

# **GOING TO PRISON IN TEXAS**

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## Introduction

For over thirty years our firm has represented offenders and their families in prison and parole administrative and legal issues. The first version of this article was published in *THE VOICE* (the magazine of the Texas Criminal Defense Lawyer's Association) more than twenty years ago. But the Texas prison system changes so often I periodically update this material so that Texas lawyers and their clients and families know what to expect when a client must "do time." The purpose is to reduce the fear and uncertainty every "first timer" (and their loved ones) anticipate after realizing he/she is going to prison -- and how to conduct themselves once there.

In the past our law firm held private seminars for families and defendants who faced prison time. In the mid-80's we backed away from doing that work as we were too busy with other types of cases. In the mid-90's, as our firm expanded, we again started offering individual counseling seminars to clients and families prior to a family member leaving to serve a prison term. We hope the general information we provide will be of assistance to attorneys, their clients and their client's families. In fact, often it's the families that need this information as much, or more, than the client going to prison. The general information here applies to both male and female prisoners.

The best time to provide this information is before the client is in jail, before conviction. In other words, when the client is out on bond, the information should be available with the hope he or she will not need it while recognizing that prison is a possibility.<sup>1</sup> However, in most cases we end up presenting the information after the client has been sentenced, while in county jail awaiting transfer to TDCJ.

In the past these seminars have been done by an attorney from our firm and a former TDCJ offender. Our "How to Go to Prison" seminars generally are now conducted by attorney David O'Neil, one of our paralegals who is a former prison guard whose son had been incarcerated in TDCJ, and, in some cases a former TDCJ offender.

David O'Neil graduated from St. Mary's School of Law in 1979. He has both a Juris Doctor and an L.L.M. (a Masters in Law Degree). David is a retired Marine JAG officer. Upon retiring

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<sup>1</sup> Where a defendant pleads to a felony offense and is sentenced to "time served" TDCJ has taken the position that the defendant must be transferred to TDCJ for preparation of a release certificate. This could mean several weeks in County Jail awaiting transit, and several more weeks in TDCJ awaiting the release certificate.

from the military, David spent five years as Chief of the Public Defender's Trial Section at the Texas Department of Criminal Justice. David is a Co-Chairman of the TCDLA Corrections & Parole Committee and has written a number of articles about defending TDCJ offenders, parole, and civil commitment of sex offenders. David now handles most of the parole and prison related cases for the firm.

Our Legal Assistant, **Debbie Bone**, worked as a TDCJ for thirteen years; first as a correctional officer, then in administration. Her husband was also an officer, eventually rising to the rank of captain. Debbie's son was incarcerated in TDCJ and then spent time on parole. She not only knows TDCJ inside and out, she also understands what parents go through when their children are incarcerated and on parole. Debbie has worked in our Huntsville office as a paralegal for over ten years.

In some cases we also have a former TDCJ offender assist us in the presentation.

Throughout this presentation there are three major rules the newly arrived offender should keep in mind at all times:

1. Learn to be self-reliant. Do not use others, or allow others to use you.
2. There are no secrets in prison. What you do and who you do it with will be noted by both guards and offenders. Privacy disappears.
3. Life is not fair and nowhere is that more true than in prison. Do not waste your time on issues outside your control.

All the horror stories one hears about prison from movies, newspapers, books or gossip likely have a degree of truth to them. However, most of these horrible incidents are very rare exceptions to the boring daily life that most experience in prison. For instance, there is a common perception that weaker prisoners are often raped by stronger ones. But the reality is that evidence of rape in prison is far less common than is perceived by the general public. Other incidents of violence that appear regularly in the media certainly take place, but with far less regularity than is commonly believed. I know many, many, offenders who have served over twenty years in prison without serious problems. The key to success in prison is to understand the culture, staying out of other people's business and avoiding situations which lead to trouble.

## I. GETTING READY FOR PRISON

I strongly recommend to the potential offender to get **complete medical and dental checkups**. Keep a copy to take or mail to the county jail facility (depending upon their practice) and leave a copy with family. Things do get lost in prisons. If possible, have the client complete a signed HIPAA release filed with any medical provider that may have relevant medical records. Hopefully the check-ups can be done before you go before the judge. Benefits from a physician's report include:

- 1) Medical problems may affect the judge's decisions at sentencing.
- 2) The offender will have current medical records as proof of any ongoing medical issues the

jail and the prison should know about.

Tell the doctor you may be going to prison, and that you want everything documented. Tell your dentist to perform any cleaning and preventative care at this time. Have any cavities filled. Dental care in prison is not prompt and is more likely to involve pulling a tooth as opposed to more modern dental procedures. Prison is not a place for toothaches. If you wear prescription lenses, we suggest you have your eyes reexamined and that you bring one sturdy medically prescribed pair of glasses. The prison does not provide contact lenses and will not allow colored contact lenses. Further, an offender cannot replenish Contact lenses through the prison commissary system. Be aware that any further acquisition of glasses will be done through the prison and there is a long wait for that service.

### **A. Medical Issues**

If medical problems are already diagnosed, and medication is being taken, have the doctor prepare a prognosis letter explaining the problems and the medication used, which includes any limitations on work assignments or other similar concerns. This should be provided to the County Jail –TDCJ will not accept this from the offender; hopefully the County Jail will forward it. The prison will not believe a word an incoming offender says about his health without written medical verification of his claims from a physician. Even then, the medical personnel may not accept the letter unless it comes to them directly from the doctor. We would recommend that the offender have all physician contact information available during their intake process. There have been documented cases of offenders using fraudulent medical reports to gain the system and even to escape. Furthermore, once the client enters prison, there is no guarantee that the quality or nature of treatment received in the free world will continue in prison. In prison, the offender will be one of over 150,000 patients in a health care system that is often described as horrible.

The prison's medical system is in need of substantial improvement. The care providers are contracted by the state with state medical schools. The University of Texas Medical School in Galveston contracts for most of the East and South Texas area prisons. In the Northern and Western sections of the state service is provided by the Texas Tech University Health Sciences Center in Lubbock. It is not that these schools fail to supply good medical care in their medical school hospitals, the problem lies in the quality of services available on the prison units.

The health services on the units are nurse-driven with doctors available if a nurse determines one is needed. For the most part, the medical situation is, at best, inadequate. Once incarcerated, the prison system is responsible for the offender's care, and will determine what medications will be administered. The client will not be allowed to take prescriptions into prison. The prison will totally take over from this point forward.

A rather common problem is where one suffers from bi-polar disorder or has other similar mental issues prior to arriving in prison. Upon entering prison, the medication previously prescribed will likely be changed by the prison medical staff. At times medication for some mental or physical disabilities may be terminated at the prison. The better the past medical history can be documented upon one's arrival in prison, the more likely the chance of continuing the treatment as occurred in the free world.

Effective September 28, 2011, a law went into effect that amended the fee charged to offenders that request services from a health care provider. TDCJ is required to collect \$100.00 from each offender who requests a visit to a health care provider. You will be charged a \$100.00 fee for the first health care visit that you request by submitting a Sick Call Request form or by requesting a staff member provide assistance in accessing routine health care services (i.e., not an emergency or life threatening as a walk-in patient). This fee covers all health care visits that you request for one year. Any visit that you request after the one year period will be charged another \$100.00 annual fee. If you do not request a health care visit, you will not be charged a fee. The fee will be deducted out of the offender trust fund account. In the event there is no money in the trust fund account to cover the fee the law requires that fifty percent of each deposit into the offenders trust fund account will be applied to the amount owed until total amount is paid. Exemptions to the fee are: Emergency visit; Follow-up visit; Chronic Care visit; Health screening and evaluation visit related to the diagnostic and reception process; prenatal visit; or health care services necessary to comply with State law and regulations. No offender will be denied access to health care as a result of a failure or inability to pay for the fee.

