

Texas Commission on Jail Standards



2021 Annual Report February 1, 2022

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

TEXAS COMMISSION ON JAIL STANDARDS - CALENDAR YEAR 2021 ANNUAL REPORT

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This report is made pursuant to Chapter 511, Section 511.015 Government Code and covers activities of calendar year 2021.

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 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. The commission does regulate facilities that house inmates from other states on a contract basis, but we do not have authority to inspect facilities housing only federal inmates, regardless of who operates it.

We work closely with city, county, and state government officials in our duties to enforce jail standards. Our primary relationships are 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 conduct regular jail inspections to ensure compliance with state law. Our 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**

The Commission on Jail Standards is headquartered in Austin, Texas. 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. 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 quarterly meetings 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 from minimum standards. Members are not compensated for their work except for allowable travel and per diem expenses.

Commission members as of December 31, 2021, were as follows:

Member	City	Term Expires
Judge Bill Stoudt, Chair	Longview	2025
Dr. Esmaeil Porsa, M.D., Vice-Chair	Parker	2023
Mr. Ross Reyes	Melissa	2027
Sheriff Pinky Gonzales	Refugio	2027
Sheriff Kelly Rowe	Lubbock	2027
Mr. Duane Lock	Southlake	2023
Commissioner Ben Perry	Waco	2023
Patricia Anthony	Garland	2025
Monica McBride	Alpine	2025

During 2021, staff consisted of the following 23 positions. We ended 2021 with a new Compliance Monitor (Inspector IV), 1 Program Specialist vacancy and a vacant Receptionist position. Positions were as follows:

Executive Director	E-086
Manager I (2 positions)	B22
Staff Services Officer III	B19
Accountant IV	B19
Inspector IV (3 positions)	B19
Inspector V (5 positions)	B19
Mental Health Trainer	B17
Planner II	B19
Program Specialist I (3 positions)	B17
Program Specialist II (2 positions)	B17
Network Specialist II	B18
Research Specialist II	B17
Receptionist	A-09

III. Agency Objectives & Funding

The Commission fulfills its mission by allocating its resources and carrying 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 assist 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 Commission reviews, creates, and amends minimum standards for the purpose of building and maintaining safe, secure, and efficient jail operations. The Commission approves proposed revisions to the Standards and publishes them in the Texas Register for public comment. The Commission considers the public comments to determine whether the proposed standards need further amendment. The Commission then reviews the final version for adoption and, if adopted, publishes it again in the Texas Register.

In addition to the appropriated funds, the agency charges inspection fees 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 public information requests and the sale of Minimum Standards manuals account for .11% of the agency's budget.

To meet agency objectives, each strategy is allocated a specific number of Full-Time Equivalent (FTE) positions.

A. Inspection & Enforcement

(10 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 prior to 2021, each facility that was under the Commission's authority was inspected to determine compliance with minimum jail standards. Each of these inspections reviewed the jail security, control, and general conditions and considered not only the operations of the facility but the physical plant aspects as well. Special inspections were conducted on facilities that had either been identified as high-risk or found to be in non-compliance. These unannounced inspections may have also been performed when county officials indicated that the non-compliant items had been corrected, in which case the inspector would have personally examined the areas that required correction or reviewed documentation

that demonstrated compliance. This was especially critical when the issues involved safety and/or security issues.

The Executive Director reviewed the inspector's report, and, if the facility was in compliance, a certificate of compliance was mailed to the facility. However, if the inspector noted deficiencies, a notice of non-compliance was issued, which specified the standards with which the facility had failed to comply and included detailed steps the jail was required to take to correct the deficiencies. The notice of non-compliance was sent via certified mail.

As a result of this agency's Sunset Review, the agency is moving from an annual inspection schedule to a "Risk Based" inspection process. This is still in development with the assistance of Sam Houston State University.

B. Construction Plan Review

(2 full-time positions) The construction facility planning staff provides consultation and technical assistance to local governments for jail construction that meet Standards. There is extensive consultation and interaction with state and local officials, design professionals and consultants. Staff review plan documents at three phases: schematic design, design development, and construction documents. At each phase, staff note items requiring resolution and satisfaction prior to proceeding to the next phase. This process assists in ensuring that counties understand jail requirements and 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. Upon a county's request, the facility planning staff also analyze facility needs using population projections and other pertinent data to help counties determine their future incarceration needs.

C. Management Consultation

(5 full-time positions and 1 part-time position) Commission staff also provide needed jail management training and consultation to county representatives in person in our Austin office and by phone, written correspondence, regional training classes, and on-site visits. Staff provide on-going technical assistance on matters such as structural issues, life safety, and overall jail operation. Staff also analyze 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 important because it focuses on assisting counties to achieve and maintain compliance with Standards, which transmits to county jails the knowledge and tools required to run a safe and secure jail and thereby reduces county liability. Staff also provides Mental

Health training for jailers in response to mandated training required by SB 1849, to include required annual Suicide Prevention training.

D. Auditing Population & Costs

(1 part-time position) This strategy requires collecting, analyzing, and disseminating data concerning inmate populations, felony backlog, immigration, licensed jailer turnover, and jail operational costs. Staff assists counties with completing their jail population reports and provide technical assistance. Staff collects, analyzes, and provides statistical data to agencies that helps them predict and prepare for incarceration trends at the state and local level. They also receive audits of the commissary and general operations of the county jails. Staff analyze these audits 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

(5 full-time positions) Indirect administration strategy accounts for functions such as finance, human resources, and IT, which had previously been allocated among the five existing strategies. This not only allows for a more accurate representation of the funds and resources utilized for each of the five primary strategies but also allows 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. For example, Information Technology (IT) would support employees assigned to several different strategies.

F. Prisoner Safety Grants

(1 full-time position) Administers grants from the Prisoner Safety Fund. This strategy was created by SB 1849, commonly referred to as the Sandra Bland Act, of the 85th Legislature. The 86th Legislature passed HB 4468, amending Government Code 511.019(d), to increase the size of county jails eligible for grant funding from 96-beds or less, to 288-beds or less. Jails with 288-beds or fewer were able to submit requests for funding prior to September 1st, 2020, to install automated electronic sensors or cameras to ensure in-person checks of cells or groups of cells confining at-risk individuals. The program was approved for funding up to August 31, 2020, and was closed out on August 31, 2021.

IV. **2021 Operational Performance in Review**

A. Changes to Standards

1. Food Service Handler License

The Department of State Health Services (DSHS) determined that correctional facilities, including jails, that contract with professional food management corporations for food preparation and privately-owned correctional facilities are retail food establishments and must meet the associated licensing requirements for handling food. The Commission adopted an amendment to rule § 281.5 to require that those who prepare food in county jails shall possess a food handler license in accordance with Texas Food Establishment Rules. No comments were received regarding the adoption of the amendment. It was published in the 02/26/2021 issue of the Texas Register.

