



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



# 10

226 Capitol Boulevard Bldg., Suite 508  
Nashville, Tennessee 37243-0760  
Phone: (615) 741-3012  
Fax: (615) 532-2443  
www.tn.gov/tacir

## ***MEMORANDUM***

**TO:** Commission Members  
**FROM:** Cliff Lippard *Cliff*  
Executive Director  
**DATE:** 24 May 2017

**SUBJECT:** State Prisoners in County Jails—Draft Report for Review and Comment

---

In March 2007 the Commission released its report *Beyond Capacity: Issues and Challenges Facing County Jails*, which expanded on and updated information from earlier reports published by the Tennessee Comptroller's Office of Research and the Tennessee County Services Association. At the Commission's May 2016 meeting, commissioner and Louisville Mayor Tom Bickers expressed concerns brought to him by officials in Blount County that issues with housing state prisoners in county jails continue, and that increased numbers of state prisoners are putting significant strain on counties. Those concerns were echoed by other commissioners, who asked staff to develop a draft research plan for a new study on the topic. Following discussion of that plan at the August 2016 meeting, the Commission chose to revisit its 2007 report, asking staff to determine whether the state, by housing convicted state prisoners in county jails for extended periods as part of their effort to reduce overcrowding in state prisons, is placing an undue burden, financial or otherwise, on county governments, and determine whether the amount the state reimburses counties adequately covers all costs the counties incur. The attached commission report, prepared in response to that request, is submitted for your review and comment, and a final report reflecting your guidance will be submitted for approval at the next meeting.

For decades, Tennessee's prisons have lacked the space needed to house all of the state's convicted felons. Rather than expanding capacity to meet these needs fully, Tennessee relies on its county jails to house state prisoners as a cheaper alternative for alleviating overcrowding in state prisons. Presently, Tennessee houses approximately 27% of its state prisoners—nearly 8,000 inmates—in county jails. While not the only state to use county jails for this purpose, it does rely on them more than most. Each year, the

General Assembly appropriates funds for the Department of Correction (TDOC) to compensate counties for the cost of housing these prisoners, but sets a maximum per diem amount it will allow. At the time of the Commission's 2007 report, that amount was \$35. It was raised to \$37 in 2012, and this year's budget sets the rate at \$39.

Whereas prisons are designed to serve as long-term correctional facilities, local jails were not originally intended to house felons for extended lengths of time, and therefore often lack the beneficial services and programs available at state prisons. While the state is saving money by keeping felons in county jails rather than state prisons, most jails are not able to provide the same level of mental health and substance abuse treatment, educational, and other programs available in prisons. Department of Correction studies have shown that recidivism is higher among prisoners released from jails rather than prisons. Additionally, the state is keeping hundreds of state inmates in jails that fail to meet the state's minimum standards as established by the Tennessee Corrections Institute (TCI).

The state is already making efforts to improve outcomes and reduce the burden on counties through the initiatives of the Public Safety Act of 2016 and the Department of Mental Health and Substance Abuse Services' (DMHSAS) criminal justice liaison program. Proactive assessment of inmates, as required by the Act, will help determine the risk and needs of prisoners, allowing TDOC to direct inmates toward jail programming or, when necessary, transfer them to a state facility better equipped for meeting their needs. This is expected to lower costs for counties, reduce recidivism, ease reentry, and generally improve prisoner outcomes. Continuing to improve prisoner assessment and data collection will enable TDOC and counties to work together to target limited resources towards the most effective programs and facilities.

The DMHSAS criminal justice liaison program is viewed positively by county sheriffs, diverting nearly 9,000 individuals from jail since 2014 and developing more than 1,200 long-term release plans to help keep those who have been in jail from returning. Outreach efforts across the state have reached more than 84,000 individuals to assist them in staying out of the criminal justice system. However, only 32 counties are currently part of a criminal justice liaison's coverage area. **To improve access to the services provided by this program, the state should provide funding to expand support for criminal justice liaisons and case managers statewide.**

The County Correctional Incentives Act of 1981 was originally intended to be mutually beneficial for state and county governments by helping to alleviate overcrowding in state correctional facilities, reduce high operational costs, and assist counties in upgrading local correctional facilities and programs. The state moved away from this intent in 1989 when it amended the law to serve as a reimbursement for reasonable

costs. **In addition to existing initiatives, if the state’s policy is to continue to rely on county jails to house large numbers of state prisoners, the state should reestablish an incentive program to assist counties, rather than simply relying on increases to per diem reimbursements. The state could offer funding assistance beyond the daily reimbursement rate to help counties implement programs proven to reduce recidivism and improve outcomes for prisoners and communities.**

Implementing such programs and evaluating them will require improved data collection, the adoption of standardized programs, and the development of measures of program success, which is in line with a recommendation in the 2015 *Final Report of the Governor’s Task Force on Sentencing and Recidivism* to “establish a criminal justice research council to provide non-partisan, professional statewide research and information development.” In addition, adequate oversight and regulation of local jails are necessary for the state to balance its need for fiscally responsible management of the felon population with the responsibility to achieve the best prisoner and public safety outcomes. Although TCI inspects all jails annually, neither it nor TDOC has clear legal authority to require local correctional facilities to comply with the minimum standards promulgated by TCI. The state can choose but has no obligation to remove state prisoners from a noncertified jail. Counties continue to receive the same reimbursement for inmates in a noncertified jail, and there is no obligation to dedicate reimbursement funds towards improvements that would restore certification. **To clarify the framework for the oversight of county jails, state law should be amended to give the Tennessee Corrections Institute clear legal authority to require local correctional facilities to comply with set standards, including authority for its Board of Control to recommend that the Tennessee Department of Correction remove state prisoners from noncertified jails when conditions warrant.**