

**THE
BIENNIAL REPORT
OF THE
TEXAS CORRECTIONAL OFFICE ON OFFENDERS
WITH MEDICAL AND MENTAL IMPAIRMENTS**

**SUBMITTED TO
THE TEXAS BOARD OF CRIMINAL JUSTICE
JANUARY 2009**

TABLE OF CONTENTS

SECTION	PAGE NUMBER
I. ADVISORY COMMITTEE MEMBERSHIP.....	1
II. EXECUTIVE SUMMARY.....	2
III. OVERVIEW OF TCOOMMI AND ADVISORY MEMBERSHIP FUNCTIONS.....	5
IV. TCOOMMI PROGRAMS.....	7
• COMMUNITY-BASED SERVICES.....	7
Adult Programs.....	7
Juvenile Justice Programs.....	12
• INSTITUTIONAL SERVICES.....	20
Medically Recommended Intensive Supervision.....	20
Continuity of Care.....	23
V. CONTINUITY OF CARE INITIATIVES.....	26
VI. CHIEF JUSTICE LED MENTAL HEALTH TASK FORCE.....	35
VII. CONCLUSION.....	39

SECTION I.
ADVISORY COMMITTEE MEMBERSHIP

GUBERNATORIAL APPOINTEES

John Martin Bradley, Chair *Term 10/21/2014*

- | | | | |
|----------------------|------------------------|-----------------------|------------------------|
| • Lisa Kaufman | <i>Term 02/01/2013</i> | • Dr. Gabriel Holguin | <i>Term 02/01/2011</i> |
| • Kathryn Kotrla | <i>Term 02/01/2009</i> | • Christopher C. Kirk | <i>Term 02/11/2011</i> |
| • Kathy C. Flanagan | <i>Term 09/26/2014</i> | • Judge Jan Krockner | <i>Term 07/20/2014</i> |
| • M. Clara Hernandez | <i>Term 09/26/2014</i> | • Ross Taylor, M.D. | <i>Term 10/21/2010</i> |
| • Kevin E. Haynes | <i>Term 02/11/2011</i> | | |

STATE AGENCIES/ORGANIZATIONS

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| • Texas Department of Criminal Justice <ul style="list-style-type: none">- Correctional Institutional Division- Parole Division- Community Justice Assistance Division | • Texas Council for Developmental Disabilities |
| • Texas Juvenile Probation Commission | • Texas Health & Human Services Commission |
| • Texas Youth Commission | • Department of Aging and Disability Services |
| • Texas Education Agency | • Department of Assistive and Rehabilitative Services |
| • Mental Health America of Texas | • Department of State Health Services |
| • Texas Commission on Law Enforcement Officer Standards and Education | • National Alliance for the Mentally Ill – Texas |
| • Texas Council of Community Mental Health and Mental Retardation Centers, Inc. | • The ARC of Texas |
| • Texas Commission on Jail Standards | • Correctional Managed Health Care Committee |
| | • Texas Board of Pardons and Parole |

SECTION II. EXECUTIVE SUMMARY

Since the establishment of the Texas Department of Criminal Justice (TDCJ)/Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) in 1987, policy initiatives enacted by the Legislature have had a positive impact on the overall service delivery system for juvenile and adult offenders with special needs. In the last 21 years, Texas has, through legislative action, created a nationally recognized system that addresses all aspects of the criminal justice continuum. This has been accomplished by adopting statutory guidelines resulting in improved regulatory, procedural and programmatic practices in this state's response for this offender population.

During the 80th Legislative Session, the Leadership once again demonstrated its commitment to offenders with special needs by authorizing ten (10) million dollars in new funding for the expansion of TDCJ-TCOOMMI programs. In addition, Legislation was enacted that will have a significant impact on the states efforts to identify offenders with mental illness at their initial point of intake at the jail. These policy initiatives, coupled with improvements in programmatic, regulatory and procedural activities have further improved the overall continuity of care system for offenders with special needs.

During the past biennium, TDCJ-TCOOMMI initiated and/or completed the following activities relating to the new and existing legislative directives:

- **Expanded the scope of existing community based programs for offenders with special needs.** A more detailed overview of the new programmatic endeavors is found in Section IV of this report;

- **Coordinated with the Department of State Health Services (DSHS) and the Texas Department of Public Safety (DPS) on the merging of mental health service history data with the Texas Law Enforcement Telecommunications System (TLETS) program to enhance early identification activities.** A further description of this endeavor is found in Section V of this report;
- **Revised interagency agreements as required in Chapter 614.013 – 614.016, Health and Safety Code, to further strengthen the role and responsibility of agencies involved in the continuity of care process.** The highlights of this interagency activity is found in Section V of this report;
- **Implemented, in cooperation with DSHS, a daily cross-referencing of the TDCJ – Correctional Institutions Division (CID) admissions against the state’s mental health database.** As a result of this activity, unit health care providers have immediate access to prior psychiatric treatment records of those offenders who had previously been served by the public mental health system;
- **Coordinated with the Texas Commission on Jail Standards (TCJS) on revising the mental health/suicide screening intake form to enhance the identification of defendants with mental illness during the intake process at county jails; and**
- **Coordinated with the Chief Justice Led Mental Health Task Force on identifying statutory, regulatory, procedural or programmatic practices that impact defendants with mental illnesses.** The Chief Justice Led Mental Health Task Force activities and recommendations are found in Section VI of this report.

This biennium saw continued progress toward establishing a comprehensive continuity of care system that emphasized its primary goals of public safety and treatment interventions. More importantly, TDCJ-TCOOMMI’s efforts toward accomplishing these critical goals have

eliminated or reduced duplication, improved coordination, collaboration and commitment to minimizing overall costs to local and state governments.

Although tremendous progress has been made, there is room for refinement. This report addresses areas of concern that require additional work to further Texas' goals in responding to offenders with special needs.

SECTION III.

OVERVIEW OF THE TDCJ-TCOOMMI ADVISORY AND ROLE

A National Mental Health/Criminal Justice Task Force was created in 2007 to make policy recommendations to federal, state and local governmental entities on issues impacting individuals with mental illnesses involved in the juvenile or adult criminal justice system. One of the task force's recommendations was for each state to create commissions, similar to that of TDCJ-TCOOMMI, to address systemic issues impacting offenders with mental illnesses.

The Texas Legislature recognized this need two (2) decades ago when it enacted Legislation creating TDCJ-TCOOMMI. Due to the complexity of issues impacting offenders with special needs, the Legislature created a 30 member advisory committee to oversee the development of a comprehensive continuity of care system for juveniles and adult offenders with special needs. Through collaboration, this diverse body of juvenile and adult criminal justice, health and human service and advocacy representatives, focus on creating a seamless system of care for juvenile and adult offenders with special needs. Specifically, the following legislation mandates guide the advisory member's activities.

