

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Public Input Form for Agencies Under Review (Private/Before Publication)
Date: Wednesday, November 13, 2024 11:32:49 AM

From: Texas Sunset Advisory Commission <sunset.website@brightleafgroup.com>
Sent: Wednesday, November 13, 2024 7:13 AM
To: Sunset Advisory Commission <sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Wed, 11/13/2024 - 06:10

Submitted by: Visitor

Submitted values are:

Choose the agency that you would like to provide input about

[Board of Pardons and Paroles](#)

Public Comments

1

First Name

Charlie

Last Name

Malouff

Title

Vice President

Organization you are affiliated with

TX C.U.R.E., Inc.

Email

info@txcureinc.org

City

Austin

State

Texas

Your Comments or Concerns

My first concern is the Clover House in Odessa sending releasees to the bus station, which happens to be 12 miles away, at the expense of the releasee and for those wearing a monitor, setting them up to violate for being unable to timely report. This is covered in my written testimony attached. My second concern is the inept and ineffective parole management releasing QUALIFIED inmates

Your Proposed Solution

My testimony is attached

Attachment

[NOVEMBER 14TH 2024 SUBMITTED TESTIMONY 11-13-24.pdf](#) (96.82 KB)

My Comments Will Be Made Public

Yes

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Public Input Form for Agencies Under Review (Private/Before Publication)
Date: Wednesday, November 13, 2024 11:33:45 AM

From: Texas Sunset Advisory Commission <sunset.website@brightleafgroup.com>
Sent: Wednesday, November 13, 2024 7:10 AM
To: Sunset Advisory Commission <sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Wed, 11/13/2024 - 06:05

Submitted by: Visitor

Submitted values are:

Choose the agency that you would like to provide input about
[Correctional Managed Health Care Committee](#)

Public Comments

1

First Name

Charlie

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Malouff

Title

Vice President

Organization you are affiliated with

TX C.U.R.E., Inc.

Email

info@txcureinc.org

City

Austin

State

Texas

Your Comments or Concerns

My first concern is inmates identified as mental health patients knowingly and intentionally removed from that status to change their classification resulting in more harmful conditions to the inmate and in many cases uses of excessive force or failure to act to protect bodily injury or self harm.

My second concern is continuity of care for those suffering from life threatening conditions where unqualified or inept lesser qualified medical personnel change the diagnosis or terminate prescriptions of more qualified medical providers without consent resulting in subsequent harm or death to the inmates.

My third concern is the ineffective practices and waste of taxpayer dollars in the parole management of the MRIS program

Your Proposed Solution

Change the policies and procedures making it the program it was designed to be. this is outlined in my attached testimony.

Attachment

[NOVEMBER 14TH 2024 SUBMITTED TESTIMONY 11-13-24.pdf](#) (96.82 KB)

My Comments Will Be Made Public

Yes

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Public Input Form for Agencies Under Review (Private/Before Publication)
Date: Wednesday, November 13, 2024 11:34:20 AM

From: Texas Sunset Advisory Commission <sunset.website@brightleafgroup.com>
Sent: Wednesday, November 13, 2024 7:05 AM
To: Sunset Advisory Commission <sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Wed, 11/13/2024 - 05:55

Submitted by: Visitor

Submitted values are:

Choose the agency that you would like to provide input about

[Texas Department of Criminal Justice](#)

Public Comments

1

First Name

Charlie

Last Name

Malouff

Title

Vice President

Organization you are affiliated with

TX C.U.R.E., Inc.

Email

info@txcureinc.org

City

Austin

State

Texas

Your Comments or Concerns

My first concern is the Clover House in Odessa sending releasees to the bus station, which happens to be 12 miles away, at the expense of the releasee and for those wearing a monitor, setting them up to violate for being unable to timely report. This is covered in my written testimony attached. My second concern is inmates identified as mental health patients knowingly and intentionally removed from that status to change their classification resulting in more harmful conditions to the inmate and in many cases uses of excessive force or failure to act to protect bodily injury or self harm.

Your Proposed Solution

Task the State Auditors Office to investigate and audit the contractor and their practices immediately..

Attachment

[NOVEMBER 14TH 2024 SUBMITTED TESTIMONY 11-13-24.pdf](#) (96.82 KB)

My Comments Will Be Made Public

Yes

My name is Charlie Malouff. I am the Vice President for TX C.U.R.E. As I only get 2 minutes my full statement is on page 2.

