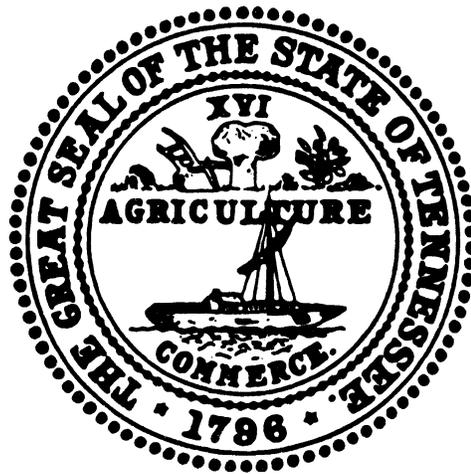


SPECIAL REPORT

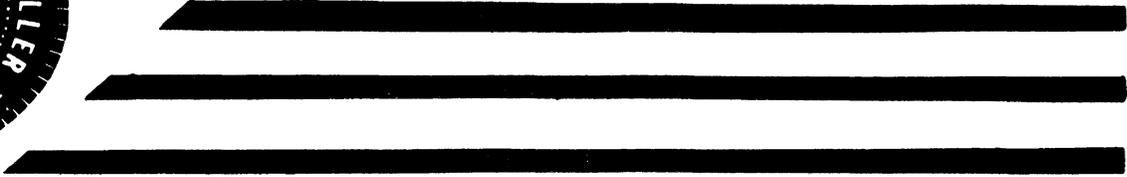
Select Oversight Committee on Corrections

April 2008



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COMPTROLLER OF THE TREASURY**

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John G. Morgan
Comptroller

April 24, 2008

The Honorable Ron Ramsey
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
08-035

State of Tennessee

Report Highlights

Comptroller of the Treasury

Division of State Audit

Special Report

Select Oversight Committee on Corrections

April 2008

OBJECTIVES

This evaluation of the Select Oversight Committee on Corrections was conducted pursuant to Section 3-15-109(d), *Tennessee Code Annotated*. The objectives of the report were to review the authority and responsibility mandated to the committee in order 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

The Select Oversight Committee on Corrections was created in 1985 to improve planning for correctional facilities and programs, to create a better environment for management, and to ensure implementation of proposed improvements in the correctional system. Based on our review of the committee's activities and documentation, and interviews with legislators, other state 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. Given ongoing issues such as increased prison populations, privatization, prison expansions, monitoring of sex offenders, and inmate health, the General Assembly still needs a source of independent, bipartisan information and comment on correction activities and proposed legislation. Those interviewed noted the committee's knowledge and expertise regarding corrections issues and its support of important issues such as offender reentry programs.

Special Report

Select Oversight Committee on Corrections

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Special Report

Select Oversight Committee on Corrections

INTRODUCTION

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 2007.

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 effectively and efficiently 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 1, 2006, through October 2007. The information presented in this report was obtained through the following:

1. review of applicable legislation;
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, representatives of advocacy groups, and management of the Department of Correction and the Board of Probation and Parole; 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, 2002, and 2006, 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, agricultural, 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 actual expenditures for fiscal year 2007 were \$147,895. The committee's estimated expenditures for fiscal year 2008 are \$156,300.

OBSERVATIONS AND COMMENTS

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 from January 1, 2006, through October 2007.

Capitol 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 for several projects. In 2006, the committee reviewed the Department of Correction's request for \$720,000 for planning a new 300-bed minimum security building and a 256-bed medium security building, plus other infrastructure upgrades at the Tennessee Prison for Women in Davidson County. The committee commented that the female population should have the same benefits of regional facilities and/or programs as the male population. To that end, the committee recommended that before any architectural design work begins, the Department of Correction needed to conduct an in-depth analysis of the needs of the female population, as well as a serious examination of alternative approaches that could result in a significant cost savings. The committee requested that the department include a pre-planning process that analyzes the female population with regard to regions, needs, technical violators, and successful approaches to reentry into the community. (The department provided updates on the planning process at succeeding meetings.) The committee also reviewed the following capital maintenance projects: the installation of energy conservations projects at the Brushy Mountain Correctional Complex in Morgan County, the Riverbend Maximum Security Institution in Davidson County, and the Turney Center Industrial Prison in Hickman County; air conditioning of the housing units at the Mark H. Luttrell Correctional Center in Shelby County; electronic security system upgrades at the South Central Correctional Facility in Wayne County; fire alarm system upgrades at the West Tennessee State Penitentiary in Lauderdale County; and interior roads paving at the Turney Center Industrial Prison. In addition, the committee reviewed a request for an engineering consultant for the next fiscal year to design and manage small maintenance projects and complete engineering investigations and evaluations.

In 2007, the committee reviewed a request by the Department of Correction to cancel a \$600,000 video-security project at Riverbend Maximum Security Institution in Davidson County and replace it with a project to retrofit the air handling units at the West Tennessee State Penitentiary in Lauderdale County and the Tennessee Prison for Women and the Charles Bass

Correctional Complex in Davidson County in order to improve air quality and energy efficiency and reduce maintenance costs. The request was subsequently approved by the State Building Commission.

Review of Legislation

The committee regularly reviews and comments to the appropriate standing committee of the General Assembly on correctional issues introduced in the General Assembly, as required by Section 3-15-108, *Tennessee Code Annotated*. Based on our review of the committee's bill files, the committee's comments appear timely and appropriately focused on any proposed legislation that impacts the correctional system.