- **To determine the status of offenders with special needs in the state criminal justice system;**
- **To identify needed services for offenders with special needs;**
- **To develop a plan for meeting the treatment, rehabilitation and educational needs of offenders with special needs, including a case management system and the development of community-based alternatives to incarceration;**
- **To cooperate in coordinating procedures of represented agencies for the smooth and orderly provision of services for offenders with special needs;**

- **To evaluate various in-state and out-of-state programs for offenders with special needs and recommend to the directors of current state programs methods of improving those programs;**
- **To collect and disseminate information about available programs to judicial officers, law enforcement officers, probation and parole officers, social service and treatment providers;**
- **To 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 special needs;**
- **To 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;**
- **To develop and implement pilot projects to demonstrate a cooperative program that identifies, evaluates, and manages, outside of incarceration, offenders with special needs;**
- **To develop and implement a medically recommended intensive supervision or early release program for inmates who are elderly, physically handicapped, terminally ill or mentally disabled as established in House Bill (HB) 93, 72nd Legislature;**
- **To monitor and coordinate the establishment of continuity of care system for offenders with special needs;**
- **To develop a process for reviewing all competency evaluations to determine compliance with statutory guidelines; and**
- **To develop and implement a continuity of care process for all 46.B defendants being returned to jail upon restoration of competency.**

In addition to providing guidance to the TDCJ-TCOOMMI staff on these mandates, the committee serves in an advisory capacity to the Texas Board of Criminal Justice (TBCJ). A standing TBCJ agenda item allows for the Chair of the TDCJ-TCOOMMI Advisory to make a presentation at each posted Board meeting as needed.

SECTION IV. TDCJ-TCOOMMI PROGRAMS

During the 80th Legislative Session, the Texas Legislature provided an additional ten million dollars to TDCJ-TCOOMMI for the expansion of Community Based Services for offenders with special needs. The following section provides an overview of the new initiatives, as well as an update on each of the programs operated by TDCJ-TCOOMMI. These programs include:

- Community Based Program – Adult
- Institutional Programs – Adult
 - MRIS
 - Continuity of Care
- Juvenile Probation
- Texas Youth Commission

COMMUNITY BASED PROGRAMS – ADULT OFFENDERS

The TDCJ-TCOOMMI funded adult programs provide intensive wrap around services for offenders with mental impairments and other special needs. Depending upon the medical and/or psychiatric need of the offender, the following services are provided:

- **Intensive case management and service coordination;**
- **Psychiatric or medical support, including medication;**
- **Rehabilitation and Independent Living Skills programming;**
- **Individual and group counseling on symptom management;**
- **Emergency residential placement and similar short-term crises support services;**
- **Federal or state benefit applications for entitlement programs; and**
- **Continuity of care services for offenders transitioning from incarceration to community based in or out-patient treatment services.**

During the biennium, TDCJ-TCOOMMI contracted with 38 local mental health providers, DSHS and Department of Aging and Disability Services (DADS) for targeted case management services for offenders with special needs.

The unique aspect of TDCJ-TCOOMMI funded programs is the coordination and collaboration between the treatment provider and the specialized probation or parole officer.

Each case management program funded by TDCJ-TCOOMMI has a specialized probation/parole counterpart who works with the same offender.

The treatment provider and specialized officers adhere to several basic principals in their efforts on behalf of the offender:

- **Treatment and Supervision plans must be developed jointly to ensure consistency in each entity's role and responsibility toward the offender;**
- **Modifications in plans must be mutually agreed upon prior to implementation;**
- **Revocations cannot be a unilateral decision, but should be based upon input from treatment providers to ensure that non-compliance issues are not related to the offender's psychiatric or medical condition; and**
- **Treatment providers and supervising agents are in continuous communication, and conduct joint meetings with the offender in the home, office or workplace on a monthly or more frequent basis as needed.**

The impact of the targeted treatment and supervision initiative is evaluated on an annual basis using the following Legislative Budget Board performance measure:

“The reincarceration rate of adult felony offenders with special needs on probation or parole supervision that have been in Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) programs for a minimum of 12 consecutive months, computed as the percentage of those that have been revoked

and/or returned to TDCJ-Correctional Institutions Division (CID) within three (3) years of entering the program. The rate is derived from the total population of releases for the fiscal year being reported.”

Based upon the most recent evaluation of the offenders who met this narrow performance measure, the overall recidivism rate was **15.4%** (**15.1%** Probation, **16.0%** Parole).

This recidivism rate is particularly noteworthy since research shows that offenders with mental illnesses have one of the highest recidivism rates of any segment of the adult criminal justice population.

As noted previously, the Legislature approved new funding to expand TDCJ-TCOOMMI’s mental health treatment programs for Fiscal Year (FY) 2008-2009. As a result, service capacity was expanded and the following new initiatives were implemented:

- **TDCJ-TCOOMMI, in partnership with the TDCJ-Community Justice Assistance Division, funded three (3) residential treatment programs for probationers with mental illnesses and a substance abuse diagnosis.** These residential programs, located in Bexar, Dallas and Harris counties provide a long overdue resource for the courts to utilize other than incarceration for dually diagnosed offenders;
- **Tele-psychiatry capability between jails, local Mental Health Authorities (MHAs), courts and residential facilities was expanded to additional sites.** This has resulted in more timely assessments, interventions or treatment consultations due to the elimination of travel to and from facilities for the delivery of services;
- **Increased resources were provided to treatment providers to expand mental health support services to offenders in community corrections facilities (halfway houses, intermediate sanction facilities, transitional treatment centers).** The new funding approved for residential treatment options for the probation and parole

divisions created an increased need for psychiatric support services for those offenders with special needs being placed in the new facilities. Since these new residential options are targeted for general offenders, rather than special needs, the availability of external treatment support has expanded opportunities for residential placement previously unavailable to these offenders; and

- **Provided treatment funding for offenders participating in newly created mental health court programs in Tarrant and Fort Bend counties.** Though the courts work with different populations (pre-trial vs. probation revocations) they share the same common goal of diverting offenders with mental illnesses from jail as long as treatment can be provided to ensure public safety.

The new initiatives, coupled with the expansion of existing program capacity, has enhanced the overall service delivery system targeted for offenders with special needs. There are, however, areas of programmatic concern that will require additional review and work during the next biennium, including:

- **Recruitment and retention of licensed clinical staff to work with offenders continues to be a challenge.** Mental Health professionals who can work with less difficult client populations at the same salary level understandably choose not to work with convicted felons. TDCJ-TCOOMMI will continue working with MHMR contract providers on developing salary enhancements (i.e., hazardous duty pay) for those staff who work with offender populations; and
- **Limited short and long term residential treatment or housing opportunities for offenders with special needs appears to influence sentencing or revocation decisions.** The courts have historically noted that incarceration seems to be the only viable choice for certain offenders, particularly those with a dual diagnosis.