1. **The Clover House in Odessa.** This is a Outpatient substance abuse facility. It has come to our attention upon release, a resident, not being picked up by a family member, is given a bus ticket. However, it is 12 miles to the bus station. It is on the resident to find their way there. Making this act of genius more problematic is when the resident has an ankle monitor, and upon release they have to report to their local parole office the next day. Not only do they have to find their way to the bus station, at their cost, but the bus leaves from there to Dallas then on to points all over. If they have to make it to San Antonio or Houston, you are talking a 30-36 hour trip! There is no physical way to make the bus station, Dallas, then San Antonio in time, which results in a parole violation that is of **no fault of the resident.**
2. **PAROLE-** I have personally assisted multiple inmates who have violent crime history with their parole packets. I have watched them make their review to be told, you are doing a great job, however, we want you to stay case free and continue your programming and next review we will release you, only for the next review to come up and be told, **“we changed our minds”**. I put in an open records request for the number of violent offenders released from January 1, 2024 through July 31st on first review or with no review. TDCJ returned my ORR with a staggering **1773** violent offenders released during that time that were first review with no review!
3. **MENTAL HEALTH-**I can go on and on, but 2 mental health cases stand out. One incarcerated for a non-violent crime, suffering from viral encephalitis, while having a seizure is shot in the head with multiple tear gas balls and caused permanent injury to his eye. The other should have been on suicide watch after **MULTIPLE** pleas from his family, not only dislodges one of his eyes, deeply cuts arms and feet then sets his mattress on fire and burns for over 40 minutes while guards stand there watching. Continuity of Care demands competent medical oversight.



TX C.U.R.E., Inc.

CITIZENS UNITED FOR THE REHABILITATION OF ERRANTS

My name is **Charlie Malouff**. I am the Vice President for TX C.U.R.E., Inc., a criminal justice advocacy organization that operates statewide. Thank you for this opportunity to put this information on the record. I met with members of the Commission presenting complaints and information on the TDCJ, on a number of issues and providing possible solutions. Since that time, multiple issues have come up., but as I only have two minutes, I will focus that time on three things that have surfaced that require immediate attention and the rest of my written testimony is here, attached to this in my online submission.

1. THE CLOVER HOUSE IN ODESSA- This is an Adult Residential/Outpatient substance abuse treatment facility. It has come to our attention in the last week that upon release, the resident, not being picked up by a family member, is given a bus ticket. However, it is 12 miles to the bus station. It is on the resident to find their way there. Making this act of genius more problematic is when the resident has an ankle monitor, and upon release they have to report to their local parole office the next day. Not only do they have to find their way to the bus station, at their cost, but the bus leaves from there to Dallas then on to points all over. If they have to make it to San Antonio or Houston, you are talking a 30-36 hour trip! There is no physical way to make the bus station, Dallas, then San Antonio in time, which results in a parole violation that is of **no fault of the resident**. How many other treatment centers/halfway houses besides Clover is this happening at? Even if it is just Clover, one is too many! **THIS IS ABSURD AND NEEDS TO BE ADDRESSED IMMEDIATELY.**

2. PAROLE- I have personally assisted multiple inmates who have violent crime history with their parole packets. I have watched them make their review to be told, you are doing a great job, however, we want to you to stay case free and continue your programing and next review we will release you, only for the next review to come up and be told, **“we changed our minds”**. What kind of crap is that? Making this matter worse is I put in an open records request for the number of violent offenders released from January 1, 2024 through July 31st 2024 on first review or with no review. TDCJ returned my ORR with a staggering **1773** violent offenders were released during that time that were first review with no review! **1773!! 1773**, while these that I personally assisted and many others who have done everything possible to remain case free, program and comply with what parole told them to be released and then slapped in the face to be denied because **“we changed our minds”!** **Really?!** TDCJ admits they cannot manage the prisons. They cannot control the drugs, which has been proven to be mostly brought in by their staff, and we have short staffing, over crowded prisons an inept parole system. Start effectively managing parole!! If you follow the Corrections hearings during Session, you will find me testifying in most all hearings. Texas leads the country in exonerations. The National Registry for Exonerations reports that there are as many as 9000 actually innocent in the TDCJ. We have several thousand, of the 8000 Veterans that should have gone to treatment court, not TDCJ. We have almost 3500 inmates who are pre-Sept 1, 1996 MANDATORY SUPERVISION still incarcerated violating statute and the 14th Amendment. For those falling under the pre-Sept 1st laws **SHALL** and **MUST** are definitive terms. **THIS TOO HAS TO CHANGE IMMEDIATELY!!**