2. IDD CCQ Checks

The Commission adopted an amendment to rule § 273.5(c) to expand the scope of inmates for whom county jails must perform a mental history check to include inmates with Intellectual and Developmental Disabilities (IDD). The rule expands the scope of records jails must keep in relation to such inmates and of the jails' notification to other entities of their incarceration. The amendment also expands the information to be recorded on the mental health screening form to include information related to intellectual and developmental disability. When booking an inmate into a county jail, the jail uses the Continuity of Care Query (CCQ) system to learn whether an arrestee has a recorded history of mental illness. The Department of State Health Services (DSHS) was recently able to fully integrate their existing database to allow the Texas Law Enforcement Telecommunication System (TLETS) to access the information through the CCQ so that the jail may notify the magistrate of an inmate who may have a mental illness or IDD. The CCQ is now able to also show whether an arrestee has a recorded history of having IDD. No comments were received on the proposed amendment. It was published in the 02/26/2021 issue of the Texas Register.

3. Temporary Jailers Shall Not Supervise

The Commission on Jail Standards (TCJS) adopted new rule § 275.3, concerning temporary jailers, first published in the June 4, 2021, issue of the Texas Register (37 TexReg 275). The new rule adds § 275.3 to 37 TAC. HB 4468, 87th legislative session, amended Occupations Code § 1701.310(f) to prohibit a county jailer appointed on a temporary basis from being promoted to a supervisory position in a county jail. Extant jail standards § 275.2 required jailer supervisors to be licensed but did not state clearly that temporary jailers may not supervise. The proposed rule clarifies explicitly that temporary jailers may not supervise other

jailers and refers to Occupations Code § 1701.310(f) as the statutory source of the rule. No comments were received regarding the new rule or its adoption.

B. Jail Inspections

During Calendar Year 2021, inspectors conducted 236 annual jail inspections. 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 10 special inspections on high-risk and/or non-compliant jails during 2021. Additionally, 55 re-inspections of jails found in non-compliance during an annual or special inspection were conducted. Out of the combined 301 inspections, 301 were unannounced, representing 100% of all inspections.

1. Compliant Counties

At the beginning of 2021, 219 jails (92.02%) complied with Minimum Jail Standards. As of December 31, 2021, we certified 217 jails, comprising 91.18% of the county and private facilities under our regulatory review.

Staff conducted eleven (11) occupancy inspections on completed construction projects during 2021.

2. Noncompliant Counties

On December 31, 2021, 19 jails were in a status of noncompliance, representing 7.9% of the facilities on the inspection list. We issue notices of non-compliance in three categories: Life Safety, Management, and Construction. 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. We requested counties to appear before the Commission to address the corrective action necessary by the Commission if the Commission believed the counties were not acting expeditiously to resolve their deficiencies. As a result of these meetings, the Commission issued a remedial order to two (2) counties/facilities (Falls and Coryell). Commission staff conducts monthly progress reviews of noncompliant counties to assess the 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:

Glasscock	Cottle	Jeff Davis	McMullen
Borden	Floyd	Kenedy	Motley

Briscoe	Foard	Kent	Throckmorton
Coke	Hartley	King	Sterling
Concho	Irion	Loving	

C. Construction Plan Review

The Commission reviewed 23 construction/renovation documents in 2021. 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

The following three (3) counties opened a new facility during the year. These projects represented a total of 810 beds:

List of completed projects	# of beds
Robertson County Sheriff’s Office and Jail*	92
Travis County Blackwell- Thurman Criminal Justice Center	0- 3 Remote Holding Cells
Wichita County Law Enforcement Center*	718

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

2. Major Renovations/Additions Completed

The following three (3) counties completed major renovations or additions during the year.

List of Renovations	# of beds
Austin County Jail and Sheriff’s Office- Renovations	89
Comal County Courthouse Annex Holding Cell- Renovations	0-2 Remote Holding Cells
Ector County Law Enforcement Center – Booking and Intake Renovations	0-5 Holding Cells, 1 Detox Cell

All construction and renovation/additions projects totaled 810 beds.

3. Jails under Construction or Planning

At the end of 2021, 25 counties were involved in planning or construction projects. These projects are expected to result in an additional 812 beds in 2022. This figure is an estimate based on projects identified on January 1, 2022, and scheduled for completion by December 31, 2022; other projects identified during the year may cause this number to be adjusted further. In addition to

plan reviews, the Planning Department completed eight (8) Facility Needs Analyses, which assisted counties in determining their future jail needs.

D. Management Consultation

The Commission provided technical assistance to county officials throughout the year on jail matters, such as alternative programs, population control, structural issues, life safety, and overall operations. Although the Commission does not log telephone calls, it estimates that it received several thousand telephone calls during the year for technical assistance regarding jail management and operations. In addition, the Commission conducted one (1) in-house management consultations at the Austin office in 2021; as in 2020, this number was greatly impacted by the COVID-19 pandemic. The agency decided to conduct most of its meetings with counties via conference calls or video conferences. It also conducted 315 management consultations on-site with County Judges, Commissioner's Courts, and Sheriffs concerning the most economical and feasible ways to achieve compliance with state law, and, in some cases, with federal court orders. Finally, one (1) county received assistance with analysis of jail staffing needs, and staff reviewed 1,450 operational plans in 2021.

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. However, this effort was impacted by the COVID-19 pandemic, resulting in fewer classes than normal.

Municipalities continued to request information and assistance on jail construction or renovation. Although municipal jails that are not operated privately under authority of Local Government Code Chapter 351 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.

E. Auditing

1. Population

On January 1, 2021, jails were operating at 66.88% of capacity with a population of 63,971 and a capacity of 95,646. During 2021, the population increased to 66,146 on December 1, 2021, with a capacity decrease to 94,789 beds. On December 1, 2020, all Texas jails were collectively operating at 69.78% of capacity.

Texas counties continue to house out-of-state inmates. On December 1, 2021, one (1) local facility was housing 25 inmates for New Mexico.