Continued efforts to expand targeted beds or provide mental health support services within non-special needs facilities will remain a TDCJ-TCOOMMI priority.

- **With limited resources, TDCJ-TCOOMMI's program priorities may need to be directed to felony populations due to public safety issues.** Diversion programs that serve low level misdemeanors, do not result in arrests, or have no direct impact on TDCJ capacity may need to be administered through other funding streams. TDCJ-TCOOMMI, in partnership with key state agencies advisory members should examine the best funding strategies for TDCJ-TCOOMMI programs based upon statutory authority and public safety risks.
- **Local continuity of care services for offenders in jail on probation/parole or transitioning from correctional facilities back to the community requires further work and oversight.** For example, over one (1) million inmates were incarcerated in local jails last year, of that number, **17%** or **59,000** were current or former MHMR clients. Establishing a continuity of care system that is comparable to or better than the one in place for offenders being released from TDCJ-CID could potentially result in fewer incarcerations for those “frequent flyers” that cycle in and out of local jails.

JUVENILE OFFENDER PROGRAMS

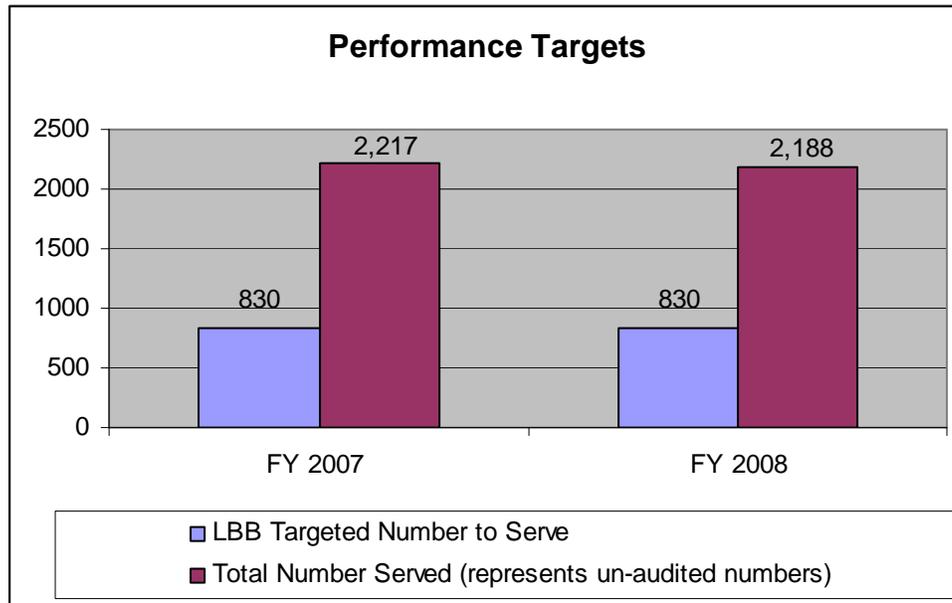
TDCJ-TCOOMMI currently contracts with local and state public mental health agencies to provide targeted treatment services to juvenile offenders with serious emotional disturbances. Although the majority of services are directed to juvenile probation, the past biennium witnessed a significant growth in the number of Texas Youth Commission (TYC) referrals for post-release treatment. The following sections provide an update on these two (2) program initiatives for juveniles.

Juvenile Probation

Juvenile offender programs are designed as a family-based, multi-service approach to meet the mental health needs of youth in the Texas juvenile justice system, ages ten (10) -18 who have been assessed with severe emotional disturbances. TDCJ-TCOOMMI currently contracts with 21 local and/or state public mental health agencies, to provide a wrap-around, case management philosophy and managed care practices, with a strong emphasis on flexible programming. These contract providers are required to provide the following services in support of this treatment model:

- **Assessments for service referral;**
- **Service coordination and planning;**
- **Medication and monitoring;**
- **Individual and/or group therapy and skills training;**
- **In-home services such as Multi-Systemic Therapy or Functional Family Therapy;**
- **Family focused support services;**
- **Benefit eligibility services; and**
- **Transitional services.**

During the past biennium, juvenile offender programs jointly operated and funded by TDCJ-TCOOMMI and Texas Juvenile Probation Commission (TJPC) exceeded expectations in the overall number of youth served. As depicted on the following chart, Performance targets were exceeded by **267%** and **255%**; in FY07 and FY08 respectively:



In addition, to exceeding performance targets, the following accomplishments have been achieved during the reporting period:

- **Increased on-site monitoring has resulted in quicker responses to service delivery problems.** Eliminating or minimizing barriers to service has yielded increased efficiencies and effectiveness of the juvenile programs;
- **Improved communication between the mental health and juvenile justice systems has minimized redundancies and fostered better collaboration.** By targeting funding specifically for specialized supervision and treatment services, the juvenile probation officer and MHMR staff work as a team to decide the most appropriate course of action for the juvenile and his/her family. In addition, each team member has fully defined roles and responsibilities thus minimizing duplication of effort;

- **Identification and screening practices for program eligibility have improved.** By enhancing the screening activities, resources can be focused more narrowly on those juveniles with the most serious mental health issues;
- **Participated with TJPC in the establishment of a pilot project in Travis County for juvenile offenders transitioning from post-adjudication facilities to the community.** This endeavor is directly funded by the MacArthur Foundation grant awarded to TJPC for the purpose of enhancing transitional services for juveniles with mental impairments; and
- **Collaborated with juvenile justice agencies and key stakeholders on strategies for establishing a statewide continuity of care system for juvenile offenders with mental impairments.** The anticipated outcome is to establish a system comparable to the one currently in place for adult offenders with special needs by the end of the current biennium.