3. **CHMC-MENTAL HEALTH/TDCJ**-Here are two mental health cases that stand out. One, the inmate was suffering from viral encephalitis while having a seizure is shot in the head with multiple tear gas balls. The other inmate should have been on suicide watch after indicating he would harm himself and **MULTIPLE** pleas from his family, not only dislodges one of his eyes, deeply cuts arms and feet then sets his mattress on fire and burns for over 40 minutes while guards stand there watching. **REALLY?!**

4. **CMHC-MENTAL HEALTH-** if the patient suffers from life threatening conditions, including, but not limited to: viral/focal encephalitis, schizophrenia, brain tumors, glioblastoma, intracerebral hemorrhage, stroke, brain aneurysm, trigeminal neuralgia, acute liver failure, or cardiac arrest, requiring constant care under a board certified medical professional specializing in that specific medical condition and who, without ongoing direct doctoral care by a specialist in that specific medical condition, may not survive, then the inmate needs to be permanently assigned to where the board certified medical professional has immediate physical access to the inmate. Letting less qualified nurses discontinue medications and re-diagnose an inmate just to get them reclassified to avoid proper care in most cases creates a worsened medical condition, more physical harm, and many times leads to death. This practice in the prison system where death has occurred due to negligence, failure to act to protect, or excessive force by a staff member and or upper administrators upon notification should be criminalized.

5. **CMHC-MRIS-** There were 5,839 MRIS referrals between January 1, 2023 and July 31, 2024 of those, 612 inmates were presented to the Board of Pardons and Paroles or the Sentencing Judge for MRIS consideration. Of those presented **ONLY 55 were MRIS approved and 37 released during the timeframe.** 552 were denied consideration. One of those cases I was personally involved in and the inmate had stage 4 brain cancer and was bedridden with CMHC's own directions that this inmate required 24 hour observation and physical assistance to move, but was denied as "**release would present a threat to society**". Three others deceased prior to a decision being received, and two had previously been approved but due to additional information received a vote to withdraw MRIS approval. The MRIS program does not maintain records on Veteran status of those reviewed, presented, approved or denied for the program. It should and if TCOOMI determines these individuals are qualified and there are approved facilities or care to take them upon release, then the State needs to quit wasting taxpayer dollars on needless denials, show some compassion for those inmates and their families not sentenced to life without parole or a death sentence, and release them. Release does not mean they have changed or terminated their sentence or granted clemency. **Release is a simple transfer of custody.** An approved facility is aware of the status of the inmate and has the secure facility to accommodate them. TDCJ transfers custody every day!

CHARLIE MALOUFF

My name is **Charlie Malouff**. I am the Vice President for TX C.U.R.E., Inc., a criminal justice advocacy organization that operates statewide. While I testified on November 14th and submitted written testimony, I am adding this to my testimony because the root problem begins in the TDCJ and the solution should end in the TDCJ! I am aware the Civil Commitment Center comes under review in 2026, but this is about waste fraud and abuse, and common sense to solve a very large and serious problem at the ground floor.

Currently, the Health and Safety Code, Title 11, Chapt. 841. Civil Commitment, is focused on sexually violent predators. It is based on a person having two or more sex offenses and **a presumptive mentality** that they will commit another offense if they remain in the general public without out **“therepudic rehabilitation”**.

What is missing and needs to be addressed, both in common sense and in the best interest of taxpayer dollars for public safety is addressing all of the repeat other violent offenders, such as, repeat aggravated assaults, armed robberies, kidnappings, murders and others that it can be clearly “presumed” that if they did not learn from their mistake the first time, and repeated the crime, then “presumptively” they will repeat the crime again upon release. **There is no effective behavior treatment program in the TDCJ. THE VIOLENT OFFENDER PROGRAM currently active in TDCJ is a complete joke and sham to the taxpayer public!!!! There is no way you can effectively “rehabilitate” a habitual or career violent offender in less than one year! AND, these offenders are no less violent or a threat to the public safety than a sex offender!**

The Health And Safety Code needs to be amended to read:

AMEND THE HEALTH AND SAFETY CODE TO READ:

HEALTH AND SAFETY CODE

TITLE 11. CIVIL COMMITMENT OF ~~SEXUALLY~~-VIOLENT PREDATORS

CHAPTER 841. CIVIL COMMITMENT OF ~~SEXUALLY~~-VIOLENT PREDATORS

SUBCHAPTER A. GENERAL PROVISIONS

AMEND THE TEXAS GOVERNMENT CODE SEC. 841.001 TO READ:

Texas Government Code Sec. 841.001. LEGISLATIVE FINDINGS. The legislature finds that a ~~small but~~ extremely dangerous group of ~~sexually~~-violent predators exists and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of ~~sexual~~-violence. The legislature finds that the existing involuntary commitment

provisions of Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that ~~sexually~~-violent predators pose to society. The legislature further finds that treatment modalities for ~~sexually~~-violent predators are **SIMILAR TO different from** the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. Thus, the legislature finds that **BEHAVIOUR THERAPY TREATMENT MUST BEGIN UPON INCARCERATION AND PROGRESS THROUGH THE STATUTORY FOUR TIER PROGRAM DURING INCARCERATION AND COMPLETION OF THE FIFTH TIER IN OUTPATIENT PROGRAMMING UPON RELEASE. AND, THAT FAILURE OF COMPLETION OF THE FIFTH TIER SHOULD RESULT IN** a civil commitment procedure for the long-term, **POST INCARCERATION, INPATIENT** supervision and treatment of ~~sexually~~ violent predators is necessary and in the interest of the state.

Strike all "sex" or "sexually" and replace or incorporate "violent" throughout the rest of 841.

JUSTIFICATIONS AND REASONING

Between 2022 and 2026 the State of Texas will spend well over \$100MM taxpayer dollars to operate the Texas Civil Commitment Office, housing approximately 500 beds by a for-profit corporation. There are significant complaints about the mismanagement, abuses of official capacity, wrongful death, deprivations of civil rights under color of law and due processes.

Representative Harold Dutton presented HB 937 creating the office of Inmate Legal Services, specifically for indigent inmates subject to civil commitment during the 88th Legislature Regular Session. Representative Dutton and his staff conducted diligent research supported by facts of the need for this office.

Independent of Representative Dutton's bill and research into the problem(s), numerous residents responded to the following questions:

1. When you were notified that you may be facing TCCC, what was the process?
2. Were you appointed counsel? Was your attorney from the State Counsel for Offenders?
3. Did you get a court appointed attorney?
4. Were you allowed to prepare for your trial, just as you would in the free world?
5. Was there any "pre-trial investigation" going back into your original trial and looking at any Brady violations, problems with the case leading to a plea bargain" discussion of previous ineffective assistance of counsel and what they did wrong in the original trial that might have affected the TCCC trial?
6. Was your TCCC trial one sided and bias or were you actually allowed to put on a defense and call witnesses and challenge evidence?
7. How much time were you able to spend with your attorney before trial?

8. Were State witnesses from your original trial at your TCCC trial, such as the prosecutor, your victims or the police who investigated?

The multiple responses were similar to arguments raised in Representative Dutton's presentation in the presentation of HB937.

Polygraphs and independent behavior assessments are conducted once transferred to the Civil Commitment Center. A significant number of residents pass both their polygraphs and the independent behavior assessments, yet they are still denied advancement.

In the June, 2023 Texas State Auditors Report on the Texas Civil Commitment Office, the auditors reported The Texas Civil Commitment Office (Office) did not have an effective process for amending its contract with Management & Training Corporation (MTC) for the operation and management of the Texas Civil Commitment Center (Center) for the treatment and monitoring of sexually violent predators. As a result, the Office executed a contract amendment that did not comply with state requirements because it removed the price terms and improperly extended the length of the contract period.

The auditors reported the State of Texas paid MTC at the end of 2022, \$54,187,719 on the contract for 435 residents. The 2024 Legislative appropriations request was for an additional approximately \$60MM for the 2024-25 operating period.

In the February 2024 Texas Civil Commitment Office Board Meeting, it was clear MTC was again in contracting disarray over delays on construction for additional beds. As such, there will most likely be additional cost overruns into the hundreds of thousands of dollars.

Confinement to the civil commitment center is based on a presumptive mentality that one will continue to commit violent acts as a sexually violent predator. However, the existing law is discriminatory and fails to address a bigger picture of extremely dangerous persons who upon reentry into society, continue to demonstrate behavior abnormalities repeatedly engaging in violent acts against persons, committing armed robberies, assaults, and murder.

