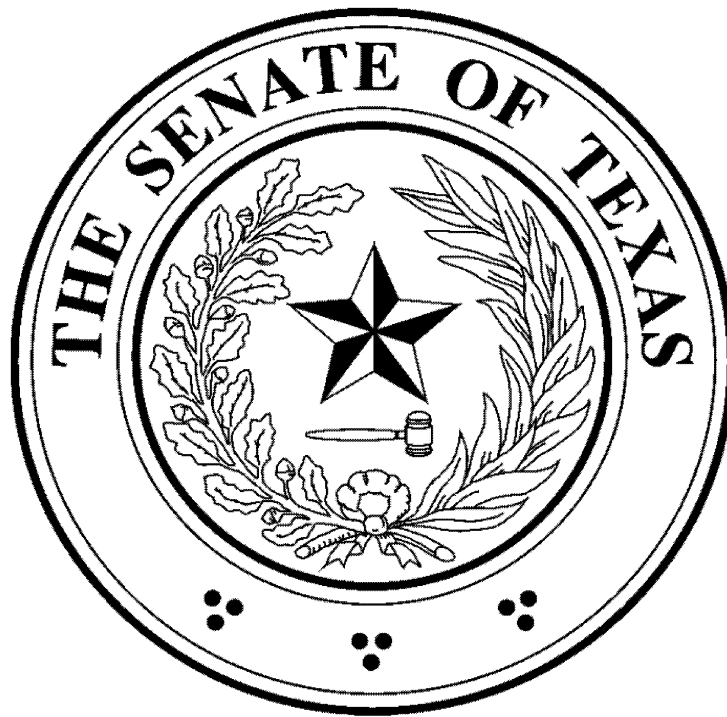


SENATE COMMITTEE ON CRIMINAL JUSTICE

**Interim Report to the 83rd
Legislature**



December 2012

Senator John WHITMIRE, Chair

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January 8, 2013

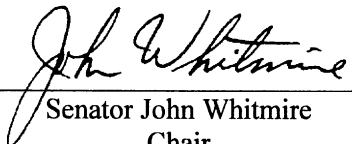
The Honorable David Dewhurst
Lieutenant Governor of the State of Texas
Capitol Building, 2nd Floor

Dear Governor Dewhurst:

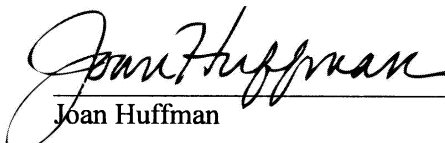
The Senate Committee on Criminal Justice submits its Interim Report in agreement with the Interim Charges that were issued this past year. The Criminal Justice Committee has held hearings over the last year to gather information on these charges. The hearings have been well attended and informative. In compliance with your request, a copy of this report will be circulated to all senators and other interested parties.

As you are aware, the charges that you issued to the Committee were very comprehensive and challenging. We have worked hard to respond to this challenge by developing broad recommendations that will benefit all Texans in the years to come. We anticipate that the Committee's recommendations will provide a guide for fiscal and operational improvement in the Texas Criminal Justice System. We thank you for your leadership and support.

Respectfully submitted,



Senator John Whitmire
Chair



Joan Huffman

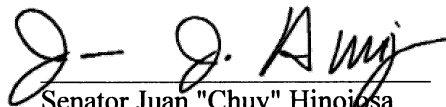
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Senator Juan "Chuy" Hinojosa



Senator Glenn Hegar



Senator Dan Patrick





The Senate of The State of Texas

DAN PATRICK

Senator ★ District 7

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- Bunker Hill Village
- Hedwig Village
- Hilshire Village
- Houston
- Humble
- Hunters Creek Village
- Jersey Village
- Katy
- Piney Point Village
- Spring
- Spring Valley
- Tomball
- Waller

January 4, 2013

The Honorable John Whitmire
 Senate Committee on Criminal Justice
 P.O. Box 12068
 Austin, Texas 78711-2068

Dear Chairman Whitmire:

I greatly appreciate your leadership of the Senate Committee on Criminal Justice during the 82nd Legislative session and interim. I offer my approval to the interim report, but would like to add some clarifying remarks.

While I am supportive of the policy recommendations in the report, I am hesitant to endorse the recommendations that might have a fiscal note. Specifically, the second recommendation for interim charge two advocates funding victims-services organizations through other methods of finance, such as General Revenue. Also, the interim charge four recommendations include expansion of beds in halfway house programs and within TDCJ for sex offenders which suggests an additional cost. Although agreeing with the policy behind these recommendations, I cannot commit to increasing funding for these issues.

Again, thank you for your leadership and for the opportunity to provide my thoughts on the interim report and the Criminal Justice Committee.

May God bless,

DP/ls

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Executive Summary

Recommendations Interim Charge One

Review statutes and regulations relating to money laundering to enhance state, federal, and local efforts to combat money laundering and enforce administrative and criminal actions against perpetrators of money laundering.

The review of statutes and regulations relating to money laundering revealed the complexity of pursuing these cases, and that a task force including international enforcement agencies, federal enforcement agencies and Texas enforcement agencies is essential to successful interdiction of these activities. Also that pursuit of these activities is resource driven and that Texas must continue to function within these task forces, cooperating fully with available assets.

Recommendations Interim Charge Two

Study and evaluate the long-term stability of the Crime Victims Compensation Fund (CVCF) including: the original statutory purpose of the fund; the definition of "crime victim"; the current funding streams; the current ability to pay claims; and impact of the fund on victim organizations supported by the fund. Make recommendations to increase collection rates for effective and efficient use of the fund and resources.

1. The Legislature should clarify the governing statutes of the CVCF to state that funds may only be used to manage the CVCF and provide compensation to actual crime victims.
2. The Legislature should seek to continue funding victims-services organizations through other methods of finance, such as General Revenue.

Recommendations Interim Charge Three

Study the law governing the Texas bail bond industry and determine local practices for the pretrial release of the accused. Determine the financial impact of various pre-trial release options for the accused, and the financial impact on counties for the failure to release pretrial.

This study of the law governing the Texas bail bond industry and determining local practices for the pretrial release of the accused reveals that Texas has a thoroughly detailed oversight scheme governing the bail bond industry. This oversight provides accountability and enforcement authority. Utilizing a philosophy of local control, the State assigns this responsibility to the county elected officials, who fund and operated county jails and local courts. How they utilized the options provided in State law, how they use county resources, are the local officials responsibly. In turn they are accountable to their constituents who pay taxes for these purposes.

Recommendations Interim Charge Four

Evaluate existing comprehensive diversion and treatment systems within the state, including mental health treatment, to determine cost effectiveness, reductions in correctional populations, impact on healthcare systems, and the overall number of people treated effectively. Examine federal, state and local collaborations and make recommendations for best practices to maximize effective use of funding and resources.

During the 81st and 82nd Legislative Sessions, the continuation and funding for these efforts were deemed essential and have led to Texas being the model for other states to follow for lowering their prison populations. This committee recommends the following:

1. Continue the programs, which have resulted in overall cost reductions to prison operations, and maintain funding. These programs have allowed, for the first time in Texas history, the closure of a prison - the Central Prison Unit, in Sugarland, in 2011.
2. Seek solutions to capacity issues which have developed in the halfway house program and its demonstrated need for additional beds.
3. Support, within TDCJ, the expansion of treatment beds for the observed numbers of sex offenders who are being discharged and nearing parole consideration.

Recommendation Interim Charge Five

Study the use of administrative segregation in TDCJ, including issues related to: the frequency and justification of its use; the process and classification system which determines an inmate's placement; the impact on prisoners' mental health and recidivism rates; the process of reviewing placement and inmates' transition into both the general prison population and the general public; options for alternative confinement arrangements; and the potential for the expansion of the Serious and Violent Offender Reentry Initiative (SVORI) or similar programming in order to improve inmates' transition from solitary confinement to the general public.

The committee recommends that the Legislature continue to monitor TDCJ's successful efforts to reduce the usage of administrative segregations beds. Also TDCJ is encouraged to research other state systems that have proven their ability to decrease the use of these beds and report to the Legislature if legislative actions are required.

Recommendations Interim Charge Six

Assess the current trends in prescription drug abuse including crimes and arrests, abuse of prescription and over-the-counter medication in the prison population, impact on probation violations and recidivism, and incidences of law enforcement as the first responders to prescription drug overdose emergencies. Identify strategies for law enforcement and criminal justice systems to work with education and health care

professionals to use all means, including technology, to identify abuses, and increase education and prevention. Make recommendations to enhance drug abuse prevention and intervention programs.

This committee recommends that the PAT system be monitored for full maximum implementation and that once analyzed adjusted as necessary. Also the availability of substance abuse treatment should be expanded as resources allow.

Recommendations Interim Charge Seven

Conduct a comprehensive review of school discipline practices. Specifically, review and make recommendations on:

- The effectiveness of Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP) in reducing students' involvement in further disciplinary infractions and in promoting positive educational achievement;
 - Disproportionate school discipline referrals, including suspension, expulsion and Class C misdemeanor citations;
 - The issue of "Zero Tolerance" in secondary education school discipline, their use of alternative education campuses, and the barriers they create toward graduation. Also include the role that specialized school police departments play in these systems. Consider the impact on the juvenile justice system and the adult prison system;
 - The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care;
 - Evidence-based models used for addressing juvenile delinquency prevention that are targeted to non-adjudicated, but at-risk youth, in the school disciplinary system. (Joint with Senate Committee Education Committee)
1. The legislature should require training for teachers and campus law enforcement in behavior management techniques.
 2. The legislature should allow for an age to identify what students may be issued citations not a grade level.
 3. The legislature should remove the option of issuing citations for education code violations. These disciplinary should be addressed through a graduated sanctions model.
 4. The legislature should include more discretion in zero tolerance policy.
 5. The legislature should amend current statute to create a consequence for districts that have not complied with implementing truancy prevention programs.
 6. The legislature should require complainants to use sworn statement procedure rather than relying on law enforcement officers to issues citations.

7. The legislature should require law enforcement to report to a superintendent rather than a designee.

Recommendations Interim Charge Eight

Monitor the implementation of legislation addressed by the Senate Committee on Criminal Justice, 82nd Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation. Specifically, monitor the following:

- Implementation of and transition to the new Texas Juvenile Justice Department. Examine the consolidation of the probation and parole functions, and make recommendations to enhance the integration of the two agencies and promote successful outcomes for youths, victims, and taxpayers;
 - Overall care of female inmates;
 - Implementation of SB 1616 and SB 1636, relating to the testing of evidence;
 - Implementation of SB 321, relating to an employee's lawful transportation and storage of certain firearms or ammunition while on property owned or controlled by the employee's employer;
 - Implementation of legislation relating to human trafficking in coordination with the Joint Interim Committee to Study Human Trafficking.
1. Continue monitoring employer compliance with SB 321.
 2. Encourage employers who have amended their policies in order to comply with the law to notify their employees of these changes.
 3. Educate uninformed, non-compliant employers about the scope and intent of the law.
 4. Inform willfully non-compliant employers about the recent opinion of the Texas Attorney General regarding the authority of an employer to ban the transport and storage of firearms in locked private vehicles on employer parking lots.
 5. Evaluate legislative options if voluntary compliance is not successful.

Interim Charge One

Review statutes and regulations relating to money laundering to enhance state, federal, and local efforts to combat money laundering and enforce administrative and criminal actions against perpetrators of money laundering.

Introduction

Money laundering is generally defined as the practice of using a business to conceal the source of money that is the product of criminal or illicit activity. In simple terms it is the washing of dirty money to make it seem clean. It is both a federal offense and a Texas offense to engage in money laundering. The federal laws will be discussed first.

The federal offenses were passed in 1986 as the Money Laundering Control Act, and in 1988 The Anti-Drug Abuse Act, Title 18, United States Code, Section 1956 and 1957. Federal laws have been expanded and strengthened with passage of the Money Laundering Suppression Act in 1994, The Money Laundering and Financial Crimes Strategy Act in 1998 and the USA Patriot Act in 2001.

Section 1956, of the U. S. code, concentrates on the financial transaction involving the cleaning of proceeds of illegal activity and provides the penalties upon conviction. It prohibits anyone from knowingly conducting or attempting to conduct a financial transaction that involves proceeds of unlawful activity to carry on unlawful activity or avoid paying taxes. The federal penalty for this is either a fine of up to \$500,000.00 or double the amount of money that was laundered, whichever is greater, a prison sentence of twenty years and the forfeiture of the money.

Section 1957 differs from the previous Section 1956, in that the person does not have to know that the money came from criminal activity. The sum of the money must be more than \$10,000.00 and the penalty can be no more than 10 years in prison.

Texas laws against money laundering are found in the Texas Penal Code, Title 7, Offenses Against Property, Chapter 34, Money Laundering, which were passed in 2005 during the 79 Legislature. Texas joined the majority of states who have adopted state prohibitions after Arizona implemented the first state laws against money laundering in 1985.

Under Texas law a person who knowingly engages in money laundering activities commits an offense; however knowledge of the specific nature of the criminal activity which creates the proceeds is not required to establish a culpable mental state under this code. Texas law utilizes a progressive sentencing scheme based on the value of the funds involved:

- a state jail felony for \$1,500.00 or more but less than \$20,000.00
- a felony of the third degree for \$20,000.00 or more but less than \$100,000.00
- a felony of the second degree for \$100,000.00 or more but less than \$200,000.00

- a felony of the first degree for \$200,000.00 or more

If requested by the County level prosecuting attorney, the Attorney General of the state of Texas may assist in the prosecution of an offense alleging money laundering.

Money laundering activities that have been identified and prosecuted under both federal and Texas law include:

1. Structuring or smurfing, in which cash is broken into smaller deposits of money
2. Bulk cash smuggling in which funds are moved from one jurisdiction into another, and deposited in a financial institution that has greater bank secrecy, such as off shore banks
3. Cash intensive businesses in which legitimate funds and illegal funds are mixed together and deposited into a financial institution, examples include parking building and casinos
4. Trade based laundering by under or over valuing invoices in order to disguise the movement of funds
5. Shell companies and trusts which hide the true owner of money
6. Round tripping, money moved to foreign corporation offshore and shipped back as a foreign Direct investment, exempt from taxation
7. Bank capture in which criminals buy controlling interest in a bank in a jurisdiction with weak money laundering control and use it to move the illegally gained money
8. Casino in which a person buys chips, and then turns them back into for a check and deposit as gambling winnings
9. Real estate, purchase with illegal money and then sold
10. Black salaries where employees are off books and paid in cash
11. Fictional loans
12. Black market peso exchange

The Black Market Peso Exchange has become a large-scale scheme used by both the Columbian drug cartels as well as the Mexican drug cartels. Its purpose is to swap dollars owned by the cartels in the United States for pesos already in Columbia or Mexico. It involves an established business buying from the drug cartels the dollars in the USA with pesos in the home country, then using the dollars to purchase United States goods for export back to the home country.

