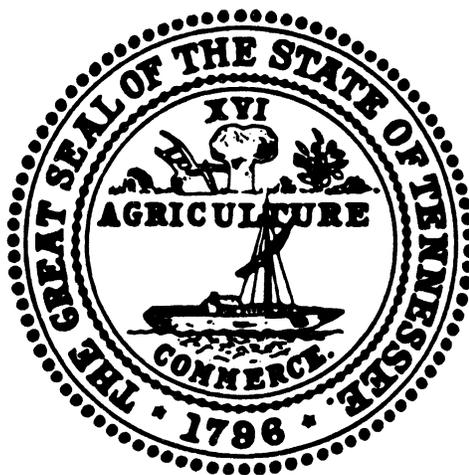


# SPECIAL REPORT

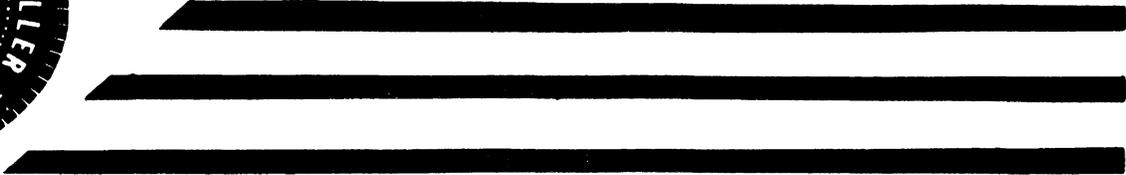
Select Oversight Committee on Corrections

April 2006



STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY

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Division of State Audit



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**John G. Morgan**  
Comptroller

April 17, 2006

The Honorable John S. Wilder  
Speaker of the Senate  
The Honorable Jimmy Naifeh  
Speaker of the House of Representatives  
and  
Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the Select Oversight Committee on Corrections. This report is submitted pursuant to the requirements of Section 3-15-109(d), *Tennessee Code Annotated*.

Sincerely,

John G. Morgan  
Comptroller of the Treasury

JGM/dlj  
06-033

State of Tennessee

# **Report Highlights**

Comptroller of the Treasury

Division of State Audit

Special Report

**Select Oversight Committee on Corrections**

April 2006

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## **OBJECTIVES**

The objectives of the report were to determine the authority and responsibility mandated to the committee, to determine the extent to which the committee has met its legislative mandate, and to comment on the continued need for the committee and on issues that may need further review by the committee.

## **CONCLUSION**

Based on our review of the committee's activities and our interviews with legislators, administration officials, and others concerned with correction-related issues, the Select Oversight Committee on Corrections has apparently met its legislative mandate. In addition, it appears that there is a continued need for the committee. The General Assembly still needs a source of independent, bipartisan information and comment on correction activities and proposed legislation, given ongoing issues such as prison overcrowding, lack of decision making and finalization concerning where prisons should be built, accreditation of local jails by the Tennessee Corrections Institute, registering of private probation service companies, decreasing drugs and contraband in correctional facilities, reducing recidivism, and improving correctional officer salaries. The majority of those interviewed support the committee and state that the committee has been successful and a benefit to the state's correctional system.

# Special Report

## Select Oversight Committee on Corrections

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# **Special Report**

## **Select Oversight Committee on Corrections**

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### **INTRODUCTION**

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#### **PURPOSE AND AUTHORITY**

This report on the Select Oversight Committee on Corrections was conducted pursuant to Title 3, Chapter 15, *Tennessee Code Annotated*. Under Section 3-15-109(d), the Office of the Comptroller of the Treasury is to conduct a performance evaluation of the Select Oversight Committee on Corrections prior to its termination at the end of the legislative session convening in 2005. The General Assembly may continue the committee for two years by taking appropriate action during that legislative session.

#### **OBJECTIVES**

The objectives of the report on the Select Oversight Committee on Corrections were

1. to ascertain the authority and responsibility mandated to the committee by the General Assembly,
2. to determine the extent to which the committee has met its legislative mandate, and
3. to comment on the continued need for the committee and identify issues that may need further review by the committee.

