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DRAFT

Addressing the Burden of Housing State Prisoners in County Jails

Incarcerating individuals who have committed crimes is a central function of state and local governments, both for protecting public safety and for rehabilitating those offenders who are candidates for reentry into society. The correctional system in Tennessee is split between local jails—mostly county facilities, though some cities have their own jails—and state prisons. These jails and prisons are either government-run or operated under contract with private corporations. County jails house most individuals incarcerated in Tennessee, including those convicted of misdemeanors and all those incarcerated while awaiting trial, sentencing, or hearings for probation and parole violations. Tennessee's prisons are reserved for state prisoners—those convicted of felonies—but have long lacked the space needed to house all of them, and prison expansions have barely kept up with increases in the incarcerated felon population. Rather than expand prison capacity, Tennessee has relied on its county jails to house state prisoners as a cheaper alternative for alleviating overcrowding in state prisons. But whereas prisons have traditionally been designed to serve as long-term correctional facilities, local jails were not originally intended to house felons for extended lengths of time. As the felon population has increased, more and more felons are remaining in local jails, which often lack the beneficial services and programs available at state prisons.

In 2007, the Commission issued a report assessing whether counties should be reimbursed for housing prisoners awaiting probation revocation hearings and whether state reimbursements for housing sentenced felons—then ranging from \$18 to \$46.23 per prisoner per day from the date of sentencing—were enough. At the time, about 27% of Tennessee's state prisoners were held in county jails, a percentage that had been unchanged for several years and that has generally remained unchanged since. The report included two Commission recommendations: The state should (1) reimburse county jails for the daily costs of housing state prisoners who are awaiting probation revocation hearings and (2) set \$35 as the flat daily reimbursement rate for local jails not already receiving more to house state prisoners and simplify the reimbursement reporting process.

Counties are still not reimbursed for housing prisoners awaiting probation revocation hearings, and the state has not implemented a flat daily reimbursement rate. Despite the reporting process being simplified in 2011 and the maximum reimbursement rate for noncontract counties having been raised to \$37 in 2012, many county representatives have continued to say that the reimbursements counties receive are too small. For this reason, and because sheriffs and other county representatives have also expressed concern that the process for determining which prisoners remain in county jails is opaque, members at TACIR's May 2016 meeting

Tennessee has relied on its county jails to house state prisoners as a cheaper alternative for alleviating overcrowding in state prisons.

While not the only state to house convicted felons in county jails, Tennessee does rely on them more than most.

requested the Commission update its 2007 report to examine the current state of jails in Tennessee, how housing state prisoners in county jails affects county governments, and whether any changes are warranted in the way counties are reimbursed.

At the end of July 2007, around the time TACIR published its report, the state's prison system was operating at 97.7% of its established capacity. In the years since, the system fluctuated between 95% and 100% of capacity until the opening of the Trousdale Turner Correctional Center in January 2016. Briefly dropping to 87.2% when the new prison opened, capacity rose above 90% again in February 2016 and climbed above 95% in March 2017. At present, Tennessee houses approximately 27% of its state prisoners—approximately 8,000 inmates—in county jails. About 45% of those are “locally sentenced” felons with shorter sentences, intended to serve their time in county jails, while the other 55% are “backup” prisoners sentenced to state prison facilities but left in county jails until space is made available. While not the only state to use county jails for this purpose, Tennessee does rely on them more than most. In 2015, the latest year with comparable numbers for other states, Tennessee ranked third for its percentage of state prisoners held in local jails (30%)—behind only Louisiana (49%) and Kentucky (45%)—and fourth in total number (8,416)—behind Louisiana (17,930), Texas (11,093), and Kentucky (9,738). Fifteen states reported not housing any state prisoners in county jails, though five of these have state-only correctional systems.

Reimbursing Counties for the Cost of Housing State Prisoners

In 1981, when Tennessee's state prisons and county jails alike were under scrutiny for their overcrowding and unsatisfactory conditions, the legislature passed the County Correctional Incentives Act to provide financial incentives for counties to house non-dangerous felony offenders locally. The act was intended to be mutually beneficial for state and county governments by helping to alleviate overcrowding in state correctional facilities, reduce high operational costs, and assist counties in upgrading local correctional facilities and programs.

In 1989, however, the General Assembly replaced the incentive program from the 1981 act with a new method for determining the compensation counties receive that reimburses them from available funds for “reasonable allowable costs” as determined by the rules of the Tennessee Department of Correction (TDOC). The 1989 law also established that counties can contract with the state to house convicted felons but cannot be forced to house state prisoners sentenced to longer than a year unless they have done so. Since 1999, a maximum reimbursement rate per prisoner per day for noncontract counties has been set annually in the appropriations

act. Reimbursement rates for contract counties are negotiated with TDOC and are not limited by the maximum rate set in the appropriation act for noncontract counties.

Regardless of whether they contract with the state, all but six local governments housing felons received \$37 per prisoner per day for sentenced felons and felons awaiting parole violation hearings in fiscal year 2016-17. Davidson (\$53.62) and Shelby (\$69.60) counties and Johnson City (\$38.75), which houses only female prisoners, had contracts for more. Cocke (\$30.62) and Hancock (\$33.00) counties had contracts for less, and Rhea County, without a contract, also received less (\$25.25). By comparison, the average actual cost for all TDOC inmates in prisons, including those managed by private contractors, was \$76.82 per day but varied greatly among the 14 facilities depending on security level and inmate population—from \$50.32 for the medium-security South Central Correctional Facility managed by CoreCivic (CCA) to \$167.13 for the TDOC-managed DeBerry Special Needs Facility, which serves offenders with complex medical problems.

Nearly all county representatives say that their reimbursements don't cover the daily costs of caring for state prisoners or provide money for facility improvements needed to house them—and TDOC representatives agree—though counties can use state prisoners for labor both in their jails and in their communities, reducing the need to hire additional jail staff or other government employees. County representatives attribute part of the shortfall to the fact that counties are not reimbursed for housing individuals incarcerated while awaiting trial on felony charges, convicted felons awaiting sentencing, and convicted felons awaiting probation violation hearings. As of April 2017, Tennessee's 120 local jails statewide were 87% full, and 49 jails were each at 100% capacity or above.

Addressing the first of these concerns—that reimbursement rates are inadequate—the state increased the amount it pays to counties on July 1, 2017, setting the rate cap for noncontract counties at \$39 per prisoner per day. The total reimbursements to counties for fiscal year 2017-18 will be an estimated \$139 million, using county inmate population figures from TDOC's April 2017 Felon Report and assuming that all counties that received \$37 per day in fiscal year 2016-17 will receive \$39 in fiscal year 2017-18, that the reimbursement rates for Rhea, Davidson, and Shelby counties will remain unchanged, and that all other counties not receiving \$37 per day in fiscal year 2016-17 and Johnson City will receive a \$2 increase.

Nevertheless, many local officials are concerned that \$39 per prisoner per day is still inadequate. While statewide data is unavailable, the average cost to counties for housing state prisoners is \$43 to \$45 per prisoner per day according to estimates provided by TDOC's chief financial officer at the Commission's December 2016 meeting. Raising the rate cap from \$39 to \$45 per day would increase the state's annual cost by approximately \$13

Nearly all county representatives say that their reimbursements don't cover the daily costs of caring for state prisoners.

Simply increasing reimbursement rates to counties or reimbursing them for more days won't necessarily improve outcomes for communities and prisoners.

million to \$152 million—again assuming that the existing reimbursement rates for Rhea, Davidson, and Shelby counties remain the same and that all other counties not receiving \$37 in fiscal year 2016-17 and Johnson City would receive an \$8 increase.

Over the years, legislation has also been introduced to reimburse counties for housing felons prior to sentencing, which would address local officials' second concern. But this has been considered too costly to gain support. In 2017, House Bill 182 by Representative Bud Hulsey and Senate Bill 678 by Senator Ken Yager would require reimbursement from the date of conviction, not sentencing, as well as reimbursement for housing felony probation violators awaiting hearings, and was estimated to cost \$18.3 million annually. The bill has not advanced out of committee.

Improving Outcomes by Expanding Access to Programs and Services

Simply increasing reimbursement rates to counties or reimbursing them for more days won't necessarily improve outcomes for communities and prisoners. While the state is saving money by keeping felons in county jails rather than state prisons, most jails are not able to provide the same level of programming for mental health, substance abuse, and education, among other services available in prisons. TDOC studies have shown that recidivism is higher among state prisoners released from jails rather than prisons. Furthermore, the state is keeping hundreds of state inmates in jails that fail to meet the state's minimum standards as established by the Tennessee Corrections Institute (TCI).

One option available to the state to ensure that incarcerated felons receive access to programs they need and to alleviate the burden on county governments would be to increase prison capacity either by building new or expanding existing state facilities or by contracting through local governments for prison space. This would be more costly to the state than housing prisoners in county jails. Using data on typical prison building costs from a 2007 report by the Pew Charitable Trusts, adjusted for inflation, Commission staff estimate it would cost \$359 million to build the additional prison space needed to house felons in backup as of April 2017 or \$648 million to construct additional space to house all locally sentenced and backup felons. Moreover, because the average daily cost to house an inmate in prison is greater than the average reimbursement rate the state pays counties, housing the backup prisoners in new state prisons—but keeping locally sentenced felons in county jails—would cost the state approximately \$61 million more per year. The additional cost to the state for housing all backup and locally sentenced felons would be approximately \$88 million per year.

Instead, the state could work to improve prisoner outcomes while reducing the burden on local governments by supporting existing state programs and creating financial incentives for counties to provide prisoners with the same or similar services that they would receive in state prisons. The state is already making efforts to improve outcomes and reduce the burden on counties through the initiatives of the Public Safety Act of 2016. Assessment of inmates, as required by the act, will help determine the risk and needs of prisoners, allowing TDOC to direct inmates toward jail programming or, when necessary, transfer them to a state facility better equipped for meeting their needs. This is expected to lower costs for counties, reduce recidivism, ease reentry, and generally improve prisoner outcomes. Continuing to improve prisoner assessment and data collection will enable TDOC and counties to work together to target limited resources towards the most effective programs and facilities.

Further, to improve access to the behavioral health services already provided by the Department of Mental Health and Substance Abuse Services' (DMHSAS) criminal justice liaison program, the state should provide funding to expand the program statewide. According to its director, the program has been successful at diverting nearly 9,000 individuals from jail since 2014 and developing more than 1,200 long-term release plans to help keep those who have been in jail from returning. Outreach efforts across the state have reached more than 84,000 individuals to assist them in staying out of the criminal justice system. County sheriffs interviewed have also expressed strong support for the program. However, only 32 counties are currently part of a criminal justice liaison's coverage area. **Expanding these services statewide would increase program costs by an estimated \$1.6 million annually.**

In addition to existing initiatives, if the state's policy is to continue to rely on county jails to house large numbers of state prisoners, the state should establish an incentive program to encourage counties to add needed services, rather than simply relying on increases to per diem reimbursements. Tennessee, as has been done in Kentucky, could offer funding assistance beyond the daily reimbursement rate to help counties implement programs proven to reduce recidivism and improve outcomes for prisoners and communities. Kentucky provides an additional \$9 per day for counties with jails that provide the same inpatient substance abuse treatment program that the state provides in prisons. Programs in Tennessee could address not only substance abuse, but also reentry, education, or mental health needs, among others. Several counties in Tennessee have already chosen to implement programs like these at their own expense. Dyer County, for example, has an education and job training program that costs about \$5 per prisoner per day, and a comprehensive re-entry program that costs \$16 per prisoner per day above the county's baseline costs for housing prisoners. In some circumstances,

Continuing to improve prisoner assessment and data collection will enable TDOC and counties to work together to target limited resources towards the most effective programs and facilities.

adding new programs may require helping counties upgrade or expand facilities to allow necessary space.

Implementing such programs and evaluating them will require improved data collection, the adoption of standardized programs, and the development of measures of program success. This is in line with a recommendation in the 2015 *Final Report of the Governor's Task Force on Sentencing and Recidivism* to "establish a criminal justice research council to provide non-partisan, professional statewide research and information development." Those measures should be used to evaluate the housing and treatment of all state prisoners, whether in jails or prisons.

Although the Tennessee Corrections Institute inspects all jails annually and certifies those that meet its standards, it lacks the authority to enforce compliance.

Enforcing Standards to Spend State Dollars Effectively

Adequate oversight of local jails is necessary for the state to balance its need for fiscally responsible management of the felon population with its responsibility for maximizing public safety and achieving the best possible prisoner outcomes. However, neither TCI nor TDOC has clear legal authority to require local correctional facilities to comply with the minimum standards promulgated by TCI. Although TCI inspects all jails annually and certifies those that meet its standards, it lacks the authority to enforce compliance. There is no penalty for a county jail that fails inspection other than possible vulnerability to lawsuits and court intervention. TCI officials say that their most effective avenue for action is often through the fire marshal seeking a court order when safety is concerned. The state can choose—but has no obligation—to remove state prisoners from a noncertified jail. **The state will not contract with counties to house prisoners in noncertified facilities, but noncontract counties continue to receive the same reimbursement for inmates in noncertified jails, and counties are not currently obligated to dedicate reimbursement funds towards improvements that would restore certification. From 1981 to 1989, the incentive payments counties received for housing state prisoners were higher for counties with certified jails; counties with noncertified jails not only received less but were also required to use incentive money to improve their facilities.**

To clarify the framework for the oversight of county jails, state law should be amended to give the Tennessee Corrections Institute clear legal authority to require local correctional facilities to comply with set standards, including authority for its Board of Control to recommend that the Tennessee Department of Correction remove state prisoners from noncertified jails when conditions warrant. Noncertified county jails should not be eligible for additional funding above the reimbursement rate cap set annually for noncontract counties or the county's actual reimbursement rate if less than the cap. This would provide an incentive to maintain or regain certification and improve conditions in substandard facilities, a necessary step towards adding beneficial programs.

Managing Tennessee's Convicted Felons: Balancing State and County Needs

When the 12 inmates were refused admittance by the West Tennessee Reception Center, the Shelby County Sheriff, Gene Barksdale, chained them to the outside of the center's fence and left them there at sunrise. He was running out of room, he said, at his own jail.

For three weeks, the overcrowded, substandard state system has been under orders by Federal District Judge Thomas Higgins not to admit any more prisoners. But as Governor Alexander called a special session of the Legislature to deal with the problem in Nashville, trials and convictions proceeded, piling up new state convicts in the 95 county jails.

—Dudley Clendinen, *New York Times*, 1985.

Our correction system is much improved since 1985, but like many states, Tennessee has struggled to handle prison and jail overcrowding for decades. In 1982, the state's correctional system was the subject of an extensive court order to relieve overcrowding, poor sanitation, poor medical care, and rampant violence—claims of cruel and unusual punishment—as prison conditions were so bad as to guarantee “inevitable serious physical and psychological deterioration.”¹

During the fall of 1985, Tennessee's prison problems mounted. Unable to meet inmate population-reduction targets, the system was operating far beyond its capacity. On October 25, 1985, Federal Judge Thomas A. Higgins ordered that no new convicts be admitted into the prison system's reception centers until the inmate population was reduced to the system's total designated capacity.² While the state was attempting to remedy the prison situation, it shifted some of the burden for housing convicted felons to the counties. However, as conditions in county jails got worse, courts ordered relief of jail overcrowding in some counties—in 1989, Hamilton, Davidson, Knox, and Madison counties sued the state, and the US Court of Appeals for the 6th Circuit ordered limits placed on the number of inmates that could be held in those facilities.³

Trying to strike the proper balance in determining which prisoners are housed in state prisons and which are housed in county jails has been an ongoing challenge. The state has a constitutional mandate to provide safe

Determining which prisoners are housed in state prisons and which are housed in county jails has been an ongoing challenge.

¹ Grubbs v. Bradley, 552 F. Supp. 1052 (M.D. Tenn. 1982).

² Cody and Bennett 1987.

³ Roberts v. Tennessee Department of Correction, 887 F.2d 1281 (6th Cir. 1989).

prisons, treat prisoners humanely, and inspect the prisons accordingly.⁴ At the same time, state law not only requires each county to fund and maintain a jail and sheriff but also delegates responsibilities related to the care and custody of prisoners held in county facilities to the sheriff's office.⁵

The Commission has been asked to study issues and challenges facing county jails in the past.⁶ Its 2007 report drew upon information from previous reports by other agencies, including two published by the Tennessee Comptroller of the Treasury⁷ and one published by the Tennessee County Services Association.⁸ And still, many issues noted in 2007 persist.

- Some county officials continue to be concerned about the financial burden and other effects of housing state prisoners in county jails. On the other hand, some counties use state prisoners and reimbursement funding to support a large part of their sheriff's office and jail operations.
- Crowded conditions and tight budgets can leave counties and the state open to liability from lawsuits.
- Many jails offer little or no programming for mental health, substance abuse, education, and reentry.

The report included a number of staff recommendations and two Commission recommendations:

- 1) The General Assembly should require the Tennessee Department of Correction (TDOC) to reimburse county jails for the daily costs of housing state prisoners who are awaiting probation revocation hearings. The time lag between the probation violating offense and the probation revocation hearing is lengthy, and the number of prisoners placed on probation is increasing.
- 2) The Tennessee Department of Correction should set \$35 as the flat daily reimbursement rate for local jails housing state prisoners. Additionally, TDOC should simplify the reporting process for local jails holding state prisoners, to include eliminating the cost sheets counties currently complete to be reimbursed. Completing the cost reports requires a large portion of staff time and regardless of the daily cost reflected in the report, the daily reimbursement cap is \$35.

The General Assembly did not implement the first recommendation related to probation revocations, nor did it set a flat rate for all counties

⁴ Tennessee Constitution, Article I, Section 32.

⁵ Tennessee Code Annotated, Sections 5-7-104, 5-7-106, and 8-8-201(a)(3).

⁶ TACIR 2007.

⁷ Tennessee Comptroller of the Treasury, Office of Research 2003; and Tennessee Comptroller of the Treasury, Offices of Research and Education Accountability 2006.

⁸ Tennessee County Services Association 2005.

housing state prisoners. Since 1989, the state has reimbursed counties for the cost of housing state inmates, and each year the legislature sets a maximum reimbursement rate in the appropriations bill. The rate was \$35 per day at the time of the 2007 report, although several counties with lower reported costs received less, and two had contracts with the state to receive more.⁹ The rate was raised to \$37 in 2012 and to \$39 effective July 2017. The General Assembly did simplify the reporting process for counties that don't have separate contracts with the state by passing Public Chapter 229, Acts of 2011, which allows noncontract counties that have reported costs greater than the maximum rate for at least three consecutive fiscal years to stop submitting cost reports and continue to receive the maximum rate going forward.

Despite the maximum noncontract reimbursement rate having been raised to \$37, many county representatives continued to say that the reimbursement counties receive is too small. Members at TACIR's May 2016 meeting requested the Commission update its 2007 report to examine the current state of jails in Tennessee, how housing state prisoners in county jails affects county governments, and whether any changes are warranted in the way counties are reimbursed.

Local jails house more than a quarter of Tennessee's state prisoners and almost 60% of all those incarcerated in the state.

Tennessee's correctional system includes both state prisons and local jails. Most of the state's local jails are county facilities, though some cities have their own jails. These prisons and jails are either government-run or operated under contract with private corporations. While Tennessee's prisons house only sentenced felons, the state's county jails—including those of consolidated metropolitan governments—not only house some felons but also pre-trial detainees, those convicted of misdemeanors, and other inmates, such as federal prisoners under the jurisdiction of the US Marshal's Office and Immigration and Customs Enforcement (ICE). Most of the state's city jails house individuals for only short periods either while awaiting court appearances or while awaiting transfer to county, state, or federal facilities, though under a contract with the state, Johnson City's jail houses female felons serving sentences of up to three years.¹⁰

Tennessee's state and county correctional facilities, including Johnson City's jail because of its contract for housing female felons, currently have a combined capacity of 57,291 inmates, and the system as a whole housed 50,486 individuals as of April 30, 2017. By far the majority of these

⁹ TACIR 2007. See appendix 4 of that report.

¹⁰ Campbell 2014.

inmates—30,063 individuals accounting for approximately 60% of those incarcerated—were sentenced felons and are classified as state prisoners. Approximately 29%—14,478 individuals—were housed in county jails while awaiting trial. Smaller numbers of inmates also housed in county jails included 5,143 individuals convicted of misdemeanors—approximately 10% of all inmates in Tennessee—as well as 602 convicted felons awaiting sentencing or probation violation hearings, who are not classified as state prisoners, and 802 others, including federal prisoners.

Tennessee's state prisons don't have the capacity to house all of its state prisoners.

Tennessee has 23,841 total beds in its state prisons, with an established operating capacity of 23,075.¹¹ Capacity has increased by more than 3,200 since the Commission's 2007 report, with several projects adding beds to offset closings at Brushy Mountain Correctional Complex and Charles B.

Bass Correctional Complex (see table 1). As of April 30, 2017, the state prison system was at 95.2% of its established operating capacity, leaving more than 1,100 beds open for possible transfer of inmates from county jails that need to relieve overcrowding of their own or have particularly challenging inmates who need to be in a state prison (see appendix A).

Table 1. Prison Construction and Expansion Projects Since 2007

Institution Name	When Completed	Capacity Added
Morgan County Correctional Complex	April 2009	1,414
Bledsoe County Correctional Complex	November 2012	1,230
Bledsoe County Correctional Complex (Females)	September 2013	294
Trousdale Turner Correctional Complex	January 2016	2,619
West Tennessee State Penitentiary (Females)	August 2016	993

Source: Tennessee Department of Correction 2017a.

Although a number of beds are available, state prisons don't have enough capacity to house all of Tennessee's felons. As of April 30, 2017, only 21,968 of the state's 30,063 incarcerated felons were housed in state prisons. The remaining 8,095 state prisoners not held in Tennessee prisons—27% of all state prisoners—were housed in county jails. These convicted felons fall into two categories:

- TDOC Backup: Felons sentenced to TDOC custody and held in local jails while awaiting transfer to a state prison.
- Local Felon: Felons sentenced to serve time in a local jail, including felons serving a split confinement sentence.¹²

¹¹ Operating capacity excludes beds for special purposes such as medical or mental health reasons, disciplinary segregation, protective custody, and maximum security.

¹² Those sentenced may be placed on probation as part of a split confinement, where they must spend some time in jail before being released to probation, or they may be sentenced to probation directly. Tennessee Department of Correction "Community Supervision: Types of Release."

The percentage of Tennessee state prisoners held in county jails has been relatively constant, though backup prisoners now outnumber locally sentenced felons.

While Tennessee's felon population fluctuates from day to day, the counts reported on April 30, 2017, were typical for fiscal year 2016-17. The percentage of state prisoners housed in county jails has also remained relatively constant over the last ten years. At the end of fiscal year 2006-07 when the Commission's last report was written, county jails also housed 27% of Tennessee's state prisoners—7,210 individuals out of a total felon population of 26,551. Prior to April 2017, Tennessee's total felon population last peaked at 30,039 in May 2014 with approximately 29%—8,665 individuals—housed in county jails. Both the percentage and number of felons held in county jails peaked in November 2012 at 32.6% and 9,685 individuals.¹³

Most state prisoners housed in county jails are now backup prisoners awaiting transfer to state prisons rather than locally sentenced felons. As of April 2017, 55% of state prisoners held in county jails were classified as TDOC backup—4,491 of 8,095 inmates—compared with only 28%—2,023 of 7,210—at the end of fiscal year 2006-07. These are all inmates that could potentially be transferred to state prisons were space available. The number of locally sentenced felons—those sentenced to serve time in county jails regardless of available beds in state prisons—has decreased to 3,604 inmates in April 2017 from 5,187 inmates in fiscal year 2006-07. See appendix B.

Few other states house state prisoners in local jails to the same extent as Tennessee.

Tennessee relies on local jails to house state prisoners more than almost any other state in terms of both the overall number and percentage of state prisoners in local jails. Tennessee reported housing the fourth-most state prisoners in local jails as of December 31, 2015. Only Louisiana, Texas, and Kentucky reported more. Louisiana, by far the national leader, reported 17,930 state prisoners in local jails—almost 7,000 prisoners more than the next state, Texas, which reported 11,093. Kentucky, which ranked third nationally, reported 9,738 state prisoners in local jails. The only other state approaching Tennessee (8,416 in December 2015) was Virginia at 7,937 state prisoners in local jails. Of the rest, Mississippi and Georgia each reported approximately 4,900 prisoners in local jails, but no other state reported more than 2,000. Fifteen states reported that they don't house any state prisoners in local jails.¹⁴ Five of these—Alaska, Connecticut, Delaware,

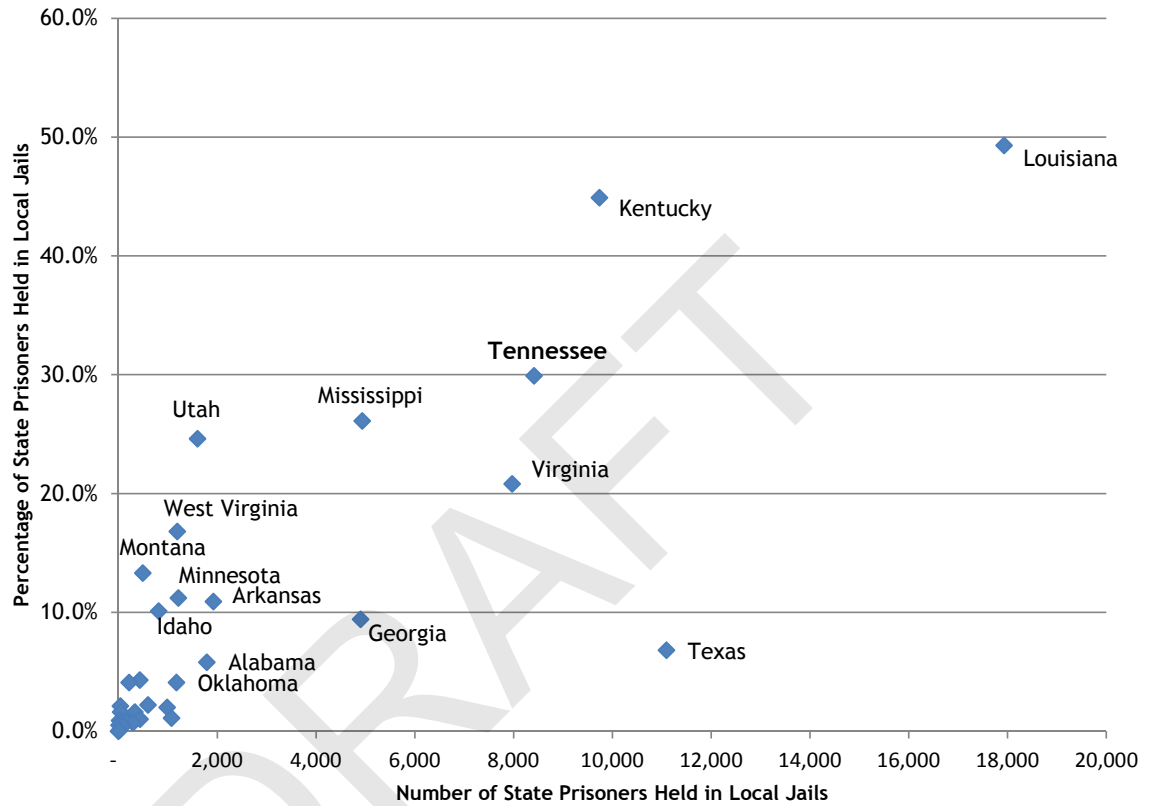
The percentage of state prisoners housed in county jails has remained relatively constant over the last ten years.

¹³ Tennessee Department of Correction 2017b.

¹⁴ Carson and Anderson 2016.

Hawaii, Rhode Island, and Vermont—operate state-only correctional systems. A 16th state, Massachusetts, reported housing 431 state prisoners in local jails, but all funding for local jails in Massachusetts comes from the state.¹⁵ See figure 1 and appendix C.

Figure 1. Number and Percentage of State Prisoners Held in Local Jails by State, 2015.



Source: Carson and Anderson 2016.

Similarly, Tennessee ranked third nationally for the percentage of its state prisoners housed in local jails. Both Louisiana (49.3%) and Kentucky (44.9%) reported greater percentages than Tennessee (29.9% in December 2015), just as they did for the total number of state prisoners in local jails. Mississippi (26.1%), Utah (24.6%), and Virginia (20.8%) are the only other states that reported housing more than 20% of their state prisoners in local jails. While Texas reported the second-highest number of state prisoners in local jails, these prisoners account for less than 7% of the state's total. In addition to the 15 states that have no state prisoners in county jails, 13 states that house some state prisoners in local jails either reported housing no more than 1% of their state prisoners in local jails or, in Massachusetts' case, provide all funding for local jails through the state budget.¹⁶ See figure 1 and appendix C.

¹⁵ Albert 2010; Henrichson, Rinaldi, and Delaney 2012.

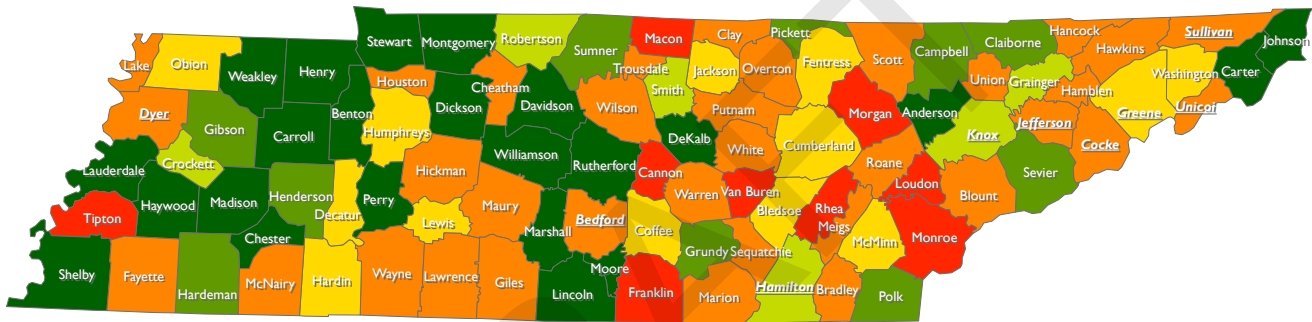
¹⁶ Albert 2010; Carson and Anderson 2016.

Some of Tennessee's state prisoners are housed in county jails that are overcrowded.

There are 120 local jail facilities in Tennessee, with 33,450 total beds. As of April 30, 2017, these jails were at 87.1% capacity and housed a total of 29,120 inmates—58% of all individuals incarcerated in Tennessee. Forty-nine jails, however, reported being at 100% capacity or greater. The state housed 2,415 felons in these 49 jails, including 1,750 backup felons. An additional 19 jails were between 90% and 100% capacity. See map 1 for county jail populations as a percentage of their capacity and map 2 for the number of convicted felons as a percentage of county jail population. See appendix D for the complete jail summary report, with information by county and facility.

Jails near capacity often run into operational challenges, such as a lack of segregated space for female inmates or isolation for those with mental health issues or particularly violent behavior. To address their needs for additional jail space and to improve outdated facilities, since 2007 at least 25 counties have completed or are currently constructing new jails or jail expansions.¹⁷

Map 1. County Jail Population as a Percentage of Capacity, April 30, 2017



County Jail Population as Percentage of Capacity

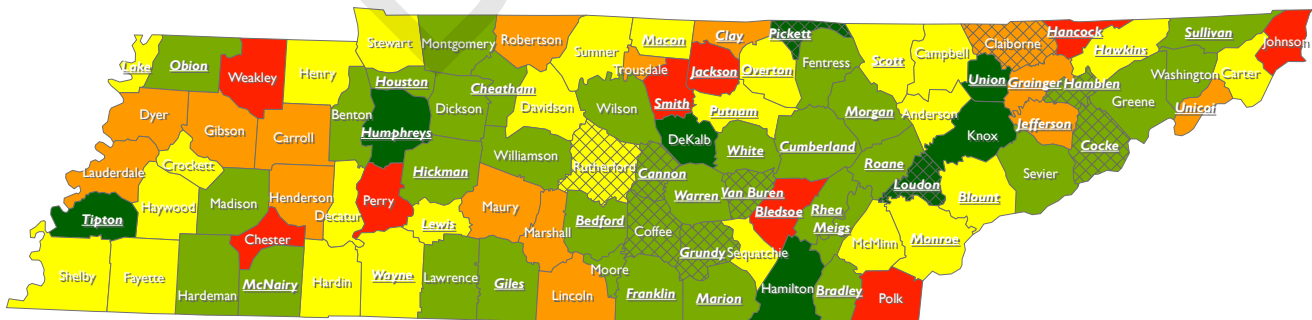
52.2% - 79.9% (23)	95% - 99.9% (13)
80% - 89.9% (10)	100% - 149.9% (34)
90% - 94.9% (6)	150% - 453.8% (9)

Note: Percentage shown is for county as a whole when county has more than one facility. Percentage for Washington County does not include the Johnson City jail with which TDOC contracts to house female felons (currently 66 of 88 beds filled).