These and other accomplishments represent a continued effort by juvenile justice agencies and TDCJ-TCOOMMI to create a comprehensive system of care for juvenile offenders. While progress has been made, there remains much more work to be done. The following areas have been identified by staff and local collaborators as issues in need of attention:

- **Recruitment and retention of licensed staff, particularly in rural areas, continues to be a challenge;**
- **Juveniles with serious behavioral health issues frequently require more intensive services than those available on an out-patient basis.** As a result, TYC may be considered the only viable option available for local juvenile justice entities to pursue. Creating short term, community based, residential treatment facilities could prove to

be a more cost effective response to institutional care, particularly if opportunities for blended funding (local, state, federal) exist to support such alternatives; and

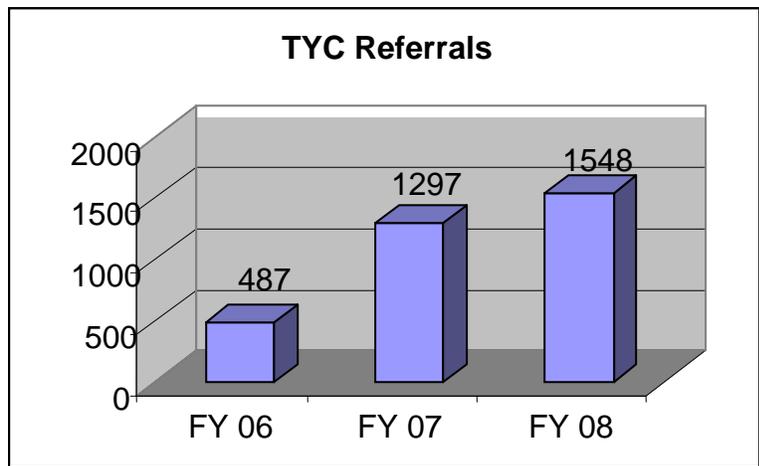
- **Efforts to formalize a continuity of care system for juveniles with special needs should be initiated.** The continued success and expansion of the continuum of care for adult offenders reinforces the need for a comparable system for juveniles. While the participating agencies would differ from that of the adult, the goal of creating a seamless system of service delivery would be the same.

Texas Youth Commission

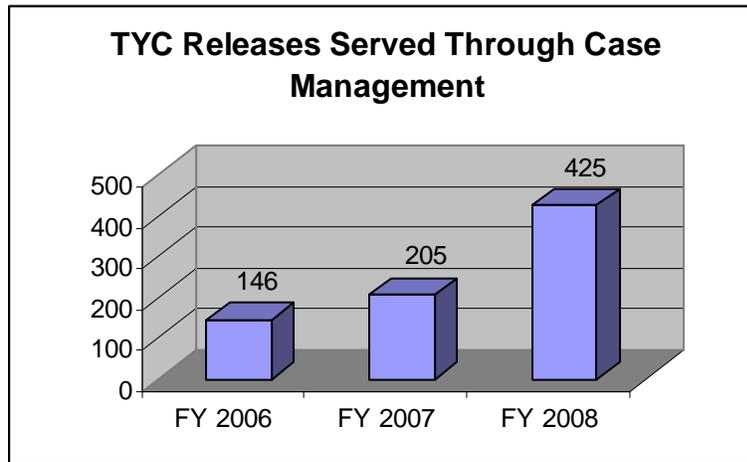
According to TYC approximately **38%** of committed youth have a diagnosed mental health problem. In order to provide an appropriate aftercare treatment plan for those juveniles being released on parole, TDCJ-TCOOMMI contracts with local MHMR centers for an array of post-release services. Those services, which are provided primarily through a fee-for-service contractual arrangement, include:

- **Individualized assessments;**
- **Service coordination;**
- **Medication monitoring;**
- **Advocacy services;**
- **Transitional services for youth being released from institutional settings; and**
- **Benefit eligibility services.**

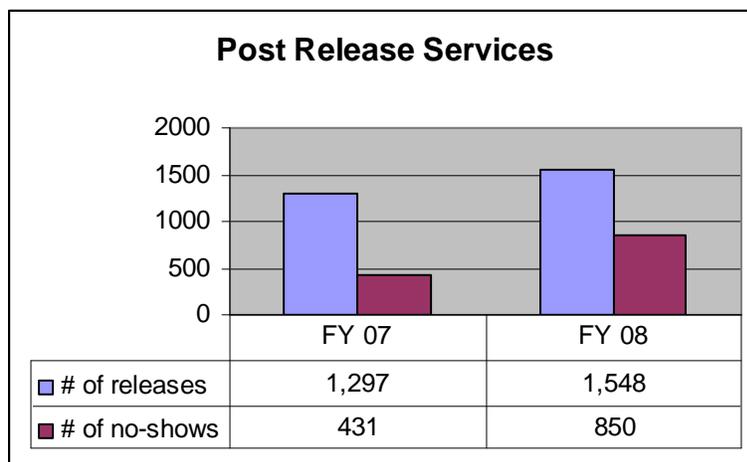
During the past 18 months, substantive changes were made to the operations of the TYC. As a result, TDCJ-TCOOMMI experienced an unprecedented increase in the number of referrals for pre- and post-release treatment for juveniles being paroled or discharged from TYC. As noted on the following graph, the number of TYC referrals for FY06 compared to FY08 increased by **315%**.



The significant increase in referrals also resulted in an increased number of offenders being served by community mental health agencies after the individuals release from TYC. The following chart provides a comparison of TYC offenders served in TDCJ-TCOOMMI funded case management programs during the past three (3) fiscal years:



The number of offenders served in FY 08 represented a **207%** increase over those served in FY 07. Unfortunately, a different outcome occurred on the number of offenders not showing up for post-release services. As noted on the following chart, the number of post-release no shows increased by **197%** from FY07 to FY08.



Several factors have been identified as contributing to this problem:

- **Parent(s) or Caregiver(s) have refused post-release mental health treatment on behalf of their children;**

- **TYC releasees 18 and over have chosen not to access mental health treatment; and**
- **Juveniles refuse to participate, and the parent or caregiver acquiesces to the youth's decision, despite acknowledging the need for mental health care.**

To address the problem, TDCJ-TCOOMMI in cooperation with TYC, identified a number of strategies for improving post release access to care rates, including:

- **Utilizing video-conferencing between TYC, local MHMRA and the parent/caregiver to discuss post-release treatment prior to the youth's release from the facility.** Engaging the parent/caregiver in the treatment plan at an early stage may increase their willingness to engage the juvenile in post-release treatment;
- **Encouraging parole officers to play a more active role in monitoring the juvenile's post-release mental health treatment compliance is critical to the youths' success while on parole.** Efforts to provide enhanced training and technical assistance to the juvenile parole system on mental health issues and conditions of release will be a priority for TCOOMMI during the next year.
- **Developing parent mentors to provide peer support for parents/caregiver of TYC youth being released on parole.** Mentors serve as excellent resource to other parents who are unsure as to what to expect or do once their child is returned to the home; and
- **Identifying parents/caregivers who are under some form of adult supervision (probation/parole) and imposing conditions addressing treatment needs of their children who are on TYC parole.** Parents who are involved in the criminal justice system may not possess the appropriate judgment skills when it comes to parenting or treatment needs of their children and may need the added condition of supervision to ensure treatment compliance of the youth under their care.

