not routinely logged, it is estimated that several thousand telephone calls were received during the year for technical assistance regarding jail management and operations. In addition, 14 in-house management consultations were conducted at the Austin office in 2012. The Commission also conducted 266 management consultations on-site with County Judges, Commissioner's Courts, and Sheriffs concerning the most economical and feasible way to achieve compliance with state law, and in some cases, federal court orders. Finally, 12 counties received assistance with analyses of jail staffing needs, and 995 operational plans were reviewed in 2012.

The Commission continued the program of technical assistance to jails on management related issues through regional jail management workshops during the calendar year. The workshops were developed under the direction of the Commission's Education Committee to provide training and credits afforded by the Texas Commission on Law Enforcement Officer Standards and Education.

Municipalities continued to request information and assistance on jail construction or renovation. While municipal jails other than those privately operated under authority of Chapter 351, Local Government Code, are not required to conform to Texas Minimum Jail Standards, municipalities continue to show confidence in the Commission to provide them unbiased information and guidance upon which to base decisions concerning construction or operation.

F. Auditing

1. Population

On January 1, 2012, jails were operating at 65.85% of capacity with a population of 61,540 and a capacity of 93,453. During the year, the population continued to increase, ending at 64,302 on December 1, 2012. By December 2012, jail capacity increased to 95,825. On December 1, 2012, all Texas jails were collectively operating at 67.81% of capacity.

Texas counties continue to house out-of-state inmates. On December 1, 2012, four local facilities were housing 75 inmates for New Mexico and Arkansas.

The number of federal inmates held by facilities under the Commission's purview increased from 5,652 on January 1, 2012 to 6,792 on December 1, 2012. The local population increased from 54,342 on January 1, 2012 to 56,020 on December 1, 2012. This represents an increase of 3.083%. Additionally, in 2012 jails continued housing convicted state inmates through contract with the Texas Department of Criminal Justice. Two facilities housed a total of 42 state inmates on December 1, 2012.

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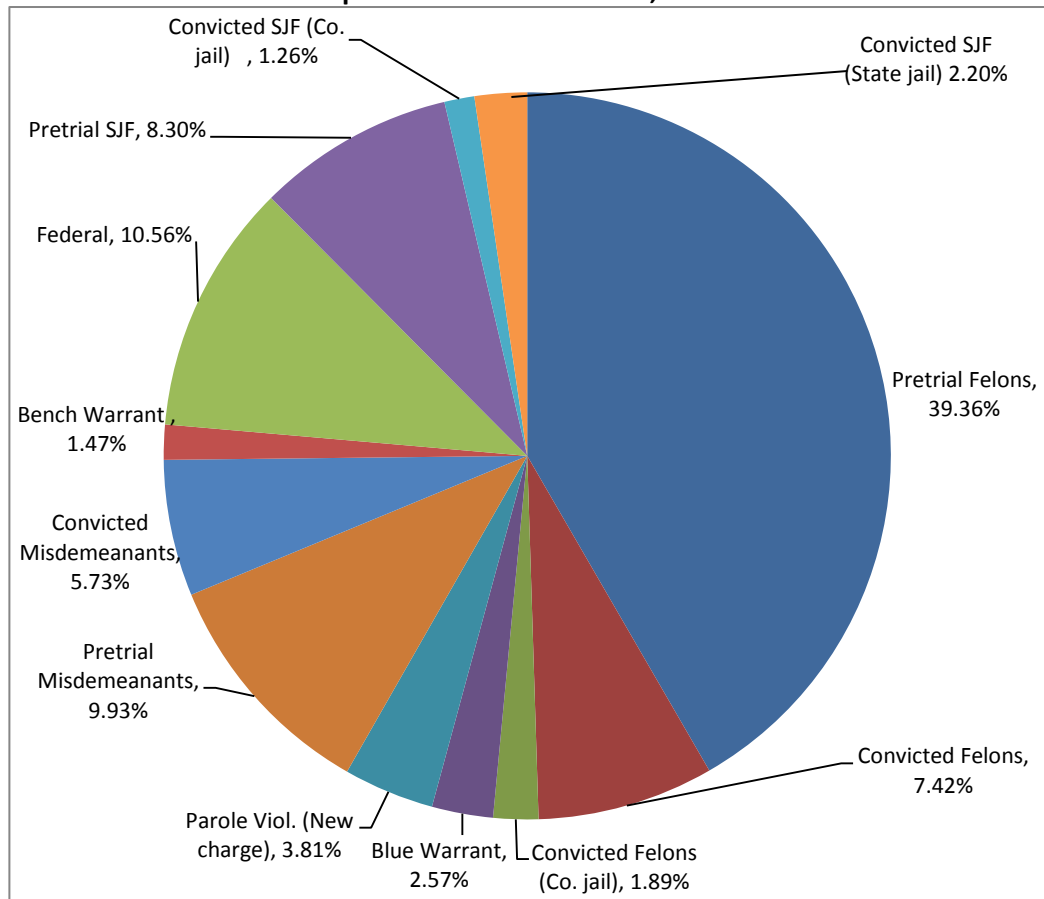
County Jail Population by Offense Type¹