When the client enters the county jail he should have the doctor's letter which includes a list of medications being taken and a statement of why they are necessary. Your medical history may affect eligibility for a specific type of job assignment. For example, suppose the client was injured in a car wreck some time ago, and still suffers from that incident. If there is written proof of that, he may be able to avoid jobs that require heavy lifting or walking long distances.

Without a documented medical history an offender may be ordered to do work he shouldn't be doing. For instance, we have seen many cases where offenders on medication that specifically instruct the patient to avoid direct sunlight when taking that medication have nonetheless been assigned to work long hours in the fields until they've collapsed. In such situations one needs to have proof of his injury to show why he should not be assigned certain jobs. Without that verification, there will likely be problems. Remember, the prison system will not take an offender's word for anything.

## **B. Child Support**

Incarceration does not eliminate an obligation to pay child support. The Texas Attorney General's office is able to deduct money directly from the offender's commissary account. The best way to deal with this issue is to have your lawyer file a motion to amend child support conditions so the payments are deferred until thirty days after release from prison.

## **C. Government Benefits**

If Social Security or veteran's benefits (other than retired military pay) are being received, those will terminate until the offender is released. Others receiving Social Security benefits under the offender's name will continue to receive them.

## **D. Doing Business and the Mail**

A prisoner is not allowed to operate a business and we suggest that, if possible, arrange to have someone handle your business for you while you are in prison. If caught trying to operate a business from prison the offender can be subject to disciplinary action and lose classification rank or

good time. Besides, running a business from prison is hard since there is limited phone access. It is difficult, but we have seen some offenders who could maintain control of certain types of management decisions via weekend visits and letters. Remember that both incoming and outgoing mail is read by prison personnel and any exchange of bank account numbers, credit card receipts, etc. should be strictly avoided.

There are some cases where prison officials are not allowed to read offender mail. Mail to lawyers, judges, some elected officials, all media and public service groups such as the ACLU may be exempt from censorship. Incoming legal and media mail may be opened and inspected for contraband in the offender's presence, but may not be read by prison personnel. Phone calls are also monitored.

### **E. Quit Addictions**

Addictions can cause serious problems in prison. Nearly all prisoners have used alcohol, drugs or tobacco. Most have been addicted to one thing or another, even if it's just caffeine. Those addictions should be stopped as soon as possible. This may be a difficult process, but the sooner you become completely free of cravings for anything, the easier life is going to be in prison. Being addicted to drugs or tobacco in prison is a hellish existence and always leads to trouble.

The Texas prison system is tobacco-free. That does not mean cigarettes are not available, it simply means you're not supposed to have them. Smoking in prison can lead to several varieties of disciplinary violations and can get an offender indebted to other offenders and guards thereby making life more difficult. The same is true of drugs. You can find just about anything in prison you're willing to pay for, but I can't think of a surer way to get in trouble than to fool around with tobacco or drugs while in prison. Attempting to smuggle tobacco into a correctional facility in Texas is now a felony. Offenders, family members and other visitors have been prosecuted for such conduct. Offenders have also been indicted for trying to bribe correctional officers to provide them with tobacco and certain other contraband.

### **F. What Can I Take to Prison?**

Not much. You can bring a wedding ring, watch, and one religious medallion, but if deemed excessive in value or size they will not be allowed. You can also bring photos (not photo albums), legal and medical documents, one religious text and substance abuse literature.. If medically prescribed, Eyeglasses, Dentures, and Prostheses will be allowed. Contacts will be permitted until Health Services issues eyeglasses. One thing we strongly suggest you do is write the names and addresses of your loved ones as they appear on their driver's licenses and place the list among your legal papers which you are allowed to have. You will need this information when you fill out your TDCJ visitation list.

What about the money? How much money and how does it get there? We recommend around \$200 to \$300. Keep that much on your offender account at the county jail. When you go to prison, the money will go with you and will be available a week or two after you arrive, when you receive your TDCJ ID card. There are several ways to send money to the offenders trust fund account. They are through the U.S. Postal Service, Monthly checking account debit, Western Union Quick Collect, Western Union Convenience Pay, ACE, America's Cash Express, Jpay, eComm,

touchpay payment services, MoneyPak, and MoneyGram Express Payment. (Refer to the TDCJ website for details.) If paying through the U. S. Postal Service, be sure all incoming monies, both in jail and in prison, are sent by **certified funds**. A U.S. Postal Service money order works but electronic transfers are quicker. The money order must be mailed along with an Offender Trust Fund Deposit Slip (the offender should mail several of these to his loved ones as soon as possible). If using the various electronic services, check with each service as the codes and fees necessary to send monies to the offender are different. In any of the above services you will be required to have the offender's name and TDCJ ID number to have it deposited in the Offender Trust Fund in Huntsville. To send deposits and or request deposit slips to Offender Trust Fund, P O Box 60, Huntsville, Texas 77342-0060, Phone number (936) 438-8990.

Be aware that if you have court orders that require you to pay restitution, court fees or child support, then TDCJ will garnish those amounts from your trust fund account as stated in the orders. Usually the amount to be garnished in regards to restitution or court fees is ten percent (10%) of any deposit into the account until paid in full, but the initial transfer of funds from the county jail can be subject to a higher %. Child Support is dealt with differently, In the event that you are in arrears of Child Support, then the Attorney General's Office can place a lien on your account until arrangements can be made on an agreed amount to be deducted from your trust fund account.

### **G. Preparing the Family**

It is often the families, not the offender, who suffer the greatest emotional trauma during the prison term. Hopefully, the family can visit regularly but most offenders at some time will be in a prison hundreds of miles away from their homes. This is something the family needs to get used to and the offender needs to reassure his family that he will take care of himself. The offender who continues to complain about problems over which the family has no control only enhances their fears and concerns. That is not to say that when certain exceptional unfairness or abuse occurs one should not notify the family, but the day to day hassles of prison life are best left in prison. There is nothing anyone can do about the fact that prison is not fun. Complaining about it to loved ones will only make them feel bad. Don't make your family do your time with you.

## **II. ADMISSION INTO TDCJ**

### **A. Leaving the County Jail**

Transfer from county jail to TDCJ usually occurs within 45 days from the date TDCJ receives the Judgment and other required documents from the county because state law requires that TDCJ must begin paying rent to the county jail after 45 days. So what's going on during the time while the newly convicted offender is in jail? Documents are being prepared by the court, district clerk, district attorney and sheriff's department to be forwarded to the prison. This is called becoming "state ready." Once the documents are in the state ready office and TDCJ has authorized the county to ship the offender, the offender is ready for transport to TDCJ by the County and a delivery order will be issued to the County.

## **B. Catching the Chain**

At most county jails there is a particular day of the week when the chain bus arrives, and everyone in jail knows about it. The offenders will generally have some kind of idea, and may even be told which day of the week they are going out. While one may know the day of the week the bus (a van or car in smaller counties) usually departs, one may not know which week one is leaving. There may be little or no advance notice so families should be prepared to learn that their loved one has left for prison with little or no warning.