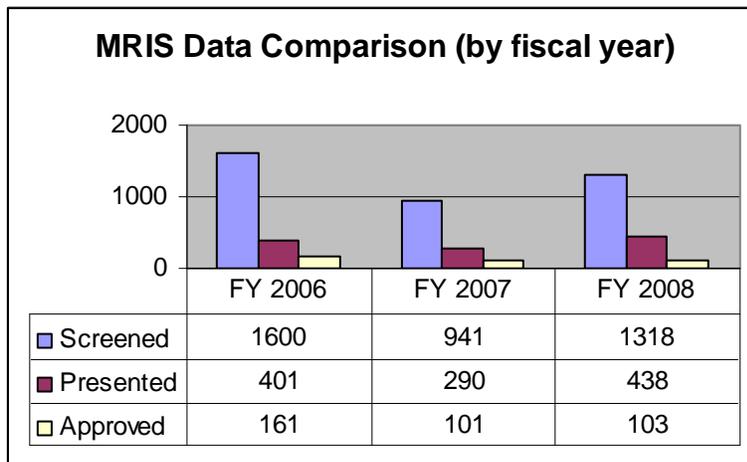
During the next biennium, TDCJ-TCOOMMI will continue to work with TYC on addressing these and other issues related to post-release mental health treatment services. In addition, an evaluation of recidivism rates of those youth who accessed post-release services to those who did not will be conducted during the next biennium. Those results, as well as other outcomes of TYC/TCOOMMI's joint activities, will be provided to the 82nd Legislature for consideration.

INSTITUTIONAL PROGRAMS - ADULT

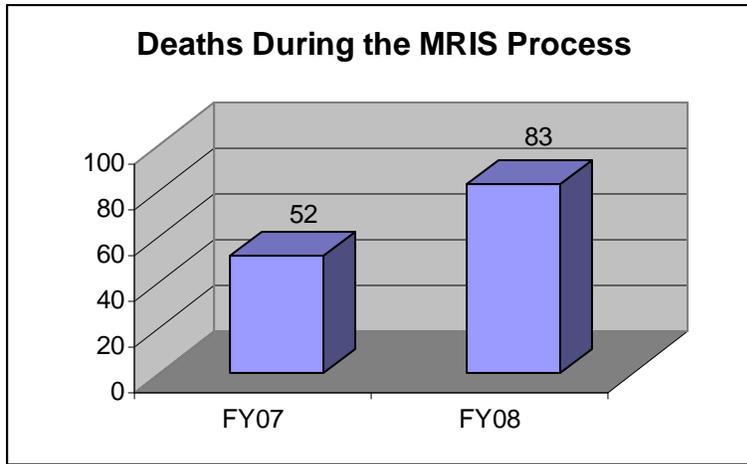
Medically recommended intensive supervision (MRIS)

The MRIS program allows for the early release of a certain categories of offenders from prison or state jails who are terminally or seriously ill, require long term care, elderly, mentally ill or mentally disabled.

Due to changes in state policy and internal procedures, the number of offenders identified as eligible for MRIS consideration was increased during this reporting period. The following chart provides a three (3) year comparison of MRIS referrals, eligible cases presented to and approved by the Board:



While the number of eligible offenders presented to the Parole Board increased, the overall approval rate declined. The FY08 approval rate was **24%** compared to **35%** for FY07. A contributing factor to the decline could be due to the notable increase in inmate deaths occurring during the MRIS process. As noted on the following chart, the number of deaths during the referral, review or approval process increased by **62%** in FY08 when compared to FY07.



* After Referral – Pending receipt of MRIS Medical Summary	5
* Within 48 hours of receipt of MRIS Medical Summary	11
* After Receipt of MRIS Medical Summary – processing for case presentation to BPP/Presiding Judge	47
* Pending Decision	3
* Approved – Pending Release	12

Although the exact reason for this increase is unknown, TDCJ-TCOOMMI has instituted an internal review process with Correctional Managed Health Care (CMHC) providers to examine the referral timeline for each death that occurred during the MRIS process.

The medical providers are asked to review each offender’s medical file to determine if the referral was initiated in a timely manner. In some cases the sudden onset of the medical condition did not allow for a timely referral. Other cases, however, could have been referred in a more timely fashion by the unit medical providers. TDCJ-TCOOMMI will continue working with the CMHC providers to identify strategies for improving the timeliness and the accuracy of the medical information provided for MRIS referrals.

Another issue that impacts the MRIS program is the ever increasing numbers of offenders 55 years and older. According to the CMHC providers, an elderly offender’s medical cost is approximately three (3) times higher than that of a non-elderly inmate. As a result, Texas and other states are projecting significant cost increases in medical care for this offender population now and in future years. While there may be certain offenders who, despite their

advanced age, may be physically capable of continued criminal behavior, there are others who could be released without public safety concerns.

TDCJ-TCOOMMI will continue to work with the managed care providers and the Board of Pardons and Parole to examine release options for those elderly offenders who could be safely released to the community. In addition, DADS will be included in these discussions in order to identify potential community-based aging programs that could be utilized if such offenders were to be released on MRIS. These activities, as well as any policy recommendations that may be needed, will be reported to the 82nd Legislature for their consideration.

Continuity of Care (COC) Program

During the past biennium, TDCJ-TCOOMMI conducted a comprehensive evaluation of the Continuity of Care program for offenders with special needs being released from TDCJ facilities. Based upon this review, the following issues were identified as areas requiring improvement:

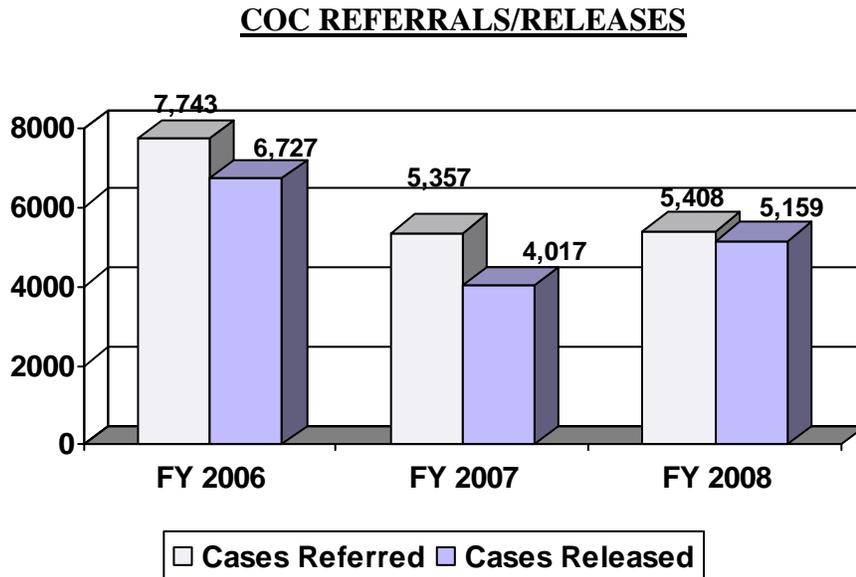
- **Offenders released on either a flat or state jail discharge had a poor record for keeping post release appointments for treatment.** According to post-release statistical information, **73%** of flat and **80%** of state jail discharges failed to keep medical or treatment appointments with medical or mental health providers after their release. Since these offenders accounted for over 40% of the total number of referrals, significant levels of resources were exhausted on pre- and post-release coordination. Unlike offenders released on parole, mandatory supervision or probation, state jail and flat discharge populations are no longer under the purview of a supervising entity. As a result, no enforcement authority exists to require their participation in post-release treatment.
- **Offenders in other parts of the criminal justice system (i.e. jail, probation, Intermediate Sanction Facilities, Transitional Treatment Centers, etc.) did not receive the same level of continuity of care services as those released from TDCJ-CID.** As a result, offenders with special needs were experiencing gaps in services when a change in their placement or supervision status occurred.
- **Offenders with medical conditions or who were elderly were not being appropriately screened for continuity of care services prior to their release from TDCJ-CID. This resulted in some offenders being released without adequate aftercare treatment services or benefits in place.**

