



# THE TEXAS COMMISSION ON JAIL STANDARDS TURNS 40

*A successful collaboration of the State Bar of Texas, the Sheriffs' Association of Texas, and many other organizations reaches a milestone.*

**BY JAMES GREENWOOD III**

## **FORTY YEARS AGO, ON JUNE 19, 1975, TEXAS GOV. DOLPH BRISCOE SIGNED HOUSE BILL 272, "... creating a Commission on Jail**

**Standards and prescribing its powers, duties, and functions relating to the condition of county jails... ."** The law and the commission were the product of a unique collaboration of parties seeking jail reform, and the State Bar of Texas played an important role. Late in the session, Rep. Ronnie Earle of Austin, chair of the subcommittee considering the bill, described it as "a shotgun wedding between the Sheriffs' Association and the ACLU with the State Bar of Texas as 'matchmaker.'"

Texas had needed such reform legislation for decades. In 1925, Article 5115 of the Texas Revised Civil Statutes made counties and sheriffs responsible for jails. A 1957 amendment set standards for health, safety, and operations of jails but the Texas State Department of Health was prevented from inspecting jails until 1969. Then, only five counties (2 percent) had jails that complied with the law. A 1973 Texas Legislative Council study committee concluded that the law was "totally unrealistic and meaningless" without enforcement authority.<sup>2</sup> It recommended creating and funding a Commission on Jail Standards. But the 1973 bill doing such never got out of committee. So, what changed?

This is the story of how a small State Bar of Texas committee focused on the county jail problem, mobilized interested stakeholders—especially, but not only, sheriffs—and crafted a solution that the State Bar lobbied for in 1975. Here, in part, is the story of how the Texas Commission on Jail Standards was born 40 years ago this month.

In 1973, sheriffs and commissioners courts in Harris, Dallas, Bexar, El Paso, Travis, Hidalgo, Lubbock, Cameron, Ector, Potter, and other counties were beset by federal class-action suits alleging jail conditions that violated prisoners' constitutional rights.<sup>3</sup> Sheriffs and commissioners were being sued for breaking the law, and because Texas wasn't enforcing its jail standards,<sup>4</sup> some federal judges mandated compliance with stringent "clearing house" criteria that required all single cells and other expensive amenities and practices.

In the fall of 1973, the State Bar Committee on Courtroom and Confinement Facilities invited and listened to many stakeholders, including Sheriff Robert Gladney, president of the Sheriffs' Association of Texas; Charles K. Foster of the Department of Health (responsible for enforcing jail standards); George Beto, the recently retired director of the Texas Department of Corrections, and his successor, W.J. Estelle; and Sonny Wells, a former prisoner and head of the halfway house New Directions.

Sheriff Gladney expressed appreciation that a group of lawyers would ask him to tell them what sheriffs' jail

problems were and how they (the lawyers) might help. He gave us an earful.<sup>5</sup> The message was that county jails were unsanitary and unsafe for both inmates and jailers. They lacked educational and recreational facilities. Jailers were untrained and underpaid. Federal lawsuits produced costly consequences of noncompliance.

In February 1974, the State Bar committee met with the board of directors and legislative committee of the Sheriffs' Association to discuss the problem and propose solutions.<sup>6</sup> The committee recommended that the State Bar support legislation creating a State Commission on Jail Standards empowered to promulgate regulations establishing minimum standards for (1) the construction, equipment, maintenance, and operation of county jails; and (2) the custody, care, and treatment of prisoners, as well as the number of jail supervisory personnel and needed programs and services. The commission was recommended to have rule-making flexibility based on the size of the county and the number of detainees; to require annual reports and inspections; to have the duty to investigate complaints and enforce standards—and to close jails that didn't comply; to call for the Commission on Law Enforcement Officer Standards and Education to establish standards for jail personnel; and to limit confinement of mentally ill persons to 24 hours with constant observation.<sup>7</sup> The commission would include one county judge, two sheriffs (representing large and small counties), a medical doctor, and five "citizen members who hold no public office."<sup>8</sup>

The State Bar endorsed the project. President Lloyd Lochridge Jr. proclaimed it: "A really great opportunity to make a contribution in the public service... Texas jails are generally in a deplorable condition. A Commission of Jail Standards is badly needed."<sup>9</sup>

Thus, informally, a diverse, powerful, and enthusiastic team emerged, consisting of several organizations, including: the State Bar of Texas; the Sheriffs' Association of Texas; the Christian Life Commission of the Baptist General Convention (led by Phil Strickland); Citizens United for Rehabilitation of Errants (passionate prison reform advocates led by Charles and Pauline Sullivan); the American Civil Liberties Union; and the League of Women Voters. Others who added their voice to the cause included Concerned Parents, Social Action Diocese, the Texas Association of Counties, ACLU of Texas, the Texas Commission on Humanities, the Junior Bar of Texas, the Texas State Library and Archives Commission, Texas Rural Legal Aid, and Women in Action.<sup>10</sup>

They came to Austin to testify, to lobby, to bear witness, and to attend at least three committee hearings (flying or driving in from Houston, Dallas, San Antonio, or the Hill Country) at the drop of a hat, in response to a call to "show up." They roamed Capitol corridors, made

countless visits to legislators' offices. They wrote letters. They made phone calls. They were relentless, thorough, and driven. The legislation that had died in committee in 1973 was reborn in the winter of 1975.