County has multiple facilities where one or more is at 100% capacity or above.

Source: Tennessee Department of Correction 2017c.

Map 2. Convicted Felons as a Percentage of County Jail Population, April 30, 2017



Convicted Felons as a Percentage of County Jail Population

Less Than 10% (8)	40% - 54.9% (15)
10% - 24.9% (37)	55% - 72.7% (9)
25% - 39.9% (26)	County Facilities Not TCI Certified (10)

Note: Percentage shown is for county as a whole when county has more than one facility. Percentage for Washington County does not include the Johnson City jail with which TDOC contracts to house female felons (currently 66 of 88 beds filled).

County is at 100% total capacity or greater.

Source: Tennessee Department of Correction 2017c.

¹⁷ Staff compiled information from TACIR infrastructure inventory; also e-mail correspondence with Jim Hart, jail management consultant, County Technical Assistance Service, May 2, 2017.

Counties can contract with the state and other counties to house prisoners.

How does the state determine whether an inmate stays in county jail or is transferred to prison?

For many defendants convicted of lesser felonies, it isn't certain that they are going to serve any time at all in a state prison. While Tennessee Code Annotated, Section 40-35-314, requires that "all convicted felons sentenced . . . to continuous confinement for a period of one (1) year or more shall be sentenced to the department of correction," not every state prisoner is immediately transferred from county jail to state prison after sentencing. Further, Tennessee law includes several exceptions for state prisoners who are convicted in counties that contract with the state or whose sentences fall within certain guidelines that allow them to serve their time locally.

Many convicted felons can be sentenced to serve time in county jails.

State law authorizes each county through its legislative body and with the consent of its sheriff and chief executive to "contract, in writing, with the state or with other counties for responsibility of correctional populations."¹⁸ In counties that contract with the state, certain felons are sentenced to serve their sentences in county jail rather than state prison under Tennessee Code Annotated, Section 40-35-104(b)(1), which stipulates that

[a] defendant who is convicted of a felony . . . [and] sentenced to a total sentence of at least one (1) year but not more than three (3) years, shall not be sentenced to serve the sentence in the department of correction, if the legislative body for the county from which the defendant is being sentenced has . . . contracted with the department . . . for the purpose of housing convicted felons with such sentences. If the sentencing court concludes that incarceration is the appropriate sentencing alternative, the defendant must be sentenced to the local jail or workhouse and not to the department.¹⁹

The maximum sentence length in county facilities is extended to six years in Davidson and Shelby counties under Tennessee Code Annotated, Section 40-35-104(b)(2).

Twenty counties—and Johnson City—have contracts with the state for fiscal year 2017-18 and beyond, although Johnson City only houses female prisoners. See table 2.

¹⁸ Tennessee Code Annotated, Section 41-8-106(b).
¹⁹ Tennessee Code Annotated, Section 40-35-104(b).

Carter*	Davidson (CCA)	Fayette	Fentress
Greene	Hancock	Henderson	Johnson City
Johnson County	Lauderdale	Lewis	McMinn
Overton	Scott	Sevier	Shelby Corr. Ctr.*
Smith	Sumner	Trousdale	Washington
Wayne			

Source: E-mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, July 10, 2017.

*Note: Contracts expiring June 30, 2020. Carter County has two one-year options to extend.

Fewer counties are agreeing to contract with the state than in years past, in part because of the cost of complying with the standards of the federal Prison Rape Elimination Act (PREA), which typically requires additional staff and, in some instances, costly facility upgrades. To avoid losing federal grant money for its prisons, the state has to abide by the standards set forth by this law and must require any entity that it contracts with to do so as well. At the time of publication, seven counties—Cocke, Hamblen, Haywood, Henry, Hickman, Lake, and Lincoln—that had contracts expire on June 30, 2017, have not renewed those contracts and have not been certified in compliance with PREA. For a detailed explanation of the law, some of the costs associated with compliance, and what effect this may have on Tennessee in the future, see appendix E.

Regardless of whether a county contracts with the state to house state prisoners, defendants sentenced to less than 10 years may be eligible for probation, rather than incarceration, depending on the type of offense and whether the person has a previous record, under Tennessee Code Annotated, Section 40-35-303. Judges also have the option under Tennessee Code Annotated, Section 40-35-306, to order “split confinement,” where the person convicted serves up to a year in local jail before completing the remainder of the sentence on probation. Individuals may also be sentenced to serve “periodic confinement,” in which they spend certain days or even hours in jail while otherwise out on probation.²⁰ Felons sentenced either to split or periodic confinement are included in TDOC’s count of locally sentenced inmates.

No person convicted of a Class B felony or above would be sentenced locally because those crimes carry a minimum sentence of eight years. A person with no prior convictions convicted of a Class C felony could be sentenced to less than three years and serve that time in a local jail. Below are some examples of felony by class. See table 3.

²⁰ Tennessee Code Annotated, Section 40-35-307.

Fewer counties are agreeing to contract with the state than in years past, in part because of the cost of complying with the standards of the federal Prison Rape Elimination Act.

- A. First and Second Degree Murder, Aggravated Rape, Aggravated Child Abuse, Especially Aggravated Robbery
- B. Rape, Aggravated Robbery, Aggravated Sexual Battery, Manufacture or Sale of Schedule I Substance
- C. Robbery, Theft of Property (\$10,000 - \$59,000), Intentional Aggravated Assault, Kidnapping
- D. Reckless Aggravated Assault, Reckless Homicide, Theft of Property (\$2,500-\$9,999)
- E. Sexual Battery, Theft of Property (\$1,000 - \$2,499), Auto Burglary

Table 3. Felony Classification and Sentence Ranges

Felony Class	Sentence Range with Mitigating or Enhancement Factors				
	Mitigated No priors	Standard Range I 0-1 priors	Multiple Range II 2-4 priors	Persistent Range III 5+ priors	Career
A 15-60 years RED % RED years	13.5 years 20% 2.7 years	15-25 years 30% 8.8-14 years	25-40 years 35% 4.2-7 years	40-60 years 45% 9-13.5 years	60 years 60% 36 years
B 8-30 YEARS RED % RED years	7.2 years 20% 1.4 years	8-12 years 30% 2.4-3.6 years	12-20 years 35% 4.2-7 years	20-30 years 45% 9-13.5 years	30 years 60% 18 years
C 3-15 YEARS RED % RED years	2.7 years 20% 0.5 years	3-6 years 30% 0.9-1.8 years	6-10 years 35% 2.1-3.5 years	10-15 years 45% 4.5-6.8 years	15 years 60% 9 years
D 2-12 YEARS RED % RED years	1.8 years 20% 0.4 years	2-4 years 30% 0.6-1.2 years	4-8 years 35% 1.4-2.8 years	8-12 years 45% 3.6-5.4 years	12 years 60% 7.2 years
E 1-6 YEARS RED % RED years	0.9 years 20% 0.2 years	1-2 years 30% 0.3-0.6 years	2-4 years 35% 0.7-1.4 years	4-6 years 45% 1.8-2.7 years	6 years 60% 3.6 years

Source: Tennessee Administrative Office of the Courts 2016.

Note: First Degree Murder excluded from chart as sentencing is solely according to First Degree Murder statute.
 RED = Release Eligibility Date (the amount of the sentence served before eligible for parole)

Other state prisoners who aren't transferred to TDOC facilities are classified as backup.

When a convicted felon's sentence does not meet the conditions for probation or to be locally sentenced or the state does not have a contract with that county to house state prisoners, the inmate is supposed to be transferred

to a state prison within 14 days of the Department of Correction receiving documentation from the court under normal conditions. According to Tennessee Code Annotated, Section 41-8-106(g)(1),

[t]he department shall take into its custody all convicted felons from any county that had not contracted with the state as authorized by subsection (b). The department shall not be required to take actual physical custody of any of the felons until fourteen (14) days after the department has received all certified sentencing documents from the clerk of the sentencing court.

But when the state's prisons are operating above 95% of their total capacity, the governor has the power to declare an overcrowding emergency. Under such an emergency, TDOC is allowed to delay intake of felons for up to six months.²¹ Regardless of whether an overcrowding emergency has been declared, state prisoners left in local jails beyond the shorter 14-day window are classified as backup.

On several occasions, and as recently as 2016, the Tennessee Attorney General has confirmed that "[n]o county may be required to house convicted felons who have been sentenced to more than one year of continuous confinement unless the county has contracted with Tennessee Department of Correction."²² Although counties without state contracts cannot be forced to continue to house felons beyond the 14-day or, under an overcrowding emergency, six-month windows, there were almost 4,500 backup prisoners reported on April 30, 2017, and anecdotally there seem to be many inmates left in backup longer. However, the state has not compiled data to track how long individual felons are being left in backup in either contract or noncontract counties.

Management of backup population is typically informal.

The decision to transfer prisoners is typically driven by sheriffs and jail administrators, who must communicate with TDOC a desire to have inmates removed from their jails. The department prioritizes taking in violent inmates, inmates with serious medical problems, and those with longer sentences, but there is no defined set of parameters it has to follow, according to testimony of TDOC's Local Jail Resource Coordinator at the Commission's December 2016 meeting.²³ There is also statutory authority for counties to get a court to order transfer of inmates with serious medical

²¹ Tennessee Code Annotated, Section 41-1-506.

²² Opinion No. 16-21, Office of the Attorney General of the State of Tennessee, June 6, 2016.

²³ Testimony by Bob McKee, local jail resource coordinator, Tennessee Department of Correction, at the TACIR December 6, 2016 meeting.

Saving Money with Inmate Workers

“Greene County estimates it saves \$1.2 million annually with services provided by inmate work crews, which include litter pickup along public roadways, assisting Parks & Recreation Department projects, painting and performing summertime maintenance at Greene County Schools, mopping and cleaning the county annex and other county buildings, helping public works crews maintain roads, working at recycling centers, and assisting at the Greene County waste treatment facility and Greeneville-Greene County Humane Society.”

Ken Little, *The Greeneville Sun*,
July 11, 2017.

problems—even those sentenced to less than three years who are required to serve time locally.²⁴

One of the recommendations of the Governor’s 2015 Task Force on Sentencing and Recidivism was to “ensure that validated risk and needs assessments are uniformly used as a part of decision-making in felony cases, including pre-trial decisions, sentencing decisions, decisions on programming and treatment options, and post-prison supervision conditions for those who have been incarcerated.”²⁵ Integrating this assessment into a policy for backup felon management could be of benefit to the state and local governments. If there were a way to identify certain convicts upon sentencing—whether as part of the validated risk and needs assessment or through classification based on category of offense and length of sentence—it could help reduce the burden on local jails to determine for themselves which prisoners they should try to have transferred. It could also fulfill TDOC’s strategy to sort offenders by risk and need through implementation of a standard assessment across the criminal justice system in Tennessee.²⁶

Counties benefit from inmate work programs and prefer to keep useful workers.

Locally sentenced inmates “shall be ordered as part of the sentence” to participate in the jail’s work programs.²⁷ Those sentenced to TDOC custody but waiting in backup may participate in work programs as well.²⁸ Jobs available to inmates depend on their offense and on work available in each jail. Many county governments use inmate labor as a low-cost solution for a variety of jobs in their communities. Likewise, many jail administrators rely on inmates to work jobs within the jail, such as laundry and in the kitchen. TDOC says it communicates regularly and works cooperatively with local jail administrators to decide which inmates will remain in jails and which ones will be transferred to a state facility. Administrators see state inmates as a reliable workforce because they are serving longer sentences than those convicted of misdemeanors, and administrators want to work with the state to keep preferred inmates. If TDOC removes state inmates from a jail without discussing it with the sheriff, it could be difficult for the county to make up for the loss.²⁹

²⁴ Tennessee Code Annotated, Section 40-35-314(e).

²⁵ State of Tennessee 2015.

²⁶ Tennessee Department of Correction 2016.

²⁷ Tennessee Code Annotated, Section 40-35-314.

²⁸ Tennessee Code Annotated, Section 41-2-146.

²⁹ For an example, see Davis 2016.

The Roberts case resulted in a court order to reduce jail overcrowding in four counties.

Federal courts can have an effect on how the state manages its felon population between prisons and county jails. In 1989, Hamilton, Davidson, Knox, and Madison counties sued the state for shifting its overcrowding burden to their facilities. In *Roberts v. Tennessee Department of Correction* (887 F.2d 1281 (6th Cir. 1989)), the US Court of Appeals for the 6th Circuit ordered limits placed on the number of inmates that could be held in those facilities and ordered that

[p]riority for removal of individual TDOC-sentenced inmates from county jails to a state correctional facility shall, to the extent practicable, be based upon the inmates' length of stay in local jail facilities after sentencing, consistent with inmate health, safety and security considerations as determined by local officials.

It was noted in the 2003 Comptroller's report and the 2007 TACIR report that, because of the suit, TDOC gives priority to inmates in those facilities when deciding which inmates to transfer to state facilities. The terms of the order, including the population restrictions, were to expire after three years so long as "the District Court for the Middle District of Tennessee and the originating court are satisfied that the unconstitutional conditions which were linked to overcrowding have been corrected."³⁰ In 2001, the Metropolitan Government of Nashville and Davidson County filed a motion for the court to remove it from the population restrictions; the motion was granted in March 2002.³¹ As a result, it appears that TDOC is no longer required to grant priority to Davidson County when taking prisoners into custody. The 6th Circuit's order remains in effect for Hamilton, Knox, and Madison counties.

Tennessee reimburses counties to at least partially offset the cost of housing state prisoners.

In 1989, the State and Local Correction Reform Act amended Tennessee Code Annotated, Section 41-8-106, to establish a process for counties to be reimbursed based on "reasonable allowable costs" as determined by the rules of TDOC and limited by funds available from the appropriations act.³² Although data are incomplete, they suggest that many counties are not being reimbursed for the full cost of housing state prisoners under the current system.

³⁰ *Roberts v. Tennessee Department of Correction*, 887 F.2d 1281 (6th Cir. 1989).

³¹ *Armstrong v. Metropolitan Government of Nashville and Davidson County* 196 F. Supp. 2d 673 (M.D. Tenn. 2002).

³² Public Chapter 462, Acts of 1989.

Because of *Roberts v. Tennessee Department of Correction*, TDOC has given priority to Davidson, Hamilton, Knox, and Madison counties when deciding which inmates to transfer to state facilities.

Counties choose whether to contract with the state and how they will be reimbursed.

The State and Local Correction Reform Act of 1989 allows counties to choose whether to contract with the state to house convicted felons. This change went hand-in-hand with the provisions of the Tennessee Criminal Sentencing Reform Act of 1989, which requires certain sentences to be served locally in contract counties. Counties that don't contract with the state are reimbursed for housing felons on a per-prisoner, per-day basis for the counties' reasonable and allowable costs up to a maximum rate determined by available funding.³³ Under Tennessee Code Annotated, Section 41-8-106(g),

Counties that contract with the state can either agree to a flat reimbursement rate or report reasonable allowable costs to TDOC and be reimbursed according to the terms of their contract.

[t]he commissioner is authorized to compensate any county that has not contracted with the state as authorized by subsection (b) for that county's reasonable, allowable cost of housing felons. The rate of compensation to these counties shall be determined by and is subject to the level of funding authorized in the appropriations bill.

From 1989 to 1998, the maximum amount was determined by the commissioners of correction and finance; since 1999, a maximum reimbursement rate for these counties has been set annually in the general appropriations act.

Counties that contract with the state can either agree to a flat reimbursement rate or report reasonable allowable costs to TDOC and be reimbursed according to the terms of their contract. Contracts with the state are not necessarily limited by the rate cap set each year, but rarely does the state agree to exceed that amount. In fiscal year 2016-17, only Shelby and Davidson counties and Johnson City contracted for higher rates than the maximum for noncontract counties.

Regardless of whether they contract with the state, counties are reimbursed for housing convicted felons only after sentencing. They are not reimbursed for pre-trial defendants or convicted felons awaiting sentencing or a hearing for a technical probation violation.

³³ Rules of the Tennessee Department of Correction, Rule No. 0420-2-3-.06. Counties may claim all direct costs for inmate care and treatment and facility maintenance and operation, which includes direct personnel costs such as personnel benefits, insurance programs, and retirement programs, as well as part-time or contract services (e.g., janitorial, laundry, legal, maintenance and repair, medical and dental, etc.) and consultants. Capital costs and debt service for facility improvements are also allowed, and counties may include a portion of "indirect costs" — accounting functions, data processing, purchasing and similar services furnished by other county departments to support the correctional facility.

What are the current reimbursement rates for counties?

The appropriations act for fiscal year 2017-18 sets the maximum reimbursement rate for noncontract counties at \$39 per prisoner per day.³⁴ In fiscal year 2016-17, there were just three counties that received less than the maximum, which at the time was \$37 per day—two (Cocke and Hancock) that contracted for less and one (Rhea) without a contract that reported lower costs. As noted above, three local governments had contracts to be reimbursed more than the maximum rate in place before July 1, 2017: Johnson City received \$38.75 per prisoner per day for housing female felons, and both Shelby and Davidson counties were reimbursed the full amount for their actual costs for housing locally sentenced felons, with Shelby capped at \$73 per prisoner per day. See table 4.

Because of the higher payment amounts made to Shelby and Davidson counties, in fiscal year 2016-17, the state paid an average of \$49.36 per prisoner per day to house state prisoners in county jails. On an average day, there were more than 700 inmates in Davidson County facilities at a cost of \$53.63 per prisoner per day. There were also approximately 1,500 inmates on average at the Shelby County Correctional Center at a cost of \$69.60 per prisoner per day.³⁵

Since 1999, the first year in which a specific rate cap was set in the appropriations act, the reimbursement amount has fluctuated. First set at \$35 per prisoner per day, the cap was lowered to \$32 in 2003 and 2004 before returning to \$35 in 2005.³⁶ It was raised to \$37 per day in 2012,³⁷ where it remained until this year.

It should be noted that each appropriations bill cautions local governments about making long-term debt obligations based on state reimbursement payments, reminding them that the amounts may be reduced or even eliminated in the future:

Item 16. The General Assembly recognizes that demands on available state revenue are such that it may be necessary to establish priorities among state services and programs and to revise the methods of allocating state resources. Therefore, it is the legislative intent that local governments should consider in undertaking long-term obligations based on state payments, specifically state per diem payments for housing state inmates in local jails, that

Regardless of whether they contract with the state, counties are reimbursed for housing convicted felons only after the felons are sentenced.

³⁴ Public Chapter 463, Acts of 2017.

³⁵ Tennessee Department of Correction 2017c; and e-mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, April 5, 2017.

³⁶ Public Chapter 842, Acts of 2002; Public Chapter 503, Acts of 2003; Public Chapter 961, Acts of 2004; Public Chapter 503, Acts of 2005.

³⁷ Public Chapter 1029, Acts of 2012.

Table 4. County Contract Status and Reimbursement Rates, Fiscal Year 2017-18				
Counties with State Contracts—Flat Rate—\$39.00 (17)				
Carter	Fayette	Fentress	Greene	Henderson
Johnson	Lauderdale	Lewis	McMinn	Overton
Scott	Sevier	Smith	Sumner	Trousdale
Washington	Wayne			
Counties / Cities with State Contracts—Flat Rate—other than \$39.00 (2)				
Johnson City (female detention facility)—\$40.75 ^a			Hancock—\$35.00	
Counties with State Contracts—Reasonable Allowable Costs—May Exceed \$39.00 (2)				
Davidson (all locations)—\$53.63 ^b		Shelby County Correctional Center—\$69.60 ^c		
Counties without Contracts—Not Required to Report Costs—Reimbursed at \$39.00 (67)				
Anderson	Bedford	Benton	Bledsoe	Blount
Bradley	Campbell	Cannon	Carroll	Cheatham
Chester	Claiborne	Clay	Crockett	Cumberland
Decatur	DeKalb	Dickson	Dyer	Franklin
Gibson	Giles	Grainger	Grundy	Hamilton
Hardeman	Hardin	Hawkins	Haywood	Henry
Houston	Humphreys	Jackson	Jefferson	Knox
Lawrence	Loudon	Macon	Madison	Marion
Marshall	Maury	McNairy	Meigs	Monroe
Montgomery	Moore	Morgan	Obion	Perry
Pickett	Polk	Putnam	Roane	Robertson
Rutherford	Sequatchie	Stewart	Sullivan	Tipton
Unicoi	Union	Van Buren	Warren	Weakley
Williamson	Wilson			
Counties without Contracts—Required to Report Costs—Reimbursement Capped at \$39.00 (8)				
Cocke—\$32.62 ^d		Coffee—\$39.00 ^e	Hamblen—\$39.00 ^f	Hickman—\$39.00 ^g
Lake—\$39.00 ^g		Lincoln—\$39.00 ^g	Rhea—\$25.25 ^h	White—\$39.00 ^e

Notes: The state's fiscal year 2016-17—and most of its county contracts—ended June 30, 2017.

- ^a TDOC contracts at a flat rate with Johnson City to house only female felons at this facility.
- ^b Davidson County's contract allows for locally sentenced inmates, regardless of housing location within the county, to be paid for at actual costs determined by the operating cost of the Metro-Davidson County Detention Facility, with no cap. Fiscal year 2015-16 reported costs were \$57.85, which TDOC used to establish an interim rate of \$53.63 for payments in fiscal year 2016-17. After the fiscal year ended on June 30, 2017, Davidson County will report its actual costs for the year to TDOC, who will retroactively apply that amount to the prisoner numbers for all of fiscal year 2016-17 and make any necessary adjustments to its June payment to the county. TDOC will use those fiscal year 2016-17 reported costs to calculate a new interim rate for the first 11 months of fiscal year 2017-18, and make the same adjustment for June 2018. The state reimburses the county \$39 per day for backup inmates at all facilities.
- ^c The state contracts to house locally sentenced inmates at Shelby County Correctional Center for actual costs capped at \$73 per day. Shelby County reported fiscal year 2015-16 costs of \$75.08, which TDOC used to establish the interim fiscal year 2016-17 rate of \$69.60. Once actual costs for fiscal year 2016-17 have been reported, TDOC will apply that amount to prisoner numbers for fiscal year 2016-17 and adjust its June reimbursement accordingly. TDOC will use the reported fiscal year 2016-17 costs to establish the interim rate for the first 11 months of fiscal year 2017-18, up to the \$73 cap in their contract. The county is reimbursed at \$39 per day for all other state inmates (e.g. backup) at SCCC and all inmates at Shelby County's other jail facility.
- ^d Cocke County had a flat-rate contract for \$30.62 in fiscal year 2016-17. They will receive \$32.62 as an interim rate to begin fiscal year 2017-18 until reports can be filed from fiscal year 2016-17 to establish a new rate based on reasonable allowable costs. The Cocke jail has failed TCI inspections and the state cannot renew its contract until the jail is certified.
- ^e Coffee and White counties had their rates increased from \$37 to \$39 because their reported costs continue to exceed the rate cap.
- ^f Hamblen County had a flat-rate contract for \$37.00 in fiscal year 2016-17. They will receive \$39.00 as an interim rate for fiscal year 2017-18 until reports can be filed from fiscal year 2016-17 to establish a new rate based on reasonable allowable costs. The Hamblen jail has failed TCI inspections and the state cannot renew its contract until the jail is certified.
- ^g Hickman, Lake, and Lincoln counties had flat-rate contracts for \$37 in fiscal year 2016-17 but chose not to renew them. They will receive \$39 as an interim rate to begin fiscal year 2017-18 until reports can be filed from fiscal year 2016-17 to establish a new rate based on reasonable allowable costs.
- ^h Rhea County continues to report reasonable allowable costs below the rate cap. \$25.25 was the interim rate paid the first 11 months of fiscal year 2016-17, based on fiscal year 2015-16 reported costs of \$27.24. Rhea County will continue to receive \$25.25 to begin fiscal year 2017-18, until fiscal year 2016-17 costs are reported to establish an interim rate for the remainder of fiscal year 2017-18.

Source: E-Mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, May 2017 and July 2017.

existing payments may be reduced or eliminated in the future and such not be regarded as the principal source of funding for debt repayment obligations.

Contract counties are reimbursed for more medical costs than noncontract counties.

The greatest benefit to counties contracting with the state is an agreement for the state to cover medical expenses. The Tennessee Court of Appeals has recognized that it is the statutory duty of each county's legislative body to furnish the services of a physician to treat illnesses of all inmates in its jail.³⁸ Though the state has no statutory responsibility to cover basic health care for felons in county jails, it includes in its contracts with counties provisions to cover all expenses above \$1,000 per year for each inmate.³⁹ According to TDOC, how counties handle reimbursement for medical expenses varies. Some counties submit monthly claims to TDOC, some yearly, and some as soon as they receive the invoices from the health care provider. Once a medical claim is received by TDOC, it is reviewed to determine whether the inmate's \$1,000 limit has been met for that year, and if it has, the remaining amount of the claim is approved and added to the next per diem reimbursement to the county.⁴⁰

For noncontract counties, the state only pays for overnight emergency hospitalizations regardless of whether an inmate is in backup or locally sentenced. The law says that the sheriff has to get a court to verify hospital bills before the state's judicial cost accountant can approve the reimbursement.⁴¹ If an emergency hospitalization claim is approved, the state also reimburses the cost of ambulance or life flight services as well as correctional officers' salaries for time spent at the hospital with the inmate.

What are the actual costs of housing prisoners in jail and prison?

There is not enough reliable data available to measure the true costs of housing prisoners in most jails across the state. TDOC representatives have said that the state's maximum noncontract reimbursement rate likely does not cover all costs for most counties. At the Commission's December 2016 meeting, TDOC's chief financial officer stated that "there is probably

³⁸ George v. Harlan, 1998 WL 668637, *4 (Tenn. Ct. App. Sept. 30, 1998).

³⁹ Testimony by Wes Landers, chief financial officer, Tennessee Department of Correction, at the TACIR December 6, 2016 meeting. In an e-mail dated 5/23/2017, Mr. Landers added that Davidson County's agreement allows for reimbursement of emergency care, HIV, dialysis and oncology expenses.

⁴⁰ E-mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, June 16, 2017.

⁴¹ Tennessee Code Annotated, Section 41-4-115(b): "The state shall be liable for expenses incurred from emergency hospitalization and medical treatment rendered to any state prisoner incarcerated in a county jail or workhouse; provided, that the prisoner is admitted to the hospital."

a gap” between what the state pays and counties’ actual costs but that costs vary among counties. He said that TDOC does not know each county’s expenses, though he estimated that costs were generally \$43 to \$45 per prisoner per day.⁴² The fiscal year 2015-16 average cost for all inmates in Tennessee’s state prisons was \$76.82 per day but varied greatly among the 14 facilities, including those managed by private contractors. See table 5.

Table 5. Average Daily Cost by TDOC Facility, Fiscal Year 2015-16

Privately Managed Facilities	
South Central Correctional Facility	\$50.32
Hardeman County Correctional Center	\$56.97
Trousdale Turner Correctional Complex	\$60.82
Whiteville Correctional Facility	\$61.37
Department of Correction General Purpose Facilities	
Northwest Correctional Complex	\$63.88
Turney Center Industrial Complex	\$69.85
Northeast Correctional Complex	\$72.28
Bledsoe County Correctional Complex	\$87.46
Tennessee Prison for Women	\$88.77
Department of Correction High-Security Facilities	
Morgan County Correctional Complex	\$81.11
West Tennessee State Penitentiary	\$89.08
Riverbend Maximum Security Institution	\$106.29
Department of Correction Special Purpose Facilities	
Mark Luttrell Transition Center	\$102.22
DeBerry Special Needs Facility	\$167.13

Source: E-Mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, April 5, 2017.

discontinue the reporting if their costs were continuously greater than the maximum amount they could be reimbursed. As noted above, the law was amended in 2011 so that noncontract counties that document their costs and receive the maximum rate for three consecutive years could stop filing cost sheets.⁴⁴ In fiscal year 2016-17, just three noncontract counties had to submit cost sheets: Coffee, Rhea, and White. Coffee County reported average daily costs of \$42.80 in fiscal year 2015-16, and White County reported \$48.16. Both will receive the \$39 maximum allowed in fiscal year 2017-18. Rhea reported the lowest costs of any county in the state at \$27.24

Although health care and medical expenses for each county jail would be difficult to compile, the total fiscal year 2015-16 healthcare budget for the Department of Correction was \$133,390,500. On a per-inmate-day basis, the department’s contract for physical health care was roughly \$11, and behavioral health was approximately \$3.⁴³ When counties are required to house state inmates in their jails for extended periods, it is possible that they spend similar amounts, but detailed county-by-county medical expenditures on state inmates would require further study.

Actual cost data is not widely reported to the state.

Before 2011, counties without contracts for a flat rate had been required to submit detailed cost sheets to TDOC for reimbursement. The Commission’s 2007 report noted that counties wanted to

⁴² Testimony by Wes Landers, chief financial officer, Tennessee Department of Correction, at TACIR December 6, 2016 meeting.
⁴³ E-mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, February 15, 2017.
⁴⁴ Public Chapter 229, Acts of 2011.

per day.⁴⁵ Davidson (\$57.85) and Shelby (\$75.08) counties also submitted cost sheets pursuant to their contracts with the state.

Because the state would benefit from better reporting of county costs, it could provide funds or incentives to help counties with the cost of reporting. As noted in the 2007 report, counties don't want to report actual costs if they aren't going to benefit.

Increasing reimbursement and reimbursing prior to sentencing would reduce the burden on counties housing convicted felons.

Although counties can use state prisoners for labor both in their jails and in communities, offsetting the need to hire additional jail staff or government employees, almost all county representatives say that their reimbursements don't cover the daily costs of caring for state prisoners or provide money for facility improvements needed to house them, and TDOC representatives agree. Further, counties are not reimbursed for housing individuals incarcerated while awaiting trial on felony charges, convicted felons awaiting sentencing, and convicted felons awaiting probation violation hearings.

What would it cost to increase reimbursement rates across the board?

To address concerns raised by local officials, the state could increase the reimbursement rates it pays counties. To estimate the effect of changing the reimbursement rate, staff used county inmate population figures from TDOC's April 2017 Felon Report and the \$39 rate cap for noncontract counties that took effect July 1, 2017. Staff assumed that Rhea, Davidson, and Shelby counties would receive the same amounts as 2016-17, that all counties that had received \$37 would be raised to \$39, and that Johnson City—which had been receiving \$38.75—and the two contract counties receiving less than \$37 would get a \$2 increase. Total reimbursements to counties for an entire fiscal year under this new rate structure would be about \$139 million.

Raising the rate cap from \$39 to the \$45 per prisoner per day estimate for actual cost provided by TDOC's chief financial officer at the Commission's December 2016 meeting would increase the state's annual cost to \$152 million—again assuming that the existing reimbursement rates for Rhea, Davidson, and Shelby counties remain the same and that counties (and Johnson City) not receiving \$37 in fiscal year 2016-17 would receive an

Almost all county representatives say that their reimbursements don't cover the daily costs of caring for state prisoners or provide money for facility improvements needed to house them, and TDOC representatives agree.

⁴⁵ TDOC uses these reported costs to set the "interim" reimbursement rate for the first 11 months of the following fiscal year by first adding 3% and then setting the rate at 90% of that amount. For Rhea County, $\$27.24 * 1.03 * 0.9 = \25.25 . See TDOC Rule 0420-2-3-.07(2).

Over the years, legislation has been introduced to expand coverage to pre-trial detainees as well, but this has been considered too costly to gain support.

