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BIENNIAL REPORT

THE TEXAS COUNCIL ON OFFENDERS WITH MENTAL IMPAIRMENTS



JANUARY 15, 1993



THE
BIENNIAL REPORT
OF THE
TEXAS COUNCIL ON OFFENDERS WITH
MENTAL IMPAIRMENTS

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Submitted to the Governor, Lieutenant Governor, Speaker
of the House and the 73rd
Texas Legislature

January 15, 1993

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Texas Council On Offenders With Mental Impairments

DEE KIFOWIT, DIRECTOR

January 15, 1993

To the Honorable Governor of Texas, Lieutenant Governor, Speaker of the House and the 73rd Legislature:

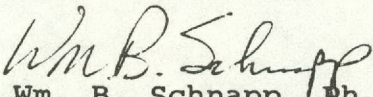
On behalf of the Texas Council on Offenders with Mental Impairments, I am pleased to provide this Biennial Report to the 73rd Texas Legislature.

Section 9 of Article 4413 (49a) requires the Council to report to the Legislature biennially by February 1. This report covers activities of the Council, an overview of the status of mandated pilot projects for offenders with mental impairments and recommendations to the 73rd Legislature. Our recommendations are the result of a review of current strategies regarding offenders with mental impairments implemented by the criminal and juvenile justice, education and social service systems in Texas.

The Council represents an unprecedented legislative charge to criminal and juvenile justice, social service and education agencies, advocacy organizations and policy councils to collaborate on developing community-based sentencing alternatives for offenders with mental impairments.

We commend the Legislature in establishing the Council on Offenders with Mental Impairments. Your continued support will ensure that the Council will maintain its prominence as a nationally recognized model for offenders with mental impairments.

Respectfully submitted,


Wm. B. Schnapp, Ph.D.
Chairperson

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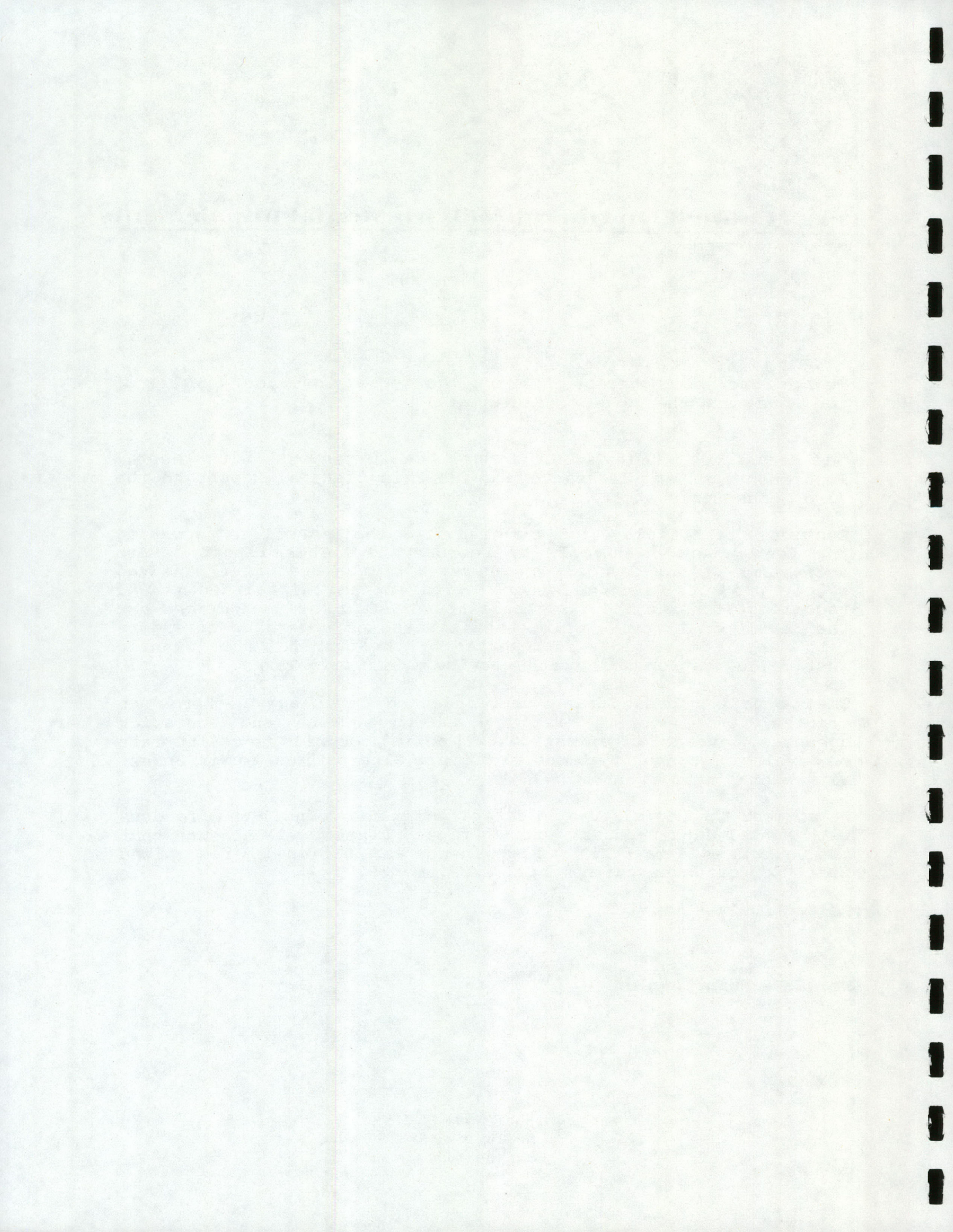


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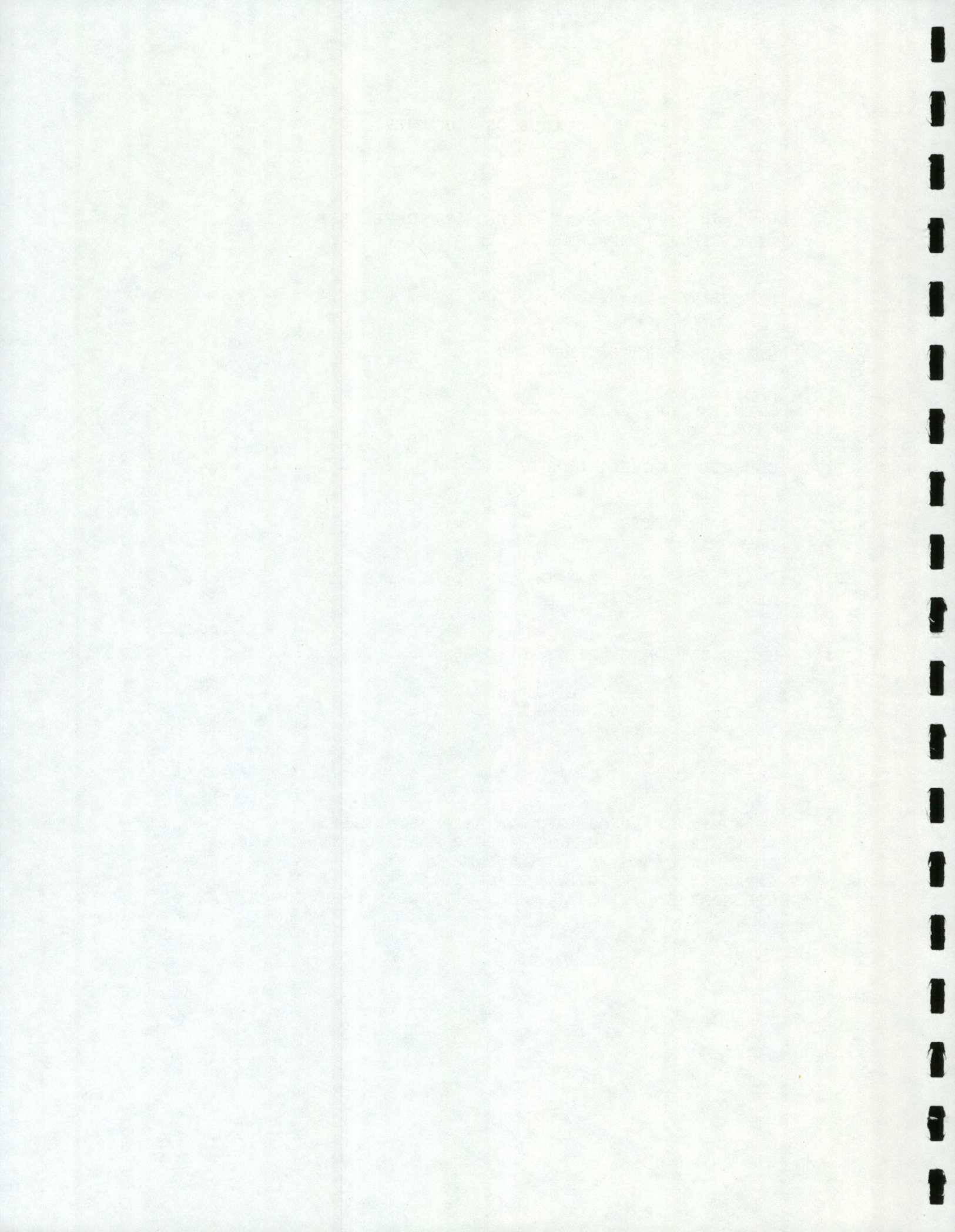
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Austin Kessler

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Jackie Lazrus

Texas Department of Criminal
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Assistance Division

John D. Nottingham, M.D.

At Large Member



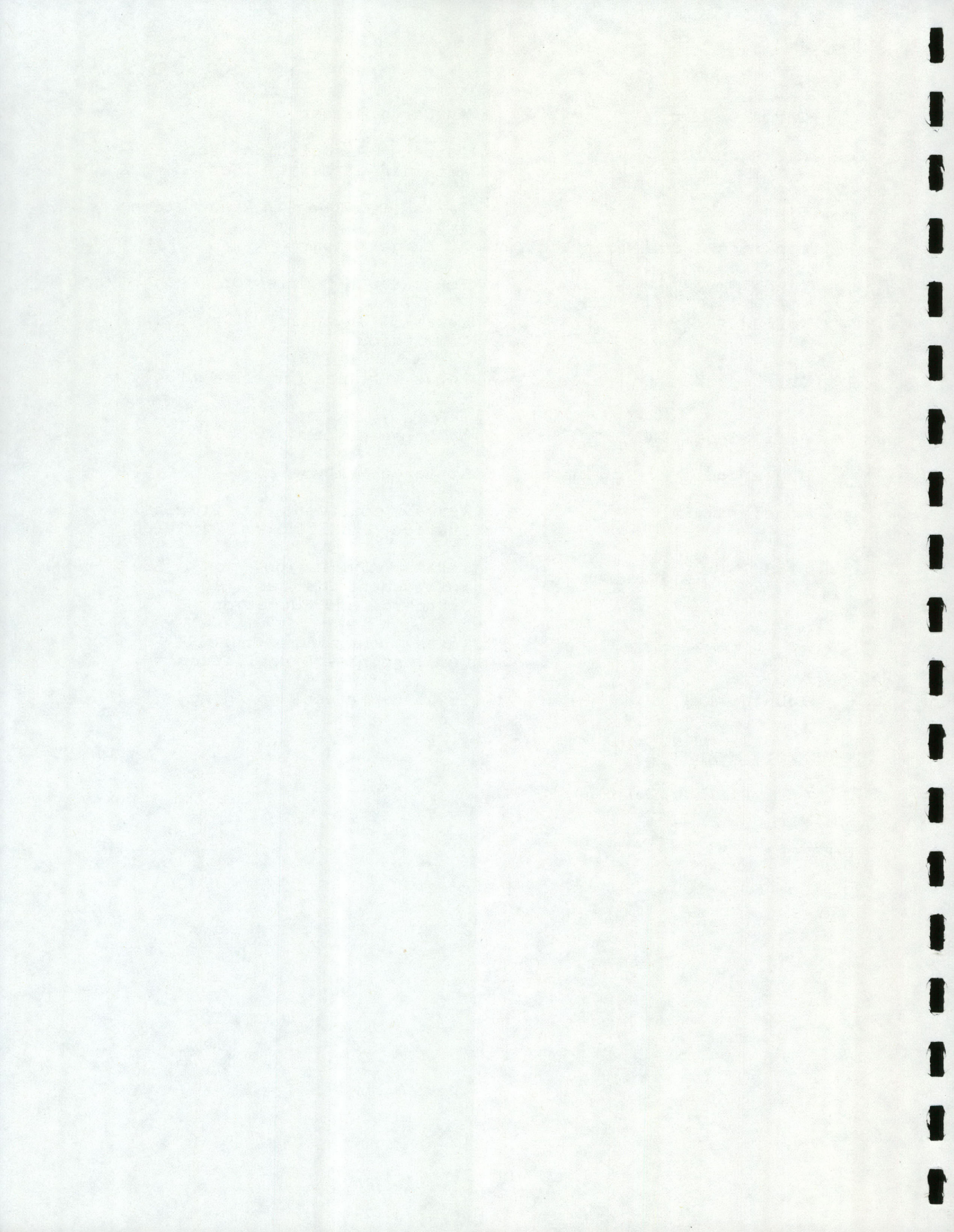
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Roger Webb	Texas Planning Council on Developmental Disabilities
John Willis	Texas Department on Aging

EX-OFFICIO MEMBER

Geri Elliott, Austin

DIRECTOR

Dee Kifowit



EXECUTIVE SUMMARY

In Texas, offenders with mental impairments face numerous legal, correctional, educational and human service problems. They often received poor health care and educational services as children. Their disabilities are frequently not recognized by the criminal justice system. They are often denied access to services available to other persons with comparable mental impairments.