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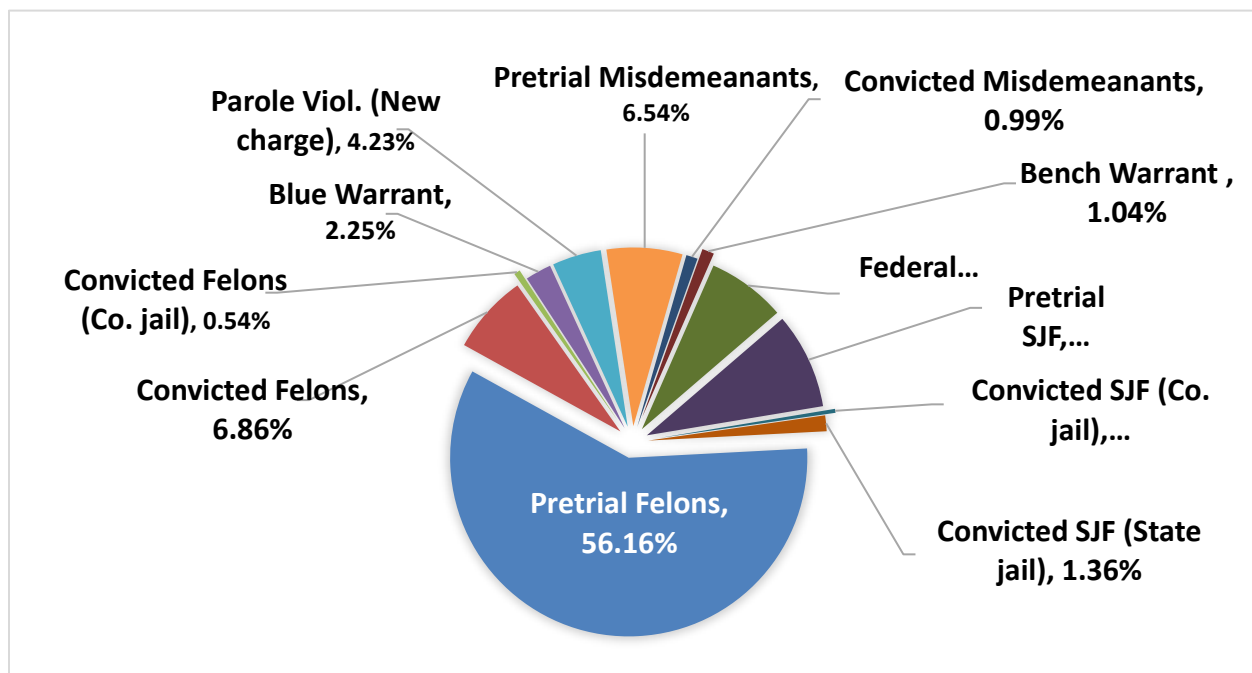
The number of federal inmates held by facilities under the Commission’s purview decreased from 4,848 on January 1, 2021, to 4,499 on December 1, 2021. The local population increased from 57,227 on January 1, 2021, to 59,673 on December 1, 2021. This represents a decrease of 0.96%. Additionally in 2021, two jails continued housing convicted state inmates through contract with the Texas Department of Criminal Justice. However, on December 1, 2021, both facilities were not housing any state inmates.

County Jail Population by Offense Type¹

	12/2016	12/2017	12/2018	12/2019	12/2020	12/2021
Pretrial Felons	43.8%	46.39%	45.57%	47.40%	53.42%	56.16%
Convicted Felons,	7.28%	8.48%	8.03%	6.54%	5.50%	6.86%
Convicted Felons (Co. jail)	1.44%	1.33%	1.41%	0.61%	0.55%	0.54%
Blue Warrant	3.29%	3.29%	3.08%	3.59%	3.65%	2.25%
Parole Viol. (New charge)	4.88%	4.97%	5.45%	4.59%	6.00%	4.23%
Pretrial Misdemeanants	8.99%	9.00%	7.93%	7.72%	6.80%	6.54%
Convicted Misdemeanants	3.27%	3.05%	2.47%	1.80%	0.99%	0.99%
Bench Warrant	1.41%	1.51%	1.43%	1.32%	1.00%	1.04%
Federal ²	8.08%	7.08%	7.33%	7.96%	7.41%	6.80%
Pretrial SJF	9.27%	9.75%	9.14%	9.18%	7.25%	8.29%
Convicted SJF (Co. jail)	0.74%	0.87%	0.63%	0.61%	0.35%	0.34%
Convicted SJF (State jail)	1.71%	1.73%	1.66%	1.41%	1.63%	1.36%

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

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



2. Immigration

Senate Bill (SB) 1698, 82nd Legislature, requires the reporting of inmates with an immigration detainer and the associated costs. In 2021, the total number of inmates with an immigration detainer in Texas county jails was 33,958 for 860,568 days. This includes inmates held at the newly occupied Operation Lone Star facilities. This represents a 32% decrease from 2020 to 2021. In comparison, the decrease from 2019 to 2020 was 16%. The collective 2021 cost for the entire state was \$53,120,770.69. The monthly average was 2,830 inmates for 71,714 days at a cost of \$4,426,731.

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 2021, overall monthly jail turnover rates averaged 2.40%, which is up slightly from 2.05% in 2020. When summed, the monthly turnover rates reached a total turnover of 28.78%, up slightly from 26.64% in 2020. Individual county monthly rates ranged from 0% to 100%.

F. Prisoner Safety Fund

SB 1849 created the Prisoner Safety Fund, which appropriated a dedicated amount of funding to facilitate capital improvement projects for county jail facilities with a total capacity of 96-beds or less. The 86th legislature passed SB 4468, which amended Government Code 511.019(d) to increase the size of county jails eligible for grant funding from 96-beds or less to 288 beds or less. These capital improvements include the provision of camera systems or electronic cell check systems to ensure observation of inmates and tele-health or tele-psyche equipment to provide 24-hour access to medical professionals. To ensure the funds are allocated appropriately, the commission was required to establish a program to oversee the grant funding. Policies and procedures were developed during the earlier part of 2018 to direct the program. The program required counties to submit estimates or invoices for review, prior to determining what funds may be provided on a case-by-case basis. Funding for the program was available until September 1, 2020. Since the grant funds lapsed, agency staff spent 2021 verifying installation of the approved equipment.

When the program concluded on August 31, 2020, a total of seventy-seven (77) counties received funding over the life of the program, with the final amount of allocated funding totaling \$373,782.91.

G. Operation Lone Star

The Commission on Jail Standards was named a member of the Governor's Task Force on Border and Homeland Security upon its formation on June 10, 2021. The primary task the Commission and its staff have taken part in is supporting Operation

Lone Star which is the state effort to secure the border. Since its inception, commission staff has provided technical assistance and assisted with the establishment of two temporary processing facilities and the re-purposing of three units of the Texas Department of Criminal Justice (TDCJ) units to serve as temporary housing for county jail inmates. This has required agency staff to assist Texas Division of Emergency Management and the Texas Department of Criminal Justice in all aspects of county jail operations to ensure compliance. Agency staff traveled and provided onsite technical support, which included inspections for the approved temporary processing facilities and potential housing unit facilities. These efforts proved worthwhile when conditions of confinement and authority to hold county inmates in these re-purposed facilities were challenged in court and dismissed, allowing the operation to continue. As directed in support of Operation Lone Star, the agency had submitted a detailed supplemental appropriations request that consisted of 3 FTEs and the funding necessary to support their deployment. Unfortunately, less than half of the requested amount was approved, which required the agency to continue using existing staff to cover the duties associated with the operation.