To improve the efficiency and effectiveness of the COC process, TDCJ-TCOOMMI in cooperation with the offender management divisions, correctional managed care providers and mental health and human service agencies, conducted numerous meetings to obtain input on the COC re-design process. As a result of these collaborative endeavors, the following changes were implemented September 2008:

- **Flat and state jail discharges were eliminated from the formal COC process.** Offenders now receive a statewide directory of services brochure prior to release. Once released, it is the responsibility of the individual to initiate services on his/her behalf;
- **TDCJ-TCOOMMI's COC procedures were revised to reflect a more comprehensive approach, starting at point of arrest throughout the criminal justice continuum.** The revised procedures were also incorporated in contracts with vendors to ensure greater accountability;
- **The Memorandums of Understanding between the continuity of care agencies were revised to incorporate the new procedural activities.** In addition, new reporting requirements on COC activities were added in order to monitor implementation among the participating agencies;
- **TDCJ-TCOOMMI strengthened its internal monitoring process by changing the quarterly reporting process to monthly.** A more frequent review will afford staff an opportunity to identify problems and take corrective action in a timelier manner; and
- **The CMHC providers revised the health care databases to include an alert code for those offenders requiring post-release medical care.** The alert codes

have enabled TDCJ-TCOOMMI to more easily identify those inmates with the most serious medical needs prior to release to the community.

As the following chart depicts the COC referrals and releases closely mirrored those numbers reported in previous years:



It is anticipated that the FY 2009 numbers, however, may be significantly lower due to the recent exclusion of flat and state jail discharges from the COC process.

As the new process has a stronger emphasis on local continuity of care activities, such as those with the jails, a substantial increase in overall numbers should be reported in subsequent fiscal years.

SECTION V. CONTINUITY OF CARE – SYSTEMS OVERVIEW

In order to ensure a comprehensive and responsive system of care for offenders with special needs, the Texas Legislature enacted laws that mandated the creation of a COC system. The statutory provisions, as outlined in Chapter 614.013, of the Health and Safety Code, required TDCJ and other state and local agencies to enter into MOUs to establish methods for:

- identifying offenders with special needs in the criminal justice system and collecting and reporting prevalence rate data to the office;
- developing interagency rules, policies, procedures and standards for the coordination of care of and the exchange of information;
- identifying the services needed by offenders with special needs to reenter the community successfully; and
- establishing a process to report implementation activities to the TDCJ-TCOOMMI.

To accomplish this activity, TDCJ-TCOOMMI has been charged with the development and monitoring of the implementation of the COC system and MOUs among the agencies identified in the statutory provisions.

Currently, three (3) separate MOUs are in place that defines each participating agency's role and responsibility in the COC system:

- TDCJ, DSHS, DPS and Community Supervision Corrections Departments (CSCDs) – offenders with mental illnesses.

- TDCJ, Department of Assistive and Rehabilitative Services (DARS), DADS and DSHS – offenders with mental retardation, physical and/or developmental disabilities, serious or terminal illnesses, long-term care and the elderly.
- TDCJ-TCOOMMI, Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE), Texas Commission of Jail Standards (TCJS) and DPS – all offenders with special needs.

The following sections will provide a status report on each of the above-referenced MOUs and recommendations for improvements.

MOU – TDCJ, DSHS, DPS and CSCDs

The COC Legislation impacting offenders with mental illnesses has been recognized as a national model. Texas is the only state in the country with a comprehensive system of care that begins at the time of arrest through post-incarceration from TDCJ-CID facilities. One of the most critical components of this COC program is the sharing of information between the local and state mental health and criminal justice systems. The following chart highlights the unique nature of the COC Legislation:

Texas Department of Criminal Justice MH/MR Match Statistics October, 2008				
	C.I.D.	Parole	Probation	Total
Total TDCJ Population	156,127	78,788	430,483	665,398
# of Care Matches*	42,556	21,345	55,276	119,177
% of Total Population	27.25%	27.09%	12.84%	17.91%
# of Target Group**	11,388	5,497	18,845	35,730
% of Total Population	7.29%	6.97%	4.37%	5.36%
*Represents all Clients served since 1985, including those whose diagnosis is no longer eligible for MHMR				
**Schizophrenia, Bipolar, Major Depression				

One component of the data that is critical for planning purposes is the prevalence rates documented for each offender management division. Although the probation system has almost three (3) times the number of offenders than that of TDCJ-CID, the percentage of matches is significantly lower.

The following scenarios could explain this outcome:

- **Due to inconsistent diagnostic practices at the local jail, offenders with mental health issues may not be identified prior to sentencing;**
- **The lack of community based sentencing alternatives may result in the increased use of incarceration versus probation;**
- **Existing community corrections treatment programs may not be designed to address the multi-needs of offenders with mental illnesses (i.e. substance abuse and mental illness diagnosis); and**
- **There are offenders with mental illnesses who cannot or will not be treated with conventional interventions.**

In order to address these possible factors, the legislature took several actions during the 80th Legislative session. Senate Bill 839, was enacted to allow the DPS access to the state's mental health service database. This provision will enable local jails to obtain Mental Health/Mental Retardation service history at time of intake, thus allowing immediate identification at booking. In addition, the TCJS will be revising the Mental Health/Suicide Screening Form that is required to be performed on every jail inmate to include the Client Access Registration System (CARE) match results. It is anticipated that this intake form will be the vehicle jails will use to notify the courts of a defendant's mental health status. Although the sheriffs are required by law to notify the magistrates of a defendant's mental illness or mental retardation within 72 hours of booking, there exists little evidence to suggest that this is occurring. Since, there is no provision in the law for monitoring and enforcement of this requirement, there exists no formal process to ensure that jails are in compliance.

