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2019 FACT SHEET

HB 363

Improve Safety, Conditions, Accountability, and Efficiency in Adult Corrections Facilities by Establishing an Independent Ombudsman

TEXAS PRISONS ARE FAILING TO PROTECT THE RIGHTS AND WELL-BEING OF INCARCERATED INDIVIDUALS AND STAFF

The Texas Department of Criminal Justice Department (TDCJ) operates not only the largest prison system in any state, but also one of the largest in the world, with more than 145,000 people in custody,¹ 106 facilities,² and an annual budget exceeding \$3.3 billion.³ **Yet, no independent entity oversees conditions** within Texas prisons, leaving people who are housed or who work within these facilities to face unsafe, unsanitary conditions.

For instance, recent media reports have revealed: a quota system for disciplinary measures, which led to four indictments of employees; allegations that guards have ignored incarcerated individuals' claims of physical and sexual abuse; denial of medical care; and ongoing in-custody deaths and suicide attempts.⁴ While poor conditions cause unsafe conditions and staff turnover, they are also incredibly concerning to the families of incarcerated individuals, who want their loved ones to be safe, and who want abuses and rights violations to be addressed efficiently and effectively.

While TDCJ does have a variety of *internal* accountability mechanisms, including the offender grievance process, the Texas Board of Criminal Justice, and the Ombudsman office (which handles inquiries from the public and reports to TDCJ's Executive Director), family members and incarcerated individuals who have attempted to utilize these avenues to alert the administration of problems have seen nothing happen until those problems are highlighted in the press.⁵

Internal accountability measures do not and cannot serve the same role or offer the same benefits of external oversight, which promotes transparency, accountability, and good government, and reduces the likelihood of expensive litigation against the agency. The American Bar Association argues that independent oversight allows for the identification and resolution of various problems, resulting in facilities that are safer, that respect the constitutional rights of the individual, and that are better equipped to help people prepare for reintegration into society. In addition, independent oversight detects overlooked problems, is cost-effective, and can help legislators and the general public make informed decisions regarding sentencing and correctional policies.⁶

In 1973, the court's *Ruiz vs. Estelle* decision found that Texas prison conditions violated incarcerated individuals' constitutional rights to protection from cruel and unusual punishment. The case resulted in court oversight of TDCJ facilities that lasted until 2002, exposing many problems with Texas prison operations that had traditionally remained hidden – including prison overcrowding, excessive use of force, substandard health care, and serious safety, sanitation, and hygiene concerns.⁷ The state prison system has operated without an independent monitor since then, but it is now time to act. **Especially in light of recent scandals, it is imperative that the State takes steps to protect the thousands of men, women, and children on hand in its corrections facilities.**

IN SHORT

HB 363 will create an independent oversight ombudsman for TDCJ – which Texas families and legislators desperately need.

Continued on reverse.

KEY FINDINGS

- TDCJ’s current Ombudsman office is not independent, and its role fails to protect the rights of individuals incarcerated in Texas prisons. Specifically, the office is not required to report information on how many inquiries are resolved or in what manner, whereas an independent Ombudsman is required to report its findings to the public.⁸
- Incarcerated individuals who file grievances currently risk exposing themselves to retaliation by TDCJ staff.⁹ This is especially concerning for individuals who suffer from mental illness or addiction, and who have limited ways to protect themselves.
- Texas youth facilities (under the Texas Juvenile Justice Department) are monitored by an independent Ombudsman, which was created for many of the reasons that Texas’ adult prisons need independent oversight.¹⁰

SUPPORT HB 363 BY REPRESENTATIVE JARVIS JOHNSON

HB 363 will create independent oversight of Texas’ state corrections system, promoting accountability, providing cost savings, and protecting the rights and well-being of incarcerated individuals and staff.

The funding for independent oversight will be provided by commissary profits and does not require appropriations from the State budget. The money is directly from inmate family expenditures to TDCJ, and a budget rider for this has been submitted.

Citations

¹ Texas Department of Criminal Justice, *Statistical Report FY 2018*, 1,

https://www.tdcj.texas.gov/documents/Statistical_Report_FY2018.pdf.

² Texas Department of Criminal Justice, Unit Directory, https://www.tdcj.texas.gov/unit_directory/.

³ Legislative Budget Boards, General Appropriations Act FY 2018 – 2019.

⁴ Hannah Wiley, “Advocates say the timing is right for independent oversight of Texas prisons,” *Texas Tribune*, November 26, 2018, <https://www.texastribune.org/2018/11/26/advocates-say-time-right-independent-oversight-texas-prisons/>.

⁵ See news articles by Keri Blakinger: “Warden Demoted as TDCJ Reviews Policy,” *Houston Chronicle*, June 19, 2018;

“Texas Prisons: More than 500 Disciplinary Cases Tossed After Quotas Investigation,” *Houston Chronicle*, June 11, 2018;

“Lawsuit: TX Prisons Too Understaffed to Take Inmate to Hospital for Flesh-Eating Bacteria Infection,” *Houston Chronicle*,

December 18, 2018; “Criminal Probe Launched After Prison Workers Admit to Falsifying Inmate Disciplinary Records,”

Houston Chronicle, December 5, 2018; “Toothless Texas Inmates Denied Dentures in State Prison,” *Houston Chronicle*,

September 23, 2018.

⁶ American Bar Association, *Resolution 104B: Prison Oversight and Monitoring of Juvenile and Adult Facilities*, 2008,

2; <http://www.abanet.org/crimjust/policy/am08104b.pdf>.

⁷ Robert Perkinson, “Ruiz v. Estelle,” *Encyclopedia of Prisons & Correctional Facilities*, 2005, 864-67.

⁸ Texas Criminal Justice Coalition (TCJC), *The Case for Independent Oversight of Texas’ Prison System: Pursuing Accountability, Efficiency, and Transparency*, 2012, 1-10.

⁹ The University of Texas at Austin: Human Rights Clinic, *Reckless Indifference: Deadly Heat in Texas Prisons*, 2015

<https://law.utexas.edu/wp-content/uploads/sites/11/2015/04/2015-HRC-USA-Reckless-Indifference-Report.pdf>.

¹⁰ Independent Ombudsman for the Texas Juvenile Justice Department,

<https://www.tjjd.texas.gov/ombudsman/index.aspx>.