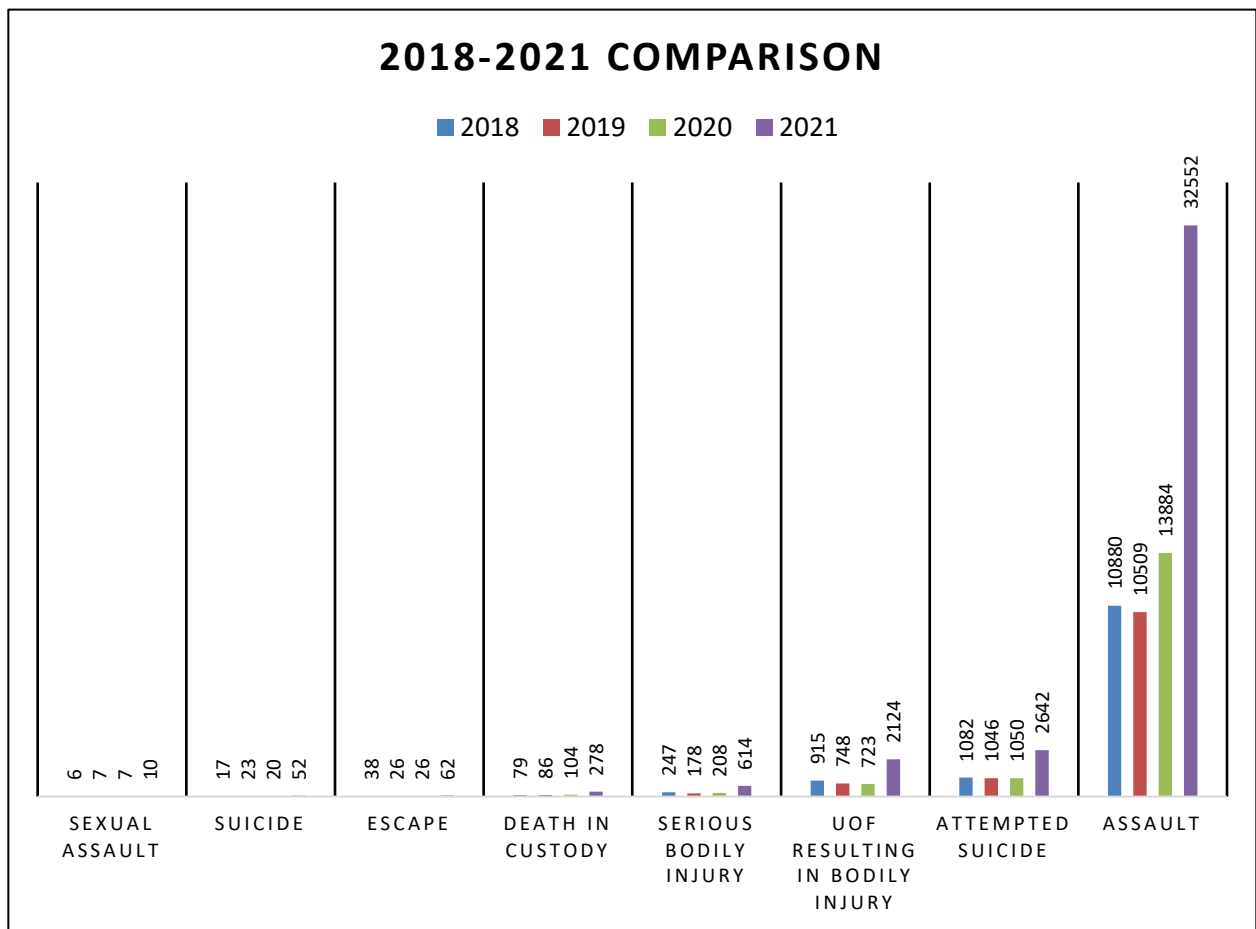
H. Critical Incident Inspection

In addition to conducting administrative reviews on reported Escapes from custody and Deaths in Custody, the Commission also receives, on or before the fifth day of each month, reports on the occurrence of any serious incidents involving an inmate in the county jail during the preceding month.

January	239 reports received	all facilities reporting
February	238 reports received	all facilities reporting
March	238 reports received	all facilities reporting
April	238 reports received	all facilities reporting
May	238 reports received	all facilities reporting
June	238 reports received	all facilities reporting
July	238 reports received	all facilities reporting
August	238 reports received	all facilities reporting
September	238 reports received	all facilities reporting
October	238 reports received	all facilities reporting
November	238 reports received	all facilities reporting
December	238 reports received	all facilities reporting

Incident	2019	2020	2021
Sexual Assault	6	7	7
Suicide	17	23	20
Escape	38	26	26
Death in Custody	79	86	104
Serious Bodily Injury	247	178	208
UOF Resulting in Bodily Injury	915	748	723
Attempted Suicide	1082	1046	1050
Assault	10880	10509	13884

Total 2021 Serious Incident Reports received: 2,857. The total number of reported incidents are outlined below by order of frequency:



I. Jail Administrator Examination

SB 1849 created a change to Minimum Standard §275.8. It now requires a person appointed to the position of Jail Administrator after March 1, 2018, within 180 days of his/her appointment must satisfy the requirements of a Jail Administrator Examination created by the Texas Commission on Law Enforcement (TCOLE) and approved by the Commission.

As of December 31, 2021, 133 individuals have been appointed as a jail administrator after March 1, 2018.

- Of those 133 individuals, 127 have successfully passed the Jail Administrator Examination, and the six Jail Administrators still have time remaining of the 180 days provided to pass the exam and meet the requirement.

Additionally, as of December 31, 2021, 1,502 individuals have successfully passed the Jail Administrator Examination.

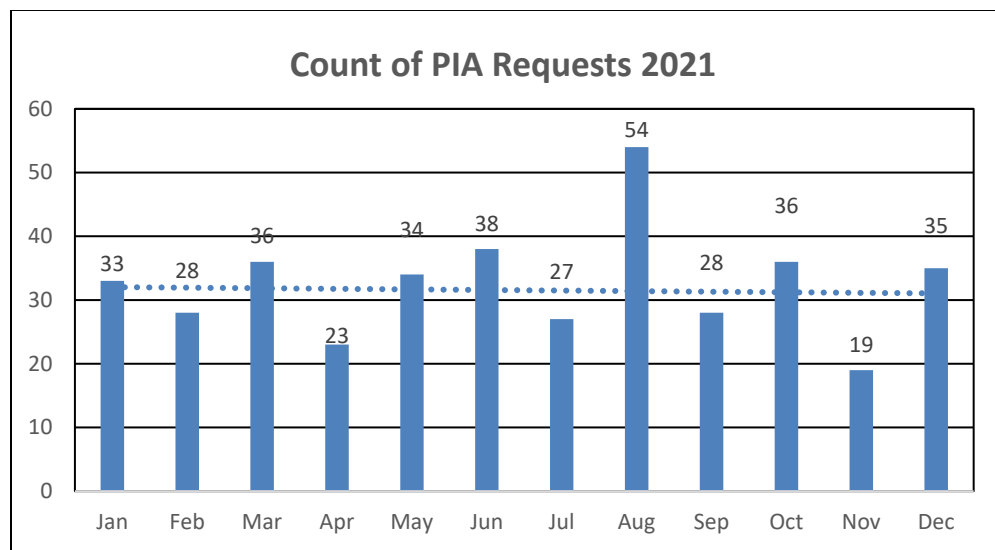
J. Additional Services

1. Research

In 2021, the Commission responded to 392 requests for over 25,786 pages of public information. This is down from 2020, when there were 411 requests for over 341,967 pages of public information. In 2019, there were 304 requests for over 40,327 pages of public information. Public information requests averaged 33 per month. Prior to the COVID-19 pandemic, requests averaged 25 per month. In August 2021, the Commission began receiving public information requests related to Operation Lone Star.