To make better use of taxpayers \$100MM spent on one facility managed by a for-profit corporation under scrutiny, shut down the Texas civil commitment center as it is currently managed and operated. In a February 21st, 2023 Senate Finance Committee hearing, Licensed Therapist and former employee of the Texas Civil Commitment Center, Anna Word, testified about the ineffectiveness of the program, the unethical behavior of the Executive Director, abuses of official capacity and ongoing official oppression. According to Ms. Word:

“My name is Anna Word, and I am a Licensed Professional Counselor writing this statement to discuss the indefinite imprisonment of men in a for-profit shadow prison in Littlefield, Texas also known as the Texas Civil Commitment Center or TCCC. I want to be clear before I begin to make my comments that I believe no sexual abuse or sexually related crime is ever acceptable. The men being held at

the TCCC have served their entire sentence handed down by a judge and jury. This post prison confinement is purely and simply a death sentence.

I worked as a clinical therapist at the TCCC from September 2019 to February 2020. My initial thinking about the position was that of fear being inside a locked facility with men that had committed sexual offenses. What I came to know during my time there as an employee of Management Training Corporation (MTC), the for-profit company funded by the state agency of the Texas Civil Commitment Office (TCCO) was that of shock and dismay at the poor treatment of the men and complete desire of TCCO to keep anyone from exiting the program.

As a therapist we are taught, "FIRST, DO NO HARM." What I learned very soon after arriving at the TCCC is that TCCO knows nothing and/or cares nothing about true therapeutic practice. Therapists (hired by MTC) are kept from making decisions related to the residents' (prisoners) progress in the so called five-tier program. Case managers and the TCCO administration make decisions related to progress in the clinical treatment program. Point of fact, people with no clinical training are deciding whether men progress in the five-tier program.

This is a punitive prison program, not treatment. I have said since I worked there, these men will need trauma treatment if they ever get out. Many men and their families would gladly talk or write letters but they're afraid of retaliation. They have seen what Marsha McLane can and will do. She has used the SMU on the facility for extreme retaliation. The men are locked into a 12x12 dog cage one at a time for exercise each day. She has complete control of who each man talks to by phone and mail. If he or his family isn't doing what she wants, she will cut his contact with them for months, years, or more. They have seen her do it to dying men and their wives and children. They are afraid. Families are scared for their loved one. A mother testified in March while Marsha McLane sat in the audience and listened. She wasn't speaking that day, but she sat and watched to see which family members were speaking. Within a week the son of that woman who spoke to a committee was tiered down, made to wear an ankle monitor, and his phone was taken away. He was told it was because he never paid his stimulus check TCCO fees of 33%- years ago, meaning a TCCO employee looked through his receipts until they found something to punish him for his mother speaking up.

TCCO charged men 33% of their Covid stimulus checks. We have receipts. This is nothing compared to the 33% of all the money families send to their loved ones for commissary or 33% of each and every package that is sent to TCCC. Marsha McLane says wives don't have to pay this tax if they're sending money to their husbands. She also says families are only supposed to pay a 25% tax now, but why are these families paying any tax at all? They have already been taxed by the

government on the items in these packages. Now Marsha McLane and the TCCO office is taxing them a second time. Just like the rest of civil commitment, this isn't right.

Many men spend years in a single tier. In seven and a half years since opening, the TCCC has only released nine men from the program. There are currently over 400 men at the TCCC. That is about a 2% success rate over seven and a half years. The TCCO administration touts that as success. If a hospital had a 2% success rate it would be shut down for malpractice. How can a program with only a 2% success rate be considered a clinical treatment program? It is a life sentence for 98% of the men residing (imprisoned) at the TCCC. In fact, with the current deaths vs releases from the TCCC you are four times more likely to die there than get out of so-called treatment.

TCCO claims to have released 17 men. We will give them the 17. The success rate is still only 4%. Do they consider 4% a success?

There are more than a few men who have personally sued Marsha McLean. Most of these men have never made it out. Most of these men have spent many years sitting in a single tier. She retaliates. The families know and the other men see it.

I spoke to a family and their loved one had to decide whether to get a lawyer and fight, taking a chance of losing and angering Marsha McLane, meaning probably spending the rest of his life in a lower tier after she retaliated, or continuing to wait, knowing he will probably never get out.