Developing an effective policy direction to address these problems has been hampered in Texas by an inadequate infrastructure of basic health and human services and a prison and jail system that is stretched beyond capacity.

The Executive and Legislative leadership of Texas have demonstrated an aggressive response to this issue. This is evidenced by the Legislature's establishment of the Texas Council on Offenders with Mental Impairments. The Council is comprised of 19 agencies, councils and associations, and nine gubernatorial appointments.

Significant among the directives to the Council are:

- to determine the status of offenders with mental retardation , developmental disabilities and mental illness;
- to identify the services needed by these offenders and to develop service delivery models of community-based alternatives to incarceration;
- to implement pilot programs to demonstrate strategies to implement community alternatives for special needs offenders as defined in HB 93, passed in the 72nd Legislative Session;
- to develop a plan for meeting the treatment, rehabilitation, and educational needs of offenders with mental impairments.

This document is the third legislative report of the Council. Section III of this document contains a detailed overview of the Council's accomplishments. These include:

- continued successful operation of pilot programs in Travis and Harris Counties to divert non-violent offenders with mental illness and mental retardation or other developmental disabilities from the criminal justice system;
- provision of specialized training to over 2,300 criminal justice and social service professionals;

- collaboration with the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) in the revision of its basic law enforcement curriculum;
- coordination among Texas Department of Criminal Justice (TDCJ), Texas Department Mental Health Mental Retardation (TDMHMR), TCLEOSE and Texas Council of Community Mental Health Mental Retardation Centers, Inc. (TCCMHMRCI) in the development of a state service plan for offenders with mental impairments;
- collaboration with TDCJ, Texas Department of Human Services (TDHS), TDMHMR, Texas Rehabilitation Commission (TRC), Texas Department of Health (TDH), Texas Department of Aging (TDOA) and other agencies in the development of program recommendations and strategies for special needs parolees who are elderly, physically handicapped or terminally ill;
- collaboration with TDMHMR, TDHS, TRC and the Legislative Budget Board Medicaid Analysis team in the development of strategies to maximize federal entitlement programs for misdemeanants with mental illness; and
- provision of technical assistance to numerous local, state and national organizations and agencies.

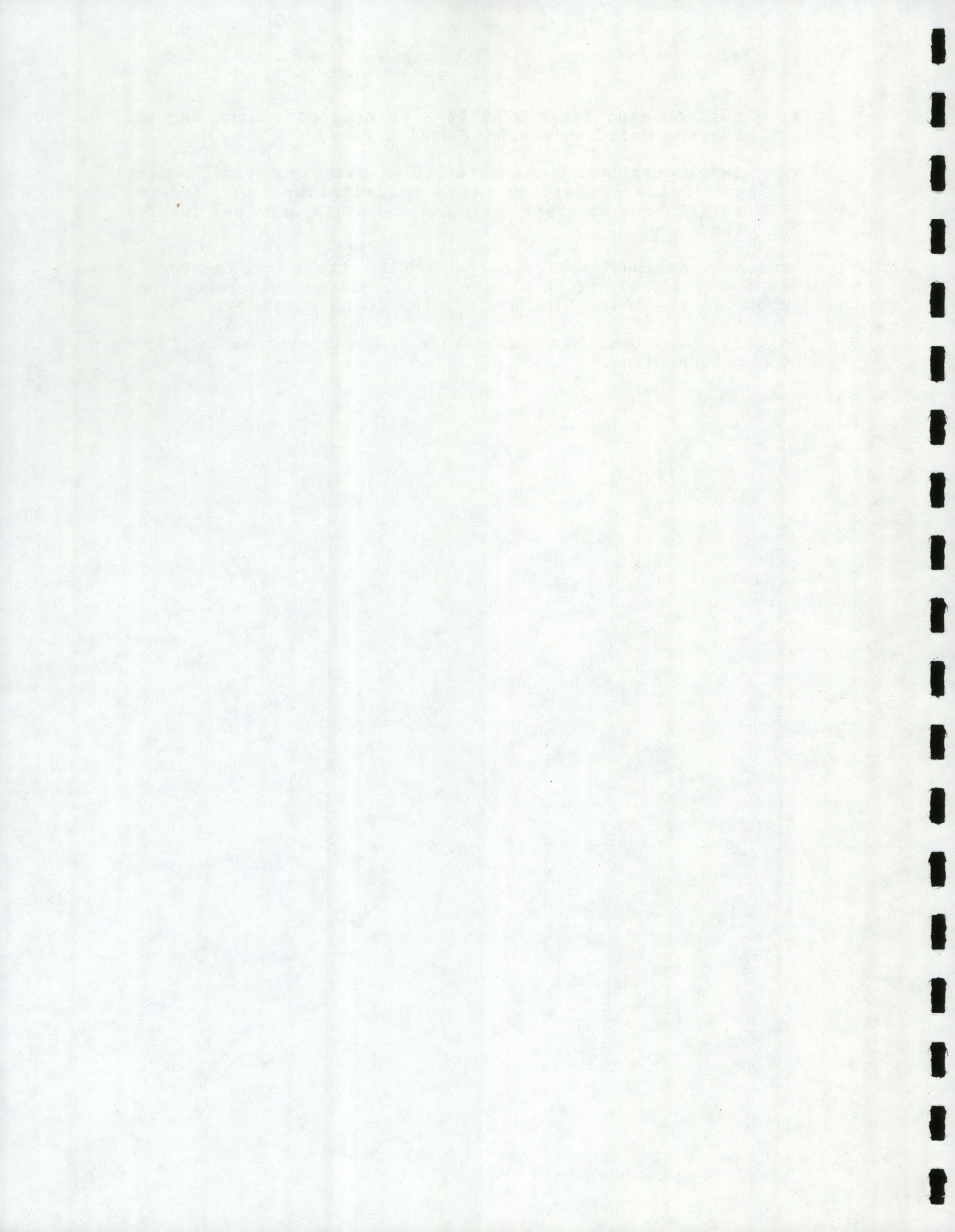
The primary recommendations contained in this report are:

- full funding of the TDCJ Legislative Appropriations Request for the Council and its pilot projects and special needs parole programs;
- full funding of the TDMHMR Legislative Appropriations Request for jail diversion programs for misdemeanants with mental impairments;
- creation of an ongoing Council Task Force consisting of the executive leadership of TDMHMR, TDCJ, TCCMHMRCI and relevant juvenile justice agencies to direct and develop statewide policy and service planning for offenders with mental impairments;
- creation of Community Justice Task Force mental health and mental retardation subcommittees to develop local policy and service plans for offenders with mental impairments;
- development and implementation of Council, TCLEOSE, Texas Commission on Jail Standards (TCJS), TDCJ, TDMHMR and juvenile justice agencies training standards;

- **full funding for TDMHMR 94 - 95 Appropriations Request for the Children's Mental Health Plan;**
- **development and implementation of clearly defined policy or rules regarding the maximization of federal entitlement programs for local and state criminal justice funds.**

These recommendations summarize numerous others contained in Sections V, VI, and VII of this report. All of the recommendations that appear in these sections are printed in bold type.

Section VIII concludes this report with a brief statement of the Council's future plans.



I

STATEMENT OF THE PROBLEM

"But the insane criminal has nowhere any home; no age or nation has provided a place for him. He is everywhere unwelcome and objectionable. The prisons thrust him out; the hospitals are unwilling to receive him; the law will not let him stay at his house, and the public will not permit him to go abroad. And yet, humanity and justice, the sense of common danger, and a tender regard for a deeply degraded brother-man, all agree that something should be done for him--that some plan must be devised, different from, and better than any that has yet been tried, by which he may be properly cared for, by which his malady may be healed, and his criminal propensity overcome."

American Journal of Insanity (Volume XIII, No. 3, 1817)

This was written 175 years ago by Dr. Edward Jarvis. Little has changed.

Throughout the nation, state and local governments are grappling with the complex problems presented by offenders who have mental illness, mental retardation or other developmental disabilities. These individuals (hereafter referred to as offenders with mental impairments) often face incorrect classification, inappropriate treatment and violation of civil rights. Major aspects of this problem are:

Inappropriate Identification

Historically law enforcement, prosecutorial, judicial, and corrections officials have not had adequate information about the signs and symptoms of mental illness, mental retardation and other developmental disabilities. They understand neither appropriate methods of dealing with signs and symptoms nor the needs of these individuals. Consequently, offenders with mental impairments are often prosecuted, sentenced and incarcerated without consideration of their special needs.

Lack of Alternatives

Even when appropriate identification of an offender with mental impairments occurs, a proper response is often hampered by the lack of available community resources. Social services, residential services, low-cost housing options, transportation and crisis services often are not available to meet their myriad needs.

Inadequate Agency Collaboration and Coordination

These special populations, with their complex needs, the stigma of disability or illness and their status as offenders, face substantial barriers to service. Even when some services are available, the lack of collaboration and coordination among providers create fragmentation of services.

Inability to Respond to Corrections

Inappropriate identification and the lack of alternatives often results in the inappropriate incarceration of offenders with mental impairments. Offenders with mental impairments often are unable to benefit from the corrections experience. They are often preyed upon and manipulated by other inmates. Offenders with mental impairments are frequently impressionable and often follow the inappropriate examples set by other inmates. Their disabilities impair their abilities to comply with prison rules and routine.

Offenders with mental impairments on probation or parole are more likely than others to have their probation or parole revoked. The lack of available services promotes a revolving prison door. Previous studies by the Texas Department of Criminal Justice suggest that adult offenders who have mental impairments experience recidivism at a higher rate than other offenders. This cycle of release and re-arrest is expensive and counterproductive.

Texas shares with the rest of the nation, the problems of inappropriate identification, lack of alternatives and inadequate treatment of offenders with mental impairments. In this state, the problem is compounded by additional factors. These include:

An Inadequate Infrastructure of Basic Health and Human Services

In a nationwide comparison, Texas ranks almost last in every measure of per capita funding of mental health, mental retardation and human services.

A Prison and Jail System Stretched Beyond Capacity

The Texas Department of Criminal Justice - Institutional Division (TDCJ-ID) has repeatedly had to close its doors to new admissions. To comply with federal court capacity conditions Texas has engaged in a massive construction program. The backlog of felons awaiting transfer to the state prison system has resulted in a critical crowding situation in many Texas community jails.