| | 12/2007 | 12/2008 | 12/2009 | 12/2010 | 12/2011 | 12/2012 |
|------------------------------------|---------|---------|---------|---------|---------|---------|
| Pretrial Felons | 32.83% | 37.15% | 36.19% | 37.47% | 39.10% | 39.36% |
| Convicted Felons | 8.77% | 7.91% | 8.14% | 8.75% | 9.55% | 7.42% |
| Convicted Felons (Co. jail) | 2.24% | 2.08% | 2.12% | 1.82% | 1.66% | 1.89% |
| Blue Warrant | 3.60% | 3.81% | 3.51% | 3.35% | 3.46% | 2.57% |
| Parole Viol. (New charge) | 4.40% | 4.09% | 3.90% | 4.21% | 4.08% | 3.81% |
| Pretrial Misdemeanants | 9.12% | 9.93% | 10.08% | 9.02% | 9.40% | 9.93% |
| Convicted Misdemeanants | 6.19% | 5.45% | 6.33% | 5.614% | 5.51% | 5.73% |
| Bench Warrant | 1.35% | 1.48% | 1.45% | 1.55% | 1.70% | 1.47% |
| Federal² | 11.65% | 10.85% | 11.43% | 13.71% | 9.87% | 10.56% |
| Pretrial SJF | 8.17% | 7.66% | 7.48% | 6.83% | 6.97% | 8.30% |
| Convicted SJF (Co. jail) | 2.46% | 2.15% | 2.54% | 1.43% | 1.10% | 1.26% |
| Convicted SJF (State jail) | 2.24% | 1.83% | 2.01% | 2.28% | 2.42% | 2.20% |

¹This representation does not include all offense categories so totals may not equal 100%

²This only includes those federal inmates in facilities under purview of the Commission on Jail Standards. Under 511.0094 Government Code, facilities housing only federal inmates do not fall under Commission purview.

Texas Jail Population on December 31, 2012



2. Immigration

Senate Bill (SB) 1698, 82nd Legislature, requires the reporting of inmates with an immigration detainer and the associated costs. In 2012, the total number of inmates with an immigration detainer in Texas county jail was 69,521 for 1,400, 653 days. The collective cost for the entire state was \$83,063,207.30. The monthly average for 2012 was 5,793 inmates for 116,753 days at a cost of \$6,921,933.94

3. Licensed Jailer Turnover

Senate Bill (SB) 1687, 82nd Legislature, requires county jails to report the number of licensed jailers that leave county jail employment. During 2012, county jails reported an average turnover rate of 35.45%. The turnover rate ranged from 0%-150% during 2012.

G Additional Services

1. Research

The primary function of the research staff in 2012 was to research relevant issues and questions for Texas sheriffs and jail administration regarding recent changes to standards, legislation, statutes, AG opinions, court cases, and best practices. In addition to handling numerous technical assistance and information requests, research staff also provided training on legislative matters and legal developments to county officials, jail administrators, and others in local government.