When the chain bus arrives, the offender must understand the rules are now going to change. The local jail visitation rights, the phone calls, the status one may have enjoyed as a Trusty are all gone. Early one morning, the offender will be abruptly awakened. He will be told the chain bus or other vehicle is waiting. Each offender will be stripped naked and strip searched in order to ensure no one is bringing in contraband. TDCJ clothes will be issued upon arrival at TDCJ. County jail uniforms stay with the county. Offenders will be shackled to one another in pairs, handed a paper sack with their possessions and take a seat on the bus or other vehicle. Get used to it. Long, uncomfortable bus rides handcuffed to a person you don't know, and probably don't even want to know, are a common feature of prison life. If possible, try to use the bathroom before you leave because using the bathroom if on a moving bus while handcuffed to another person is not easy.

## **C. Receiving and Screening**

There are four male offender intake facilities across the state, (Byrd, Gurney, Holiday and Garza West) and two for women, one in Gatesville (Woodman State Jail and the Crain Unit). Women travel in a van or other vehicle, separately from men. Usually the offender is transferred to the nearest intake facility but offenders may wind up anywhere in the state. A few special cases will go directly to the Byrd Unit in Huntsville.

There are basically two kinds of prisons in Texas. About 70 prisons are part of TDCJ's Institutional Division, and are what we will refer to in the rest of this presentation as "real prisons." You likely won't be going to a real prison anytime soon. Instead, you will likely spend the first year or two in one of TDCJ's other 40 or so institutions that are commonly called state jails or transfer facilities. A male offender can spend as much as two years "in transit" at these facilities before reaching a real prison.

But your first month or more will likely be spent at one of the six intake facilities. When you get there you will be stripped naked (get used to being seen naked in front of male and female officers) and told to stand while officers strip search you and go through your property. You will be asked to squat and cough. Some officers may yell at or ridicule you. Try to pick a spot on the wall, stare at it and don't pay attention to any insults. All the guards are trying to do at this point is see if anyone among you is stupid or crazy enough to talk back to them.

Next, for males, you will be shaved nearly bald; all offenders are made to shower with lice killer and issued clothing, bedding, hygiene products and a rule book. This process will take several hours after which you will be fed and assigned a temporary bunk. It will take about a week to complete the intake process before you are moved into the general population. You should take this time to read the rules and become very familiar with them. Many offenders dump them in the trash.



This is a poor choice. Keeping the book shows prison employees that you are interested in following the rules. But it is important to remember that prisons do not always operate as the rule books suggest. The interpretation of these rules can change and change often. The only rule that really counts is whatever the individual guard says it is. The rules in TDCJ change, if not every two years when the legislature meets, and then whenever the warden decides a change is needed. A security lapse can bring about massive change overnight. Prison is a hard place to find fairness or justice. Get used to seeing things done unfairly.

The next day the offender is going to be taken down to another room, and then another room, and during this process the offender will sit, and wait, then sit and wait again. The offender may be taken back to “the house” (cell) and wait. Get used to this. During the first week you will be photographed, fingerprinted and checked for tattoos. You will be assigned a TDCJ number which will essentially serve as your name for the duration. All mail, incoming and outgoing, must have your name and TDCJ number on it or it will not be delivered. During this time you will be allowed to put ten names on your visiting list. Again, they must appear as they are on the driver’s license or other government issued ID. TDCJ will then check to names on your list to make sure none of them are currently on parole. The approval process usually takes about 2-4 weeks after which you may begin receiving visits from those persons on your list. If an offender lies about the relationship of a visitor (usually to obtain more favorable visitation rights) the offender can be disciplined and the visitor may lose their visitation and telephone privileges.

#### **D. Medical Examination**

You will be examined by the TDCJ medical staff. This will occur in 4 or 5 visits back and forth to receive an EEG, an eye test, a physical examination, x-rays and a dental exam. Now one can begin to understand why it was so important that the medical records were collected and forwarded from the sheriff’s office. You’ll listen to lectures on AIDS and Hepatitis and possibly be interviewed by a psychiatrist. For sex offenders this may be the most important visit. Keep in mind that anything you tell the psychiatrist will be available to the parole board later. This is not the time to discuss fantasies or events known only to you.

#### **E. Sociology Interviews**

These are two very important interviews. The questions asked in both interviews will be essentially the same, but the styles of the interview will be completely different. These are the Sociology I and II interviews. Sociology I is generally done by a clerk who will ask about the offender’s crime, why he did it, how he felt about it, whether he liked his mother and father and similar types of questions. If your case is on appeal, discuss with your lawyer if questions about your crime should be answered. A simple, “my lawyer has advised I not speak of the facts of the case because of our appeal,” should be sufficient to satisfy the inquisitor. This sociologist will make every effort to be very friendly so they can encourage the offender to talk. Remember that anything said will be available for review by the parole board someday. Again, the less said, the better. Providing false information can be the basis for disciplinary action.

At a later time, you will return to the interview area and repeat the same interview, with the same questions, but this time with a different person. This is the Sociology II interview. This person may be belligerent and difficult. This is sometimes referred to as a “Mutt and Jeff” routine. The

offender should behave in the same calm, polite, manner as he did with the Sociology I interviewer. This second interview is designed to see how the offender handles anger and frustration. The interviewer will try to push buttons in order to observe the offender's reaction. Do not get angry! The offender's reaction helps the interviewer determine which type of prison unit the offender will be assigned. In most cases a calm, controlled and respectful reaction will increase the possibility of being placed in a minimum security unit. Shortly after you complete the Sociology interviews you will be given your TDCJ ID card and housed in the general population. From now on this TDCJ ID card must be in your possession everywhere you go.

## **F. Education**

All offenders are given an education achievement (EA) test and an IQ test. The test results will determine whether the offender is required to attend school. If an offender is judged to be functionally illiterate, or can't perform basic math skills, he will refer to education for placement in classes. Offenders who do not have a high school diploma or GED will be placed in GED classes. Those offenders should take advantage of this opportunity. If you already have a GED or high school diploma then you will likely never see the inside of a prison classroom. Most real prisons offer college courses and some even offer four year degrees, but the offender must pay for this himself.

## **III. CLASSIFICATION AND TIME CREDITS**

Classification depends on a number of factors: what crime was committed, criminal history, age, your prison disciplinary record – all of these factors go into it. How you are classified will determine how much “good time” – time earned in addition to calendar time -- you receive.

### **A. The Nature of Your Crime**

There are certain crimes for which good time has very little meaning. Those crimes are called “3g” crimes. If the crime committed is an “aggravated crime,” which we will discuss in more detail later, good time does not mean a lot except in classification and the benefits attached to that. Good time can be an important factor for the purposes of parole or discretionary mandatory supervision unless the crime involves a weapon or is a crime of serious violence. Losing good time, however, will harm any offender, including 3g offenders. Losing good time can result in loss of privileges, and custody changes that also can result in losing the opportunity to be considered for parole.

### **B. “G” Levels**

The first important classification for time earning classification is the custody classification. In the past there were fairly simple classification categories, minimum-in, minimum-out, medium-custody, close custody, and administrative segregation. After the “Connally Seven” escapes the rules regarding classification were revamped into the present incarnation. We have now come to what is called the “G” levels.

The optimum level is a G1 (General Population Level One). This level is within the sole discretion of TDCJ. There is a specific criterion that has to be met to reach this level. Those with certain offenses will never receive this level and others with aggravated or lengthy sentences must be

within 24 months of parole or discharge date for this classification. The most frequent assignment is a G2. If one is serving a 3g sentence that is 50 years or more they generally must complete 10 years flat to be eligible for G2 (or G3), 5 years if the sentence is non-3g and more than 50 years. That eliminates most of the aggravated offenders. But the people with the lower classification of crimes will fall into this G2 level. The next level is G3. This is for newly assigned offenders and people who have had a disciplinary case(s), or other types of problems which we will also discuss in another area. G4 level can be assigned to newly-received offenders, if the current offense of record is for a violent crime, or a pattern of violence has been established in “free world” convictions or if the offenders has committed an assault of staff or offenders in an adult correctional institution within the past twenty four months. Finally, the most aggravated offenders will be in G5, General Population Level 5. This is for those offenders that have security precaution designators, i.e. escapes, assaults, or continued disciplinary problems. There is a further designation of custody level for offenders who need to be protected by the system and are kept out of the general population in protective custody.