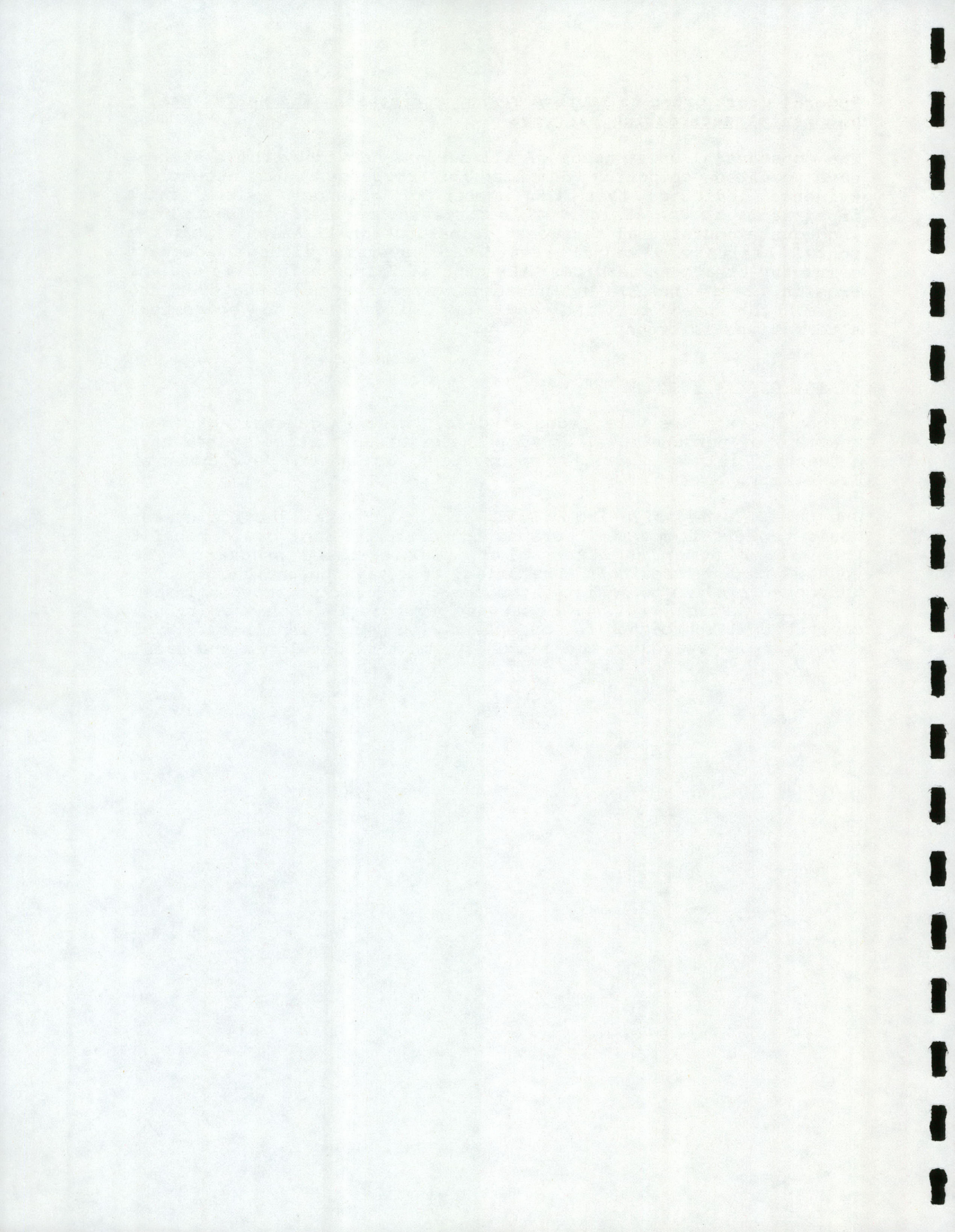
Federal Court Order to Improve Texas' Corrections and Mental Health and Mental Retardation Services

The substantial unmet needs of all persons served by these systems have created competing demands for resources and attention. Evidence indicates that the number of offenders with mental impairments is increasing. This increase has been attributed to: inadequate educational services; deinstitutionalization within the mental health and mental retardation systems without adequate community treatment services; the general increase in crime and the erosion of the health and human services system. Whatever the cause, the need to find and fund effective and economical alternatives is urgent.

Extent of the Problem

Although estimates vary among studies, there is general agreement that 20% of persons involved with the criminal justice system have a mental illness, mental retardation or other developmental disability.

One out of every five individuals in the criminal justice system could benefit from some therapeutic service. Many could benefit from placement in an alternative community-based program. The Council is convinced that substantial cost savings and therapeutic effectiveness can be achieved through collaboration between Texas' criminal justice and human service agencies. Non-traditional correctional approaches for offenders with mental impairments, who can safely be placed in the community, must be developed and used.



II

OVERVIEW OF THE COUNCIL

Council Duties

The 70th Texas Legislature created the Council and directed it to:

- "(1) determine the status of offenders with mental impairments in the state criminal justice system;
- (2) identify needed services for offenders with mental impairments;
- (3) develop a plan for meeting the treatment, rehabilitation, and educational needs of offenders with mental impairments, including a case management system and the development of community-based alternatives to incarceration;
- (4) cooperate in coordinating procedures of represented agencies for the smooth and orderly provision of services for offenders with mental impairments;
- (5) evaluate various in-state and out-of-state programs for offenders with mental impairments and recommend to the directors of current state programs methods of improving those programs;
- (6) collect and disseminate information about available programs to judicial officers, law enforcement officers, probation and parole officers, social service and treatment providers, and the general public;
- (7) distribute money appropriated by the legislature to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of programs for offenders with mental impairments;
- (8) apply for and receive money made available by the federal or state government or by any other public or private source to be used by the council to perform its duties;
- (9) develop and implement pilot projects to demonstrate a cooperative program that identifies, evaluates, and manages outside of incarceration offenders with mental impairments and who do not have an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure." and

- (10) develop and implement a special needs parole program for elderly, physically handicapped, terminally ill, mentally ill and mentally retarded inmates as established in HB 93, 72nd Legislature.

Council Composition

The Council, as outlined in statute, is comprised of agencies and organizations with an interest in offenders with mental impairments. These include:

- Institutional Division of the Texas Department of Criminal Justice
- Texas Department of Mental Health and Mental Retardation
- Pardons and Paroles Division of the Texas Department of Criminal Justice
- Community Justice Assistance Division of the Texas Department of Criminal Justice
- Texas Juvenile Probation Commission
- Texas Youth Commission
- Texas Rehabilitation Commission
- Central Education Agency
- Criminal Justice Policy Council
- Mental Health Association in Texas
- Texas Commission on Alcohol and Drug Abuse
- Commission on Law Enforcement Officer Standards and Education
- Texas Council of Community Mental Health and Mental Retardation Centers, Inc.
- Commission on Jail Standards
- Texas Planning Council for Developmental Disabilities
- Texas Association for Retarded Citizens
- Texas Alliance for the Mentally Ill
- Parent Association for the Retarded of Texas, Inc.
- Texas Department of Human Services
- Texas Department on Aging

In addition, the Governor appoints nine (9) at large members who serve staggered six-year terms.

The Council's membership includes multi-dimensional expertise in the care and treatment of offenders with mental impairments, and is an unprecedented opportunity for collaboration between the therapeutic and corrections systems. It is for these reasons that the Texas Council on Offenders with Mental Impairments is recognized as a national model.

Council Purpose Mission and Long Range Goals

In order to direct its future efforts, the Council has adopted the following statement of purpose, mission and long range goals.

The **PURPOSE** of the Council is to investigate and analyze the needs of persons with mental impairments who are involved in, or at risk for involvement in, the criminal justice system and, through collaborative efforts, to develop, recommend and/or implement innovative strategies that address these needs.

The **MISSION** of the Council is:

- to protect the rights of persons with mental impairments who are involved in, or at risk of involvement in, the criminal justice system;
- to provide for the habilitation and/or rehabilitation of persons with mental impairments involved in, or at risk of involvement in, the criminal justice system; and
- to promote the general safety of all members of society while preserving the well-being of these persons.

The Council's **LONG RANGE GOALS** are:

- to fully inform all members of the criminal justice, therapeutic and education systems about the rights and service needs, and the availability and optimum habilitation and rehabilitation strategies for persons with mental impairments involved in, or at risk of involvement in, the criminal justice system;
- to bring about the existence of a fully-coordinated, easily accessible and complete array of community-based therapeutic, educational, habilitative and rehabilitative services of sufficient size and quantity to meet the needs of persons with mental impairments involved in, or at risk of involvement in, the criminal justice system;
- to ensure that services offered to persons with mental impairments involved in, or at risk of involvement in, the criminal justice system are of high quality and state-of-the-art; and

- to assure the existence of systems and individual advocacy services of sufficient strength to meet the ongoing needs of persons with mental impairments who are involved in, or at risk of involvement in, the criminal justice system.

Council Organization

The Council has adopted the following internal committee structure:

- Executive Committee
- Program Committee
- Special Needs Offenders Committee
- Research Committee
- Legislative Issues Committee
- Misdemeanant Committee

Committees have primary responsibility for developing the Council's legislative and regulatory policy recommendations and for providing programmatic direction.

III

COUNCIL ACCOMPLISHMENTS

Following are the major accomplishments of the Council:

Pilot Demonstration Projects

In order to develop new knowledge on effective alternatives to incarceration, the Council has implemented an innovative approach to meeting the service needs of offenders with mental impairments. This approach has the dual mission of providing intensive casemanagement services to individual offenders with mental impairments and providing coordination assistance to agencies that serve them.

The primary goal of casemanagement is the linking of offenders with mental impairments with the therapeutic and support services necessary to divert them from the criminal justice system. This approach has proven to be both therapeutically and economically effective.

The Council currently funds two (2) pilot demonstration projects. Project CHANCE is an Austin based casemanagement service, operated by the Association for Retarded Citizens - Austin for non-3g offenders with mental retardation or other developmental disabilities. It has been operational for 4 years. An independent evaluation of this project conducted in April of 1991 was very positive.

Project ACTION is a Houston based casemanagement service operated by the Harris County Community Supervision and Corrections Department, for non 3-g offenders with mental illness. It has been in operation for three (3) years. An independent evaluation conducted in the summer of 1992 was extremely positive. Both project evaluations are summarized in Appendix A.

Those projects collectively served 373 offenders with mental impairments in Fiscal Year 1992, exceeding the projected performance measure of 250 by 123 or 149%

Training/Technical Assistance

The Council has known for some time that one of the primary problems facing offenders with mental impairments is the lack of clinical expertise on the part of most criminal justice personnel. This problem is compounded by an equal lack of criminal justice expertise on the part of mental health and mental retardation service personnel. Because of this the Council has and continues to give high priority to the cross training of criminal justice and human service personnel.

In FY 92 the Council and its pilot projects conducted 91 training sessions for 2,310 individuals. Noteworthy are the following:

- American Correctional Association
- International Law Enforcement Association
- National Conference for State Legislatures
- National Association of Pretrial Services Agencies
- State Association of Court Administrators
- Texas Municipal Courts

During the Biennium, the Council responded to requests from a variety of local, state and national governmental and private agencies on issues pertaining to offenders with mental impairments.

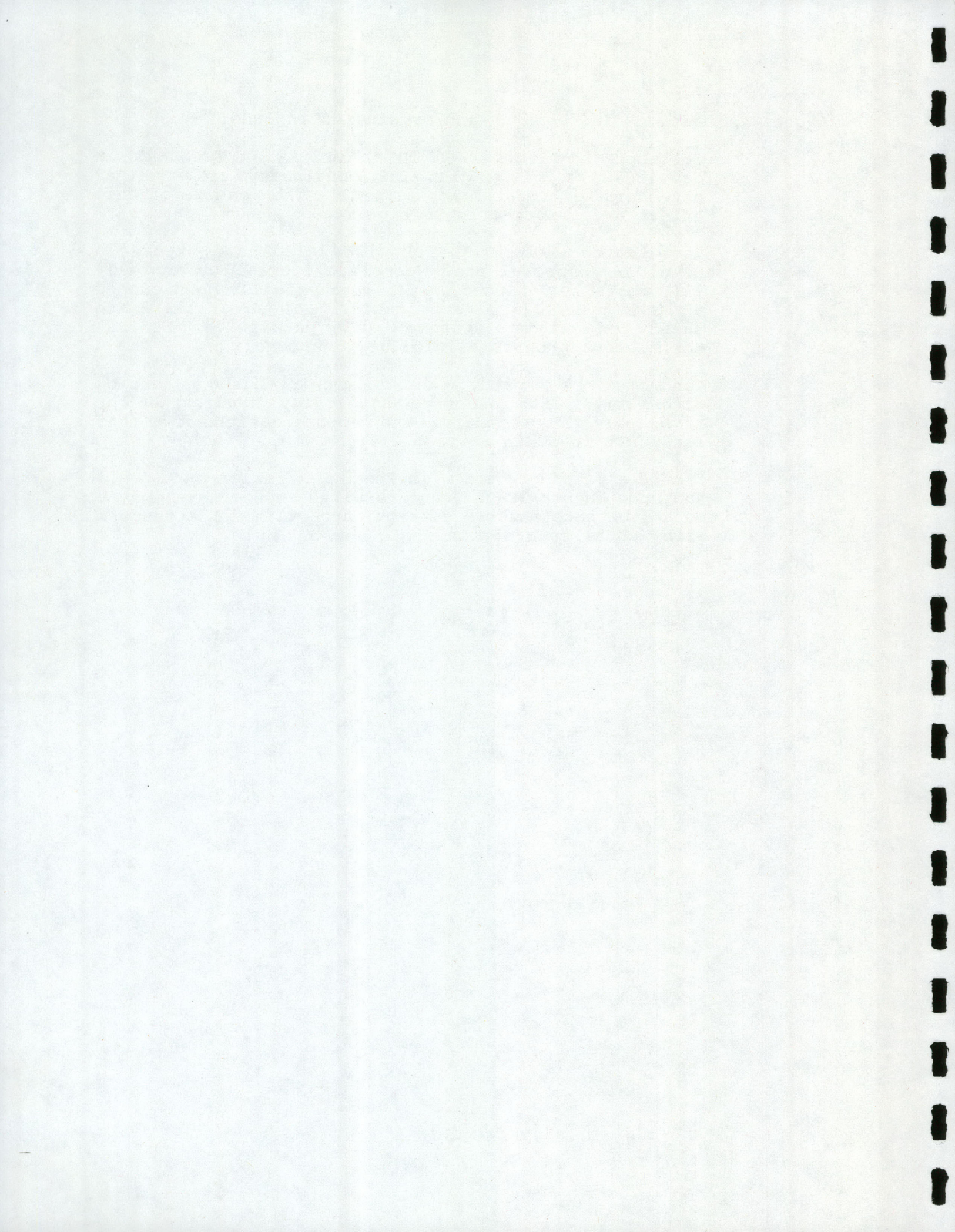
- Testimony to the National Advisory Mental Health Council on the need for and mechanics of coordination between criminal justice and human service systems. This testimony was included in a report to the United States Congress.
- Collaboration with TDMHMR in the production of certain sections of it's 1993 - 1998 Strategic Plan and the 94-95 Appropriations Request. (Appendix B)
- Collaborated with state and local affiliates of the Mental Health Association and the Alliance for the Mentally Ill on effective program and policy initiatives for offenders with mental impairments.
- Responded to requests from over 26 states regarding the Council, its pilot programs and policy initiatives.
- Assisted TCLEOSE in revising their basic law enforcement training curriculum regarding the identification and management of offenders with mental impairments.
- Sponsored a statewide symposium for criminal justice and social service professionals on innovative diversionary strategies for offenders with mental impairments. See Appendix C for a copy of the symposium agenda.