\$8 increase. The estimated annual increase is only \$13 million compared with the reimbursement rates used to estimate costs for fiscal year 2017-18 because almost 30% of felons housed in Tennessee's local jails, according to TDOC's April 2017 Felon Report, were locally sentenced felons housed in either Shelby County Correctional Center or any of the five facilities in Davidson County, which are reimbursed at rates higher than \$45 per day. The annual reimbursement for locally sentenced felons in these six facilities alone would be approximately \$56.3 million using population counts from TDOC's April 2017 Felon Report—approximately 37% of the total reimbursement if rates reimbursed for housing all other prisoners are raised to \$45 per prisoner per day.

The state could reimburse counties for housing prisoners before sentencing.

Another way for the state to reduce the burden on counties of housing state inmates is to expand the number of inmate-days for which a county can be reimbursed—an example of which was the Commission's 2007 recommendation to reimburse counties for holding probation violators in jail while they await hearings. Over the years, legislation has been introduced to expand coverage to pre-trial detainees as well, but this has been considered too costly to gain support. Most recently, House Bill 182 by Representative Bud Hulseley and Senate Bill 678 by Senator Ken Yager would have required reimbursement from the date of conviction, not sentencing, but that bill failed to advance during the 2017 session. The Department of Correction estimated this would cost \$18.3 million annually. In other states where convicted felons are housed in local jails, the time at which reimbursement begins varies from sentencing to conviction or a number of days after—up to 45 days in Texas.⁴⁶

Increasing reimbursements or reimbursing prior to sentencing won't necessarily improve outcomes.

Although local jails serve as an alternative for housing Tennessee's felons, most jails lack the capacity to provide programming for mental health, substance abuse, education, and other services comparable to those offered in state prisons. This may affect the ability of some jails to rehabilitate prisoners for reentry into society. TDOC has found that recidivism rates are higher for felons released from Tennessee's local jails than the state's prisons.⁴⁷ While simply increasing the reimbursement that local governments receive for housing state prisoners could help some counties improve their jail facilities or provide new or enhance existing programming, counties are not required to use increases in reimbursement

⁴⁶ Albert 2010.

⁴⁷ Tennessee Department of Correction 2010.

for these purposes under current law. Although Tennessee Code Annotated, Section 41-8-106, requires that all reimbursement money be dedicated exclusively for use in a county's correctional budget, it does not specify how the money is spent. Staff analysis of county financial audit information shows that no county receives more reimbursement money than it spends on jails and law enforcement, however many counties offset a large part of their budget with these funds.

Jails are not designed to serve as long-term detention facilities for rehabilitating prisoners.

According to the US Bureau of Justice Statistics, jails are "locally operated short-term facilities that hold inmates awaiting trial or sentencing or both, and inmates sentenced to a term of less than one year, typically misdemeanants."⁴⁸ Because they are not usually intended to be long-term detention facilities, county jails typically lack physical space and operational capability to offer services that state prisons do.

There are several programs and services offered by TDOC at its prison facilities that are not available for prisoners serving their sentences in local jails. The department requires treatment for substance abuse for inmates within their facilities when assessment documents a need for it. For offenders with severe substance use disorders, intensive nine-to-twelve month residential programs within several of the prisons are available in which participants progress through multiple treatment phases. For offenders with moderate substance use disorders, less intensive group therapy services are available. Group therapy is a four-to-six month outpatient program in which participants are required to complete at least 150 hours of structured evidence based treatment services.⁴⁹ All state facilities offer adult basic education and high school equivalency test preparation. College programs leading to an associate's degree are offered at two male facilities and one female facility. Vocational training is offered in 12 of 14 facilities.

The Parole Technical Violator Diversion Program (PTVDP) is available for offenders who are reincarcerated for technical violations of the conditions of their parole. Currently located at the Turney Center Industrial Complex Annex, this 75-bed program runs in conjunction with the modified therapeutic community program at the facility. TDOC also partners with the Department of Mental Health and Substance Abuse Services in the Community Treatment Collaborative, which offers treatment services for

Most jails lack the capacity to provide programming for mental health, substance abuse, education, and other services comparable to those offered in state prisons.

⁴⁸ "What is the difference between jails and prisons?" Accessed April 28, 2017 at <https://www.bjs.gov/index.cfm?ty=qa&iid=322>.

⁴⁹ See Tennessee Department of Correction Division of Rehabilitative Services at <https://www.tn.gov/correction/section/tdoc-rehabilitation>.

probationers and parolees who violate the terms of their release as a result of substance abuse issues.

There are some counties across the state that offer programs and services similar to those available in TDOC facilities. For example, the state's contracts with Shelby and Davidson counties require those facilities to meet the same standards that prisons are held to. According to panelists at the Commission's December 2016 meeting, other counties, including Dyer, Franklin, and Rutherford, have implemented treatment and re-entry programs of their own. The Dyer County sheriff testified that his county's program has been very successful at reducing recidivism among participants.

Recidivism rates are higher for state prisoners released from jails.

In a 2010 study on recidivism rates, TDOC noted that more than 60% of felons released in Tennessee between 2001 and 2007 were released from local jails, not prisons. The study also noted that recidivism rates for felons released from jails were higher than from TDOC facilities—31% recidivism rate in the first year for state prisoners released from jails compared with only 18% for prisoners from state facilities.⁵⁰ While this is the most recent breakdown of recidivism available by type of release, table 6 shows that most felons released in a given year are still coming from jails rather than prisons.⁵¹ Statewide recidivism for 2016 was 47.1%, down from 50.5% in 2010.⁵²

Table 6. Comparison of Releases from Prisons and Jails

Fiscal Year	Total Releases	Releases from TDOC	Releases from Backup	Releases Locally Sentenced	% of Total Releases from Jails
2010-11	15,423	5,817	6,424	3,182	62.3%
2011-12	16,115	5,541	7,289	3,285	65.6%
2012-13	16,879	5,782	8,118	2,979	65.7%
2013-14	16,465	5,937	7,884	2,644	63.9%
2014-15	15,515	5,845	7,361	2,309	62.3%
2015-16	14,647	5,357	7,032	2,258	63.4%

Source: Tennessee Department of Correction 2017b.

There are, however, alternatives available to the state to minimize the financial burden that housing state prisoners has on county jails while targeting spending effectively to achieve the best outcomes for communities and prisoners.

⁵⁰ Tennessee Department of Correction 2010.
⁵¹ Tennessee Department of Correction 2017b.
⁵² Tennessee Department of Correction 2017d.

Reducing the number of felons housed in local jails would ease the burden on counties.

The state has implemented a number of sentencing reforms over the years aimed at reducing its incarcerated population, including the Public Safety Act of 2016. In 2014, the Governor's Task Force on Sentencing and Recidivism stated its mission was

to improve public safety in Tennessee by identifying (1) strategies to reduce recidivism among individuals leaving prisons and jails and (2) changes to sentencing laws and practices that will more effectively use criminal justice resources to reduce crime and address the growth of the prison and jail population.⁵³

The state also has options available to reduce the number of felons it houses in local jails. Through the Public Safety Act of 2016, it has already begun to implement reforms to the probation system that will reduce the number of probation violators held in jails awaiting revocation hearings. It could choose to exercise provisions to relieve prison overcrowding, releasing some inmates to community supervision and freeing up space to transfer backup inmates from county jails to prisons. And there is always the option to build more prisons to accommodate the backup felon population.

The Public Safety Act of 2016 and other reforms could reduce the number of felons in local jails.

Before the Public Safety Act of 2016, many of the state's criminal justice reforms had been aimed at reducing the state prison population—sometimes shifting the burden onto local governments. The Criminal Sentencing Reform Act of 1989 recognized that “state prison capacities and the funds to build and maintain them are limited” and prioritized prison incarceration for “convicted felons committing the most severe offenses.” It also said that those without prior criminal records who are convicted of lower-level felonies “should be considered as favorable candidate[s] for alternative sentencing options.”⁵⁴ However, this act authorized the state to shift some of the burden of housing convicted felons to local governments by establishing the rules for sentencing some felons to serve their terms in county jails.

The state has adopted a number of sentencing reforms over the years aimed at reducing its incarcerated population, including the Public Safety Act of 2016.

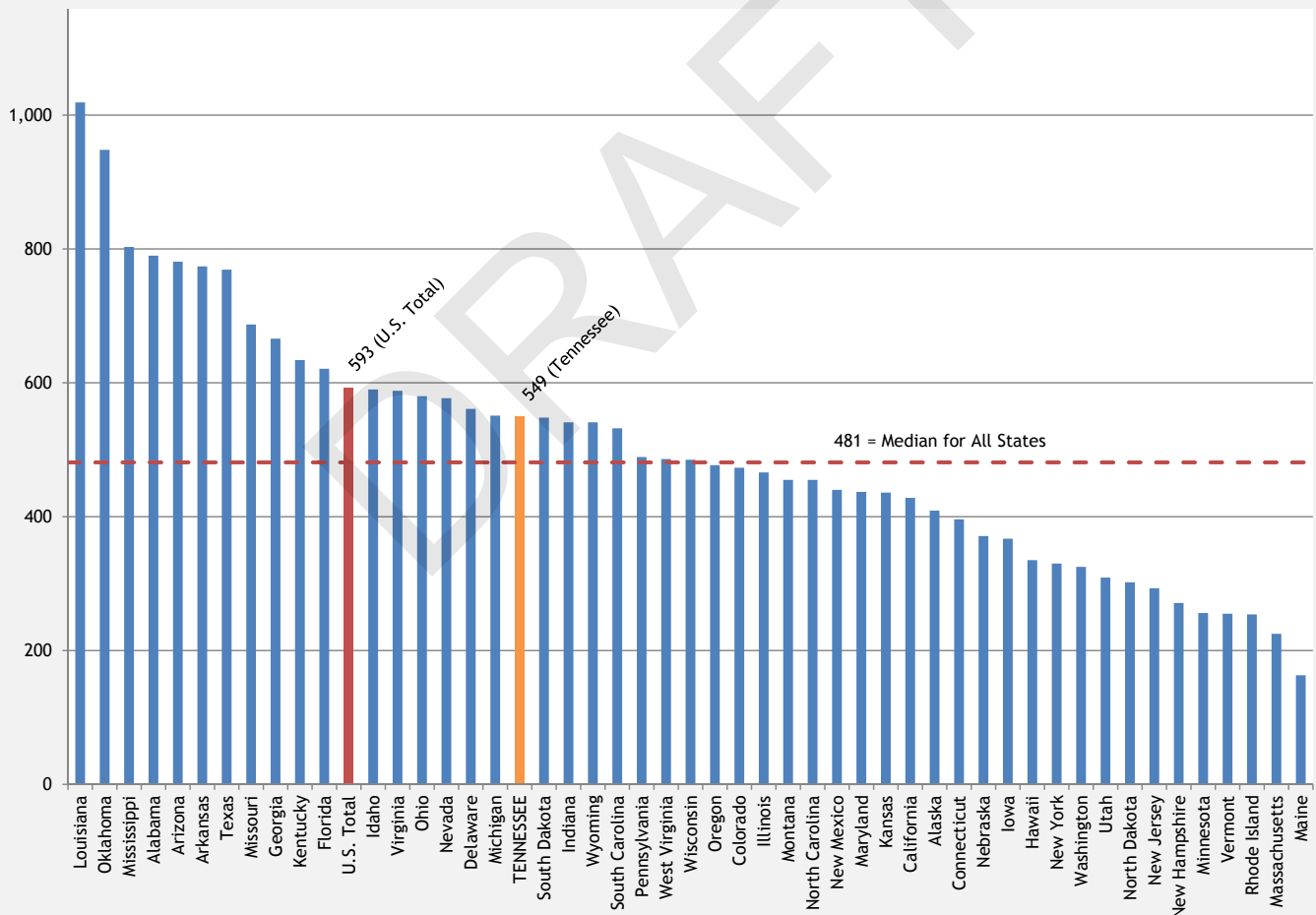
⁵³ State of Tennessee 2015.

⁵⁴ Tennessee Code Annotated, Section 40-35-102.

How does Tennessee's overall incarceration rate compare to other states?

Whereas states like Louisiana and Mississippi that lead the nation in total incarceration might significantly lower their prisoner population through sentencing reforms and alternatives, Tennessee has less room to address its prison and jail overcrowding issues by pursuing these types of reforms because many have already been implemented—and continue to be adopted, as in the case of the Public Safety Reform Act of 2016. According to Bureau of Justice Statistics data for 2015, 593 out of every 100,000 US residents over the age of 18 are imprisoned by state or federal correctional authorities. Tennessee's rate falls a little below that at 549 per 100,000. That said, bringing Tennessee's total incarceration rate of adults down to the median for all states, which is 481 per 100,000, would result in about 3,500 fewer felons in the system. See figure 2.

Figure 2. State Incarceration Rates per 100,000 US Residents Age 18 or Older, 2015.



Source: Carson and Anderson 2016.

In 2011, Governor Bill Haslam created a public safety subcabinet, comprised of commissioners and directors from 11 state agencies,⁵⁵ which developed a multi-year public safety action plan. In 2014, the governor convened a larger task force on sentencing and recidivism, and in 2015, the task force published a report making several recommendations regarding sentencing reform, data collection, and alternatives for probation and parole violations. The Public Safety Act of 2016 (Public Chapter 906, Acts of 2016—included as appendix F) was enacted to implement components of the task force recommendations.

According to the governor's report, the use of "swift, certain and proportionate responses to non-criminal rule-breaking is a key component of an effective strategy to change behavior." However, the report also notes that

sending offenders back to prison for violating supervision conditions when the violation is not a new criminal offense—particularly for non-compliant behavior such as missing appointments—is an expensive and ineffective means of addressing offender misconduct. Moreover, spending time in jail or prison can increase the risk of future offending, rather than decrease it.

The Public Safety Act gives probation and parole officers discretion to use sanctions such as drug testing and rehabilitative interventions instead of placing technical violators in jail for extended periods to await revocation hearings. The use of graduated sanctions can be included as a condition of probation by the court with jurisdiction over the case. Non-compliant behavior other than an arrest for a new crime can now result in the imposition of a proportionate sanction as a mechanism to return the probationer or parolee to compliance with supervision conditions. This should relieve county jails from one of their biggest burdens—housing violators while they await hearings. Although reimbursed for housing parole violators, counties are not reimbursed for housing felony probation violators.

The Public Safety Act of 2016 gives probation and parole officers discretion to use sanctions such as drug testing and rehabilitative interventions instead of placing technical violators in jail for extended periods to await revocation hearings.

⁵⁵ Commissioners of the departments of Safety and Homeland Security, Correction, Mental Health and Substance Abuse Services, Children's Services, Health, and Military, along with the chairman of the Board of Parole, and the directors of the Governor's Highway Safety Office (Department of Transportation), Office of Criminal Justice Programs (Department of Finance and Administration), Law Enforcement Training Academy (Department of Commerce and Insurance) and the Tennessee Bureau of Investigation.

What is Parole?

- The release of a prisoner to the community by the Board of Parole (BOP) prior to the expiration of the offender's sentence.
- Law mandates that a certain percentage of the sentence must be served before the offender is eligible for parole. TDOC calculates the percentage and determines the Release Eligibility Date (RED).
- Release is subject to conditions imposed by the BOP and supervision is provided by the Department of Correction.
- Counties ARE reimbursed by the state for housing accused parole violators while they await their parole board hearing.

What is Probation?

- The release by a court—without imprisonment—of a person found guilty of a crime, subject to conditions imposed by the court and subject to the supervision of the Department of Correction.
- Probationers may be placed on probation as part of a split confinement, where they must spend some time in jail before being released to probation, or they may be sentenced to probation directly.
- Determinate Release is a special type of probation:
 - » According to Tennessee Code Annotated, Section 40-35-501, offenders with felony sentences of at least one year but not more than two years are eligible for determinate release probation.
 - » To qualify, offenders must have served at least 30% of their sentence, and they are released at their earliest possible release eligibility date without a court or parole board hearing.
 - » Offenders are subject to the rules and conditions established on their determinate release certificate issued by the Department of Correction.
- Counties are NOT reimbursed by the state for housing convicted felons awaiting probation revocation hearings.
- The Public Safety Act authorizes TDOC to institute a system of "graduated sanctions" to address probation violations without jail time.

On the other hand, some of the additional sentencing reforms included in the Public Safety Act could increase the number of state felons in county jails, though it won't necessarily increase the cost to counties of housing these inmates. For example, a third and subsequent domestic violence conviction is now a Class E felony instead of a misdemeanor. A person guilty of such an offense will likely be sentenced to serve time locally, but because these inmates are now classified as state prisoners, counties will receive reimbursement for housing them; they received no reimbursement

when these crimes were classified as misdemeanors. In other cases, however, sentencing changes could result in more backup prisoners. The act set the mandatory minimum period of incarceration to 85% for third and subsequent convictions for aggravated burglary, especially aggravated burglary, and Class A, B, and C felonies for the sale, manufacture, and distribution of controlled substances. Inmates serving these longer sentences should be housed in state prisons rather than county jails, but some may remain in backup depending on the availability of space in state facilities.

The state has options available to relieve prison overcrowding and make room for backup felons currently held in county jails.

Because the state's prisons are currently operating above 95% capacity, state law authorizes the governor to order that prisoners meeting certain criteria be released to parole, potentially freeing beds that could be used to house other prisoners held in county jails. During the extraordinary legislative session of 1985, the General Assembly passed the Comprehensive Corrections Improvement Act, giving the governor the power to declare an overcrowding emergency if TDOC's commissioner reports that the state prison population has exceeded 95% of capacity for 30 consecutive days.⁵⁶

When an overcrowding emergency has been declared, the law grants the governor two options to reduce the state prison population below 90% of capacity. Although one of these options could also result in fewer state prisoners being housed in county jails, the other would not. First, the governor may direct the parole board to move up the release eligibility dates of certain inmates, releasing them early into community supervision.

While the intent of this law is to relieve overcrowding in state prisons, the early release of some inmates could provide TDOC with the opportunity to transfer some backup felons from county jails to state facilities. Moreover, some of the felons released early may currently be housed in county jails.

On the other hand, the second option available to the governor extends the length of time convicted felons can stay in local jails that have not chosen to contract with the state. It allows the governor to notify judges and sheriffs to delay up to six months the commitment of felons to TDOC facilities until the 90% target is reached.⁵⁷

The system was at about 97% capacity when the Commission's 2007 report was published, and with a brief exception in January 2016 when the Trousdale Turner Correctional Center first opened (87.2%), it has remained at roughly the same capacity—95.2% as of April 30, 2017. It is unclear whether an overcrowding emergency has been declared and is

⁵⁶ Tennessee Code Annotated, Section 41-1-503.

⁵⁷ Tennessee Code Annotated, Section 41-1-504.

currently in effect. In a 2008 opinion, the Office of the Attorney General wrote that “[it] is the understanding of this Office that the governor has not invoked his authority to delay commitment to the department.”⁵⁸ As recently as 2015, *The Tennessean* reported that no overcrowding emergency exists according to TDOC and the Governor’s Office.⁵⁹ However, then-TDOC Commissioner Schofield also told reporters in 2015 that TDOC was

operating under that emergency guideline right now. It was declared in 1995 and it was never lifted. . . .

Asked if that means the early-release provisions are in effect, Schofield replied, “Those options were in place when this administration took over and are still in place.”⁶⁰

Moreover, according to TDOC staff quoted in a 2016 article in *The Daily Times*,

in 1985, Gov. Lamar Alexander declared a state of overcrowding emergency for Tennessee prisons and issued a directive implementing ‘safety valve’ dates for eligible offenders. . . . TDOC has operated under this declaration since that time.⁶¹

Regardless of whether a declaration exists and is in effect, the state has chosen to maintain the prisons in an ongoing state of near-capacity. According to TDOC staff quoted in the same 2016 article in *The Daily Times*,

“while this declaration is in effect we must note that it is ideal to keep the prisons at around 97-98 percent operating capacity in order to best utilize our resources through the use of effective, evidence-based bed management.”⁶²

Stakeholders interviewed say that backup state prisoners are remaining in noncontract county jails for more than 14 days. But the state has not compiled data to show how long the average backup felon remains in noncontract county jails.

Tennessee could also increase the capacity of its state prisons.

Instead of releasing felons from state facilities to make room for those housed in local jails, the state could expand prison capacity. This would reduce the financial burden on counties associated with housing state

⁵⁸ Opinion No. 08-103, Office of the Attorney General of the State of Tennessee, May 6, 2008.

⁵⁹ Boucher and Wilemon 2015.

⁶⁰ Locker 2015.

⁶¹ Davis 2016.

⁶² Ibid.

prisoners, and it would help ensure that more prisoners have access to necessary rehabilitative programming. However, building new or expanding existing facilities is costly, and there are statutory limits on the state's ability to contract with private prison operators.

Building additional prison capacity is costly.

Although the state has added prison capacity, it has not added enough beds to reduce the number and percentage of felons housed in local jails. Recent prison projects have merely kept up with prisoner growth over time. See table 1 (reposted). At the Commission's December 2016 meeting, TDOC said that simply adding capacity to the state prison system is not a sustainable strategy. For example, TDOC converted the West Tennessee State Penitentiary from a male to a female facility in 2016 with the intent to reduce the female offender population in county jails. But three months after the change, new offenders added to the population meant that having moved 374 female inmates only reduced the female backup population by 145. Almost as quickly as TDOC could move them out of a county jail, they were replaced with new offenders.

Table 1. (reposted) Prison Construction and Expansion Projects Since 2007

Institution Name	When Completed	Capacity Added
Morgan County Correctional Complex	April 2009	1,414
Bledsoe County Correctional Complex	November 2012	1,230
Bledsoe County Correctional Complex (Females)	September 2013	294
Trousdale Turner Correctional Complex	January 2016	2,619
West Tennessee State Penitentiary (Females)	August 2016	993

Source: Tennessee Department of Correction 2017a.

Building additional prisons is also expensive. Construction costs per bed reported by states ranged from \$25,000 (in 2006 dollars) for a minimum-security cell to more than \$100,000 for a maximum-security cell.⁶³ Adjusting for inflation, a typical medium-security bed that cost \$65,000 in 2006 would cost more than \$80,000 today.⁶⁴ Construction of the privately owned 2,552-bed Trousdale Turner Correctional Center was completed during the fourth quarter of 2015 at a total cost of approximately \$144 million—\$56,426 per bed.⁶⁵ That amount does not include the cost of work done to prepare the site before the contract to build the prison facility. CoreCivic (CCA), the private contractor, paid for construction. TDOC did not pay any money for the development of the facility, and only started

⁶³ Pew Charitable Trusts 2007.

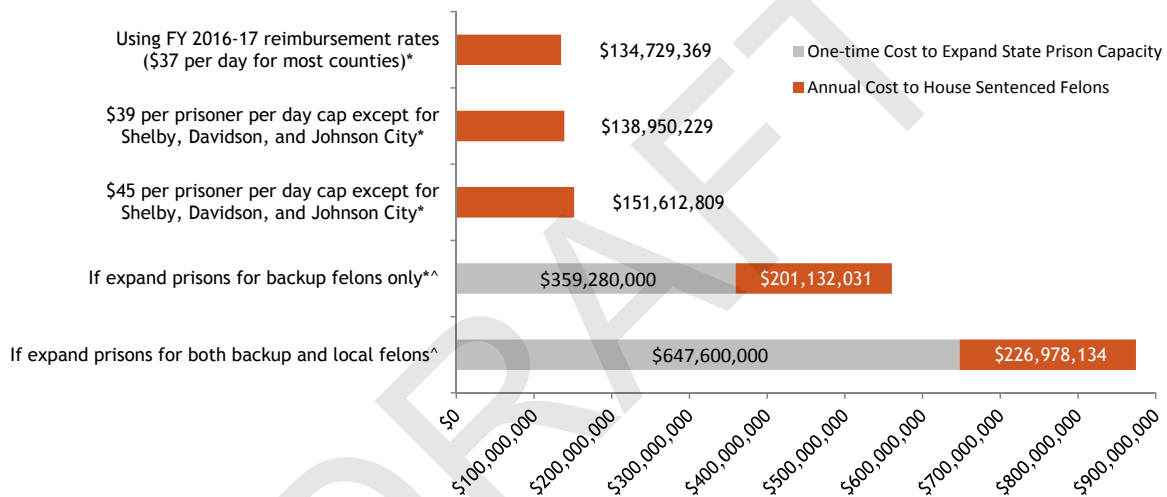
⁶⁴ US Bureau of Labor Statistics. https://www.bls.gov/data/inflation_calculator.htm.

⁶⁵ CoreCivic, Inc., news release, February 10, 2016.

paying at the point the facility was opened to inmates. In 2017, the Alabama Senate was considering issuing \$775 million in bonds to replace several aging prisons with three new ones, but that idea was rejected and scaled back to a possible \$350 million.⁶⁶ At the Commission's December 2016 meeting, TDOC's chief financial officer said that the last facility the state built cost more than \$230 million in state funds and took nearly five years to complete.⁶⁷ Tennessee's per-bed cost of \$168,283 for that project was the highest reported for the prisons studied in a 15-state region from a 2016 report by the Louisiana Legislative Fiscal Office for the Southern Legislative Conference—well above the average of \$94,988.⁶⁸

According to TDOC's April 2017 Felon Report, there were 8,095 felons housed in local jails—3,604 locally sentenced and 4,491 backup. To build the additional prison space needed to house 4,491 backup felons at an estimated cost of \$80,000 per bed would cost about \$359 million. To construct additional prison space to house all 8,095 felons housed in county jails as of April 2017 would cost approximately \$648 million. See figure 3.

Figure 3. Cost of Increasing Reimbursement Rates Compared with Cost of Expanding State Prison Capacity



* For FY 2016-17:

- Shelby County Correctional Center is reimbursed for actual costs up to \$73 per day for locally sentenced felons only; county reimbursed \$37 per day for all other felons at SCCC and all felons at other Shelby county facilities.
- Davidson County is reimbursed \$57.85 per day for locally sentenced felons only; county reimbursed \$37 per day for all other felons.
- Johnson City is reimbursed \$38.75 per day for female felons.
- Hancock County is reimbursed \$33 per day for all felons.
- Cocke County is reimbursed \$30.62 per day for all felons.
- Rhea County is reimbursed \$27.24 per day for all felons.

^ Cost to expand state prison capacity based on average cost of \$65,000 for a medium-security bed in 2006 reported in Pew Charitable Trusts 2007, adjusted for inflation. The average annual cost of housing a state prisoner is \$76.82.

Source: Staff calculations based on information reported by TDOC and Pew Charitable Trusts 2007.

In addition to this capital cost, there would be an increase in the daily operational cost to house these felons in prisons rather than jails. Using the state's average cost of \$76.82 per prisoner per day, the annual operational cost for housing 4,491 backup prisoners in new state prisons would be approximately \$200 million per year—an increase of approximately \$65 million per year compared with the reimbursement rates used in fiscal year 2016-17. The annual operational cost for housing all 8,095 backup and locally sentenced felons in new

⁶⁶ Cason 2017.

⁶⁷ Testimony by Wes Landers, chief financial officer, Tennessee Department of Correction, at the TACIR December 6, 2016 meeting.

⁶⁸ Appeaning 2016.

state prisons would be approximately \$227 million per year—an increase of approximately \$92 million per year compared with the reimbursement rates used in fiscal year 2016-17. See figure 3.

The Private Prison Contracting Act of 1986 limits the state's use of private prison facilities.

The state's ability to contract directly with private prison operators to expand capacity is limited by the Private Prison Contracting Act of 1986, although the state has partnered with local governments to work with private contractors for additional facilities. When Governor Lamar Alexander called the 1985 special session of the general assembly to address the problems of the prison system, he requested the legislature consider the alternative of privatizing the prisons. In September 1985, Nashville-based Corrections Corporation of America (CCA) offered to lease Tennessee's prison system, promising to pay the state \$50 million immediately and another \$50 million over the next 20 years. Additionally, the company indicated that it would spend \$150 million to build two maximum-security institutions and renovate other facilities. In return, CCA sought a 99 year lease of the facilities to operate the system for an annual amount not to exceed \$175 million the first year.⁶⁹ Following extensive debate over the legality of the state privatizing prisons, the Attorney General concluded that legislative action probably was necessary to permit a private firm to operate one or more correctional facilities.⁷⁰ In the 1986 regular session, the General Assembly passed Public Chapter 932—the Private Prison Contracting Act of 1986. The act authorized the state to contract directly for one private facility only.⁷¹

Other laws, however, permit the state to contract with counties that have contracted with private companies. Although currently counties cannot privatize their own jails—this authority did exist in the past but was repealed in 1988, according to the County Technical Assistance Service—they are authorized to construct additional facilities and contract with private companies to operate them.⁷² Under Tennessee Code Annotated, Section 5-1-118, counties may exercise certain powers granted to municipalities elsewhere in statute. Among those are the power to “contract and be contracted with” and “[p]rovide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services.”⁷³ Counties are further authorized to contract with the state

The state's ability to contract directly with private prison operators to expand capacity is limited by the Private Prison Contracting Act of 1986.

⁶⁹ Cody and Bennett 1987.

⁷⁰ Opinion No. 85-286, Office of the Attorney General of the State of Tennessee, November 27, 1985.

⁷¹ Tennessee Code Annotated, Section 41-24-101 et seq.

⁷² E-mail from Stephen Austin, consultant, County Technical Assistance Service, February 3, 2017.

⁷³ Tennessee Code Annotated, Section 6-2-201.

to house state inmates in the additional detention facilities they build, including those operated by private companies.⁷⁴ State law also authorizes the Department of Correction to contract with local governments to house inmates as necessary:

In addition to any other duties provided by law, when it appears to the commissioner, in the commissioner's sole discretion, that the available facilities and institutions of the department that are designed for the custody of inmates are overcrowded, the commissioner shall endeavor to alleviate such overcrowded conditions by contracting with local governmental entities, when possible, for the care, custody, and control in local jails, workhouses, penal farms or other such facilities, of inmates who have been committed to the department, or by any other means permitted by law.⁷⁵

A bill proposed in 2017 would require these contracts between the state and counties to meet the requirements of the Private Prison Contracting Act.⁷⁶ The Fiscal Review Committee noted that this would “codify current practice of the Department.”⁷⁷ The bill failed to advance out of committees in the 2017 session.

There are currently six privately operated facilities in Tennessee that house state prisoners, including the lone facility managed under a direct contract with the state—South Central Correctional Facility. See table 7.

Table 7. Correctional Facilities Currently Managed by Private Contractors		
Facility Name	Operating Capacity	Year Opened
Prison Managed under Direct Contract with the State		
South Central Correctional Facility	1,642	1992
Prisons Managed Under Contract with Local Entity (State Contracts with Local Entity to House Prisoners)		
Hardeman County Correctional Facility	1,976	1996
Whiteville Correctional Facility	1,505	2002
Trousdale Turner Correctional Center	2,619	2016
Detention Facilities Managed Under Contract with Counties (Housing Pre-trial Detainees, Misdemeanants, and Convicted Felons)		
Hamilton County Silverdale Detention Facility	1,084	1984
Metro Davidson County Detention Facility	1,368	1992

Source: Tennessee Department of Correction 2017a.

⁷⁴ E-mail from Stephen Austin, consultant, County Technical Assistance Service, February 3, 2017.

⁷⁵ Tennessee Code Annotated, Section 4-3-603(b).

⁷⁶ Senate Bill 649 by Senator Frank Niceley, House Bill 546 by Representative Courtney Rogers.

⁷⁷ <http://www.capitol.tn.gov/Bills/110/Fiscal/HB0546.pdf>.

The state can also contract with counties to pay for construction of additional facilities that counties agree to dedicate to housing felons.