House Bill 272 was filed on January 23, 1975, with Rep. Carl Parker as author, Max Sherman as the Senate sponsor, and Pike Powers and Tom Uher as House sponsors.<sup>11</sup> "My senatorial district was composed of 26 counties," Sen. Sherman said, recalling the session. "I met with our local sheriffs and ... the executive committee of the Sheriffs' Association. They were unanimously in favor of the legislation. It was a significant turning point in improving the incarceration climate in Texas."

The State Bar's Greg Hooser coordinated bar committee members' testimony before legislative committees, monitoring the bill's progress. Phil Strickland was always there, and so were Charlie and Pauline Sullivan. I was there—testifying, writing, calling. I recall a late night phone call, in May, to the office of Sen. Kent Hance; impressively, he answered the phone himself and assured his support. Representatives and senators knew about HB 272.

The bill was approved by the House on May 24 by a vote of 100 to 19. It was then referred to the Senate Committee on Intergovernmental Relations and reported out favorably on May 28; it passed the Senate on May 30 by a vote of 31 to 0. It was sent to Gov. Briscoe on May 31 and he signed it into law on June 19, 1975.<sup>12</sup>

The bill's author, former Rep. Parker, said recently, "This was living proof that cooperative, proactive collaborations can be effective... Some of those jails we visited in 1973 were out of the dark ages. A bucket and a padlock were all the sanitation and security some of them provided."

In October 1975, Gov. Briscoe appointed the nine-member commission, including four members of the State Bar.<sup>13</sup> The commission held its first meeting November 5, 1975, elected me chairman and Hull Youngblood vice chairman, and established subcommittees to discharge its essential but unfunded responsibilities.

The statute mandated that the commission promulgate regulations by January 1, 1977, and distribute them to all sheriffs by March 1, 1977.<sup>14</sup> With the help of a \$91,000 federal Law Enforcement Assistance Administration grant, the commission hired an exceptional executive director, Guy Forrest Van Cleave, a former Colorado sheriff, as well as a small staff.<sup>15</sup> The unpaid commissioners worked to draft, revise, and finalize the regulations that, with enforcement, would elevate the quality of life for inmates and jailers, provide guidance to sheriffs and commissioners courts, and relieve the pressure of federal lawsuits.

Both the commission and its subcommittees met on more than three dozen occasions and drafted, published, heard comments on, and revised regulations on standards for construction, care, and treatment of inmates, as

well as compliance and enforcement. Approximately 1,000 people attended and participated in these hearings, all of which were open to the public. The commission convened on December 1 and adopted a comprehensive set of rules and regulations, meeting the Legislature's mandate.<sup>16</sup>

With the commission open for business and the regulations in place, county officials came to realize that compliance with state law could help them avoid the legal expense of defending their indefensible facilities. As Texas began to move into an era of legal compliance and safer, more sanitary, and more humane jails, federal courts began to rely on the commission's standards and enforcement. But as inspections, enforcement, and consultations began, crises and challenges would arise that threatened the existence of the new commission.

Those details will be revealed in the second installment of this *Texas Bar Journal* series. For now, it is worth observing that the Texas Commission on Jail Standards 2014 Annual Report shows 238 county jails (97 percent) certified as complying with Minimum Jail Standards. Only seven (2.8 percent) were noncompliant. Nineteen jails were closed and 19 counties boarded their inmates in adjacent counties rather than maintaining their own facilities. (Some counties have more than one jail.)<sup>17</sup>

On a state budget of just more than \$1 million, the Texas Commission on Jail Standards is doing the job it was created to do, as was envisioned by the State Bar of Texas and the Sheriffs' Association of Texas when they teamed up in 1975.<sup>18</sup> **TBJ**