#### **SCOPE AND METHODOLOGY**

The activities of the Select Oversight Committee on Corrections were reviewed for the period January 2002 through January 2006. The information presented in this report was obtained through the following:

1. review of applicable legislation and policies;
2. examination of the committee's reports, minutes, agendas, and comments on proposed legislation and capital projects;
3. a review of meeting files and bill review files;

4. interviews with committee members and staff, chairmen of other legislative committees, representatives of advocacy groups, the committee's former consultant, a representative of Corrections Corporation of America, and management of the Department of Correction, the Board of Probation and Parole, the Tennessee Corrections Institute, the Tennessee Rehabilitative Initiative in Correction (TRICOR), and the Department of Finance and Administration's Division of Real Property Administration; and
5. attendance at committee meetings.

## **BACKGROUND, ORGANIZATION, AND RESPONSIBILITIES**

The Select Oversight Committee on Corrections was created during the 1985 First Extraordinary Session by Chapter 5 of the Public Acts, codified as Section 3-15-101 et seq., *Tennessee Code Annotated*. Pursuant to Section 3-15-109(a), the committee is to continue only until the operations of the Department of Correction have improved substantially so that oversight is no longer needed. In 1990, 1994, 1997, and 2002, the legislature continued the committee. The 1994 legislation also added the requirement that the Office of the Comptroller of the Treasury conduct a performance evaluation of the committee prior to its termination.

The committee evolved from the state's response to the crisis in the prison system during the 1970s and early 1980s. In a 1982 ruling on the *Grubbs* lawsuit, then U.S. District Judge L. Clure Morton declared parts of Tennessee's prison system unconstitutional and placed the system under the control of a Special Master, who was responsible for ensuring that the terms of the court order were met. In 1985, the General Assembly created a study committee to establish the agenda for a special legislative session convened to address correction problems. In 1986, as a result of the special session, the study committee became the Select Oversight Committee on Corrections.

The purpose of the committee is to improve planning for facilities and programs, to create a better environment for management, and to ensure implementation of proposed improvements in the correctional system. The committee, which is required to meet at least quarterly, has the authority to elect a chair, vice chair, and other officers; create related subcommittees; request that standing committees of the General Assembly, the Fiscal Review Committee, and other agencies study certain aspects of the correction system and report to the committee; conduct hearings; employ staff; and enter into contracts for technical or professional services. The committee is required to report on its activities to each member of the General Assembly.

The legislative intent was that plans for the Department of Correction "be made carefully and be reviewed thoroughly to help ensure that new programs will achieve their intended purposes, to help ensure that new facilities are needed and are designed properly, and to help ensure that the General Assembly and the public can have confidence that the state will deliver a correctional system which is effective and efficient." To accomplish this, the committee is required by law to review (1) any proposed expenditure of funds to implement new programs or

expand existing programs, (2) any administrative or management changes requiring additional expenditures, or (3) any proposed expenditures to expand or otherwise change the operation of any facility or begin the operation of any new facility. The committee may make comments to the Commissioner of the Department of Finance and Administration on any proposal. The committee is also required to review all proposed plans for capital expenditures for maintenance or renovations of existing facilities, construction of new facilities, or purchase of equipment to be used in such facilities, and make comments, as needed, to the State Building Commission.

In addition, the committee is required to review all bills introduced in the General Assembly that will or may affect any area within the committee's scope of review. The purpose of the Select Oversight Committee on Corrections' review is to assist the appropriate standing committee (in most cases the Judiciary or State and Local Government Committee) in its consideration of correction-related legislation by providing appropriate background information on the bill or information concerning the impact of the bill on the correction system. The committee may attach comments to a bill prior to the bill's consideration by the appropriate standing committee. However, the committee cannot make recommendations concerning the passage of a bill and does not have the authority to prevent a standing committee from considering a bill.

Finally, the committee is required to review regularly the following programs, functions, and activities of the Department of Correction:

- classification and reclassification of inmates;
- capacity of institutions and other programs;
- industrial, agriculture, or other programs designed to provide activities for inmates;
- inmate education and training programs;
- release programs, including eligibility conditions and effects;
- alternative sentencing programs;
- local jails;
- provision of services, facilities, or programs by private contractors;
- staffing of the Department of Correction;
- management-related issues; and
- other relevant matters.