As a therapist, I worked with men that had been in treatment 10-20 years that exhibited no reason to be locked away from family, friends, or society. I'll say this again, these men have served their entire prison sentence. Treatment that does not successfully graduate residents is post prison confinement and a violation of Title 18, U.S.C., Section 242 – Deprivation of Rights Under Color of Law.

This program has men that have received outside evaluations that state they do not have a behavioral abnormality. Marsha McLane, who oversees TCCO, has stated she would not fight any evaluations stating men did not have a behavioral abnormality. This sounds like a step forward but the men soon found out the judge will not hear any of their cases.

At every turn these men are denied progress and release all under the guise of public safety. There is 20 years of research that does not support the reoffending fear that the TCCO and State advertise as the reason to lock these men up indefinitely.

TCCO is asking for more money to care for men medically. The area hospitals already deny any preventative medical care because bills of the men are not paid. Area hospitals will only see men in life threatening situations. How can you

need money for more preventative medical care that doesn't even exist. How can the state agency keep men in custody for years and offer NO preventive care?

As a therapist who has been inside this disgusting excuse for a "treatment facility", and a taxpayer who is asking why multimillions are being spent on a for-profit venture that has a 2% success rate, and as a human being who cries at the injustice of men who have paid their debt being locked up again (most until death) for a crime they have not even committed, I beg you to do more and do better before one more man dies in prison for something he hasn't done.

I implore you to administer an independent external review of the therapeutic processes, or lack thereof, due to staff turnover, changes in the program, men stuck in tiers that never move, and lack of completion of the five-tier program. I implore you to seek out states that do not have civil commitment (30 of them) and they don't have a crisis of reoffending in their state. I implore you to find out why there is no clear path to release.

I am often asked why I speak for these men. I realize it's hard to think about these men and the crime they committed decades ago and want to release them. These men have served more than they were supposed to serve. They continue to serve time for a crime they have yet to commit. There are a very few that are afraid to leave the facility. That's because they have been told what the world will do to them. They're afraid of us. Maybe the most important reason I speak for the men, I can't love God and ask him to forgive me if I'm condemning these men. Please help them. If you have any questions, please call or email me. I welcome all your questions. Thank you, Anna Word, LPC, Annaword73@gmail.com 806- 570-4321"

According to another former licensed professional counselor, Shelby Padgett on December 12, 2023, "TCCC is a complete joke. Nothing about the facility or MTC is therapeutic in any way. They have their own "treatment program" that mostly consists of making those men feel like monsters for any type of sexual experience they've had in their lives. Therapists are told that they cannot bring different kind of therapeutic modalities into treatment, even when clients ask about different types of therapy. Not every person learns the same way, but MTC and TCCC expect just one program being successful for almost 500 men. From the very start, I was told that everything revolved around treatment. Imagine my surprise when I'm told I cannot talk to a client of mine that is in SMU without a steel door between us because of the "safety risks". MTC has never and will never care that these men have families that want to see them in society again. They are more worried about being able to pack more men into the already over crowded facility. **It's a for-profit corporation.** They've managed to cut down the costs of meals, medical

expenses, and housing space just so they are able to bring more men in without caring about these men's needs.

More men have died in that facility than have completed the treatment program. MTC does not see human beings, they see dollar signs. MTC does the bare minimum in training staff. It seemed the more inhuman they treated the men, the more those employees could count on having a paycheck. It never mattered how understaffed the facility was, it was always the employees fault instead of the corporation. MTC and TCCC have done nothing positive for these men and as long as they are able to continue business as usual, these men will never get the help they need to thrive in society and be with their loved ones again.”

In the last 24 months, 18 identified licensed professional counselors have quit working at the Civil Commitment Center citing abuses of official capacity and unethical practices that puts their license in jeopardy and violates constitutional rights of residents who truly do not belong in the Center. Interviews with these counselors revealed there may be an additional 10+ who quit as a result of the oppressive, abusive and ethical issues. 37 residents in this “therapeutic behavior treatment/rehabilitation facility” have died while incarcerated in the TCCC while only 17 have been released since 2015.

In the 88th Legislative Regular Session, Representative Harold Dutton presented HB 937 creating the office of Inmate Legal Services, specifically for indigent inmates subject to civil commitment. Representative Dutton and his staff conducted diligent research supported by facts of the need for this office.

