



An Audit Report on

Inspections and Enforcement at the Commission on Jail Standards

June 2019
Report No. 19-037



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Overall Conclusion

The Commission on Jail Standards (Commission) had processes and related controls to ensure that it conducted inspections and enforced standards in compliance with applicable requirements to help ensure that local jails were safe, secure, and suitable. Specifically, the Commission:

- Conducted annual inspections of local jails to determine compliance with applicable standards.
- Adequately documented and supported each complaint resolution.
- Reviewed and approved reports of serious incidents from local jails.
- Documented jail compliance with standards during inspections.

However, the Commission should strengthen its data management processes for user access and its review of data entered into its databases.

Table 1 on the next page presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Background

The Commission on Jail Standards (Commission) is the regulatory agency for all county jails and privately operated municipal jails in the state. Its mission is to assist local governments in providing safe, secure, and suitable local jail facilities by:

- Establishing reasonable minimum standards for the construction and operation of jails.
- Monitoring and enforcing compliance with adopted standards through on-site inspections.
- Reviewing and commenting on all jail construction documents.
- Consulting, training, and providing technical assistance on efficient, effective, and economical means of jail construction and management.

For fiscal year 2018, the Commission was appropriated \$1.4 million, and it was authorized to have 22 full-time equivalent employees. An additional \$1 million was appropriated to the Prisoner Safety Fund as a result of the enactment of Senate Bill 1849.

Sources: The Commission and the General Appropriations Act (85th Legislature).

Table 1

Summary of Chapters and Related Issue Ratings		
Chapter	Title	Issue Rating ^a
1	The Commission Had Processes and Related Controls to Ensure That It Conducted Inspections and Enforced Standards in Compliance With Applicable Requirements	Low
2	The Commission Should Strengthen Its Data Management Processes	Medium

^a A subchapter is rated **Priority** if the issues identified present risks or effects that if not addressed could critically affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A subchapter is rated **High** if the issues identified present risks or effects that if not addressed could substantially affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A subchapter is rated **Medium** if the issues identified present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A subchapter is rated **Low** if the audit identified strengths that support the audited entity’s ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.

Auditors communicated other, less significant issues separately in writing to Commission management.

Summary of Management’s Response

At the end of each chapter in this report, auditors made recommendations to address the issues identified during this audit. The Commission agreed with the recommendations in this report.

Audit Objective and Scope

The objective of this audit was to determine whether the Commission conducts inspections and enforces standards in compliance with applicable requirements to help ensure that local jails are safe, secure, and suitable.

The scope of this audit covered the Commission’s activities related to inspections, complaints, risk assessments, and serious incidents from September 1, 2017, through August 31, 2018, and activities related to the Commission’s timing and scheduling of inspections from September 1, 2016, through January 31, 2019.

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Detailed Results

Chapter 1

The Commission Had Processes and Related Controls to Ensure That It Conducted Inspections and Enforced Standards in Compliance With Applicable Requirements

**Chapter 1
Rating:
Low ¹**

The Commission on Jail Standards (Commission) had processes and related controls for conducting inspections and enforcing standards in compliance with applicable requirements to help ensure that local jails were safe, secure, and suitable. Specifically, the Commission: (1) ensured that all local jails were inspected annually; (2) reviewed complaints and serious incidents to verify compliance with applicable requirements; and (3) performed risk assessments to monitor risk at local jails.

However, the Commission should strengthen its risk assessment process to ensure that it includes all required information.

Inspections. The Commission conducted annual inspections of local jails to determine compliance with applicable requirements, as required by Texas Government Code, Section 511.009(a)(13). The Commission had processes and related controls to ensure that:

- Inspectors used a checklist that incorporated the Commission’s minimum standards (Title 37, Texas Administrative Code, Chapters 263 through 297).
- Inspectors documented both compliance and noncompliance with minimum standards.
- Inspections were reviewed and approved by Commission staff.
- The Commission notified noncompliant jails of failed inspections.
- The Commission performed follow-up inspections of noncompliant jails.