Research and Studies

Members of the Council together with its state office and pilot project staff collectively possess a substantial body of expertise on offenders with mental impairments. This is evidenced by the successful development and implementation of the intensive casemanagement pilot projects referenced above and by the provision of technical assistance to the Legislature, as well as state and local agencies.

Recent initiatives in research and/or studies include:

- Collaborated with TDMHMR, TDCJ, TCLEOSE and TCCMHMRCI in developing a state plan for continuity of care for offenders with mental impairments. The results of this effort are reported in Section V.
- Coordinated with TDCJ, TDH, TDHS, TDOA and others in developing special needs parole criteria for mentally ill, mentally retarded, elderly, physically handicapped or terminally ill prison inmates. These criteria are based on state statute and paralleled federal entitlement program eligibility. (Appendix D)
- Conducted a study of community-based service alternatives for elderly, physically handicapped or terminally ill offenders. The recommendations from this study are found in Section VII.
- Funded a joint project with Texas Commission on Alcohol and Drug Abuse (TCADA) that resulted in the development of a substance abuse treatment curriculum for offenders with mental retardation.



IV

PILOT PROGRAMS

Overview

One of the Council's primary legislative directives concerns the development and implementation of pilot projects to demonstrate cooperative programs that "identify, evaluate, and manage outside of incarceration, non-violent, mentally retarded, developmentally disabled, and mentally ill offenders". In response to the charge, the Council contracted with the Association for Retarded Citizens (ARC Austin), in 1988 to develop a pilot project for juvenile and adult offenders who were mentally retarded or developmentally disabled to divert from the criminal justice system. In April of 1990, the Council contracted with the Harris County Community Supervision and Corrections Department to implement a similar project for offenders with mental illness.

An innovative approach to meeting the service needs of offenders with mental impairments has been implemented by both pilot projects. Project CHANCE and Project ACTION are providing casemanagement services to individual offenders with mental impairments and consultative and coordination assistance to the agencies that serve them. This approach is necessary to meet the multiple needs of offenders with mental impairments. Many of these individuals have not received adequate educational, rehabilitative and clinical services prior to their arrest. Approximately 90% are unemployed at the time of their arrest. Casemanagement services are essential for offenders with mental impairments to access and maintain needed services.

Both pilot programs have successfully developed service delivery models of community based alternatives to incarceration. An independent evaluation of each pilot project was conducted during the last biennium. Their results clearly indicate that casemanagement is an effective tool for coordinating services and diverting offenders with mental impairments from the criminal justice system.

During the last two years Project CHANCE has:

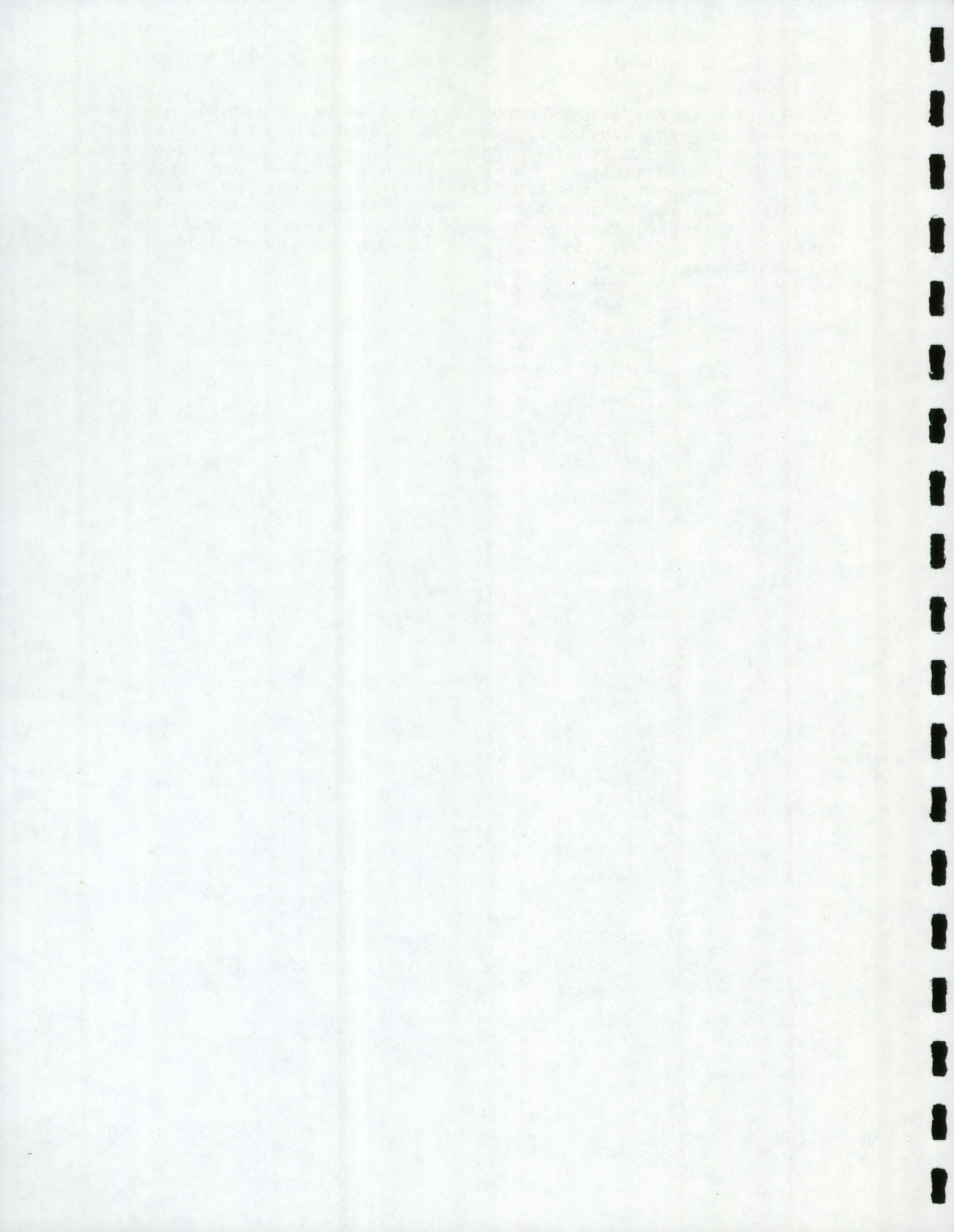
- employed five casemanagers and a lead casemanager, providing direct supervision of all casemanagers;
- served an active caseload of 100 offenders with mental retardation/developmental disabilities;
- participated in the Community Justice Planning Council;
- identified appropriate procedures and policy barriers to service, and actively worked on eliminating them;

- participated in numerous statewide conference presentations on Project CHANCE;
- trained criminal justice and human service personnel on the identification and needs of offenders with mental retardation or other developmental disabilities;
- provided outpatient chemical dependency treatment, sex offender treatment, and social skills training for Project CHANCE clients;
- promoted interagency collaboration and the creation of services to meet the unique needs of Project CHANCE clients;
- provided information, referral and technical assistance to the community at-large;

During the last two years Project ACTION has:

- developed and maintained a local advisory council composed of representatives from law enforcement agencies, mental health organizations, community corrections agencies, and community support groups;
- obtained memorandum of understandings with Harris County Pre-trial services, Texas Rehabilitation Commission, TDCJ-Pardons and Paroles, Harris County Mental Health Mental Retardation Authority, Houston Alliance for the Mentally Ill, Mental Health Association of Houston, and Harris County Alliance for the Mentally Ill;
- served an active case load ranging from 100 clients in the first year of operations to 110 the following year, and are currently under contract to serve 120 clients;
- maintained six casemanagers, one lead casemanager, and recently a project manager was hired to perform all program administrative duties;
- provided training and technical assistance to criminal justice personnel in the identification and needs of offenders with mental illness;
- developed a slide show presentation, and attended statewide conferences to train community corrections officers and professional service providers about Project ACTION;

In addition to the accomplishments noted above, the casemanagers from both projects have advocated and assisted clients in obtaining federal entitlement benefits such as SSI, medicaid, and veterans administration benefits. This assistance includes applying for benefits, maintaining the benefits obtained, as well as following up on any denials or grievances. As a result of the casemanagers efforts, both projects have reported accessing SSI benefits in a total amount of \$ 381,557.71 for the period September 1, 1991 through August 31, 1992.



**A STATE SERVICE PLAN
FOR
OFFENDERS WITH MENTAL IMPAIRMENTS**

Central to the mission of the Council is the creation of a coordinated, accessible, comprehensive system of diversionary services for offenders with mental impairments. The Council has spent the last four years developing the necessary expertise and technology to accomplish this legislative directive. The Council recommends that the Legislature establish a statewide service system for offenders with mental impairments as a public policy priority of TDCJ, TDMHMR and other relevant agencies.

The Legislature laid the foundation for this system when it created the Council in 1987. The Council has now established the structural framework for this initiative. Early last year the Council approached TDCJ and TDMHMR leadership and recommended the establishment of a criminal justice and mental health/mental retardation task force. Subsequently the Council chaired a task force consisting of TDMHMR, TDCJ, TCLEOSE and the Texas Council of Community Mental Health and Mental Retardation Centers, Inc. which agreed to address the three strategic planning components of coordination, training and service. This task force developed the recommendation listed below. The Council recommends their legislative endorsement.

**RECOMMENDATIONS FOR THE COLLABORATION AND COORDINATION
OF MENTAL HEALTH/MENTAL RETARDATION
AND CRIMINAL JUSTICE SERVICES**

COORDINATION

1. An ongoing Task Force of the Texas Council on Offenders with Mental Impairments consisting of the Executive leadership of TDMHMR, TDCJ, Texas Council of Community MHMR Centers, and relevant adult and juvenile justice agencies should be established to:
 - A. Direct and develop statewide planning for offenders with mental impairments.
 - B. Develop interagency rules, regulations, policies, and procedures for the care and treatment, and exchange of information of offenders with mental impairments.
 - C. Develop federal, state and local funding initiatives and maximize current funding sources for services for offenders with mental impairments.

- D. Develop guidelines for membership and broad method of operations of local task force.
2. The local community justice task force should establish a subcommittee of relevant mental health and criminal justice agencies to:
 - A. Coordinate local planning for offenders with mental impairments.
 - B. Coordinate local interagency operations for offenders with mental impairments.
 - C. Coordinate local funding initiatives for services for offenders with mental impairments.

TRAINING

1. The Texas Council on Offenders with Mental Impairments should coordinate the development of cross training standards for other relevant pre-trial/personal bond, law enforcement, criminal justice and MH/MR agencies.
2. The Texas Commission on Law Enforcement Officer Standards and Education should develop and insure the implementation of training standards for police, sheriffs, and jail personnel on all relevant issues involving offenders with mental impairments.
3. The Texas Commission on Jail Standards should develop and ensure the implementation of standards that ensure appropriate assessment and treatment services within all Texas jails.
4. The Texas Department of Criminal Justice should develop and ensure the implementation of training standards for local Community Supervision and Corrections and Texas Department of Criminal Justice staff who serve offenders with mental impairments.
5. The juvenile justice agencies should develop and insure the implementation of training standards for juvenile justice staff who serve offenders with mental impairments.
6. The Texas Department of Mental Health Mental Retardation should develop and ensure the implementation of technical assistance and training standards for all MHMR personnel who serve offenders with mental impairments.

