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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, 1979

TEXAS COMMISSION ON JAIL STANDARDS

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

January 31, 1979

COMMISSION MEMBERS
(As of January 31, 1979)

Stephen H. Suttle, Chairman
Robert J. Uhr, Vice-Chairman
Sheriff T. L. Baker
Hanes H. Brindley, M.D.
Judge Albert Bustamante
Gayle R. Carden
James Goode
Sheriff Jack Heard
Andrew McMullen

TEXAS COMMISSION ON JAIL STANDARDS



January 31, 1979

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

COMMISSION MEMBERS:

Chairman

Vice-Chairman
Members

Baker

Brindley, M.D.

Cordeiro

Dr. G. Carza, Jr.

Heard

Mullen

Gentlemen:
This is the second annual report to you by the Texas Commission on Jail Standards as required by Sec. 10, Art. 5115.1, V.A.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 general findings of the Commission concerning county jails in Texas revealed by its inspections demonstrating its need, the duties of the Commission delegated by the Legislature, its accomplishments, and finally, a candid discussion of the financial and media adversity under which the Commission has been compelled to operate.

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
Stephen H. Suttle, Chairman
Texas Commission on Jail Standards

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I. WHY THE LEGISLATURE CREATED THE COMMISSION

The Texas Commission on Jail Standards was created in 1975 in response to the concern of the county sheriffs and public interest groups over the appalling conditions in Texas jails. There are 264 jail facilities in Texas.

A. State of Jails in Texas

The Texas Health Department found all but six jails in Texas were being operated in violation of State law, but it had neither the funds for annual inspections nor any enforcement powers. 61% of the jails had been built before 1940; 16% before 1900. 40% of the jails had prisoners sleeping on floors, 121 jails had prisoners left unattended at night, and many had prisoners left unattended over weekends; 35 jails had commodes that would not flush. Filth and vermin were prevalent. Physical, even sexual, assaults on inmates were common.

75% of the jails lacked means for prisoners to communicate with guards in the event of fires, illness, or other emergencies. 48% of the jails provided no fire extinguishers and 71% had no adequate emergency exits. 49% of the jails lacked sufficient lighting for reading or for supervision by guards. 68% of the jails lacked any exercise areas. Many jails served only two, inadequate meals per day.

In summary, Texas jails in 1975 were old, in disrepair, unsafe, filthy, unhealthy and overcrowded.

B. Federal Court Intervention

Although since 1957, Texas had had statutes establishing minimum standards for its jails (Art. 5115, Vernon's Ann. Tex. Civ. St.), its jails were not inspected for compliance and the statutes were not enforced. The appalling conditions described above, accordingly, were tolerated and grew. Texas enjoyed the questionable anomaly of having its judiciary (County Commissioners' Courts) and law enforcers (Sheriff's departments) violate the statutes and minimum standards of both the Texas and United States Constitutions.

Federal courts stepped in. Suits were filed in Dallas, El Paso, Houston, Lubbock, Abilene and Waco, to name a few. The remedial orders being issued were expensive and nonuniform. County defense costs were high (attorneys' fees awarded in the first order in Lubbock amounted to \$15,000).

C. Public Interest Support for a Commission

Recognizing the inhumane, insecure and unsafe conditions prevalent in Texas jails, several diverse public interest groups joined in supporting the passage of Article 5115.1, Vernon's Annotated Texas Statutes, which created the Texas Commission on Jail Standards. These groups were:

1. Texas Sheriff's Association;
2. Texas Bar Association;
3. American Civil Liberties Union (ACLU);
4. Southern Baptist Convention;

5. League of Women Voters; and
6. Citizens United for Rehabilitation of Errants (CURE).

II. DUTIES ASSIGNED TO THE COMMISSION BY THE LEGISLATURE

Exercising foresight, in 1975, the Texas Legislature created the Texas Commission on Jail Standards and charged it with:

- (1) hiring an executive director and staff;
- (2) by January 1, 1977, promulgating reasonable, minimum standards for Texas jails;
- (3) inspecting annually, all 264 Texas county jail facilities;
- (4) provide technical assistance and consultation to counties;
- (5) review and comment on plans for construction and major renovation;
- (6) enforce the statutory jail standards established by the Legislature and the Commission's minimum standards; and
- (7) grant reasonable variances from state standards which do not affect the health, safety and security of inmates and guards and jail sanitation.

III. ACCOMPLISHMENTS OF THE COMMISSION

A. Minimum Standards Drafted

On October 20, 1975 the nine member Commission was appointed by the Governor and began its task of drafting the standards, to be promulgated and published by January 1, 1977, the deadline given by the Legislature. Working as subcommittees initially, the commissioners' drafted proposed standards and had them published in the Texas Register.

After drafts were published for comment in the Texas Register, public hearings were conducted in 9 major cities/areas throughout the state from September 16, 1975 through November 23, 1976. These hearings were attended by over 1000 persons, representing a spectrum of interests and opinions. All discussion was carefully considered. The standards were revised, particularly in the construction area. The standards in final version were adopted in December, 1976 and became effective that month.