Another option available to the state as an alternative to prison construction is to contract with counties to build or expand correctional facilities that the county will reserve for housing state felons. In addition to the system of cost reimbursements, Tennessee Code Annotated, Section 41-8-106, authorizes the Department of Correction to reimburse counties for “debt service on debt issued by the county in constructing correctional facilities for the purpose of housing inmates sentenced to the county under the authority of a contract entered into under [§ 41-8-106(a)].”⁷⁸ The statute also assures debt holders that the state will not amend this provision, and ensures that the debt will be backed by the state. However, Shelby and Davidson counties are the only two places where the state has entered into this type of contract. The state made additional payments beyond the per diem reimbursement to Shelby County from 1990 to 2009 for the construction of the Shelby County Correctional Center (totaling \$27.3 million) and to Davidson County from 1992 to 2012 for the Metro-Davidson County Detention Facility (totaling \$38.4 million).⁷⁹ Each of these facilities is required by contract to house all convicted felons with sentences up to six years long. Because of their contracts with the state, these facilities offer more programming and services similar to those found at TDOC facilities. It isn’t clear whether using this type of arrangement in another county would save the state money over time. As noted above, the state reimburses Davidson County \$53.63 and Shelby County \$69.60 per prisoner per day for locally sentenced inmates. Excluding maximum-security and special-purpose facilities, the daily operating costs per prisoner at state prisons range from \$50.32 to \$87.46.

Building on existing initiatives and funding additional programming would reduce the burden on counties and improve outcomes.

If the state continues to rely on county jails to house large numbers of state prisoners, there are several alternatives it could implement to get better results from the resources it spends on these inmates. In particular, the state could provide additional funding specifically to help counties implement programs proven to reduce recidivism and improve outcomes for prisoners and communities, rather than only continue to periodically increase reimbursements across the board. In some cases, this may also require assisting counties in upgrading or expanding facilities to allow necessary space for implementing proven programs. Further, supplementing existing initiatives by expanding the use of prisoner

⁷⁸ Tennessee Code Annotated, Section 41-8-106(c) and (d).

⁷⁹ E-mail correspondence with Wes Landers, chief financial officer, Tennessee Department of Correction, June 26, 2017.

The jail is one of a community's largest investments, and its funding is drawn from the same sources that support public hospitals, schools, social services, roads, and many other essential functions of local government. It is exactly for this reason that counties and cities are well positioned to reinvest jail savings into programs and services that will help keep many people, especially those who are poor or have serious mental illness, from entering or staying in jail in the first place.

Henrichson, Rinaldi, and Delaney 2015.

assessments and improving data collection would not only help the state ensure local programs are improving outcomes but could also help TDOC assign prisoners to facilities that offer the programs they need.

Kentucky and Louisiana provide financial incentives to implement programs in jails.

Kentucky provides \$9 per prisoner per day extra to counties that administer the same inpatient substance abuse treatment program that the state implements in its prisons.⁸⁰ Kentucky has 24 jails administering the program, with capacities ranging from 20 to 100 beds. The state enters into a separate contract with each county to ensure that funds earmarked for the substance abuse program are kept separate from general funds for reimbursement. They try to schedule inmates to participate in the six-month program near the end of their sentence, so that they can be released to parole upon completion, and not back into the general jail population.

In Louisiana, the state pays an additional \$6.68 per inmate per day—separate from the existing rate of \$24.39—to jails that serve as reentry facilities:

Currently, almost half of the state offender population is housed at the local level. Each year local jails release approximately 11,000 DOC offenders back to the community. The Secretary, in collaboration with the Louisiana Sheriffs Association, has identified ten (10) local facilities located in strategic geographic areas across the State that will serve as reentry programs. These local reentry programs will be required to provide an increased level of service (education/job skills) in a treatment modality specific to the Department's reentry strategies.⁸¹

Louisiana also uses these facilities as reception centers for inmates entering the correctional system at the local level. These centers determine a baseline educational level, provide medical and mental health diagnostic services, and provide classification services not otherwise provided at the local level.⁸²

In Tennessee, some counties are already implementing programs and services, often at their own expense. At the Commission's December 2016 meeting, the Dyer County Sheriff described two levels of programming

⁸⁰ Telephone interview with Kirstie Willard, assistant director, Kentucky Department of Corrections, March 30, 2017; but also see: <http://www.lrc.ky.gov/recorddocuments/note/17RS/SB14/LM.pdf>.

⁸¹ State of Louisiana 2009.

⁸² Ibid.

that his county provides and the cost for each. The county's baseline cost starts at \$48.59 per inmate per day. For an additional \$5 per day for participating inmates, the jail is able to provide basic education and job training programs. It costs another \$11 per participating inmate per day to fund a comprehensive reentry program, bringing the total daily cost for an inmate in both programs to \$64.72. The sheriff reports improvements in recidivism at each level, with fewer than 10% of the reentry program participants returning to jail. Rutherford, Franklin, and Shelby counties each have similar programs.⁸³

The state should supplement existing initiatives to help local jails.

In addition to reimbursing counties for implementing proven programs, the state should expand several of its existing initiatives. The state is already making efforts to improve outcomes and reduce the burden on counties through the initiatives of the Public Safety Act of 2016, discussed above, and the Department of Mental Health and Substance Abuse Services' (DMHSAS) criminal justice liaison program. Expanding the use of the validated risk and needs assessment required by the Public Safety Act and increasing funding for criminal justice liaisons could help reduce the number of offenders with mental health and substance abuse issues in county jails as well as direct those with needs to the best facility for treatment.

The Public Safety Act of 2016 requires a validated risk and needs assessment.

According to the 2015 *Final Report of the Governor's Task Force on Sentencing and Recidivism*, TDOC was already using a validated risk and needs assessment tool both for prison programming and for community supervision assignments and referrals. The report recommended that such a tool be uniformly used throughout the state, including in local correctional systems, and that the risk and needs assessment for each offender should begin at prison and jail intake so that the plan for each individual's post-release supervision is in place upon his or her presumptive release date. The report also noted that

prison and re-entry programming that employs the principles of risk, needs, and responsivity can make the best use of limited resources to maximize the impact of interventions on recidivism. Using these principles ensures that the intensity of treatment matches the risk of reoffending, targets criminogenic needs, and is compatible

Expanding the use of the validated risk and needs assessment required by the Public Safety Act and increasing funding for criminal justice liaisons could help reduce the number of offenders with mental health and substance abuse issues in county jails.

⁸³ Testimony by Jeff Box, Dyer County Sheriff, at TACIR December 6, 2016 meeting.

with the individual's learning style and particular characteristics.⁸⁴

The recommendations of this report, including those intended to ensure offenders are properly evaluated, formed the basis for the Public Safety Act of 2016, which

makes a validated risk and needs assessment, designed by the Department of Correction, part of an offender's pre-sentence report and an item the judge must consider when sentencing a defendant, and requires the department to conduct an updated validated risk and needs assessment at least annually for each offender under the department's supervision.

The task force also found that drug courts achieve statistically significant reductions in recidivism rates and recommended that Tennessee continue to expand and standardize these recovery courts; ensure that eligibility to participate is based on established, evidence-based criteria; and ensure that a validated risk and needs assessment tool is used to determine the appropriate type and level of programming, services, and supervision.

The state should expand the Criminal Justice Liaison program to coordinate behavioral health services statewide.

Many inmates need mental health services. At the Commission's December 2016 meeting, the Tennessee County Services Association's executive director said there are more than 6,000 inmates in the state prison system with diagnosed mental health issues, and he estimated there to be another 7,000 to 8,000 in county jails.⁸⁵ According to the TDOC 2016 Statistical Abstract, approximately 20% of the offender population is receiving psychotropic medication for a mental illness. Counties report the high cost of handling mentally ill inmates and those with substance abuse issues. The state can often move inmates to special facilities that have substance abuse treatment and mental health services that most counties cannot offer. But those state facilities don't have the capacity to serve everyone who needs extensive services.

Mental health services are often scarce or unavailable in many rural counties. US Department of Health & Human Services data shows that most of Tennessee is considered to be a mental health professional shortage area,⁸⁶ and according to Joe Guy, McMinn County Sheriff and

⁸⁴ State of Tennessee 2015.

⁸⁵ Testimony by David Connor, Executive Director, Tennessee County Services Association, at TACIR December 6, 2016 meeting.

⁸⁶ US Department of Health & Human Services "Health Resources & Services Administration Data Warehouse."

president of the Tennessee Sheriffs' Association, sheriff's departments are increasingly forced to deal with people with mental health problems in part because access to mental health services in the community "is not there."⁸⁷ Tennessee currently only has 577 public mental hospital beds, and one of the facilities serving east Tennessee—the Lakeshore Mental Health Institute in Knoxville—closed in 2012. According to *The Knoxville Journal*:

Lakeshore was the only area permanent residential mental health facility serving about 2,300 patients daily, according to the Tennessee Department of Mental Health.

Those who would have been admitted to Lakeshore must now be transported to another institution, usually by law enforcement officers, taking some as far as Moccasin Bend Mental Health Institute in Chattanooga. The closure also means more mentally ill patients will be forced to spend more time in jails in and around Knox County, while attempting to place them in another facility. Ironically, that is how mental health facilities began, as an arm of the prison system, to keep the mentally ill out of jails.⁸⁸

The Department of Mental Health and Substance Abuse Services (DMHSAS) Criminal Justice Liaison program serves individuals with serious mental illness and substance abuse issues who are incarcerated or at risk of being incarcerated. According to its director, the program has diverted nearly 9,000 individuals from jail since 2014 and developed more than 1,200 long-term release plans to help keep those who have been in jail from returning. In addition to identifying diversionary options and resources and providing discharge planning, other services include providing early identification of individuals with mental illness in county jails and consulting and training law enforcement, county personnel, and court officials. The program's general outreach efforts have reached more than 84,000 individuals across the state to assist them in staying out of the criminal justice system.⁸⁹ County sheriffs interviewed expressed strong support for the program. However, only 32 counties are currently covered by it (see map 3). To improve access to the program's services, Tennessee should provide funding to expand it statewide—approximately \$1.6 million annually would be necessary to staff additional positions across the state.⁹⁰

Mental health services are often scarce or unavailable in many rural counties.

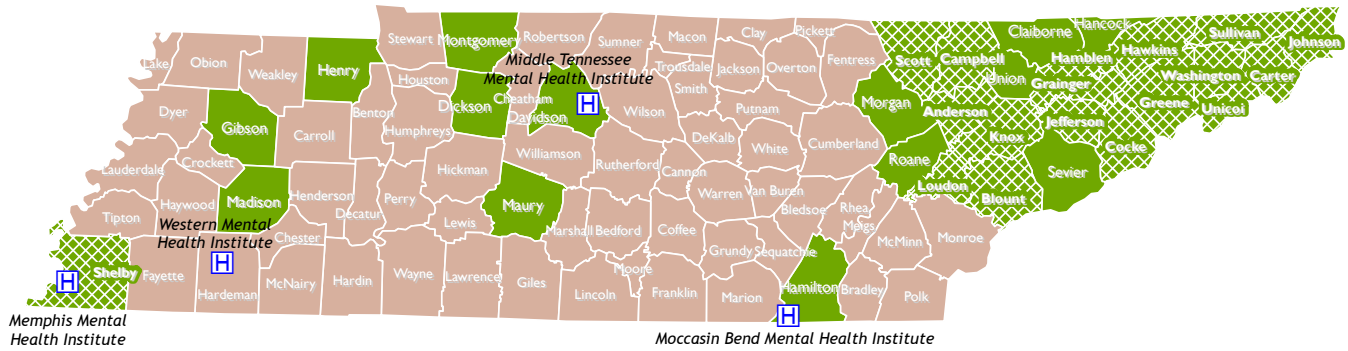
⁸⁷ Johnson 2017.

⁸⁸ Hall 2012.




⁸⁹ Testimony by Ellen Abbott, Director of Criminal Justice Services Tennessee Department of Mental Health and Substance Abuse Services, at TACIR December 6, 2016 meeting.

⁹⁰ Calculations based on information obtained in correspondence from Tennessee Department of Mental Health & Substance Abuse Services and from TDMHSAS SB2070/HB2107 Public Chapter 894 of 2016 Report January 2017.

Map 3. Department of Mental Health & Substance Abuse Services Criminal Justice Liaison Program Service Areas



Tennessee Department of Mental Health and Substance Abuse Services
 Office of Criminal Justice Behavioral Health Liaison Program

-  Served by Criminal Justice Liaison and Case Manager (18)
-  Served by Criminal Justice Liaison only (14)
-  Not Served by either (63)

Source: E-Mail correspondence with Liz Ledbetter, state drug courts administrator, Tennessee Department of Mental Health and Substance Abuse Services, February 28, 2017.

Maintaining minimum standards is important for implementing successful programs for improving jail outcomes.

The Tennessee Corrections Institute (TCI) provides oversight, training, and technical assistance to local jails. Originally established as a standalone agency in 1974, TCI has been administratively attached to the Department of Commerce and Insurance since 2012. TCI is under the direction of a Board of Control, which consists of the governor’s designee, the commissioner of correction, two sheriffs, a county mayor, and a chief of police or a county commissioner. According to Tennessee Code Annotated, Section 41-4-140, TCI has the power and duty to

- establish local jail minimum standards, which must approximate the standards established by the Inspector of Jails of the Federal Bureau of Prisons and by the American Correctional Association’s Manual of Correctional Standards;
- establish guidelines for the security of local jails;
- annually inspect all local jails based on those minimum standards; and
- establish and enforce procedures to ensure compliance with those minimum jail standards.

Tennessee has adopted minimum standards for local jails.

TCI establishes the statewide local jail minimum standards. These minimum standards consist of prescriptive statements that establish requirements or levels of performance for specific jail functions, activities, or conditions (see appendix G). They help translate the numerous requirements that jails are already legally responsible for into comprehensible guidelines that jails

can incorporate into policy and operational practice, and they represent what the state considers acceptable practice and the minimum conditions of confinement. According to the National Institute of Corrections, compliance with minimum standards ensures that

jails operate in an orderly manner that promotes the safety of inmates, staff, visitors, and the surrounding community. They experience fewer inmate-inmate assaults, suicides, and suicide attempts and have fewer problems with contraband. Because these jails protect inmates' basic human rights, they ensure that inmate punishment consists only of a separation from society, and not ill-treatment or dangerous and unhealthy living conditions during custody.⁹¹

The National Institute of Corrections explains that statewide minimum jail standards are necessary because

- jails are high-risk environments where the likelihood of a crisis occurring is higher than in any other government function;
- a statewide jail standards and inspection program can stay informed about evolving court rulings and adjust the standards as needed to meet new legal requirements, while local governments may not have the resources to do so;
- jails significantly restrict individual liberties and must strike a delicate balance between affording basic rights to inmates and the obligation to operate a safe and secure facility;
- the cost and effect of litigation can be reduced through independent validation of compliance with accepted standards;
- standards provide consistency and fairness to inmates, local governments, and the general public; and
- enforcement of the minimum standards compels public officials to commit needed resources to jails, which are historically a low budgetary priority.

The Tennessee Corrections Institute inspects jails annually.

A key function of TCI is its annual inspection of all local jails in Tennessee to determine whether the state's minimum standards are being met. Tennessee law provides that if not all minimum standards are met, the jail will only be eligible to be certified if

- the sole cause of noncompliance is based on overcrowding because of state prisoners sentenced to TDOC or pursuant to a federal

TCI standards represent what the state considers acceptable practice and the minimum conditions of confinement.

⁹¹ Martin 2007.

The TCI has no authority to close facilities, penalize, or otherwise enforce compliance with the local jail minimum standards.

court order when such prisoners are being held by a county pending such commitment;

- the local government corrects the deficiencies prior to reinspection, which occurs 60 days after the initial inspection; or
- the local government has submitted a plan within 60 days of the initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies and cause the facility to remain certified.⁹²

The TCI certification process begins with the annual inspection. If TCI determines that the minimum standards are being met, then TCI staff will recommend certification, which the Board of Control will then approve. If staff determines that the jail does not meet minimum standards, the local government has 60 days from the date of the inspection to either correct the deficiencies or submit a Plan of Action (POA) to the Board of Control. If the local government does not submit a POA within 60 days, TCI staff will reinspect the jail and recommend to the Board of Control certification if the deficiencies are corrected or decertification if not corrected.

If the local government submits a POA to the Board of Control, the Board can either grant or deny the POA based on reasonable assumptions. If the POA is granted, the jail will receive certification. If the POA is denied, the facility will not be certified. As of April 2017, there were 10 counties in Tennessee with noncertified facilities, housing 1,760 individuals—including 412 state felons. See figure 4 for a flowchart of the TCI certification process and map 4 for jail certification status by county.

TCI has no power to enforce compliance with local jail minimum standards, and failing to meet standards has few consequences for local governments.

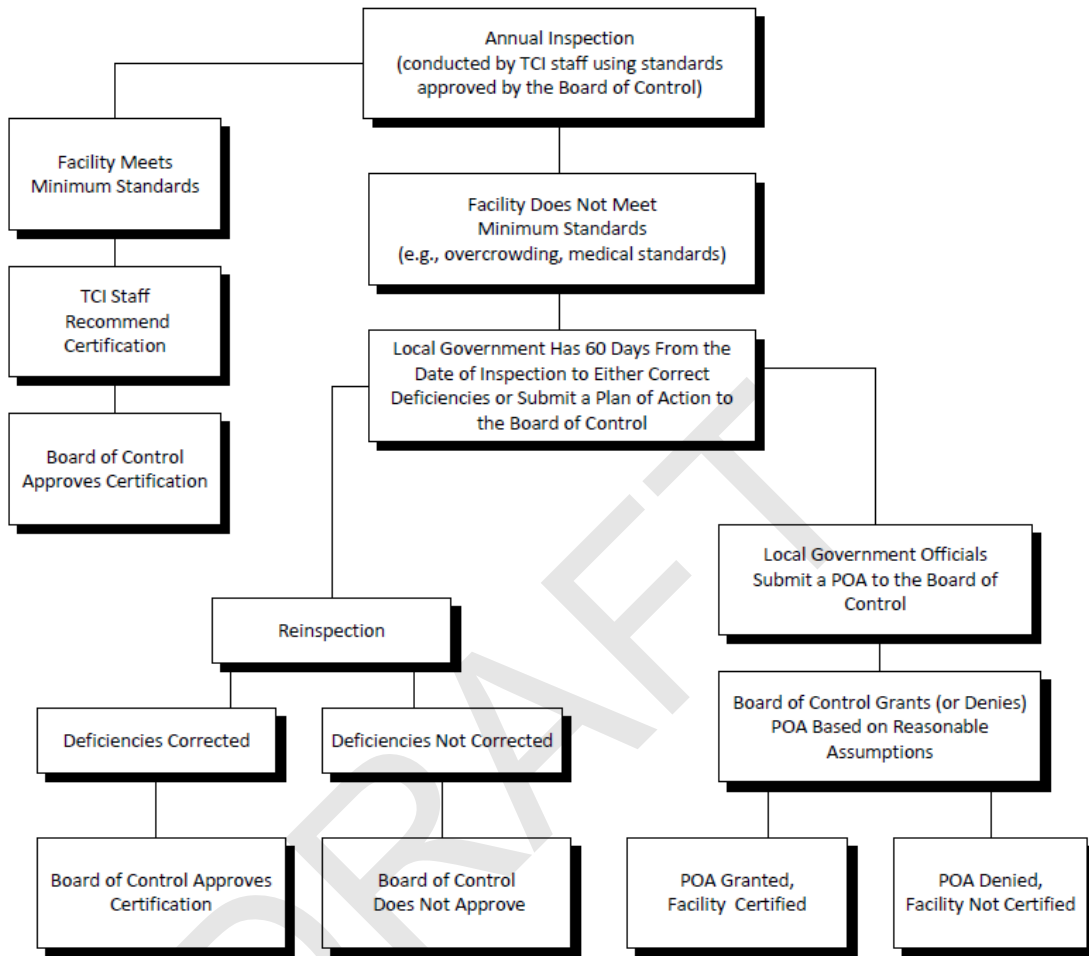
TCI has no authority to close facilities, penalize, or otherwise enforce compliance with the local jail minimum standards. Although Tennessee Code Annotated, Section 41-4-140(a), says that TCI has the “power and duty to . . . establish and enforce procedures to ensure compliance with the standards,” the statute’s legislative history demonstrates that the “legislature intended that the TCI have the *authority to recommend, but not to compel compliance by correctional facilities with the minimum standards,*” according to opinions rendered by the Tennessee Attorney General in 1980⁹³ and 1983⁹⁴ (emphasis added). And while the County Correctional Incentives Act of 1981 (CCIA) placed restrictions on the use of state funding by noncertified jails—requiring noncertified jails to use 75% of their state incentive payments to improve their facilities—the section and its requirements were implicitly repealed by the State and Local Reform

⁹² Tennessee Code Annotated, Section 41-4-140.

⁹³ Opinion No. 80-392, Office of the Attorney General of the State of Tennessee, August 5, 1980.

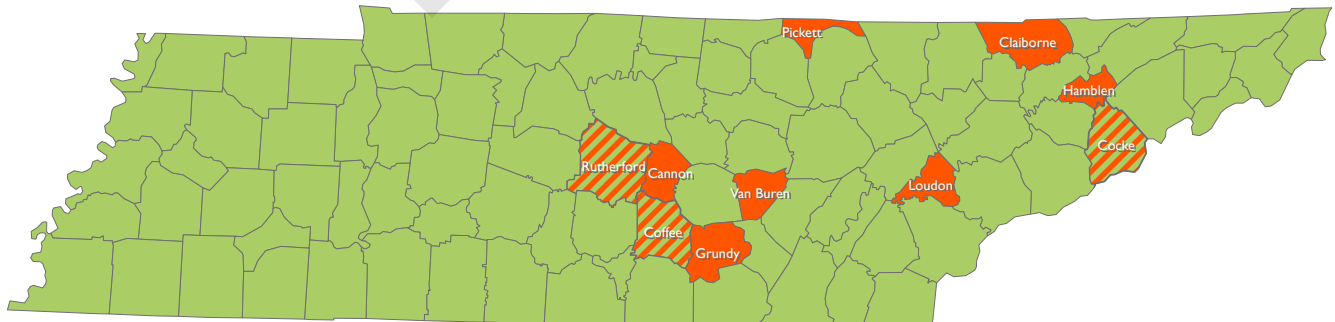
⁹⁴ Opinion No. 82-434, Office of the Attorney General of the State of Tennessee, October 5, 1983.

Figure 4. TCI Certification Process



Source: Tennessee Comptroller of the Treasury, Performance Audit of the Tennessee Corrections Institute October 2013.

Map 4. Jail Certification Status by County, April 30, 2017



TCI Certification by County
Certification as of April 30, 2017

- No Certified Facilities (7)
- County has Multiple Facilities; One Not Certified (3)
- All County Facilities Certified (85)

Source: Tennessee Department of Correction 2017c.

Act of 1989, which replaced the state's incentive program with its current reimbursement program, according to a 2005 opinion of the Attorney General, and the state no longer enforces them.⁹⁵ Similarly, the CCIA required that noncertified counties receive only \$6 per prisoner per day compared with \$8 for certified counties, but this requirement was also eliminated by the 1989 law.

Currently, local jails that fail to meet minimum standards and are not certified are allowed to continue to house state prisoners and receive the same level of funding as jails that are certified. TCI officials say their most effective avenue for action is often through the fire marshal seeking a court order when safety is concerned. Three local jails—in Grundy, Pickett, and Van Buren counties—have been noncertified for the last decade, but it should be noted that Grundy County has built a new jail that has recently gone into service, and this could bring them into compliance.

In June 2017, the maintenance director at the Bradley County Jail resigned over budget and staffing concerns, stating in a letter that “we cannot expect to pass the preliminary jail inspection.” He had been hired last year to submit a plan of action to seek certification after the jail failed its TCI inspection and felt that adequate efforts could not be made. But when a county commissioner expressed concern that the jail could be closed if conditions aren't improved, the sheriff said, “TCI is not going to come in here and threaten to shut us down.”⁹⁶

While a county jail incurs no direct consequences—such as reduced funding or forced closure—from operating a noncertified jail, there are indirect consequences, including negative publicity, higher insurance costs, and possible legal liability. Verified compliance with TCI minimum standards helps ensure that constitutional and statutory legal requirements are being met. TDOC does not contract with counties to house prisoners in noncertified facilities, but it is also not obligated to cancel existing contracts when a jail loses certification. If the state were to begin providing counties additional reimbursements or implementing programs for reducing recidivism as discussed above, noncertified county jails should not be eligible for funding above the reimbursement rate cap set annually for noncontract counties or the county's actual reimbursement rate if less than the cap. This would provide an incentive to maintain or regain certification and improve conditions in substandard facilities.

⁹⁵ Opinion No. 05-177, Office of The Attorney General of the State of Tennessee, filed December 13, 2005.

⁹⁶ Walton 2017.

There have been recent efforts to increase collaboration and jail oversight.

Though it is the duty of TCI to establish minimum jail standards and inspect each facility, there have been recent efforts to create additional means of oversight and opportunity for more comprehensive coordination of the state's corrections system. Some of these efforts are a continuation of Governor Haslam's initiatives that began with the Public Safety Subcabinet in 2011 and include the Public Safety Act of 2016.

Legislation was introduced to provide additional inspection and oversight.

Two bills were introduced in the 110th General Assembly that would have added more oversight to Tennessee's local jails and state correctional institutions. Senate Bill 620 by Senator Lee Harris and House Bill 761 by Representative G.A. Hardaway would amend existing language in Tennessee Code Annotated, Section 41-4-116, which permits county legislative bodies to appoint jail inspectors, and instead would require each county to do so. These inspectors would be required to visit their county jail monthly and report to the county legislative body. While current law permits counties to appoint these independent inspectors, none of them do.⁹⁷ The bill also would amend TCI standards⁹⁸ to require that written inspection reports be presented annually to "the judiciary committee of the senate, the state and local government committee of the senate, the criminal justice committee of the house of representatives, and the local government committee of the house of representatives" in addition to "the commissioner of correction, sheriff, judge, [and] mayor or head of the political subdivision, as appropriate" as required under current law. Reports of failed inspections would be required to be sent to the "state senator, and state representative, as appropriate, for the district in which the jail or penal institution is located." Representative Hardaway expressed concern that TCI inspectors do not have enough authority under existing law. He said that monthly visits and reporting by local inspectors—particularly in Shelby County, part of which is in his district—would be more effective at ensuring compliance with standards than one annual inspection by TCI. However, the bill did not advance out of committee in the 2017 session.

Senate Bill 1145 by Senator Joey Hensley and House Bill 1188 by Representative Matthew Hill would restore a joint legislative oversight committee on corrections. The Select Oversight Committee on Corrections was originally created during the 1985 Special Session on Corrections but

⁹⁷ E-mail correspondence with Jim Hart, jail management consultant, County Technical Assistance Service, March 31, 2017.

⁹⁸ Tennessee Code Annotated, Section 41-4-140.

was allowed to expire after the 2011 legislative session. A separate bill to reform the committee—Senate Bill 1299 by Senator Jeff Yarbro, House Bill 652 by Representative Larry Miller—was also introduced in 2017. Supporters for the bills cited safety concerns at state prisons, both for prison staff and inmates. Senator Yarbro argued that a committee with a full-time staff is needed to investigate concerns appropriately. These bills did not advance out of committee in the 2017 session.

Opportunities exist for collaboration and study.

Governor Haslam's 2015 task force report recommended that the state "establish a criminal justice research council to provide non-partisan, professional statewide research and information development." This is also a component of the Governor's Public Safety Subcabinet 2016-2018 Public Safety Action Plan:

The council would serve as an informational resource, providing policy-makers in the legislative and executive branches with objective research and analysis on current crime trends, resource allocations, corrections capacity and usage, corrections outcomes, community program outcomes, and cost-benefit calculations; and research and analysis on proposed policies and budget allocations, including budget and population impact statements; and reviews of current research and practices drawn from national sources.

Senate Bill 708 by Senator Ken Yager and House Bill 911 by Representative Tim Wirgau—proposed as the "Comprehensive Local Correctional Enhancement Task Force Act"—would create a panel of more than 20 people "to study best practices and new approaches to the management and coordination of local correctional facilities." The stated goals for the task force proposed by the bill are to

- enhance overall operations of the criminal justice system at the local government level;
- ensure that taxpayer money invested in local correctional facilities is used wisely and efficiently;
- ensure that the rights of individuals involved in local correctional facilities are protected; and
- ensure that such individuals are directed or diverted into appropriate programs that will best protect public safety, reduce recidivism, and provide the best likelihood for those individuals to become productive citizens.

The task force is also intended to address "challenges raised by individuals dealing with mental illness or substance abuse problems who may become

involved with local law enforcement or correctional facilities.” This bill was passed by the Senate but taken off notice in the House for the 2017 session.

The state can build on existing stakeholder partnerships.

TCI already has a voluntary partnership program—the County Corrections Partnership Initiative (CCP)—designed both to address local jail issues and to create a path to certification for jails that fail to meet minimum standards.⁹⁹ The CCP draws on technical assistance from CTAS and the University of Tennessee’s Municipal Technical Advisory Service (MTAS), the Tennessee Sheriff’s Association, the Tennessee County Services Association, the Association of County Mayors, and the Tennessee Association of Chiefs of Police.

Any future legislation or consideration for additional oversight and collaboration should take into account existing structures and build upon them where appropriate.

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⁹⁹ See <https://www.tn.gov/commerce/topic/tci-county-corrections-partnership-initiative>

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Tim Fuller
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District 93, Memphis

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Terry Hazard, Criminal Justice Consultant
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Wes Landers, Chief Financial Officer
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Appendix A: Tennessee Bed Space and Operating Capacities, April 2017

TDOC BED SPACE AND OPERATING CAPACITIES ON April 30, 2017

INSTITUTION	April 30, 2017				Facility Characteristics			
	Established Operating Capacity		Assigned Capacity		Female	Classification	Maximum Security	Special Purpose Facilities
	# Beds	As % of Total Beds	# Inmates	As % of Total Beds				
Bledsoe County Correctional Complex (M) ⁻	2,239	98.0%	2,160	96.5%		X		
Bledsoe County Correctional Complex (F) [^]	300	98.0%	291	97.0%			X	
DeBerry Special Needs Facility ^{**}	854	92.0%	645	75.5%				X
Hardeman County Correctional Center	2,100	94.1%	1,979	94.2%			X	
Morgan County Correctional Complex ^{****}	2,230	97.0%	2,135	95.7%			X	
Mark H. Luttrell Correctional Center	454	98.0%	226	49.8%				
Northeast Correctional Complex	1,880	98.0%	1,795	95.5%			X	
Northwest Correctional Complex	2,436	98.0%	2,300	94.4%			X	
Riverbend Maximum Security	808	97.0%	783	96.9%				
South Central Correctional Complex	1,700	96.6%	1,629	95.8%			X	
Turney Center Industrial Complex [*]	1,734	98.0%	1,602	92.4%				
Tennessee Prison for Women	817	98.0%	776	95.0%		X		
Trousdale Turner Correctional Center ⁺⁺	2,672	98.0%	2,421	90.6%				
Whiteville Correctional Facility ^{***}	1,619	93.0%	1,509	93.2%			X	
West Tennessee State Penitentiary (M) ⁺⁺⁺	974	97.0%	936	96.1%			X	X
West Tennessee State Penitentiary (F) ⁺⁺⁺	1,024	97.0%	781	76.3%			X	X
TOTALS:	23,841	96.8%	23,075	92.1%	21,968			95.2%

[^]On September 30, 2013, BCCX (F) began housing female inmates.

⁻In November 2012, Southeast Tennessee Regional Correctional Facility became Bledsoe County Correctional Complex (BCCX).

^{*}WCBC became part of TCIP in August 2008, resulting in a decrease of 150 total beds and 152 operational beds. TCIP is now Turney Center Industrial Complex (TCIX).

^{**} As of January 14, 2002, DeBerry Special Needs Facility stopped housing female inmates.

^{***}The Whiteville Correctional Facility (WCFA) opened October 28, 2002.

^{****}Morgan County Correctional Complex expansion was completed in April 2009.

⁺On January 6, 2016, TTCC (Trousdale Turner Correctional Center) began housing inmates.

⁺⁺On August 11, 2016, WTSP (West Tennessee State Penitentiary) added housing of female inmates.

⁺⁺⁺On August 11, 2016, WTSP (West Tennessee State Penitentiary) added housing of female inmates.

PREPARED BY: Tennessee Department of Correction, Decision Support, Research & Planning 615.253.8169

SOURCE: This report reflects inmate population counts at each institution as reported via the TDOC Population Overview Report.