¹ The risk related to the issues discussed in Chapter 1 is rated as Low because the audit identified strengths that support the audited entity’s ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.

Complaints. The Commission's complaint records contained the information required by Texas Government Code, Section 511.0071(f) (see text box for information about complaint information collection requirements). In addition, the Commission had processes and related controls to ensure that it adequately documented and supported each complaint resolution.

Serious Incidents. The Commission received all death in custody notifications from jails within the 24-hour time frame required by Commission policy. In addition, the Commission had processes and related controls to ensure that:

- The Commission appointed independent investigators to investigate deaths in custody at county jails as required by Texas Government Code, Section 511.021.
- Commission staff reviewed and approved serious incident reports according to the Commission's policies and procedures (see text box for information about serious incidents).
- The Commission received monthly serious incident reports from local jails as required by Texas Government Code, Section 511.020.

Complaint Information Collection Requirements

The Commission must collect and maintain information about each complaint received by the Commission regarding the Commission or a jail under the Commission's jurisdiction, including:

- The date the complaint is received.
- The name of the complainant.
- The subject matter of the complaint.
- A record of all persons contacted in relation to the complaint.
- A summary of the results of the review or investigation of the complaint.
- An explanation of the reason the complaint was closed without action, if applicable.

Source: Texas Government Code, Section 511.0071(f).

Serious Incidents

Serious incidents include suicide, attempted suicide, death, serious bodily injury, assault, sexual assault, escape, and any use of force resulting in bodily injury.

Source: Texas Government Code, Section 511.020.

Risk Assessment. The Commission used its risk assessment to monitor the risk at local jails, and the risk assessment contained all risk factors required by Texas Government Code, Section 511.0085 (see text box for information on required risk factors). However, the Commission should strengthen its jail inspection risk assessment process by ensuring that all required information is included in the risk assessment and that the risk assessment is updated monthly as required by its policies and procedures.

Specifically, the Commission did not consistently include complete and accurate information about complaints and serious incidents in monthly risk assessments. It did not have a review process comparing serious incident and complaint reports to the monthly risk assessment to ensure that all report data is included in the risk assessment, and it used an incorrect report from the complaints database to compile the information for its monthly risk assessment reports. By not ensuring that all complaint and serious incident information is included in the monthly risk assessment, the Commission may not be appropriately determining risk level, which affects the timing and nature of inspections. In addition, the Commission did not update the risk assessment for three months during fiscal year 2018.

Risk Factors for Jails

- History of compliance with state law and Commission rules, standards, and procedures.
- Population of jail.
- Number and nature of complaints.
- Internal grievance issues.
- Available mental/medical health reports.
- Recent jail staff turnover.
- Inmate escapes.
- Number and nature of inmate deaths.
- Compliance with Commission rules; standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments; and Article 16.22, Texas Code of Criminal Procedure, regarding the early identification of and reports concerning persons with mental illness.

Source: Texas Government Code, Section 511.0085(a)(1-9).

Recommendation

The Commission should ensure that all required information, including complaints and serious incidents, is included in the monthly risk assessment by implementing a review process and using the correct reports from the complaints database.

Management's Response

Management concurs with the findings and recommendations.

A review of the query utilized to identify founded complaints entered into the database determined that complaints received in one month but not finalized until the following month would not be captured in the monthly report. This was due to how the query was structured which relied upon the receipt date and disposition date to fall within the same calendar month in order to be

captured. The agency is currently testing a restructured query that will include all founded complaints for that month regardless of receipt date. One additional option would to maintain the current query but run the report a month in arrears. Once the agency has verified that all founded complaints are included, agency policy and procedure will be updated to reflect this change which will ensure that all founded complaints are included in the monthly risk assessment.

Currently, the statutorily mandated risk assessment includes two factors that are considered critical incidents. Agency policy and procedures will be revised to ensure that the information compiled from the submitted reports is accurately incorporated into the Risk Assessment report each month and the respective job duties of the staff members responsible for these functions will be updated to reflect this change. In addition, all of the information compiled regarding serious incidents will be reviewed to determine how best to incorporate relevant information that could assist in determining a jail's level of risk.