B. Obtaining a Staff

During 1976, the nucleus of the Commission staff was formed. The search for an Executive Director was begun early in 1976. Advertisements announcing the position and its duties were published nationally in law enforcement and corrections media. There were over 200 applicants who were thoroughly screened. Eventually, 20 of those applicants were interviewed. A final selection was made June 18, 1976 and Guy F. Van Cleave, considered to be the most highly qualified because of his experience in law enforcement and jail construction and because of unqualified recommendations from many sources, was officially notified of his selection as Executive Director. Mr. Van Cleave assumed his position and duties on July 6, 1976, set up temporary offices, employed a Finance Officer and Secretary, and sought permanent office space and additional staff of 14 persons including himself. The staffing added two Stenographer/Typists and two Planners I in September who aided in the preparation, conduct and reporting of the public hearings on the proposed standards. In January, 1977 the staff was completed with the addition of 6 Inspectors and one Programs Officer I for the total of 14.

C. Inspecting all 264 County Jail Facilities

On February 6, 1977 the newly trained and equipped inspectors began the first inspections of county jails. Inspections were completed by the six inspectors by September 2, 1977, and copies of the reports were furnished to the responsible county officials. A fair number of jails were in substantial compliance and, could, with a minimum of effort and expenditure achieve compliance. A number of jails, suffering from decades of neglect, had deteriorated to the extent that compliance could be achieved only with major expenditures. In some cases, new construction was the most economical alternative. The majority of the jails fell somewhere in between these two conditions, and would require the full attention of both the involved Commissioners' Court and Sheriff. Even so, at year's end, most counties when furnished with the inspection reports, and without coercion by the Commission, were moving at a reasonable pace towards compliance. See Exhibit 1.

D. Providing Cost-Saving Technical Assistance to Counties

In 1977, the Commission's budget was cut in half by the Legislature. Half of the staff was released. The Commission was forced to choose between its responsibilities of pursuing its enforcement functions against counties or concentrating in technical assistance. Because most county officials were attempting to improve their jail conditions, the Commission moved toward assisting the counties with technical expertise and showing them how to accomplish substantial cost savings, while conducting the inspections required by the Legislature.

During Fiscal Year 1978, 90 counties requested and received technical assistance and/or consultation on 168 separate occasions. Some instances required meetings with the sheriff and commissioners court and discussing the inspection report. The purpose of the discussions was to indicate to the county authorities what items of noncompliance were subject to variance, what items required corrective action and advising on how most economically to achieve compliance on each item. Other assistance took the form of analysis of jail records to determine what capacity a jail should be, and what accommodations would be required for females and juveniles. (This type analysis, when performed by private consultants ranges in costs to counties from \$4,000 to \$88,000, depending upon the extent of the records to be examined). Many sessions were also devoted to lengthy discussion with sheriffs, county judges and architects solving management and design problems for their jails. Always however, the guiding principles were safety, security, sanitation and economy.

The Commission found that jail administration was an uncertain area for many sheriffs. They are basically law enforcement officers. Jail administration, jail management and jail operations are foreign to them. Accordingly, the Texas Commission on Jail Standards conducted a two-day jail management and operations workshop at Sam Houston State University; the entire program for the annual Jail Administration conference. See Exhibit 2. The conference was attended by 230 sheriffs, deputies and jail administrators. It was exceptionally well received. After conference comments received by the Department of Continuing Education of the University indicate the consensus of the participants was "best

conference in seven years". There is no doubt that such efforts are increasing the professionalism of Jail Administrators. The Texas Commission on Jail Standards plans to continue to reach these personnel through other conferences and through individual help as requested.

An example of the biggest single cost savings to a county occurred in Harris County in August 1978. The ACLU petitioned the federal court to require the new county jail to be built with 100% single cells instead of in accordance with the standards of the Commission. The court ruled in favor of the standards developed by the Commission with a resultant construction cost savings to Harris County taxpayers of \$80,000,000.

Not all examples are so dramatic. For Jim Hogg County Jail, the architect was shown only how to eliminate numerous steel doors. The result was not only a more efficient and manageable jail, but savings of about \$25,000.

Comal County stipulated renovations not to exceed a specified amount. Working with the architect through six sessions the Commission was responsible for space utilization that reduced the project cost by \$2,000 below the amount available.

A Bexar County renovation project was the subject of another design renovation. Discussion with that county's architects resulted in eliminating a jutting corner. The savings amounted to approximately \$1,600 for each of six such eliminations (\$9,600).

Savings cannot always be construed in terms of money. Mills County for instance has a jail that was hand built of native stone by

the grandfathers and great grandfathers of today's county residents. The building is on both the Texas and National historical register. It was important to Mills County residents to retain their jail. Texas Commission on Jail Standards staff again working with the architect, arrived at designs that will permit continued use of the jail, achieving compliance, and at minimum cost.