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Appendix B: Tennessee Felon Population Update, April 2017

INCARCERATED FELON POPULATIONS Fiscal Years 2009/10 - 2016/17 as of April 30, 2017

	Total Felon Population (A+B+C)	Monthly Change	Monthly Percent Change	TDOC Facilities (A)	Percent of Total	TDOC Backup (B)	Percent of Total	Locally Sentenced (C)	Percent of Total	Local Jail Total (B+C)
FY AVG.										
2009/2010	27,311			20,028	73.3%	2,281	8.4%	5,002	18.3%	7,283
2010/2011	27,782			20,274	73.0%	2,966	10.7%	4,542	16.3%	7,508
2011/2012	29,232			20,217	69.2%	4,456	15.2%	4,559	15.6%	9,015
2012/2013	29,654			20,181	68.1%	4,913	16.6%	4,560	15.4%	9,473
2013/2014	29,758			20,945	70.4%	4,546	15.3%	4,267	14.3%	8,813
2014/2015										
JULY	29,826	-59	-0.2%	21,267	71.3%	4,465	15.0%	4,094	13.7%	8,559
AUGUST	29,855	29	0.1%	21,181	70.9%	4,535	15.2%	4,139	13.9%	8,674
SEPTEMBER	29,945	90	0.3%	21,092	70.4%	4,656	15.5%	4,197	14.0%	8,853
OCTOBER	29,879	-66	-0.2%	21,146	70.8%	4,570	15.3%	4,163	13.9%	8,733
NOVEMBER	29,840	-39	-0.1%	21,082	70.7%	4,706	15.8%	4,052	13.6%	8,758
DECEMBER	29,395	-445	-1.5%	20,878	71.0%	4,619	15.7%	3,898	13.3%	8,517
JANUARY	29,421	26	0.1%	20,846	70.9%	4,591	15.6%	3,984	13.5%	8,575
FEBRUARY	29,438	17	0.1%	20,802	70.7%	4,599	15.6%	4,037	13.7%	8,636
MARCH	29,364	-74	-0.3%	20,788	70.8%	4,670	15.9%	3,906	13.3%	8,576
APRIL	29,309	-55	-0.2%	20,535	70.1%	4,879	16.6%	3,895	13.3%	8,774
MAY	29,319	10	0.0%	20,473	69.8%	4,920	16.8%	3,926	13.4%	8,846
JUNE	29,263	-56	-0.2%	20,349	69.5%	5,007	17.1%	3,907	13.4%	8,914
FY Average	29,571	-52	-0.2%	20,870	70.6%	4,685	15.8%	4,017	13.6%	8,701
2015/2016										
JULY	29,163	-100	-0.3%	20,298	69.6%	4,990	17.1%	3,875	13.3%	8,865
AUGUST	29,154	-9	0.0%	20,292	69.6%	4,967	17.0%	3,895	13.4%	8,862
SEPTEMBER	29,231	77	0.3%	20,192	69.1%	5,110	17.5%	3,929	13.4%	9,039
OCTOBER	29,018	-213	-0.7%	20,031	69.0%	5,159	17.8%	3,828	13.2%	8,987
NOVEMBER	29,040	22	0.1%	19,956	68.7%	5,247	18.1%	3,837	13.2%	9,084
DECEMBER	28,735	-305	-1.1%	19,845	69.1%	5,218	18.2%	3,672	12.8%	8,890
JANUARY	28,885	150	0.5%	20,201	69.9%	5,036	17.4%	3,648	12.6%	8,684
FEBRUARY	29,012	127	0.4%	20,115	69.3%	5,114	17.6%	3,783	13.0%	8,897
MARCH	29,075	63	0.2%	20,229	69.6%	5,013	17.2%	3,833	13.2%	8,846
APRIL	29,329	254	0.9%	20,641	70.4%	4,850	16.5%	3,838	13.1%	8,688
MAY	29,232	-97	-0.3%	20,694	70.8%	4,759	16.3%	3,779	12.9%	8,538
JUNE	29,362	130	0.4%	20,802	70.8%	4,719	16.1%	3,841	13.1%	8,560
FY Average	29,103	8	0.0%	20,275	69.7%	5,015	17.2%	3,813	13.1%	8,828
2016/2017										
JULY	29,381	19	0.1%	21,025	71.6%	4,600	15.7%	3,756	12.8%	8,356
AUGUST	29,630	249	0.8%	21,421	72.3%	4,436	15.0%	3,773	12.7%	8,209
SEPTEMBER	29,796	166	0.6%	21,773	73.1%	4,224	14.2%	3,799	12.8%	8,023
OCTOBER	29,654	-142	-0.5%	21,670	73.1%	4,260	14.4%	3,724	12.6%	7,984
NOVEMBER	29,603	-51	-0.2%	21,641	73.1%	4,372	14.8%	3,590	12.1%	7,962
DECEMBER	29,304	-299	-1.0%	21,566	73.6%	4,368	14.9%	3,370	11.5%	7,738
JANUARY	29,565	261	0.9%	21,644	73.2%	4,492	15.2%	3,429	11.6%	7,921
FEBRUARY	29,693	128	0.4%	21,789	73.4%	4,486	15.1%	3,418	11.5%	7,904
MARCH	29,802	109	0.4%	21,967	73.7%	4,351	14.6%	3,484	11.7%	7,835
APRIL	30,063	261	0.9%	21,968	73.1%	4,491	14.9%	3,604	12.0%	8,095
MAY										
JUNE										
FY Average	29,649	70	0.2%	21,646	73.0%	4,408	14.9%	3,595	12.1%	8,003

Population figures on each year summary line are monthly averages.

INCARCERATED FELON POPULATIONS
Fiscal Years 2001/02 - 2015/16

INCARCERATED FELON POPULATION TOTALS AT FISCAL YEAR END (JUNE 30) FY 1999/00 - FY 2015/16

	TOTAL FELON POP. (A+B+C)	TOTAL CHANGE	PERCENT CHANGE	TDOC FACILITIES (A)	PERCENT OF TOTAL	TDOC BACKUP (B)	PERCENT OF TOTAL	LOCALLY SENTENCED (C)	PERCENT OF TOTAL	LOCAL JAIL TOTAL (B+C)
2001-02	24,235	1,173	5.1%	17,715	73.1%	2,505	10.3%	4,015	16.6%	6,520
2002-03	25,469	1,234	5.1%	19,408	76.2%	1,956	7.7%	4,105	16.1%	6,061
2003-04	25,865	396	1.6%	19,408	75.0%	2,110	8.2%	4,347	16.8%	6,457
2004-05	26,209	344	1.3%	19,432	74.1%	2,321	8.9%	4,456	17.0%	6,777
2005-06	26,212	3	0.0%	19,433	74.1%	2,322	8.9%	4,457	17.0%	6,779
2006-07	26,551	339	1.3%	19,341	72.8%	2,023	7.6%	5,187	19.5%	7,210
2007-08	26,998	447	1.7%	19,497	72.2%	2,204	8.2%	5,297	19.6%	7,501
2008-09	27,325	327	1.2%	19,462	71.2%	2,465	9.0%	5,398	19.8%	7,863
2009-10	27,164	-161	-0.6%	20,213	74.4%	2,573	9.5%	4,378	16.1%	6,951
2010-11	28,473	1,309	4.8%	20,428	71.7%	3,696	13.0%	4,349	15.3%	8,045
2011-12	29,869	1,396	4.9%	20,236	67.7%	4,911	16.4%	4,722	15.8%	9,633
2012-13	29,654	-215	-0.7%	20,181	68.1%	4,913	16.6%	4,560	15.4%	9,473
2013-14	29,885	231	0.8%	21,246	71.1%	4,483	15.0%	4,156	13.9%	8,639
2014-15	29,263	-622	-2.1%	20,349	69.5%	5,007	17.1%	3,907	13.4%	8,914
2015-16	29,362	99	0.3%	20,802	70.8%	4,719	16.1%	3,841	13.1%	8,560

INCARCERATED FELON POPULATION AVERAGES FY 1999/00 - FY 2015/16

	AVG. TOTAL FELON POP. (A+B+C)	ANNUAL CHANGE	PERCENT CHANGE	TDOC FACILITIES (A)	PERCENT OF TOTAL	TDOC BACKUP (B)	PERCENT OF TOTAL	LOCALLY SENTENCED (C)	PERCENT OF TOTAL	LOCAL JAIL TOTAL (B+C)
2001-02	23,891	1,266	5.6%	17,611	73.7%	2,143	9.0%	4,137	17.3%	6,280
2002-03	24,913	1,022	4.3%	18,436	74.0%	2,313	9.3%	4,164	16.7%	6,477
2003-04	25,635	722	2.9%	19,404	75.7%	2,021	7.9%	4,210	16.4%	6,231
2004-05	26,036	401	1.6%	19,431	74.6%	2,180	8.4%	4,425	17.0%	6,605
2005-06	26,323	287	1.1%	19,406	73.7%	2,293	8.7%	4,624	17.6%	6,917
2006-07	26,100	-223	-0.8%	19,379	74.2%	1,885	7.2%	4,836	18.5%	6,721
2007-08	26,801	701	2.7%	19,428	72.5%	2,025	7.6%	5,347	20.0%	7,372
2008-09	27,411	610	2.3%	19,463	71.0%	2,509	9.2%	5,440	19.8%	7,949
2009-10	27,311	-100	-0.4%	20,028	73.3%	2,281	8.4%	5,002	18.3%	7,283
2010-11	27,782	471	1.7%	20,274	73.0%	2,966	10.7%	4,542	16.3%	7,508
2011-12	29,232	1,450	5.2%	20,217	69.2%	4,456	15.2%	4,559	15.6%	9,015
2012-13	29,654	422	1.4%	20,181	68.1%	4,913	16.6%	4,560	15.4%	9,473
2013-14	29,758	105	0.4%	20,945	70.4%	4,546	15.3%	4,267	14.3%	8,813
2014-15	29,571	-187	-0.6%	20,870	70.6%	4,685	15.8%	4,017	13.6%	8,701
2015-16	29,103	-468	-1.6%	20,275	69.7%	5,015	17.2%	3,813	13.1%	8,828

Appendix C: Prisoners Held in Private Prisons and Local Jails, National Prisoner Statistics, 2014-2015

Prisoners under the jurisdiction of state or federal correctional authorities held in the custody of private prisons and local jails, December 31, 2014 and 2015

Jurisdiction	Prisoners held in private prisons ^a				Prisoners held in local jails			
	2014	2015	Percent change 2014-2015	Percentage of total jurisdiction, 2015	2014	2015	Percent change 2014-2015	Percentage of total jurisdiction, 2015
U.S. total	131,723	126,272	-4.1%	8.3%	81,779	81,195	-0.7%	5.3%
Federal ^b	40,017	34,934	-12.7%	17.8%	939	769	-18.1%	0.4%
State	91,706	91,338	-0.4%	6.9%	80,840	80,426	-0.5%	6.0%
Alabama	481	398	-17.3	1.3	1,702	1,788	5.1	5.8
Alaska ^c	595	593	-0.3	11.1	41	46	12.2	0.9
Arizona	6,955	6,471	-7.0	15.1	0	439	:	1.0
Arkansas	0	0	~	~	2,600	1,923	-26.0	10.9
California	2,376	2,195	-7.6	1.7	0	0	~	~
Colorado	3,782	3,987	5.4	19.8	176	82	-53.4	0.4
Connecticut ^c	647	524	-19.0	3.3	0	0	~	~
Delaware ^c	0	0	~	~	0	0	~	~
Florida	12,395	12,487	0.7	12.3	1,104	1,073	-2.8	1.1
Georgia	7,901	7,953	0.7	15.2	4,946	4,902	-0.9	9.4
Hawaii ^c	1,425	1,340	-6.0	22.8	0	0	~	~
Idaho	639	545	-14.7	6.8	620	814	31.3	10.1
Illinois	0	0	~	~	0	0	~	~
Indiana	4,420	4,204	-4.9	15.4	1,198	596	-50.3	2.2
Iowa	0	0	~	~	0	0	~	~
Kansas	0	0	~	~	90	78	-13.3	0.8
Kentucky	0	0	~	~	8,966	9,738	8.6	44.9
Louisiana	3,142	3,152	0.3	8.7	19,320	17,930	-7.2	49.3
Maine	0	0	~	~	26	20	-23.1	0.9
Maryland	30	30	0.0	0.1	95	163	71.6	0.8
Massachusetts	0	0	~	~	279	431	54.5	4.3
Michigan	0	0	~	~	31	295	851.6	0.7
Minnesota	0	0	~	~	997	1,211	21.5	11.2
Mississippi	4,114	3,946	-4.1	20.9	5,568	4,933	-11.4	26.1
Missouri	0	0	~	~	0	0	~	~
Montana	1,432	1,490	4.1	40.4	515	491	-4.7	13.3
Nebraska	0	0	~	~	212	218	2.8	4.1
Nevada	/	/	~	~	/	/	~	~
New Hampshire	0	0	~	~	69	46	-33.3	1.6
New Jersey	2,761	2,863	3.7	14.0	110	101	-8.2	0.5
New Mexico	3,072	3,026	-1.5	42.2	0	0	~	~
New York	0	0	~	~	/	6	~	0.0
North Carolina	30	29	-3.3	0.1	0	0	~	~
North Dakota	371	427	15.1	23.8	12	37	208.3	2.1
Ohio	5,370	6,050	12.7	11.6	0	0	~	~
Oklahoma	7,367	7,446	1.1	26.1	1,079	1,173	8.7	4.1
Oregon	/	/	~	~	/	/	~	~
Pennsylvania	636	605	-4.9	1.2	894	984	10.1	2.0
Rhode Island ^c	0	0	~	~	0	0	~	~
South Carolina	15	14	-6.7	0.1	298	332	11.4	1.6
South Dakota	10	22	120.0	0.6	76	1	-98.7	0.0
Tennessee	5,116	5,172	1.1	18.4	7,987	8,416	5.4	29.9
Texas	14,368	14,293	-0.5	8.7	11,395	11,093	-2.7	6.8
Utah	0	0	~	~	1,668	1,600	-4.1	24.6
Vermont ^c	/	/	~	~	/	/	~	~
Virginia	1,570	1,568	-0.1	4.1	7,449	7,973	7.0	20.8
Washington	0	0	~	~	167	158	-5.4	0.9
West Virginia	0	0	~	~	1,029	1,193	15.9	16.8
Wisconsin	0	0	~	~	7	27	285.7	0.1
Wyoming	255	267	4.7	11.0	9	/	44.4	0.5

Note: Jurisdiction refers to the legal authority of state or federal correctional officials over a prisoner, regardless of where the prisoner is held. Totals include imputed counts for Nevada, Oregon, and Vermont, which did not submit these data to the 2015 National Prisoner Statistics.

/Not reported.

: Not calculated.

~Not applicable.

^aIncludes prisoners held in the jurisdiction's own private facilities and private facilities in another state.

^bIncludes federal prisoners held in nonsecure, privately operated facilities (9,153) and prisoners on home confinement (3,122). Excludes persons held in immigration detention facilities pending adjudication.

^cPrisons and jails form one integrated system. Data include total jail and prison populations.

Source: Bureau of Justice Statistics, National Prisoner Statistics, 2014-2015.

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Appendix D: Tennessee Jail Summary Report, April 2017

JAIL SUMMARY REPORT as of April 30, 2017 - one day snapshot

FACILITY	TDOD Backup	Local Felons	Other Conv. Felons***	Federal Conv. & Others	Conv. Felons	Pre-trial Felony	Pre-trial Misd.	Total Jail Pop.	Total Beds	Vacant Beds	Percent Capacity	% TDOD Felons	% Local Felons	% Misc.	% Pre-trial Felony	% Pre-trial Misd.	% Total Pre-trial Detain.	COMMENTS (Updated Quarterly)
Anderson	81	4	21	0	28	91	87	312	435	123	71.7%	26.0%	1.3%	9.0%	29.2%	27.9%	57.1%	Inspected 3/16/16; Re-inspected 5/9/16
Bedford	22	5	1	2	53	27	67	177	110	67	160.9%	12.4%	2.9%	29.9%	15.3%	37.9%	53.1%	Inspected 2/10/16; Re-inspected 3/31/16
Bedford Workhouse	12	5	0	0	59	0	0	76	106	30	71.7%	15.8%	6.6%	71.6%	0.0%	0.0%	0.0%	Inspected 1/21/16; Re-inspected 3/15/16
Benton	13	3	0	7	11	23	17	74	140	66	52.9%	17.6%	4.1%	14.9%	31.1%	23.0%	54.1%	Inspected 5/27/16
Bledsoe	66	0	1	0	7	10	8	92	96	4	95.8%	17.2%	0.0%	7.8%	10.9%	8.7%	19.6%	Inspected 5/16/16
Blount	88	43	0	70	67	174	70	512	350	-162	146.3%	17.2%	8.4%	13.1%	34.0%	13.7%	47.7%	Inspected 4/10/17
Bradley	99	21	43	68	56	140	65	492	408	-84	120.6%	20.1%	4.3%	11.4%	13.2%	41.7%	41.7%	Inspected 8/15/16; Re-inspected 10/6/16
Cambell	91	8	23	0	5	113	29	269	322	53	83.5%	33.8%	3.0%	1.9%	42.0%	10.8%	52.2%	Inspected 6/27/16; Re-inspected 8/24/16
Cannon	1	7	0	1	21	13	30	73	42	-31	173.8%	1.4%	9.6%	28.8%	17.8%	41.1%	58.9%	Inspected 4/10/17
Carroll	47	12	0	1	27	19	12	118	170	52	69.4%	39.8%	10.2%	22.9%	16.1%	10.2%	26.3%	Inspected 6/23/16
Carter	55	6	4	0	30	100	22	217	293	76	74.1%	25.3%	2.8%	13.8%	46.1%	10.1%	58.2%	Inspected 1/18/17
Cheatham	28	2	0	10	40	43	39	162	116	-46	139.7%	17.3%	1.2%	24.7%	26.5%	24.1%	50.6%	Capacity decreased from 296 to 293
Chester	32	1	0	1	4	13	8	59	82	23	72.0%	54.2%	1.7%	6.8%	22.0%	13.6%	35.6%	Inspected 3/29/16
Claborn	56	12	0	0	15	45	40	168	210	42	80.0%	33.3%	7.1%	8.9%	26.8%	23.8%	50.6%	Female capacity decreased from 16 to 8
Clay	7	1	0	0	5	4	3	20	14	-6	142.9%	35.0%	5.0%	25.0%	20.0%	15.0%	35.0%	Inspected 3/16/16; Re-inspected 5/10/16
Cooke Jail	5	6	0	0	1	26	12	50	32	-18	156.3%	10.0%	12.0%	2.0%	62.0%	24.0%	76.0%	Inspected 8/22/16; Re-inspected 10/14/16
Cooke Annex	5	1	0	0	7	67	38	118	88	-30	134.1%	4.2%	0.8%	5.9%	56.8%	32.2%	89.0%	Inspected 7/7/16; Re-inspected 8/25/16
Coffee Annex	7	1	0	0	2	0	0	10	16	6	62.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	Inspected 7/7/16; Re-inspected 8/26/16
Coffee	45	21	0	0	79	63	191	359	400	1	99.8%	11.3%	5.3%	19.8%	15.8%	47.9%	63.7%	Inspected 4/13/16; Re-inspected 5/17/16
Crockett	20	10	0	0	3	26	8	58	64	6	90.6%	34.5%	1.7%	5.2%	44.8%	13.8%	58.6%	Inspected 3/23/17
Cumberland	20	10	0	0	90	69	16	205	212	7	96.7%	9.8%	4.9%	43.9%	33.7%	7.8%	41.5%	Inspected 1/19/17
Davidson CJC	0	0	0	0	0	0	0	0	0	0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1/20/16; Bldg. Demolished
Davidson HDC	5	2	22	11	49	81	68	238	535	297	44.5%	2.1%	0.8%	20.6%	34.0%	28.6%	62.6%	Inspected 8/3/16
Davidson CDC	15	10	141	38	66	408	42	720	768	48	93.8%	2.1%	1.4%	9.2%	56.7%	5.8%	62.5%	Inspected 8/3/16
Davidson MCC	11	2	31	9	23	264	14	364	508	154	69.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	Inspected 8/3/16
Davidson ORC	0	7	7	0	158	29	10	211	288	77	73.3%	0.0%	3.3%	74.9%	13.7%	4.7%	18.5%	Name changed from CDC-Female to MCC
Davidson CCA	6	731	60	3	81	107	43	1031	1368	337	75.4%	0.6%	70.9%	7.9%	10.4%	4.2%	14.5%	Inspected 8/2/16; Re-inspected 9/29/16
Decatur	19	0	0	2	11	17	9	58	59	1	98.3%	32.8%	0.0%	19.0%	29.3%	15.5%	44.8%	Capacity decreased from 1374 to 1368
DeKalb	2	1	0	0	17	11	47	78	102	24	76.5%	2.6%	1.3%	21.8%	14.1%	60.3%	74.4%	Female capacity increased from 262 to 464
Dickson	60	3	0	0	71	111	44	289	399	110	72.4%	20.8%	1.9%	24.6%	38.4%	15.2%	53.6%	Inspected 2/11/16; Re-inspected 3/28/16
Dyer	66	9	0	0	26	67	20	188	184	-4	102.2%	35.1%	4.8%	13.8%	35.6%	10.6%	46.3%	Inspected 1/19/17
Dyer Annex	28	0	0	0	1	0	0	29	30	1	96.7%	96.6%	0.0%	3.4%	0.0%	0.0%	0.0%	Inspected 8/26/16
Fayette	75	0	0	3	2	71	43	194	189	-5	102.6%	38.7%	0.0%	1.0%	36.6%	22.2%	58.5%	Inspected 3/7/17
Fentress	38	0	0	2	40	41	38	159	166	7	95.8%	23.9%	0.0%	25.2%	25.8%	23.9%	49.7%	Inspected 6/9/16; Re-inspected 8/3/16
Franklin	24	19	0	0	69	48	27	187	114	-73	164.0%	12.8%	10.2%	36.9%	25.7%	14.4%	40.1%	Inspected 1/25/16; Re-inspected 3/18/16
Gibson	124	8	0	0	31	84	27	274	329	55	83.3%	45.3%	2.9%	11.3%	30.7%	9.9%	40.5%	Inspected 5/10/16
Giles	16	24	0	0	57	49	21	167	126	-41	132.5%	9.8%	14.4%	34.1%	29.3%	12.6%	41.9%	Inspected 1/12/16; Re-inspected 3/11/16
Grainger Co. Det. Center	23	15	3	3	19	17	13	93	100	7	93.0%	24.7%	16.1%	20.4%	18.3%	14.0%	32.3%	Inspected 5/5/16; Re-inspected 7/7/16
Greene Det. Center	26	3	0	3	16	119	37	204	167	-37	122.2%	12.7%	1.5%	7.8%	56.3%	18.1%	76.5%	Inspected 5/3/16; Re-inspected 6/21/2016
Greene WH	36	6	0	0	88	47	52	229	276	47	83.0%	15.7%	2.8%	38.4%	20.5%	22.7%	43.2%	Inspected 5/3/16; Re-inspected 6/21/2016
Grundy	28	11	0	0	17	26	16	98	114	16	86.0%	28.8%	11.2%	17.3%	26.5%	16.3%	42.9%	New Facility Inspected 1/4/17
Hamilton	45	3	0	0	159	99	53	359	255	-104	140.8%	12.5%	0.8%	44.3%	27.6%	14.8%	42.9%	Capacity increased from 34 to 114
Hamilton Jail	0	0	27	68	11	289	138	533	505	-28	105.5%	0.0%	0.0%	2.1%	54.2%	25.9%	80.1%	Female capacity increased from 6 to 22
Hamilton - Silverdale CCA	13	29	70	80	315	23	430	1060	1084	124	88.6%	1.4%	3.0%	32.8%	2.4%	44.8%	47.2%	Inspected 3/8/17
Hancock	59	18	0	0	10	4	15	96	82	-24	129.3%	55.7%	17.0%	9.4%	3.8%	14.2%	17.9%	Inspected 4/21/16; Re-inspected 6/17/16

Housing Tennessee's Convicted Felons
Improving Outcomes while Balancing State and County Needs

JAIL SUMMARY REPORT as of April 30, 2017 - one day snapshot

FACILITY	TDOC Backup		Local Pop.		Other Conv.		Federal Conv.		Pre-trial Misd.		Pre-trial Felony		Total Jail Beds**	Total Beds	Vacant Beds	Percent Capacity	COMMENTS (Updated Quarterly)						
	Felons	Others***	Felons	Others	Felons	Others	Felons	Others	% Misd.	% Felony	% Misd.	% Pre-trial					% Total	Pre-trial	% Total	Pre-trial	Detain.	Cert.*	
Hardeman	31	5	14	0	0	0	0	0	10	79	18	157	179	22	87.7%	19.9%	3.2%	6.4%	50.3%	11.5%	61.8%	C	Inspected 6/22/16
Hardin	33	7	0	7	29	39	39	39	39	39	39	154	162	8	95.1%	21.4%	4.5%	18.8%	25.3%	25.3%	50.6%	C	Inspected 6/29/16; Re-inspected 8/24/16
Hawkins	118	0	0	0	89	49	41	41	41	41	41	297	266	31	111.7%	39.7%	0.0%	30.0%	16.8%	13.8%	30.3%	C	Inspected 8/16/16; Re-inspected 10/14/16
Haywood	0	37	0	2	21	49	21	21	49	21	130	194	64	82.0%	0.0%	28.5%	16.2%	16.2%	16.2%	16.2%	28.8%	C	Inspected 2/12/17
Henderson	74	14	11	4	28	28	20	20	20	20	179	216	37	82.9%	41.3%	7.8%	15.6%	15.6%	11.2%	26.8%	37.7%	C	Inspected 1/31/17; Re-inspected 3/28/17
Henry	24	19	0	0	38	63	7	7	63	7	130	204	74	121.8%	18.5%	14.8%	23.9%	24.6%	5.2%	52.2%	C	Inspected 6/14/16; Re-inspected 8/12/16	
Hickman	13	19	0	0	32	63	7	7	63	7	134	110	24	121.8%	19.8%	2.2%	30.4%	13.0%	19.6%	32.6%	C	Inspected 8/25/16; Re-inspected 10/18/16	
Houston	9	1	7	0	14	6	9	9	6	9	46	35	-11	131.4%	6.1%	1.5%	19.7%	37.9%	30.3%	68.2%	C	Inspected 4/4/16; Re-inspected 6/2/16	
Humphreys	4	1	0	3	13	25	20	20	25	20	66	68	2	97.1%	60.9%	0.0%	1.8%	11.8%	6.4%	18.2%	C	Inspected 2/13/17	
Jackson	67	0	8	13	2	13	7	7	13	7	110	112	2	98.2%	18.9%	18.4%	19.4%	24.3%	18.4%	42.7%	C	Capacity increased from 108 to 112	
Jefferson	39	38	0	1	40	50	38	38	50	38	206	188	-18	109.6%	73.8%	2.4%	23.8%	0.0%	0.0%	0.0%	0.0%	C	Inspected 8/17/16; Re-inspected 10/11/16
Jefferson WH	31	3	0	0	10	0	0	0	10	0	42	49	7	85.7%	50.0%	0.0%	100.0%	0.0%	0.0%	0.0%	C	Inspected 8/17/16; Re-inspected 10/11/16	
Johnson	41	11	0	0	6	14	10	10	14	10	82	114	32	71.9%	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	C	Inspected 5/24/16; Re-inspected 7/19/16	
Johnson City (F)	0	66	0	0	0	0	0	0	0	0	66	88	22	75.0%	8.3%	2.8%	4.4%	69.4%	8.3%	77.8%	C	Inspected 3/29/17	
Knox - KCJ	15	5	1	11	8	125	15	15	125	15	180	215	35	83.7%	6.7%	2.2%	6.7%	51.7%	26.9%	78.6%	C	Inspected 3/21/17	
Knox - RDWDF	70	23	5	55	70	539	280	280	539	280	1042	1036	-6	100.6%	36.8%	0.0%	26.3%	28.1%	8.8%	36.8%	C	Capacity increased from 90 to 120	
Knox - KCWRC	1	1	0	2	19	41	10	10	41	10	74	120	46	61.7%	42.1%	11.2%	6.5%	0.0%	40.2%	40.2%	60.2%	C	Inspected 7/12/16; Re-inspected 8/6/16
Lake	21	0	0	0	15	16	5	5	16	5	57	40	-17	142.5%	17.2%	0.0%	19.3%	31.4%	29.2%	45.7%	C	Inspected 1/21/16	
Lauderdale	45	12	0	0	7	0	43	43	0	43	107	144	37	74.3%	35.4%	0.0%	13.2%	19.4%	9.7%	31.9%	C	Inspected 4/28/16; Re-inspected 6/27/16	
Lawrence	47	0	2	6	53	86	80	80	86	80	274	261	-13	105.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	C	Inspected 2/16/17; Re-inspected 4/5/17	
Lewis	16	0	1	8	6	15	14	14	15	14	46	47	1	97.9%	35.4%	13.2%	19.4%	22.2%	9.7%	31.9%	C	Inspected 3/8/16; Re-inspected 5/6/16	
Lincoln	51	19	0	0	28	32	14	14	32	14	144	276	132	52.2%	2.9%	4.3%	11.5%	56.1%	25.2%	81.3%	N	Female capacity decreased from 13 to 12	
Loudon	4	6	0	0	16	78	35	35	78	35	139	91	-48	152.7%	30.4%	0.0%	18.8%	25.1%	25.7%	50.8%	C	Inspected 4/26/16; Re-inspected 6/23/16	
Macon	58	0	0	0	36	48	49	49	48	49	191	125	-66	152.8%	5.9%	2.9%	32.4%	29.4%	29.4%	56.8%	C	Inspected 8/10/16	
Madison Annex	2	1	0	0	11	10	10	10	10	10	34	64	30	53.1%	3.7%	5.1%	24.9%	36.3%	29.7%	65.9%	C	Inspected 5/24/16	
Madison CJC	10	14	0	1	68	99	81	81	99	81	273	304	31	89.8%	11.8%	9.4%	18.1%	42.8%	18.1%	60.9%	C	Inspected 6/14/16; Re-inspected 8/4/16	
Madison PF	2	6	0	0	32	8	7	7	8	7	55	86	31	64.0%	3.6%	10.9%	58.2%	14.5%	12.7%	27.3%	C	Inspected 2/28/17	
Marion	16	13	0	0	25	59	25	25	59	25	138	118	-20	116.9%	36.6%	5.2%	9.9%	13.1%	35.1%	48.2%	C	Inspected 1/19/16; Re-inspected 3/18/16	
Marshall	70	10	0	0	19	25	67	67	25	67	191	283	92	67.5%	29.8%	0.0%	23.5%	28.0%	12.7%	40.7%	C	Inspected 3/21/17; Re-inspected 3/16/17	
Maurry	134	27	0	0	76	125	39	39	125	39	401	386	-15	103.9%	12.1%	0.0%	1.9%	27.1%	55.1%	82.2%	C	Inspected 2/21/17	
McMinn	99	0	20	0	78	93	42	42	93	42	332	348	16	95.4%	16.1%	0.0%	9.7%	8.1%	64.5%	72.6%	C	Inspected 8/22/16; Re-inspected 10/17/16	
McNairy	13	0	0	4	2	29	59	59	29	59	107	94	-13	113.8%	11.8%	12.8%	15.6%	28.0%	21.8%	49.8%	C	Inspected 1/19/17; Re-inspected 3/10/17	
Meligs	10	0	0	1	6	5	40	40	5	40	62	56	-6	110.7%	41.4%	14.3%	44.3%	0.0%	0.0%	0.0%	C	Inspected 9/16/16	
Monroe	46	27	0	0	33	59	46	46	59	46	211	138	-73	152.9%	11.8%	2.1%	13.9%	51.2%	18.3%	69.5%	C	Inspected 2/27/16; Re-inspected 3/30/16;	
Montgomery	62	11	0	14	73	269	96	96	269	96	525	736	211	71.3%	9.1%	13.6%	4.5%	22.7%	31.8%	54.5%	C	7/25/16 - New jail capacity increased from 17 to 29 (8 female beds)	
Montgomery Workhouse	29	10	0	0	31	0	0	0	31	0	70	144	74	48.6%	12.0%	0.0%	60.0%	13.3%	14.7%	28.0%	C	Inspected 6/30/16; Re-inspected 8/25/16	
Moore	2	3	4	0	1	5	7	7	5	7	22	29	7	75.9%	17.8%	3.8%	2.5%	14.0%	21.0%	35.0%	C	Inspected 3/21/17	
Morgan	9	0	0	0	45	10	11	11	45	10	75	46	-29	163.0%	32.9%	6.7%	24.8%	18.8%	16.8%	35.6%	C	Inspected 1/19/16; Re-inspected 3/18/16	
Obion	28	6	8	56	4	22	33	33	4	22	157	159	2	98.7%	55.8%	0.0%	18.6%	9.3%	9.3%	18.6%	C	Capacity increased from 58 to 59	
Overton	49	10	0	0	37	28	25	25	28	25	149	143	-6	104.2%	0.0%	0.0%	80.0%	0.0%	20.0%	20.0%	N	Female capacity increased from 14 to 15	
Perry	24	0	3	0	8	4	4	4	8	4	43	59	16	72.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	C	Inspected 3/20/17	
Pickett	0	0	0	0	4	0	1	1	4	0	5	6	1	83.3%	57.7%	7.7%	4.9%	21.8%	7.0%	28.9%	C	Inspected 3/30/17	
Polk	82	11	0	1	7	31	10	10	31	10	142	174	32	81.6%	28.4%	5.4%	31.5%	18.5%	14.8%	33.2%	C	Inspected 1/26/16; Re-inspected 3/18/16	
Putnam	100	19	5	0	111	65	52	52	111	65	352	252	-100	139.7%	9.0%	12.5%	8.0%	31.0%	39.0%	70.0%	C	Inspected 9/28/16; Re-inspected 11/22/16	
Rhea	18	25	0	1	16	62	78	78	16	62	200	87	-113	229.9%									