### **C. What Kind of Prison am I Going to?**

As mentioned earlier, you will likely do at least a year at transfer facilities before you are assigned to a “real prison”. The prison system has a unit level assignment. Level One unit is Trusty camps. Generally, only after two years can one achieve the Trusty level and be promoted and be eligible for a level one unit assignment. Level Two units will only house those offenders classified as G1 and G2. The Level Three units will only house offenders who are G1 through G3. Level Four units will only house those offenders who are G1 through G4. Finally, the Level Five, the big units, will house offenders who are G1 through G5 plus administrative segregation. There are a handful of those units. Then there is a special type of unit, the administrative units, which are better known as a “High Security” unit. We have a handful of those across the state and they house a low number of offenders who, by their behavior, need to be segregated from the population.

### **D. Earning Time Credit**

Everyone gets one day of credit for each day spent in prison.<sup>2</sup> Even if the offender is the worst offender in the system day for day time is granted and it can never be taken away. However, depending upon the nature of one’s conviction or criminal history, knowing the rules about earning good time may or may not be of interest. If you’re convicted of a 3g crime, good time may have only academic interest, although losing good time can have serious consequences. The great majority of these crimes require a judicial finding that a weapon was used in the offense, but that is not always true. For example, convictions of indecency with a child may not have involved use of a weapon, but it is currently considered a 3g crime.

If one is not convicted of a crime of violence, or if a weapon was not involved in the crime, good time may have a considerable effect upon the amount of time served. When no weapon or crime of violence is involved, good time credit may apply toward both parole eligibility and toward discretionary mandatory supervision. Good time credit can accelerate the date one gets to return home. If an offender has established himself as a model offender, and has earned one of the higher

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<sup>2</sup> State Jail Felons do not earn any goodtime credits towards a state jail sentence. State Jail sentences must be served day –for–day unless diligent participation credit is recommended by the warden and approved by the court. Diligent participation credit can be awarded for up to 20%.

classifications, he is earning good time at a pretty rapid rate. Everyone enters prison as a Line Class I. There are two classifications lower than that, Line Class 2 and Line Class 3. It is our hope that the offender will never receive either of those classifications, because one must receive a major discipline to get into those classifications. Traditionally, to be promoted to a level above Line Class 1 takes a minimum of 6 months in TDCJ custody, as does each promotion. One will then be eligible for promotion to what is called State Approved Trusty (SAT) Level IV or III. Six months later an offender can go to SAT III and then SAT II. The prison is no longer using the SAT I category. While in jail before coming to prison the offender gets credit at a rate of 20 days of good time (GT) for each 30 days in jail. The good time credit, however, is not credited to the offender until he actually arrives at the prison. Misbehavior in the county jail can result in the Sheriff asking the prison to withhold good time credit in jail, and most usually the prison will follow the Sheriff's request.

Below explains the classification levels. As far as the prison is concerned, all months considered to have 30 days.

<u>Time Earning</u>	<u>Good Time</u>	<u>Work Time</u>
SAT II	30 days GT	15 days
SAT III	same as above	same as above
SAT IV	25 days GT per 30 days served	15 days
Line Class I	20 days GT for 30 days served	15 days
Line Class II	10 days GT for	15 days
Line Class III	No GT credit	- 0- days

There are different good time earnings assigned to each of those. When starting out as a Line Class 1 you'll earn 20 days of good time for every 30 days of calendar time that passes. Rather than say calendar time, offenders say "flat" time. So for every 30 days of flat time that passes you are gaining 20 days of good time.

Jobs are assigned at intake and the most common job is the hoe squad, or field squad. This is also known among offenders as the largest weed eater in the world. For every 30 days one works, 20 days of good time and 15 days of work time will be credited. So every month that goes by one can possibly get 65 days of time earning credit. As can be seen from the chart, each promotion adds a certain number of days until eventually when SAT III level is achieved, where one can begin to earn the maximum amount of time -- 75 days for every month.

### **E. Old Timers and New Offenders**

The new TDCJ arrival will find offenders who have been there a long time. These "old timers" may be overheard discussing other types of good time earning capacity not discussed in the above sections. Offenders who come in today are not entitled to bonus time, education time, and that kind of thing. When discussions of "bonus time" or time credit other than what was just previously explained are heard, the new offender should realize that these terms not apply to him. Many changes have occurred in the task of counting time credit and many methods may be used to calculate the time credit of an old timer. Do not concern yourself with the conditions under which others are serving time. It is quite possible they do not know themselves.

## **F. Visits and Other Forms of Contact**

Each level of time credit gets a number of contact visit privileges associated with it. Visitation is not a right. It is a privilege. The warden of the unit has total control over who comes to visit, and the conditions associated with each visit. An offender who enters the unit as a Line Class 1 will be eligible for one contact visit per month. Any other visits that month will be non-contact. This means it will be like in the county jail. The offender will sit on the other side of a divider and talk to his family through a screen, or through glass with telephone handsets. One good thing about prison visits is that they are considerably longer than what was enjoyed in the county jail. Most county jails limit visits to 15 or 20 minutes. In Texas prisons, visits are one day per weekend for two hours every time. A warden may allow a "special" visit if the family lives more than 250 miles from the unit. A "special visit" may be allowed one weekend a month for 8 hours (4 hours on Saturday and 4 hours on Sunday). This has to be setup in advance and approved by the unit warden.

Once you have undergone the initial admission and processing, you will be allowed a visit every weekend. There are some offenders who are limited to non-contact visitation with friends and family. This will depend upon criminal history and overall classification. Most offenders are allowed contact visits. As one gets promoted he will be permitted to have more contact visits. The first promotion to SAT4 allows two contact visits per month. At the SAT3 level, three contact visits per month are allowed. You may hear many offenders make references to SAT2. Those offenders have been in the system for quite some time and eventually the unit warden and the classification board thought highly enough of them to promote them to that level. The only real benefit to SAT2 is that a contact visit is allowed every weekend. If there are 5 weekends in the month, 5 visits are allowed. There are a number of wardens around the state who have decided that everyone on the visiting list gets a contact visit. Your visitation list can only be altered every six months, and may only include ten names, so make sure you get it right the first time.

In the past telephone calls placed by offenders to loved ones were very rare if any. TDCJ has contracted and implemented a Telephone System whereas the offender can place collect calls or through pre-paid account to as many persons through an approved calling list which will be separate from their visitors list. Telephone calls can be placed in the following manner:

- Collect calls- charges are accepted when the offender calls.
- Friends and Family Prepaid- the telephone number owner establishes an account in which to deposit money to pay for the offenders calls.
- Offender Telephone Prepaid Debit Account- the offender or family can deposit money into the offenders account.
- Offenders can purchase an unlimited amount of phone time at the commissary.