Discussion and Testimony

On April 11, 2012 the Senate Criminal Justice Committee met in a public hearing to receive testimony, both invited and public, on interim charge one. Senator Whitmire called the meeting to order and called up the first of the invited presenters.

Invited Testimony

Steven McCraw, Director, Department of Public Safety (DPS) provided that hiding illicit profits is a key component of drug smuggling operation and that in Texas bulk cash smuggling, moving the cash back to Mexico, is the preferred method. He estimated that between \$19 to \$39 billion flows through Texas to the drug cartels annually. DPS has interdicted approximately \$122 million of these monies, which is a very small percentage of the total. Responding to a question from the committee, Director McCraw clarified that it is difficult to qualify the amounts of money, but that national intelligence centers and the United States State Department model suggest these amounts and provide these numbers within a wide range.

The Director stated that the most common method of money laundering is the black market peso/dollar exchange, with the exchange being made for a percentage of the cash being laundered. He provided that recently a perfume business was used to launder money and that store value cards, wire transfers, and banking systems are also used for laundering. He added that along with DPS interdiction efforts, they also monitor how the cartels adapt to law enforcement strategies. DPS had noted a recent change in drug cartels methods from using youth as drug mules (couriers) to using more adult men and women who are over 50 years of age.

Director McCraw pointed out that due to the complexities of these schemes that a team approach with federal and state authorities is essential in long term investigations. A smart method must be used to identify targets for these investigations. He recommended that DPS must be able to focus resources on north bound traffic (drugs coming in) and south bound traffic (money going to Mexico).

David Maxwell, Deputy Director, Office of the Attorney General (OAG) testified next and provided that:

- OAG has been active in investigating money laundering for more than a decade and that the only way to be successful is to work with other state agencies and federal agencies.
- OAG concentrates its efforts on the financial transactions and has identified over 100 corporations involved in money laundering schemes and that most of these are shell corporations.
- OAG has 11 assigned staff investigators who carefully analyze financial paper work which is time consuming and labor intensive.

In response to committee members' questions, Maxwell stated that success is determined by the apprehension of people, money and property. There is so much money involved in these cases that it is difficult to make a dent with one enforcement approach, it is a national, state, and local issue. He further explained that OAG monitors suspicious action reports (SARs) alert OAG to businesses that have large cash flows. Last year 70,000 to 90,000 SARs were filed leading to approximately 130 prosecutions.

Justin Wood, Assistant District Attorney (ADA), Harris County District Attorney's Office (DA) provided that the DA's office focuses primarily on the points of entry into the county at bus stations and airport, where mules are likely to enter. He added that upon detection some mules will admit to money laundering activity, especially in cases that involve drug dog alerts, a presence of drugs and criminal history of the person. In other cases in which money is detected, and there is no presence of drugs or criminal history with the person, successful prosecution is difficult and limited. ADA Wood suggested that the statute regarding intent be legislatively changed to Knowledge a person would have after a reasonable inquiry. Such a change would ease the burden of proof in these cases.

Sergeant Martin Skeen, narcotics division, Houston Police Department (HPD) stated that HPD concentrates its efforts at bus terminals and airports pursuing mules. In response to questions' from committee members he added:

- That the amount of money being moved is mind boggling and that HPD has limited resources to expend on interdiction effort.
- While some of these funds may be invested in legitimate business they believe that the bulk is moved to Mexico.
- That the amount of money discovered by HPD varies from month to month but that as much as \$500,000.00 a month can be seized.
- HPD focus its efforts on disrupting the process from point A to point B.

Public Testimony

No public oral testimony was presented.

Recommendations

The review of statutes and regulations relating to money laundering revealed the complexity of pursuing these cases, and that a task force including international enforcement agencies, federal enforcement agencies and Texas enforcement agencies is essential to successful interdiction of these activities. Also that pursuit of these activities is resource driven and that Texas must continue to function within these task forces, cooperating fully with available assets.

Interim Charge Two

Study and evaluate the long-term stability of the Crime Victims Compensation Fund (CVCF) including: the original statutory purpose of the fund; the definition of "crime victim"; the current funding streams; the current ability to pay claims; and impact of the fund on victim organizations supported by the fund. Make recommendations to increase collection rates for effective and efficient use of the fund and resources.

Introduction

The compensation for crime victims fund (CVCF) was established during the 66th Legislature in 1979. SB 21 (66R) established eligibility guidelines and provided for the reimbursement of expenses to crime victims within the state of Texas. Designated the payee of last resort, the CVCF was created to provide a stable and constitutionally dedicated source of funding to assist and deliver service to crime victims.

Ten years following the implementation of the Crime Victims Compensation Act, in 1989, Texas voters amended the Texas Constitution to include the Rights of Crime Victims within that document's Bill of Rights. In 1997, Texas voters amended the Texas Constitution to specify that money deposited in the CVCF was to only provide for delivering or funding victim-related compensation, services, or assistance.

After 1994, the CVCF demonstrated steady growth in its cash balance due to the 73rd Legislature increasing the court costs payable to the CVCF without increasing distributions from the fund. The accumulating balances were soon recognized to be a source of alternative funding as general revenue resources began to diminish and the need for other purposes increased.

In 1997, the 75th Legislature passed three significant pieces of legislation which increased distributions from the fund:

- HB 3062 amended Article 56.54, Code of Criminal Procedure (CCP) to increase award amounts, expand benefit types covered, and authorize funding for the Crime Victims Institute.
- SB 987 amended Article 56.541, CCP to authorize the legislature to appropriate excess money in the CVCF to state agencies providing victim-related services or assistance. It also allows the Office of the Attorney General (OAG) to use excess money from the CVCF for contracts and grants supporting victim-related services or assistance.
- SJR 33 dedicated the CVCF to be used for delivering or funding victim-related compensation, services, or assistance.

Subsequent Legislatures continued to multiply the purposes for which CVCF monies could be appropriated and expended:

- The 76th Legislature authorized the reimbursement of relocation expenses for victims of domestic violence by amending Article 56.32(9) (H), CCP, and allowed the OAG to provide grants for legal services to victims by amending Article 56.541(e), CCP.

- The 77th Legislature authorized the OAG to reimburse law enforcement agencies for the cost of a medical examination for a sexual assault victim by amending Article 56.54(k), CCP. It also authorized CVCF monies for additional payments to certain peace officers who are totally disabled while on duty due to criminally injurious conduct by amending Article 56.542, CCP. Additionally, it increased the payment to victims with permanent disability from \$50,000.00 to \$75,000.00 by amending Article 56.42(b), CCP.

The Crime Victims Compensation Act only requires that the crime victim's compensation program (payment of claims and operation of the Act) and the Crime Victims Institute receive appropriations from the CVCF. However, it allows excess money not appropriated for these two programs to be distributed for a variety of victim-related services as authorized by the previously noted amendments.

In April 2004, Attorney General Greg Abbott sent a letter to legislators stating that, "the findings of the State Auditor's Office in 2002 and our own projections indicate that by 2006-2007 biennium the Fund will not have enough money available to meet the current level of appropriations." In response to this, the 80th Legislature funded many victim-related service organizations through General Revenue, rather than through the CVCF. However, these organizations were moved back into the CVCF after the 80th Legislature, and continue to be funded through the CVCF today, again pushing the CVCF towards insolvency.

Discussion and Testimony

The Senate Committee on Criminal Justice held a public hearing on April 11, 2012.

Invited Testimony

Daniel Hodge, representing the Office of the Attorney General (OAG), testified that while the CVCF can maintain solvency if only compensating actual crime victims, it will be difficult to continue funding grants to victim's services groups and remain solvent. Senator Whitmire stated that if OAG were not to certify excess funds for the victims-services grant program, being that the statutory priority is given to actual crime victim's compensation, the Legislature would need to find alternative funding sources for the worthwhile services provided by those organizations. Mr. Hodge then explained that if the grant program were to be set aside, crime victims payments could be paid in full and the remaining funds could then be used to satisfy the competitively bid grant awards, but not the line item grants provided for in the Appropriations Act. Senator Whitmire then asked what actions the Legislature would need to take in order to fund victim's services groups, as well as continue to make compensation payments to crime victims. Mr. Hodge stated that stakeholder groups would be formed to discuss potential legislative options to maintain the Fund's solvency, as well as maintain grant funding for victims-services groups. Senator Whitmire again stated the challenge of finding a solution given the number of worthy and needed competing interests.

Public Testimony

Torie Camp, Deputy Director, Texas Association Against Sexual Assault (TAASA), testified that, conservatively, 50,000 men, women, and children are raped every year in Texas. Camp went on to point out the results of a survey conducted by TAASA of rape crisis centers. If funding to those centers were reduced by 50 percent, approximately 9,600 rape survivors would not be provided services.

Joy Rauls, Executive Director, Children's Advocacy Centers of Texas (CACTX), testified that in 2011, CACTX provided services to approximately 40,000 child victims, 75 percent of which were victims of child sexual assault. Rauls then stated the most important service provided by CACTX was the forensic interview of a child sex victim. Stating that law enforcement and CPS no longer provide such services, and with any decrease in funding, children will not be given support for recovery and investigations and prosecutions of child sex crimes will be compromised.

Vicki Spriggs, Chief Executive Director, Texas Court Appointed Special Advocates (CASA), provided an overview of the services CASA provides to children who are victims of abuse and neglect and are in state custody. She stated that approximately 46,000 children are expected to be in the foster care program of the Department of Family and Protective Services (DFPS) in 2012. Spriggs asked that the Legislature maintain its level of support for Texas CASA.

Gloria Terry, President, Texas Council on Family Violence (TCFV), provided several statistics regarding family and domestic violence. According to a DPS report, there were over 211,000 incidents of family violence in 2010 alone. Nearly 80,000, primarily women and children, accessed domestic violence services funded through the Health and Human Services Commission. Terry went on to state 142 women were killed by their intimate partner in 2010, ranging in ages from 17 to 74.

Recommendations

3. The Legislature should clarify the governing statutes of the CVCF to state that funds may only be used to manage the CVCF and provide compensation to actual crime victims.
4. The Legislature should seek to continue funding victims-services organizations through other methods of finance, such as General Revenue.

Interim Charge Three

Study the law governing the Texas bail bond industry and determine local practices for the pretrial release of the accused. Determine the financial impact of various pre-trial release options for the accused, and the financial impact on counties for the failure to release pretrial.

Texas Laws Governing the Texas Bail Bond Industry

The Eight Amendment to the United States Constitution provides one of Americans most basic rights; excessive bail shall not be required for release from jail, prior to conviction. This right, plus the corner stone of our criminal justice system, that the accused are presumed innocent until proven guilty, provides fundamental protection for all Americans.

These rights are also contained in the **Texas Constitution**; however several amendments have been approved by the voters and reveal a trend toward the denial of bail in specific situations and circumstances. Specifically from the Texas Constitution:

Sec. 11. BAIL. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Sec. 11a. MULTIPLE CONVICTIONS; DENIAL OF BAIL. (a) Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, or (4) accused of a violent or sexual offense committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above, of the offense committed while on bail in (2) above, or of the offense in (4) above committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above, the accusation and indictment used under (2) above, or the accusation or indictment used under (4) above within sixty (60) days from the time of his incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of

appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals.

(b) In this section:

(1) "Violent offense" means:

- (A) murder;
- (B) aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault;
- (C) aggravated kidnapping; or
- (D) aggravated robbery.

(2) "Sexual offense" means:

- (A) aggravated sexual assault;
- (B) sexual assault; or
- (C) indecency with a child.

(Added Nov. 6, 1956; amended Nov. 8, 1977; Subsec. (a) amended and (b) added Nov. 2, 1993.)

Sec. 11b. VIOLATION OF CONDITION OF RELEASE PENDING TRIAL; DENIAL OF BAIL. Any person who is accused in this state of a felony or an offense involving family violence, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release may be denied bail pending trial if a judge or magistrate in this state determines by a preponderance of the evidence at a subsequent hearing that the person violated a condition of release related to the safety of a victim of the alleged offense or to the safety of the community.

(Added Nov. 8, 2005; amended Nov. 6, 2007.)

Sec. 11c. VIOLATION OF AN ORDER FOR EMERGENCY PROTECTION INVOLVING FAMILY VIOLENCE. The legislature by general law may provide that any person who violates an order for emergency protection issued by a judge or magistrate after an arrest for an offense involving family violence or who violates an active protective order rendered by a court in a family violence case, including a temporary ex parte order that has been served on the person, or who engages in conduct that constitutes an offense involving the violation of an order described by this section may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate in this state determines by a preponderance of the evidence that the person violated the order or engaged in the conduct constituting the offense.

(Added Nov. 6, 2007.)

Protection for the victims of crimes and overall public safety form the rationalization for these changes and were approved by the voters of this State.

The Texas Code of Criminal Procedure, Title 1, Chapter 17. Bail, contains the statutes which implement the pre-trial release (bail) of the accused. Three types of release mechanisms are provided:

- Cash bail - a person provides the full amount of the established bond in cash to be held by the court until the resolution of the criminal case. As long as they have complied with all appearances in court, the cash is returned to the defendant. Chapter 17 establishes the primary reason for bail is to ensure that the accused will appear and answer before the court the accusation brought against him/her.
- Personal bond - a person is released on his own recognizance without sureties or other securities. Added in 1965 this section has been amended several times to prohibit the release of those accused of violent and or sexual offenses and to authorize various conditions of release such as mandated drug and alcohol testing, along with their related cost to be paid by the defendant. Although pre-trial bond offices were operated prior to Art. 17.42. Personal Bond Office, passing in 1989, this marks the point at which restrictive supervision of these bonds exploded, adding home confinement, electronic monitoring, and HIV testing.
- Bail bond - (surety bond) a bail agent will post a bond for the full bail amount, financially guaranteeing the defendant's return to court as scheduled. The bail agent charges a fee for this service, 10% to 20% of the bail amount. If the defendant fails to appear for a scheduled court appearance, the bail agent is authorized to locate the defendant and surrender them to the court.