The greatest number of public information requests were received for information related to inmate death (82), jail inspection reports (56), COVID reports (33), and complaints (32).

The Commission submitted five requests to the Office of the Attorney General for rulings on whether the information may be withheld.



The dotted blue line above represents the exponential trend of request and shows that, in 2021, the monthly number of requests stabilized after rising sharply in 2019 and 2020.

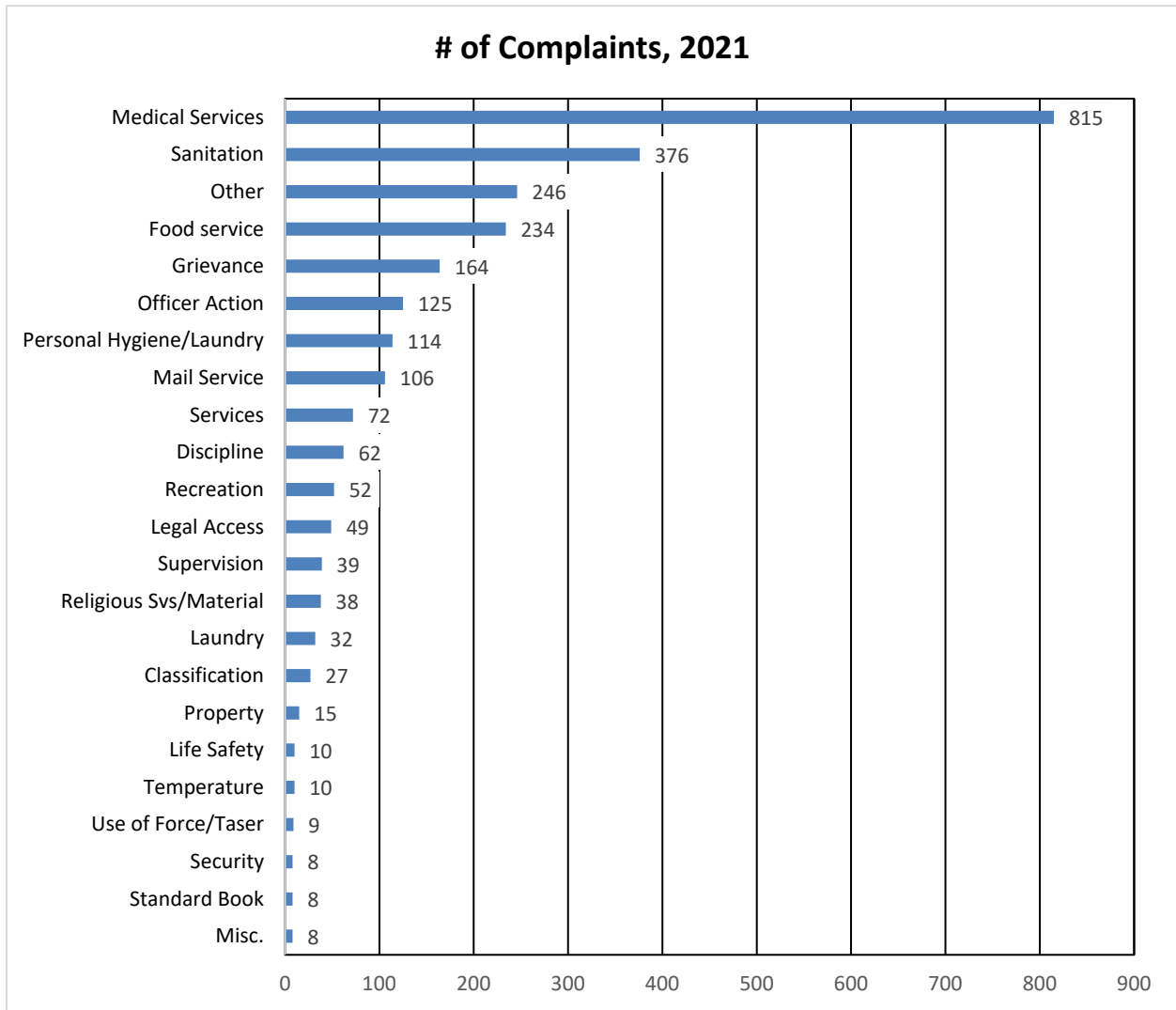
Staff conducted research in response to requests from the legislature, sheriffs and jail administration regarding standards, legislation, statutes, attorney general opinions, court cases, and best practices.

The Research Specialist 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 Statewide Behavioral Health Coordinating Council (SBHCC), the Behavioral Health Workforce Workgroup, the Judicial Commission on Mental Health, the Behavioral Health Workforce Workgroup, and the Cross Systems Trauma Informed Care Workgroup.

2. Inmate Complaints

The Commission received 2,709 written requests for inmate assistance or complaint review in 2021. This is an increase of approximately 26% from 2020. 1,701 complaints required a written response by the county officials and possible action by Commission staff. The Commission determined that 43 (2.5%) of complaints requiring a response were founded. Medical services constituted 47.9% of complaints received in 2021, making this category the most frequently cited complaint requiring a formal reply.

The following graph illustrates the frequencies (from highest to lowest) of complaints received for 20 categories. In cases where more than one complaint category is addressed in a letter, the three most significant complaints are reported in their respective categories.



1,009 complaint letters required no response from county officials, 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 helped eliminate frivolous litigation. Complaints received by the Commission have increased by approximately 46% in the last 5 years.

3. Variances

The Commission approved six (6) new variances and zero (0) extensions of a previously granted variance. 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).

4. COVID-19 Reporting

In response to the COVID-19 pandemic, the agency developed a reporting program and began tracking the impact of the virus on county jails. Any facility with an inmate or staff member that tested positive for the virus was asked to report daily population information to the commission. Those facilities with any positive inmate cases were compiled into a daily report, which was then published to the agency's website and disseminated to various agencies.

To further assist counties impacted by the COVID-19 pandemic, the agency began tracking weekly the population of sentenced inmates awaiting transfer to TDCJ. Counties exceeding 80 and 90 percent of the facilities capacity were asked to provide weekly population information. This information was used to prioritize TDCJ transfers for facilities nearing capacity to prevent overcrowding.

These efforts remained in place during 2021, to continue assisting counties with reducing the impact to jail facilities under the agency's purview. The daily COVID-19 reporting was discontinued on June 14, 2021, when the agency was tasked with supporting Operation Lone Star.

V. 2021 Administrative Activity in Review

A. Staff Changes

In 2021, 4 new hires joined the Commission.

B. Staff Turnover

In 2021, 4 staff members left the agency.

C. Training Initiatives

Training efforts at the Commission were greatly impacted by the COVID-19 pandemic during 2020 and 2021. 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.

Staff trainers conducted the Practitioners' Series Training called the "Current Trends and High-Impact Areas of Jail Operations" at two regional sites during 2021. 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 2021, there were 31 participants at the two training sessions.