SERVICE

1. The Texas Council on Offenders with Mental Impairments should coordinate the development of relevant standards for a statewide service delivery system for offenders with mental impairments.
2. The Sheriff's Association of Texas should develop a standardized identification model for all persons with mental impairments who are incarcerated in county jails.
3. All local community MHMR authorities should provide case management/case coordination services to offenders with mental impairments and coordinate those efforts with relevant juvenile and adult criminal justice agencies.
4. All counties should develop necessary programs and services to divert from jail all eligible persons with mental impairments to appropriate services.
5. All Texas Community Supervision and Corrections Departments should provide specialized supervision services to those persons with mental impairments.
6. TDCJ/CJAD should ensure that mandatory psychiatric and diagnostic testing is conducted as part of the Pre-Sentence Investigation on all convicted felons who are mentally impaired.
7. The TDCJ-ID should provide prison based services for those persons with mental impairments who require them.
8. TDCJ, in collaboration with local MHMR authorities should jointly develop a treatment and supervision plan for offenders with mental impairments.
9. TDCJ-PPD should establish specialized supervision services for persons with mental impairments who are paroled.
10. TDMHMR should publish its state plan for meeting the treatment needs of persons who are mentally ill with a coexisting substance abuse diagnosis.

The Council, TDMHMR and TDCJ believe that these recommendations represent the most important aspects of a comprehensive ideal service system. Agencies agree that these recommendations could be implemented by modifying existing systems. However, additional funding is necessary to fully implement needed services. The Texas

Council on Offenders with Mental Impairments through TDCJ and TDMHMR have addressed the needs of offenders with mental impairments in their 1994-1995 Legislative Appropriations Requests.

State Plan Legislative Recommendations

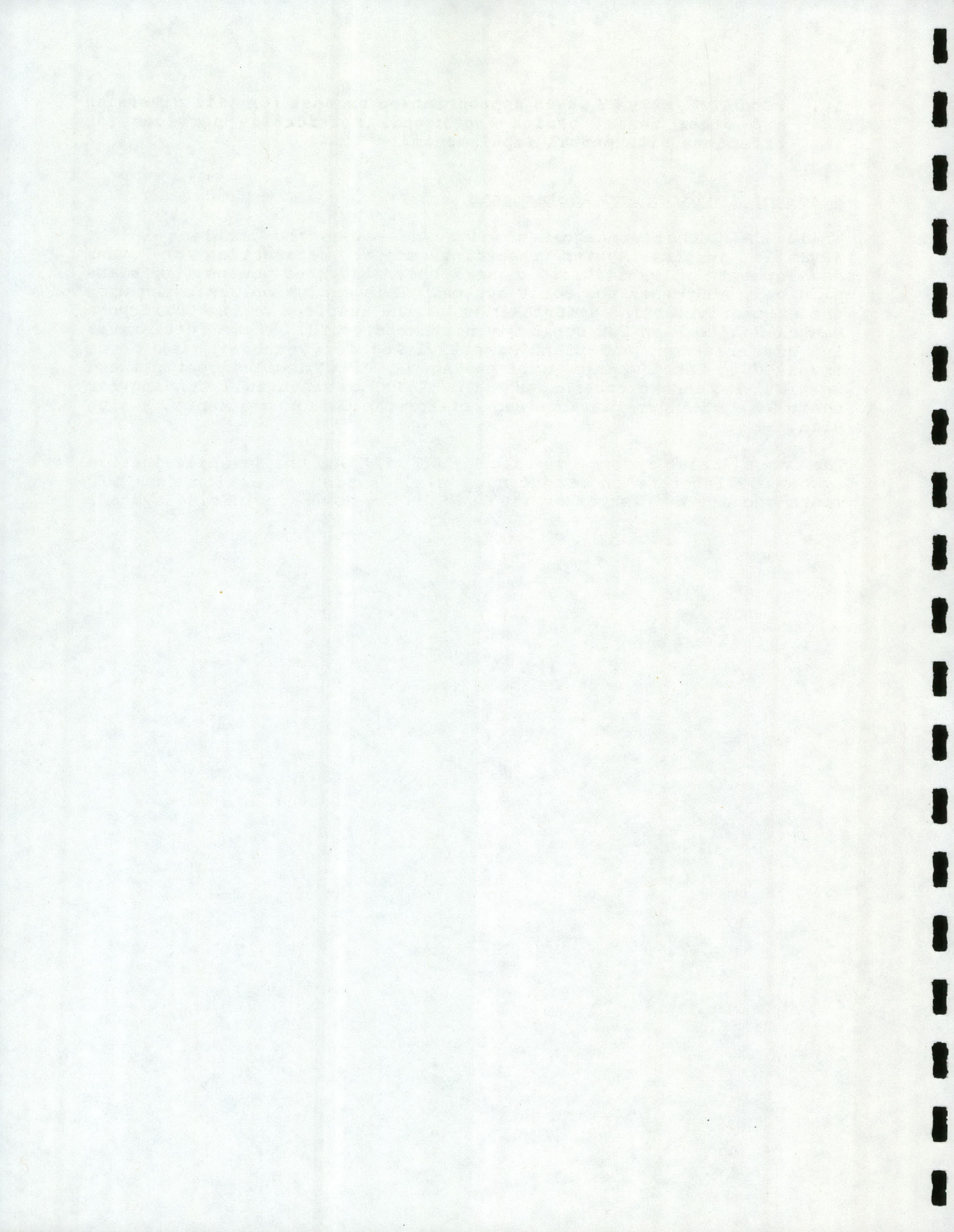
1. Relevant state and local criminal justice and social service entities should enter into memoranda of understanding that clearly define roles, responsibilities and procedures for identifying offenders with mental impairments in the criminal justice system.
2. Relevant state and local criminal justice and social service agencies should enter interagency or interlocal contracts that fund and operate the continuity of care and service system for offenders with mental impairments.
3. Community corrections funds, juvenile and adult, should designate a percentage of funds to be used for alternative sentencing programs for offenders with mental impairments.
4. Any funds appropriated for offenders with special needs should be used to maximize federal funds to the fullest extent possible. Interlocal or interagency contracts should include language specific to maximizing federal funds and the purpose for which any federal funds will be used to expand or enhance services for offenders with mental impairments.
5. Casemanagers should be co-located within various points in the local criminal justice system (i.e., D.A. intake, jail, pre-trial, etc) to provide screening, assessment and diversion alternatives for offenders with mental impairments.
6. Pre-Sentence Investigation reports should be modified to include specific language regarding history of mental illness, mental retardation, medical conditions or other qualifying information for offenders with mental impairments.
7. Laws should be changed to allow for the exchange of information on offenders with mental impairments among criminal justice and social service agencies who share joint responsibility.
8. State and local criminal justice and social service agencies should not only collect data on the numbers of offenders with mental impairments in their respective systems, but should also collect data on the recidivism rates. Recidivism rates should address re-arrest, conviction and incarceration.
9. Fund TDCJ's FY 94-95 appropriation request for a continuity of care system for special needs offenders.

10. Fund TDMH/MR's FY 94-95 appropriation request for jail diversion and other mental health and mental retardation services for offenders with mental impairments.

Needs of Children and Adolescents

While the Council recognizes and acknowledges the problems in the juvenile justice system regarding mental retardation or other developmental disabilities, of seriously disturbed youths, the state plan only addresses the adult system. This exclusion was based upon the initiatives being undertaken under the auspices of the Children's Mental Health Plan for seriously disturbed youth. These initiatives include treatment and planning activities for youth at risk of or involved in the juvenile justice system. The Council supports these initiatives and recommends that the TDMHMR receive full funding for their 94 - 95 Appropriations Request for the Children's Mental Health Plan.

The Council also recommends that TDMHMR, TEA and the juvenile justice system collaborate on producing a similar plan of action for MR/D youth who are at risk of or involved in the juvenile justice system.



VI

MAXIMIZATION OF FEDERAL FUNDS

Shrinking state revenues, coupled with increased demand for services, necessitate that public agencies capture federal funds for their clients whenever possible. Many persons with mental impairments are eligible for federal benefits such as Supplemental Security Income, Medicaid, and food stamps, as well as subsidized housing, vocational and rehabilitation programs. Federal monies gained from these programs would expand mental health and mental retardation service system capabilities and improve the quality of life for many citizens with mental impairments.

As the costs for jails and prisons continue to escalate, local and state officials are examining more appropriate and cost effective alternatives to incarceration. This is particularly true for offenders who are mentally ill. The local jails have in many respects become the primary provider of last resort for persons with mental illness.

According to the Council's report to the 71st Legislature, "Effective Service Alternatives for Misdemeanants with Mental Illness" the most common reason for arrests were public intoxication, disorderly conduct and theft. In addition, it was conservatively estimated that on any given day, 15 - 20% of the misdemeanor population in Texas jails was seriously mentally ill. The costs for arresting and incarcerating this offender population are significant, particularly when considering that the county pays 100% of them.

To study alternative funding strategies for misdemeanants with mental illness, the 72nd Legislature placed the following appropriations rider on the Texas Department of Criminal Justice's budget.

"MAXIMIZATION OF FEDERAL FUNDS. Within appropriations made above, the Texas Council on Offenders with Mental Impairments and/or the Texas Department of Criminal Justice, shall work with the Texas Rehabilitation Commission, the Department of Mental Health and Mental Retardation, the Department of Human Services, local governments and the Medicaid Analysis and Cost Control Unit of the Legislative Budget Board to determine and implement methods that better enable mentally impaired persons convicted of misdemeanor offenses to qualify for federal Supplemental Security Income benefits."

While this appropriations rider specifically referenced SSI benefits, our review included other federal funding programs. This review included medicaid, food stamps, veterans administration, rehabilitation services and Section 8 housing. Medicaid appears to provide the greatest potential cost benefit to state and local government. However, as in the case of SSI, the Code of Federal

Regulations (Section 450-20) prohibits the use of medicaid funds for any person who is committed to a public institution. Specific reference to penal institutions is cited below:

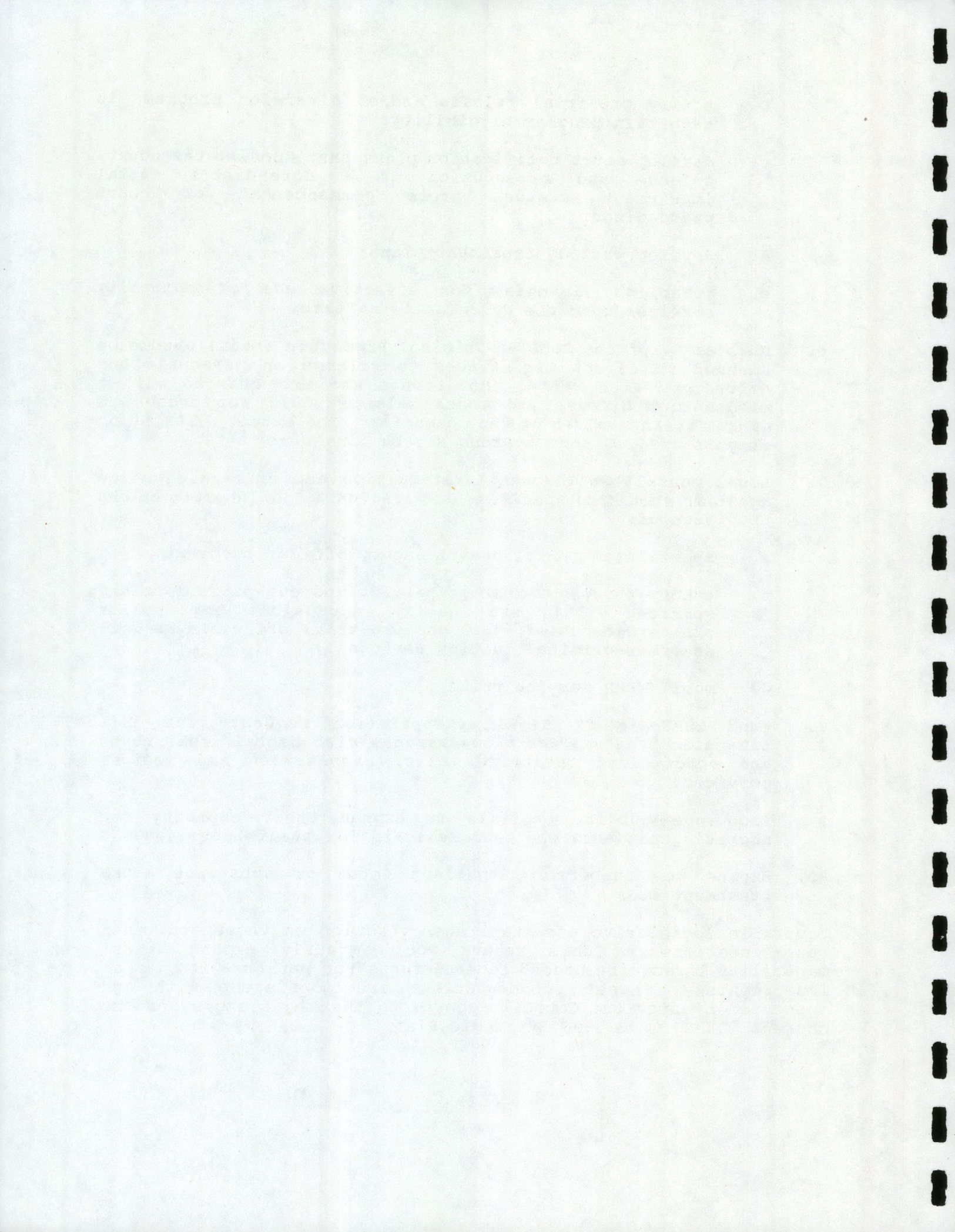
"Inmates of penal institutions, whether during the period before trial or other disposition of the charges, or after conviction, are totally excluded from medicaid coverage; by the act of incarceration, the state assumes full responsibility for the prisoner's care, wherever provided. His "inmate" status continues until the indictment is dismissed or he is released from custody either as "not guilty" or for some other reason (e.g. bail, parole, pardons)".