Research staff actively participated in meetings and presentations with other professionals and academics to address the challenges of incarcerated individuals with mental health issues. Staff represented the Commission on Jail Standards at advisory meetings of the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI).

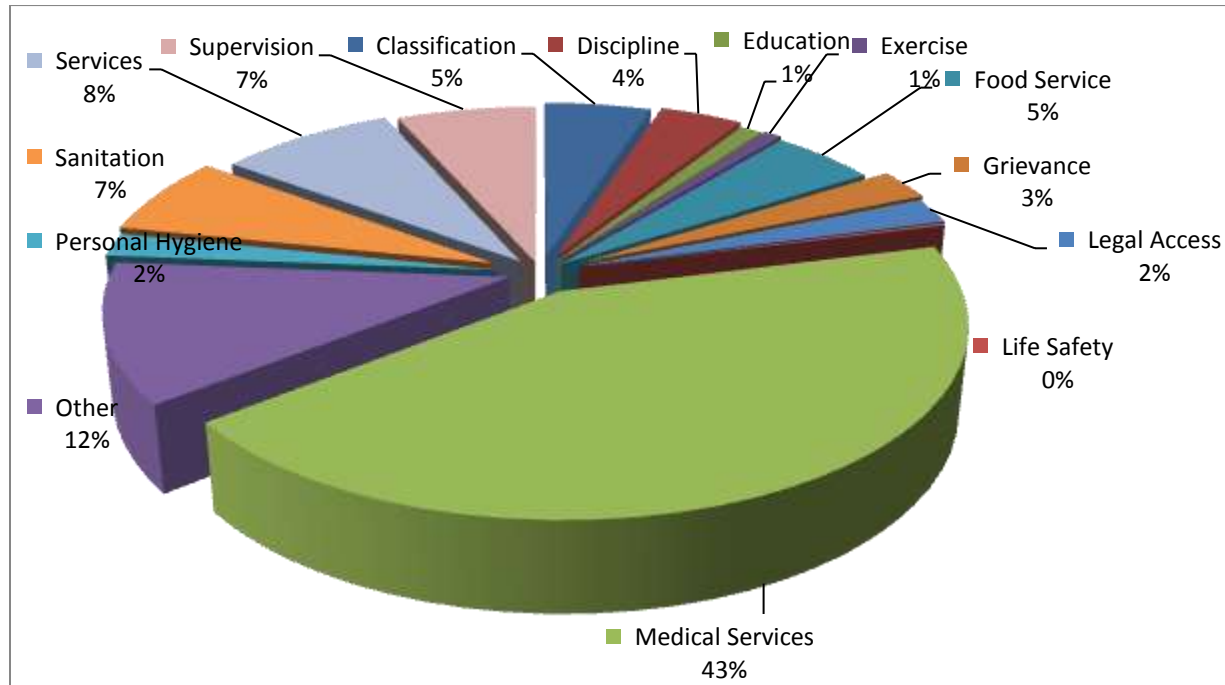
2. Inmate Complaints

The Commission received 1,125 written requests for inmate assistance or grievance investigation in 2010, with 455 requiring a written response by county officials, and possible action by Commission staff. Consistent with previous years, the category most frequently cited in grievances requiring a formal reply was medical services. For 2012, Medical Services constituted 43% of these grievances.

The following chart illustrates the frequencies (from highest to lowest) of complaints received for 12 categories (Note: combined numbers exceed total number of complaints requiring a formal reply due to letters containing more than one complaint category). In cases where more than one complaint category is addressed in a letter, the three most significant complaints are reported in their respective categories.

Inmate Complaints by Category for 2012

| | | | |
|------------------|-----|------------------|----|
| Medical Services | 197 | Discipline | 18 |
| Other/Misc. | 54 | Grievance | 12 |
| Services | 38 | Legal Access | 10 |
| Supervision | 30 | Personal Hygiene | 9 |
| Classification | 23 | Education | 5 |
| Food Services | 23 | Exercise | 4 |
| | | Life Safety | 1 |
| Total: | | 455 | |



670 complaint letters required no response, were beyond the purview of the Commission, or were returned to the sender with instructions to utilize the facility’s established jail grievance system. Inquiry into the remainder of the requests either alleviated conditions in need of correction or established the lack of truth in the allegations, and thus aided in eliminating frivolous litigation. Occasionally, areas of concern were addressed with the individual sheriffs involved and recommendations were made to preclude future allegations.