The offender is allowed an unlimited number of minutes per month at 20 minutes per call. These phone calls are monitored with the exception of legal telephone calls. Telephone access is a privilege and can be taken away given any disciplinary infraction or change in custody designation as phone calls are not allowed for those offenders that are in Transient Status, Pre-Hearing Detention, Solitary, Cell Restriction, or Special Cell Restriction regardless of Custody designation. Telephones are located within the dayrooms/living areas of the cellblock/dormitories and various other locations as designated by TDCJ. Telephone systems are generally operational between 7:00 AM and 10:00

PM seven days per week with the exception of count time and other times as designated by the Unit Warden.

Family members have the ability to purchase telephone minutes for use by the eligible offender directly through the provider. Calls can now be placed to Post-paid cell phones numbers within the continental United States. Postpaid cell phones are those that have accounts with companies such as AT&T, Verizon, Sprint, etc. that have specified usage through contracts. No calls are allowed to pre-paid cell phones or Pay as You Go cell phones, internet services, 800 numbers, businesses, pay phones, or international numbers

There are two other ways that offenders can place calls: a collect call placed from a state owned unit telephone, which is requested through the Warden or designee; or, collect call on a state owned unit telephone through the Unit Law Library placed pursuant to a statute or Agency policy. These calls will be placed at the discretion of the unit Warden or designee, shall be limited to one telephone call every 90 days (30 days for state jail offenders) and shall be no longer than 5 minutes in duration.

Prior to initial approval, an offender must not have been found guilty of any major disciplinary violations within the last 90 days (30 days for state jail offenders) and must be engaged in a full-time work, school or treatment programs.

Another form of communication is E-Messaging, also known as “JPAY”. This allows friends and family to send electronic messages to offenders for a fee. The fee is the same cost as a postage stamp. The offender will receive their message or letter usually within two business days.<sup>3</sup>

Remember, when communicating in the various forms listed above, never say or write anything that you wouldn’t want put on a sign in your front yard for all to see. Everything is read.

The only calls not monitored are call made to an attorney who has specifically made a written request to EMBARQ to receive calls from a client and has received prior authorization to do so. The application form for the attorney is on the TDCJ website. Offenders should not put attorneys on their phone list, or their calls may be monitored.

### **G. Security Precaution Designations (SPD’S)**

Security Precaution Designations, SPD’s, are undesirable notations placed behind an offender’s name after all other classifications have been listed. This notation is an internal agency notation that may not be known to the offender. There are four SPDs and each means the offender has something in his record which is a potential problem to the prison.

Security precaution designators are assigned for behavior in any way related to: escapes, staff assault, hostage incidents, sentences to life without parole, and security issues (e.g., offender has gotten out of his handcuffs, or has managed to open the door on his cell),

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<sup>3</sup> Source: Texas Department of Criminal Justice. *Offender Phone and E-Messaging System*, WEB (02/3/2011)

Offenders with an SPD designation receive a G4 custody classification. After 10-years, it is possible to move up to G3, but once labeled with an SPD, one cannot achieve higher than a G3 classification. I offer a piece of advice about staff assault. "Staff assault" does not necessarily mean reaching out and striking a correctional employee. All that is necessary for this label is to reach out and brush an employee's shoulder and that employee has been assaulted. **The definition of staff assault is an offender simply touching an employee. Never touch a prison employee** whether he/she wears uniform or street/civilian clothes. Once that occurs, the offender may have problems and an SPD. He probably will be assigned to administrative segregation, and all kinds of problems and bad things happen as a result.

## **H. Unit Classification and Other Committees**

Once an offender has done his time on transfer facilities (no more than two years) they will be reassigned to a "real prison".

After arriving at your new unit, you'll be led to the Unit Classification Committee. This committee is made up of the warden or the assistant warden, the building major or his designee, someone from the medical department and someone from the education department. They visit with the offender and are in possession of the offender's complete file. **Unless one's attorney instructs otherwise, this is one of the few times we would recommend that the offender discuss his case with anyone in prison.** The only time offenders should discuss their case, or their personal business, is if the people with whom the offender is conversing have the offender's file in front of them.

When the UCC meets with the offender, they are making several decisions which will be significant to the offender's stay at that unit. For example, they will determine what job you'll be assigned to and where you're housed and what job you will have. One should be forthright with the members of these committees. Look them straight in the eye and let them know you are there to do your time the right way and get out. If you have any job skills (typing, welding, or plumbing) that are useful in prison be sure to mention them. Wardens like offenders who like to work and a good job can mean all the difference in the world. Most wardens make new offenders spend 90 days on the hoe squad. Those who do that job well are usually rewarded with better jobs. Unfortunately, none of them pay. But those who refuse to work are put in close custody or cell restriction through the discipline process.

## **IV. SOME SPECIAL CONSIDERATIONS FOR WOMEN**

In the men's units there are gangs, which we will discuss later. Women have their form of gangs too, but more often women gather together in groups that are based on relationships. A woman entering the Texas prisons should be just as cautious of quickly forming close relationships with other women or groups of women as should men be careful when considering the offers to join a gang. Gang members exist on the women's units, but are not as prevalent as on the male units. Familial-type relationships seem to be the norm on the female units. In many ways, the approach can resemble the invitation to be in a gang, but it's more of a one-on-one relationship. Women are more emotional creatures and the stronger women will play on the emotions of the weaker ones, and will particularly set the traps for a new offender. The pitch may be for protection, for so called

friendships, or need to ease the loneliness by having an emotional closeness with another person, and this can include a sexual relationship. Do not get that close to anyone for any reason.

New offenders are prime targets, especially those that go to the commissary regularly and get mail and visits on a regular basis. There are plenty of women that have been there for a long while and they look for this. Perhaps they don't have the support and the assistance the new offender has, and perhaps they are looking for that. Don't go for it. Take your time, watch those who try to befriend others, and after close observation, pick your friends carefully.

Women in prison are notorious for taking a personal relationship with another offender extremely seriously. Do not think that the approach from another female offender is really about love or caring because it is not. It is about control. If the "user" feels that the other party is pulling away, wants out of the relationship or that there is an interest somewhere else, watch out. If there is a threat of loss of control of the relationship, there are instances where the offender pulling away has been beaten up or cut up over an attempt to cool off a relationship with another offender. Women in prison can be very petty and jealous and every bit as violent as any male prisoner.

Women in prison also intimidate or try to loudly "out talk" others by getting in their face. If this happens, do not respond and do not react. Reaction is exactly what the other party is looking for. An angry response or reaction gives the other offender the excuse to start a fight. Ultimately following this advice will result in respect and others will stop trying to bait the newer offender.

## **V. STANDARDS AND BEHAVIOR**

### **A. Keep your business to yourself.**

The best advice for newly entering men and women offenders is to OBSERVE, OBSERVE, OBSERVE. While observing, always keep in mind that you are also being observed, not just by other offenders, but by those who guard and manage the prison as well. Never comment on an incident which doesn't involve you. If it's not your business, avoid having anything to do with it.

I again recommend that offenders not discuss their case with anyone other than officials and committees, and then only when your file is on the table. **Of course if your case is on appeal do not discuss your case with anyone without your lawyer's consent.** If you talk about your case, an offender can be potential witnesses against you for any admission you make. Secondly, there is a pecking order in the prison. Everybody needs someone to look down on in prison. The offender who used a child for sex is considered the lowest of the low, as are rapists or any offense of a sexual nature. Offenders should not discuss the facts of their case, nor events surrounding the case. For example, if the conviction is of a sex offense involving a child, the last thing in the world that should be done is to tell another offender. It is no one else's business anyway and it is considered extremely disrespectful to ask another offender about his crime.