The three month gap in updating the master Risk Assessment report coincided with staff turnover the agency experienced. While the individual inspectors continued to update their portion of the risk assessment report, the master report was not updated and was an oversight. Once the oversight was identified, it was immediately corrected. Agency policy and procedure will be revised to assign completion of the master report to a specific staff member who will then submit the monthly report to the assistant director. The staff member who the report is assigned to will also have their job duties updated in the employee handbook to ensure this oversight will not occur in the future.

Action on the above listed items has been initiated. Following testing to ensure that the proposed corrective action addresses the identified issues, management believes that all of the above items will be complete by July 1, 2019. The Assistant Director will be responsible for coordinating the implementation with final approval to be provided by the Executive Director.

The Commission Should Strengthen Its Data Management Processes

**Chapter 2
Rating:**
Medium ²

While the Commission entered inspection, serious incident, and complaint information in its data management systems, it did not follow its user access policy to ensure that access to those systems was appropriate (see text box for information on the Commission's data management systems). In addition, the Commission did not have a data review process to verify the accuracy of that information. As a result, there were some discrepancies between the data entered and the information in the hard copy documentation.

User Access. The Commission did not ensure that access to its data management systems was restricted to only current employees who need access to perform their duties. The Commission must approve access to information resources and periodically review user access, as required by Title 1, Texas Administrative Code, Chapter 202, and Commission policy. Not ensuring that access to the Commission's data management systems is appropriately limited increases the risk that information in those systems could be viewed or changed inappropriately. To minimize security risks, auditors communicated details about the identified user access weaknesses directly to the Commission's management in writing.

Data Review. The Commission does not have documented review processes to verify the accuracy of data entered into its data management systems containing (1) inspection and serious incident data and (2) complaint data. Auditors identified instances of inaccurate data that occurred when the Commission entered the information from hard copy documentation into its data management systems. Those data entry errors included incorrect inmate counts and complaint receipt dates. While the identified data entry errors did not affect the outcomes of Commission processes, not having a data review process increases the risk that significant errors could occur that could affect management decisions.

The Commission's Data Management Systems

The Commission manually enters all inspection, serious incident, and complaint information into its data management systems from hard copy documents. Those systems are comprised of two databases:

Inspections and serious incidents database—Contains all Commission inspection data, which includes inspection dates, inspection information, compliance status, and jail information. It also contains serious incident data. Serious incidents include deaths in custody, escapes, and suicides.

Complaints database—Contains data on complaints the Commission receives, which includes date received, allegation, inmate name, and notes/comments.

The Commission generates reports from those databases that are used in its decision-making processes.

Source: The Commission.

² The risk related to the issues discussed in Chapter 2 is rated as Medium because the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Recommendations

The Commission should:

- Ensure that access to its data management systems is appropriate, including following Commission policy for reviewing and updating access as required.
- Develop and implement review processes to ensure that data entered into its data management systems is accurate.

Management's Response

Management concurs with the findings and recommendations.

User access and accounts have been reviewed and updated accordingly. Although it was believed former employee accounts were no longer accessible due to expiration of passwords, any accounts associated with former employees have been deleted. Agency policy will be updated to ensure that immediately upon separation, employee access and accounts will be deleted. Email accounts associated with former employees will be archived with access only provided to the IT administrator to fulfill open records request. User access lists will be reviewed quarterly by the Assistant Director and IT Administrator to ensure compliance.

Access by current employees to the various data management systems utilized by the agency has been reviewed and updated. The ability to enter, modify or delete information has been reviewed and will be restricted to the employee or employees responsible for that duty and the Assistant Director. All other employees will be provided read only access to the data. This is necessary due to the amount of cross-over that occurs between the various sections.

