



**Jorge Renaud**, Policy Analyst

Work: (512) 441-8123, ext. 102

Cell: (512) 825-6586

jrenaud@TexasCJC.org

www.TexasCJC.org

**TESTIMONY 2013**

**H.B. 877**

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 877, which will increase efficiency, accountability, transparency, and safety throughout Texas' massive corrections system by creating an independent committee and staff to investigate and report on critical functions and responsibilities.

### **INDEPENDENT OVERSIGHT OF TEXAS PRISONS WILL INCREASE PUBLIC TRUST, ACCOUNTABILITY, EFFICIENCY, AND TRANSPARENCY**

As the largest prison system in the country, the Texas Department of Criminal Justice (TDCJ) is charged with the responsibility of effectively and efficiently managing an immense operation. Decades of research and experience have demonstrated that all public institutions, from schools to hospitals, benefit from independent, external oversight.<sup>1</sup>

Strong oversight has several critical functions. It **protects the rights and well-being of incarcerated individuals**, who have limited ways to defend their interests,<sup>2</sup> and who frequently suffer from mental illness or addiction. It ensures that correctional facility staff have **safe and sanitary working environments**. And it is a proven mechanism for **identifying and addressing issues** before they lead to expensive litigation, media scandals, or other human and fiscal costs.<sup>3</sup>

TDCJ asserts in its own philosophy statement that it "will be open, ethical and accountable" to the public. Independent oversight is consistent with this intention and ensures that it may become fully realized. Given that taxpayers spend more than \$3 billion per year on corrections, they deserve the accountability and transparency that come with real oversight. If Texas' county jails are subject to external supervision, why should the state get a free pass?

### **KEY FINDINGS**

- TDCJ is massive: It employs as many paid employees as Google and spends over \$3 billion annually.<sup>4</sup>
- TDCJ has a variety of **internal** accountability mechanisms, including the offender grievance process, the Ombudsman office (which handles inquiries from the public), and the Office of the Inspector General (which conducts investigations and policy monitoring). However, these mechanisms cannot and do not serve the same role or offer the same advantages as **external** oversight, which can successfully introduce accountability and transparency.<sup>5</sup>
- Other Texas agencies have external oversight. The Office of the Independent Ombudsman for the Texas Juvenile Justice Department was established in 2007 to investigate, evaluate, and secure the rights of children committed to the Department.<sup>6</sup> **By contrast, the TDCJ Ombudsman is not independent, and its role fails to protect the rights of adults incarcerated in Texas prisons.**
- In 1973, the *Ruiz vs. Estelle* case determined that Texas prison conditions violated inmates' 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.<sup>7</sup>

*Continued on reverse.*

- Since 2002, reports of inhumane conditions have continued to emerge, including a report detailing the appalling conditions for individuals with mental health problems incarcerated in Texas prisons,<sup>8</sup> accounts of constitutionally inadequate health care,<sup>9</sup> and a report showing that Texas prisons have the highest reported number of alleged incidents of sexual assault (four times the national average).<sup>10</sup>

### COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 877 BY REPRESENTATIVE ALLEN

- **H.B. 877 will develop an independent body, called the Texas Criminal Justice Department Oversight Committee, tasked with comprehensive oversight of all TDCJ correctional facilities.** Through regular inspections of at least 25 facilities per biennium, this Committee will help determine long-range facility and system needs; identify critical issues and corresponding solutions; and assist in the evaluation and assessment of the efficacy of existing programs. This will result in a more efficient use of tax dollars, and will decrease waste.
- **H.B. 877 will require the Committee to compile a comprehensive report** for submission to the Texas Board of Criminal Justice every six months, and for submission to the Legislature every biennium, outlining the results of facility inspections, including an evaluation of the inmate grievance procedure at each inspected facility, and providing any recommendations concerning policy changes or other strategies that could improve the conditions or operations of Texas' correctional facilities.

This reporting requirement will enable TDCJ to better pinpoint issues before they become future problems, helping agency administrators find more cost-efficient ways to fulfill the agency's mission, provide rehabilitative services to incarcerated individuals, and protect the public.

- **H.B. 877 will ensure that the Committee receives full and open input from incarcerated individuals and facility staff.** It does not allow TDCJ to restrict a person from speaking to the Committee, nor does it allow punitive action against any person who does choose to speak with the Committee.
- **H.B. 877 will increase the frequency and opportunity for public input** on important criminal justices to TDCJ, allowing the agency to further its stated mission, resulting in improved public safety.

### CONCLUSION

Thank you again for allowing me the opportunity to testify in favor of this bill. In the past, policy-makers and officials have only intervened in Texas prisons when a crisis demanded it, or when ordered by the courts. This hands-off attitude has cost Texas taxpayers billions of dollars, resulted in the unnecessary deaths of incarcerated individuals and correctional officers, and caused the public to view TDCJ with great mistrust. This bill is necessary and timely, and the Texas Criminal Justice Coalition strongly urges you to support it.

### **Citations**

<sup>1</sup> John Gibbons & Nicholas Katzenback, "Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons," *Federal Sentencing Reporter*, 24, no. 1 (2011): 36-41.

<sup>2</sup> David Fathi, "The Challenge of Prison Oversight." *American Criminal Law Review* 47 (2010): 1453-62.

<sup>3</sup> Michele Deitch, "The Need for Independent Prison Oversight in a Post-PLRA World." *Federal Sentencing Reporter*, 24, no. 4 (2012): 236-44.

<sup>4</sup> Robert Perkinson, *Texas Tough: The Rise of America's Prison Empire*. Metropolitan Books, Henry Hold and Company, 2010.

<sup>5</sup> American Bar Association (2008). "Resolution 104B: Prison Oversight and Monitoring of Juvenile and Adult Facilities, <http://www.abanet.org/crimjust/policy/am08104b.pdf>.

<sup>6</sup> Independent Ombudsman for the Texas Juvenile Justice Department, <http://www.tjjd.texas.gov/ombudsman/index.aspx>.

<sup>7</sup> Robert Perkinson, "Ruiz v. Estelle," *Encyclopedia of Prisons & Correctional Facilities*, (2005): 864-67.

<sup>8</sup> Mike Ward, "Expert Portrays Texas Prisons as Horrific Home for Mentally Ill," *Austin American-Statesman*, June 23, 2002.

<sup>9</sup> Ben Raimer, Owen Murray & John Pulvino, "Health Care in the Texas Prison System: A Looming Fiscal Crisis," May, 2010.

<sup>10</sup> James Austin, Tony Fabelo, Angela Gunter, & Ken McGinnis, "Sexual Violence in the Texas Prison System." National Criminal Justice Reference Service, March 2006.