### **B. Old Joe or JoAnn wants to be my buddy**

The best advice I can give in this area is that when an offender tries to warm up to another, or do a favor, or ask a favor, it could lead to trouble. For example, if someone says, "take this envelope



down the hall to that cell down there," **don't do it**. What if the contents of that envelope include an escape plot? If the escape plan is later discovered, and it becomes known you acted as delivery boy for the plot by passing the plan from one offender to another, you could wind up in serious trouble. Getting out of that kind of trouble could be real problems for the innocent offender, and could include new criminal charges. The point here is this: one goes into the prison alone, and one comes out alone. Nobody can do time for another. The rule is, "Do your own time."

At times a correctional officer will befriend certain offenders. If this appears to be happening, watch out because it is dangerous for both the guard and the offender. Guards, like offenders, have good days and bad days. Guards are not supposed to develop any kind of personal relationship with offenders. The friendly guard that was kidding around yesterday is going to be the same one that writes you a disciplinary action today for the same behavior that was previously considered acceptable.

### **C. Hygiene, Grooming and Clothing**

If the new offender is thrown in a cell situation with someone that fails to meet good standards for cleanliness and good grooming, the first thing to do is to talk to that person to see if the matter can be resolved. If not, then the next step is to, "go to someone with "rank." Rank is someone at the level of lieutenant or above. **Don't go to a corrections officer with a complaint like this. They don't want to be bothered.** The offender should talk with a ranking officer.

It is a common error for other offenders to gang up on an offender who does not maintain an acceptable level of cleanliness or grooming. It is a terrible mistake to get involved in such an effort to fix the problem. There is a high likelihood that the attacking offenders will get a disciplinary action (or worse) and it will cost each of them a loss of class or time credit. In prison there are too many acts of retaliation among the offender population, and among offenders and employees. Seldom does any offender ever win in these situations.

An offender who keeps his appearance and living area neat, showers every day and grooms himself reasonably well will likely be respected by other prisoners for the way he presents himself. He will also be healthier. Prison is rampant with diseases like hepatitis and staph infection. Like any enclosed place with lots of people in it, colds and viruses travel rapidly. Keeping yourself as clean as possible is the best way not to get sick. You should especially get used to washing your hands several times a day. Most prisoners are free to shower anytime they are in their cell block or dorm and soap is free in TDCJ.

One of the daily rituals in regular TDCJ facilities is the daily change of clothing. As we said earlier, a set of boxer shorts, socks, and a set of white pants, shirt, towel and rag will be issued and each day there is a time at which these will be exchanged for a clean set. Clothing exchange may deviate from the norm in transfer facilities. Another exception to clothing exchange occurs if the unit is going through a "lock down", when entry, exit and movement within the prison is restricted and offenders are required to remain, for the most part, inside their cells. Clothing exchanges are rare during a lockdown.

## **D. What is a Prison Lockdown?**

Most people associate a prison lockdown with a riot, a prison break, or some major crime that has occurred and has heightened security at the unit. More often, lockdowns are a result of a routine unit security shakedown to search for weapons and other contraband. During lockdowns the entire unit will stop any and all offender traffic during such searches. The lockdown may involve one or more units. It can even be system-wide. During a lockdown, the offenders will be staying in their cells. Food in paper sacks called “johnnies” is brought up and served in the cell block. Lockdown status can last hours or days and weeks. At these times, clothing will not be exchanged every day. Times such as lockdown are when it is really important to have a good supply of hygiene and foodstuffs. Every prison has one lengthy lockdown per year while the entire facility is searched for contraband.

## **VI. PRISON LIFE**

### **A. Dorm Living and Cell Blocks**

Some prisons have dorm-like living conditions with each wing housing about 90 offenders. The bunks can be two high and very close together. When the offender first goes into prison he will be housed in a dorm until he is assigned to a “real prison”, where most offenders live in two-man cells. Single cells are generally reserved for restrictive maximum security situations. In “real prisons” there are rows of cells like you see in the movies. When you walk down the cell row do not look into any cell except your own. What is going on in another cell is not your business. Never go into a cell that isn’t yours, even if invited. It is against the rules to be in any cell you are not assigned to.

### **B. The Chow Hall**

The food in TDCJ is tolerable. The calorie content, fat, starch and cholesterol levels are high. The meat is usually processed and there are rarely any fresh vegetables. As in most institutional settings everything is overcooked and devoid of flavor. However, the food in prison is generally much better than that in most county jails. Service is cafeteria style with offender waiters refilling pitchers of water and tea. Breakfast is usually at 3:00 a.m., lunch around 10:00 a.m. and dinner at 4:00 p.m. Get used to eating fast. Guards like to run offenders through the chow hall quickly and you usually have less than ten minutes to eat before a guard will tell you to get up.

### **C. Day Rooms**

The day room is the center of any cell block or dorm. It is where offenders play games, watch TV and visit. The day room has several metal tables and rows of benches in front of the two televisions. The noise can be deafening. Consider two televisions 15 yards apart, on different channels, turned to maximum volume. The programming is determined by a show of hands of the offenders who are sitting on the benches. If you like sports you’re in luck but offenders do not watch a lot of news or educational programs. The most popular pastime other than watching television is playing dominoes. Scrabble and chess are also popular. When offenders play dominoes, it is a prison tradition to slam the dominoes against the steel table. The racket made by this eventually gets to where it really rides on the nerves. Several people slamming dominoes on a multiple steel tables in addition to two competing televisions amongst twenty loud conversations makes a great deal of

noise. Most prison commissaries sell ear plugs because it can be very hard to sleep when the day room is full. As stated previously this is also where the telephones are placed.

The day room is also where most fights occur. Many start over a disagreement about what to watch on TV. When a fight breaks out in the dayroom you should head to your cell. One-on-one fights often evolve into riots and in such cases the guards will simply write up everyone in the dayroom for fighting. If questioned by a guard about how a fight started, always say you didn't see anything.

#### **D. Recreation Yards**

One advantage to prison is that you can get in pretty good shape there. Most rec yards have universal-style weights and basketball, volleyball and hand ball courts. Many offenders exercise by walking or jogging around the perimeter of the yard. The recreation yard is also a place for offenders to meet and a place for trouble to develop. Just as in the day room, the innocent can be caught up in something he had no part in. TDCJ has a long history of disciplining everyone on the yard when trouble occurs. If trouble starts, get away from it, and stand with your back to the fence. Most offenders are called out for recreation several times a day. Most "real prisons" also have gyms, but they are not frequently utilized due to staff shortages.

#### **E. Commissary**

Your TDCJ ID card will have a magnetic strip on the back that works like a debit card. Purchases are limited to \$95.00 every two weeks. Most prisoners are allowed to go to the commissary once a week, at the discretion of the unit. The items are similar to what you might find in a convenience store, but the prices are much lower in prison. \$95.00 buys a lot of stuff. When a purchase is made at the commissary you'll be issued a receipt. Keep recent receipts in a safe place as you may be asked to prove you bought the items in your possession. Never drop it in the trash where it can be found by other offenders. Old receipts should be flushed. The receipt has valuable information on it, such as your TDCJ number and your account balance.

Some commissary items are designated as "special purchases." These are items like tennis shoes, radios, hot pots and fans. Offenders are allowed to possess only one of each of these items and the warden must pre-approve each special purchase.

Effective September 1, 2012, the TDCJ Commissary and Trust Fund Department initiated a direct purchase program for friends and family member to allow them to make online purchases for offenders. The purchases will be made from an existing product line with new products to be added later. Offenders can receive items purchased (through eComm) by family or friends in an amount up to \$60.00 per calendar quarter. Offenders who are placed on commissary restrictions will not be eligible to receive commissary items from direct purchase.