Detailed instructions and mandates are contained throughout this Article, a table of content for Article 17 is provided below:

Art. 17.01. DEFINITION OF "BAIL"

Art. 17.02. DEFINITION OF "BAIL BOND"

Art. 17.025. OFFICERS TAKING BAIL BOND

Art. 17.03. PERSONAL BOND

Art. 17.031. RELEASE ON PERSONAL BOND

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN MENTALLY ILL DEFENDANTS

Art. 17.033. RELEASE ON BOND OF CERTAIN PERSONS ARRESTED WITHOUT A WARRANT

Art. 17.0331. IMPACT STUDY

Art. 17.04. REQUISITES OF A PERSONAL BOND

Art. 17.045. BAIL BOND CERTIFICATES

Art. 17.05. WHEN A BAIL BOND IS GIVEN

Art. 17.06. CORPORATION AS SURETY

Art. 17.07. CORPORATION TO FILE WITH COUNTY CLERK POWER OF ATTORNEY DESIGNATING AGENT

- Art. 17.08. REQUISITES OF A BAIL BOND
- Art. 17.085. NOTICE OF APPEARANCE DATE
- Art. 17.09. DURATION; ORIGINAL AND SUBSEQUENT PROCEEDINGS; NEW BAIL
- Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED
- Art. 17.10. DISQUALIFIED SURETIES
- Art. 17.11. HOW BAIL BOND IS TAKEN
- Art. 17.12. EXEMPT PROPERTY
- Art. 17.13. SUFFICIENCY OF SURETIES ASCERTAINED
- Art. 17.14. AFFIDAVIT NOT CONCLUSIVE
- Art. 17.141. ELIGIBLE BAIL BOND SURETIES IN CERTAIN COUNTIES
- Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL
- Art. 17.151. RELEASE BECAUSE OF DELAY
- Art. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE
- Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM
- Art. 17.16. DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION
- Art. 17.17. WHEN SURRENDER IS MADE DURING TERM
- Art. 17.18. SURRENDER IN VACATION
- Art. 17.19. SURETY MAY OBTAIN A WARRANT
- Art. 17.20. BAIL IN MISDEMEANOR
- Art. 17.21. BAIL IN FELONY
- Art. 17.22. MAY TAKE BAIL IN FELONY
- Art. 17.23. SURETIES SEVERALLY BOUND
- Art. 17.24. GENERAL RULES APPLICABLE
- Art. 17.25. PROCEEDINGS WHEN BAIL IS GRANTED
- Art. 17.26. TIME GIVEN TO PROCURE BAIL
- Art. 17.27. WHEN BAIL IS NOT GIVEN
- Art. 17.28. WHEN READY TO GIVE BAIL
- Art. 17.29. ACCUSED LIBERATED
- Art. 17.291. FURTHER DETENTION OF CERTAIN PERSONS
- Art. 17.292. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION
- Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO OTHER PERSONS
- Art. 17.30. SHALL CERTIFY PROCEEDINGS
- Art. 17.31. DUTY OF CLERKS WHO RECEIVE SUCH PROCEEDINGS
- Art. 17.32. IN CASE OF NO ARREST

- Art. 17.33. REQUEST SETTING OF BAIL
- Art. 17.34. WITNESSES TO GIVE BOND
- Art. 17.35. SECURITY OF WITNESS
- Art. 17.36. EFFECT OF WITNESS BOND
- Art. 17.37. WITNESS MAY BE COMMITTED
- Art. 17.38. RULES APPLICABLE TO ALL CASES OF BAIL
- Art. 17.39. RECORDS OF BAIL
- Art. 17.40. CONDITIONS RELATED TO VICTIM OR COMMUNITY SAFETY
- Art. 17.41. CONDITION WHERE CHILD ALLEGED VICTIM
- Art. 17.42. PERSONAL BOND OFFICE
- Art. 17.43. HOME CURFEW AND ELECTRONIC MONITORING AS CONDITION
- Art. 17.44. HOME CONFINEMENT, ELECTRONIC MONITORING, AND DRUG TESTING AS CONDITION
- Art. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK
- Art. 17.45. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION
- Art. 17.46. CONDITIONS FOR A DEFENDANT CHARGED WITH STALKING
- Art. 17.47. CONDITIONS REQUIRING SUBMISSION OF SPECIMEN
- Art. 17.48. POST TRIAL ACTIONS
- Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE

Chapter 1704, Texas Occupations Code provides the governance for the surety bond (bail agents) in Texas. **Subchapter B, County Bail Bond Boards** provides that this industry is regulated in all counties with a population of 110,000 by County Bail Bond boards (CBBB), who have authority to supervise and regulate each phase of the bonding business in that county. In counties smaller than 110,000 it is an option to form a CBBB, or the functions can be performed by the Sheriff and the Judges who preside in that county. **State law provides for local control of these activities as they impact the county level criminal justice system and the local county jail.**

CBBB are composed of the elected official or their designee to include: Sheriff of County, Criminal District Judge, County Judge, County Judge of Criminal Court of Law, District Attorney, Bail Bond agent (elected by other license holders), Justice of the Peace, District Clerk, County Clerk, Municipal Judge, County Treasurer or Auditor, Criminal Defense Attorney (elected by defense bar). Eight of these mandated members are elected by the voters in the specific county or judicial district and are directly responsible to the voters.

Bond amounts are set by the Judges and in most counties the original amount is suggested by the Prosecuting attorney from a preset guideline or schedule. A judge has the authority to raise or lower that amount.

An table of content for this statute is provided below:

Sec. 1704.001. DEFINITIONS

Sec. 1704.002. APPLICATION OF CHAPTER

☐ SUBCHAPTER B. COUNTY BAIL BOND BOARDS

Sec. 1704.051. MANDATORY CREATION OF BOARD

Sec. 1704.052. DISCRETIONARY CREATION OF BOARD

Sec. 1704.053. BOARD COMPOSITION

Sec. 1704.0535. ELECTION OF BAIL BOND SURETY BOARD MEMBER

Sec. 1704.054. PRESIDING OFFICER

Sec. 1704.055. MEETINGS

Sec. 1704.056. QUORUM; MAJORITY VOTE

☐ SUBCHAPTER C. BOARD POWERS AND DUTIES

Sec. 1704.101. ADMINISTRATIVE AUTHORITY

Sec. 1704.102. ENFORCEMENT AUTHORITY

Sec. 1704.103. DISBURSEMENTS FROM COUNTY FUND

Sec. 1704.104. POSTING OF BOARD RULE OR ACTION

Sec. 1704.105. LICENSED BAIL BOND SURETY LIST

Sec. 1704.107. NOTIFICATION OF LICENSE SUSPENSION OR REVOCATION

Sec. 1704.108. NOTIFICATION OF DEFAULT BY CORPORATION

Sec. 1704.109. SOLICITATION AND ADVERTISEMENT

☐ SUBCHAPTER D. LICENSING REQUIREMENTS

Sec. 1704.151. LICENSE REQUIRED

Sec. 1704.152. ELIGIBILITY

Sec. 1704.153. INELIGIBILITY BECAUSE OF CRIMINAL CONVICTION

Sec. 1704.154. APPLICATION REQUIREMENTS

Sec. 1704.155. REAL PROPERTY LIST

Sec. 1704.156. REAPPRAISAL OF REAL PROPERTY

Sec. 1704.157. PRELIMINARY DETERMINATIONS

Sec. 1704.158. HEARING ON APPLICATION

Sec. 1704.159. DECISION ON APPLICATION; BOARD ORDER

Sec. 1704.160. SECURITY REQUIREMENTS

Sec. 1704.161. LICENSE FORM

Sec. 1704.162. LICENSE EXPIRATION AND RENEWAL

Sec. 1704.163. ATTORNEY EXEMPTION

☐ SUBCHAPTER E. BONDING BUSINESS

Sec. 1704.201. ACCEPTANCE OF LICENSE HOLDER BAIL BONDS

Sec. 1704.202. RECORD REQUIREMENTS

Sec. 1704.203. BAIL BOND LIMIT; ADDITIONAL SECURITY

Sec. 1704.204. PAYMENT OF FINAL JUDGMENT

Sec. 1704.205. BAIL BOND SETTLEMENT

Sec. 1704.206. REPLACEMENT OF SECURITY

Sec. 1704.207. SURRENDER OF PRINCIPAL; CONTEST

Sec. 1704.208. BOND LIABILITY

Sec. 1704.209. BOND DISCHARGED ON APPEAL

Sec. 1704.210. WITHDRAWAL OF SECURITY

Sec. 1704.211. CORPORATE POWER OF ATTORNEY

Sec. 1704.212. EFFECT OF DEFAULT BY CORPORATION; NOTICE
REQUIRED

Sec. 1704.213. OFFICE LOCATION

☐ SUBCHAPTER F. ENFORCEMENT PROVISIONS

Sec. 1704.251. INVESTIGATION

Sec. 1704.252. DISCRETIONARY LICENSE SUSPENSION OR
REVOCAION: GROUNDS

Sec. 1704.253. MANDATORY LICENSE SUSPENSION OR REVOCATION:
GROUNDS

Sec. 1704.2535. FAILURE TO PAY FINAL JUDGMENT BY BAIL BOND
SURETY

Sec. 1704.254. NOTICE AND HEARING

Sec. 1704.255. APPEAL; VENUE

Sec. 1704.256. STANDARD OF JUDICIAL REVIEW

Sec. 1704.257. EFFECT OF BOARD ORDER

☐ SUBCHAPTER G. PROHIBITED CONDUCT AND CRIMINAL PENALTIES

Sec. 1704.301. RETURN OF SECURITY

Sec. 1704.302. PROHIBITED REFERRALS OF OR EMPLOYMENTS WITH
BONDING BUSINESS; OFFENSE

Sec. 1704.303. BAIL BOND SURETY ACTIVITY; OFFENSE

Sec. 1704.304. PROHIBITED RECOMMENDATIONS OR SOLICITATIONS;
OFFENSE

Sec. 1704.305. BAIL BOND RECEIPT AND INSPECTION; OFFENSE

Sec. 1704.306. RECORDS; OFFENSE

- General population receiving medical drugs \$45-\$50 per day
- General population receiving mental health drugs \$55-\$60 per day
- General population receiving both type drugs \$60-\$65 per day
- Infirmiry patient \$200-\$220 per day
- Specialized mental health housing (in jail) \$285-\$305 per day
- Contracted mental health housing (HCPC) \$475-\$495 per day

Determining the fiscal impact of various pretrial release options for the accused and the financial impact on counties for the failure to release pretrial would vary from county jail to county jail depending on their capacity and the makeup of their specific population they are housing. It can be assumed that not releasing eligible defendants has a tremendous cost in both capacity and the total cost to operate a county jail.

The only State oversight of these issues is enforcement actions by the Texas Sate Jail Commission and their role in holding county jails responsible for compliance with the state jail standards, capacity limitations and living conditions certifications.

Recommendations

This study of the law governing the Texas bail bond industry and determining local practices for the pretrial release of the accused reveals that Texas has a thoroughly detailed oversight scheme governing the bail bond industry. This oversight provides accountability and enforcement authority. Utilizing a philosophy of local control, the State assigns this responsibility to the county elected officials, who fund and operated county jails and local courts. How they utilized the options provided in State law, how they use county resources, are the local officials responsibly. In turn they are accountable to their constituents who pay taxes for these purposes.

Interim Charge Four

Evaluate existing comprehensive diversion and treatment systems within the state, including mental health treatment, to determine cost effectiveness, reductions in correctional populations, impact on healthcare systems, and the overall number of people treated effectively. Examine federal, state and local collaborations and make recommendations for best practices to maximize effective use of funding and resources.

Introduction

Texas is well-known as being a "tough on crime" state - having the largest state prison population in the United States. Overlooked is the fact that Texas is also a "smart on crime" state with a rich history of utilizing alternatives to prison programs and incarceration. Use of parole in Texas dates back to 1893 and probation began with the Suspended Sentence Act of 1913. Over the years, these systems have been modernized, as new thoughts and research dictated better methods for the supervision of offenders diverted from the prison system. In 1947, the Texas Adult Probation and Parole Law was enacted, creating the first professional probation officers. In 1957, the current separation of parole and probation was passed, placing probation under county jurisdiction. In 1977, the Adult Probation Commission was established and state funding was provided to assist counties with these efforts.

In 1989, during the peak of prison overcrowding and the *Ruiz* lawsuit, the Legislature, seeking a more coordinated criminal justice system, created the Texas Department of Criminal Justice - bringing probation, prisons and parole under one umbrella and one citizen oversight board, the Texas Board of Criminal Justice. In 1991, the Legislature created programs and facilities to divert offenders from the prison system, such as the Substance Abuse Felony Punishment (SAFP) facilities and the new felony category of State Jail offenses and State Jail facilities. Expansion of the use of halfway houses and more inpatient treatment programs were provided for probation use. However, in 2003, many of these alternatives to prison programs were negatively impacted by the budget cuts enacted that year.

Prior to the 2007 legislative session, the Legislative Budget Board (LBB) projected that the adult prison population would grow by 17,000, requiring the construction of new prisons which were projected to cost, at a minimum, \$2 billion in addition to the annual operating costs of \$50 million per 2,000 bed prison unit. The cause of the growth included:

- An increase in probation revocations by 18 percent, despite a 3 percent decline in the probation population.
- Reduced capacity of residential treatment programs serving offenders on probation and parole due to funding reductions for community based substance abuse and mental health services in the 2003 state budget. Approximately 2,000 offenders were awaiting placement in these programs.

- Fewer offenders granted parole based on absence of rehabilitative programs in the prisons, again the result of the 2003 budget cuts.