E. Acceptance of Standards by Federal Courts and Delegation of Supervision to the Commission

The standards drafted by the Commission involved a study of all of the federal constitutional decisions involving jails in existence at the time. The Texas Attorney General's office compiled the decisions which were studied by the Commission before the standards were adopted. Since their adoption, they have been recognized by federal courts in Texas as constitutional.

Most importantly, however, federal court orders became more uniform. Supervision of jails was delegated by the federal courts to the Commission. For the first time, Texas, through its Commission, was placed in control of and delegated the supervision of its jails.

Less and less are Texas jails being regulated by federal courts on a case by case, nonuniform, expensive basis. County officials in Texas have come to realize the value and effect of the Commission to them. If Texans will not enforce their own laws, the federal courts will - at the counties' expense.

IV. ADVERSITY UNDER WHICH THE COMMISSION HAS OPERATED

A. Financial

Functions assigned to the Texas Commission on Jail Standards by the Legislature are monumental. After receiving the inspection reports of the Commission, most counties in Texas have recognized the deficiencies in their jails. Many of the deficiencies can be cured by minor renovations and by obtaining variances that do not affect the health, safety or security of prisoners and jail personnel. As a result, the Commission has received and has processed over 700 applications for variances from county jails. The staff has been required to examine, process and make recommendations with regard to those requests for variances. In addition, it has been required to inspect, annually, each of the 264 jail facilities in the State. Overriding all of these functions have been the requests by counties for technical advice and expertise in connection with construction and renovation of the jails and the demands upon the time of the staff to examine the design concepts and architectural plans for over 80 jails that have moved, voluntarily, toward curing the defects that are present in the jails. Behind all of these functions and activities, is the charge of the Legislature to the Commission to enforce not only the Texas statutes governing jails, but the standards as well.

The initial grant of the LEAA, administered through the Criminal Justice Department, permitted the Commission a total of 14 personnel, which would have been adequate for it to carry out all of

these various functions. During the last biennium, however, this budget was reduced by more than 50%, and as a result, the working staff of the Commission has consisted of: three inspectors, one executive director, one planner, two secretaries and an accounting officer. In effect, the Executive Director and the Planner have been the two persons who have had to respond to all requests for technical assistance, design and architectural plan examination, review and processing of variance requests, review and processing of inspection reports to county officials, and responding to requests for assistance by the county officials as well as investigating over 90 prisoner complaints. These people have worked long, hard hours with overtime that has never been reported or paid.

At the same time, the nine members of the Commission, because expenditures of funds with contracts with the Attorney General's Office have been disapproved as not within "budget guidelines", have had to study, draft by hand, publish and promulgate all of the standards required by the Legislature as well as attend bi-monthly hearings to determine the merits of applications for variance. All of the Commissioners have given unselfishly of their time, have spent days and months at their work in public service to the State in attempting to accomplish the responsibility assigned to them by the Legislature and by virtue of their respective appointments.

The Texas Commission on Jail Standards is in dire need of additional funding if it is to carry out in the manner intended by the

Legislature the functions and activities with which it is charged. Assistance in these areas will be requested of the Senate Finance Committee and House Appropriations Committee at the proper time.

B. Media Charges of Conflict of Interest

Recent publicity charging that the Commission has been in the business of selling steel for Southern Steel Company of San Antonio, Texas and resultant questioning of the integrity of the Executive Director of the Commission, while absolutely false and unfounded, has been extremely disruptive of the work of the Commission. While the question of a conflict of interest was investigated and resolved as having no merit whatever by an audit conducted by the Criminal Justice Department, the discreditation remains.

The charge of conflict of interest arose by virtue of the fact that one of the original Commissioners appointed to this Commission, David Hull Youngblood, was the President of Southern Steel Company, one of the six manufacturers of jail equipment in the United States. Charges were leveled that Mr. Youngblood, who sat on the subcommittee which drafted the construction standards, had "feathered his own nest" by placing in the standards requirements which would benefit the products which he sold. While the standards that were initially published in the Texas Register may, in some isolated instances, have fallen in that category, the standards which were ultimately promulgated after 36 public hearings deleted all suggestions of any type of material or product preference. The standards were closely scrutinized by each of

the members of the Commission, comments from architects, jail administrators, federal authorities, county officials and other members of the public were carefully considered, the initial drafts of the standards were reworked in their entirety, and the end result of all construction standards is that no product of any manufacturer and no material of any supplier has been built into the standards. A reading of the standards will demonstrate that they are "performance" standards, and that great flexibility has been left to architects and counties to provide the types of material and equipment that they desire to be placed in their county jails.

In addition, Mr. Youngblood resigned from the Commission on June 13, 1977, thereby removing all taint from his service on the Commission. All of these facts were known to the reporter for the media who wrote the article, but obviously, to publish the truth would remove all of the sensationalism from a problem which he created and which did not exist.