JAIL SUMMARY REPORT as of April 30, 2017 - one day snapshot

FACILITY	TDOC Backup	Local Felons	Other Conv. Felons***	Federal Conv. & Others****	Conv. Misd.	Pre-trial Felony	Pre-trial Misd.	Total Jail Pop.	Total Beds**	Vacant Beds	Percent Capacity	% TDOC Felons	% Local Felons	% Conv. Misd.	% Pre-trial Felony	% Pre-trial Misd.	% Total Pre-trial Detain.	Cert.*	COMMENTS (Updated Quarterly)
Roane	35	6	0	0	62	38	87	228	170	-58	134.1%	15.4%	2.6%	27.2%	16.7%	38.2%	54.8%	C	Inspected 3/9/16; Re-inspected 4/26/16
Robertson	219	16	0	0	91	164	54	544	584	40	93.2%	40.3%	2.9%	16.7%	30.1%	9.9%	40.1%	C	Capacity decreased from 172 to 170 Inspected 9/23/16
Rutherford	176	37	0	0	108	376	102	799	956	157	83.6%	22.0%	4.6%	13.5%	47.1%	12.8%	59.8%	N	Capacity decreased from 958 to 956
Rutherford Work Center	0	58	0	0	89	0	0	147	320	173	45.9%	0.0%	39.5%	60.5%	0.0%	0.0%	0.0%	C	Female capacity decreased from 200 to 168
Scott	45	6	0	0	6	68	23	148	140	-8	105.7%	30.4%	4.1%	4.1%	45.9%	15.5%	61.5%	C	Inspected 5/19/16; Re-inspected 7/11/16
Sequatchie	24	10	0	0	13	37	12	96	96	0	100.0%	25.0%	10.4%	13.5%	38.5%	12.5%	51.0%	C	Inspected 3/22/17
Sevier Jail	29	15	0	0	17	89	35	185	214	29	86.4%	15.7%	8.1%	9.2%	48.1%	18.9%	67.0%	C	Inspected 6/7/16; Re-inspected 7/28/16
Sevier Annex	52	27	0	0	42	118	82	321	356	35	90.2%	16.2%	8.4%	13.1%	36.8%	25.5%	62.3%	C	Inspected 6/7/16; Re-inspected 7/28/16
Shelby CJC	13	112	1	122	42	1929	218	2433	3111	678	78.2%	0.5%	4.6%	1.7%	79.1%	9.0%	88.1%	C	Inspected 6/18/16
Shelby SOCC	77	1518	0	0	308	0	0	1903	3706	1803	51.3%	4.0%	79.8%	16.2%	0.0%	0.0%	0.0%	C	Inspected 2/24/16
Smith	69	4	0	0	21	17	8	119	128	9	93.0%	58.0%	3.4%	17.6%	14.3%	6.7%	21.0%	C	Inspected 1/12/16
Stewart	21	2	0	0	18	39	6	86	132	-46	65.2%	24.4%	2.3%	20.9%	45.3%	7.0%	52.3%	C	Inspected 3/7/17
Sullivan	43	30	0	0	43	293	63	472	379	-93	124.5%	9.1%	6.4%	9.1%	62.1%	13.3%	75.4%	C	Inspected 1/26/17
Sullivan Extension	18	17	0	0	118	32	63	248	240	-8	103.3%	7.3%	6.9%	47.6%	12.9%	25.4%	38.3%	C	Inspected 1/26/17
Kingsport City	0	0	0	0	0	1	3	4	20	16	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	C	Inspected 6/2/16; Re-inspected 7/18/16
Sumner	128	68	0	0	168	273	59	696	832	136	83.7%	18.4%	9.8%	24.1%	39.2%	8.5%	47.7%	C	Inspected 3/14/17
Tipton	3	11	0	0	61	78	55	208	122	-86	170.5%	1.4%	5.3%	29.3%	37.5%	26.4%	63.9%	C	Inspected 7/21/16
Trousdale	19	2	0	0	8	8	9	46	44	-2	104.5%	41.3%	4.3%	17.4%	17.4%	19.6%	37.0%	C	Inspected 3/15/17
Unicoi Jail (M)	26	3	0	1	6	18	13	67	62	-5	108.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	C	Inspected 2/14/17; Re-inspected 4/11/17
Unicoi Annex (F)	25	2	0	0	2	7	5	41	38	-3	107.9%	61.0%	4.9%	4.9%	17.1%	12.2%	29.3%	C	Inspected 2/14/17; Re-inspected 4/11/17
Union	3	0	14	0	4	21	48	88	76	-12	115.8%	3.4%	0.0%	4.5%	23.9%	52.3%	76.1%	C	Inspected 8/11/16; Re-inspected 10/7/16
Van Buren	0	7	0	2	33	5	12	59	13	-46	453.8%	0.0%	11.9%	55.9%	8.5%	20.3%	28.8%	N	Inspected 3/29/16; Re-inspected 5/24/2016
Warren	26	25	0	0	121	69	47	288	251	-37	114.7%	9.0%	8.7%	42.0%	24.0%	16.3%	40.3%	C	Inspected 5/17/16; Re-inspected 7/5/16
Washington Det. Center	63	12	8	77	151	168	69	548	566	18	96.8%	11.5%	2.2%	27.6%	30.7%	12.6%	43.2%	C	Inspected 2/16/17
Washington WH	19	1	2	0	20	0	0	42	54	12	77.8%	45.2%	2.4%	47.6%	0.0%	0.0%	0.0%	C	Inspected 2/16/17
Wayne	46	11	12	3	25	35	17	149	128	-21	116.4%	30.9%	7.4%	16.8%	23.5%	11.4%	34.9%	C	Inspected 1/26/16; Re-inspected 2/25/16
Weakley	39	14	0	0	5	18	20	96	129	33	74.4%	40.6%	14.6%	5.2%	18.8%	20.8%	39.6%	C	Inspected 2/28/17; Re-inspected 4/11/17
White	33	8	14	0	101	27	29	212	165	-47	128.5%	15.6%	3.8%	47.6%	12.7%	13.7%	26.4%	C	Inspected 4/7/16
Williamson	40	15	0	0	128	113	58	354	454	100	78.0%	11.3%	4.2%	36.2%	31.9%	16.4%	48.3%	C	Inspected 1/14/16; Re-inspected 2/29/16
Wilson	64	18	9	32	106	149	98	476	458	-18	103.9%	13.4%	3.8%	22.3%	31.3%	20.6%	51.9%	C	Inspected 5/5/16; Re-inspected 6/17/16
TOTAL	4491	3604	602	802	5143	9690	4788	29120	33450	4330	87.1%	15.4%	12.4%	17.7%	33.3%	16.4%	49.7%		

*The certification column reflects current T.C.I. capacity certification status (C=certified; N=not certified)

**As reflected on the T.C.I. Inspection List for the most recent calendar quarter.

***Includes felons whose status is yet to be determined.

****1,675 beds are reserved for special purposes--e.g., isolation, medical, segregation, etc. and must be removed from the "VACANT BEDS" count.

Population data is recorded as reported by individual facility.

4330 VACANT BEDS
1675 SPECIAL PURPOSE BEDS
2655 AVAILABLE BEDS

STATEWIDE TOTALS

JAIL SUMMARY REPORT
FOR MONTH ENDING 4/30/2017

TOTALS FOR COUNTIES WITH MORE THAN ONE FACILITY:

	Bedford	Cooke	Coffee	Davidson	Dyer	Greene	Hamilton	Jefferson	Knox	Madison	Montgomery	Rutherford	Sevier	Shelby	Sullivan	Unicoi	Washington	Total County	Total State
TOTAL DOC INMATES	34	10	52	37	94	62	13	70	86	14	91	176	81	80	61	51	82	1104	4491
TOTAL LOCALLY SENTENCED FELONS	10	7	22	745	9	9	29	39	29	34	21	95	42	1630	47	5	13	2786	3604
TOTAL OTHER CONVICTED FELONS	1	0	0	254	0	0	97	0	0	0	0	0	0	0	0	0	0	10	389
TOTAL OTHERS	2	0	0	61	0	3	148	1	68	1	14	0	0	122	0	1	77	488	802
TOTAL CONVICTED MISDEMEANANTS	112	8	81	219	27	104	326	50	97	111	104	197	59	350	161	8	171	2185	5143
TOTAL PRE-TRIAL FELONS	94	143	254	1027	87	270	880	88	1010	215	365	478	207	2143	455	43	237	7789	14478
TOTAL PRE-TRIAL MISDEMEANANTS	27	93	63	860	67	166	312	50	705	117	269	376	207	1925	326	25	168	5756	9690
TOTAL JAIL POPULATION	67	50	191	167	20	104	568	38	305	98	96	102	117	218	129	18	69	2357	4788
TOTAL JAIL CAPACITY	253	188	409	2343	217	433	1483	248	1296	362	595	946	506	4336	724	108	590	15027	29120
PERCENT OF CAPACITY	13.4%	6.0%	98.3%	7.3%	101.4%	97.7%	94.0%	104.6%	94.5%	79.7%	67.6%	74.1%	88.8%	63.6%	113.3%	108.0%	95.2%	78.5%	87.1%
% WHICH ARE LOCALLY SENTENCED FELONS	4.0%	4.2%	5.4%	31.8%	4.1%	2.1%	1.9%	15.7%	2.2%	3.5%	3.5%	10.0%	8.3%	37.6%	6.5%	4.6%	2.2%	18.5%	12.4%
% WHICH ARE CONVICTED MISDEMEANANTS	44.3%	4.8%	19.8%	9.3%	12.4%	24.0%	21.8%	20.2%	7.5%	30.7%	17.5%	20.8%	11.7%	8.1%	22.2%	7.4%	28.0%	14.5%	17.7%
% WHICH ARE PRE-TRIAL DETAINees	37.2%	85.1%	62.1%	43.8%	40.1%	62.4%	58.9%	35.5%	77.9%	59.4%	61.3%	50.5%	0.0%	49.4%	62.8%	39.8%	40.2%	51.8%	49.7%

Appendix E: The Prison Rape Elimination Act of 2003 and Its Effects on Prisons and Jails in Tennessee

What is PREA?—The Prison Rape Elimination Act

Congress passed the federal Prison Rape Elimination Act (PREA) in 2003 to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.”¹

The US Department of Justice (DOJ) developed national standards that became effective August 20, 2012. These standards apply not only to all federal prisons but to state prisons as well—including facilities operated for the state by private contractors—by way of a reduction in federal grant money to states not certified to be in compliance. Tennessee has been in compliance with the standards since 2014.

The PREA standards for Adult Prisons and Jails are grouped into several categories:

- Prevention Planning
- Screening for Risk of Sexual Victimization and Abusiveness
- Investigations
- Data Collection and Review
- Responsive Planning
- Reporting
- Discipline
- Audits and Corrective Action
- Training and Education
- Official Response Following an Inmate Report
- Medical and Mental Care

What Are the Costs of PREA Compliance?

In 2010, the DOJ's Bureau of Justice Assistance (BJA) commissioned a cost impact analysis to estimate the effects of the proposed PREA standards on prisons and jails across the country.² The costliest standards identified by this report dealt with a need for increased jail staff, both to provide adequate supervision in general and to meet supervision standards for specific populations—for example, meeting same-sex supervision standards by hiring additional female officers to monitor female inmates.

Another costly requirement for many county jails is a need to improve monitoring technology, such as cameras and recording devices, either by installing systems in jails that lack any type of technical supervision or by replacing antiquated systems deemed insufficient to meet the standard. One of the study participants was Aiken County, South Carolina. Its jail was built in 2002, with a capacity of 317 inmates. To meet the standards, the county reported it needed to spend \$500,000 to upgrade the jail's closed-circuit TV system and install 16 cameras with DVRs.

The DOJ published a Regulatory Impact Assessment in 2012, which estimated that the average annual cost for a jail to comply with PREA would be approximately \$50,000.³ This report noted the significant expense associated with meeting the standard that calls for agencies to have a PREA Coordinator (PC) with “sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in

¹ Public Law 108–79. Sept. 4, 2003. 42 US Code Chapter 147, § 15601 et seq.

² Booz, Allen, Hamilton 2010. Accessed July 11, 2017 at <https://ojp.gov/programs/pdfs/preacostimpactanalysis.pdf>.

³ United States Department of Justice, Regulatory Impact Assessment for PREA Final Rule (May 17, 2012), available at http://www.ojp.usdoj.gov/programs/pdfs/prea_ria.pdf.

all its facilities.” Counties with multiple jail facilities also need a PREA Compliance Manager (PCM) at each location. The report estimates that it would cost the average jail approximately \$10,000 annually to meet the standard for coordinators and compliance managers. The report also estimated a similar expenditure would be necessary for jails to modify screening and intake procedures to meet the standards that require them both to screen inmates for the risk of victimization and abusiveness and to provide protective custody when necessary.

Counties in Tennessee have cited the cost of conducting required PREA audits as another obstacle. The BJA study estimated the typical cost of these jail audits to be \$25,000—required every three years. However, the later DOJ assessment estimated the cost closer to \$3,000, and according to Tennessee Department of Correction (TDOC), that is closer to the actual cost of recent jail audits. Twenty counties and the Johnson City jail that houses female felons have been certified.

How Does PREA Compliance Affect Counties in Tennessee?

For states to remain compliant with PREA, they may contract to house their inmates only with other entities—including local governments—that are themselves PREA compliant. As a result, TDOC requires counties to meet PREA standards if they are to contract with the state to house state prisoners. This requirement is included in TDOC’s standard contract via the following provision:

Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal Law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.

Appendix F: The Public Safety Act of 2016



State of Tennessee

PUBLIC CHAPTER NO. 906

HOUSE BILL NO. 2576

By Representatives McCormick, Kevin Brooks, Lamberth, Todd, Hardaway, Akbari,
Camper, Daniel

Substituted for: Senate Bill No. 2567

By Senators Norris, Kelsey, Overbey, Jackson, Massey, Stevens

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6; Title 39, Chapter 13, Part 1; Title 39, Chapter 14, Part 1; Title 40, Chapter 28; Title 40, Chapter 35 and Title 41, Chapter 1, Part 4, relative to public safety.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Public Safety Act of 2016."

SECTION 2. Tennessee Code Annotated, Section 36-3-602, is amended by adding the following language as a new subsection (c) and renumbering the remaining subsection accordingly:

(c)

(1) A temporary order of protection shall be issued against a respondent pursuant to § 36-3-605 if, at the respondent's initial appearance following an arrest for a crime involving domestic abuse, the court finds there is probable cause to believe the respondent either:

(A) Caused serious bodily injury, as defined in § 39-11-106, to the alleged domestic abuse victim; or

(B) Used or displayed a deadly weapon, as defined in § 39-11-106.

(2) The alleged domestic abuse victim does not need to be present at the time the temporary order of protection is issued.

(3) A hearing on whether the temporary order of protection should be dissolved, extended, or modified shall be held within fifteen (15) days of service of the temporary order of protection upon the respondent. The domestic abuse victim shall have the right to notice of the hearing and the right to be present at the hearing. The procedures set forth in § 36-3-605 shall apply.

(4) The temporary order of protection may include any relief available under an ex parte order of protection issued pursuant to § 36-3-605.

SECTION 3. Tennessee Code Annotated, Section 36-3-619, is amended by adding the following language as a new, appropriately designated subsection:

(1) For good cause shown, the court may issue an ex parte order of protection pursuant to § 36-3-605 upon a sworn petition filed by a law enforcement officer responding to an incident of domestic abuse who asserts in the petition reasonable grounds to believe that a person is in immediate and present danger of abuse, as defined in § 36-3-601, and that the person has consented to the filing in writing; provided, that the person on whose behalf the law enforcement officer seeks the ex parte order of protection shall be considered the petitioner for purposes of this part.

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(2) The law enforcement officer may seek on behalf of the person the ex parte order regardless of the time of day and whether or not an arrest has been made.

(3) If an ex parte order is issued pursuant to this section outside of the issuing court's normal operating hours:

(A) The law enforcement officer, judge, or judicial official shall cause the petition and order to be filed with the court as soon as practicable after issuance, but no later than two (2) business days after issuance; and

(B) The law enforcement officer shall use reasonable efforts to notify the person on whose behalf the petition was filed and provide the person with a copy of the ex parte order as soon as practicable after issuance.

(4) The court shall cause a copy of the petition, a notice of the date set for the hearing, and a copy of the ex parte order of protection to be served upon the respondent in accordance with § 36-3-605(c). A hearing on whether or not the ex parte order of protection should be dissolved, extended, or modified shall be held within fifteen (15) days of service of the order on the respondent. The person who consented to the filing shall be given notice of the hearing and the right to be present at the hearing. The procedures set forth in § 36-3-605 shall apply.

(5) Law enforcement officers shall not be subject to civil liability under this section for failure to file a petition or for any statement made or act performed in filing the petition, if done in good faith.

SECTION 4. Tennessee Code Annotated, Section 39-13-111(c)(3), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(3) A third or subsequent conviction for domestic assault committed in a manner prohibited by § 39-13-101(a)(1) is punishable by a fine of not less than one thousand one hundred dollars (\$1,100) nor more than five thousand dollars (\$5,000), and by confinement in the county jail or workhouse for not less than ninety (90) consecutive days, nor more than eleven (11) months and twenty-nine (29) days; provided, however, that if the domestic assault victim's relationship with the defendant falls within the categories defined in subdivision (a)(1) or (a)(3), or the victim is the minor child of any person in such categories, and the defendant has at least two (2) prior convictions for domestic assault committed in a manner prohibited by § 39-13-101(a)(1) prior to or at the time of committing the offense, the offense is a Class E felony, with a mandatory confinement of not less than ninety (90) consecutive days in the county jail or workhouse.

SECTION 5. Tennessee Code Annotated, Section 39-14-105(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) Theft of property or services is:

(1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less;

(2) A Class E felony if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);

(3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000);

(4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000);

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(5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more but less than two hundred fifty thousand dollars (\$250,000); and

(6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars (\$250,000) or more.

SECTION 6. Tennessee Code Annotated, Section 40-35-104(c)(8)(B), is amended by deleting the language "one thousand dollars (\$1,000)" and substituting instead the language "two thousand five hundred dollars (\$2,500)".

SECTION 7. Tennessee Code Annotated, Section 40-35-207(a), is amended by deleting subdivisions (9) and (10) and substituting instead the following language:

(9) Information to assist the court in deciding whether to sentence an eligible defendant to an available and appropriate community-based alternative to incarceration as provided in chapter 36 of this title and in imposing the terms and conditions for any such sentence;

(10) The results of the validated risk and needs assessment; and

(11) Any other matters the court directs to be included.

SECTION 8. Tennessee Code Annotated, Section 40-35-207, is amended by adding the following as a new subsection:

(d) As used in this section, "validated risk and needs assessment" means a determination of a person's risk to reoffend and the needs that, when addressed, reduce the risk to reoffend through the use of an actuarial assessment tool designated by the department that assesses the dynamic and static factors that drive criminal behavior.

SECTION 9. Tennessee Code Annotated, Section 40-35-210(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) To determine the specific sentence and the appropriate combination of sentencing alternatives that shall be imposed on the defendant, the court shall consider the following:

(1) The evidence, if any, received at the trial and the sentencing hearing;

(2) The presentence report;

(3) The principles of sentencing and arguments as to sentencing alternatives;

(4) The nature and characteristics of the criminal conduct involved;

(5) Evidence and information offered by the parties on the mitigating and enhancement factors set out in §§ 40-35-113 and 40-35-114;

(6) Any statistical information provided by the administrative office of the courts as to sentencing practices for similar offenses in Tennessee;

(7) Any statement the defendant wishes to make on the defendant's own behalf about sentencing; and

(8) The result of the validated risk and needs assessment conducted by the department and contained in the presentence report.

SECTION 10. Tennessee Code Annotated, Section 40-35-210(f), is amended by deleting the subsection in its entirety and substituting instead the following language:

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A sentence must be based on evidence in the record of the trial, the sentencing hearing, the presentence report, the validated risk and needs assessment, and the record of prior felony convictions filed by the district attorney general with the court, as required by § 40-35-202(a).

SECTION 11. Tennessee Code Annotated, Section 40-35-311, is amended by adding the following language as a new subsection:

(f) The court may consider the results of an offender's validated risk and needs assessment in determining the appropriate disposition of the probation violation charge and may request an updated validated risk and needs assessment be performed.

SECTION 12. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following language as a new subsection:

(t)

(1) For the offenses listed in subdivision (t)(2) committed on or after January 1, 2017, there shall be no release eligibility until the person has served eighty-five percent (85%) of the sentence imposed by the court, less sentence credits earned and retained. However, no sentence reduction credits authorized by § 41-21-236, or any other law, shall operate to reduce below seventy percent (70%) the percentage of sentence imposed by the court such person must serve before becoming release eligible.

(2) The offenses to which this subsection (t) is applicable are:

(A) The manufacture, delivery, or sale of a controlled substance, pursuant to § 39-17-417, where the instant offense is classified as a Class A, B, or C felony and the person has two (2) or more prior convictions for the manufacture, delivery, or sale of a controlled substance classified as a Class A, B, or C felony, pursuant to § 39-17-417, prior to or at the time of committing the instant offense; and

(B) Aggravated burglary, pursuant to § 39-14-403, or especially aggravated burglary, pursuant to § 39-14-404, if the person has two (2) or more prior convictions for either aggravated burglary, pursuant to § 39-14-403, especially aggravated burglary, pursuant to § 39-14-404, or a combination of the two (2) offenses prior to or at the time of committing the instant offense.

(3) For purposes of this subsection (t):

(A)

(i) "Prior conviction" means, unless the context otherwise requires, that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B);

(ii) "Prior conviction" includes convictions under the laws of any other state, government, or country that, if committed in this state, would constitute the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B). If a relevant offense in a jurisdiction other than this state is not identified as the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B) in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements in this state; and

(B) "Separate period of incarceration or supervision" includes a sentence to any of the sentence alternatives set out in § 40-35-104(c)(3)-(9). The applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B) shall

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be considered as having been committed after a separate period of incarceration or supervision if it is committed while the person was:

(i) On probation, parole, community correction supervision, or supervised release for the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B);

(ii) Incarcerated for the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B);

(iii) Assigned to a program where the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, education release, restitution release, or medical furlough for the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B); or

(iv) On escape status from any correctional institution when incarcerated for the applicable offense listed in subdivision (t)(2)(A) or (t)(2)(B).

(4) For purposes of this subsection (t), a prior conviction shall not be considered if ten (10) or more years have elapsed between the date of the instant conviction and the date of any immediately preceding conviction for the relevant offense. If, however, the date of a prior conviction is within ten (10) years of the date of the instant conviction, and the instant conviction is for an offense that occurs on or after January 1, 2017, then every conviction for such offense occurring within ten (10) years of the date of the immediately preceding conviction shall be considered in determining the number of prior offenses. However, in no event shall a conviction occurring more than twenty (20) years from the date of the instant conviction be considered a prior offense for the purposes of this subsection (t).

SECTION 13. Tennessee Code Annotated, Title 41, Chapter 1, is amended by adding the following language as a new, appropriately designated section:

(a) As used in this section, "validated risk and needs assessment" means a determination of a person's risk to reoffend and the needs that, when addressed, reduce the risk to reoffend through the use of an actuarial assessment tool that assesses the dynamic and static factors that drive criminal behavior.

(b) The department of correction and community corrections agencies shall perform a validated risk and needs assessment on each felony offender under its supervision or custody upon receipt of the person and at least annually throughout the period of supervision or custody.

(c) The validated risk and needs assessment shall be used by the department, community corrections agencies, the board of parole, and the courts in making decisions and recommendations on programming and treatment options and post-prison supervision conditions for those who have been incarcerated.

(d) Portions of the validated risk and needs assessment shall be shared with community providers upon release, as deemed appropriate by the department, while respecting the privacy rights of the offender.

SECTION 14. Tennessee Code Annotated, Title 40, Chapter 28, is amended by adding the following language as a new part:

40-28-701. Definitions.

As used in this part:

(1) "Chief supervision officer" means the correctional administrator for each region of the state or any other person designated by the commissioner;

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(2)

(A) "Community supervision" means:

(i) The placement of a defendant on probation by a court for a specified period during which the sentence is suspended in whole or in part; or

(ii) The placement by the board of parole of an individual on parole after release from prison or jail, with conditions imposed by the board for a specified period; and

(B) "Community supervision" does not mean community supervision for life imposed pursuant to § 39-13-524;

(3) "Court" means a court of record having original criminal jurisdiction;

(4) "Graduated sanction" means any of a wide range of non-prison offender accountability measures and programs, including, but not limited to, electronic supervision tools; drug and alcohol testing or monitoring; day or evening reporting centers; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; and residential treatment facilities;

(5) "Positive reinforcement" means any of a wide range of rewards and incentives, including, but not limited to, awarding certificates of achievement, reducing reporting requirements, removing supervision conditions such as home detention or curfew, or asking the offender to be a mentor to others;

(6) "Probation and parole officer" means a person appointed or employed by the department to supervise individuals placed on community supervision; and

(7) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail for a felony offense.

40-28-702. Policy on Community Supervision.

Supervised individuals shall be subject to:

(1) Violation revocation proceedings and possible incarceration for failure to comply with the conditions of supervision when such failure constitutes a significant risk to prior victims of the supervised individual or the community at large and cannot be appropriately managed in the community; or

(2) Sanctions other than revocation as appropriate to the severity of the violation behavior, the risk of future criminal behavior by the offender, and the need for, and availability of, interventions which may assist the offender to remain compliant and crime-free in the community.

40-28-703. System of Graduated Sanctions.

(a) The department shall adopt a single system of graduated sanctions for violations of the conditions of community supervision. The system shall set forth a menu of presumptive sanctions for the most common types of supervision violations, including, but not limited to: failure to report; failure to pay fines and fees; failure to participate in a required program or service; failure to complete community service; and failure to refrain from the use of alcohol or controlled substances. The system of sanctions shall take into account factors such as the severity of the current violation, the supervised individual's previous criminal record, the number and severity of any previous supervision violations, the supervised individual's assessed risk level, and the extent to which graduated sanctions were imposed for previous violations. The system shall also define positive reinforcements that supervised individuals will receive for compliance with conditions of supervision. The system shall clearly specify as to each type of sanction whether the

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supervised individual has the option to object and seek administrative review of the sanction.

(b) The department shall establish by policy an administrative process to review and approve or reject, prior to imposition, graduated sanctions that deviate from those prescribed.

(c) The department shall establish by policy an administrative process to review graduated sanctions contested by supervised individuals under § 40-28-705. The review shall be conducted by the chief supervision officer, who shall be impartial and trained to hear cases regarding graduated sanctions for violations of supervision conditions.

(d) The department shall establish and maintain a program of initial and ongoing training regarding the system of graduated sanctions for probation and parole officers.

40-28-704. Conditions of Community Supervision.

For individuals placed on supervised probation, the judge of the court having jurisdiction over the case shall determine the conditions of community supervision, which shall include as a condition that the department supervising the individual may, in accordance with § 40-28-705, impose graduated sanctions adopted by the department for violations of the conditions of community supervision.

40-28-705. Authority to impose Graduated Sanctions.

(a) Notwithstanding any rule or law to the contrary, the department may impose graduated sanctions.

(b) A probation and parole officer intending to impose a graduated sanction shall issue to the supervised individual a notice of the intended sanction. The notice shall inform the supervised individual of the violation or violations alleged, the date or dates of the violation or violations, and the graduated sanction to be imposed.

(c) The imposition of a graduated sanction or sanctions by a probation and parole officer must comport with the system of graduated sanctions adopted by the department under § 40-28-703. Upon receipt of the notice, the supervised individual shall immediately accept the sanction or, if permitted under the system of graduated sanctions, object to the sanction or sanctions proposed by the probation and parole officer. The failure of the supervised individual to comply with a sanction shall constitute a violation of probation, parole, or post-release supervision. If the supervised individual objects to the imposition of the sanction or sanctions, when permitted by the system of graduated sanctions, the individual is entitled to an administrative review to be conducted by the department within five (5) days of the issuance of the notice. If the department affirms the recommendation contained in the notice, the sanction or sanctions shall become effective immediately.

(d)

(1) A notice of a graduated sanction may not be issued for any violation of probation or parole that could warrant an additional, separate felony charge or Class A misdemeanor charge.

(2) Notwithstanding subdivision (d)(1), a notice of a graduated sanction may be issued for a positive drug test.

(e) Upon successful completion of a graduated sanction or sanctions, a court shall not revoke the term of community supervision or impose additional sanctions for the same violation. Notwithstanding this subsection (e), a court may consider an individual's supervision and sanctions history when adjudicating subsequent violations.

(f) The department shall regularly provide notice of sanctions imposed upon probationers to the sentencing court and the prosecutor's office for each jurisdiction.

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(g) If a probation and parole officer imposes a graduated sanction, the officer shall:

- (1) Deliver a copy of the sanction to the supervised individual; and
- (2) Note the date of delivery of the copy in the supervised individual's file.

40-28-706. Monitoring Graduated Sanctions.

The chief supervision officer shall review confinement sanctions recommended by probation and parole officers on a quarterly basis to assess any disparities that may exist among officers, evaluate the effectiveness of the sanction as measured by the supervised individuals' subsequent conduct, and monitor the impact on the department's number and type of revocations for violations of the conditions of supervision.

SECTION 15. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 16. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 17. For the purpose of promulgating rules, policies, forms, and procedures and making necessary provisions for the implementation of this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.

HOUSE BILL NO. 2576

PASSED: April 19, 2016



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27th day of April 2016



BILL HASLAM, GOVERNOR

DRAFT

Appendix G: Tennessee Corrections Institute Minimum Standards for Local Adult Correctional Facilities

TENNESSEE CORRECTIONS INSTITUTE

CHAPTER 1400-1
MINIMUM STANDARDS FOR
LOCAL ADULT CORRECTIONAL FACILITIES

RULES OF THE
TENNESSEE CORRECTIONS INSTITUTE
CORRECTIONAL FACILITIES INSPECTION



NASHVILLE TN

(Rev. 01/15)

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1400-1-.01 Preface

- (1) Under the authority of T.C.A. 41-4-140, the Tennessee Corrections Institute is required to establish minimum standards for local jails, lock-ups, workhouses and detention facilities in the state and conduct an annual inspection of each facility.
- (2) Local correctional facilities are the first step in the handling of the arrested offender and in it he receives his first impression of the correctional process. His experience in a county jail or a municipal lock-up facility will be a potent force molding his attitude toward law enforcement officials, the correctional system and the community itself.
- (3) The Board of Control of the Tennessee Corrections Institute hopes that in carrying out the responsibilities of Tennessee Code Annotated 41-4-140, avenues of communication and cohesiveness will be developed with local agencies that will tend to upgrade the correctional system in the State of Tennessee.