Based on these regulations, the obvious strategy for maximizing federal funds would be not to incarcerate persons with mental illnesses who are charged with misdemeanor offenses. Realistically, this is not always a viable option. However, implementation of the following recommendations result in a reduced incidence of arrest and incarceration, and in doing so, would ensure the maintenance or expansion of federal funding resources.

1. TDMHMR, TRC and TDHS should be funded to ensure that adequate levels of clinical, rehabilitation, and case management services are provided to persons with mental impairments to substantially reduce the likelihood of their initial involvement in the criminal justice system.
2. All TDMHMR facilities and service providers (hospitals, schools, and community centers) should be directed to maximize federal benefits for all eligible clients in a continuous and timely manner.
3. The Texas Commission on Jail Standards and the Texas Commission on Law Enforcement Officer Standards and Education should develop policies, procedures, standards, and methods to ensure that all persons with mental impairments entering the criminal justice system (arrest and jail incarceration) are properly screened and identified.
4. TDMHMR should develop and implement Commissioners Rules and Regulations requiring all Community Mental Health and Mental Retardation Authorities, in collaboration with local Community Justice Councils, to develop diversionary strategies and alternatives to incarceration for misdemeanants with mental impairments.
5. Jail based mental health and mental retardation services should be developed and implemented to:
 - a. screen and identify offenders with mental impairments;

- b. notify pre-trial release and/or diversion programs to ascertain program eligibility;
 - c. develop court notification plans that apprise the court, defense and prosecution of a defendant's mental impairment status before commencement of court proceedings;
 - d. develop custody treatment plans;
 - e. establish linkages, for effective use of community services upon the defendant's release.
6. Chapter 17 of the Code of Criminal Procedure (bail) should be amended to direct magistrates to release on personal bond defendants with mental impairments who are charged with a misdemeanor offense and whose release would not present a danger to themselves or the community. The extent of existing or potential support systems may be considered.
 7. Local mental health/mental retardation and criminal justice agencies should be specifically directed to collaborate on the provision of:
 - a. specialized mental health deputy officer programs;
 - b. twenty-four hour MHMR in-patient and out-patient crisis services that are easily accessible to police officers/deputies, jail and pre-trial officials as well as other criminal justice personnel;
 - c. mobil MHMR service units.
 8. Fund TDMHMR's FY 94-95 appropriation requests for jail diversion programs for misdemeanants with mental impairments and specialized treatment, crisis assessment and medical services.
 9. Encourage public hospitals to expand their capacity for accepting patients who used medicaid for health coverage.
 10. Expand the number of inpatient detox or substance abuse treatment beds.

Favorable legislative and state agency action on these and other recommendations in this report would greatly expand Texas' capability to acquire needed federal funds for persons with mental impairments. These recommendations are consistent with and supported by previous Council reports to the Legislature and the current TDMHMR 1993-1998 Strategic Plan.



VII

SPECIAL NEEDS OFFENDERS

Based upon current projections, the state and federal correctional systems will see a dramatic increase in the number of inmates who are elderly and/or have significant health problems. Several factors contribute to this problem. The "get tough on crime" movement which has resulted in longer mandatory sentencing and less support for probation or other alternative sentencing options, and the dramatic increase of drug use are two factors. Most experts agree that the fiscal demands of these inmates on state corrections will tremendously strain an already stretched criminal justice system budget. Compounding this problem is the ever increasing problem of jail and prison crowding. Jail and prison space is reaching maximum capacity; and supply is not keeping pace with demand. Texas, like other states, is experiencing the same problems of rising health care costs and jail/prison crowding.

To examine more appropriate and cost effective sentencing alternatives to incarceration, the 72nd Legislature directed the Council to conduct a study on community-based alternatives for these special needs offenders. More specifically the legislature directed that:

"The Council and the Texas Department of Mental Health Mental Retardation shall collaborate with the Texas Department on Aging, Texas Rehabilitation Commission, Texas Department of Human Services and the Texas Department of Health to develop creative community-based alternatives for elderly, significantly ill or physically handicapped offenders.

The Council and the Texas Department of Mental Health Mental Retardation, Texas Department on Aging, Texas Department of Human Services and the Texas Department of Health shall present to the 73rd Legislature a report explaining the results of their collaborative effort, including departmental procedure, policy or regulation changes, future agency planning and recommendation for legislation or statutory modification."

This collaborative effort results in several areas of concern:

- prevalence rate projections
- cost of incarceration and medical treatment
- accessibility and availability of treatment services.

The following is a brief overview of each of these concerns:

PREVALENCE RATE PROJECTIONS

Older prisoners are one of the fastest growing segments of the prison population. Experts predict that by the year 2000, over 125,000 inmates over the age of 55 will be in America's prisons. While age alone does not result in medical problems, inmates tend to be physiologically older than their chronological age, thus geriatric health problems occur sooner.

According to a 1992 TDCJ study, over 650 inmates over 60 years of age were in the state prison system. Again, the number of geriatric inmates is expected to increase. Anticipated changes in state sentencing practices will result in longer sentences and actual time served.

The AIDS crisis continues to severely tax the health budgets of local, state and national health care systems. Substance abuse is considered a high risk factor related to the transmission of the AIDS virus. Therefore the high prevalence of substance abuse in the Texas prison population is cause for considerable alarm. The actual HIV prevalence rate is not known because mandatory HIV testing is not conducted in most jails or in prison. However, it is a safe assumption that the incidence is far greater among inmates than the general freeworld population.

As HIV testing is not mandatory for inmates, the actual number of TDCJ inmates with HIV is unknown. However, for those inmates voluntarily requesting testing, over 700 have tested positive for the AIDS virus.

COSTS

With the projected increases in the prison population of geriatric, significantly ill or physically handicapped inmates, a corresponding increase in health care costs is forecasted. A 1992 report prepared by the Legislative Budget Board's Medicaid Analysis Unit included a comparison of annual state costs for categories of special needs offenders. An overview of these cost comparisons can be found in Appendix E.

ACCESSIBILITY AND AVAILABILITY OF SERVICES

The Council's review of current community-based services suggests that these programs are therapeutically and programmatically adequate to address the special needs offenders' treatment requirements. However, the Council is concerned with the following two issues:

- (1) Many community-based service providers stated that the enrollment of this additional population would exceed the current service systems capacity.
- (2) Service providers expressed concern over integrating "offenders" with special needs into their programs. Negative perceptions regarding "special needs offenders" in most cases are unfounded. As the offender population that would be targeted for diversion programs would be medically involved, the likelihood of "offending" behavior would be minimized. Consequently, the special needs offender would have the same medical or behavioral characteristics of the non-offender patient population being served. Therefore, his/her felony status should present no extraordinary considerations.

Based upon these considerations, the Council and participating agencies have identified the following policy, legislative and/or funding recommendations pertaining to community-based alternatives for special needs offenders.

1. Amend the Community Justice Task Force's membership, as outlined in HB 93, to include representatives from agencies that specialize in aged or health care services. This would ensure the input of key professionals in the development of community-based sentencing alternatives for special needs offenders.
2. Develop and implement pilot projects for incorporating special needs offender programs within their state plans in the 6 most populated counties.
3. Require all Community Justice Councils to develop programs within the community justice plans specific to special needs offenders.
4. Review the Performance Reward criteria outlined in HB 93 to include diversion programs for special needs offenders. As these offenders are the most expensive inmate within the prison system, counties who develop community sentencing alternatives should be monetarily rewarded.

5. Maximize federal funds to the fullest extent possible with any funds appropriated for offenders with special needs. Interlocal or interagency contracts should include language specific to maximizing federal funds and the purpose for which any federal funds will be used to expand or enhance services for offenders with special needs.
6. Designate a certain percentage of criminal justice funding to be used as the state match for entitlement programs.
7. Determine whenever possible, special needs offender eligibility for entitlement programs (i.e., medicaid, medicare, etc) prior to sentencing.
8. Require Commission on Jail Standards to develop more comprehensive standards for screening psychiatric and other medical conditions.
9. Identify special needs offenders prior to sentencing to divert offenders to more appropriate community-based treatment programs.
10. Modify Pre-Sentence Investigation reports to have specific language regarding history of mental illness, mental retardation, medical conditions or other qualifying information for special needs offenders.
11. Create specialized medical or psychiatric casemanagement units within jails to coordinate all assessments and community treatment plans.
12. Encourage state and local parole and probation to develop an adequate level of specialized caseloads to provide appropriate supervision of offenders with special needs.
13. Revise state agencies rules, regulations and/or policies to prohibit any private or public community-based service provider that receives state funds from discriminating against offenders with special needs.
14. Fund the Texas Council on Offenders with Mental Impairments through TDCJ request for special needs parole programs as outlined in HB 93, 72nd Legislature.

VIII

FUTURE DIRECTIONS

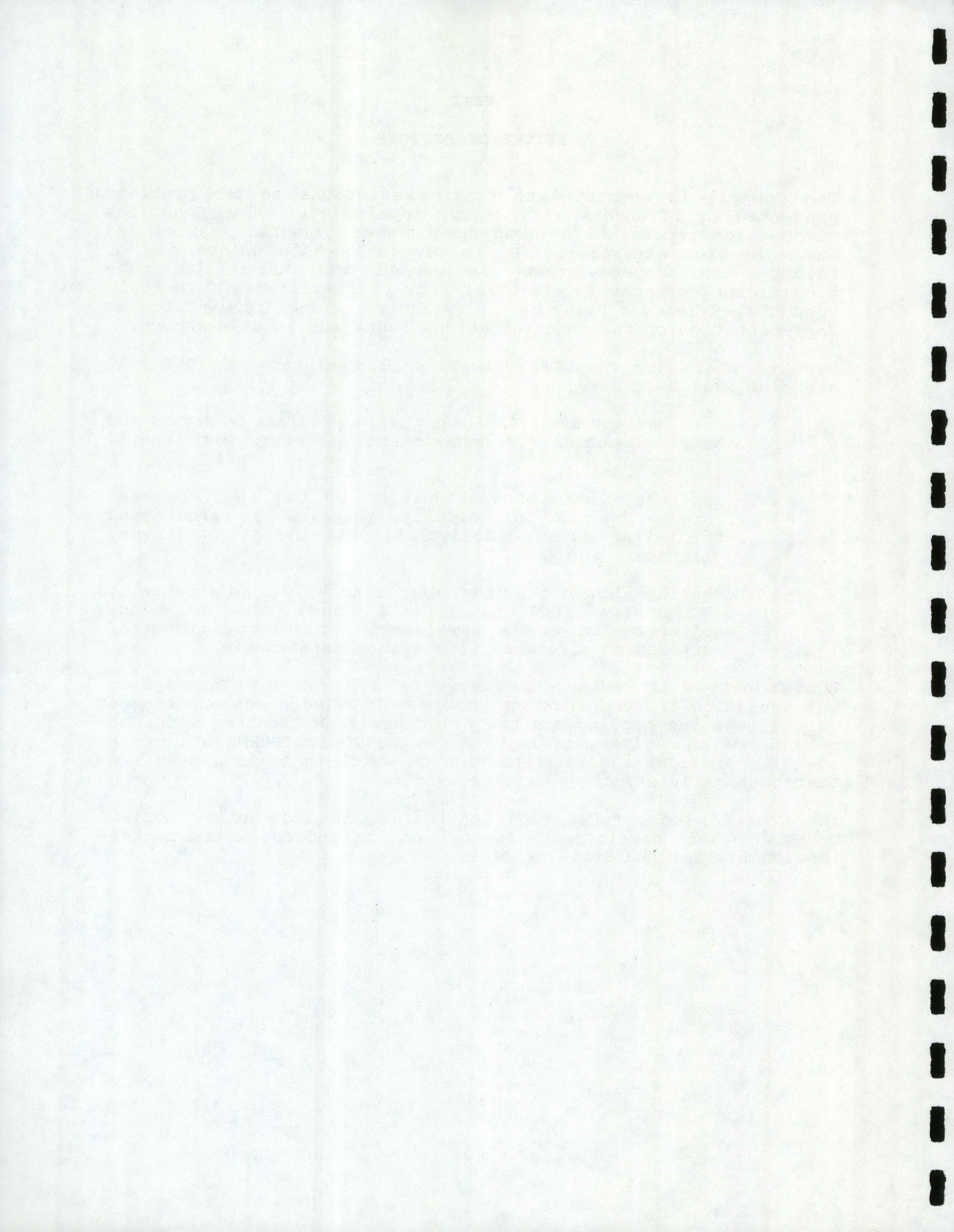
The Council is committed to finding solutions to the problems presented by offenders with mental impairments. The Council's composition represents a broad spectrum of criminal justice and human service expertise. It is precisely this unique mix of talents and concerns that has caused the Council to make significant advances in its brief four-year existence. To build upon the advances already made, the Council looks forward to the implementation of the recommendations contained in this report.