The remainder of the charge of the conflict of interest dealt with the fact that the Executive Director of the Commission, Guy F. Van Cleave, some two to three years before the Commission was created, had worked for Southern Steel Company for a period of one year. Mr. Van Cleave had left Southern Steel and had gone back into law enforcement work before any legislation proposing the Commission had been presented. He was interviewed along with some twenty other applicants by the personnel subcommittee and the full Commission. Any question of his allegiance to Southern Steel Company was resolved. His references were closely checked.

His integrity was unquestioned. Because of his year's experience in the construction portion of jails and his law enforcement background, and the superior recommendations that he received, he was the unanimous choice of the members of the Commission to fill the position of Executive Director.

Finally, anyone connected with the construction and renovation of jails knows that there is no opportunity for any member of the Commission on Jail Standards or its staff to specify or sell the products or materials of any supplier of jail equipment. The Commission on Jail Standards does not draw plans for jails. The plans for construction and renovation of jails are drawn by the architects employed by the county. The materials and products that go into those jails are specified by the architects. The author of the news article was expressly invited to call any of the architects who had participated in any of the jail construction or renovation projects in the State of Texas and determine for himself whether there had been even so much as a recommendation by any staff member of the Commission of any particular material or product that would go into their project. Neither the Chairman, Vice Chairman nor any member of the Commission has ever received a complaint of any sort from any county official or any architect to the effect that the Executive Director or any member of the staff has ever recommended that an architect or county official employ any particular product or material in his jail. Should such ever occur, any employee or staff member would be subject to immediate discharge.

It is the opinion of the Chairman of the Commission that the charges arose as a result of a conflict of personalities rather than a conflict of interest, and that the underlying motive was to bring about the resignation of the Executive Director of the Commission, which would be opposed by the Chairman and every member of the Commission because of their knowledge of the truth of the matter.

C. Recommendation of Staff of Legislative Budget Board to Abolish the Commission

In its report to the Legislative Budget Board in 1978, the staff of the LBB recommended that the Texas Commission on Jail Standards be abolished and that its functions be transferred to another agency. Perhaps the underlying motive of the recommendation was the charge of conflict of interest against the Executive Director. If so, the motive was not expressed in the two and a half page report. It is respectfully submitted that the report of the staff does not justify the abolition of the Commission, and that it contains several statements and inconsistencies which should be supported by additional information in order to avoid the possibility of being misleading. Examples of such statements and inconsistencies are as follows (the matters marked by quotation marks represent statements contained in the report of the staff):

1. "The Commission's statutory responsibility in the area of the provision of technical assistance to county jails is not being met. This is, in large part, the result of the agency's emphasis on physical inspection of jails." (pages 1 and 2).

"Currently, the agency appears to be meeting most of the demand for assistance in all areas except jail management plans." (page 2).

FACTS:

(a) The emphasis on physical inspection of county jails was compelled by the Legislative Budget Board itself at the last biennium. In cutting the Commission's budget in half, it's budget approval confined the Commission to staff positions for three inspectors, an executive director and a planner. Accordingly, the executive director and the one planner were required to perform all of the ten tasks assigned by the Legislature in Article 5115.1 other than the inspection of the 264 county jail facilities, which required all of the time of the three inspectors. Therefore, by curtailing the size of the staff and the functions which it was to perform, the emphasis on inspection was placed upon the Commission by the very staff that now criticizes it!

(b) The Texas Commission on Jail Standards has provided technical assistance requested by 131 county officials in over 300 instances since January 1, 1977, and the staff has reviewed and commented upon plans for over 80 projects of new construction and major renovation of county jail facilities. In many such instances of case studies and evaluations, counties have been able to realize substantial cost savings in their projects through the expertise and advise of the staff of the Commission.

2. "Jail management plans are required for compliance with the minimum standards promulgated by the Commission....only 20% of all county jails have the required plans....as indicated by the performance measures, Commission efforts in this area have been minimal. Consequently, local officials have had to turn to other sources (Texas Department of Community Affairs and Texas Commission on Law Enforcement

Officers Standards and Education (TCLEOSE)) for assistance in the formulation of jail management plans and in other areas of technical assistance."

FACTS:

(a) The legislation creating the Commission did not provide that the Commission was to write the jail management plans for every jail in the State of Texas. It was envisioned that the plans would be written by the county officials themselves and reviewed by the Commission. Nevertheless, the Commission has (i) developed jail administration plans; (ii) has furnished model plans for sheriffs and (iii) has conducted a two-day workshop with emphasis on administrative plans at the Jail Management Conference in Huntsville in May, 1978.

(b) During the 22-month period, the Texas Commission on Law Enforcement Officers Standards and Education has provided assistance on nine occasions, and the Texas Department of Community Affairs has helped counties prepare requests for a variance. The vast majority of requests for technical assistance (300 versus a handful) has been for technical advice in architecture and engineering design, which is beyond the competency of the other agencies named. Accordingly, in spite of its limited staff, the Commission has responded to technical assistance requests at a ratio of approximately 33 to 1 compared to the other agencies mentioned. In addition, the Commission has investigated and resolved without the filing of a single lawsuit over 90 prisoner complaints.