While the pre- and post-release process from TDCJ-CID to the community is considered to be a national model, the front end, including arrest, jail incarceration and community supervision, is less well developed. During the past year, TDCJ-TCOOMMI has initiated a number of corrective actions to strengthen the front-end of the COC process, including:

- **Amending contracts with the state and local mental health providers to require COC activities for the front-end of the criminal justice system;**
- **Revising the MOU between TDCJ, DSHS and local CSCDs to require a progress reports on front-end COC activities; and**
- **Revising the MOU between TDCJ-TCOOMMI, TCLEOSE, TCJS and DPS to require quarterly reporting on early identification and jail diversion efforts.**

The implementation of these and other new legislative, regulatory and programmatic practices should result in significant improvements in the early identification and possible diversion of such offenders from incarceration.

MOU – TDCJ, DSHS, DADS & DARS

TDCJ-TCOOMMI's enacting legislation also requires a Continuity of Care MOU between TDCJ, DADS, DARS and DSHS. This MOU covers all other special needs offenders under TDCJ-TCOOMMI's statutory purview including those with mental retardation, physical and developmental disabilities, long-term care, serious and terminal illnesses and the elderly.

Similar to the MOU for offenders with mental illnesses, this MOU requires each agency to define the collective and individual role and responsibility in the COC process for special needs offenders. The implementation status of this MOU, however, is far behind that of the one for mentally ill offenders. There are a number of factors that have impacted the implementation of the MOU including:

- **The high prevalence rate of offenders with mental illnesses compared to other special needs offenders required a priority focus of effort.** For example, the estimated prevalence rate of offenders with mental retardation is less than, one (1)% compared to the 19% for those with mental health issues;

- **Cross-referencing of TDCJ and DARS, DADS and DSHS data has presented numerous challenges.** DARS for example, has indicated that federal privacy laws that govern their activities prohibit the exchange of confidential information. As a result, the agency's data, such as aggregate numbers are not available to other agencies including TDCJ; and
- **Agencies, such as DSHS, has multiple service responsibilities that are directly provided by DSHS or are contracted out to vendors.** Each service entity appears to have its own unique data guidelines, and governing federal or state laws that may restrict access. As a result, TDCJ has been unable to establish a cross-referencing process with any department in DSHS with the exception of mental health.

Despite these challenges, there has been some progress toward implementation, particularly as it relates to DADS. During the past year, DADS has initiated the following activities:

- **Identified contact staff for each service region to respond to criminal justice referrals;**
- **Provided training to key regional supervisory staff on the MOU requirements and criminal justice referral process;**
- **Established a quarterly reporting process on the status of TDCJ-TCOOMMI referrals for offenders being released from TDCJ-CID facilities; and**
- **Conducted an initial cross-referencing match with TDCJ offenders.** This activity produced minimal matches, but issues with accuracy warrants further work on refining the data elements used in the initial run.

MOU – TDCJ, TCLEOSE, TCJS & TDPS

During the 80th Legislative session, SB 839 amended TDCJ-TCOOMMI's statutory provisions to include DPS in the COC process. This change resulted in a need to revise the existing MOU between TDCJ-TCOOMMI, TCLEOSE and TCJS. During the past year,

affected MOU agencies have submitted additional changes to be incorporated in the MOU document. At present time, the revised MOU draft has been submitted to participating agencies for final comments.

In respect to current biennium activities, the majority of implementation efforts have been with the TCJS. During this period, TCJS has completed or initiated the following activities associated with the MOU:

- **In cooperation with TDCJ-TCOOMMI, revised existing mental health intake processes at local jails, by amending the suicide/mental health screening document;**
- **Revised inspection protocols to include a review of a jails compliance to mandatory cross-referencing of inmate names with the statewide MH database; and**
- **Reviewed and responded to monthly reports from TDCJ Health Services on the submission and accuracy of Uniform Health Status Forms that are included in the pen packets for all TDCJ admissions.**

Overall, the TCJS has demonstrated a commitment to the COC process that is noteworthy. It is anticipated that once the mental health database has been successfully incorporated in the DPS-TLETS program, the Jail Commission will play an even more critical role in the COC process.

RECOMMENDATIONS

As noted previously in this report, Texas is the only state in the country with legislation requiring a COC system for offenders with special needs. The intended outcome of this legislation is to provide a seamless system of care, starting with arrest and continuing through out the criminal justice continuum to release from TDCJ facilities. A number of successes toward implementation have been cited in this report, particularly those impacting offenders with mental illnesses. There are also, however, an equal number of challenges that have been noted that have been encountered in MOU implementation activities impacting other special needs offenders. In order to address these issues, the following recommendations are offered for consideration:

- **Require MOU agencies to provide written status reports to TDCJ-TCOOMMI on barriers to implementation.** These reports should include a description of the barrier, efforts to eliminate or minimize problems, and if the issue is beyond the state's control (i.e., federal law) an explanation of such.
- **Each MOU agency should at a minimum provide a list of contact staff at the local or regional level to respond to criminal justice issues.** TDCJ-TCOOMMI would distribute this listing on an as needed basis to local and state criminal justice entities for their information and use for special needs offender referrals.
- **Require each MOU agency to provide an annual status report to the advisory committee at the beginning of each fiscal year.** This reporting process would allow advisory members an opportunity to provide feedback and make recommendations before corrective actions are implemented.
- **The MOU agencies should work toward prioritizing activities that may potentially have greater impact on offender populations.** For example, working

with DSHS to establish a process for obtaining birth certificate information prior to release would be considered a higher priority than other activities.

SECTION VI.
CHIEF JUSTICE LED MENTAL HEALTH TASK FORCE

In March, 2007, the Council of State Governments selected Texas as one (1) of seven (7) states to receive a Chief Justice Led Mental Health Task Force grant. The purpose of the grant was to identify strategies for the state to pursue towards improving the courts' response to defendants with mental illnesses. The presiding Judge of the Texas Court of Criminal Appeals, Judge Sharon Keller, created a statewide Task Force comprised of representatives from the Legislature, Governor's Office, State Criminal Justice and Mental Health Agencies, Law Enforcement, Defense and Prosecution.

The Task Force identified as its primary issue the lack of a formal notification system that would alert the courts of a defendant's mental illness. As a result of recommendations made by the Task Force, substantive policy changes were enacted that will have a decided impact on the identification of defendants with mental illnesses, and the subsequent notification of the courts. SB 839 represents the most significant policy change that resulted from the Task Force's efforts. SB 839 amended TDCJ/TCOOMMI's enabling legislation, include DPS to the COC and exchange of confidential information provisions. In doing so, the DSHS was allowed to merge its mental health service data base with DPS' TLETS. This will result in the local jail's ability to identify former or current clients of the public mental health service delivery system at the time of initial intake.