Some of the major Council activities planned for the 1994-1995 biennium will be the:

- continuation of diversionary pilot programs in Travis and Harris Counties for non-violent offenders with mental impairments;
- implementation and continuation of the special needs parole program for elderly, physically handicapped terminally ill, mentally ill and mentally retarded offenders; and
- continuation of the provision of technical assistance to TDMHMR and TDCJ to promote their ongoing close collaboration in the development of a continuation of services to offenders with mental impairments.

The Council will continue to serve as a forum for interagency collaboration and cooperation. The new knowledge and experience gained from the ongoing and new pilot programs together with the recent collaborative planning efforts of TDCJ, TDMHMR and other agencies provides a firm foundation on which to build a cost and therapeutically effective service system.

The Council looks forward to continuing its role as an active research and development agency on offenders with mental impairments for the State of Texas.



APPENDIX A

CONCLUSIONS OF PROJECT EVALUATIONS

Project CHANCE

The impetus for Project CHANCE, Senate Concurrent Resolution 128, directed the development of community-based programming to:

- Provide for early identification of persons with mental disability who are offenders through screening and diagnosis/evaluation services in the community.
- Improve identification of persons with mental disability by providing training to law enforcement, judiciary, corrections, and social service professionals.
- Provide habilitation services for persons with mental disability who are offenders in separate units in the prison system or in community-based facilities.
- Develop creative community-based alternatives for persons with mental disability who are offenders.

In its two and one-half years of operation, Project CHANCE has made laudable progress in moving toward these aims. The progress made has not always been painless, easy, or steady. As in any program involving many agencies, each with its own regulations, policies, priority client populations, and perspectives, cross-systems work is arduous and fraught with the potential for dissonance and misunderstanding. But almost everyone interviewed - Local Coordinating Council members, service providers, and especially clients - had high praise for the work of the case managers and the results of the program, albeit many of the results have not been objectively documented. The casefile reviews likewise revealed the case manager's diligent efforts to help Project CHANCE clients to identify their needs and goals, explore possible solutions and action plans, and mobilize supports to link them to needed services. The Project CHANCE case managers effectively advocate for the planning, delivery, and monitoring of sequential and comprehensive services.

Project CHANCE has achieved an 11% to 15% recidivism rate for clients while they were served. This low rate suggests that Project CHANCE has been successful in its primary mission - diversion of its clients from the criminal justice system. Ways to refine and amplify measurements of recidivism are needed to provide further evidence that the project is meeting its legislative mandate. Recidivism rates also need to be assessed longitudinally for all individuals who have received Project CHANCE services.

The implementation of the additional recommendations in this report will encourage caseload movement, provide additional structure, support, and guidance for case decisions, maximize the use of lean case management resources, and encourage continued innovations, improvements, and services creation. The program's focus and goals will be sharpened and its commendable and numerous accomplishments - both for clients and for the criminal justice and social services systems - can be more clearly documented.

Project ACTION

During its two and one-half years of operation, Project ACTION has made commendable progress in achieving the goals set forth in the original Request for Proposal to establish the pilot project. To enumerate a few ...

1. GOAL: Diversion of offenders with mental impairments to community-based alternatives to incarceration
DATA: 92% of clients did not return to prison
2. GOAL: Improve early identification of persons with mental impairments in the criminal justice system
DATA: An average of 211 clients per month are on a waiting list to get admitted into Project ACTION
3. GOAL: Establish a Local Advisory Council representing the entire continuum of service, education and the criminal justice system
DATA: A 43 member local advisory committee representing every aspect of the continuum of services for mentally impaired offenders meets on average monthly
4. GOAL: Reduce the number of arrests of these chronic offenders with mental impairments
DATA: 75% of Project ACTION clients were not arrested for a new felony or misdemeanor offense
80% of parolees did not have a parole violation

The evaluation substantiates the overall positive belief of the success of Project ACTION. The client and referral source questionnaires revealed that Project ACTION clients are being assisted to achieve independence and access to many basic needs to which they did not have prior access. The document study revealed the case managers's diligent effort to assist Project ACTION clients to identify their needs and goals, develop action plans to obtain possible solutions and mobilize supports to link them to needed services.

In conclusion, the Texas Council on Offenders with Mental Impairments' staff developed a vision, pursued the funds and secured legislative support to design and develop Project ACTION. They should be loudly and whole-heartedly commended for the diligent efforts to make Project ACTION a reality.

The Harris County Community Supervision and Corrections Department accomplished a programmatic victory through the hard work, creativity, compassion, and determination of Project ACTION staff. None of the successes would have been possible without the fine staff who work miracles by supervising offenders who by the nature of their mental illness are often neither compliant nor amenable to rules and procedures.



APPENDIX B

Texas Department of Mental Health
and Mental Retardation

Strategic Plan
Fiscal Year 1993-1998

☆☆☆☆☆☆☆☆☆☆☆☆☆☆

Strategy

- 1.3.5 Increase the capacity of the system to address the needs of persons with mental illness and mental retardation who are incarcerated.

Output Measure

1998 Targets

- 1.3.5.A # persons with mental illness and mental retardation with a history of involvement with the criminal justice system receiving services in the TXMHMR system

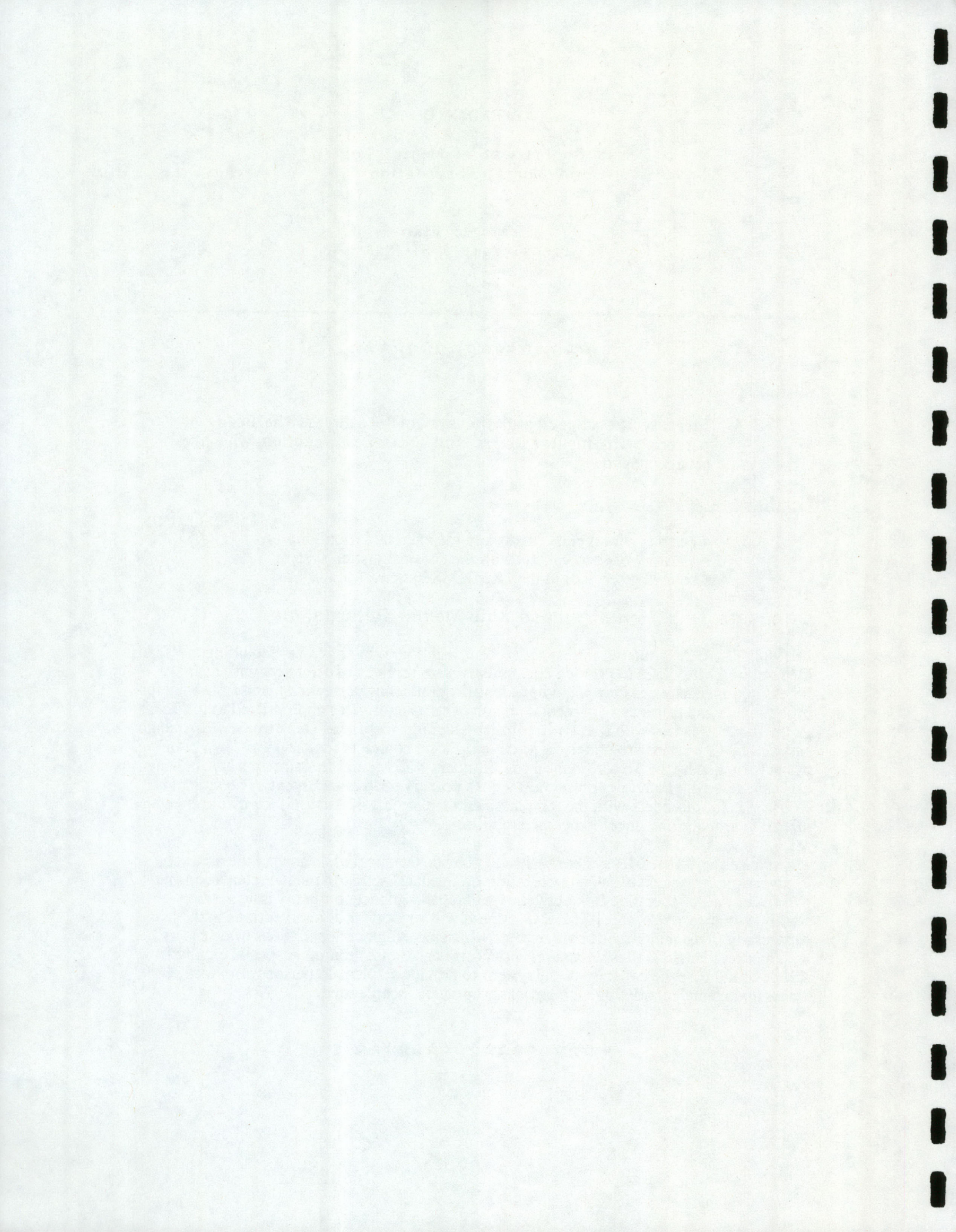
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Offenders with Mental Illness and Mental Retardation

In 1988, TXMHMR entered into an agreement with four other agencies including the Texas Council of CMHMRCs to provide continuity of care services to offenders with mental illness and mental retardation including identification, referral, treatment and follow-up for probationers and parolees with mental impairments. Funds were appropriated to the Texas Council on Offenders with Mental Impairments through the Texas Department of Criminal Justice (TDCJ). Plans are underway to develop local contracts for services. Two pilot projects funded by the Texas Council on Offenders with Mental Impairments are showing early success with nonviolent offenders whose primary need is treatment. The project in Houston is for offenders with mental illness and the project in Austin is for offenders with mental retardation and developmental disabilities.

The role of the TXMHMR system will be to provide technical assistance in the areas of intervention, service delivery, and education on mental illness and mental retardation that will foster the collaborative link between agencies and impact continuity issues which continue to arise. Also, the TXMHMR system will support local interventions in the jails, particularly in the major metropolitan areas which have high concentrations of offenders with mental illness: Dallas, Houston, Fort Worth and San Antonio. A special emphasis will be to increase the capacity of the system to provide services to persons with mental illness and mental retardation who are inappropriately incarcerated.

☆☆☆☆☆☆☆☆☆☆☆☆☆☆



APPENDIX C

TEXAS COUNCIL ON OFFENDERS WITH MENTAL IMPAIRMENTS

Symposium on Innovative Programs for Offenders with Mental Impairments

AGENDA

RADISSON PLAZA HOTEL - CAPITOL BALL ROOM
700 SAN JACINTO, AUSTIN, TX

June 20, 1991

- 8:00 - 9:00 Registration
- 9:00 - 9:15 Opening Remarks
- 9:15 - 10:15 Marilyn Walczak - Program Director
Wisconsin Correctional Services
Milwaukee, Wisconsin
- 10:15 - 10:30 BREAK
- 10:30 - 11:30 Kim Valentine - Project Supervisor
Talvin Paul - Lead Casemanager
Project ACTION
Houston, Texas
- Jim Newman - Vocational Counselor
Texas Rehabilitation Commission
Susan Brooks - Specialized Parole Officer
TDCJ-Pardons and Paroles Division
- 11:30 - 12:00 Debbie Berndt - Children's Program Specialist
Mental Health Association in Texas
The Texas Children's Mental Health Plan
Austin, Texas
- 12:00 - 1:30 LUNCH on your own
- 1:30 - 2:30 David White - Co-Director
Special Needs Offenders Services
Lancaster, Pennsylvania
- 2:30 - 3:15 Bob Conkright - Project Director
Joyce Horn - Casemanager
Project CHANCE
Austin, Texas
- 3:15 - 3:30 BREAK
- 3:30 - 4:30 John Gafgen - Director
Residential Treatment Unit for
Developmentally Disabled Sex Offenders
Princeton, New Jersey
- 4:30 - 5:00 Bill Bownds - Director
Interagency Council on Sex Offender Treatment
Austin, Texas

(June 21 agenda on back)

June 21, 1991

8:00 - 8:30 Registration

8:30 - 10:00 Harry Williams - Program Director
Dual Focus, Nueces County MHMR
Corpus Christi, Texas

Pauline Allen - Program Director
Young Adult Chronics Program
San Antonio State Hospital
San Antonio, Texas

10:00 - 10:15 BREAK

10:15 - 11:30 Innovative Texas Programs for Offenders with Mental Impairments

Lt. Booker T. Joseph - Supervisor
Mental Health Unit
Galveston County Sheriff's Department
Galveston, Texas

Clint McAdams - Director
Mentally Retarded Offenders Program, BETO 1
Texas Department of Criminal Justice - Institutional Division
Palestine, Texas

Rod Cannedy - Chief Psychologist
Texas Department of Criminal Justice - Institutional Division
Huntsville, Texas

Juanita Gonzalez - Special Program Coordinator
Texas Department of Criminal Justice - Pardons & Paroles Division
Austin, Texas

Closing Comments

APPENDIX D

SPECIAL NEEDS PAROLE: DEFINITIONS CRITERIA

Eligibility Criteria

Eligibility criteria are concerned with two areas: those criteria which are applied to all special needs offender categories, and, eligibility criteria which are generally specific only to one special needs category.