Discussion

With innovative treatment and alternatives to prison programs already established within state statutes, the Legislature chose a different path. Rather than the traditional construction of more prisons, the plan adopted addressed the primary drivers of the prison population growth, generated savings for the state, and invested in strategies that could improve public safety by reducing recidivism. These strategies included:

- Adding 3,000 slots to probation outpatient treatment programs at the cost of \$10 million.
- Adding 1,500 slots to mental health pre-trial diversion programs at the cost of \$10 million.
- Re-establishing 1,200 state jail substance abuse treatment slots at the cost of \$5.8 million.
- Adding 1,000 slots to in prison therapeutic community (IPTC) substance abuse programming at the cost of \$21.7 million.
- Creating in prison DWI treatment facility of 500 beds at the cost of \$22.2 million.
- Re-establishing probation residential treatment programs of 800 beds at the cost of 32.2 million.
- Expanding halfway house beds by 300 at the cost of \$5.6 million.
- Adding 1,500 substance abuse felony punishment (SAFP) beds at the cost of \$63.1 million.
 - Increasing substance abuse transitional treatment centers by 1,200 aftercare beds included in the above cost.
- Adding 1,400 beds to the intermediate sanction facilities (ISF) for diversion of parole and probation revocations at the cost of \$28.7 million.

Observed Positive Impact

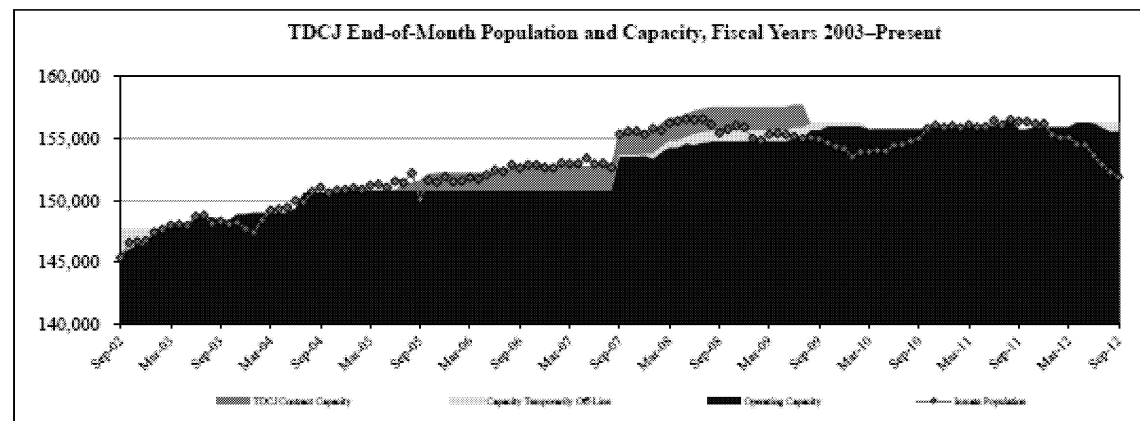
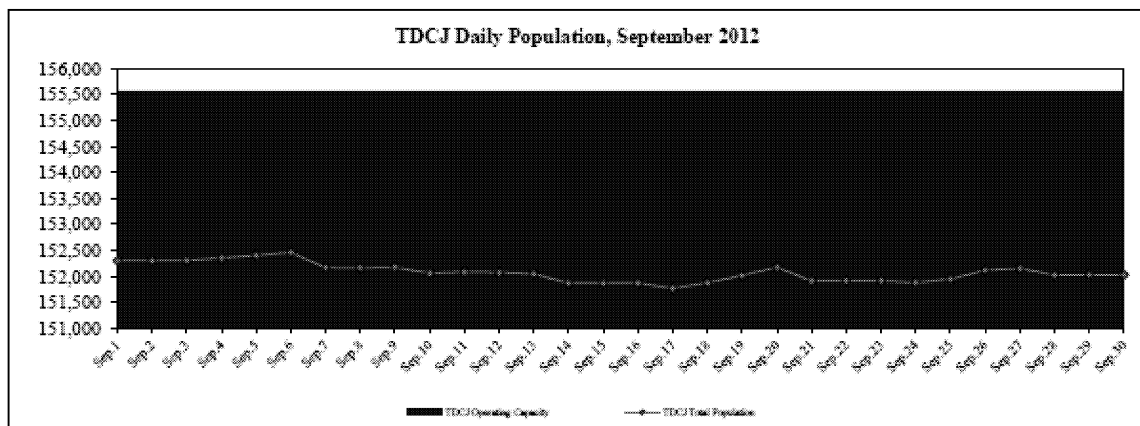
As with all start up programming, the aforementioned programs were phased in over a two year period and were significantly implemented within three years. As a safety net during their implementation, the state followed an established pattern of funding emergency contract beds in the event that the prison population reached the point of automatic implementation of the "Prison Management Act" and trigger its release functions. By early 2008, internal prison population had decreased and allowed those inmates being housed outside the system to be taken into the system.

From 2009 to 2010, the prison population remained stable at or very near the prison operational level of 96% of the total available prison beds (all beds on line and ready for use). Beginning in mid-2011, a downward trend developed that is still continuing at this time. Currently, the system is operating well below the operational level and there are approximately 3,000 beds open below the operational level. The following charts provide a more detailed review of these events:

Monthly Tracking of Adult Correctional Population Indicators (October 2012)
 Texas Department of Criminal Justice Correctional Population and Capacity (End of Month)

Month/Year	Total Population (End of Month)	State Bed Capacity On-Line	Bed Capacity Adjustments				Operating Capacity	Available Operating Capacity
			Added	Temporarily Removed	Removed	Gain/Loss		
October 2011	156,371	162,257	27	0	0	27	155,767	-604
November 2011	156,187	162,431	174	0	0	174	155,934	-253
December 2011	156,197	162,431	0	0	0	0	155,934	-263
January 2012	155,322	162,431	0	0	0	0	155,934	612
February 2012	155,077	162,431	0	0	0	0	155,934	857
March 2012	155,104	162,431	0	0	0	0	155,934	830
April 2012	154,554	162,809	378	0	0	378	156,297	1,743
May 2012	154,490	162,809	0	0	0	0	156,297	1,807
June 2012	153,641	162,753	0	0	56	-56	156,243	2,602
July 2012	152,895	162,377	0	376	0	-376	155,882	2,987
August 2012	152,302	162,057	0	320	0	-320	155,575	3,273
September 2012	152,027	162,057	0	0	0	0	155,575	3,548

Note: TDCJ defines Operating Capacity as 96.0% of its Total Capacity. The TDCJ Operating Capacity is calculated as 96.0% of State Bed Capacity On-Line and Contract Capacity. TDCJ is accustomed to going beyond its Operating Capacity for short periods of time.



Recommendations

During the 81st and 82nd Legislative Sessions, the continuation and funding for these efforts were deemed essential and have led to Texas being the model for other states to follow for lowering their prison populations. This committee recommends the following:

4. Continue the programs, which have resulted in overall cost reductions to prison operations, and maintain funding. These programs have allowed, for the first time in Texas history, the closure of a prison - the Central Prison Unit, in Sugarland, in 2011.
5. Seek solutions to capacity issues which have developed in the halfway house program and its demonstrated need for additional beds.
6. Support, within TDCJ, the expansion of treatment beds for the observed numbers of sex offenders who are being discharged and nearing parole consideration.

Interim Charge Five

Study the use of administrative segregation in TDCJ, including issues related to: the frequency and justification of its use; the process and classification system which determines an inmate's placement; the impact on prisoners' mental health and recidivism rates; the process of reviewing placement and inmates' transition into both the general prison population and the general public; options for alternative confinement arrangements; and the potential for the expansion of the Serious and Violent Offender Reentry Initiative (SVORI) or similar programming in order to improve inmates' transition from solitary confinement to the general public.

Introduction

The Texas Department of Criminal Justice Correctional Institution Division (TDCJ-CID) utilizes administrative segregation primarily in two ways. First, approximately 40% of the total use is to separate an inmate from the general population while a disciplinary allegation is investigated. This includes a specific period of time awarded if the inmate is convicted of the disciplinary infraction. The second group accounts for approximately 60% of the total use is to house dangerous offenders apart from the general population. These offenders will be our primary focus as they spend years versus the prior group's months.

The following are frequently asked questions and answers (TDCJ offender hand book) regarding Security Threat Groups (prison gangs). These are designed to alert an offender, their family and friends of the dangers of getting involved with a Security Threat Group within TDCJ-CID.

What is a Security Threat Group (STG)?

Any group of offenders TDCJ reasonably believes poses a threat to the physical safety of other offenders and staff due to the very nature of said Security Threat Group.

TDCJ recognizes 12 Security Threat Groups:

1. Aryan Brotherhood of Texas
2. Aryan Circle
3. Barrio Azteca
4. Bloods
5. Crips
6. Hermanos De Pistoleros Latinos
7. Mexican Mafia
8. Partido Revolucionario Mexicanos
9. Raza Unida
10. Texas Chicano Brotherhood
11. Texas Mafia
12. Texas Syndicate

Why does an offender join an STG?

Some offenders join an STG in an effort to exert influence and take advantage of other offenders. They use any means necessary in an attempt to control their environment regardless of who gets hurt.

Offenders may believe they need to join a gang for protection, but this is an inaccurate belief. By joining a gang, they put themselves in more danger because the rivals of their fellow gang members have also become their enemies.

What are indicators of STG membership?

Although STG members strive to keep all of their activities secret, including not informing family and friends of their ties to the gangs, many STG members put on specific gang tattoos and use hand signs.

They also use terminology specific to their respective gangs in correspondence and often utilize friends and family members to forward gang-related information.

This could result in loss of correspondence and visitation privileges with participants.

How do STGs recruit offenders?

There are various ways that STGs will attempt to persuade an offender to join. Many use the leverage of protection to join. Many join for financial support. Others join in an effort to try to control their environment. Many join because they have a need to belong or to be accepted. Many offenders feel that their family, friends or loved ones have lost “respect” for them due to being sent to prison. As a result, the gang acts as a family and gives these offenders a false sense of belonging. Only when the offender is threatened or ordered to do something illegal does he realize what a gang is really about. What happens if your son/daughter joins a STG while incarcerated?

Not allowed to have contact visits.

Number of visits allowed can be affected.

Not allowed to participate in any academic activity.

Not allowed to participate in any vocational activity.

Consideration for emergency absences is not given.

Diligent participation in good time credits is not given.

Not allowed to work.

Restricted movement.

Placement in Administrative Segregation.

State and local law enforcement agencies are notified upon release.

Parole release could be affected.

What is Administrative Segregation?

A non-punitive status involving separation of an offender from the general population for the purpose of maintaining safety, security, and order among offenders and staff.

What can an STG do to your family if your son/daughter joins?

Though Security Threat Groups call themselves a family and claim to be family-oriented, they may:

- Demand money from your family.
- Harm you or your family if you fail to follow orders.
- Force you to support illegal activities and possibly subject you to arrest.
- Make your family subject to violence from Security Threat Groups.

Following his release from prison, an STG member and/or his family and friends could face the following:

- Becoming a victim of STG-related violence.
- STG members possibly bringing illegal activities to their residence.
- Perhaps being subjected to intense scrutiny regarding employment matters and/or matters concerning law enforcement officials.

Can someone get out of an STG?

Yes, but extreme caution is necessary to insure not only the safety of the offender, but others as well. The offender must successfully complete the Gang Renouncement and Disassociation (GRAD) process before being reclassified as an ex-STG member and reviewed for general population status.

What must an offender do to get out of a STG?

1. An offender must contact the Security Threat Group Officer (STGO) at the unit level in writing and renounce his membership and affiliation with the STG.
2. The STGO will then interview and investigate the offender's claims of disassociation. Upon completion of the investigation, the STGO will submit a recommendation to the Security Threat Group Management Office (STGMO) located in Huntsville, Texas.

The STGMO in Huntsville will make the final decision regarding the eligibility of the offender for placement into the GRAD process.

Serious and Violent Offender Reentry Initiative Program (SVORI):

SVORI is a 63-bed program housed at the Estelle Unit in Huntsville that provides pre-release and in-cell programming for male offenders releasing directly from administrative

segregation. Offenders may be placed in the program as the result of an FI-7R vote by the Board of Pardons and Parole (BPP), or may be selected based on eligibility criteria. The curriculum addresses the leading causes of recidivism: anger management, thinking errors, substance abuse, life skills and employment. Offenders with the parole stipulation of SVORI aftercare may participate in a continuum of care through a Parole District Reentry Center (DRC).

To qualify for the program, offenders must meet the following criteria:

1. Must be assigned to Administrative Segregation, Security Detention Level I
2. Must have time earning status of Line Class 1 or above
3. No active felony or immigration detainers
4. No conviction for a major disciplinary in past 12 months
5. No consecutive sentences pending parole review
6. Must have at least 10 months before release on parole or minimum expiration date at program screening
7. Minimum of 24 months to maximum expiration date at the time of the BPP review
8. Priority placement is given to offenders with an FI-7R vote.

Discussion and Testimony

TDCJ provided a snap shot of the offenders in Administrative segregation in FY 2011:

Historical Administrative Segregation Populations	
Fiscal Year	Population
2006	9,542
2007	9,186
2008	8,807
2009	8,492
2010	8,547
2011	8,784
2012	8,065

During the past six years TDCJ has continued to review admission and release procedures as well as emphasize and ensure appropriate case-by-case decisions for both administrative segregation placement and removal.

In addition, during this time period the agency has expanded the capacity of the GRAD program and revised the program's admission criteria.

Administrative Segregation Population by STG Affiliation (as of 08/31/12)			
Aryan Brotherhood of Texas	677	Mexican Mafia	1,163
Aryan Circle	421	Partido Revolucionario Mexicanos	115
Barrio Azteca	332	Raza Unida	275
Bloods	125	Texas Chicano Brotherhood	38
Crips	249	Texas Mafia	62
Hermanos Pistoleros Latinos	244	Texas Syndicate	993
Total	4,694	58.2% STG Affiliation of the Ad Seg Total	

These 12 groups have been determined to pose the greatest threat to the safety of staff and offenders inside our prisons. Their assignment is based on their activities which include homicides, staff and offender assaults, sexual assaults, extortion, weapons, illegal drugs, money, cell phone and tobacco possession, disturbances, and conflicts with other gangs or groups.

Factors such as the group's organizational structure and size, well defined hierarchical membership roles, sophistication of communication, and the adherence to a constitution or a strict set of rules recognizing themselves as a criminal organization with the intent to carry out criminal acts were also factors.