3. "By concentrating on physical inspections, rather than issuing notices of non-compliance with its law or regulations or providing technical assistance within the 15 areas of jail management plans, the Commission has helped establish rapport with its target population while avoiding some of the less appealing aspects of its mandate."

FACTS:

(a) As pointed out above, the only function of the Commission mandated by the statute which was adequately funded was the provision for three inspectors.

(b) The physical inspections (required by law) have pointed out county jail deficiencies and have encouraged counties to spend funds to upgrade their jails or to build a new jail. Responsible county officials, when given the expertise and technical assistance of the Commission without cost, and when shown how they can economically upgrade their facilities, have done so voluntarily and without coercion by the Commission. In short, county officials have received help in curing their deficiencies rather than bare criticism and enforcement notices.

(c) The Commission has been aware of the fact that after it was staffed for activity in January, 1977, the counties in the State of Texas were in the middle of a fiscal year, and their budgets were already committed. Little could be accomplished by directing counties to perform a function and to spend monies which had not been budgeted and which they could not afford. Accordingly, by furnishing to the counties the inspection reports outlining the deficiencies of the facilities and by spending the time with the county officials who responded to the

reports in showing them how they could economically and efficiently move toward remedying the deficiencies, the Commission was accomplishing more by technical assistance and cooperation than by wielding a club and ordering immediate compliance.

(d) Because the Commission has been funded through a federal grant administered by the Criminal Justice Division, it has been required to obtain approval for the use of its funds. One such approval requested was for an inter-agency contract with the Attorney General to assist it in commencing enforcement of its standards for recalcitrant counties. On each occasion, the Commission was informed that this action was contrary to the legislative intent of its budget, and the request was refused.

(e) Despite the Commission's not having "enforced" items of noncompliance, more than 80 counties have voluntarily commenced major renovation or new construction, and other numerous counties have begun minor renovations through variance requests and otherwise which will bring them into compliance.

(f) Rather than "avoiding some of the less appealing aspects of its mandate", the Commission has found itself, because of budget limitations and non-approval of expenditure of funds to have been curtailed in its efforts to perform enforcement functions. The only staff allocations allowed by the budget are for inspection and providing technical assistance. Requests for funds to assist in drafting enforcement regulations and to provide personnel to institute and carry forward

enforcement proceedings have been disapproved: initially by the Legislative Budget Board creating the budget for the biennium, and most recently, by disapproval of the expenditure funds under an inter-agency contract with the Attorney General's office seeking outside assistance for the Commission in enforcing its standards. Accordingly, it appears inconsistent that the Commission would be criticized for not enforcing its standards, while at the same time, it has been effectively prohibited from performing those functions. The observation contained in the staff report:

"Currently the Commission does not have any practical means of enforcing its requirements nor does it have the resources to induce counties to make expenditures"

is to a large point correct. No budget allocation was ever allowed for enforcement personnel or outside enforcement assistance. The only budget allocations permitted were for limited technical assistance and for inspections of jails.

If the Legislative Budget Board is truly concerned with the enforcement of its State's statutes and minimum jail standards, it could simply provide for sufficient funds and personnel to perform these functions. The enforcement powers have already been delegated to the Commission under Article 5115.1. If the Legislative Budget Board does not wish to have these powers vested in the Commission, they could be transferred to the Attorney General, and all enforcement powers placed in the hands of that office.

Since January 1, 1977, the Commission and its staff have developed a technical expertise not possessed by any other similar

agency in the nation. Its minimum standards were drafted after 36 public hearings in every area of the State attended by approximately 1,000 persons and after consideration of information received from architects, engineers, sheriffs, county commissioners, doctors and numerous public interest groups, and after studying all reported cases on constitutional requirements for jails (collated by the Attorney General's Office). All 265 Texas county jail facilities have been inspected, and the Commission's reports reflect the deficiencies which the present staff can assist in remedying on the most economic and efficient basis for the counties. Plans for new construction and major renovation for more than 80 counties have been reviewed. No other agency possesses the knowledge and expertise of the staff of the Commission. Few architects have ever designed a jail. Its structure is more complex than a hospital with its various functions: kitchens, laundry, medical requirements, administration offices, plumbing, security devices, electrical wiring, emergency equipment, etc, etc. Texas counties presently have available to them the combined knowledge, experience and expertise of the Commission staff that has been able to realize major cost savings in construction at the planning stage for many, many Texas counties. The staff can perform knowledgeable, cost-free analyses of jail needs and studies for sheriffs and counties, which, when performed by private consultants, have cost counties from \$4,000 to \$88,000.