Since creating and maintaining a responsible classification system 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 continue to offer training on-site and at headquarters for Population and Paper-Ready Reports and the “What to Expect during an Inspection” course for any county that requests assistance. In 2021, there were 192 participants at the five training sessions.

In addition to these training classes, the Commission conducted training sessions at the annual Texas Jail Association (TJA) Conference in Austin, Texas, at the annual Chief Deputies Conference in College Station, Texas, at the Sheriff’s Association Conference in San Marcos, Texas, at the Jail Management Issues Conference in Galveston, Texas and at the Jail Administration: Management and Operations classes at Sam Houston State University in Huntsville, Texas.

SB 1849 amended Occupations Code 1701.310(a) to require the Commission to provide 8 hours of mental health training to all currently licensed jailers by August 31, 2021. On September 1, 2017, the Commission hired three (3) Mental Health Trainers to develop and begin instructing the course. As a result, Commission trainers developed “Mental Health Training for Jailers,” which TCOLE certified as class #4900. The objective of this class is to help jailers identify the signs and symptoms of prominent categories of mental illness commonly observed in the jail setting as well as to gain an understanding of constructive techniques utilized with communicating in a time of crisis in a jail setting.

In 2021, the Mental Health Trainers conducted 95 training classes with a total of 956 participants in attendance.

During the latter part of 2019, the agency developed another TCOLE certified training course which is proprietary to TCJS. Suicide Prevention Training for Jailers, TCOLE class #4901. The objective of this class is to help jailers identify inmates who are a suicide risk and provide them the questions and actions necessary to help prevent suicide attempts. This class is also intended to help counties satisfy annual training requirements.

In 2021, the Mental Health Trainers conducted 43 training classes with a total of 392 participants in attendance.

Agency’s Staff Services section also began weekly training for the USPS (Uniform Statewide Payroll/Personnel System) to CAPPS HR (Centralized Accounting and Payroll Personnel System) transition, with the State Comptroller’s office.

D. Legislative Actions

HB 2, Bonnen, Greg – TCJS Current Appropriations Reductions

This bill reduced current appropriations to specified governmental agencies, including reducing Commission on Jail Standards \$82,439 from current General Revenue Fund 0001. It required the specified agencies to identify the strategies and objectives out of which the indicated reductions in unencumbered amounts appropriated to the agency from the general revenue fund are made except to the extent a strategy or objective is specified by this subsection. Lastly, the bill required that agencies use lapsed appropriations to offset the bill’s reductions. The bill became effective immediately upon passage.

HB 719, White, James – Repeal Requirement TCJS to Consult Regarding State Jail Facilities

This bill repealed Gov. Code § 511.017(a)(3), which required TCJS to provide the state jail division with consultation and technical assistance relating to the operation and construction of state jail felony facilities. The bill became effective 9/1/21

HB 1307, Gonzalez, Mary – OBGYN/MH Care for Pregnant/Abused Female Inmates

This bill amended Local Gov. Code to provide that, as soon as practicable after receiving a report of a miscarriage or physical or sexual abuse of a pregnant prisoner while in the custody of a county jail, the sheriff shall ensure that an obstetrician or gynecologist and a mental health professional promptly: (1) reviews the health care services provided to the prisoner; and (2) orders additional health care services, including obstetrical and gynecological services and mental health services, as appropriate. It also amended Gov. Code 501 to provide the same regarding TDCJ and its inmates. The bill became effective 9/1/21

HB 1322, Shaheen, Matt – Internet Posting of Summary of New Rule Language

This bill required that, by 9/1/23, state agencies shall post on their website a summary of proposed rules written in plain language, as defined, in both English and in Spanish of all proposed rule language.

HB 1545, Cyrrier, John – TCJS Sunset Bill

The bill contained the following provisions:

1. Commissioner Training
 - a. New Training – Redesignated Gov. Code §§ 511.004(h)-(j), as § 511.00405(a)-(d) and added the following training elements that new TCJS commissioners appointed on or after 9/1/21 must receive before they may vote:
 - i. The law governing commission operations;
 - ii. The scope of and limitations on the rulemaking authority of the Commission;
 - iii. The requirements of:
 1. Laws relating to disclosing conflicts of interest;

2. Other laws applicable to members of a state policy-making body in performing their duties.
 - b. Training Manual – Required the Commission’s Executive Director to:
 - i. Create a commissioner training manual that includes information presented in the new commissioner training;
 - ii. Create a statement template that commissioners will sign attesting that they have received the training manual; and
 - iii. Annually:
 1. Distribute the training manual to each commissioner;
 2. Obtain the signed statements from each commissioner.
2. Complaint Procedure – Amended Gov. Code § 511.0071(a-1)(3) to require procedures for prioritizing complaint appeals and a reasonable time frame for responding to complaint appeals.
 - a. Documentation – Added Gov. Code § 511.0071(a-1)(4)(F)-(H) to require the complaint procedure to include:
 - i. The detailed categorization of each violation alleged in a complaint;
 - ii. The comprehensive documentation of each violation alleged in a complaint; and
 - iii. Documentation of the reason a complaint is closed without action.
3. Complaint Analysis – Added Gov. Code § 511.0071(a-1)(5) to require TCJS to regularly analyze complaints to identify trends, including trends with respect to jails with a higher-than-average number of complaints, to determine jails requiring additional inspections.
4. Complaint Report – Amended Gov. Code § 511.0071(a-1)(6) to require TCJS to regularly make available to the public the report containing a summary of the information compiled under Gov. Code § 511.0071(a-1)(4) and (5).
5. Complaint Procedure Publishing – Added Gov. Code § 511.0071(a-1)(g) and (h) to require that TCJS:
 - a. Adopt rules by March 1, 2022, requiring Jail Administrators to:
 - i. Include in jail handbooks information regarding the procedure for complaint investigation and resolution;
 - ii. Not later than April 1, 2022, post the information and update the inmate handbooks as necessary to comply with the commission’s rules; and
 - iii. Prominently display the information throughout the jail.
 - b. During any jail inspection, ensure compliance with the foregoing.
6. Complaint System – Added Gov. Code § 511.0072(a)-(b) to require that TCJS maintain a system to:
 - a. Promptly and efficiently act on complaints,
 - b. Maintain information about:
 - i. Parties to the complaint;
 - ii. The subject matter of the complaint; and
 - iii. A summary of the results of the review or investigation of the complaint, and its disposition.