FY 2011 Releases from Ad Seg to the Street		
Released to Supervision	Discharge	Total Released
469	878	1,347
Length of Stay	3.7 Years - Average	2.0 Years - Median

Length of stay in administrative segregation is based on the last time the offender was placed in segregation.

Time Category	Sentence Length		
	Discharge	Supervision	Total
2 Years or Less	154	44	198
3 Years	125	26	151
4 Years	103	33	136
5 Years	167	51	218
6 Years	52	17	69
7 Years	55	23	78
8 Years	64	31	95
9 Years	9	5	14
10 Years	65	47	112
11 to 15 Years	52	47	99
16 to 20 Years	30	65	95
21 to 25 Years	1	28	29
26 to 30 Years	0	18	18
31 to 40 Years	0	13	13
41 to 59 Years	1	10	11
60 Years +	0	10	10
Life	0	1	1
Not readily available	0	0	0
Total	878	469	1,347
Average	5.9	13.5	8.6

Sentence length is based on the offender's offense of record. An offender's offense of record is the offense that incarcerates the offender for the longest period of time.

The above offenders have an average sentence length of 8.6 years and served

an average of 7.1 years. Their average time served in administrative segregation was 3.7 years from their last assignment to administrative segregation to their TDCJ release date.

**Return Status for Offenders Released from Administrative Segregation to the Streets
Fiscal Year 2011**

Release Type	Number Released	Return to Prison or State Jail Through 8/31/12	
		Count	Percentage
Discharge	878	146	16.6%
Supervision	469	66	14.1%
Total	1,347	212	15.7%

Note: The above includes offenders who were released to detainers who had pending charges. Some offenders have returned multiple times, but are only counted once in the above chart.

Of the 212 offenders who have returned to prison or state jail,

- 173 came back with a new offense and conviction to TDCJ. Their offenses are below.
- Of the remaining 39 offenders, 20 received a new conviction for a prior offense,
- 7 were revoked with new misdemeanor charges,
- and 12 were revoked for technical reasons.

Offense Category	Total	
Violent	Homicide	1
	Kidnapping	1
	Sexual Assault	1
	Sexual Assault Against a Child	1
	Robbery	14
	Assault/Terroristic Threat	25
Property	Burglary	24
	Larceny	17
	Stolen Vehicle	10
	Forgery	7
	Fraud	3
Drug	Drug-Delivery	9
	Drug-Possession	25
Other	Sexual Offense Against a Child	1
	Failure to Register as a S. O.	8
	Escape	11
	Weapons Offenses	6
	DWI	5
	Other	4
Total	173	

Invited Testimony

Brad Livingston, Executive Director, Texas Department of Criminal Justice, along with Rick Thaler, Director of the TDCJ Correctional Institutions Division, provided the invited testimony on charge five. They begin with a brief overview of TDCJ population and the downward trend that has been observed and projected to continue in the near future. They provided information concerning the challenges that TDCJ faces with staff shortages created by the "oil boom" in South Texas. Members encouraged them to advise the legislature in detail and to prepare plans for the agencies needs for the coming biannual.

Specifics of administrative segregation (ad. seg.) were discussed revealing that an inmate spends 23 hours a day, in a single cell with one hour of exercise alone in a fenced in area. Inmates are fed in their single cell; they are not allowed to work, attend education or programing and are restricted from contact visits. If the inmate is being housed in administrative segregation due to a disciplinary matter, they are only subjected to this isolation for a short term before reentering general population and resuming their work and programing. Approximately 40% of offenders assigned to ad. seg. fit into this category. Almost 60% of these offenders are labeled a Security Threat Group (STG) member and they are definitely in for the long term.

TDCJ officials provided that once identified as a gang member of one of the 12 gangs that are considered STG; you have three ways out, participation in the gang renouncement program, parole or discharge. Once an offender applies to the Gang Renunciation and Disassociation Process (GRAD), they are monitored for a year, noting their behavior, mail, contacts and visitors. If accepted they join a waiting list of approximately 100 offenders for placement in a 9 month program that is conducted utilizing three phases. Members expressed concern that during FY-2011, 878 offenders were discharged to communities directly from ad. seg. with the great majority released without benefit of the SVORI program. Concern was expressed by members that these offenders were too dangerous to be in general population in prison, were released to the streets without supervision. Another 469 offenders were release to parole directly from housing in ad. seg.

Possible solution to this area were discussed such as maintaining the observed successful efforts of TDCJ in the reductions of the ad. seg. Population, reviewing other states efforts and pursuing a split sentence of incarceration and re-entry supervision.

Public Testimony

Alison Dieter, representing herself, described her observations as advocate for death row inmates, that many are sane and become insane due to their treatment on death row. She proclaimed they do not receive the proper treatment that human beings deserve.

Ana Yanez-Correa, Executive Director, Texas Criminal Justice Coalition (TCJC) stated that women in prison were historically underserved. She went on to explain the Dallas Initiative for Diversion Expedited Rehabilitation and Treatment (DIVERT) program.

Andrea Earl, Texas Impact (TI) stated that prolonged solitary confinement creates mental health issues, causes psychological and physiological deterioration of offenders. She added that TI plans to conduct more prison tours and she looks forward to working toward solutions.

John Elford, Senior Pastor, University United Methodist Church, Austin, Texas stated that in his visits to prisons as part of TI, he could not understand how a person would not lose one's sense of self and humanity while locked in a six-by-nine foot cell while in ad. seg. He understands that some offenders must be isolated but that our current system is wrong.

Matt Simpson, American Civil Liberties Union of Texas (ACLU), stated that our current system is turning offenders we are mad at into offenders we should be scared of. He stated that Mississippi has implemented a solitary confinement reduction plan and that Texas should do the same. He also stated that being in isolation adversely impacts a person's mental health.

Travis Leete, TCJC, stated that confinement in ad. seg. breaks the will to live and created deterioration and insanity and that moving inmates directly from that environment to the free world is a threat to public safety.

Jennifer Carreon, TCJC, agreed with previous statements adding that neurological research has been ignored with regards to the use of ad. seg. that offenders are prevented from learning meaningful social skills.

Vikrant Reddy, Texas Public Policy Foundation stated that offenders release directly from ad. seg. have a 41% higher recidivism rates than other offenders.

Recommendations

The committee recommends that the Legislature continue to monitor TDCJ's successful efforts to reduce the usage of administrative segregations beds. Also TDCJ is encouraged to research other state systems that have proven their ability to decrease the use of these beds and report to the Legislature if legislative actions are required.

Interim Charge Six

Assess the current trends in prescription drug abuse including crimes and arrests, abuse of prescription and over-the-counter medication in the prison population, impact on probation violations and recidivism, and incidences of law enforcement as the first responders to prescription drug overdose emergencies. Identify strategies for law enforcement and criminal justice systems to work with education and health care professionals to use all means, including technology, to identify abuses, and increase education and prevention. Make recommendations to enhance drug abuse prevention and intervention programs.

Introduction

The Texas Legislature demonstrated a concern for the oversight and management of controlled substances when it passed The Texas Controlled Substance Act in 1973. Virtually each session since, the Texas Controlled Substance Act has been updated and amended to keep abreast of observed public threats. Recent legislatures have restricted over the counter medicine that can be used to manufacture street methamphetamine known as ICE. More recently bath salts and synthetic marijuana products (K2) were included under the statute's regulation and criminalization.

The Controlled Substance registration Program was established in the original passage and involves the registration of all persons or institution that manufacture, distribute, analyze or dispense controlled substances in Texas. Among the 75,000 registrants currently participating are medical doctors, dentist, veterinarians, podiatrist, therapeutic optometrists, advanced practice nurses, physicians' assistants, pharmacies, hospitals, manufacturers, researcher, teaching institutions, distributors and analysts.

In 1982 the Texas Prescription Program (TPP) was added by the Legislature to monitor Schedule II controlled substance prescriptions. In 2008 this program was expanded to include the monitoring of Schedule III through Schedule V due to the realization that the diversion of these drugs from their intended valid medical purpose was a significant abuse problem. Federal authorities monitor controlled substance from manufacture through distribution to retail facilities. The TPP seeks to control misuse by tracking these items to the point of use, tracking the doctor's prescription to the pharmacy to the patient.

At the urging of the Legislature, the Department of Public Safety (DPS) in 2012 has developed a secure online prescription monitoring program called the Prescription Access in Texas (PAT). PAT provides controlled substance prescription dispensing, history to authorized health care and law enforcement professionals. This program provides physicians the real time ability to query the prescription data base to learn which controlled substances their patients have been prescribed by other practitioners. Utilization of PAT will allow prescribers and pharmacies to make better decisions when prescribing and dispensing controlled substances. It also allows regulatory agencies and law enforcement to identify licensees and individuals who are attempting to prescribe, dispense, or obtain controlled substance for illegal purposes.

Discussion and Testimony

A public hearing was conducted on October 30, 2012, Chaired by Senator Huffman, Vice-Chair of the Senate Committee on Criminal Justice.

Invited Testimony

Emilie Attwell Becker, M. D., Behavioral Health Medical Director, Mental Health and Substance Abuse Division, Texas Department of State Health Services, provided an overview of current Opiate Trends and solutions:

- With 4% of the world population Americans consume 80% of the global supply of opioids, 99% of the world's supply of hydrocodone and 2/3 of the world's supply of illegal drugs.
- Opioid overdose deaths and per capital sales of opioid analgesic have increased at the same rate between 1997 and 2007.
- Opioid sales equal 710 mg per person in USA, enough hydrocodone to medicate every American adult 5mg every 4 hours for one month.
- In 2009 opioid analgesics were prescribed at the following percentages, primary care doctors 28.8, internists 14.6, dentists 8.0 and orthopedic surgeons 7.7.
- Overdose deaths in 2009 where white 80%, male 55% and middle age.
- Opioid deaths in USA have been just under 600 per year in 2006, 2008 and 2009.
- Travis County Texas deaths in 2010 where 115, and in 2011 162, a 41% increase.
- The need for treatment has outgrown the resources to provide treatment.

Dr. Becker pointed out that solutions to this problem would include multiagency workgroup comprised of law enforcement, DPS, Texas Medical Board, Texas Medical association and others. She also added education for practitioners and public, take back unused medicine promotion and use of federal grants.

Steven McCraw, Director, Texas Department of Public Safety, provided information concerning the implementation of the PAT system and its potential impact on the problem of prescription drug abuse:

- Prescription drug abuse is a serious problem and the new PAT program will help the state of Texas combat this issue.
- It is essential that doctors and pharmacists have quick access to the information they need to identify potential prescription drug abusers and traffickers before they fraudulently receive the drugs.
- Law enforcement access to this information is also crucial to investigating those individuals and organization engaged in the trafficking of these drugs.
- PAT will allow a proactive approach to prevention, assist with criminal investigation, provide historical reporting and identify trends.
- PAT currently has around 6000 users, but DPS expects it to grow to 100,000 users.

- DPS partners with Drug Enforcement Agency and other law enforcement in Houston as part of a large task force.

Ryan Patrick, Judge of the 177th District Court in Harris County, provided insight into the prosecution and complexity of Pill Mill and Doctor shopping criminal cases in his prior role as an Assistant District Attorney specializing in their prosecution:

- Houston has become ground zero for these cases, individuals accumulating tens of thousands of pill in a matter of months.
- Pills are combined often into the "Houston Cocktail", which is hydrocodone, Soma and Xanax.
- A pill mill will set up, charge \$100.00 to \$150.00 for an office visit, issue boiler plate prescriptions to be filled a pharmacy that is a co-conspirator in the scheme.
- Pill mills do not provide valid medical services but exist to divert legitimately manufactured drugs to the street, where they can be sold for cash.
- Under recent legislative changes prosecutions are more numerous and successful with the requirement that pain clinic must be owned by an M. D. and register with the state.
- Pain clinics (pill mills) moved to Houston to blend into a large city, they stood out in East Texas.
- A police office must go undercover to these pill mills 3 months in a row, as they do not issue refills; they want the cash for the office visit.
- Many of these clinics are started by street drug pushers, as they saw the lack of enforcement and regulation in the recent past.
- Nurse practitioners have an exemption in law and allowed to operate pain clinics; this has been observed as problematic.
- Prosecution of the pharmacy side is more difficult due to the need to establish a connection to the pill mill. Electronic prescriptions and a requirement to query PAT prior to issuing prescription would assist solving the problem of these drugs being diverted, as well as criminalizing the delivery of a prescription pad.

Gay Dodson, R. Ph., Executive Director/Secretary, Texas State Board of Pharmacy (TSBP), discussed their efforts to curb abuses by Pharmacies and provided:

- Prescription drugs are now the first choice of drug for new drug users and they obtain them from their parents' and grandparents' medicine cabinet.
- TSBP has a full time investigator working with the Houston Task Force on this issue.
- Many of the laws regulating pharmacies have been on the books for some time but have seen little prosecution, such as that a Pharmacist has a legal burden and responsibility to ensure prescription is legal before dispensing drug.
- Last year the TSBP suspended the license of 8 pharmacies and 13 pharmacists. They also issued 32 disciplinary orders against 16 pharmacies and 16 pharmacists.
- This year TSBP is investigating 100 to 150 cases involving pharmacies working with pill mills.
- Also theft from pharmacies by employees is a major concern.
- Abuse of prescription drugs is the number one issue that TSBP is working on.

John Kowal, Sergeant Narcotics Division, Houston Police Department provided that:

- When law enforcement began working with Senator Williams on this issue, Texas was way behind, but since then Texas has caught up and surpassed most other states on legislation addressing prescription drug abuse.
- A pill that cost the pharmacy \$.10 to \$.50 cents is purchased by undercover police for \$5.00 and can then be sold for \$10 to \$50.00 as it moves away from Houston.
- A standard form to be used by Medical Examiners in cases involving drug abuse death would be beneficial to law enforcement.
- Allowing Probation and Parole Officers to query PAT on those they supervise when they suspect drug use, would allow earlier intervention if abuse detected.
- As Texas began to address these problems, it was never the intent to make these medicines more difficult for Doctors to use and it was never the intent to arrest their way out of this problem. They needed tools to go after the bad operators and allow honest doctors to take care of their patients.