The benefits of this new policy are:

- **Timely identification** - Prior to SB 839, local jails submitted inmate lists to the local MHMR for cross-referencing against the mental health database. Most jails reported numerous difficulties in obtaining the information in timely manner or not receiving it at all. As a result, defendants may have been booked, served their time and released before the match results were provided. The new law enables the jail staff to receive this data immediately, thus avoiding potential problems in treatment and/or management of the inmate once incarcerated; and
- **Reduced duplication of effort** - For those defendants who are former or current clients of MHMR and have had a psychiatric assessment within the past 12 months, the jails are no longer required to conduct another evaluation. Not only are costs associated with a redundant evaluation avoided, but inappropriate or inaccurate diagnosis and treatment interventions by the jail can be minimized as well.

Another issue the Task Force directed its work, involved the process by which the courts were notified of a defendant's mental illness. Several issues emerged during the review of this matter.

- **Current statutory provisions in 16.22, Code of Criminal Procedure require the jail to notify the magistrate of a defendant's mental illness within 72 hours of arrest.** Based upon the Task Force's review of this practice it appears that jails are not complying with this mandate. As the provisions do not require any entity to monitor or enforce the requirement, non-compliance has resulted;
- **Statutory provisions mandating the release of certain defendants with mental illnesses on personal bond are largely ignored.** There are a number of factors

that may contribute to the courts' failure to adhere to this law, including: lack of knowledge regarding a defendant's mental illness, limited community based treatment services to order the defendant to participate in and the judges' understandable reluctance to release a defendant with a history of treatment non-compliance; and

- **No statutory provisions for a formal notification mechanism exist.** Although 16.22 requires the jail to notify the magistrate of a defendant's mental illness, it does not specify how it should be accomplished. The jails' apparent lack of compliance could in part be attributed to the lack of specificity in the law.

The Task Force developed a number of recommendations to address these and other issues:

- **To ensure uniformity in the court notification process, jails should be required to forward the mental health/suicide screening intake form to the courts within the 72 hours specified in current law.** The Texas Commission on Jail Commission on Jail Standards (TCJS) has revised the intake form to include a reference to the MHMR data match results. As a result, the form would serve as an excellent vehicle to notify the magistrates/courts of a defendant's MHMR service history and/or if a positive response to any of the mental health intake questions was noted;
- **Require the Jail Commission to monitor compliance with the notification requirements by incorporating it in their standards and routine jail inspection process. Status reports on implementation could be provided to the TCOOMMI Advisory as part of the Jail Commissioners routine update on MOU activities.**

- **Require TDCJ-TCOOMMI to review and monitor the implementation of policy impacting offenders with mental illnesses.** This activity could be incorporated into the office’s routine COC monitoring that is statutorily required;
- **Conduct an annual summit of key mental health and criminal justice stakeholders to obtain feedback on statutory, regulatory and programmatic practices and challenges.** This activity would allow a formalized exchange of information on what is working and areas that require further improvement; and
- **Require TDCJ-TCOOMMI to examine strategies for reducing the number of arrests/incarcerations of individuals with mental illnesses who are considered “frequent flyers” by the local jail and law enforcement officials.** This examination should review existing statutory and programmatic practices that may need to be revised to minimize or eliminate the number of criminal justice encounters for certain populations.

SECTION VII. CONCLUSION

Based upon the accomplishments noted in this report, continued progress has been made toward establishing a comprehensive COC system for offenders with special needs. There is, however, a great deal of work to be done in the next biennium.

In addition to continuing work on those issues previously cited in this report, the following issues warrant TDCJ-TCOOMMI's attention during the next biennium.

Those issues include:

- **Examining the extent of head trauma or acquired brain injury in the juvenile or adult offender population.** Research demonstrates that physical abuse during formative years may result in undetected head or brain injuries. The high incidence of reported abuse in the family histories of juvenile and adult offenders warrants an examination of the scope of problem, and recommended course of treatment interventions.
- **Improving efforts towards identifying and responding to all special needs offenders should be continued.** While the understandable focus of TDCJ-TCOOMMI has been directed to mental health, other offender populations, such as the elderly or intellectually challenged, warrant increased attention by the TDCJ-TCOOMMI advisory members.
- **TDCJ-TCOOMMI should continue and increase its coordination with the United States Veterans Administration (VA) to identify offenders who may be eligible for VA services or benefits.** Veteran hospitals and out-patient services offer a significant resource for the adult offender with special needs. Currently, there is no

uniform process, other than self-reporting, for identifying veterans who are on probation, parole or in jail. TDCJ-TCOOMMI is developing a MOU with the VA to establish a cross-referencing system for identifying all eligible veterans in the criminal justice system. If successfully implemented, a much needed resource for medical, mental health and substance abuse treatment could be accessed, thus reducing resource demands on the local or state system of care.

- **Efforts to utilize and/or expand upon technology to assess, treat or conduct hearings for offenders with special needs should be continued.** The benefit of telemedicine or interactive video conferencing in the criminal justice system has been demonstrated by TDCJ's medical providers for inmates, University of Texas Medical Branch and Texas Tech University. Adopting similar capabilities in the pre-trial assessment phase and competency status hearings between state hospitals and the courts, and pre-release planning between TDCJ or TYC and the community are examples of potential use. In a state the size of Texas, with ever-increasing demands for specialty care or services, expanded use of video conferencing systems could offer a viable and cost effective response to these problems;
- **Expanding access of the DPS/DSHS data match to law enforcement should be considered.** By excluding law enforcement from this data, diversion opportunities at point of initial contact with peace officers may not occur due to lack of information regarding the person's mental health history.
- **Examine local, state and/or federal guidelines for entitlement programs or information sharing to determine what revisions may be needed to facilitate service delivery.** The federal guidelines for subsidized housing are cited as a barrier for convicted felons, however, the local housing authorities establish the exclusionary

criteria. Medicaid reimbursement is prohibited for defendants in local jails even when the individual is not yet convicted. The federal guidelines for temporary aid to needy families (TANF) allows states to set exclusionary criteria and Texas excludes persons convicted of drug offenses. Each real or perceived barrier to service should be identified and modified to whatever extent possible.

Responding to these and other issues noted in this report will require significant coordination and collaboration among TDCJ-TCOOMMI's advisory and local entities. It will also require the continued support of local and state elected officials who make policy decisions regarding this states juvenile and adult correctional system.

As in years past, the state's leadership has demonstrated its commitment to making Texas the nation's leader in special need offender issues. Maintaining this leadership role can make this State a safer place for all Texas citizens during the next biennium and for years to come.