## NOTES

1. Texas Revised Civil Statutes art. 5115.1 (1975).
2. Texas Legislative Council, *Statutory Standards and Present Conditions in Texas Jails*, A Report to the 63rd Legislature, Report No. 62-2 (Jan. 1973).
3. Texas Commission on Jail Standards, *Annual Report to Governor, Lieutenant Governor, and Speaker of the House of Representatives* (Jan. 31, 1978), Appendix, "A General History of the Texas Commission on Jail Standards," page A-4 (Hereafter "TCJS Annual Report").
4. See, e.g., *Taylor et al. v. Sterrett et al.*, 344 F.Supp. 411 (U.S. District Court, N.D. Texas, Dallas Division 1972) filed in 1971 in the federal district court of Judge Sarah T. Hughes. Judge Hughes enjoined the Dallas County Commissioners Court from further violations of Article 5115 and issued a 12-point order regarding jail conditions and practices.
5. State Bar committee members were Chairman James Greenwood III, Vice Chairman David D. Allen, Leonard Blaylock, Gayle R. Carden, J.V. Hammett Jr., G.P. Hardy Jr., George Harrison Jr., John Garrett Hill, W. Ervin James, Warwick Jenkins, Thomas M. Phillips, Max E. Ramsey, Shannon H. Ratliff, Tad R. Smith, Ned Wade Jr., Clyde Whiteside, and William Yarborough (with board advisers James R. Kerr and Blake Tartt). 37 *Texas Bar J.* 590 (June, 1974).
6. *Id.* Sheriffs attending the meeting included Robert Gladney (Brazoria); Clarence Jones (Dallas); R.E. Culbertson (Jefferson); C.L. "Buck" Eckols (Liberty); Kenneth Kelley (Uvalde); J.B. Kline (Galveston); Billy E. Payne (Hardin); Maurice G. Wood (Calhoun); Dan Saunders (Martin County, incoming president of Sheriffs' Association); and Jack W. Wilson, executive director of Sheriffs' Association. (Greenwood J., committee files).
7. James Greenwood III, *Proposed Texas County Jail Law*, 37 *Texas Bar J.* 1166 (December 1974).
8. *Id.*
9. Lloyd Lochridge, *President's Page*, 37 *Texas Bar J.* 1134 (Dec. 1974).
10. TCJS Annual Report (Jan. 31, 1979).
11. Legislative Reference Library of Texas, H.B. 272, 64th Leg., R.S. (1975).
12. *Id.*
13. 38 *Texas Bar J.* 995 (December 1975). The nine original members of the commis-

sion were: Sheriff T.L. Baker (Potter County); Sheriff Jack Heard (Harris County); Dr. Hanes Hanby Brindley (Temple); Hon. Fidencio Garza Jr. (county judge of Brooks County); R.J. "Bob" Uhr (New Braunfels); David Hull Youngblood (San Antonio); Gayle R. Carden (Greenville); Stephen Suttle (Abilene); and James Greenwood III (Houston). General History of the Texas Commission on Jail Standards, TCJS Annual Report A-9 (Jan. 31, 1978).

14. Texas Revised Civil Statutes art. 5115.1, sec. 13 (1975).
15. TCJS Annual Report 3 (Jan. 31, 1978).
16. *Id.* at A-17 to A-21. Hearings were held in Houston, San Antonio, Dallas, Amarillo, El Paso, McAllen, Fort Worth, Lubbock, Tyler, and Austin. Final regulations were published December 17, 1976, in Volume 1 No. 97 of the *Texas Register*. On December 20, copies were mailed to each county sheriff, county judge, and county commissioner; and to the governor, lieutenant governor, speaker of the Texas House, and every member of the House and Senate of the State of Texas.
17. Texas Commission on Jail Standards, 2014 Annual Report (Jan. 31, 2015).
18. The commission's second chairman, Stephen Suttle of Abilene, noted: "The first forty years of the Commission's existence have flown by indeed, and it is now part of the interwoven fabric of our state government thanks to ... the Legislature's efforts and foresight and the hard work of all involved in the cause."



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is a graduate of the University of Texas School of Law (1961) and Rice University (1958). He chaired the State Bar of Texas Committee on Courtroom and Confinement Facilities (1973-1974) and was the first chairman of the Texas Commission on Jail Standards (1975-1978). He served as president of the State Junior Bar of Texas (1970-1971) and Houston Bar Association (1978-1979). He practiced law at Vinson & Elkins (1961-1980), was a member of the Houston City Council (1982-1993), and has been a solo ADR practitioner from 1994 to present day.

The author is indebted to Alexandra Swast, director of archives of the State Bar of Texas, and Tomas Torres, assistant planner of the Texas Commission on Jail Standards, for invaluable assistance in locating official legislative, commission, and State Bar of Texas records and documents regarding the subject matter of this article.

# PUBLIC NOTICE

## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON, TEXAS

### APPOINTMENT OF FULL-TIME UNITED STATES MAGISTRATE JUDGE

The United States District Court for the Southern District of Texas is soliciting qualified applicants in order to appoint a full-time United States magistrate judge for its Houston Division. The current annual salary of the position is \$185,012. The term of office is 8 years.

A full public notice for the position and application forms are available in the office of the United States District Clerk at Brownsville, Corpus Christi, Galveston, Houston, Laredo, McAllen and Victoria. The notice is also available on the Court's website at [www.txs.uscourts.gov](http://www.txs.uscourts.gov).

Applications may be submitted in person or by mail at the Office of the United States District Clerk, Southern District of Texas; 515 Rusk Street, Room 1215, Houston, Texas 77002; Attn: Magistrate Judge Merit Selection Committee. All materials must be received by **5:00 p.m. on June 22, 2015**.

All applications will be kept confidential, unless the applicant consents to disclosure. Applications will be examined only by members of the merit selection committee and judges of the district court. The committee's deliberations will remain confidential.