V. THE EFFECTS ON TEXAS COUNTIES OF ABOLISHING THE COMMISSION

On October 5, 1978 the members of the Legislative Budget Board of the Texas Legislature (the LBB) had been furnished with the recommendation by its staff that the three-year old Texas Commission on Jail Standards be funded under the General Appropriations of the State for the next biennium. In the past it had been funded by federal grants administered through the Criminal Justice Division (CJD). In a two and one-half page report delivered during the meeting of the LBB the following day, the same staff recommended that the Jail Commission be abolished.

If the Texas Commission on Jail Standards with its small staff of six members is abolished, the costs to Texas counties will be multiplied many times over the meager budget on which the Commission has operated. A dramatic example: the new Harris County jail would have cost an additional \$80,000,000 had it not been for the existence of the Standards drafted by the Commission and the testimony of its staff in the Houston federal court trial challenging the new jail. Other effects of doing away with this small, hard-working Commission are:

A. Return of Texas Jails to Federal Control

Since 1957, Texas has had statutes establishing minimum standards for its jails (Art. 5115, Vernon's Ann. Tex. Civ. St.). The jails were not inspected for compliance and the statutes were not enforced. Texas enjoyed the questionable anomaly of having its judiciary (County Commissioners' Courts) and law enforcers (Sheriff's departments) violate the statutes and minimum standards of both the Texas and United States Constitutions.

61% of the jails had been built before 1940; 16% before 1900. 40% of the jails had prisoners sleeping on floors, 121 jails had prisoners left unattended at night, and many had prisoners left unattended over weekends; 35 jails had commodes that would not flush. Filth and vermin were prevalent. Physical, even sexual, assaults on inmates were common. 75% of the jails lacked means for prisoners to communicate with guards in the event of fires, illness, or other emergencies. 48% of the jails provided no fire extinguishers and 71% had no adequate emergency exits. 49% of the jails lacked sufficient lighting for reading or for supervision by guards. 68% of the jails lacked any exercise areas. Many jails served only two, inadequate meals per day. In summary, Texas jails in 1975 were old, in disrepair, unsafe, filthy, unhealthy and overcrowded.

Federal courts stepped in. Suits were filed in Dallas, El Paso, Houston, Lubbock, Abilene and Waco, to name a few. The remedial orders being issued were expensive and non-uniform. County defense costs were high (attorneys' fees awarded in the first order in Lubbock amounted to \$15,000).

Exercising foresight, in 1975, the Texas Legislature created the Texas Commission on Jail Standards and charged it with:

- (1) hiring an executive director and staff;
- (2) by January 1, 1977, promulgating reasonable, minimum standards for Texas jails;
- (3) inspecting annually, all 265 Texas county jail facilities;

(4) provide technical assistance and consultation to counties;
(5) review and comment on plans construction and major renovation;
(6) enforce the statutory jail standards established by the
Legislature and the Commission's minimum standards; and

(7) grant reasonable variances from state standards which do
not affect the health, safety and security of inmates and guards and
jail sanitation.

The Commission met its deadlines imposed by the Legislature. Commissioners and staff worked hard, long hours giving unselfishly of their time and effort. Uniform, reasonable, minimal and constitutional standards for jail construction and operation were drafted and enacted. Over seventy plans for new construction were reviewed and technical assistance to counties was provided. Seminars for sheriffs on jail operating plans and procedures were organized and conducted. All jail facilities were inspected annually and reports were furnished to county officials, most of whom moved voluntarily and without coercion to start to correct their jail deficiencies. Ninety prisoner complaints were investigated and resolved.

Most importantly, however, federal court orders became more uniform. Supervision of jails was delegated by the federal courts to the Commission - whose standards were drafted after reviewing all cases to date involving constitutional standards for jails. For the first time, Texas, through its Commission, was enforcing its jail standards.

If the Commission is abolished, the pre-1975 situation will be recreated. Federal courts will again assume the task of regulating Texas jail conditions on a case by case, non-uniform, expensive basis. County officials in Texas have come to realize the value and effect of the Commission to them. If Texans will not enforce their own laws, the federal courts will - at the counties' expense.

B. Expensive Cost Increases to Counties

There are no "Federal Standards"; there are federal guidelines. The National Clearinghouse for Criminal Justice Planning and Architecture, an LEAA Agency, is the author. These guidelines are designed to "Deinstitutionalize" jails. The result of deinstitutionalization is a single cell (a sleeping room) for each prisoner. [Under the guidelines, the newly planned \$40,000,000 Harris County jail (which has multiple occupancy cells) would have trebled in cost had a single cell been required for each prisoner as suggested in the Alberti case testimony. Texas' Standards were approved instead.] College dormitory type furniture of plastic and chrome (suggested also are rugs or carpeting for floors), windows rather than bars, conversation pits to promote informality, acoustic privacy screens, music rooms, t.v. rooms, pool tables and game rooms, contact visiting and other costly features, none of which promote a safe, secure jail, are also suggested.