Authority:T.C.A. §41-4-140.

1400-01-.02 Basic Information.

- (1) Statutory Authority: The standards contained in this document are authorized pursuant to T. C. A. § 41-4-140 to establish minimum standards for the inspection of local jails, lock-ups, workhouses and detention facilities.
- (2) Categories Covered by Standards: The minimum standards established and recorded herein will cover the following categories:
 - (a) Physical Plant
 - (b) Administration/Management
 - (c) Personnel
 - (d) Security
 - (e) Discipline
 - (f) Sanitation/Maintenance
 - (g) Food Services
 - (h) Mail and Visiting
 - (i) Inmate Programs and Activities
 - (j) Medical Services
 - (k) Admission Records and Release
 - (l) Hygiene
 - (m) Supervision of Inmates
 - (n) Classification

- (3) Other Standards: Nothing contained in these standards shall be construed to prohibit a city, county, or city and county agency operating a local correctional agency from adopting standards governing its personnel and facility, provided such standards meet or exceed and do not conflict with the standards established and recorded herein. Nor shall these standards be construed as authority to violate any state fire safety standards, building standards or health and safety codes.
- (4) Validity: In determining the application of these minimum facility standards, the Tennessee Corrections Institute Board of Control has enacted the following:
- (a) Standards contained herein shall apply to specific types of local correctional facilities as noted at the end of each standard. For the purpose of this document, primarily adult jails or workhouses which house inmates for over seventy-two (72) hours will be considered Type I; primarily adult jails which house inmates for no more than seventy-two (72) hours will be considered Type II; primarily adult jails which house inmates between one (1) and twelve (12) hours will be considered Type III. Type III does not include facilities used primarily for fingerprinting, photographing, interviewing or interrogating.
 - (b) Detention facilities shall be classified according to construction date. Facilities constructed after June 2000, shall be considered as new, while facilities constructed prior to or during the month of June 2000, shall be considered existing facilities.
 - (c) An existing facility must meet all applicable standards referring to such facilities and all other applicable standards. A new facility must comply with all applicable standards referring to such facilities and all other applicable standards.
 - (d) Any additions or renovations to existing facilities must comply with all applicable standards for new facilities.
 - (e) The number of inmates awaiting transfer to the Department of Correction penal system may be discounted from any computations used to determine compliance with standards (2), (3), (4), (5), (6), and (7) of Section 1400-01-.04 Physical Plant under the following conditions:
 - 1. The Governor must have invoked the power of delayed intake pursuant to T.C.A. § 41-1-504(a)(2) and/or a federal or state court has delayed intake into the Department of Correction penal system and,
 - 2. More than six (6%) percent of the county's total average inmate population over the preceding ninety (90) days in all of its correctional facilities consists of inmates sentenced to the Department of Corrections whose commitments have been delayed pursuant to 1. then,
 - 3. The number of inmates awaiting transfer to the Department of Correction at a particular facility in excess of six (6%) percent shall not be used in any computations used to determine compliance with the above stated standards.
- (5) Certification of Facilities: Facilities which meet all applicable standards as determined by an annual inspection shall be recommended for certification by the inspector to the Tennessee Corrections Institute's Board of Control during the first board meeting following the completion of the inspection. Facilities which do not meet all applicable standards shall be recommended for non-certification. Facilities whose annual inspections are completed prior to the fifteenth (15th) of the month shall be

recommended for certification or non-certification to be effective on the first (1st) day of the month during which the inspection was completed. Facilities whose annual inspections are completed after the fifteenth (15th) of the month shall be recommended for certification or non-certification to be effective on the first (1st) day of the month following the month in which the inspection was completed. The Judicial Cost Accountant in the Office of the Comptroller shall be immediately notified of any proposed change in a facility's status.

- (6) No currently certified local facility shall be decertified if the local government has submitted a plan of action within sixty (60) days of the initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies in that facility and cause that facility to remain certified.

Authority: T.C.A. § 41-4-140.

1400-01-.03 Definitions.

- (1) Basic Training - The introductory training provided by the Tennessee Corrections Institute which prepares a facility employee with general and specific knowledge about the detention of inmates in a local facility.
- (2) Booking- An official recording of an arrest and the identification of the person, place, time, arresting authority, and the reason for the arrest. It is the procedure for the admission of a person charged with or convicted of an offense, which includes searching, fingerprinting, photographing, medical screening, and collecting personal history data. Booking also includes the inventory and storage of the individual's personal property.
- (3) Cell Block - A separate, secure group or cluster of single and/or multiple occupancy cells or detention rooms immediately adjacent and directly accessible to a day or activity room. In some facilities the cell block consists of a row of cells fronted by a dayroom or corridor-like proportion.
- (4) Censor - To read communications such as letters to delete material which might be considered harmful to the interests of the organizations, agency or facility.
- (5) Chemical Agent – An active substance, such as pepper spray, used to deter acts that might cause personal injury or property damage.
- (6) Classification - A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.
- (7) Clear Floor Space - Floor space that is free of obstructions such as bunks, showers, commodes, and lavatories.
- (8) Contraband – An item that has not been approved for possession or use by inmates or detainees by those legally charged with the responsibility for administration and operation of the facility.
- (9) Control Center – A very secure, self-contained unit designed to maintain the security of the facility. Policies governing the design, staffing, and accessibility of the control center should ensure that it cannot be commandeered by unauthorized persons.
- (10) Corporal Punishment -Physical punishment, as distinguished from pecuniary punishment, inflicted on the body of an inmate or detainee for the purpose of interrupting an impermissible act or deterring undesirable behavior.

- (11) Daily Log - A record of all significant activities that take place during the course of a day.
- (12) Dayroom - A secure area directly adjacent to inmate living area, to which inmates may be admitted for activities such as bathing, exercise, recreation and dining. Spaces originally designed for circulation, such as corridors, are not dayrooms.
- (13) Detainee - A person confined in a local facility not serving a sentence for a criminal offense.
- (14) Detainer - A writ or instrument, issued or made by a competent officer, authorizing the keeper of a prison/jail to keep in his custody a person therein named.
- (15) Detention - The confinement of an inmate in a secure area (usually pretrial inmates).
- (16) Detention Facility - A confinement facility, usually operated by a local law enforcement agency, which holds persons detained pending adjudication and/or persons committed after adjudication.
- (17) Detention Officer – A person who is employed or authorized to detain or guard inmates.
- (18) Disciplinary Action - An action taken upon an inmate that is intended to correct or punish.
- (19) Disciplinary Hearing - A non-judicial administrative procedure to determine if substantial evidence exists to find an inmate guilty of a rule violation.
- (20) Disciplinary Report - An account, or announcement that is prepared, presented or delivered, usually in formal or organized form based on the possibility of a rule violation.
- (21) Disciplinary segregation – A form of separation from the general population in which inmates who committed serious violations of conduct regulations are confined for short periods of time to individual cells separated from the general population by the disciplinary committee or other authorized group. Placement in disciplinary detention may only occur after a finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate's behavior.
- (22) Document - To support with written sources.
- (23) Due Process Guarantees – Those procedures that ensure just, equal, and lawful treatment of an individual involved in all stages of the criminal justice system, such as a notice of allegations, impartial and objective fact finding, a written record of the proceedings, a statement of any disposition ordered with the reasons for it, and the right to confront accusers, call witnesses, and present evidence.
- (24) Existing Facility - Detention facility built prior to or during the month of June 2000.
- (25) Facility Administrator - An official who has primary responsibility for managing and operating a local detention facility.
- (26) Flushable Drain - A pipe or channel which is cleaned by a rapid, brief gush of water.
- (27) Foot-candle - A unit for measuring the intensity of illumination; the amount of light thrown on a surface one foot away from the light source.

- (28) Furnishings – Applies to all living quarters. Includes draperies, curtains, furniture, mattresses and bedding, upholstered or cushioned furniture, wastebaskets, decorations, and similar materials that can burn.
- (29) General Population - A group of individuals confined in an institution who have no institutional restrictions on them, such as segregation.
- (30) Grievance/Grievance Process – A circumstance or action considered to be unjust and grounds for complaint or resentment and/or a response to that circumstance in the form of a written complaint filed with the appropriate body.
- (31) Health/Medical Screen – A structured inquiry and observation to prevent newly-arrived offenders who pose a health and safety threat to themselves or others from being admitted to the general population and to identify offenders who require immediate medical attention. The screen can be initiated at the time of admission by health care personnel or by a health-trained correctional officer.
- (32) Housing Area - A high-security, medium-security, or low-security cell or room, excluding holding, detoxification, infirmary, and segregation cells or rooms.
- (33) Informed Consent – The agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts regarding the nature, consequences, risks, and alternatives concerning the proposed treatment, examination, or procedure.
- (34) Inmate – A person, whether in pretrial, un-sentenced, or sentenced status, who is confined in a correctional facility.
- (35) In-Service Training - Training which is given to an employee on an annual basis to reinforce or add to his basic training.
- (36) Jail - A confinement facility, usually operated by a local law enforcement agency, which holds persons detained pending adjudication and/or persons committed after adjudication. Jails, while intended for the confinement of adults, may also confine juveniles.
- (37) Jailer – A person who is charged by an institution to detain or guard inmates.
- (38) Library Service – A service that provides reading materials for convenient use; circulation of reading materials; service to help provide users with library materials, educational and recreational materials, or a combination of these services.
- (39) Medical Records - Records of medical examinations and diagnoses maintained by the responsible medical provider for each inmate separate from the inmate's file. Medical records shall include the date and time of the medical examination and copies of standing or direct medical orders from the physician.
- (40) Medication Receipt System - A method that accounts for the administering of medications.
- (41) Menu Pattern - The outline of food items to be included in each meal.
- (42) Monitor - To keep watch over, supervise.
- (43) New Facility - Detention facility built after June 2000.

- (44) Physical Force - Any use of firearms, chemical agents, clubs or other devices in controlling an inmate. Also, any situation which requires an officer to "lay hands" on an inmate or physical force used which subjects an inmate to pain, discomfort or physical incapacitation.
- (45) Physical Plant - A building, set of buildings, portion of a building, or area that is used for the lawful custody and/or treatment of individuals.
- (46) Plan of Action – A written plan that will eliminate or correct deficiencies noted in the annual inspection.
- (47) Potentially Hazardous Food - Any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. Does not include clean, whole, uncracked, odor-free shell eggs, foods which have a pH level of 4.6 or below, or a water activity (aw) value of 0.85 or less.
- (48) Pre-Service Orientation - Training accomplished prior to assignment of duty, which is intended to familiarize new employees with the operations of the particular jail to which they are to be assigned.
- (49) Preventative Maintenance – A system designed to enhance the longevity and/or usefulness of buildings or equipment in accordance with a planned schedule.
- (50) Range of Sanctions - The various penalties for noncompliance of rules specified by the facility administrator.
- (51) Receiving Area - The point of inmate entry into a jail or detention facility where an inmate undergoes admission processing, which may include orientation and initial classification prior to regular assignment to the housing area.
- (52) Receiving Screening - An observation/initial health assessment to identify newly-arrived inmates who pose a health or safety threat to themselves or others.
- (53) Regular Access - The documented number of hours an inmate may utilize additional living space available as described by facility policy.
- (54) Sally Port - An enclosure situated either in the perimeter wall or fence of the facility or within the interior of the facility, containing gates or doors at both ends, only one of which opens at a time. This method of entry and exit ensures there will be no breach in the perimeter or interior security of the facility.
- (55) Security Devices - Locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers used to confine and control inmates. Also, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supply, and other equipment used to maintain facility safety.
- (56) Security Perimeter - Outer portions of a facility which provide for secure confinement of inmates. This perimeter may vary for individual facilities, depending upon their security classification.
- (57) Segregation – Confinement of an inmate to an individual cell separated from the general population.

- (58) Sick Call - A function which provides inmates the opportunity to receive required medical attention.
- (59) Strip Search – Examination of an inmate's naked body for weapons, contraband, and physical abnormalities and includes a thorough search of all of the individual's clothing while it is not being worn.
- (60) Structural Projections - Some part of the construction that protrudes with sharp or pointed edges.
- (61) Trusty - An inmate, usually in a minimum security classification, who is responsible for performing various maintenance tasks under supervision in a jail.
- (62) Type I Facility – A detention facility housing primarily adults for more than seventy-two (72) hours.
- (63) Type II Facility – A detention facility housing primarily adults for not more than seventy-two (72) hours.
- (64) Type III Facility – A detention facility where persons are detained between one (1) and twelve (12) hours and does not include detention facilities used primarily for fingerprinting, photographing, interviewing or interrogating.
- (65) Unencumbered Space – Usable space that is not encumbered by furnishings or fixtures. In determining unencumbered space in the area, the total square footage is obtained and the square footage of fixtures and equipment is subtracted. All fixtures and equipment must be in operable position.
- (66) Work Stoppage - A halt by those employed by the facility; usually refers to a strike.
- (67) Workhouse - A county detention facility operated by or for a county which holds primarily sentenced, minimum security inmates.
- (68) Working Inmate – An inmate who has been screened, selected, and assigned to a formal jail work program (occurring within the security area of the jail, or external to the jail). This includes those inmates who are taken out by various persons/agencies to work offsite (for example, a county employee comes to the jail each day to take a group of inmates to work at a recycling center).

Authority: T.C.A. § 41-4-140.

1400-01-.04 Physical Plant.

- (1) All types of facilities shall meet the following requirements:
 - (a) New and existing facilities shall have, on average, lighting of at least twenty (20) foot-candles in activity areas to be measured three (3) feet off the floor.
 - (b) New and existing facilities shall have forced air ventilation in sleeping and activity areas.
 - (c) New facilities shall have access to natural light in sleeping and activity areas.
 - (d) New and existing facilities shall have a temperature of not less than sixty-five (65) degrees Fahrenheit and not more than eighty (80) degrees Fahrenheit in sleeping and activity areas.

- (e) New facilities shall have lighting of not less than five (5) average foot-candles in sleeping areas to be measured three (3) feet off the floor.

Applies to Types I, II, and III.

- (2) In new and existing facilities, the minimum size of a single-occupancy cell shall be thirty-five (35) square feet of clear floor space with a ceiling height of not less than eight (8) feet. At least seventy (70) square feet of total floor space shall be provided when the occupant is confined for more than ten (10) hours per day. All dimensions of cell length and width for both single and multiple-occupancy cells shall allow for a reasonable amount of usable floor space for any in-cell activities of inmates. Each cell shall contain a bunk, water closet and lavatory. Any questions pertaining to sufficiency of cell dimensions shall be decided by the Tennessee Corrections Institute.

Applies to Types I, II, and III.

- (3) In new and existing facilities, the minimum size of a multiple-occupancy cell (2-64 occupants) shall be twenty-five (25) square feet of clear floor space for each occupant in the sleeping areas, with a ceiling elevation of not less than eight (8) feet. At least thirty-five (35) square feet of clear floor space shall be provided for each occupant when the occupant is confined for more than ten (10) hours per day.

Applies to Types I, II, and III.

- (4) In new jails and workhouses, dormitories shall be designed to accommodate not more than sixty-four (64) persons. A minimum of twenty-five (25) square feet of clear floor space for each inmate must be provided in the housing area with a ceiling elevation of not less than eight (8) feet.

In existing jails and workhouses, dormitories shall provide not less than twenty-five (25) square feet of floor space per occupant, exclusive of the area occupied by bunks, and a ceiling height of not less than eight (8) feet. If an inmate who occupies a dormitory has regular access to additional living areas, the additional area may be added on a pro rata basis to the square footage available to an inmate.

A dayroom is required with thirty-five (35) square feet per inmate for the maximum number of users at one time.

Applies to Type I.

- (5) New facilities shall have a dayroom for each cell block or cluster of cells, which has a minimum of thirty-five (35) square feet of floor space per inmate.

Existing facilities are not required to provide dayrooms.

Applies to Type I.

- (6) Inmates, including those in medical housing units or infirmaries, shall have access to toilets and washbasins with temperature-controlled hot and cold running water twenty-four (24) hours per day. All facilities shall provide operable toilets and washbasins to inmates on a ratio of at least one (1) toilet and washbasin to every twelve (12) male inmates and one (1) toilet and washbasin for every eight (8) female inmates and one (1) toilet and washbasin accessible to occupants of any single-occupancy cell without their having to leave their cell. Urinals may be substituted for up to one-half of the toilets in male facilities. Inmates shall be able to use toilet facilities without staff assistance when

they are confined in their cells/sleeping areas. All new facilities constructed after January 1, 2015 shall be required to provide an unbreakable toilet, washbasin or water closet in maximum security areas.

Applies to Types I, II, and III.

- (7) Jails shall have at least one (1) operable shower for every sixteen (16) inmates, which shall be accessible to inmates without their having to leave their cell block.

Workhouses shall have at least one (1) operable shower for every sixteen (16) inmates, which shall be accessible to inmates on a daily basis.

Applies to Types I, and II.

- (8) New facilities shall have at least one (1) single cell for the separation and control of problem inmate(s). The cell shall conform to the single-occupancy cell dimensions and shall have, at a minimum:

- (a) High security light fixture;
- (b) Unbreakable water closet and lavatory with control valve located outside the cell;
- (c) Forced air ventilation; and,
- (d) Concrete bed, a minimum of twelve (12) inches off of the floor and no higher than sixteen (16) inches off of the floor, with rounded edges.

The cell shall contain no structural projections or furnishings that would allow the inmate to harm himself/herself. The cell shall be located to allow continuous monitoring by detention officers.

Applies to Types I, II, and III.

- (9) (a) All facilities shall have at least one (1) special purpose cell for males and one (1) special purpose cell for females to provide for the temporary detention of persons under the influence of intoxicants. The special purpose cells shall conform to multiple-occupancy cell dimensions and capacity. These cells shall have, at a minimum:
- 1. Flushable drain or unbreakable water closet and lavatory;
 - 2. High security light fixture;
 - 3. Forced air ventilation; and,
 - 4. No structural projections.
- (b) New facilities shall also provide a concrete bed in the special purpose cell, a minimum of twelve (12) inches off of the floor and no higher than sixteen (16) inches off of the floor with rounded edges.
- (c) In new facilities, this cell shall be located so as to allow continuous monitoring by detention officers.
- (d) The requirement for one (1) special purpose cell applies only to facilities that have construction plans reviewed and approved by the Tennessee Corrections

Institute after June 1, 2000. The requirement for two (2) special purpose cells applies to plans reviewed and approved after January 1, 2015.

Applies to Types I, II, and III.

- (10) New facilities shall provide space inside the security perimeter, separate from inmate living areas and administrative offices, for inmate processing as inmates are received and discharged from the facility. This space shall have the following components:
- (a) Pedestrian and/or vehicle sally port;
 - (b) Telephone facilities for inmate use;
 - (c) Temporary holding rooms which have fixed benches to seat inmates; and,
 - (d) A shower, toilet and washbasin.

Existing facilities shall provide space where inmates are received, searched, showered, and issued clothing (if provided by the facility) prior to assignment to the living quarters.

Applies to Types I and II.

- (11) Provisions shall be made for a visiting area which shall allow each inmate at least one (1) hour of visitation each week.

Applies to Type I.

- (12) Provisions shall be made for a private interview room for the use of attorneys and for interrogation of inmates by law enforcement agencies.

Applies to Types I, II, and III.

- (13) New facilities shall have at least one (1) multi-purpose room for conducting programs and for inmate exercise.

Applies to Type I.

- (14) New facilities shall provide a secure outdoor recreation area with dimensions of at least nine hundred (900) square feet. Covered/enclosed exercise areas in facilities where less than one hundred (100) inmates utilize one recreation area shall have fifteen (15) square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than five hundred (500) square feet of unencumbered space.

Applies to Type I.

- (15) Facilities shall have space where a physician may conduct sick call, examine patients in privacy and render routine medical treatment.

Applies to Types I, II, and III.

- (16) Facilities shall have a secure control center, manned twenty-four (24) hours per day, through which telephone and other communications are channeled. The location of the control center shall provide good visibility or be equipped with a monitoring device. The control center shall monitor the operation of various systems, including fire alarm, smoke and thermal detection, public address, radio and other mechanical and electrical systems as warranted.

Applies to Types I, II, and III.

- (17) Access to potable water shall be located in all housing areas. In existing facilities, if the water from washbasins is potable, drinking cups must be made available.

Applies to Types I, II, and III.

- (18) Facilities shall have an emergency power source of sufficient capacity to operate security and evacuation electrical devices and equipment and to provide minimum lighting within the facility and its perimeter at times of power failure. The power source shall be checked for functional readiness quarterly and the dates logged.

Applies to Types I, II, and III.

- (19) Facilities shall provide that any electric locks have the capability for manual operation.

Applies to Types I, II, and III.

- (20) Facilities shall have exit signs at each exit which are distinctly marked and continuously illuminated. Exits shall be kept clear and in usable condition to insure the timely evacuation of inmates and staff in the event of fire or other emergency.

Applies to Types I, II, and III.

- (21) Facilities shall have documentation of compliance with applicable sanitation and fire safety standards.

Applies to Types I, II, and III.

- (22) All kitchens, dining rooms, multiple toilet areas and corridors shall contain operable floor drains.

Applies to Types I, II, and III.

- (23) Facilities shall have cells to accommodate the facility's classification plan. Facilities that house males and females, and juveniles and adults shall have provisions to separate accordingly. Such provisions shall not allow physical contact or sight and sound communication. Provisions shall also be made to separate minimum, medium, and maximum security inmates.

Applies to Types I, II, and III.

- (24) Plans for any new facility to be built and for any existing facility to be renovated shall be in compliance with minimum standards recorded herein and be submitted to the Tennessee Corrections Institute for review and the State Fire Marshal's Office for review and approval pursuant to Tenn. Comp. R. & Regs 0780-02-03.

Plans for the construction of any new facility and the renovation of any existing facility shall state whether the facility's function will be for temporary holding or for permanent confinement of inmates. The facility's primary function may encompass both of these functions.

A plan for operating the facility shall be developed in the initial stages of planning the facility so that the facility can be designed around the operating plan, rather than the

reverse. This approach will contribute to the simplification of design and effective use of operating controls.

Applies to Types I, II, and III.

- (25) Any temporary inmate housing shall meet all standards for existing facilities. Temporary housing for inmates shall not be in use for more than eighteen (18) months unless an extension is approved by the Tennessee Corrections Institute Board of Control.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.05 Administration/Management.

- (1) Facilities shall maintain fiscal records which clearly indicate the total cost for operating the facility according to generally accepted accounting principles. Such records shall have an itemized breakdown of the total operating expenses, such as wages and salaries, food, and operating supplies.

Applies to Types I, II, and III.

- (2) Facilities shall maintain written policies and procedures governing the facility's operations. The policies and procedures shall be reviewed at least annually and updated as needed. These policies and procedures shall be approved by the sheriff, chief, or warden and shall be made available to all facility employees.

Applies to Types I, II, and III.

- (3) Facilities shall maintain written plans developed in advance for dealing with emergencies such as escape, inmate disturbances, assaults on facility employees, hostage taking, and emergency evacuation plans. The written plans shall be incorporated into the facility's manual. Each facility employee shall be familiar with these plans.

Applies to Types I, II, and III.

- (4) Facilities shall maintain a written policy and procedure to provide for fire drills every three (3) months for all staff members on every shift and document dates of said drills.

Applies to Types I, II, and III.

- (5) Facility administrators shall develop a list of articles and materials that shall be allowed in the cell area. Inmates shall be informed of this list upon admission.

Applies to Types I and II.

- (6) Facilities shall have a written and graphic evacuation plan posted in the housing area, as well as any other specified locations. The plan shall be approved by a contractor or local fire inspector trained in the application of fire safety codes and shall be reviewed annually.

Applies to Types I, II, and III.

- (7) Written policy and procedure shall ensure that inmates shall not be subjected to discrimination based on race, national origin, color, creed, sex, economic status or

political belief. When both males and females are housed in the same facility, available services and programs shall be comparable.

Applies to Types I and II.

- (8) A facility preventative maintenance program shall be in place. All equipment shall be in working order. Safety and security equipment shall be repaired or replaced without undue delay. The use of padlocks and/or chains to secure inmate cells or housing area doors is prohibited.

Applies to Types, I, II, and III.

- (9) Each facility relying on regular access to additional living space to comply with minimum cell size requirements under Tenn. Comp. R. & Regs. 1400-01-.04 shall maintain a written policy regarding the number of hours of access to additional living space outside an inmate's cell that inmates will be allowed. This policy should take into consideration any relevant factors regarding inmates, including but not limited to inmate classifications. Records shall be maintained on the number of hours per day inmates have access to additional living areas in such facilities.

Applies to Types I and II.

- (10) Facilities shall provide an inmate grievance procedure to all inmates. The grievance procedure must include at least one (1) level of appeal.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.06 Personnel.

- (1) A criminal record check shall be conducted on all new facility employees, service providers with continuous access to restricted areas, contractors, and volunteers prior to their assuming duties to identify if there are criminal convictions that have a specific relationship to job performance. This criminal record check includes comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matter with potential terrorism connections is returned on the person, this information shall be forwarded to the local Joint Terrorism Task Force (JTTF) or other similar agency.

Applies to Types I, II, and III.

- (2) Facilities shall develop a personnel policy manual made available to each employee, and which provides information on the following subjects:

- (a) Description of organizational structure;
- (b) Position descriptions;
- (c) Personnel rules and regulations;
- (d) Recruitment procedures;
- (e) Equal employment opportunity provisions;
- (f) Work hours;
- (g) Personnel records;
- (h) Employee evaluation;
- (i) In-Service training;
- (j) Hostage policy; and,
- (k) Use of force.

Applies to Type I.

- (3) Prior to assuming duties, all detention facility employees, support employees and non-facility support staff shall receive orientation training regarding the functions and mission of the facility under the supervision of a qualified detention officer. This training may be accomplished through classroom instruction, supervised on-the-job training, an individual review of policies and procedures, or any combination of the three and shall include:

- (a) Facility policies and procedures;
- (b) Suicide prevention;
- (c) Use-of-force;
- (d) Report writing;
- (e) Inmate rules and regulations;
- (f) Key control;
- (g) Emergency plans and procedures;

- (h) Cultural diversity;
- (i) Communication skills; and,
- (j) Sexual misconduct.

Applies to Types I, II, and III.

- (4) A Facility Training Officer (FTO) shall coordinate the staff development and training program. This person shall have specialized training for that position (assigned as a primary or additional duty). The FTO shall complete the Training the Trainer (3T) course and attend the annual FTO Conference conducted by the Tennessee Corrections Institute.

Applies to Types I, II, and III.

- (5) All support employees who have minimal inmate contact shall receive at least sixteen (16) hours of facility training during their first year of employment. All employees in this category shall receive an additional sixteen (16) hours of facility training each subsequent year of employment.

Applies to Types I, II, and III.

- (6) All non-facility support staff who have regular or daily inmate contact, shall receive a minimum of four (4) hours continuing annual training, which may include:

- (a) Security procedures and regulations;
- (b) Supervision of inmates;
- (c) Signs of suicide risk;
- (d) Suicide precautions;
- (e) Use-of-force regulations and tactics;
- (f) Report writing;
- (g) Inmate rules and regulations;
- (h) Key control;
- (i) Rights and responsibilities of inmates;
- (j) Safety procedures;
- (k) All emergency plans and procedures;
- (l) Interpersonal relations;
- (m) Social/cultural lifestyles of the inmate population;
- (n) Cultural diversity;
- (o) CPR/first aid;
- (p) Counseling techniques;
- (q) Sexual harassment/sexual misconduct awareness;
- (r) Purpose, goals, policies, and procedures for the facility and the parent agency;

- (s) Security and contraband regulations;
- (t) Appropriate conduct with inmates;
- (u) Responsibilities and rights of employees;
- (v) Universal precautions;
- (w) Occupational exposure;
- (x) Personal protective equipment;
- (y) Bio-hazardous waste disposal; and,
- (z) Overview of the correctional field.

Applies to Types I, II, and III

- (7) All detention facility employees, including part-time employees, whose primary duties include the industry, custody, or treatment of inmates shall be required during the first year of employment to complete a basic training program consisting of a minimum of forty (40) hours and provided or approved by the Tennessee Corrections Institute.

Applies to Types I, II, and III.

- (8) All detention facilities employees, including part-time employees, whose primary duties include the industry, custody, or treatment of inmates shall be required to complete an annual in-service program designed to instruct them in specific skill areas of facility operations. This annual in-service shall consist of forty (40) hours with at least sixteen (16) of these hours provided or approved by the Tennessee Corrections Institute. The remaining twenty-four (24) hours may be provided by the facility if course content is approved and monitored by the Tennessee Corrections Institute.

Applies to Types I, II, and III.

- (9) A minimum number of hours of training and any additional courses for basic and in-service training shall be in compliance with the requirements established by the Tennessee Corrections Institute Board of Control.

Applies to Types I, II, and III.

- (10) All facility employees who are authorized to use firearms and less lethal weapons shall receive basic and ongoing in-service training in the use of these weapons. Training shall include decontamination procedures for individuals exposed to chemical agents. All such training shall be recorded with the dates completed and kept in the employee's personnel file.

Applies to Types I and II.

- (11) Facilities shall maintain records on the types and hours of training completed by each correctional employee, support employee and non-facility support staff.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.07 Security.

- (1) Each newly admitted inmate shall be thoroughly searched for weapons and other contraband immediately upon arrival in the facility, regardless of whether the arresting officer previously conducted a search.

Applies to Types I and II.
- (2) A record shall be maintained on a search administered to a newly admitted inmate.

Applies to Types I and II.
- (3) Facilities shall maintain policy and procedures to require that all inmates, including trustees, shall be searched thoroughly by detention officers when the inmates enter and leave the security area.

Applies to Type I.
- (4) Facilities shall maintain a written policy and procedure to provide for searches of the facilities and inmates to control contraband.

Applies to Type I.
- (5) Procedure shall differentiate between the searches allowed (orifice, pat, or strip) and identify when these shall occur and by whom such searches may be conducted. All orifice searches shall be done under medical supervision. Inmates shall be searched by facility employees of the same sex, except in emergency situations.

Applies to Types I, II, and III.
- (6) Facilities shall maintain a written policy and procedure for key control, including the inventory and use of keys, and the operator of the control center shall have knowledge of who has the keys in use and the location of duplicate keys. All day-to-day operations shall be centralized and controlled through the control center.

Applies to Types I.
- (7) There shall be one (1) full set of well-identified keys, other than those in use, secured in a place accessible only to facility personnel for use in the event of an emergency. These keys shall be easily identifiable by sight and touch under adverse conditions.

Applies to Types I.
- (8) Written policy and procedures shall govern the availability, control, inventory, storage, and use of firearms, less-lethal weapons, and related security devices, and specify the level of authority required for their access and use. Chemical agents and electrical disablers shall be used only with the authorization of the facility administrator or designee. Access to storage areas shall be restricted to authorized facility employees and the storage space shall be located in an area separate from and apart from inmate housing or activity areas. A written report shall be submitted to the facility administrator when such weapons are used.

Applies to Types I, II, and III.
- (9) Facilities shall develop a written policy and procedure to require that firearms, chemical agents, and related security and emergency equipment are inventoried and tested at least quarterly to determine the condition and expiration dates. This written policy and procedure shall provide for regular inspection of ABC type fire extinguishers, smoke detectors, and other detection and suppression systems.

Applies to Types I, II, and III.