The committee consists of 14 members: 7 are appointed by the Speaker of the Senate, and 7 are appointed by the Speaker of the House of Representatives.

Committee staff consists of a director and an administrative assistant. The committee's expenditures were \$153,508 for fiscal year 2003, \$110,588 for fiscal year 2004, and \$137,763 for fiscal year 2005. The committee's budgeted expenditures for fiscal year 2006 are \$140,400.

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## **OBSERVATIONS AND COMMENTS**

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### **MAJOR ACTIVITIES OF THE COMMITTEE**

Based on our review of its activities, the committee has apparently met its legislative mandate. Below is a description of the committee's major activities.

#### Capital Projects Review

The Select Oversight Committee on Corrections reviews and comments on proposed correction-related capital projects, as required by Section 3-15-105, *Tennessee Code Annotated*. In general, proposals include new prison construction and renovations of existing facilities. Upon review of these projects, the committee may comment to the State Building Commission, and the commission is encouraged to consider the committee's comments regarding the proposed capital expenditures.

During the scope of this evaluation, the committee reviewed plans regarding the expansion of the Brushy Mountain Correctional Complex in Morgan County, the expansion of the Southeastern Tennessee State Regional Correctional Facility in Bledsoe County, the expansion of the DeBerry Special Needs Facility to include a geriatric and disabled unit, and a proposal to build a prison in Weakley County. In 2005, the committee also reviewed proposals to upgrade security electronics in the central control room and housing unit rooms at the West Tennessee State Penitentiary; re-roof various buildings at the West Tennessee State Penitentiary, the Mark H. Luttrell Correctional Center, the Charles Bass Correctional Complex, and the Tennessee Prison for Women; and upgrade an existing sewage lift station and construct a new sewage force main to transport prison sewage from Northeast Correctional Complex directly to the municipal sewage treatment plant in Mountain City.

The committee maintains a list of procedures to follow when reviewing capital projects. Staff stated the procedures were written several years ago and, as a result, are outdated, particularly with regard to time guidelines. The Select Oversight Committee on Corrections' staff may wish to consider updating the procedures for reviewing capital projects. Updated procedures may permit the committee to be more efficient and give the Department of Correction a more realistic time table to follow when submitting information to the committee.

## Review of Legislation

The committee reviews bills on correctional issues introduced in the General Assembly, as required by Section 3-15-108, *Tennessee Code Annotated*. The committee's comments have appropriately focused on the proposed legislation's impact (including the fiscal effect) on the correctional system.

## Review of Correction-Related Activities

Based on auditors' review of committee documents (i.e., meeting minutes, reports, and files), the committee has complied with Section 3-15-107, *Tennessee Code Annotated*, by regularly reviewing the department's programs, functions, and activities. As noted above, the committee discussed and reviewed proposals to expand and build new prisons to address prison overcrowding problems and also reviewed inmate population projections.

Auditors reviewed meeting minutes from January 2002 through January 2006. At the January 8, 2002, meeting, the projection for new beds needed was 1,827 by June 2003 and 4,988 by June 2011. It was also projected that by June 2002, the Department of Correction would need one new facility, and by June 2005, another new facility would be needed. At the February 28, 2005, meeting, the Department of Correction presented the 2004-2016 felon population projections and stated that, based on current trends and the Department of Correction's expansion plans, the unmet bed demand was projected to be 3,032 by June 2007. If the planned Morgan County expansion of approximately 830 operational beds was completed by June 2008, and the Bledsoe County expansion of 1,279 operational beds was completed by June 2009, the unmet bed demand would still be 3,287 in June 2012 and 4,885 in June 2016. If the planned new construction was not completed, the unmet bed demand was projected to be 3,986 by June 2009 and 6,994 by June 2016. As of early 2006, despite the continued discussions and the committee's reviewing of proposals for prison expansion, no prisons have yet been built or expanded. The longer this process is delayed (choosing a prison location, choosing the prison layout, and choosing a contractor), the longer before construction can begin and the greater the increase in the shortage of prison beds.