This program will be accessible either through a link on the *TDCJ website* or the *TEXAS.gov* website. The merchandise purchased will be distributed to the offenders from the commissary at their unit of assignment.

## **F. Race Relations**

One of the most regrettable issues in prison life all over the United States is pervasive racial animosity. It would be improper to lay blame for this on any group. Just remember that in prison race is among the greatest of serious problems. Each offender must determine how he or she will deal with this issue. The U.S. Supreme Court proclaimed that prison cells must be integrated, so you will likely always be celled with a person of another race. The only exceptions to this rule are for security or other valid penal causes. Gangs in prison are racially based, and can be violent. Disagreements regularly arise over race and culture. Again, this is not just a problem in the Texas prisons, but all U.S. prisons. At the same time, I have come to seriously contemplate whether many prison administrators give tacit approval to racial separation in order to, "keep the enemy divided." Offenders seem to let their negative perception override the logical prospect of power that offender unity could bring to the prison system. It appears that both offenders and administrators are at fault in this regard, but I do not believe that the situation will change in my lifetime.

## **G. Hall Rules**

The hallways and other traffic corridors in prison have yellow lines about two feet from each side of the wall. Offenders must always walk between the wall and the yellow line with their right shoulder nearest to the wall. The middle of the corridor is reserved for prison employees. The only time offenders are allowed to walk in the middle of the corridor is when being escorted by guards.

## **H. Personal Property**

Different prison units have different types of storage space. A problem developed in TDCJ for offenders being transferred from a unit with a good amount of storage space to a unit with less space. In some cases there was no room for all of the offender's belongings. Therefore, TDCJ developed a regulation limiting each offender to an area of approximately 2 cubic feet to store all personal items. Don't buy more than you can store. If your property doesn't fit into the limited area provided, prison employees are authorized to take it away. These regulations might be enforced with some latitude. Some wardens don't enforce it at all. Also, if one has a complicated legal case that is on appeal, one can apply for more space in which to store the legal material. But this is a cumbersome process and if the additional space is not absolutely necessary do not get involved with applying for more space.

You should put a lock on the assigned TDCJ storage box. Plastic locks are sold at the commissary for ten dollars. Prison officials have a master key to all the locks, so they can search as necessary. However, as a general rule, guards are not supposed to open your storage box without you being present. The advantage to having a lock is so you can keep your things reasonably secure from other offenders.

## **H. Gangs**

Gangs are a major problem in prison. They usually form around racial lines. It is very important for a new offender to remember upon entering prison that he will be viewed by some gang as a new prospect. It is not unusual that a new arrival will be approached by another offender who will try to get the newcomer indebted to him in some way or to recruit the new offender into a gang. They may offer protection from assault or blackmail. It is important to reject these entreaties. Gangs

demand total loyalty and will eventually demand money, sex or participation in some criminal activity. Gangs are the source of most criminal cases in prison. Offenders in gang are much more likely to get in trouble and even membership in some gangs causes prison officials to place known members in administrative segregation, even if that offender hasn't done anything that would normally merit solitary confinement. Perhaps of greatest importance, it will be very difficult for a gang member to be approved for parole once a gang tag is applied.

Those entering TDCJ with gang tattoos will be classified as gang members and placed in administrative segregation if their tattoo represents one of the "security threat groups" (STG). The list of STGs changes from time to time.

The only way to be returned to the general population once classified as a gang member is to formally renounce gang affiliation through the Gang Renunciation and Disassociation (GRAD) Program. Details are available on the TDCJ website.

### **I. Fighting**

Fist fights are very common in prison. For younger prisoners they are often unavoidable. Older prisoners are usually not bothered but at many prisons, it is not uncommon for a new arrival to be challenged. If this happens, the best thing to do is to try to defend yourself. If you refuse to fight then you will be perceived as weak, and everything you have may be taken from you. Once an offender shows he will fight back he is rarely forced to prove it a second time. Never use anything but your fists. If you use anything but your fists -- even a cup or a shoe -- that may be considered "fighting with a weapon" and that is a major disciplinary offense and may affect your parole date.

### **J. Jail House Lawyers**

Jail house lawyers, often called "writ writers" are offenders who are self-taught as lawyers. They seldom, if ever, have any actual legal background. Watch out when relying upon their representation or assistance. The law has changed regarding how many times you can appeal your conviction. You have only one chance at a writ of habeas corpus action. If the writ is not professionally done, end results can be horrible. One could waste this opportunity on a frivolous claim while a valid cause would be forever lost. Offenders should avoid allowing jail house lawyers from being involved in their case. In addition to the legal ramifications, using a jail house lawyer gives another offender information about your case that can be used to your detriment. I admit that in 40 years of practice in this area I have learned some things from jail house lawyers. However, I have spent more time correcting their work than learning from their expertise. The new convict only gets one opportunity for an appeal or one writ of habeas corpus, so it is best not to use a jail house lawyer with no legal education as the vehicle to travel down the post-conviction road. The prison does have a public defender service. Several lawyers in our firm have worked in that office. While it is a fact that the TDCJ has economic control over that office, there have been some excellent lawyers employed there. If you're charged with a criminal case while in prison, a lawyer will be provided.

### **K. Grievances**

If something goes wrong, and you want to complain about it, the prison has a grievance process. If you are seriously mistreated and want to file a law suit against the prison or its

employees, current law generally requires that one must exhaust all administrative grievance remedies before you can go into court. It does not matter whether it is a medical problem, a job loss, or lost good time through a disciplinary action, you must exhaust all administrative grievance procedures. There should be no fear to file a grievance if one believes it is justified. Offenders should pay close attention to what can and cannot be remedied through the grievance process. That is contained in the Offender Orientation Handbook. Also, the grievance process should only be used in very serious matters. Most problems are better solved informally by speaking to a ranking officer or writing the warden.

## **VII. PROGRAM PARTICIPATION**

### **A. Individualized Treatment Program**

Participating in programs is not only the way to improve one's life during and after prison, it helps demonstrate that one is worthy of parole. The process of getting into programs starts almost immediately. Within the first 180 days of incarceration, a sociologist or a counselor prepares the offender's Individualized Treatment Plan (ITP). This plan is placed into the offender's file, but the offender may never see it. A case manager will typically advise the offender what programs they should complete, and what is available on their unit. The prison will expect an offender to complete the ITP courses recommended in the Individualized Treatment Plan. Common programs include substance abuse and anger management classes. Prison programming is extremely important when it comes to parole. I have had parole board members tell me that their policy is that an offender's failure to accept or participate in a program can cause them to vote no. So whatever they tell you to take, take it. It may sound like nonsense, but one wants to pay close attention to the direction one has been provided. Otherwise the offender will be telling the Parole Board he is not interested in being released. However, if it is impossible to get into a program in the ITP, do not panic. The Parole Board recognizes that it is not always possible to get into the courses one needs according to the ITP. If an offender demonstrates that he has done all within his power to participate, the Board will not hold factors beyond his control against him.

### **B. Self Help**

There are a lot of self-help programs in prison. Many prisons have frequent religious services and weekly Alcoholics Anonymous/Narcotics Anonymous meetings. Most people in prison are there because of some kind of substance abuse. Prison is a good place to address these issues through religion, A.A. or both. There is typically no official record of who attends church or A.A. but those who attend these meetings tend to be a little more agreeable and have a better attitude than the average prisoner. Also, people in the community usually attend these meetings and it is a nice change of pace to interact with people who are not viewing life through prison bars. At the same time, religious services are times when many offenders gather in a single location, and as explained previously, that can be the opportunity for improper activity.