Significant in the federal guidelines and Clearinghouse philosophies, is the lack of features which will protect the guards and the prisoners in the event of emergencies. There are no provisions for safety vestibules

or security and inspection corridors. There are no provisions for smoke and fume removal, fire hoses, fire extinguishers, or smoke detectors to ensure the safety of all occupants of the jail. No reliable means of voice communication between prisoner and guard is mentioned.

To illustrate the point, several new jails in Texas have either been built under federal guidelines or have been renovated using those same guidelines. Problems abound in all. "Unbreakable" windows (used instead of bars) are kicked out, escapes occur and alcohol or narcotics are introduced into the jail. A prisoner sets his mattress afire and is asphyxiated before the guards realize what has happened. Prisoners remove heating duct grilles and visit freely between male and female sections. Commercial, not detention-type hardware, is removed from the doors and the sheriff finds his prisoners out of their cells and playing "catch" with the door knobs. The list goes on and on - not just in Texas, but in California, Kentucky, Mississippi, New Mexico and Louisiana, where the guidelines were used.

Texas Standards on the other hand, while they do not specify any type of material to be used, are designed as performance Standards. The ingenuity of the architect and sheriff are not restrained at all, but a jail built to Texas Standards will be safe, secure, sanitary and suitable without being expensive or coddling.

Guards will not have to face three or more prisoners in a dayroom when they go to remove or place a prisoner; a safety vestibule will protect them. If a fire does occur, smoke detectors will immediately

alert the guards so the smoke removal system may be activated and the fire itself can be extinguished by means present within the jail, as recently occurred in Leon County. Windows are secure, and bars or security screens back up the security glass that may be subject to abuse or vandalism. There is no illicit visiting. The prisoners are safe, the guards are safe, and the community is secure. Above all, Texas jails built to Texas Jail Standards are constitutional, having been accepted as such in six federal courts on eight occasions.

A 91-page draft of "Federal Standards for Corrections" has been prepared by a Department of Justice task force. A cursory review of the draft will demonstrate that its effect, if imposed where no standards are in effect will result in much expense if for no other reason than the greater space required for cells.

Frequently jail administrators and county officials are required to evaluate future capacity needs and types of cells that will be adequate for a new jail or major renovation. The cost of these analyses, when performed by private consultants, have cost counties from \$4,800 to \$88,000. The Jail Commission does this work at no expense to the counties. Such cost savings for counties will evaporate if the Commission is abolished.

C. Loss of Technical Assistance and Expertise

During its three years, the Commission and its staff have studied all court cases affecting jails (collated by the Attorney General's Office) to determine minimal constitutional requirements, held thirty-

six open meetings across the state attended by over 1000 architects, commissioners, sheriffs, engineers, doctors, lawyers, public interest groups and lay persons. Plans for more than 80 new construction and major renovation jail projects have been reviewed and technical assistance provided. Few architects have ever designed a jail. Its structure is more complex than a hospital with its various functions: kitchens, laundry, medical requirements, administrative offices, plumbing, security devices, electrical wiring, supervisory visibility requirements, emergency equipment, etc, etc. Depending upon materials, design and experience of the planners, building costs can vary between \$65 to \$110 per square foot!

Because of the technical expertise of the Commission staff, many counties have been able to realize major cost savings in construction at the planning stage. The Commission has assisted sheriffs with administrative problems, programs and suggestions and has conducted a two-day seminar/workshop for their benefit, which was attended by approximately 250 persons. This reservoir of knowledge and cost-free helpful cooperation will be lost if the Commission is abolished.

D. Continuation of Deteriorated Jails

The work of the Commission is far from completed. The conditions set forth in A above, while improved in many, many instances still prevail in some counties. Without the Commission's inspections, these matters could not be called to the attention of responsible county officials, nor could technical assistance and the least expensive means of correcting them be suggested.

E. Removal of Insulating Effect of Minimum Standards of Liability of County Officials

On March 16, 1978, the federal court in El Paso found the county sheriff, county judge and county commissioners in civil contempt and imposed suspended sentences of two and one-half days and a suspended fine of \$375.00 on each of them. The contempt was later purged. In a previous order on October 19, 1977, the federal court stated:

"The Texas Legislature, by enactment of Article 5115, prescribed that the responsibility for providing safe and suitable jails and the responsibility for their proper operation fall upon the commissioners court."

In its order of June 7, 1977, the federal court in Lubbock made the following award against its county officials:

"Attorneys fees of \$15,000 are awarded to counsel for plaintiffs. This award does not include attorneys fees for any services beyond the entry of final judgment in this court. The county defendants are ordered to make arrangements for the payment of such fees to counsel for plaintiffs within 30 days after this judgment becomes final."

In approving the plans for the new Harris County jail, the federal court in Houston stated:

".... (w)hile in no way considering itself bound by the Texas Minimum Jail Standards, the court has given them weight as evolving notions of decency."