Public Testimony

Margarita McAuliffe, representing herself and Tonie Taylor, described the events leading up to the death of Ms. Taylor's brother who became addicted to prescription drugs, failed to receive assistance, even while serving probation for criminal offenses, leading to his death in a Bexar County Jail holding cell. She suggested that:

- Legislation should be passed to ensure doctors are only prescribing medication that is absolutely necessary.
- To hold doctors accountable for dispensing prescription carelessly.
- To make treatment available to anyone who has a drug addiction at an affordable cost, regardless of the legal charges against them.

Lee Spiller, Policy Director, Citizens Commission on Human Rights-Texas, stated that Medicaid oversight is able to review and identify the top prescribers of drugs and analyze their use. He believes this information should be used by the Texas Health and Human Service Commission (HHSC) to investigate and to proactively prevent continued abuse of the doctor's prescription power.

Helen Ross Petty, representing herself, encouraged the committee to use the central principle of balance when considering steps to curb abuse and diversion (of drugs) and that:

- To empower medical practitioner to provide pain medication in the course of professional practice, allowing them to prescribe, dispense and administer according to the individual medical needs of their patients, and ensuring that a sufficient supply of medication is available to meet medical needs.

Joy Strickland, Chief Executive Officer, Mothers Against Teen Violence, provided that accidental overdose is a growing and significant problem. She also stated:

- In an emergency overdose situation, there must be no delay in calling 911; otherwise a life may be lost.
- A 911 "Good Samaritan law" should be enacted in Texas protecting drug overdose victims as eleven other states have done.

Travis Leete, J. D., Texas Criminal Justice Coalition, recommended that:

- To decrease reliance on incarceration to treat substance abuse and avoid creating significant obstacles for individual suffering with substance abuse by increasing diversion program and treatment options.
- To encourage implementation of uniform screening and assessment tools that will identify individuals who suffer from prescription drug dependency before they are sentenced.

Graves T. Owen, M. D., Texas Pain Society, recommended a balanced approach that includes:

- The full implementation and utilization of the Texas Electronic Prescription Program.
- Support for the development of electronic prescribing of all drug schedules.
- Providing education to consumers to promote safe storage and handling of controlled substance and education of the public regarding "medicine cabinet" abuse and diversion.
- Explore pain management continuing education requirements for all appropriate healthcare disciplines.
- To establish a Prescription Drug Management Strategy Work Group to address a balanced approach to this important issue.

Larry C. Driver, M. D., American Cancer Society and MD Anderson Pain Medicine Department, supported the above and added:

- Enforcement of current "doctor shopping" statutes to facilitate patient safety and thwart drug diversion and other criminal activities.
- Facilitating cooperation between the Texas Medical Board and DPS to coordinate license and registration renewals.

Janet Mitchell, Association of Substance Abuse Programs, recommended that:

- To make prevention of alcohol, tobacco and other drug abuse, which includes the non-medical use of prescription drugs an urgent priority in our state.
- Each dollar spent on prevention saves up to 7 dollars in criminal justice cost.
- To expand funding for prevention programming in Texas. The choice is either we spend money on evidence-based prevention today or we spend seven times that cost on more prison beds.

Gloria Duke, PhD, RN, representing Texas Pain Society and herself, recommended:

- Require pain education on the part of physicians and nurses working in any setting.

- The education should focus on appropriate practices and on the balanced needed to improve pain management practices in Texas.

Sharon Brigner, RN, Deputy Vice President, Pharmaceutical Manufacturers of America, stated that 93% of drugs being diverted to the illegal use are generic manufactured medicines. She added that their association supports more public and practitioner education, safe disposal of medications, enforcement of current laws, increases of prevention and treatment, use of tamper resistant manufactured drugs and Texas officials networking with other states.

Caty Deloitt, Texas Association of Business provided that their association supports full use of DPS's PAT program by pharmacies, which should also collect more identifying information. That a patient ID should be added to the system and that a doctor's time with patients will be shortened by their use of the system. They also support more training on pain management for practitioners.

Jeanette Moll, Policy Analyst, Center for Effective Justice, Texas Public Policy Foundation, stated that the growing abuse of prescription drugs is a troubling trend and could lead to additional incarceration of individuals. They recommend that a presumption for Probation or Treatment be passed by the legislators on possession of controlled substance criminal cases, along with the expanded use of Drug Courts and the passage of a Good Samaritan Law in Texas.

Recommendations

This committee recommends that the PAT system be monitored for full maximum implementation and that once analyzed adjusted as necessary. Also the availability of substance abuse treatment should be expanded as resources allow.

Interim Charge Seven

Conduct a comprehensive review of school discipline practices. Specifically, review and make recommendations on:

- The effectiveness of Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP) in reducing students' involvement in further disciplinary infractions and in promoting positive educational achievement;
- Disproportionate school discipline referrals, including suspension, expulsion and Class C misdemeanor citations;
- The issue of "Zero Tolerance" in secondary education school discipline, their use of alternative education campuses, and the barriers they create toward graduation. Also include the role that specialized school police departments play in these systems. Consider the impact on the juvenile justice system and the adult prison system;
- The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care;
- Evidence-based models used for addressing juvenile delinquency prevention that are targeted to non-adjudicated, but at-risk youth, in the school disciplinary system. (Joint with Senate Committee Education Committee)

Introduction

Keeping schools safe and classrooms productive is a concern for schools all across the country. Over the years the approach to school disciplinary has changed drastically. Texas has developed a system that works to keep every student in school even after disciplinary action has been taken, but that also criminalizes the behavior of many youth.

The Texas school disciplinary system consists of two main types of violations. The first type of offense is a violation of the penal code, some of which are punishable by mandatory expulsion. The second type of offense is a violation of a schools code of conduct, which have a spectrum of punishments ranging from detention to ticketing or arrest. There are also mandatory punishments and discretionary punishments. Mandatory punishments are for behaviors such as bringing a weapon or drugs to school. Discretionary punishments are generally less dangerous. Data has illustrated that mandatory punishment for violations is relatively consistent among all groups of students. While discretionary punishments tend to be given to minority youth and youth with special needs.

Last session there was legislation filed that would restrict the ticketing of students. The goal was to address misbehavior by working with students and not simply issuing a

citation; which causes removal of the student from class, exposure to the criminal justice system, added financial cost that many students and their families cannot afford, and that did not actually provide assistance in resolving the origin of the behavior. The legislation passed out of the Senate but not the House. Other legislation was passed that stated that student below the 6th grade could not be issued citations for class c misdemeanors.

The main focus of this report is to review the current approaches to handling school disciplinary. It will focus on alternative education referrals which are made once a youth has been expelled or suspended from a school, the effectiveness of zero tolerance, and what evidence-based models for prevention are working or could work. Another main focus of this report is to evaluate which subpopulations of students are receiving punishment and what type.

Discussion and Testimony

On October 30, 2012 the Senate Criminal Justice Committee and the Senate Education Committee held a joint hearing to discuss school disciplinary issues.

Invited Testimony

Dr. Tony Fabelo, division director of research for the Council of State Governments (CSG) Justice Center, testified first to introduce the topic and provide an overview of the issues the state faces today regarding school disciplinary issues. He began by explaining the two types of violations in the Education Code that may occur on a school campus. Chapter 37 of the Education Code states that a student may be in violation of a discretionary violation, which is a violation of the code of conduct for a particular school, or a mandatory violation which is violation of state law. He then explained the different punishments associated with discretionary violations, in school suspension for up to three days, out of school suspension for up to three days, referral to a DAEP, any combination of the three or expulsion. Dr. Fabelo then stated that unlike most other states Texas had stopped expelling the majority of youth to the streets as a result of the alternative school system. He also explained that Texas stood out from the rest because the system tracks all of this information.

Next, Dr. Fabelo began to explain a study done by the CSG Justice Center. The study looked at the disciplinary records of 928,940 Texas students. The study looked at every student in the 7 grade starting in 2000, 2001, and 2002 and reviewed their entire record through the 12 grade if they completed. Dr. Fabelo expressed three major concerns illustrated by the study that the state should recognize. The first was a concern for the practice of issuing citations to students for misbehavior. He did not give a specific example; however he explained that there are cases where a 12 year old was issued a citation for a violation at school and later at the age of 17 arrested for failing to address the issue before. This is a clear example of school disciplinary leading to a criminal record.

Second concern was the over representation of African American males in the group of student receiving discretionary punishments. Of the 928,940 students in the study 553,413 received at least one disciplinary action. 59 percent of the students received some disciplinary action. 92.6% of these disciplinary actions were discretionary. 14 percent of the students in the study were African American while they received 75 percent of the disciplinary actions. Though they received more disciplinary action over all they were 27 percent less likely to be involved in a mandatory disciplinary action.

The third concern stated by Dr. Fabelo was that students with emotional disabilities were more likely to be involved with a violation. Students with disabilities made up only 13.2 percent of the students studied; yet 75 percent of those students had one or more discretionary violations. The students with emotional disturbances were 24 percent more likely to receive a discretionary action and 13 percent more likely to receive a mandatory action. While the students with learning disabilities were only 2 percent more likely to receive a discretionary action and 8 percent more likely to receive a mandatory action.

In conclusion, Dr. Fabelo stated that the goal of a school administration determines the approach they take when dealing with disciplinary. If the objective is to change behavior and not simply to treat it as a criminal justice issue the outcomes are better. It has been demonstrated that student with multiple violations are more likely to repeat a grade, dropout of school and become involved in the justice system. If this is not the intent then a shift toward addressing behavior needs to be made. Dr. Fabelo also recommended better local monitoring of the violations on each campus in order to identify which campuses have the biggest issues with disparity in there disciplinary actions. Dr. Fabelo's final recommendations were to have TEA develop a model behavioral management system designed to prevent and reduce disciplinary violations, to better train our school law enforcement in student behavior management techniques, and to place a cap on the number of days a student could be suspended during a school year. The final part of this recommendation was to have TEA modify performance monitoring by including discretionary disciplinary information.

The next invited witnesses were Deborah Fowler, deputy director, Texas Appleseed and Kathryn Freeman, staff attorney, Texas Appleseed. Ms. Freeman testified on a report done by Texas Appleseed that demonstrates the financial cost of exclusionary disciplinary. She opened by sharing the cost of DAEP for the 2008-2009 school year, \$232 million, the cost for JJAEP for the 2010-2011 school year, more than \$31 million, and the cost for security and monitory services for schools in 2010- 2011, \$327 million. Ms. Freeman suggested that DAEP referrals should only be used in cases where safety is at risk or where other measures have proven unsuccessful. She also recommended cost-effective, evidence based disciplinary programs be implemented especially in the districts represented in the report, which had a significantly higher number of violations.

Fowler testified next on a second report done by Texas Appleseed. This report focused on the ticketing and arrest data from 42 school districts. She prefaced her testimony by stating that there is currently no statewide data related to this topic. There is also no current standard practice for the issuance of tickets. The ticketing practices vary from

district to district. Some districts highly utilize this tool, while other districts have moved away from this practice. The same is true with regard to how much is spent on law enforcement services in a district.

The next witnesses called were David Slayton, executive director, Texas Judicial Council and Judge Orlinda Naranjo of the 419 District Court and Chair of the juvenile justice committee. Slayton stated that at the request of Chief Justice Wallace Jefferson the Texas Judicial Council created a juvenile justice committee to take up school disciplinary issues in Texas with relation to the judicial system. Slayton stated that the committee began with the preface that low-level behavioral issues were being criminalized; only exacerbating the issue. The goal of the committee was to adjust the current system in order to insure that disruption was addressed without setting Texas youth on a path to the criminal justice system. The work product of the committee resulted in recommendations for the legislature.

Slayton reported the following recommendation. First local governments should be authorized to implement deferred prosecution measures for class c misdemeanors in order to reduce the number of filings. Second, amend current law to ensure that the court is the last step in the school disciplinary process and not the first. Another recommendation was to amend the penal code in order to create a rebuttable presumption that a child younger than 15 does not have criminal intent to commit a class c offense except in traffic cases. He also recommended requiring teachers to use the sworn complaints process instead of relying on citations issued by law enforcement.

Judge Naranjo stated that most tickets issued at schools are for disorderly conduct and recommended that these issues be handled with graduated sanctions before ticketing. Slayton continued with the list of the final recommendations. He started that students should be exempted from ticketing based on age and not grade level. He also asked for parity between the criminal juvenile justice local trial courts and the civil juvenile justice in juvenile court and juvenile probation. Currently cases heard in criminal courts stay on a juvenile's record. Finally, Slayton stated that juveniles should be allowed to make payments or perform community supervision for fines associated with citations.

The next witness was David Anderson, general council, the Texas Education Agency. Anderson pervaded an overview of the current DAEP systems. He stated that current law allows for students to be placed indefinitely in a DAEP. As a result DAEP are required to provide an education program that allows for the graduation of its students. DAEP are also required to provide the opportunity for any student to complete whatever courses they were enrolled in prior to transfer to the DAEP. The progress in all programing is reported back to the school they originated at because that school and district are still responsible for that student in terms of test scores and dropout status.

Anderson also provided some of the standard requirements for DAEPs. He stated that the student to teacher ratio is 15-1 and that every student placed for more than 90 days was to be tested upon admittance to the program and upon completion in order to monitor the progress of the student while at the DAEP. Anderson also stated that for the 2010-2011

school year 1.71 percent, 86,863 students, were transferred to DAEPs. He also stated that over the past five years there has been a consistent decline in the number of students disciplined in all areas of disciplinary tracked by TEA. He also states that while the disciplinary for special education students is proportionally higher it is declining overall. In closing Anderson pointed out that the education code gives teachers the specific right to remove a student from their classroom. He also stated that police are required to notify schools if certain serious offenses occur involving a student regardless of whether the student is on campus or not when the offense occurs. Anderson closed by reminding the committee that as a result the reorganization of TEA they are now responsible for monitoring federal requirements not monitoring or intervention with regard to state policies.

Michael Griffiths, executive director, Texas Juvenile Justice Department testified next on JJAEPs. He stated that on average it costs \$31 million a year to run the 26 JJAEPs. He states that there had been approximately 3900 referrals the previous year. He also stated that the standardized test score for students for 2008-2009, the snap shot year used, increased in both reading and writing and mathematics. Griffiths reported that 51 percent of the referrals to JJAEPs were mandatory while 49 percent were discretionary referrals. For these facilities the overrepresentation is in the Hispanic population. In 2011-2012, 51 percent of the referrals were for Hispanic students.