Polygraphs and independent behavior assessments are conducted once transferred to the Civil Commitment Center. A significant number of residents pass both their polygraphs and the independent behavior assessments, yet they are still denied advancement because of an oppressive management implementing punitive conditions.

In 2019, resident Johnathan Hitt sued TCCO Executive Director Marsha McLane and other staff members for a number of civil rights abuses (*Hitt vs McLane*, 1:19 cv 00735 WDTX).

“ Plaintiff challenges the *conditions of confinement* as this relates to punitive conditions of sex offender treatment while an Outpatient at the Texas Civil Commitment Center (TCCC). Plaintiff asserts post-enactment implementation by the Executive Director of TCCO has created a virtual no- man's land of non-existent legal process and no respect for his civil rights between the two poles of State provided procedures referred to above, or between the original civil commitment proceeding and the Petition for Release. As a result, Plaintiff and other residents of TCCC are subjected to an arbitrary, subjective, unaccountable and punitive arena of implementation of Health and Safety Code 841.”

Whether the TCCO wants to admit the abuses or not, the fact remains, Hitt won this case. His claims against McLane for abuse of official capacity, official oppression and other civil rights violations had merit. As with most all cases of an incarcerated plaintiff who wins summary judgement and is likely to prevail, the plaintiff is released from incarceration making the case moot, avoiding significant damages against the State.

The 5th Circuit's 2024 binding precedent regarding a burglary as a violent felony supports the current TCCO/TCCC program focusing only on sex crime convictions as violent predators is discriminatory in nature and fails to protect public interest from other violent felonies with presumptive behavior mentality. According to the 5th Circuit in *USA v Schorovsky*, No. 23-50040 (5th Cir. 2024), we previously held *en banc* that Penal Code § 30.02(a) fits within the generic definition of burglary and thus qualifies as an ACCA violent felony. (*United States v. Herrold (Herrold II)*, 941 F.3d 173, 182 (5th Cir. 2019) (en banc)).

Bringing therapeutic behavior treatment and equal protection in line under the State and US Constitutions, better use of the taxpayers \$100MM + requires moving the therapeutic behavior four-tier program into the TDCJ to begin once a prisoner with a proven record of repetitive violent offenses, indicating a presumptive mentality to repeat violent offenses clears classification in preparation for their release on their projected release date. Expand the program from just sex offenses to other acts of violent crimes, such as burglary, aggravated robbery, aggravated assault, murder, repetitive acts of family violence.

Correctional Managed Health Care (CMHC) in the TDCJ is a partnership program between the TDCJ, Texas Tech University Health Sciences Center (TTUHSC) and the University of Texas Medical Branch (UTMB) at Galveston. Both of these State medical institution/programs have psychology and psychiatry departments and operate these practices in the free world.

TDCJ already has a sex offender treatment program in effect. Expand the program to include all violent crime offenders and start the statutory behavior tier treatment upon entry instead of waiting to within two years of release. Modify the program to read:

Program Overviews:

Sex—Violent Offender Education Program (SVOEP) consists of a four-month curriculum to assist ~~sex~~-violent offenders determined to pose a lower re-offense risk or who may be releasing to an extended period of supervision during which they may participate in treatment. This curriculum is conducted in a didactic format, providing information on a variety of topics (e.g., Healthy Sexuality, Anger and Stress Management, Communication, Healthy Relationships, Cognitive Restructuring) and is intended to provide the information necessary to impact inmates who lack the knowledge to effect change in their patterns of thinking.

Sex—Violent Offender Treatment Program (SVOTP) consists of an eighteen-month intensive treatment program (SVOTP-18) in a therapeutic community environment that affords higher risk inmates the opportunity for immediate feedback about their behavior and treatment progress. A nine-month moderate intensity program (SVOTP-9) is

offered to assist ~~sex-violent~~ offenders ~~with two violent crime c~~ determined to pose a moderate re-offense risk. The programs involve three treatment phases employing a cognitive-behavioral model. The primary goal of the programs is to reduce the rate of re-offense and move the participants toward a more pro-social lifestyle.