3. Variances

One new variance was approved, eight variance and four extensions of variances were granted during 2012. Each request was individually reviewed and acted upon by the Commission during the year’s four regular meetings. (The Commission may grant reasonable variances, except that no variance may be granted to permit unhealthy, unsanitary or unsafe conditions).

V. 2012 Administrative Activity in Review

A. Staff Changes

In 2012, Brandon Wood was selected as the new Executive Director upon the retirement of Adan Munoz.

Rodney Valls was selected as the new Staff Services officer upon the retirement of Nell Roberts in 2011.

B. Staff Turnover

The Commission had four staff members leave the agency in 2012. Two positions were filled by temporary staff during 2012.

C. Training Initiatives

2012 was another successful year for jail training efforts at the Commission. The staff has continued to select timely topics and develop a solid curriculum for the training programs developed in 2001, as evidenced by the positive response all training sessions have received.

The Practitioners' Series Training called the 'The Basics' was conducted at 10 regional sites during September, October, and November. Practitioners who are widely regarded as experts in their field of jail management served as instructors for this training alongside Commission staff, using materials prepared by the agency. This program not only educates those attending the training, but also develops the presentation and leadership skills of the instructors themselves. In 2012, there were 582 participants at the 14 training sessions.

Since creating and maintaining a responsible classification system that remains an essential part of county jail management, Objective Jail Classification training by Commission staff continues to be offered to the counties, both on-site and at headquarters. In addition, Commission staff has continued its training for Population and Paper Ready Reports for any county that requests assistance, both on-site and at headquarters. Furthermore, a new training presentation called 'What to Expect during Inspection' was developed to aid with jail standards awareness. With 67 newly elected sheriffs and a continuous change in jail command staff we have experienced an increased demand for additional Operations, Classification, Population, and Paper Ready training.

In 2012, the Commission provided 7 classes to 24 participants in Classification training, 1 class of 28 participants in Population reporting, and five classes to 171 participants in What to Expect During Inspection training.

Finally, Commission staff conducted a training session regarding legislative updates at the annual Texas Jail Association Conference in Austin, Texas. In addition, "The Courtroom Challenge" game was conducted at the Conference as well. Both presentations received positive evaluations from the attendees and participants alike.

D. Legislative Actions

In 2012, the Commission implemented all of the mandates set forth in legislation.

E. Attorney General Action

In 2012, the Commission submitted six requests for rulings to the Office of the Attorney General to have certain records excepted from public disclosure under the Public Information Act. No other Attorney General activity occurred

VI. Summary & Forecast

The year 2012 was one of transition for the agency with the retirement of the executive director and the departure of three additional staff members. This did not, however, impact the agency's ability to meet or exceed each of its objectives in the areas of annual inspections, on site consultations and population report audits for the fourth year in a row.

The number of jails in compliance continued to increase during the year, and a reinforced emphasis on technical assistance is producing the desired results and will be continued. Although inmate populations continued to decrease throughout the year, projections provided by the Legislative Budget Board indicates that this trend may be coming to an end and that 2013 may see the first increase in overall populations in almost 5 years.

As Executive Director, it is my responsibility to ensure that we continue to efficiently and effectively carry out our statutorily mandated duties. This requires that the entities we regulate view us as a resource that they feel comfortable calling upon for assistance and guidance and not just a state agency intent upon finding fault.

We continue to face challenges as we assist local governments in operating a constitutional jail; however, through proper planning and allocation of available resources, those challenges will not be an obstacle to performing our duty. The small but dedicated staff will continue to ensure through our actions and the documented outcomes that the Texas Commission on Jail Standards should remain an independent agency and funded appropriately for continued success.