- c. Make information available describing the procedures for complaint investigation and resolution.
- 7. Complaint Status Notification
 - a. Repealed Gov. Code § 511.0071(e) and (f), which required TCJS to notify complainants *quarterly* of the complaint progress and to collect specified information regarding complaints.
 - b. Added Gov. Code § 511.0072(c) to require TCJS to notify the complainants *periodically* of the status of their complaint until final disposition unless the notice would jeopardize an investigation.
- 8. Advisory Committees
 - a. Added Gov. Code § 511.0081 to allow TCJS to establish advisory committees to make recommendations to the commission on its programs, rules, and policies.
 - b. Required TCJS adopt rules regarding:
 - i. The purpose, role, responsibility, goals, and duration of the committee;
 - ii. The size of and quorum requirement for the committee;
 - iii. Qualifications for committee membership;
 - iv. Appointment procedures for members;
 - v. Terms of service for members;
 - vi. Training requirements for members;
 - vii. Policies to avoid conflicts of interest by members;
 - viii. A periodic review process to evaluate the continuing need for the committee; and
 - ix. Policies to ensure the committee does not violate any provision of Chapter 551 applicable to the commission or the committee.
- 9. Risk Factors
 - a. Amended Gov. Code § 511.0085 to allow that the risk factors related to the monthly risk assessment may include the number of months since a jail's prior inspection.
- 10. Risk Policy
 - a. Repealed Gov. Code § 511.009(a)(15), which required TCJS to schedule announced and unannounced inspections of jails under the commission's jurisdiction using the § 511.0085 risk assessment plan to guide the inspections process.
 - b. Added Gov. Code § 511.0086, requiring TCJS to adopt a policy of prioritizing the inspection of jails under the commission's jurisdiction based on the relative risk level of a jail. The policy must use the risk assessment plan to:
 - i. Schedule announced and unannounced inspections of jails, and
 - ii. Determine how frequently and intensively the commission conducts risk-based inspections.
 - c. Allowed the Risk policy to provide for TCJS to use alternative inspection methods for jails determined to be low-risk, including using abbreviated inspection procedures or other methods instead of conducting an in-person inspection.

11. Regular Rule Review

- a. General Rule and Procedure Review - Amended Gov. Code § 511.009(a)(5) to require TCJS to review its rules and procedures regularly.
- b. Legislation Not Required – Added Gov. Code § 511.009(a-2)(f) to provide that compliance with § 511.009, particularly the requirements regarding the adoption of rules and procedures, is not contingent on the enactment of any additional legislation.
- c. Consider Jail Types and Sizes - Added Gov. Code § 511.00901(a) to require TCJS to ensure that the minimum standards established under § 511.009 take into consideration the needs and risks of the different types and sizes of jails under the commission’s jurisdiction.
 - i. Identify Standards Indifferent to Jail Types and Sizes - Added Gov. Code § 511.00901(b) to require TCJS to conduct ongoing review of the minimum standards to identify any standards that do not account for the needs and risks of the different types and sizes of jails. As it does so, required TCJS to solicit feedback from a diverse collection of jails, including those of different types and sizes.
 - ii. Considerations for Revising Standards - Added Gov. Code § 511.00901(c) to require that, in revising a standard for the purposes of Gov. Code § 511.00901(b), the commission must consider:
 1. Tiered or separate standards based on size, jail resources, or type of jail;
 2. Clarifying or amending existing standards; and
 3. Publishing guidance on the commission’s rule interpretations.
 - iii. Lowering Standards – Added Gov. Code § 511.00901(d) to prohibit lowering any standard in effect on September 1, 2021, as a result of a review conducted under Gov. Code § 511.00901.

12. Annual Juvenile Report - Repealed Gov. Code § 511.009(a)(12), which required TCJS to require municipal and county jails to submit an annual report of juveniles in county jails.

13. Reinspections - Added Gov. Code § 511.00902 to require TCJS to adopt rules and procedures for reinspecting a jail after determining that the jail is not in compliance. The rules and procedures must require TCJS to:

- a. Reinspect all jails not in compliance;
- b. Establish a percentage of reinspections for which TCJS shall assess the jail’s compliance with all standards, regardless of whether the jail was in compliance with a particular standard during the previous inspection; and
- c. Randomly select the jails subject to a reinspection.

14. Trend Analysis - Added Gov. Code 511.00903 to require TCJS to regularly analyze data, as specified, to identify trends in noncompliance, inspection outcomes, serious incidents, and any other related area of jail operations.

15. Graduated Enforcement

- a. Added Gov. Code § 511.0145 to require that TCJS adopt rules establishing a system of graduated, escalating enforcement actions against jails that:
 - i. Have not made timely progress correcting noncompliance issues; or
 - ii. Have failed multiple inspections within a certain number of years as determined by the commission.
 - b. Required that the rules must establish time frames for the commission to take certain graduated, escalating enforcement actions against jails.
 - c. Required TCJS to:
 - i. Develop a schedule of actions to guide the enforcement actions the commission may take under the graduated enforcement rules adopted, including:
 - 1. A recommendation of the appropriate enforcement action based on the severity of the noncompliance; and
 - 2. Consideration of any:
 - a. aggravating factors, including repeat violations and failing consecutive inspections; and
 - b. mitigating factors; and
 - ii. Post the schedule on its website.
16. Death Investigation – Amended Gov. Code 511.021 to:
- a. Require that the law enforcement agency appointed by TCJS to investigate a jail death must conduct the investigation;
 - b. Allow the appointed law enforcement agency to present evidence to TCJS that investigating the death would create a conflict of interest that the investigating agency cannot mitigate; and
 - c. In the case of a conflict of interest, allow TCJS to appoint a different law enforcement agency to investigate the death.
17. Capital Improvements etc. – Amended Gov. Code § 511.009(c) to redirect the Prisoner Safety Fund from its original purpose to instead use it to pay for capital improvements that are required under § 511.009(a)(19), which requires TCJS to provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a jail commissary, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety. The bill became effective 9/1/21.

HB 2831, White, James – Established TCJS IDD Advisory Committee

- 1. Amended Gov. Code 511.022 to require TCJS to establish a 13-member advisory committee to advise the commission and make recommendations related to county jail confinement of persons with Intellectual and Developmental Disabilities (IDD). Comprises one representative from:
 - a. TCJS
 - b. DHS
 - c. DHS with expertise in IDD;
 - d. TCOLE
 - e. TCOOMMI
 - f. Sheriff of a county with a pop =>80K

- g. Sheriff of a county with a pop <80K
 - h. Two representatives of a statewide IDD advocate;
 - i. Mental health professional specializing on trauma and IDD;
 - j. A person with IDD or whose family member has IDD;
 - k. State supported living center; and
 - l. The public.
2. Requires TCJS Exec. Director to appoint members by 1/1/22 with staggered terms as prescribed.
3. Requires the committee to:
 - a. Gather and review data regarding the confinement in county jails of persons with IDD and provide recommendations and guidelines to sheriffs and counties. Report biennially and make recommendations by 12/1 of each even numbered year to the Governor, Lieutenant Governor, Speaker of the House, and standing legislative committees.
 - b. Monitor the intake processes in county jails to assess each county jail's ability to properly identify persons with IDD and assist county jails in improving the intake processes with respect to persons with IDD.
 - c. Report 12/1/22 to Governor, Lieutenant Governor, Speaker of the House, and standing legislative committees, and each sheriff a discussion of any deficiencies in the IDD intake and recommendations for IDD intake improvement. This provision expires 1/1/23.
 - d. With TCOLE and TCJS develop by 1/1/22 a continuing education county jailer training program of at least four hours on interacting with a person with IDD who is confined in a county jail, including techniques to assess a person for IDD.
4. Requires by 1/1/22 that TCOLE and TCJS with assistance from this IDD committee develop a continuing education county jailer training program of at least four hours on interacting with a person with IDD who is confined in a county jail, including techniques to assess a person for IDD.
5. Requires that by 12/1/22 TCJS report to the Governor, Lieutenant Governor, Speaker of the House, standing committee of the legislature with primary jurisdiction over the commission, and each sheriff a discussion of any deficiencies in the IDD intake and recommendations for IDD intake improvement. This provision expires 1/1/23.
6. Provides that TCJS shall periodically update the intake screening form adopted by the commission for use by county jails as necessary to reflect the recommendations of the advisory committee.