Procedures for entering data into the various data management systems and a subsequent review for quality control purposes are being reviewed and will be implemented. A checks and balance system that was previously implemented for data that was directly associated with key performance measures will be expanded. It is believed that this will prevent the possibility of significant errors from occurring that could affect management decisions.

Action on the above listed items has been initiated. Following testing to ensure that the proposed corrective action addresses the identified issues, management believes that all of the above items will be complete by July 1, 2019. The Assistant Director will be responsible for coordinating the implementation with final approval to be provided by the Executive Director.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Commission on Jail Standards (Commission) conducts inspections and enforces standards in compliance with applicable requirements to help ensure that local jails are safe, secure, and suitable.

Scope

The scope of this audit covered the Commission's activities related to inspections, complaints, risk assessments, and serious incidents from September 1, 2017, through August 31, 2018, and activities related to the Commission's timing and scheduling of inspections from September 1, 2016, through January 31, 2019.

Methodology

The audit methodology included collecting information and documentation; interviewing Commission staff regarding operational processes; observing a jail inspection; performing selected tests and procedures on the information obtained; analyzing and evaluating the results of those tests and procedures; and reviewing access controls for key information systems.

Data Reliability and Completeness

To test the Commission's processes, auditors used data from the Commission's (1) inspection and serious incident database and (2) complaint database. Auditors conducted data analysis and compared Commission hard copy documentation to the information in the databases to determine accuracy. In addition, auditors tested user access for both databases. While user access and data accuracy issues were identified (see Chapter 2), auditors determined that the data was sufficiently reliable for the purposes of this audit.

Sampling Methodology

Auditors selected nonstatistical samples of inspection reports, complaints, serious incidents, and risk assessment reports primarily through random selection. In some cases, auditors selected additional samples of those items for testing based on risk. The sample items were not necessarily

representative of the population; therefore, it would not be appropriate to project the test results to the population.

Information collected and reviewed included the following:

- The Commission's policies and procedures.
- Data for inspections, complaints, and serious incidents from the Commission's two databases.
- Supporting documentation for inspection reports, complaints, and serious incidents.
- Monthly risk assessment reports.
- User access data for the Commission's two databases.

Procedures and tests conducted included the following:

- Interviewed Commission staff to gain an understanding of the Commission's jail inspections and enforcement processes.
- Reviewed the Commission's policies and procedures.
- Reviewed Commission meeting minutes.
- Physically observed a jail inspection.
- Tested samples of inspection reports, complaints, serious incidents, and monthly risk assessment reports to determine compliance with the Commission's policies and procedures and state laws and regulations.
- Tested logical access to the Commission's two databases to determine whether user access was appropriate and managed according to Commission policies.

Criteria used included the following:

- Texas Government Code, Chapter 511.
- Texas Code of Criminal Procedure, Chapter 16.
- Texas Family Code, Chapter 51.
- Texas Health and Safety Code, Chapter 614.
- Title 1, Texas Administrative Code, Chapter 202.

- Title 37, Texas Administrative Code, Chapters 263, 265, 267, 269, 273, 275, 277, 279, 281, 283, 285, and 297.
- The Department of Information Resources' *Security Control Standards Catalog*, version 1.3.
- Commission policies and procedures.

Project Information

Audit fieldwork was conducted from December 2018 through April 2019. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The following members of the State Auditor's staff performed the audit:

- Jerod Heine, MBA (Project Manager)
- Sherry Sewell, CGAP (Assistant Project Manager)
- James Collins
- Erik Lind
- Mark Snyder
- Daniel A. Thu
- Robert G. Kiker, CGAP (Quality Control Reviewer)
- Becky Beachy, CIA, CGAP (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

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The Honorable Dennis Bonnen, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable John Zerwas, House Appropriations Committee
The Honorable Dustin Burrows, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Commission on Jail Standards

Members of the Commission on Jail Standards

The Honorable Bill Stoudt, Chair
Dr. Esmail Porsa, Vice-Chair
Ms. Patricia Anthony
Mr. Duane Lock
Ms. Monica McBride
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