Lon Craft, director of legislative affairs, Texas Municipal Police Association (TMPA); David Garza, captain over patrol, Pasadena ISD; and Chuck Brawner, chief of police, Spring Branch ISD were called to testify next. Craft stated that TMPA, which represents more than 18,000 law enforcement officers statewide and 1,000 campus police, was in favor of limiting the involvement of peace officers with students for violations of school codes of conduct and other house rules related to disciplinary. He stated that public safety and law and order should be the main focus of police on campus. Garza recommended that campus police report to a chief who then reports to the superintendent of the district and not to principals or other designees. He then explained that current law allows police to enforce school disciplinary policies. Craft then stated that TMPA supported requiring a sworn statement from the teacher who witnessed any violation with every citation issued. He explained that this would provide parity between what street police do now and campus police.

Lonnie Hollingsworth Jr., director of legal services and governmental relations, Texas Classroom Teachers Association (TSTA) was called next. He stated that teachers report a lack of support with regard to schools disciplinary issues. He requested new tools for dealing with disruptive students to replace any changes such as the elimination of ticketing or the ability to remove a student from a classroom. He also stated that teachers may be open to filling out sworn statements, but that the majority of their time needed to be used educating students. He continued by stating that though there is a correlation between disciplinary intervention and later criminal activity one is not the cause of the other. Hollingsworth also stated that in his experience teachers only removed students as a last resort because of their desire to do what is best for their students. He also

recommended providing TEA with regulatory authority to monitor districts to account for the overrepresentation of certain minorities receiving violations.

Joy Baskin, director of legal services, Texas Association of School Boards (TASB), was called next. She stated that teachers and administrators should maintain their discretion with regard to violations. She also stated that overrepresentation issues should be handled on a local level at the campuses where it had been identified.

The next witness was Jeanette Moll, juvenile justice policy analyst, Texas Public Policy Foundation. Moll testified that zero tolerance policy was passed to increase school safety, but has not achieved that goal. She stated that the cost of implementing the policies is too high considering there is no evidence that public safety has increased. Moll explained the tiered model utilized in Georgia that required a call to parents, then mediation, and finally removal to the juvenile justice system. She stated that campuses that utilized this model were actually safer and the student achievement rates were higher.

Public Testimony

Public Testimony was started by Liz Kormrei, director of special projects, CPS, Department of Family Protective Services (DFPS). She stated that as a result of S.B. 939 from the 81st legislature, there is now data sharing ability for the department for children in foster care. As a result there is annual information provided to TEA regarding children under conservatorship. For the past year that was 24,209 school aged children. Kormrei stated that 30 percent of these students received at least one disciplinary action during the 2010-2011 school year. This was twice as high as the percentage for the general student population. She also stated that this was an addition strain on foster care placements because of the added expense of citations and court fees.

Meagan Longley, policy fellow, Hogg Foundation for Mental Health also testified on children in the foster care system and the exposure to disciplinary action. She stated that currently CPS case workers and foster families are instructed in trauma care for children, because many of the children in this population have experienced some form of trauma. She recommended that teachers should receive the same instruction especially since this exposure to trauma has been shown to impact children's neurological functioning.

Dustin Rynders, supervising attorney, Disability Rights Texas; also testified on the affects disciplinary action have on foster care children. He stated that school citations often lead to the loss of foster homes for these youth. He also stated that because these youth are often transient they tend not to address the citations initially; as a result they become a part of the population of youth with arrest warrants when they turn 17.

There was a significant amount of public testimony on school disciplinary and students with special needs. Judith Moening, executive director, Northeast ISD, representing Texas Council of Administrators of Special Education (TCASE); Belinda Carlton, policy analyst, Texas Council for Developmental Disabilities; Columbia Wilson, grandmother of a student with disabilities; Dawne Borgelt, mother of a child with autism spectrum

disorder; Ashley Harris, child welfare policy associate, Texas Care for Children, all testified on this topic. Moening and Carlton both expressed concern regarding the overrepresentation of students with disabilities in the group of students receiving disciplinary actions. Moening stated that Northeast ISD has been reducing the number of disciplinary action for students with disabilities by implanting programs that positively support teachers. They have also been monitoring the programs closely. Carlton recommended positive behavior interventions and supports (PBIS) and stated that elementary age children should not be removed to DAEP except for very rare situations. Wilson and Harris both testified that increased training of teachers, administrators, and law enforcement in how to deal with students with disabilities would improve the current issues. Harris specified trauma informed training should be provided. Borgelt stated that a lack of training was a contributor in her child's case and recommended that TEA have the authority to review cases to ensure they were being handled properly.

Lauren Rose, juvenile justice policy associate, Texas Care for Children also testified in support of PBIS and monitoring of disciplinary practices. Eric Hartman, director of governmental relations, Texas American Federation of Teachers (AFT), testified in support of PBIS. He also stated that AFT had been in support of teacher's ability to remove a student from a classroom. In addition, they support limits being placed on out-of-school suspensions and ticketing.

Gay Schaffer, police captain, Plano Police Department, testified in Plano that a memorandum of understanding has been agreed upon by the department and the district, stating that the 10 school police, which report directly to the police department, will not enforce code of conduct violations; they will only enforce the law.

Adrian Moore stated that \$20 billion is being spent on courts, law enforcement and juvenile justice. He recommended that a portion of this money be allocated for prevention programs in order to address the issue from the front end. Steve Swanson suggested that before a student was sent to court that it be the responsibility of the school to demonstrate that they had exhausted all possible solutions to manage the behavior.

Texas has taken steps to ensure schools are safe while still educating as many students as possible. The current model which consists of DAEPs, JJAEPs, and police on campuses has benefits. However, it is evident that there are areas that are in need of improvement. Certain behaviors require serious action. Safety does come first; however it is important to educate the Youth of Texas and not increase their chances of failure.

Recommendations

1. The legislature should require training for teachers and campus law enforcement in behavior management techniques.
2. The legislature should allow for an age to identify what students may be issued citations not a grade level.

3. The legislature should remove the option of issuing citations for education code violations. These disciplinary should be addressed through a graduated sanctions model.
4. The legislature should include more discretion in zero tolerance policy.
5. The legislature should amend current statute to create a consequence for districts that have not complied with implementing truancy prevention programs.
6. The legislature should require complainants to use sworn statement procedure rather than relying on law enforcement officers to issues citations.
7. The legislature should require law enforcement to report to a superintendent rather than a designee.

Interim Charge Eight

Monitor the implementation of legislation addressed by the Senate Committee on Criminal Justice, 82nd Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation. Specifically, monitor the following:

- Implementation of and transition to the new Texas Juvenile Justice Department. Examine the consolidation of the probation and parole functions, and make recommendations to enhance the integration of the two agencies and promote successful outcomes for youths, victims, and taxpayers;
- Overall care of female inmates;
- Implementation of SB 1616 and SB 1636, relating to the testing of evidence;
- Implementation of SB 321, relating to an employee's lawful transportation and storage of certain firearms or ammunition while on property owned or controlled by the employee's employer;
- Implementation of legislation relating to human trafficking in coordination with the Joint Interim Committee to Study Human Trafficking.

Discussion and Testimony

Implementation of SB 321, relating to an employee's lawful transportation and storage of certain firearms or ammunition while on property owned or controlled by the employee's employer.

On October 30, 2012, Senator Huffman, Vice Chair of the Senate Committee on Criminal Justice called the meeting to order and call forward the first invited witnesses.

Invited Testimony

Alice Tripp, representing the Texas State Rifle Association (TSRA), provided that they and other interested parties had spent 8 years working on the passage of SB 321 in support of lawful gun owners and concealed handgun license holders (CHL). She also stated that:

- TSRA sent out approximately 20,000 emails to members requesting information on their employers' compliance with SB 321.
- In one case a truck driver complied with the amended company policy that stated if an employee with a CHL desired to keep his handgun in his vehicle in their parking lot the employee had to furnish to the company a (1) copy of their CHL (2) copy of their driver's license and (3) copy of their vehicle registration.
- The company policy also contains a statement that this only applies to CHL holders and no other weapons. It also discourages any employee from doing so by stating that "While the new law gives concealed handgun license holders the

legal right to bring a handgun onto company property, the company strongly encouraged you not to do so, the presence of weapons at the workplace is detrimental to workplace safety, which is why it (the company) has always prohibited the practice.

- The employee was terminated after applying for the exemption and providing the mandated information.
- That company's policy is not in compliance with the law, as it is limited to CHL holders. Except in limited circumstances which don't apply to this particular employer, the provisions of SB 321 extend to any lawfully-possessed firearm in an employee-owned vehicle.

Senator Hegar stated the purpose of this hearing, was to make sure all employers understand the law, are complying with the law and if not, why not?

Tara Mica, State Liaison, National Rifle Association (NRA), provided their experience with ascertaining employer compliance with the law and stated:

- They also sent out emails to members that resulted in roughly 50 responses that employers may not be complying with SB 321 requirements. Approximately 25 respondents provided documents that indicated failure to comply, and another 25 were reported following discussion with company officials.
- In cooperation with Senator Hegar and his office, these companies were contacted and fall into three categories (1) most had not updated their company policies to reflect the law (2) Some had updated policy but failed to distribute or communicate it to all employees (3) those companies that categorically refuse to comply.
- Within this last group they have (1) claimed exemption based on their federal security plans in which they ban all weapons from their property (2) others have put up 30.06 signs up banning CHL's from having their handguns on property and (3) those companies limiting weapons on their property to CHL holders only even though they don't qualify for law's narrow exceptions where this limitation may be applied.

Charles Cotton, representing his self, discussed the validity of the variety of justification or wrongful interpretation of the Texas law being stated by those companies who are simply refusing to comply with the law. For those who are refusing to comply and have indicated that they will never comply he suggested putting some teeth into the law by amending it to include a civil fine and the payment of attorney's fees for enforcement action.

Senator Hegar is discussion with witnesses pointed out that there have been no incidents of any kind with the implementation of the law.

Milton Rister, Executive Director, Texas Rail Road Commission (TRRC), provided that they have adopted the permissive polices that have demonstrated effectiveness at the Texas General Land Office. The TRRC allows any employee or visitor to store weapons in their locked cars. If the person is a CHL holder, they may carry it into their facilities or in agencies vehicles.

Public Testimony

No one was present, wanting to testify.

Attorney General of Texas Opinion GA-0972

In response to a request from Senator Deuell, M. D., regarding the authority of an employer to ban the transport and storage of handguns by concealed handgun license holder in locked private vehicles on employee parking lots (RQ-1061-GA), the following attached opinion was release on November 5, 2012.

The opinion appears to not support the measures some employers are utilizing to justify their failure to comply with SB 321. The opinion states that:

- An employer subject to section 52.061 of the labor Code may not ban the transport and storage of handguns in locked private vehicles by employees with concealed handgun licenses in employee parking areas by posting the notice authorized by section 30.06 of the Penal Code.
- A federally approved facility security plan under either the Maritime Transportation Security Act or the Chemical Facility Anti-Terrorism Standards is not federal law that would preempt section 52.061 of the Labor Code.
- No statute of which we are aware provide a specific remedy for employees whose employers violate section 52.061. And the Legislature has not authorized this office or any other state agency to take corrective action. Despite the lack of a statutory remedy, an aggrieved employee may, depending on the circumstance, have the ability to sue an offending employer under the Uniform Declaratory Judgments Act.

Recommendations

1. Continue monitoring employer compliance with SB 321.
2. Encourage employers who have amended their policies in order to comply with the law to notify their employees of these changes.
3. Educate uninformed, non-compliant employers about the scope and intent of the law.
4. Inform willfully non-compliant employers about the recent opinion of the Texas Attorney General regarding the authority of an employer to ban the transport and storage of firearms in locked private vehicles on employer parking lots.
5. Evaluate legislative options if voluntary compliance is not successful.

MINUTES
SENATE COMMITTEE ON CRIMINAL JUSTICE

Wednesday, April 11, 2012

9:00 AM

Capitol Extension, Room E1.016

Pursuant to a notice posted in accordance with Senate Rule 11.10 and 11.18, a public hearing of the Senate Committee on Criminal Justice was held on Wednesday, April 11, 2012, in the Capitol Extension, Room E1.016, at Austin, Texas.

MEMBERS PRESENT:

Senator John Whitmire, Chair
Senator John Carona
Senator Glenn Hegar
Senator Juan Hinojosa

MEMBERS ABSENT:

Senator Joan Huffman, Vice Chair
Senator Rodney Ellis
Senator Dan Patrick

The chair called the meeting to order at 9:02 a.m. There being a quorum present, the following business was transacted:

The chair called invited and public testimony on interim charge one, review statutes and regulations relating to money laundering to enhance state, federal, and local efforts to combat money laundering and enforce administrative and criminal actions against perpetrators of money laundering.

The chair called invited and public testimony on interim charge 2, study and evaluate the long-term stability of the Crime Victims Compensation Fund (CVC) including: the original statutory purpose of the fund; the definition of "crime victim"; the current funding streams; the current ability to pay claims; and impact of the fund on victim organizations supported by the fund. Make recommendations to increase collection rates for effective and efficient use of the fund and resources.

There being no further business, at 10:26 a.m. Senator Whitmire moved that the Committee be adjourned. Without objection, it was so ordered.

Senator John Whitmire, Chair

Terra Tucker, Clerk

WITNESS LIST

Criminal Justice

April 11, 2012 9:00 AM

Interim Charge 1

FOR:

Skeen, Martin Sergeant (Houston Police Department), Houston, TX

Wood, Justin Assistant District Attorney (Harris County District Attorney's Office),

Houston, TX

ON:

Maxwell, David Deputy Director (Texas Attorney General Office), Austin, TX

McCraw, Steven Director (Texas Department of Public Safety), Austin, TX

Providing written testimony:

For:

Gay, Clifford (Self), Rosenberg, TX

Interim Charge 2

FOR:

Camp, Torie Deputy Director (also providing written testimony) (Texas Association
Against Sexual Assault), Austin, TX

Rauls, Joy Executive Director (also providing written testimony) (Children's Advocacy
Centers of Texas), Austin, TX

Spriggs, Vicki Chief Executive Officer (also providing written testimony) (Texas CASA),
Austin, TX

Terry, Gloria President (also providing written testimony) (Texas Council on Family
Violence), Austin, TX

ON:

Geeslin, Julie Budget Director (Texas Attorney General), Austin, TX

Hodge, Daniel First Assistant Attorney General (also providing written testimony) (Office of the Attorney General), Austin, TX

McCleskey, Gene Division Chief (Office of the Attorney General), Austin, TX

MINUTES
SENATE COMMITTEE ON CRIMINAL JUSTICE

Tuesday, September 4, 2012

10:00 AM

Capitol Extension, Room E1.016

Pursuant to a notice posted in accordance with Senate Rule 11.10 and 11.18, a public hearing of the Senate Committee on Criminal Justice was held on Tuesday, September 4, 2012, in the Capitol Extension, Room E1.016, at Austin, Texas.