~~Sex—Violent Offender Civil Commitment Treatment Program (SVOTP-CC)~~ is designed to ~~modify the statutory five tier (four tiers inside TDCJ. The fifth tier, outpatient treatment to be completed as a condition of parole) inpatient behavior therapy programming for three or more violent crime convictions, requiring successful completion of the four tiers within 30 days of release. accommodate civilly committed sexually violent predators within 18 months of release.~~ Based on a cognitive-behavioral treatment model, individualized treatment planning utilizes need-specific rehabilitative interventions designed to limit the inmate's risk to re-offend and enhance public safety by providing a seamless transition from the TDCJ to ~~society. Those that fail the fifth tier, outpatient therapy shall violate their conditions of parole and require commitment to the Texas Civil Commitment Center (TCCC) while promoting the State's commitment to the protection of society while providing~~ continuity of care.

Program Objectives:

- To reduce the potential for further deviant behavior
- To offer a comprehensive treatment program that addresses motivation, psychosocial education, psychological evaluation, and ~~sex-violent crime~~ offender treatment and relapse prevention training for the population of ~~sex-violent crime~~ offenders residing in TDCJ
- To provide a highly structured but individually focused treatment plan for each participant in the SVOTP based on the identified needs of each inmate
- To identify and target for change the cognitive and behavioral patterns which have resulted in ~~sexual-repetitive violent~~ offending
- To encourage each participant to accept responsibility for all of their deviant ~~or violent~~ offenses and demonstrate empathy for the victims of their offense(s)
- To carefully monitor and record the progress of each individual through the various phases of the program
- To provide for a continuum of care that reaches across all phases of the SVOTP and continues in the community after the inmate is released from TDCJ

Policy:

It is the policy of the SVORP to provide meaningful ~~sex-violent crime~~ offender evaluation, education, and treatment to incarcerated ~~sex-violent crime~~ offenders, in the Texas Department of Criminal Justice (TDCJ), who are program eligible.

TRANSITION

The current practice, once incarcerated in the TCCC, allows for outside independent assessments and polygraphs at the expense of the resident. The former therapists/counselors have all indicated many of the residents should have been released or are truthful in their innocence, disqualifying many from the TCCC eligibility requirement and but for the fact they are being officially oppressed by MTC, they should have been released. TDCJ CMHC E-44.2 Examination of Inmates by Private Practitioners ensures that all inmates receive a full range of health care

services from on-site health care providers, including the use of private health care providers in the correctional setting will be addressed on a case-by-case basis and will be subject to approval. This policy should expand to cover this behavior treatment program. This practice/opportunity needs to begin at the time of the initial behavior assessment with a review of the assessment, opportunity for challenging incorrect information and the opportunity to seek outside opinions.

As Texas is a national leader in exonerations of wrongfully convicted, should a candidate inmate pass an independent behavior assessment and polygraph to their innocence on the qualifying crime that got them into the TDCJ, the State Counsel for Offenders, or by passage of a bill similar to HB 937 creating an office of inmate legal services, or by contract with third party, Board Certified appellate attorneys, needs to conduct an appellate review of that criminal case.

All transfers to the TCCC should be put on hold during the transition. For the current residents of the TCCC, a team of independent counselors should be contracted to conduct an independent behavior assessment and a polygraph administered to those that are currently in the TCCC. Those who have previously passed or pass the assessment/polygraph shall be allowed to tier up to the fourth level or by a review panel of three independent counselors, allowed to advance to the fifth tier, outpatient treatment for final assessment before discharge back into society. Those that fail the fifth tier shall be re-confined into the TCCC to restart the behavior tier process from the beginning. For those transitioning within the last 18 months of their incarceration, they shall be given immediate enrollment into Tier 1, beginning the commitment treatment program. Those who complete tier four by the date of discharge or parole shall be released to enter into Tier 5, outpatient treatment. Those that fail Tier 5 shall then begin the court process for commitment as an ongoing threat to society and in public interest.

TCCO shall operate and manage five additional outpatient therapy facilities in each of the TDCJ geographic regions to effectively manage the program for the increase in residents.

Upon discharge from Tier 5, those who continue to violate the law shall be subjected to mandatory longer periods of incarceration under the enhancement clause before consideration for parole.

As TDCJ already has beds, dining, commissary, chapel, law libraries, recreation areas, security and more, the taxpayer dollar **savings** will be in the upper hundreds of millions in addressing crime prevention/rehabilitation to the broader threat to society, and in avoiding **for-profit** management and construction of new beds/facilities focusing on only one class of violent criminal, in less than 10 years, in addition to the fact using UTMB/Texas Tech clinical resources will reduce the number of licensed professionals leaving because of abuse of power and or unethical practices.