The bill became effective 9/1/21.

HB 3607, Leach, Jeff – Non-substantive change GC 511.104

Re-designated Gov. Code 511.0104 as 511.0106. This was a non-substantive amendment. The bill became effective 9/1/21

SB 49, Zaffirini, Judith – Magistrate Collection of Inmate Mental Health Information

1. Amended Code of Criminal Procedure § 16.22 to require magistrates to provide to the sheriff or persons responsible for inmate medical records a

report on the information collected during an interview conducted by the LMHA pursuant to Code of Criminal Procedure 16.22(a)(1)(A) to determine whether the inmate has a mental illness.

2. Amended Code of Criminal Procedure 16.22(a)(2) to provide that, if the defendant is no longer in custody, the magistrate is not required to order the interview and collection of information regarding whether the defendant has a mental illness or IDD.
3. Amended Code of Criminal Procedure Article 17.04 to provide that an oath to appear will not be required if the defendant has a mental illness or is found incompetent.
4. Requires jail-based competency services to operate in the jail in a designated space that is separate from the space used for the general population of the jail.
5. Amended Gov. Code 511.009(d) to require TCJS to adopt rules and procedures by 12/1/21 that a prisoner with a mental illness be provided with each prescription medication that a qualified medical professional or mental health professional determines is necessary for the care, treatment, or stabilization of the prisoner.

The bill became effective 9/1/21 prospectively.

E. Attorney General Action

In 2021, the Commission submitted to the Office of the Attorney General five requests for rulings on excepting specified information from public disclosure. Typically, this is confidential or private information found in death or complaint reports. Often, county district attorneys or criminal investigators object to our disclosing death records because doing so would compromise an active investigation or litigation. In 2020, the Commission submitted three requests for rulings.

VI. Summary & Forecast

This past year saw the agency continuing to operate in a COVID-19 environment while also supporting Operation Lone Star and beginning to implement the changes required by the Sunset Report and HB1545. The most obvious change that will result from the Sunset Review dealt with inspection and the migration from an annual jail inspection schedule to one that is determined by risk level. To accomplish this, the agency has partnered with Sam Houston State University and their Criminal Justice Management Institute of Texas to refine the existing risk assessment tool and attempt to validate it. This will be followed by the redesign of the inspection process with the assistance of the Department of Justice-National Institute of Corrections. This is envisioned to include the incorporation of Generally Accepted Governmental Auditing Standards and creation of an Inspection Manual to be followed to ensure inspection consistency. The move towards a risk-based approach is viewed as a more efficient model for conducting inspections, and its success will depend on it having the ability to predict non-compliance.

For all practical purposes, COVID-19 did not impact the agency's own operations, but it continues to greatly impact those that we regulate. Staffing shortages at county jails are exacerbated by inmate populations that continue to increase. As predicted in last year's annual report, lack of action by local court systems has been the major contributor to the increasing inmate population. Courts have operated sporadically at best and jurisdictions continue to struggle with being able to begin offering not to even mention consistently provide jury trials. However, the worst example continues to be the waitlist for the State Hospital System. Inmates found incompetent in accordance with the Code of Criminal Procedure 46 must be sent to a state hospital for competency restoration before they are able to stand trial. At the end of 2021, this wait list was over 2,000 inmates, and the average wait time was approaching one year. This places yet another burden on our county jails, which are forced to operate as de facto mental health facilities but without the specialized staff or resources to do so successfully. Agency staff are exploring alternatives and solutions but find themselves limited to options that are at best the least-undesirable. This will require innovative approaches and solutions at the local level other than simply warehousing more inmates indefinitely while they await trial.

Staff turnover returned to normal attrition levels, but additional resources will have to be secured to retain the well-trained and competent staff currently in place. They remain highly sought after and the demands that we place on them must be addressed as soon as possible. While the utilization of flex and work from home schedules was seen as a benefit when first introduced, it is now commonplace, and has lost much of its retention value. The other issue with flex and work from home approach is the lack of in-person interaction, which hinders teamwork as well as individual effectiveness. Although there are some duties and functions that can be carried out remotely, this does not apply to all functions. This is especially noticeable when it comes to mentoring the next generation of leaders. There truly is no substitute to working side by side and ensuring less-senior staff members are exposed to all the different functions the agency performs and what it actually takes to run a state agency. We may pay a very high price in the next five years if we do not manage this properly, and it will be incumbent upon management to do so.

One of the issues that the agency continues to deal with is the requirements regarding the investigation of deaths in custody. There are interpretations of the various statutes and codes governing the definition of a death in custody. If an inmate is released through the issuance of a personal recognizance bond, they are no longer in custody, but the bond must be signed. We have experienced on several occasions a county not reporting a death because in the jail's opinion the individual had been released, even though the inmate had not signed the bond. Absent such notification, the agency has had to rely upon secondary sources to inform it of these deaths. The issue was brought up in the Self Evaluation Report prior to our Sunset Review but was not addressed by Sunset staff. The final report issued by the Sunset Commission did amend the report to address the issue surrounding the appointment of an outside law enforcement agency to conduct the investigation but did not go any further. Until this issue can be resolved, the possibility remains that a county will release an inmate in the hospital so that it may avoid reporting to the Commission the inmate's anticipated death.

The agency will undergo an extensive overhaul in 2022, driven by the changes required by the Sunset Review. Management has already reallocated existing staff to focus more on complaints along with the Inspection & Enforcement function to address these areas, which received the most criticism from the Review. However, this is only part of the challenge. To be effective, the individuals we place in these positions must be trained and capable of carrying out their duties competently. This requires staff to allocate time for training while still meeting on-going demands. Based upon experience, it takes anywhere from six to twelve months before an employee is considered at 100 percent. Added to this is the need to develop new and revise existing policies and procedures to ensure they are comprehensive and effective. Each of these actions take time to accomplish from an already over-extended staff. Regardless, that same staff is dedicated to achieving a successful overhaul of the agency that will serve as a model for correctional oversight.

To address identified shortcomings, the agency will be preparing a Legislative Appropriations Request that will contain exceptional items focusing on additional staff and funding. The request for additional funding will be used to better align current salaries with duties currently assigned and comparable positions in other state agencies and county jails. If this is not successful, it will directly impact the ability to successfully overhaul the agency as planned and needed.