1. General Eligibility Criteria

- a. Release of a special needs offender would not unduly jeopardize the public safety.
- b. The offense of record of the special needs offender must not be a 3g offense.
- c. Prior to release, the special needs offender must have an approved special needs parole plan that insures appropriate supervision, service provision, and placement.

2. Eligibility Criteria Specific to a Special Needs Category

ELDERLY - 60 and over general qualifiers

a. Elderly Offenders

Priority 1 - 65+ with a medical condition requiring 24 hour nursing care

Priority 2 - 60 - 64 with a medical condition requiring 24 hour nursing care

Priority 3 - 60+ with a medical condition requiring licensed personal care. The medical condition must result in substantial functional limitations in three or more of the following areas of major life activity:

- * self-care;
- * self-direction;
- * learning;
- * receptive and expressive language;
- * mobility;
- * capacity for independent living; or
- * economic self-sufficiency; and

reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are lifelong or of extended duration and are individually planned and coordinated.

PHYSICALLY HANDICAPPED

- a. The physically handicapped offender is defined to include amputations, with or without a prosthesis, and/or with spinal cord injury, and/or neuromuscular or musculoskeletal condition, or any condition such that a wheelchair, crutches, cane or orthosis is required for ambulation, and/or any offender with brain damage due to a closed or open head injury which results in significant mobility, visually or hearing impairment. The physically handicapping condition must result in substantial functional limitations in three or more of the following areas of major life activity:

- * self-care;
- * self-direction;
- * learning;
- * receptive and expressive language;
- * mobility;
- * capacity for independent living; or
- * economic self-sufficiency; and

reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are lifelong or of extended duration and are individually planned and coordinated.

TERMINALLY ILL

- a. Terminal illness is a condition which would inevitably result in death within 6 months regardless of the use of life sustaining treatment.

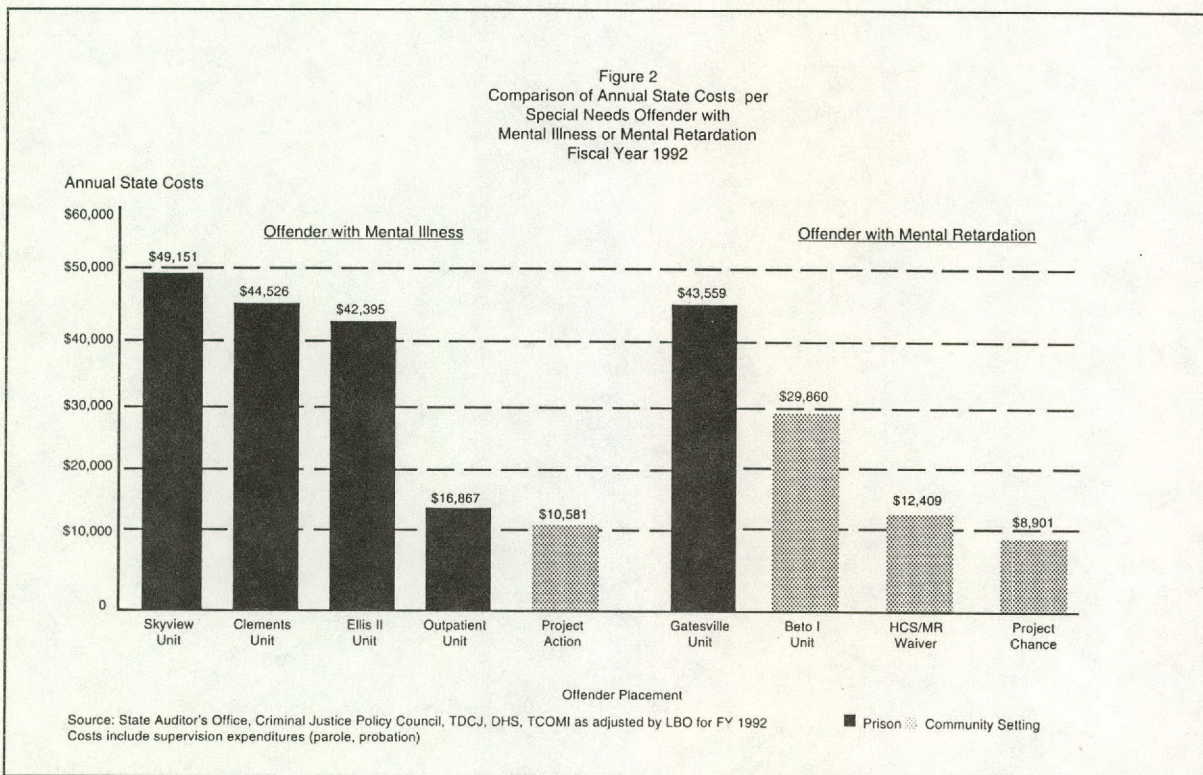
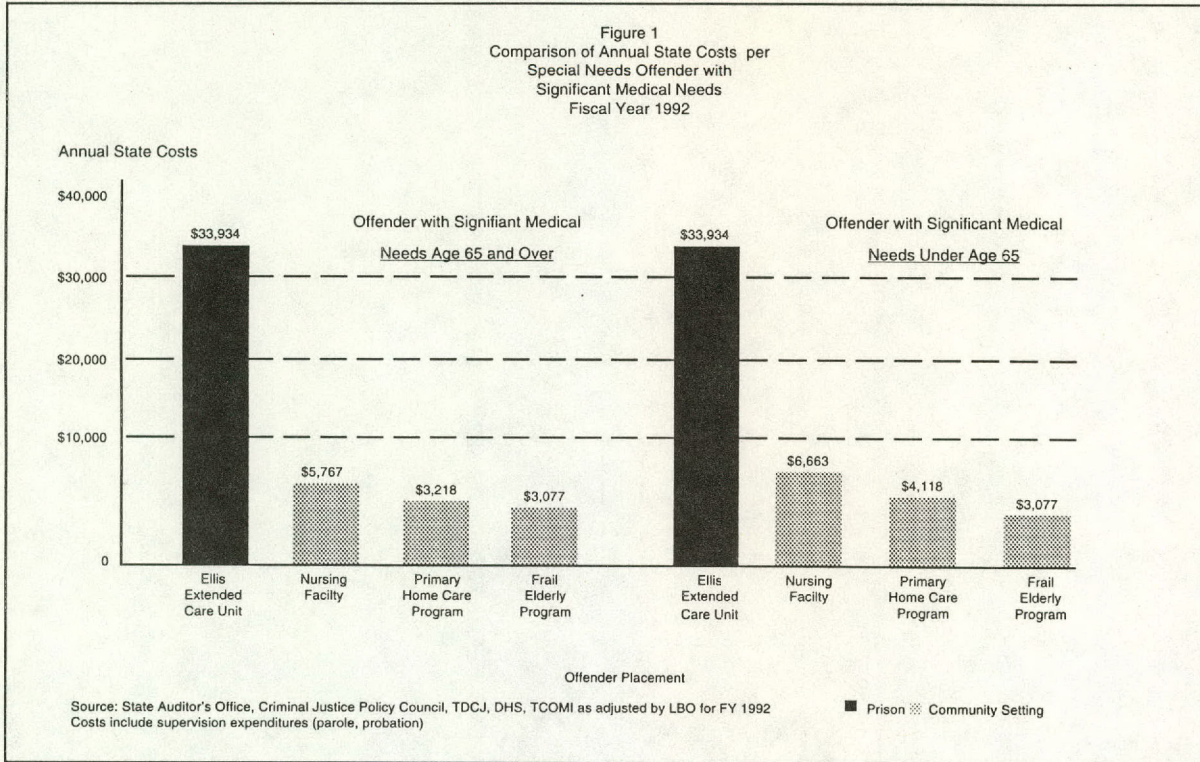
MENTAL ILLNESS - MENTAL RETARDATION

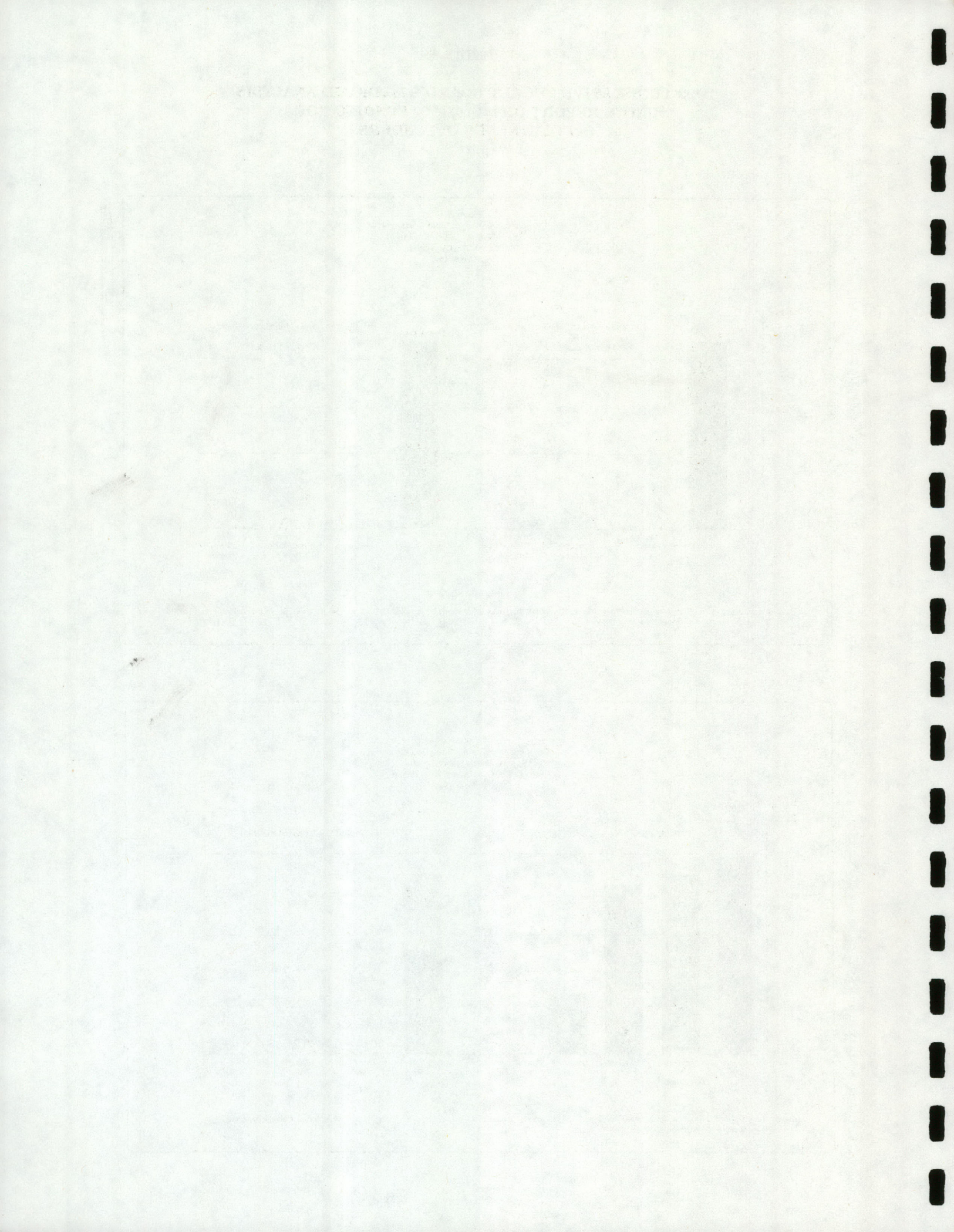
Mental Illness - has the meaning assigned by Section 4, Texas Mental Health Code (Article 5547-4, VTCS) means an illness, disease or condition that either substantially impairs a person's thought, perception of reality, emotional process, judgement or grossly impairs a person's behavior, as manifested by recent disturbed behavior.

Mental Retardation - has the meaning assigned by Section 3, MRPA of 1977 (Article 5547-300, VTCS) means significantly sub-average intellectual functioning existing concurrently with deficits in adaptive behavior and originating in the developmental period.

APPENDIX E

1992 LEGISLATIVE BUDGET BOARD'S MEDICAID ANALYSIS UNIT'S REPORT ON MEDICAID FUNDING FOR SPECIAL NEEDS OFFENDERS







**Texas Council on
Offenders with Mental Impairments
8610 Shoal Creek Boulevard
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(512) 406 - 5406**