- (10) All tools, toxic, corrosive and flammable substances and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area. Tools, supplies and equipment which are particularly hazardous shall be used by inmates only under direct supervision.
- Applies to Types I and II.
- (11) Facilities shall develop a written policy and procedure to require at least weekly inspection of all security facilities and documentation of the dates of inspections.
- Applies to Types I and II.
- (12) Facilities shall develop a written policy and procedure to provide for continuous inspection, inventory, and maintenance of all locks, tools, kitchen utensils, toxic, corrosive, and flammable substances and other potentially dangerous supplies and equipment.
- Applies to Type I.
- (13) Facilities shall develop a written plan that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available to all supervisory personnel who are required to familiarize themselves with it.
- Applies to Type I.
- (14) Detention officer posts shall be located in close proximity to inmate living areas to permit officers to see or hear and respond promptly to emergency situations. There shall be written orders for every detention officer duty and post.
- Applies to Types I, II, and III.
- (15) The facility administrator or designee shall visit the facility's living and activity areas at least weekly.
- Applies to Types I, II, and III.
- (16) The facility perimeter shall ensure that inmates are secured and that access by the general public is denied without proper authorization.
- Applies to Types I, II, and III.
- (17) All inmate movement from one area to another shall be controlled by facility employees.
- Applies to Types I, II, and III.
- (18) Facility employees shall maintain a permanent log and prepare shift reports that record routine information, emergency situations, and unusual incidents.
- Applies to Types I, II, and III.
- (19) Facilities shall have sufficient staff, including designated supervisor, to provide, at all times, the performance of functions relating to the security, custody, and supervision of inmates as needed to operate the facility in conformance with the standards.
- Applies to Types I, II, and III.
- (20) Restraint devices shall never be applied as punishment. Facilities shall define circumstances under which supervisory approval is needed prior to application.
- Applies to Types I, II, and III.

- (21) Four/five-point restraints shall be used only in extreme instances and only when other types of restraints have proven ineffective. Advance approval shall be secured from the facility administrator/ designee before an inmate is placed in a four/five-point restraint. Subsequently, the health authority or designee shall be notified to assess the inmate's medical and mental health condition, and to advise whether, on the basis of serious danger to self or others, the inmate should be in a medical/mental health unit for emergency involuntary treatment with sedation and/or other medical management, as appropriate. If the inmate is not transferred to a medical/mental health unit and is restrained in a four/five-point restraint, the following minimum procedures shall be followed:
- (a) Continuous direct visual observation by facility employees prior to an assessment by the health authority or designee;
 - (b) Subsequent visual observation is made at least every fifteen (15) minutes;
 - (c) Restraint procedures are in accordance with guidelines approved by the designated health authority; and
 - (d) Documentation of all decisions and actions.

Applies to Types I, II, and III.

- (22) The use of firearms shall comply with the following requirements:
- (a) A written policy and procedure that governs the availability, control, and use of chemical agents and firearms;
 - (b) Firearms, chemical agents, and related security and emergency equipment are inventoried and tested at least quarterly;
 - (c) Weapons are subjected to stringent safety regulations and inspections;
 - (d) A secure weapons locker is located outside the secure perimeter of the facility;
 - (e) Except in emergency situations, firearms and authorized weapons are permitted only in designated areas to which inmates have no access;
 - (f) Facility employees supervising inmates outside the facility perimeter follow procedures for the security of weapons;
 - (g) Facility employees are instructed to use deadly force only after other actions have been tried and found ineffective, unless the employee believes that a person's life is immediately threatened;
 - (h) Facility employees on duty use only firearms or other security equipment that has been approved by the facility administrator;
 - (i) Appropriate equipment is provided to facilitate safe unloading and loading of firearms; and,
 - (j) A written report shall be submitted to the facility administrator when such weapons are used.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.08 Discipline.

- (1) Facilities shall maintain policies and procedures to insure that written or electronic facility rules along with the corresponding range of sanctions for rule violations and disciplinary procedures to be followed shall be provided to each inmate during the booking process prior to being placed into the general population. A record shall be maintained of this transaction. Socially, mentally, or physically impaired inmates shall be assisted by facility employees in understanding the rules. The rules and regulations shall be available for viewing during confinement and shall be translated into those languages spoken by a significant number of inmates.

Applies to Type I.

- (2) Disciplinary reports shall be prepared by facility employees and must include, but are not limited to, the following information:
 - (a) Names of persons involved;
 - (b) Description of the incident;
 - (c) Specific rule(s) violated;
 - (d) Employee or inmate witnesses;
 - (e) Any immediate action taken, including use of force; and,
 - (f) Reporting staff member's signature, date and time report is made.

Applies to Type I.

- (3) Facilities shall maintain written policies and procedures governing disciplinary actions, administrative actions, and criminal offenses. Each county is required by T.C.A § 41-2-111 to have a disciplinary review board.

Applies to Type I.

- (4) Facilities shall maintain written policies and procedures to provide for disciplinary hearings to be held in cases of alleged violations of inmate conduct rules. Hearings shall include the following administrative due process guarantees:
 - (a) Inmates shall receive written notice of charges and time of hearing;
 - (b) The inmate shall be allowed time, not less than twenty-four (24) hours, to prepare for appearance before an impartial officer or board;
 - (c) The inmate shall have the right to call and cross examine witnesses and present evidence in his own defense, when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals;
 - (d) An inmate may be excluded during testimony. An inmate's absence or exclusion shall be documented;
 - (e) The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing officer;
 - (f) There must be a written statement by the fact finders to include, at a minimum, evidence relied on and reasons for the disciplinary action; and,
 - (g) Appeals process is available.

Applies to Type I.

- (5) Facilities shall maintain a written policy and procedure to allow inmates to receive a hearing prior to segregation, except in cases where the security of the facility is threatened, as determined by the facility administrator or his/her designee.

Applies to Type I.

- (6) For segregated inmates, a disciplinary hearing must be held within seventy-two (72) hours of placement in segregation, excluding holidays, weekends and emergencies, and for other inmates, a disciplinary hearing must be held within seven (7) days of the write-up.

Applies to Type I.

- (7) The facility shall give the inmate a copy of the disciplinary decision and the facility shall keep a copy of the disciplinary decision in the inmate's record.

Applies to Type I.

- (8) Facilities shall maintain a written policy and procedure to provide that the disciplinary reports are removed from all files on inmates found not guilty of an alleged violation.

Applies to Type I.

- (9) Corporal punishment is not permitted under any circumstance in a disciplinary proceeding.

Applies to Types I, II, and III.

- (10) Use of physical force may be used when authorized and shall be thoroughly documented with detailed account of who was involved, the force that was used, and justification for its use. This report shall be submitted to the facility administrator. Force may be used to:

- (a) Overcome resistance;
- (b) Repel aggression;
- (c) Protect life; and,
- (d) Retake inmate or property.

Applies to Type I.

Authority: T.C.A. § 41-4-140.

1400-01-.09 Sanitation/Maintenance.

- (1) Facilities shall be clean and in good repair. Floors throughout the facility shall be kept clean, dry, and free of any hazardous materials or substance.

Applies to Types I, II, and III.

- (2) A facility employee shall make daily sanitation and safety inspections. Dates of inspections shall be recorded and conditions noted. Any maintenance problems shall be recorded on a regular maintenance report.

Applies to Type I.

- (3) Facilities shall provide for regularly scheduled disposal of liquid, solid, and hazardous material complying with applicable government regulations.

Applies to Type I.

- (4) Facilities shall provide for control of vermin and pests and shall remove inmates from treatment areas if there is a risk of illness.

Applies to Types I, II, and III.

- (5) Inmate housing area walls shall be kept clean and free of pictures or other objects which provide hiding places for vermin or create a fire hazard.

Applies to Type I.

- (6) All walls, ceilings, floors, showers, and toilets shall be kept free from mold and mildew.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.10 Food Services.

- (1) Food service guidelines and a menu pattern approved by a dietician, at least annually, shall be used by each facility in the preparation of meals. Menu evaluations shall be conducted, at least quarterly, by food service supervisory staff to verify adherence to the established basic dietary servings.

Applies to Type I.

- (2) Working inmates shall receive at least three (3) meals every twenty-four (24) hours with no more than fourteen (14) hours between any two (2) meals. At least two (2) of these meals shall be hot. Non-working inmates shall receive at least two (2) meals every twenty-four (24) hours with no more than fourteen (14) hours between any two (2) meals. Variations may be allowed based on weekend and holiday food service demands, as long as basic nutritional goals are met.

Applies to Type I.

- (3) All meals shall be prepared (except when catered) and served under the direct supervision of staff.

Applies to Types I, II, and III.

- (4) Inmates involved in the preparation of the food shall receive an agency-approved pre-assignment medical screening to ensure freedom from illness transmittable by food or utensils. Facilities shall have a policy to insure those currently assigned to food service preparation duties who are identified by food service staff as having an illness or infection shall be removed from those duties.

Applies to Types I, II, and III.

- (5) Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and meal schedule.

Applies to Type I.

- (6) Facilities shall inspect all food service areas on a weekly basis, including dining and food preparation areas and equipment by administrative, medical, or food service personnel.

Applies to Types I, II, and III.

- (7) Written policy shall require that food shall never be used as a reward or disciplinary measure.

Applies to Types I and II.

- (8) Modified diets shall be prepared for inmates when requested by medical staff or by a physician's order, and all reasonable efforts shall be made to accommodate dietary needs of a religion.

Applies to Types I and II.

- (9) Shelf goods shall be maintained between forty-five (45) degrees and eighty (80) degrees Fahrenheit; refrigerated foods between thirty-five (35) degrees and forty (40) degrees Fahrenheit; and frozen foods at zero (0) degrees Fahrenheit or below.

Applies to Types I, II, and III.

- (10) The preparation or storage of open food, other than a reasonable amount of commissary food, shall not be permissible in the immediate housing area.

Applies to Types I, II, and III.

- (11) Refrigerators shall be clean and contain a thermometer.

Applies to Types I, II, and III.

- (12) All food products shall be stored at least six (6) to eight (8) inches off the floor on shelves or in shatter-proof containers with tight fitting lids.

Applies to Types I, II, and III.

- (13) Insecticide, cleaning agents and poisonous substances shall be plainly labeled and stored away from food.

Applies to Types I, II, and III.

- (14) Culinary equipment (knives and other sharp instruments) shall be securely stored, inventoried and their use controlled.

Applies to Types I, II, and III.

- (15) Stoves shall be equipped with operable hooded exhaust systems and the filters shall be kept clean.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.11 Mail and Visiting.

- (1) Facilities shall maintain a written policy outlining the facility's procedures governing inmate mail.

Applies to Type I.

- (2) Facilities shall develop a written policy governing the censoring of mail. Any regulation for censorship must meet the following criteria:

- (a) The regulation must further an important and substantial governmental interest unrelated to the suppression of expression (e.g., detecting escape plans which constitute a threat to facility security and/or the well-being of employees and/or inmates); and,

- (b) The limitation must be no greater than is necessary for the protection of the particular governmental interest involved.

Applies to Type I.

- (3) Both incoming and outgoing mail shall be inspected for contraband items prior to delivery, unless received from the courts, attorney of record, or public officials, where the mail shall be opened in the presence of the inmate.

Applies to Type I.

- (4) Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.

Applies to Type I.

- (5) An inmate shall be notified if a letter addressed to the inmate or written by the inmate is rejected. If the inmate wrote the rejected letter, the inmate must be given a reasonable opportunity to protest the rejection.

Applies to Type I.

- (6) Written policy and procedure shall provide that the facility permits postage for two (2) free personal letters per week for inmates who have less than two dollars (\$2.00) in their account. Facilities shall also provide postage for all legal or official mail.

Applies to Type I.

- (7) Facilities shall maintain a written policy to define the facility's visitation policies which shall include, at a minimum:

- (a) One (1) hour of visitation each week for each inmate;
- (b) A list of possible visitors submitted by each inmate;
- (c) Children shall be allowed to visit their parents;
- (d) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted institutional rules; and,
- (e) Probable cause shall be established in order to perform a strip or body cavity search of a visitor. When probable cause exists, the search shall be documented.

Applies to Type I.

Authority: T.C.A. § 41-4-140.

1400-01-.12 Inmate Programs And Activities.

- (1) Library services shall be made available to all inmates.

Applies to Type I.

- (2) Inmates shall have access to exercise and recreation opportunities. A written plan shall provide that all inmates have the opportunity to participate in an average of one (1) hour of physical exercise per day outside the cell. Outdoor recreation may be available when weather and staffing permit.

Applies to Type I.

- (3) Written policy and procedure requires that the facility shall provide for inmates to voluntarily participate in religious activity at least once each week.

Applies to Type I.

- (4) Policy and procedure shall provide that the inmates have reasonable access to a telephone. Telephone procedure, including any limitations, shall be in writing and posted so as to be conspicuous to inmates. The procedure shall include, at a minimum:
- (a) The hours during which such access shall generally be provided;
 - (b) A statement regarding the privacy of telephone communication; and,
 - (c) Inmates with hearing and/or speech disabilities shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control shall be made available to inmates with a hearing impairment. Information regarding the availability of TDD communication devices shall be posted. Inmates with hearing and/or speech impairments shall be afforded access similar to those inmates without impairments.

Applies to Types I, II, and III.

- (5) Release programs shall require:
- (a) Written operational procedures;
 - (b) Careful screening and selection procedures;
 - (c) Written rules of inmate conduct;
 - (d) A system of supervision to minimize inmate abuse of program privileges;
 - (e) A complete record-keeping system;
 - (f) A system for evaluating program effectiveness; and,
 - (g) Efforts to obtain community cooperation and support.

Applies to Type I.

- (6) Written policy shall provide that inmates be allowed to have confidential access to attorneys and their authorized representatives at any reasonable hour.

Applies to Types I, II, and III.

- (7) Inmates shall have unrestricted and confidential access to the courts. Inmates shall have the right to present any issue before a court of law or governmental agency. The facility shall establish reasonable hours during which attorneys may visit and/ or telephonically communicate. Inmates shall have access to legal materials.

Applies to Types I, II, and III.

- (8) Written policy shall provide that pretrial detainees shall not be required to work, except to do personal housekeeping.

Applies to Types I and II.

- (9) Foreign nationals shall have access to the diplomatic representatives of their country of citizenship through the State Department consular notification protocols and contact information.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.13 Medical Services.

- (1) The provision of medical services for the facility shall be the responsibility of a designated health authority such as a hospital, clinic, or physician. There shall be an agreement between the governmental funding agency responsible for the facility and the hospital/clinic/physician responsible for such services. The designated health authority must be notified in instances where an inmate may be in need of medical treatment and the facility shall document this notification. The health authority shall meet with the Sheriff and/ or facility administrator at least annually.

Applies to Types I, II, and III.

- (2) Medical decisions are the sole province of the responsible health care provider and shall not be countermanded by non-medical personnel.

Applies to Types I, II, and III.

- (3) All health care professional staff shall comply with applicable state and federal licensure, certification, or registration requirements. Verification of current credentials shall be available upon request from the provider. Health care staff shall work in accordance with profession-specific job descriptions approved by the health authority. If inmates are assessed or treated by non-licensed health care personnel, the care shall be provided pursuant to written standing or direct orders by personnel authorized to give such orders.

Applies to Type I, II, and III.

- (4) Continuity of care is required from admission to transfer or discharge from the facility, including referral to community-based providers, when indicated. When health care is transferred to providers in the community, appropriate information shall be shared with the new providers in accordance with consent requirements. Prior to release from custody or transfer, inmates with known serious health conditions shall be referred to available community resources by the facility's health care provider currently providing treatment.

Applies to Types I, II, and III.

- (5) Written policy and procedure shall prohibit inmates from performing patient care services, scheduling health care appointments or having access to medications, health records or medical supplies and equipment.

Applies to Type I.

- (6) First aid kits shall be available and a physician shall approve the number, contents, and location of such kits on an annual basis. Documentation of such approval must be in the facility's permanent records or attached to the kit itself.

Applies to Types I, II, and III.

- (7) Receiving screening shall be performed on all inmates upon admission to the facility and before placement in the general housing area. The findings shall be recorded on a printed screening form. The officer performing this duty shall check for:

- (a) A serious illness;

- (b) A comatose state;
- (c) Obvious wounds;
- (d) Prescribed medications; and,
- (e) Suicide risk assessment, including suicidal ideation or history of suicidal behavior or other mental health illness.

Applies to Types I, II, and III.

- (8) A more complete examination shall be completed on inmates within fourteen (14) days of the inmate's initial confinement date. If the facility can document that a health appraisal was conducted within the previous ninety (90) days, this fourteen (14)-day physical is not required unless medical conditions dictate otherwise. This examination shall be performed by a physician or a person who has been designated by a physician as capable of performing such examination. If a designee performs the examination, he/she must do so under supervision of a physician and with a protocol or set of instructions and guidelines from the physician. This examination shall include:

- (a) Inquiry into current illness and health problems, including those specific to women;
- (b) Inquiry into medications taken and special health requirements;
- (c) Screening of other health problems designated by the responsible physician;
- (d) Behavioral observation, including state of consciousness and mental status;
- (e) Notification of body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.;
- (f) Condition of skin and body orifices, including rashes and infestations;
- (g) Disposition/referral of inmates to qualified medical personnel on an emergency basis;
- (h) A review of the initial intake receiving screening; and,
- (i) An individual treatment plan as appropriate.

Applies to Type I.

- (9) All intersystem transfer inmates (transferred from one confinement facility to another within the same county's jurisdiction) shall receive a health screening by trained or qualified health care personnel, which commences on their arrival at the facility. All findings are recorded on a screening form approved by the health authority. At a minimum, the screening includes the following:

- (a) A review of the inmate's medical, dental, and mental health problems;
- (b) Current medications; and,
- (c) Current treatment plan.

Applies to Types I, II, and III.

- (10) Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each inmate according to written procedure for sick call. The inmate shall be informed of these procedures, including any copayment requirements,

as well as procedures for submitting grievances, upon admission.

Applies to Types I, II, and III.

- (11) Inmates shall have access to mental health services as clinically warranted in accordance with protocols established by the health authority that include:
- (a) Screening for mental health problems;
 - (b) Referral to outpatient services, including psychiatric care;
 - (c) Crisis intervention and management of acute psychiatric episodes;
 - (d) Stabilization of the mentally ill and prevention of psychiatric deterioration in the facility;
 - (e) Referral and admission to inpatient facilities; and,
 - (f) Informed consent for treatment.

Applies to Types I, II, and III.

- (12) A suicide prevention program shall be approved by the health authority and reviewed by the facility administrator. The program must include specific procedures for handling intake, screening, identifying, and continually supervising the suicide-prone inmate. All facility employees responsible for supervising suicide-prone inmates shall be trained annually on program expectations.

Applies to Types I, II, and III.

- (13) At least one (1) person per shift, assigned to work at the facility, shall be trained in First Aid/CPR, as defined by the American Red Cross, and CPR, as defined by the American Heart Association. Training shall also cover:
- (a) Awareness of potential emergency situations;
 - (b) Transfer to appropriate health care provider;
 - (c) Recognition of symptoms of illness most common to the facility; and,
 - (d) Giving of medication to inmates.

In addition, the health authority shall approve policies and procedures that insure that emergency supplies and equipment are readily available and in working order.

Applies to Types I, II, and III.

- (14) Detoxification from alcohol, opiates, hypnotics, and other stimulants shall be conducted under medical supervision in accordance with local, state, and federal laws. When performed at the facility, detoxification shall be prescribed in accordance with clinical protocols approved by the health authority. Specific criteria shall be established for referring symptomatic inmates suffering from withdrawal or intoxication for more specialized care at a hospital or detoxification center.

Applies to Types I, II, and III.

- (15) Facilities shall provide dental treatments, not limited to extractions, when the health of the inmate would otherwise be adversely affected during confinement, as determined by a physician or dentist.

Applies to Type I.

- (16) Facilities shall confiscate all medications in the possession of an inmate at the time of admission to the facility. The identification of and the need for such medication shall be verified by a physician or qualified health care personnel before it is administered.
- Applies to Types I, II, and III.
- (17) Medications issued to inmates shall be strictly controlled and shall be kept in a secure place within the administrative or medical offices in the facility.
- Applies to Types I and II.
- (18) All medications shall be prescribed by a physician or his designee at the time of use. An officer or qualified health care personnel shall verify that the medication is taken as directed and a medication receipt system established. This shall include controlled drugs and injections.
- Applies to Types I and II.
- (19) Medical and mental health records on the inmate's physical condition on admission, during confinement, and at discharge shall be kept in a separate file from the inmate's other facility records. The medical record shall indicate all medical orders issued by the facility's physician and/or any other health care personnel who are responsible for rendering health care services. These medical records shall be retained for a period of ten (10) years after the inmate's release.
- Applies to Types I, II, and III.
- (20) Informed consent standards of the jurisdiction shall be observed and documented for inmate care in a language understood by the inmate. In the case of minors, the informed consent of a parent, guardian, or a legal custodian applies when required by law. Inmates routinely have the right to refuse medical interventions. When health care is rendered against the inmate's will, it shall be in accordance with state and federal laws and regulations.
- Applies to Types I, II, and III.
- (21) Involuntary administration of psychotropic medication(s) to inmates shall be authorized by a physician and provided in accordance with policies and procedures approved by the health authority, and in accordance with applicable laws and regulations of the jurisdiction.
- Applies to Types I, II, and III.
- (22) The use of inmates in medical, pharmaceutical, or cosmetic experiments is prohibited. This does not preclude inmate access to investigational medications on a case-by-case basis for therapeutic purposes in accordance with state and federal regulations.
- Applies to Types I, II, and III.
- (23) In case of medical emergencies, there shall be specific information readily accessible to all employees, such as telephone numbers and names of persons to be contacted, so that professional medical care can be received. There shall also be available the names and telephone numbers of persons to contact in case of death.
- Applies to Types I, II, and III.
- (24) Inmates suffering from communicable diseases and those who are sick but do not require hospitalization shall be housed separate from other inmates as recommended by health care authorities.
- Applies to Types I, II, and III.
- (25) When an inmate is placed in segregation for health concerns, health care personnel shall

be informed as soon as practical and provide assessment and review as indicated by the protocols established by the health authority.

Applies to Types I and II.

- (26) Medical/dental instruments and supplies (syringes, needles, and other sharp instruments) shall be inventoried, securely stored, and use shall be controlled.

Applies to Types I and II.

- (27) Pregnant inmates shall have access to obstetrical services (prenatal, partum, and post-partum care) by a qualified health care provider.

Applies to Types I and II.

- (28) Inmates with chronic medical conditions, such as diabetes, hypertension, and mental illness shall receive periodic care by a qualified health care provider in accordance with individual treatment plans that include monitoring of medications and laboratory testing.

Applies to Types I, II, and III.

- (29) Information shall be provided to inmates about sexual abuse/assault including:

- (a) Prevention/ intervention;
- (b) Self-protection;
- (c) Reporting sexual abuse/assault; and,
- (d) Treatment and counseling.

This information shall be communicated in writing or electronically, in a language clearly understood by the inmate, upon arrival at the facility.

Applies to Types I, II, and III.

- (30) Sexual conduct between facility employees, volunteers or contract personnel and inmates is prohibited and subject to administrative, disciplinary and criminal sanctions. The prohibition applies regardless of consent.

Applies to Types I, II, and III.

- (31) The health authority shall develop and approve protocols for identifying and evaluating major risk management events related to inmate health care, including inmate deaths, preventable adverse outcomes, and serious medication errors.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.14 Admission, Records And Release.

- (1) An intake form shall be completed for every inmate, except detainees, admitted to the facility and shall contain the following information, unless otherwise prohibited by statute:
- (a) Picture;

- (b) Booking number;
- (c) Date and time of intake;
- (d) Name and aliases of person;
- (e) Last known address;
- (f) Date and time of commitment and authority therefore;
- (g) Names, title, signature and authority therefore;
- (h) Specific charge(s);
- (i) Sex;
- (j) Age;
- (k) Date of birth;
- (l) Place of birth;
- (m) Race;
- (n) Occupation;
- (o) Last place of employment;
- (p) Education;
- (q) Name and relationship of next of kin;
- (r) Address of next of kin;
- (s) Driver's license and social security numbers;
- (t) Disposition of vehicle, where applicable;
- (u) Court and sentence (if sentenced inmate);
- (v) Notation of cash and property;
- (w) Bonding company;
- (x) Amount of bond;
- (y) Date of arrest;
- (z) Warrant number;
- (aa) Court date and time;
- (bb) Cell assignment;
- (cc) Fingerprints; and,
- (dd) Criminal history check.

Applies to Types I, II, and III.

- (2) The admitting officer shall ensure that each inmate received is committed under proper legal authority.

Applies to Types I, II, and III.

- (3) At the time of booking, a telephone shall be available within the receiving or security area. The detainee shall be allowed to complete at least one (1) telephone call to the person of his choice. Pursuant to T.C.A. § 40-7-106(b), no person under arrest by any officer or private citizen shall be named in any book, ledger, or any other record until after the person has successfully completed a telephone call to an attorney, relative, minister, or any other person that the person shall choose, without undue delay. One (1) hour shall constitute a reasonable time without undue delay.

Applies to Types I, II, and III.

- (4) Cash and personal property shall be taken from the inmate upon admission, listed on a receipt form in duplicate, and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate, the duplicate given to the inmate, and the original kept for the record. If the inmate is in an inebriated state, there shall be at least one witness to verify this transaction. As soon as the inmate is able to understand what he is doing, he shall sign and be given the duplicate of the receipt.

Applies to Types I, II, and III.

- (5) Facilities shall maintain custody records on all inmates committed to or assigned to the facility, which shall include but are not limited to the following:

- (a) Intake/ booking information;
- (b) Court generated background information;
- (c) Cash and property receipts;
- (d) Reports of disciplinary actions, grievances, incidents, or crime(s) committed while in custody;
- (e) Disposition of court hearings;
- (f) Records of program participation;
- (g) Work assignments; and,
- (h) Classification records.

Inmates shall have reasonable access to information in their records. Access is only limited due to safety or security concerns for the inmate, other inmates, or the facility.

Applies to Types I, II, and III.

- (6) Written policy and procedure shall ensure that inmate records are current and accurate.

Applies to Types I, II, and III.

- (7) Inmate records shall be safeguarded from unauthorized and improper disclosure.

Applies to Types I, II, and III.

- (8) As part of the inmate accounting system, facilities shall maintain on a daily basis the following information:
- (a) Admissions
 - 1. Adult - Juvenile
 - 2. Male - Female
 - 3. Race
 - 4. Charge
 - (b) Releases
 - 1. Adult - Juvenile
 - 2. Male - Female
 - 3. Race
 - 4. Charge
 - (c) Inmate Population
 - 1. Sentenced - Non-sentenced
 - 2. Adult - Juvenile
 - 3. Male - Female
 - 4. Felons - Misdemeanants
 - 5. Race

Applies to Type I.

- (9) Facilities shall keep records on each inmate specifying:
- (a) Date of confinement;
 - (b) Length of sentence;
 - (c) Reduction of sentences provided by statutes; and,
 - (d) Release date.

Applies to Type I.

- (10) The administrator of a facility or designee shall maintain a record which indicates:
- (a) When an inmate is to be discharged and under what conditions;
 - (b) If any detainers or pending detainers are placed against the inmate and if so, the appropriate authorities to be notified of his/her release date; and,
 - (c) The time when and the authority by which the inmate was released.

Applies to Type I.

- (11) Facilities shall maintain written policy and procedures for releasing inmates from the facility which include, but are not limited to, the following:
- (a) Identification of outstanding warrants, wants, or detainers;
 - (b) If released into the custody of another officer, appropriate credentials must be reviewed;
 - (c) Positive identification of the inmate by the releasing officer;
 - (d) Verification of release papers;
 - (e) Completion of release arrangements, including notification of the parole authorities in the jurisdiction of release, if required;
 - (f) Return of personal property including cash. All items shall be inventoried on a receipt and witnessed by the releasing officer. This receipt shall be kept in the permanent records of the facility;
 - (g) Provision of a listing of available community resources; and,
 - (h) Provision of medication as directed by the health authority.

Applies to Types I, II, and III.

- (12) All inmates released from the facility shall sign a receipt for property, valuables and cash returned at the time of release. All items shall be carefully inventoried on the receipt and witnessed by the releasing officer. The receipt shall be kept in the permanent records of the facility.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.15 Hygiene.

- (1) Inmates shall be issued clothing within a reasonable time frame that is properly fitted and suitable for the climate and shall include the following:
- (a) Clean socks;
 - (b) Clean undergarments;
 - (c) Clean outer garments; and,
 - (d) Footwear.
 - (e) Inmates' personal clothing (if available and clean) may be substituted for institutional clothing at the discretion of the facility administrator.

Applies to Types I and II.

- (2) Provisions shall be made so that inmates can regularly obtain the following minimum hygiene items:
- (a) Soap;
 - (b) Toothbrush;
 - (c) Toothpaste or toothpowder;
 - (d) Comb;

- (e) Toilet paper;
- (f) Hygiene materials for women; and,
- (g) Shaving equipment.
- (h) These items or services shall be made available at the inmate's expense unless the inmate cannot afford to pay, in which case the inmate shall be provided the item or services free of charge.

Applies to Types I and II.

- (3) An inmate commissary may be available by which inmates can purchase approved items that are not furnished by the facility. The commissary operations shall be strictly controlled using standard accounting procedures.

Applies to Types I and II.

- (4) Inmates shall be allowed freedom in personal grooming except when a valid governmental interest justifies otherwise. Arrangements for haircuts shall be made available, at the inmate's expense, on a regular basis. If an inmate cannot afford this service, it shall be provided free of charge.

Applies to Type I.

- (5) Each inmate who is detained overnight shall be provided with the following standard issue:

- (a) One (1) clean fire-retardant mattress in good repair;
- (b) One (1) clean mattress cover;
- (c) If pillows are provided, they shall be fire-retardant and a clean pillowcase shall be provided;
- (d) Sufficient clean blankets to provide comfort under existing temperature conditions; and,
- (e) One (1) clean bath-size towel.

Applies to Types I and II.

- (6) Facilities shall maintain an adequate supply of bedding and towels so that the following laundry or cleaning frequencies may be adhered to:

- (a) Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week;
- (b) All mattresses shall be disinfected quarterly and documented; and,
- (c) Blankets shall be laundered monthly and sterilized before re-issue.

Applies to Type I.

- (7) Inmate clothing, whether personal or institutional, shall be exchanged and cleaned at least twice weekly unless work, climatic conditions or illness necessitate more frequent change.

Applies to Type I.

Authority: T.C.A. § 41-4-140.

1400-01-.16 Supervision Of Inmates.

- (1) All inmates shall be personally observed by a facility employee at least once every hour on an irregular schedule. More frequent observation shall be provided for inmates who are violent, suicidal, mentally ill, intoxicated, and for inmates with other special problems or needs. The time of all such checks shall be logged, as well as the results.

Applies to Types I, II, and III.

- (2) The facility shall have a system to physically count inmates and record the results on a twenty-four (24) hour basis. At least one (1) formal count shall be conducted for each shift.

Applies to Types I, II, and III.

- (3) Incidents which involve or endanger the lives or physical welfare of staff or inmates shall be recorded in a daily log and retained. Incidents shall include, at a minimum:

- (a) Death;
- (b) Attempted suicide;
- (c) Escape;
- (d) Attempted escape;
- (e) Fire;
- (f) Riot;
- (g) Battery on a staff member or inmate;
- (h) Serious infectious disease within facility; and,
- (i) Sexual assault.
 1. An investigation shall be conducted and documented whenever a sexual assault or threat is reported; and,
 2. Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence.

Applies to Types I, II, and III.

- (4) Facilities that are utilized for the confinement of females shall have a trained female officer on duty or on call when a female is confined in the facility, to perform the following functions:

- (a) Searches; and,
- (b) Health and welfare checks.

Applies to Types I, II, and III.

- (5) Inmates shall not be permitted to supervise, control, assume or exert authority over other inmates.

Applies to Type I.

- (6) Nonsmoking inmates shall not be exposed to second-hand smoke.

Applies to Types I, II and III.

Authority: T.C.A. § 41-4-140.

1400-01-.17 Classification

- (1) There shall be a written plan for inmate classification specifying criteria and procedures for classifying inmates in terms of level of custody required, housing assignment and participation in correctional programs. The plan shall include a process for review and appeal of classification decisions.

Applies to Types I, II, and III.

- (2) This plan ensures total sight, sound or physical contact separation between male and female inmates and between adults and juveniles being tried as adults.

Applies to Types I, II, and III.

- (3) Inmates with disabilities, including temporary disabilities, shall be housed and managed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, shall be designed for their use and shall provide for integration with other inmates. Program and service areas shall be accessible to inmates with disabilities.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

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