The Select Oversight Committee on Corrections also reviews the budgets of correction-related entities. The committee's executive director routinely reviews the budgets for the Department of Correction, the Board of Probation and Parole, the Tennessee Corrections Institute, and the Tennessee Rehabilitative Initiative in Correction (TRICOR). If there are potentially damaging cuts being recommended or there are programs the committee would like extra funding for, the committee will hold special budget hearings. (Otherwise, the committee members are urged to attend the budget hearings held by the standing committees.) The committee held special budget hearings for the Department of Correction, the Board of Probation and Parole, and TRICOR in fiscal year 2002 and for the Department of Correction and the Board of Probation and Parole in fiscal year 2004.

The committee does not generally comment to the Department of Finance and Administration on non-capital project expenditures, as it is not mandated by statute to do so; however, it may choose to do so if deemed necessary. The committee does review TRICOR'S supplemental pay plan and sends a comment to the Commissioner of the Department of Personnel, as required by Section 41-22-406(a)(1)(E), *Tennessee Code Annotated*. The committee has also sent comments to the Commissioner of the Department of Finance and Administration regarding certain contracts, most recently the Department of Correction's Request for Proposal (RFP) for the delivery of healthcare services to inmates. The committee discussed differences between the proposed RFP and the existing contract, commented that it was appropriate to issue a single RFP for the delivery of healthcare services, and commended the Department of Correction for its efforts to make improvements to its existing contract.

The committee also reviewed information regarding pre-release programs for inmates, strategies for dealing with technical violators, offender supervision, contraband inside prisons, local jail issues, private probation services, and the comparative evaluation of state-managed facilities and facilities managed by the Corrections Corporation of America.

## **SOURCES OF THE COMMITTEE'S INFORMATION**

The committee primarily relies on its executive director to provide the information and data needed to effectively comment on legislation, capital project proposals, and department activities. In addition, the Department of Correction provides the committee periodic reports on costs, prison and local jail occupancy rates, and occupancy projections. The committee also receives a weekly report on various issues across the country entitled "The Corrections Connection." Information is also obtained from the Board of Probation and Parole, the American Correctional Association (ACA), the National Conference of State Legislatures, the Bureau of Justice, and other states. Staff stated that if information is needed which they are unable to obtain from any of these sources, the executive director will contact the ACA for direction.

Section 3-15-102(b)(5), *Tennessee Code Annotated*, authorizes the committee to contract with a consultant to provide technical and professional services. The committee employed a consultant from its inception until May 2003 when the consultant chose to not renew his contract. Since that time, the committee has made the decision to rely on the knowledge and experience of the executive director and to employ a consultant only when specialized knowledge is deemed necessary. Most recently, the committee employed a consultant from Vanderbilt University's Institute for Public Policy Studies for assistance on the comparative evaluation of state and private prisons.

The executive director is, in essence, fulfilling two roles. The primary role is serving as the executive director, and the secondary role is serving as the consultant. The committee should continue to use consultants whenever needed to provide more specialized expertise.

## PERCEIVED EFFECTIVENESS OF THE COMMITTEE

Auditors spoke with or received feedback from committee members and staff; the chairman of the Senate State and Local Government Committee; management from the Department of Correction, the Board of Probation and Parole, the Department of Finance and Administration's Division of Real Property Administration, TRICOR, and the Tennessee Corrections Institute; the former consultant for the Select Oversight Committee on Corrections; a representative from Corrections Corporation of America (CCA); and several advocacy groups. The majority of those contacted praised the committee members and staff and believed the committee was meeting its statutory mandate. Furthermore, they indicated the committee was a valuable asset and should be continued in its current capacity. Reasons cited include the committee's expertise on correctional issues; the committee's ability to bring correctional issues to the forefront; the high-quality working relationship with the Department of Correction, Board of Probation and Parole, and TRICOR; and the committee's interest and involvement with advocacy groups.

However, despite the overall positive comments about the committee, a few persons interviewed questioned whether there was still a need for the Select Oversight Committee on Corrections, since the committee had served its purpose and the Department of Correction has been released from the federal court order arising from the *Grubbs* lawsuit.