The abolition of the Commission and its minimum Standards would leave county officials with no standards by which they could evaluate the lawfulness of their jail operations. Without the Standards,

county officials would be required to collate all court decisions, study them, strike a balance between their non-uniform pronouncements, and then hope they have a lawful jail. How much better would it be for them to be able to urge the statement of the Houston federal court's order:

"In view of the fact that this is a pure state law question, the court concludes for present purposes that deference should be given the Texas Jail Commission's conclusion that the facility satisfies state law in all respects."

The above discussion is felt to be a very real presentation of the results of abolishing the Texas Jail Commission. While small in size and staff, the Commission has strived diligently to be of service to Texas counties and officials while attempting to fulfill the mandates placed upon it three years ago. It has reviewed over 80 sets of construction plans, investigated over 90 complaints, inspected Texas' 265 county jails each year, provided consultation and technical assistance on 303 occasions (traveling to counties in most instances) considered and passed upon over 700 variance requests, promulgated the first comprehensive set of minimum jail standards in the nation, conducted a two-day workshop/seminar for sheriffs, and drafted model administrative plans and procedures (classification and separation of prisoners, medical, discipline, female inmates, fire prevention, sanitation, etc). Counties have found help, cooperation and prompt service rather than an indifferent, bureaucratic philosophy of rude emphasis on red tape, form-over-substance and delay in action.

The incongruity of the strong emphasis placed on anti-crime legislation and assistance in law enforcement only two years ago and the

present abolition of one of law enforcement's integral functions - the supervision of safe, secure, humane and efficient housing of offenders - is difficult to understand. Has the philosophy that created the Commission - taking the jails out from under federal court supervision, technical assistance by knowledgeable persons and public revulsion at the conditions in antiquated jails - really vanished? It is submitted that it has not.

The precipitous recommendation of the staff of the Legislative Budget Board to abolish the Commission on Jail Standards and its effect on Texans and Texas counties has evoked response from citizens and public officials who have worked with the Commission and who have received the benefits which it has offered. Some of the responses are attached. See VI below. It is anticipated that as the recommendation of the staff becomes known, additional similar outcries will be forthcoming.

No Commissioner who serves on the Commission has anything to gain from the continuation of his work other than the satisfaction that he has conscientiously served a real public need for his State. The Commissioners are all citizens (including two sheriffs, a county judge and a doctor), appointed by the Governor, who serve without pay. They and the county officials who have worked with the Commission realize that the abolition of the Commission would be detrimental to the State of Texas in added costs to counties and in services upon which a price tag cannot be placed, and they urge that the sudden recommendation of the staff of the Legislative Budget Board should be seriously reconsidered.

VI. HOW TEXANS FEEL ABOUT THE COMMISSION

The work of the Texas Commission on Jail Standards has been one of cooperation with county officials. They have appreciated the courteous and reasonable manner in which this Commission has performed its functions. For the first time, they have been provided with reasonable, minimal and uniform criteria by which they may evaluate their facilities and operations. They have appreciated the technical expertise and advice of knowledgeable personnel in complex areas as well as the cost savings they have been able to realize.

Attached is random correspondence from the following persons:

T. Udell Moore, County Judge, El Paso County
Theos S. Morck, County Judge, Guadalupe County
Roland L. Lowe, County Judge, Sterling County
Gregory Underwood, County Judge, Cooke County
Max R. Wommack, County Judge, Comal County
Ed Terrell, County Judge, Hunt County
John Arleigh Huff, County Judge, Kendall County
A. J. Ploch, County Judge, Bexar County
John Lightfoot, Sheriff, Nachadoches County
Benny Fisher, Sheriff, Delta County
Carl Thomas, Sheriff, Dallas County
Roy Brockway, Sheriff
Ed Fannin, Sheriff, Madison County
Raymond Frank, Sheriff, Travis County

Jack Perry, Sheriff, Erath County

David Clabaugh, Sheriff, Panola County

Edward J. Landry, Sr., County Attorney, Harris County

W. T. Alley, Justice of Peace, Delta County

James Parkey, Thompson/Parkey Associates, Inc., Architects,
Dallas, Texas

Edward R. Condeck, Architect, San Antonio, Texas

John W. Koone, Rehler, Vaughn, Beatty & Koone, Inc.,
architects, San Antonio, Texas

Bill Nelson, architect, Beaumont, Texas

Charles L. Newman, Director, Center for Criminal Justice
Research and Planning, University of Texas at Arlington,
Arlington, Texas

James G. Dickson, Jr., Professor of Political Science,
Stephen F. Austin State University, Nacogdoches, Texas

John A. Cocoros, Program Director, Sam Houston State University,
Institute of Contemporary Corrections and Behavioral Sciences,
Huntsville, Texas

Paul Kaufman, Acting Superintendent, Rusk State Hospital,
Rusk, Texas

Article, Dallas Morning News, "Common Sense and Jail"
re. reasonableness of Commission

Editorial, Dallas Morning News, "More Games in Austin"
re. inadequate funding of Commission

Respectfully submitted,



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Chairman, Texas Commission
on Jail Standards