### **C. Chaplaincy**

Every prison has a chaplain, although smaller units may share a chaplain. They represent most major religious denominations but nearly all of them are Christians. Those ministers who work in prison have a great challenge, and while they are limited by the prison in their ability to be as

helpful as many would like, they are there to assist. If there is an emergency, the chaplain is the person the offender should seek out if the issue is a personal problem. It will be the chaplain who will come to an offender with a message of a death or serious illness in the family and it is the chaplain who can arrange a special telephone call home in a family emergency. Our office has had many interactions with prison chaplains, and for the most part, they have been helpful. You should get to know the chaplain on your unit.

## **VIII. PAROLE AND MANDATORY SUPERVISION**

This section could be a book by itself, so I am only going to hit the high points. Getting out of prison is every offender's goal. Parole and mandatory supervision are the two most likely methods leading back to the free world. For offense committed after September 1996 all mandatory supervision is discretionary, which means there is no longer anything mandatory about it. Parole eligibility is determined in two ways. Initially one's parole eligibility is determined by statutes. If a conviction involved a weapon or was one of several serious violent crimes, generally one will not be considered for parole until one half of the sentence is served day for day. Generally, if the conviction is for a non-violent crime and no weapon finding was made, one must earn one-fourth of the sentence with good time being applied to that calculation. Each parole consideration, after that initial consideration, is determined by the date of the decision of the parole panel who last voted the case.

### **A. Parole Panels**

Over the years the Texas Board of Pardons and Paroles has gone through substantial statutory changes. There are now seven members of the board, and fourteen commissioners who also vote. Each panel has one board member, and two commissioners. To be paroled, most offenders need two of the three votes on that panel. If the conviction falls under one of the crimes known as Senate Bill 45 cases there is a different rule. Senate Bill 45 cases include:

- 1) A life sentence arising from a parole eligible capital murder charge,
- 2) Aggravated Sexual Assault,
- 3) Indecency with a Child by Contact, and
- 4) Continuous Sexual Abuse of Young Child or Children
- 5) Continuous Trafficking of Persons
- 6) Offense requiring 35 calendars for parole eligibility under Tx. Gov't Code Section 508.145(c)

The statute regarding Senate Bill 45 cases requires two-thirds of the seven board members to favorably consider the case. However, that is not exactly how things work. Since two thirds of seven equals a number that is more than four and five, the board has adopted a rule which requires that one subject to parole consideration fails if there are three negative votes out of the seven. In other words, if convicted of the three above mentioned crimes, then all seven Board Members vote the parole case. If three of them vote to deny parole, one will not be paroled. At this writing this issue has not been tested in the courts.

## **B. Parole**

Unless one is convicted of an offense listed as a 3g offense or Engaging In Organized Criminal Activity (TPC 71.02) or Directing Activities of Criminal Street Gangs (TPC 71.023) or Continuous Trafficking of Persons (TPC 20.A03), one will be parole eligible when earned credit equals one-fourth of the total sentence with credit for any good time earned applying to that time. Being parole eligible does not mean one will automatically be paroled. It means you have a chance. If you have a 3g sentence, meaning a weapon was involved, or a serious crime of violence is involved without a weapon, such as aggravated sexual assault, then one has to serve half the total sentence before being considered for parole.

In Texas to terminate a sentence, one must serve each and every day imposed in the sentence. For example, even if good time credit toward parole eligibility is acquired, that good time credit is not deducted from the sentence termination date. So, if one has a ten year sentence, and is released after three years of flat time, one will still owe seven full years under parole supervision.

Few offenders make first parole, so do not count on it. After one is denied parole the parole board will set the next date for one to be again considered for release. The board may set off the next parole consideration for up to five years if the conviction is for an offense not eligible for mandatory supervision, and SB 45 cases carry a mandatory three years set-off. The minimum set-off for all other cases is one year.

Drug cases with an affirmative finding that they occurred in a drug-free zone carry a five year minimum for parole eligibility.

## **C. Mandatory Supervision**

So long as one's offense is eligible for mandatory supervision there is another option for releases to supervision. Mandatory supervision applies when one's flat time (day for day time) plus good time earned equal the whole of one's sentence. Once this is attained, the person is eligible to be considered for mandatory supervision. For example, let's assume the offender has a five year sentence:

Flat time earned	2.2 years
Good time earned	<u>2.8 years</u>
Total time earned	5.0 years

It is at this point that mandatory supervision will be considered. The offender is entitled to be notified at least 30 days in advance of the board considering a mandatory supervision case so the offender can provide information to the parole board. If the vote is favorable, the offender may be released to conditions similar to that of being paroled for a length of time on supervision equal to the good time earned. Thus, in the above hypothetical, if mandatory supervision was granted, the offender would be on parole supervision for 2.8 years after release.



## **IX. OFFENDER SUPPORT GROUPS**

There are a number of offender support groups. These groups of people are active in trying to improve the problems and alleviate some of the emotional trauma offenders and families suffer as the result of incarceration. The prison does listen, but it is our opinion the prison's view of these groups is that they represent as much an annoyance as a benefit. The prison only takes these groups as seriously as the political climate requires. Certainly being a member of such a group may be an asset to certain people who have a loved one in prison. It is our opinion that these groups often have shortcomings, but we do not discourage membership; however, families are well advised to do their due diligence before joining. They are family support groups and as such help people who have loved ones in prison realize that they are not alone. They can provide insights to dealing with problems common to families of those who are incarcerated. These organizations are not designed to be prison reform groups. The primary interests of the members are to get their loved one out of prison. After that occurs, they usually lose interest in the organization. I have seen any number of these groups rise and fall. Deciding whether and which group to join is an individual decision. Membership will not likely hurt the offender, but how much good membership in an offender family organization will help the offender's situation is dependent upon the quality of the individual organization.

## **X. CONCLUSION**

After practicing post-conviction criminal law in Texas for forty years, I have concluded that in this state neither prisons, nor the attitudes of prison employees, are going to change to any great extent. Being employed at the prison definitely requires hooking up to the "good ole' boy" team if one wants to be considered for the serious promotions. Today I see the same types of problems with the Texas prison I saw when I was first employed there in 1973. There are some improvements, but there are also many new problems to replace those which were resolved by the *Ruiz* civil rights suits. The economics of doing business with state and federal prisons has become an industry that has gotten too closely intertwined with government. This appears to be something that should cause great concern, but I do not see substantial improvement on the horizon. Prisons have become such an important factor in the economic survival of some small Texas towns that some of those communities might fail but for the fact they have one or more prisons to provide employment for the local work force. Few correctional officers I have known over the last forty years enjoy what they do for a living. Few offenders want to be in prison. The combination and interaction of these two groups makes for a negative mix in the work place. As a result, the society that exists in prison is less than positive.

The best suggestion I know for someone entering prison for the first time is keep to yourself for the most part, do not discuss your case, learn to occupy your time in a positive way and take advantage of every opportunity that comes your way. By all means do not allow yourself to become obligated to another offender. Prison is a cold, hard place to be, but you can get through it, and this episode of life will one day be past history. 95% of everyone who enters prison will someday be released. Prison can be a real wakeup call and a turning point (good or bad) in life. There are many offenders, mostly ex-addicts, who told me that having to go to prison saved their lives.

When I was a young man we had to deal with the military draft. Once in the military, young men usually “got the message”, and the military became the vehicle that pushed an individual into being a responsible citizen. Today we no longer have the draft, and the element of drugs have been added to our social mix. Today we send the same young people that used to get drafted to prison. I have concluded the military did a much better job of turning out responsible people than is currently produced in our prisons.