An additional concern of some persons interviewed was the committee members' meeting attendance. Table 1 details the results of our review of attendance records from January 2002 through January 2006.

**Table 1: Average Attendance at Committee Meetings**

Year in Which the Meetings were Held	Average Number of Members at the Meetings	Percentage of Members at the Meetings
2002	10	71%
2003	8	61%
2004	8	56%
2005*	9	62%
2006	10	71%

\* Two meetings during 2005 (October 26 and October 27) were site visits and were considered optional. These meetings were excluded from the calculations.

For 2 of the 31 meetings (excluding two optional meetings), the committee had insufficient attendance to meet the requirements for a quorum.

## CONTINUED NEED FOR THE COMMITTEE

Although the Department of Correction's operations have improved since the formation of the committee, as evidenced by the department being released from the federal court order in May 1993, a number of factors indicate a need to continue the committee. Foremost, the committee must continue to investigate ways to address the prison overcrowding problem. As stated earlier, projections presented in 2005 indicated that if planned new construction is not completed, the unmet bed demand will be nearly 4,000 by June 2009 and nearly 7,000 by June 2016. In addition to the need for new prison construction, actions appear needed to reduce recidivism (e.g., by more effectively preparing prisoners for release and transition back into the community) and to address the problem of technical violators more efficiently and effectively. (Technical violators are persons on probation or parole who have not been charged with a new crime but who have violated a condition of their release. Incarcerating these persons is expensive and contributes to overcrowding. The Board of Probation and Parole has implemented a program to use intermediate sanctions, rather than incarceration, to deal with some of these offenders.)

Interviewees cited the importance of the committee's oversight and ability to focus attention on important correctional issues. Several other areas of concern that appear to require continuing review by the committee include the following:

- Reducing drugs and contraband behind bars and improving correctional officers' salaries. In an effort to reduce drugs and contraband, the Department of Correction has begun performing "sweeps" in correctional facilities. An increase in officers' salaries could potentially help the department retain more experienced staff and improve the professionalism and efficiency within correctional facilities.
- Inspections and certification of local jails. An August 2003 report by the Office of the Comptroller of the Treasury's Office of Research raised serious concerns about Tennessee's local jails and the inspections and certification of those jails. The Tennessee Corrections Institute (TCI) has the power and authority to establish minimum standards for local jails, and to inspect and certify the jails if they meet the minimum standards (e.g., for physical facilities, inmate programs, and inmate well-being). As of January 9, 2006, according to the Chairman of TCI's Board of Control, 105 of the 130 local jails in Tennessee were certified.
- Registration of private probation service companies. According to Section 16-3-902, *Tennessee Code Annotated*, the purpose of the Private Probation Services Council is to ensure that uniform professional and contract standards are practiced and maintained by private entities engaged in rendering general misdemeanor probation supervision, counseling, and collection services to the courts. In December 2005, a member of the council spoke before the Select Oversight Committee on Corrections and stated that the council was not sure of the total number of private probation companies in Tennessee. As of March 20, 2006, the executive director of the Private Probation Services Council stated that most private probation companies have now been registered—33 companies had applied for registration, and 28 had been

registered. The council mailed letters to all district attorneys, county court clerks, and judges in Tennessee with a list of entities registered in their judicial district, requesting that they not assign probationers to unlicensed entities. However, there is still the possibility that not all private probation companies are registered, raising questions about the adequacy of the monitoring of offenders assigned to such companies.

## **CONCLUSION**

Based on our review of the committee's activities and our interviews with legislators, administration officials, and others concerned with correction-related issues, the Select Oversight Committee on Corrections has apparently met its legislative mandate. In addition, it appears that there is a continued need for the committee. The General Assembly still needs a source of independent, bipartisan information and comment on correction activities and proposed legislation, given ongoing issues such as prison overcrowding, lack of decision making and finalization concerning where prisons should be built, accreditation of local jails by the Tennessee Corrections Institute, registering of private probation service companies, decreasing drugs and contraband in correctional facilities, reducing recidivism, and improving correctional officer salaries,. The majority of those interviewed support the committee and state that the committee has been successful and a benefit to the state's correctional system.