Review of Correction-Related Activities

The committee complies with Section 3-15-107, *Tennessee Code Annotated*, by regularly reviewing the department's programs, functions, and activities. Based on a review of the committee's meeting transcripts and reports from May 2006 through October 2007, the committee examined issues including the Middle Tennessee State University project evaluation of the Board of Probation and Parole's monitoring of Tennessee's sex offenders with a global positioning system (GPS), the Corrections Corporation of America's contract for management of the South Central Correctional Facility in Wayne County, inmate healthcare contracts, local jail conditions, detection of drugs and contraband, and a review of the Tennessee Rehabilitative Initiative in Correction (TRICOR) in Nashville's proposed supplemental pay plan.

Another example of the committee's activities included a discussion of a proposed amendment to the state's contract with the Metropolitan Government of Nashville and Davidson County (Metro) for housing locally sentenced felons and a \$10,275,000 grant to Metro for expansion of the Metro Detention Facility. The expansion plan for a medium- and minimum-security unit was presented as part of a Master Plan that was developed with \$2.5 million in state funding to produce a court-ordered plan to address state and Metro overcrowding. At the time of the committee's comment in 2006, neither the state nor Metro had provided a Master Plan or other work product resulting from the consultant's contract. As a result, the committee was not convinced that granting the \$10 million was the best use of funding. The committee recommended that the state and Metro find more cost efficient options/alternatives and present such alternatives to the committee for review. After exploring other options, which raised other concerns, the committee voted, during its March 3, 2008 meeting, to recommend proceeding with the \$10 million grant to Metro. According to committee staff, the delay in funding the grant created a more focused approach to the project, which plans a 256-bed addition and an additional 100 dormitory-type beds, and will get the maximum benefit from the grant.

CONTINUED NEED FOR THE COMMITTEE

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. However, the state's correctional system still faces a number of issues that indicate a need for the committee's review and comment. There is a continuing need for prison beds as the inmate population increases. According to the department's April 2007 mid-year assessment of the felon population, over the next 13 fiscal years—through June 2019—Tennessee's incarcerated population was projected to increase from 26,415 to 29,714 (a 12.5% increase), with a projected overall growth rate for male felons of 12.3% and an anticipated growth rate for female felons of 15.1%. Based on current growth trends and the department's expansion plans, the unmet demand for beds (i.e., the number of incarcerated felons exceeding the number of beds) was projected to be 1,105 by June 2009. (The department's expansion plans included the addition of 1,249 operational beds through double celling at Turney Center and expansions at Morgan County, West Tennessee State Penitentiary, and the Turney Center Annex.)

Privatization continues to be an important issue, as evidenced by the Corrections Corporation of America's 2007 contract for the continued operation of the South Central Correctional Facility in Wayne County. Issues raised by the new contract included a cost reduction in the contract price, and staffing reductions in security personnel that could potentially compromise constitutional and contractual obligations for providing safe, secure, and humane conditions in light of a history of a high level of violence at the facility. In its committee staff report, the Fiscal Review Committee recommended that the Select Oversight Committee (along with the Fiscal Review Committee and the House and Senate State and Local Government Committees) closely monitor the cost and performance of the contract, through reports from the Department of Correction. Other areas of concern that appear to require continuing review by the committee include the need to reduce recidivism, for example, by better preparing prisoners for release and reentry back into the community, and monitoring and improving conditions in local jails.

SOURCES OF THE COMMITTEE'S INFORMATION

In order to make informed comments on proposed legislation, capital project proposals, and correction agencies' activities, the committee and its staff obtain information from a wide variety of sources, including the Department of Correction; the Board of Probation and Parole; community corrections program providers; the Tennessee Bureau of Investigation; the District Attorneys General Conference; the Public Defenders Conference; the Tennessee Corrections Institute; the U.S. Bureau of Justice; the American Correctional Association; as well as counties, cities, and sheriff and police departments. The committee receives information affecting the Department of Correction and the overall criminal justice system, such as inmate population projections, disciplinary reports, employee turnover data, inmate health information, crime and sentencing data, recidivism rates and ways to reduce recidivism, reports on inmate programs and reentry into society, and issues affecting crime victims and inmates' families. During committee meetings, members hear from a variety of correction-related presenters, ask detailed questions, and frequently request additional information.

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. Since that time, the committee has determined that the committee and its staff have adequate institutional knowledge to carry out the committee's statutory duties. When special projects or issues arise, a consultant may be hired for the duration of the project. For example, for assistance on the comparative evaluation of state and private prisons in 2004, the committee employed a consultant from Vanderbilt University's Institute for Public Policy Studies.

PERCEIVED EFFECTIVENESS OF THE COMMITTEE

Auditors spoke with or received comments from committee members and staff; management of the Department of Correction, the Board of Probation and Parole, the Department of Finance and Administration's Division of Capitol Projects, and TRICOR; and several advocacy groups (focusing on both offenders and victims). Overall, those contacted were very positive about the efforts of the committee and its staff, citing the committee's understanding of the challenges and issues that affect the various correction-related agencies; its commitment to staying informed about correction-related issues and being supportive of correction-related agencies; and the committee's willingness to consider alternatives to more prison construction and to attempt to reach a level of compromise and understanding in decision-making.

Some committee members believed that the committee could be more effective if it had more authority in reviewing legislation (i.e., to block inappropriate legislation) and Department of Correction contracts (i.e., to routinely review and comment on vendor contracts before their renewal, instead of sometimes after the fact).

CONCLUSION

Based on our review of the committee's activities and interviews with legislators and administration officials, the Select Oversight Committee on Corrections appears to have met its legislative mandate and to have been a benefit to the state's correctional system. The need to address ongoing issues such as the rising felon population, privatization of prisons, monitoring of sex offenders, and issues of inmates' health and reentry into society seems to necessitate that the committee be continued, to keep a focus on important correction-related issues and provide the General Assembly with an internal source of knowledge and comment regarding such issues.