MEMBERS PRESENT:

Senator John Whitmire, Chair
Senator Joan Huffman, Vice Chair
Senator John Carona
Senator Juan Hinojosa
Senator Dan Patrick

MEMBERS ABSENT:

Senator Rodney Ellis
Senator Glenn Hegar

The chair called the meeting to order at 10:02 AM. There being a quorum present, the following business was transacted:

The chair called invited and public testimony on interim charge 5, study the use of administrative segregation in TDCJ, including issues related to: the frequency and justification of its use; the process and classification system which determines an inmate's placement; the impact on prisoners' mental health and recidivism rates; the process of reviewing placement and inmates' transition into both the general prison population and the general public; options for alternative confinement arrangements; and the potential for the expansion of the Serious and Violent Offender Reentry Initiative (SVORI) or similar programming in order to improve inmates' transition from solitary confinement to the general public.

The chair called invited and public testimony on part of Interim Charge 8, Monitor the implementation of legislation addressed by the Senate Committee on Criminal Justice, 82nd Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation. Specifically, monitor the overall care of female inmates.

At 11:30 AM Senator Huffman assumed the chair.

There being no further business, at 11:58 AM Senator Huffman moved that the Committee be adjourned. Without objection, it was so ordered.

Senator John Whitmire, Chair

Terra Tucker, Clerk

WITNESS LIST

Criminal Justice

September 4, 2012 10:00 AM

Interim Charge 5

FOR:

Carreon, Jennifer Policy Researcher (The Criminal Justice Coalition), Austin, TX

Leete, Travis Policy Attorney (Texas Criminal Justice Coalition), Austin, TX

AGAINST:

Dieter, Alison (Self), Austin, TX

ON:

Earl, Andrea Policy Coordinator (Texas Impact), Austin, TX

Elford, John Rev. (Texas Impact), Austin, TX

Livingston, Brad Executive Director (Texas Department of Criminal Justice), Huntsville,
TX

Reddy, Vikrant Policy Analyst (Texas Public Policy Foundation), Austin, TX

Simpson, Matt Policy Strategist (ACLU), Austin, TX

Thaler, Rick Director of Correctional Institutions Division (Texas Department of Criminal
Justice), Huntsville, TX

Yanez - Correa, Ana Executive Director (Texas Criminal Justice Coalition), Austin, TX

Providing written testimony:

ON:

Gay, Clifford (Self), Rosenberg, TX

Interim Charge 8- Overall care of female offenders

ON:

Livingston, Brad Executive Director (Texas Department of Criminal Justice), Huntsville,
TX

Providing written testimony:

ON:

Gay, Clifford (Self), Rosenberg, TX

MINUTES
SENATE COMMITTEE ON CRIMINAL JUSTICE

Tuesday, October 30, 2012

9:30 AM

Capitol Extension, Room E1.036

Pursuant to a notice posted in accordance with Senate Rule 11.10 and 11.18, a public hearing of the Senate Committee on Criminal Justice was held on Tuesday, October 30, 2012, in the Capitol Extension, Room E1.036, at Austin, Texas.

MEMBERS PRESENT:

Senator John Whitmire, Chair
Senator Joan Huffman, Vice Chair
Senator Rodney Ellis
Senator Glenn Hegar
Senator Juan Hinojosa
Senator Dan Patrick

MEMBERS ABSENT:

Senator John Carona

The chair called the meeting to order at 9:34 AM. This being a joint hearing the senate education committee was also called to order by its chair. There being a quorum present for both committees, the following business was transacted:

The chair called invited and public testimony for interim charge 7, Conduct a comprehensive review of school discipline practices. Specifically, review and make recommendations on:

The effectiveness of Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP) in reducing students' involvement in further disciplinary infractions and in promoting positive educational achievement; Disproportionate school discipline referrals, including suspension, expulsion and Class C misdemeanor citations;

The issue of "Zero Tolerance" in secondary education school discipline, their use of alternative education campuses, and the barriers they create toward graduation. Also include the role that specialized school police departments play in these systems.

Consider the impact on the juvenile justice system and the adult prison system;

The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care;

Evidence-based models used for addressing juvenile delinquency prevention that are targeted to non-adjudicated, but at-risk youth, in the school disciplinary system.

At 12:20 PM Senator Whitmire moved that the Committee stand recessed subject to the call of the chair. Without objection, it was so ordered.

At 2:00 PM Senator Whitmire reconvened the meeting continuing invited and public testimony for both committees.

There being no further business, at 4:20 PM Senator Whitmire moved that the Committee stand recessed subject to the call of the chair. Senate education did the same. Without objection, it was so ordered.

Senator John Whitmire, Chair

Terra Tucker, Clerk

WITNESS LIST

Criminal Justice

October 30, 2012 9:30 AM

Interim Charge 7

FOR:

Davis, David L. Sergeant First Class (Self), Houston, TX

ON:

Anderson, David General Counsel (also providing written testimony) (Texas Education Agency), Austin, TX

Armoni, Susan (also providing written testimony) (Pax United, The National Mediation Center.), Carrollton, TX

Baker, Julie Deputy Director (Harris County Juvenile Probation), Houston, TX

Baskin, Joy Director of Legal Services (also providing written testimony) (Texas Association of School Boards), Austin, TX

Borgelt, Dawne Registered Nurse (also providing written testimony) (Self), Zeeland, MI

Brawner, Chuck Chief of Police (also providing written testimony) (Spring Branch ISD Police Department), Katy, TX

Carlton, Belinda Policy Specialist (also providing written testimony) (Texas Council for Developmental Disabilities), Austin, TX

Craft, Lon Director of Legislative Affairs (also providing written testimony) (Texas Municipal Police Association), Austin, TX

Fabelo, Dr. Tony Director of Research (also providing written testimony) (Justice Center, Council of State Governments), Austin, TX

Fowler, Deborah Deputy Director (also providing written testimony) (Texas Appleseed), Austin, TX

Freeman, Kathryn Staff Attorney (also providing written testimony) (Texas Appleseed),

Austin, TX

Garza, David Captain over Patrol (also providing written testimony) (Pasadena ISD/ Texas Municipal Police Association), Pasadena, TX

Gonzales, Robert Director (also providing written testimony) (PAX United, The National Mediation Center), Carrollton, TX

Gooding, Connie Regional Executive Director (Southwest Key Programs), Austin, TX

Griffiths, Mike Executive Director (also providing written testimony) (Texas Juvenile Justice Department), Austin, TX

Harris, Ashley R. Child Welfare Policy Associate (also providing written testimony) (Texans Care for Children), Austin, TX

Hartman, Eric Director of Government Relations (also providing written testimony) (Texas AFT), Austin, TX

Hatcher, Julia Attorney (also providing written testimony) (Self), Galveston, TX

Hollingsworth, Lonnie Director of Governmental Relations (also providing written testimony) (Texas Classroom Teachers Association), Austin, TX

Kromrel, Liz CPS Director of Special Projects (also providing written testimony) (Department of Family and Protective Services), Austin, TX

Longley, Meagan Policy Fellow (also providing written testimony) (Hogg Foundation for Mental Health), Austin, TX

Martin, Ed Director of Public Affairs (Texas State Teachers Association), Austin, TX

Moening, Judith Executive Director - SPED- North East ISD (also providing written testimony) (TCASE), San Antonio, TX

WITNESS LIST

Criminal Justice

October 30, 2012 9:30 AM

Moll, Jeanette Policy Analyst (also providing written testimony) (Texas Public Policy Foundation), Austin, TX

Moore, Adrian Executive Director (also providing written testimony) (Council on at Risk Youth (CARY)), Austin, TX

Naranjo, Orlinda Judge- Chair of the Juvenile Justice Committee (TX Judicial Council), Austin, TX

Parks, Joseph Executive Director of Safety and Security Services (Plano ISD), Plano, TX

Rose, Lauren Juvenile Justice Policy Associate (also providing written testimony) (Texans Care for Children), Austin, TX

Rynders, Dustin Supervising Attorney, Education Team (also providing written testimony) (Disability Rights Texas), Houston, TX

Schaffer, Gay Police Captain (Plano Police Department), Plano, TX

Scott, Courtney (Youth of Color), Austin, TX

Seal, Karen D Lawyer/ President (also providing written testimony) (Disability Advocates/ Consultants), San Antonio, TX

Simpson, Matt Policy Strategist (ACLU of Texas), Austin, TX

Slayton, David Executive Director (also providing written testimony) (Texas Judicial Council), Austin, TX

Smith, LeCreea Regional Intern (Organization: Out Youth/ Texas GSA), Austin, TX

Swanson, Steve Citizen (also providing written testimony) (Self), Austin, TX

Usanga, Andrea Director of Policy and Government Relations (also providing written testimony) (Mental Health America of Greater Houston), Houston, TX

Westerlund, Dr. Julie (Self), Austin, TX

Wilson, Columba (also providing written testimony) (Self), San Antonio, TX

Registering, but not testifying:

ON:

Brooks, Joella Chief Operations Officer (Southwest Key Program), Austin, TX

Kimball, Robert (LULAC Council 402), Houston, TX

Rockstroh, Bruce Superintendent/ CEO (John H. Wood, Jr. Charter School), San Antonio,

TX

Providing written testimony:

ON:

Deitch, Michele Member, Board of Directors (Barbara Jordan Freedom Foundation),

Austin, TX

Saxton, Josette Mental Health Policy Associate (Texans Care for Children), Austin, TX

MINUTES
SENATE COMMITTEE ON CRIMINAL JUSTICE & SENATE EDUCATION
COMMITTEE

Tuesday, October 30, 2012

1:30 PM

Capitol Extension, Room E1.016

Pursuant to a notice posted in accordance with Senate Rule 11.10 and 11.18, a public hearing of the Senate Committee on Criminal Justice & Senate Education Committee was held on Tuesday, October 30, 2012, in the Capitol Extension, Room E1.016, at Austin, Texas.

MEMBERS PRESENT:

Senator Joan Huffman, Vice Chair
Senator Rodney Ellis
Senator Glenn Hegar
Senator Juan Hinojosa
Senator Dan Patrick

MEMBERS ABSENT:

Senator John Whitmire, Chair
Senator John Carona

Senator Joan Huffman, the acting chair, called the meeting to order at 1:30 PM. There being a quorum present, the following business was transacted:

Invited witnesses for The Texas Department of Criminal Justice Victim Service Division were called to testify in favor of victim's services.

Invited and public testimony was then heard for interim charge 6; assess the current trends in prescription drug abuse including crimes and arrests, abuse of prescription and over-the-counter medication in the prison population, impact on probation violations and recidivism, and incidences of law enforcement as the first responders to prescription drug overdose emergencies. Identify strategies for law enforcement and criminal justice systems to work with education and health care professionals to use all means, including technology, to identify abuses, and increase education and prevention. Make recommendations to enhance drug abuse prevention and intervention programs.

Invited and Public testimony was then heard on interim charge 8, monitor the implementation of legislation addressed by the Senate Committee on Criminal Justice, 82nd Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation. Specifically, monitor the implementation of SB 321, relating to an employee's lawful transportation and storage of certain firearms or ammunition while on property owned or controlled by the employee's employer.

There being no further business, at 3:45 PM Senator Huffman moved that the Committee stand recessed subject to the call of the chair. Without objection, it was so ordered.

Senator John Whitmire, Chair

Terra Tucker, Clerk

WITNESS LIST

Criminal Justice

October 30, 2012 1:30 PM

Interim Charge 6

FOR:

Dodson, Gay Executive Director (Texas Board of Pharmacy), Austin, TX

Driver, MD Larry C. (American Cancer Society), Houston, TX

Owen, MD Graves T. President (Texas Pain Society), Round Rock, TX

Strickland, Joy (also providing written testimony) (Mothers Against Teen Violence),

Dallas, TX

AGAINST:

McAuliffe, Margarita Founder (also providing written testimony) (Texas Moms United to

End War on Drugs), San Antonio, TX

ON:

Becker, Emilie Medical Director (Texas Department State Health Services), Austin, TX

Brigner, Sharon Deputy Vice President (Pharmaceutical & Manufacturers of America),

Great Falls, VA

Deloitt, Cathy Vice President (Texas Association of Business), Austin, TX

Duke, Gloria PhD, RN (also providing written testimony) (Self; Texas Pain), Tyler, TX

Kowal, John Police Officer (Houston Police Department), Houston, TX

Leete, Travis Policy Attorney (Texas Criminal Justice Coalition), Austin, TX

McCraw, Steven C. Director (Texas Department of Public Safety), Austin, TX

Mitchell, Janet Prevention chair (also providing written testimony) (Association of

Substance Abuse Programs), Dallas, TX

Moll, Jeanette Policy Analyst (Texas Public Policy Foundation), Austin, TX

Patrick, Ryan Judge (Self), Houston, TX

Spiller, Lee Police Director (Citizens Commission on Human Rights), Austin, TX

Providing written testimony:

ON:

Petty, Helen Ross (Self; Texas Pain Advocacy Network), Austin, TX

Interim Charge 8

ON:

Cotton, Charles (Self), Friendswood, TX

Mica, Tara State Liaison (National Rifle Association), Austin, TX

Rister, Milton A. Executive Director (Railroad Commission of Texas), Austin, TX

Tripp, Alice Lobbyist (Texas State Rifle Assoc.), Paige, TX

TDCJ victim services division

FOR:

Harlow, Summer (Linda's Voice), Beverly Hills, CA

Whitis, Amanda (Linda's Voice), Beverly Hills, CA

Whitis, Kelly (Linda's Voice), Beverly Hills, CA