



**WRITTEN TESTIMONY**

**SUBMITTED BY ANA YÁÑEZ-CORREA, EXECUTIVE DIRECTOR  
TEXAS CRIMINAL JUSTICE COALITION**

**REGARDING H.B. 1915**

**THE HOUSE COMMITTEE ON CORRECTIONS**

**MARCH 9, 2011**

## TEXAS CRIMINAL JUSTICE COALITION

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The Texas Criminal Justice Coalition (TCJC) is committed to identifying and advancing real solutions to the problems facing Texas' juvenile and criminal justice systems. We provide policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety and preserve human and civil rights.

### TCJC'S PROJECTS

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**The Juvenile Justice Initiative:** *Creating Avenues to Success for Troubled Youth and Their Families.*

**The Public Safety Project:** *Advocating for Fair, Effective Police Practices that Improve the Safety of Our Communities.*

**The Fair Defense Project:** *Ensuring a Just and Accountable Judicial System by Protecting the Right to Counsel.*

**The Solutions for Sentencing & Incarceration Project:** *Providing Proven and Cost-Effective Answers that Address Texas' Over-Reliance on Incarceration.*

**Tools for Re-Entry:** *Advocating for Policies that Enable the Previously Incarcerated to Live Responsibly.*

**Tools for Practitioners:** *Featuring Effective Criminal and Juvenile Justice Programs and Practices.*

**Public Policy Center:** *Providing Nonpartisan Criminal and Juvenile Justice Policy Recommendations.*

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Dear Members of the Committee,

My name is Ana Yáñez-Correa. I am the Executive Director of the Texas Criminal Justice Coalition (TCJC). Thank you for allowing me this opportunity to present testimony on H.B. 1915.

## BACKGROUND

In January 2011, the state's Sunset Advisory Commission members voted in favor of a motion to abolish both the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC), instead transferring their discrete functions to a newly created umbrella agency. Preliminarily designated as the Texas Juvenile Justice Department, this new state agency would be created by September 1, 2012. The Department's mission would prioritize the use of local probation over incarceration at the state level. In other words, the number of inmates in youth prisons would fall, and community-based alternatives for handling youth with more serious offenses would expand.<sup>1</sup>

Independently of this restructuring, the Senate and House budgets reduce TYC's funding by nearly \$96 million for Fiscal Years 2012-2013, while a new TYC rider may result in the closure of up to three facilities. This reduction in institutional capacity will likely redirect currently incarcerated youth to the juvenile probation system or to remaining lock-ups.

**At the end of the day, funding must follow the youth. Any possible cost savings that may result from facility closures must be reinvested in age-appropriate and effective community-based, non-institutional services at the county level. Additionally, the state should create a fund to be strictly utilized for the full implementation of this strategy in the long term.**

## COLLECTIVE REFORMS

- (1) Ensure that all critical components of previous reform legislation (S.B. 103 [2007] and H.B. 3689 [2009]) are incorporated into any legislation governing the new juvenile justice entity.**

In 2007, following the exposure of abuse, neglect, and violence in TYC facilities, state leaders passed omnibus reform legislation (S.B. 103) with unanimous support. Legislative reforms included increased funding for community-based programs at the local level as an alternative to incarceration, a change in sentencing guidelines to ensure that misdemeanants are handled locally,<sup>2</sup> rules for the placement and classification of incarcerated youth intended to improve safety, and improved procedures governing both the termination of a child's placement in TYC and the re-integration into his or her home community.

In 2008 and 2009, Texas' juvenile justice agencies – TYC, TJPC, and the Office of the Independent Ombudsman<sup>3</sup> – underwent Sunset review. The final Sunset bill, H.B. 3689, put into place a variety of elements to improve the function of the juvenile justice system at state and local levels. Most significantly, H.B. 3689 created a pilot project to promote community-based alternatives to TYC, called the Community Corrections Diversion Program. Specifically, policy-makers allocated \$46 million to TJPC to re-distribute to juvenile probation departments in

efforts to place youth in proven programming.<sup>4</sup> In the first three quarters of FY 2010, more than 2,200 youth were served through the diversion pilots.<sup>5</sup>

The Sunset legislation also mandated a 5-year juvenile justice strategic planning process to determine where service gaps exist and to develop collaborative solutions to address unmet needs. Furthermore, to ensure the bill's reforms are appropriate and undergoing successful implementation, H.B. 3689 also called for an additional Sunset review of TYC and TJPC in 2010 and 2011.

We can now see that the policy reforms initiated in 2007 have led to tangible gains. The number of youth incarcerated in TYC facilities has decreased significantly, from 4,705 youth in FY 2006 to 1,977 youth in FY 2010,<sup>6</sup> a drop of 58%. Furthermore, according to the Texas Public Policy Foundation (TPPF), after passage of S.B. 103, "filings to revoke probation for a new offense or rule violation dropped 6.3 percent [2008 to 2009]. In Bexar County (San Antonio), juvenile referrals declined 5.8 percent from 2007 to 2008 and then another 10.0 percent in 2009. In Dallas County, the juvenile felony referral rate has declined 7.8 percent from 2005 to 2008. Also in Dallas County, offenses filed in court fell 16.5 percent from 2007 to 2008 and have been projected to decline another 20.0 percent in 2009 based on data for the first three quarters of the year."<sup>7</sup>

Given the positive outcomes of the juvenile reform efforts to date, policy-makers should continue their commitment to reducing the state's over-reliance on incarceration of nonviolent youth, while increasing the continuum of evidence-based, family-focused interventions and sentencing options available to youth and families at the local level.

Leadership must ensure that all critical components of previous reform legislation are incorporated into any legislation that may govern a new juvenile justice entity. *(Please see Appendix A for a comprehensive list of the key components of previous reform legislation.)*

**(2) Ensure that youth continue to be kept separate from the state's adult criminal population.**

Under current practices, certain youth may be sent to an adult prison if they fail to progress in treatment while in TYC. According to TYC on the issue of determinate commitments:

Some courts send youth to TYC with specific sentences, which can be for up to 40 years. State law requires a *minimum period of confinement* in a residential placement. The minimum period of confinement is based upon the severity of the offense committed by the youth. A youth with a determinate commitment is given a chance to participate in treatment in TYC, but **if the youth fails to progress in treatment, he or she may be transferred to adult prison on or before his or her 19<sup>th</sup> birthday** [emphasis added]. If a determinate commitment youth is successful in TYC treatment and has completed his or her minimum period of confinement, he or she may be allowed to transfer from TYC to adult parole rather than to prison.<sup>8</sup>

This practice is both ineffective and dangerous. The adult prison system and the adult model of criminal justice are inappropriate responses to juveniles' unique need for age-appropriate

services, specifically in regard to treatment and rehabilitation: “When they are locked up with adults, young people learn criminal behaviors. They are also deprived of the counseling and family support that they would likely get in the juvenile system, which is more focused on rehabilitation.”<sup>9</sup> Furthermore, studies have proven that confinement in adult facilities exposes youth to physical and sexual victimization, and increases the risk of suicide.<sup>10</sup>

The state must identify alternative methods that will keep youth in juvenile settings, both pre-trial and post-conviction. Certification and the use of adult courts for youth must be avoided when at all possible.

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## TEXAS JUVENILE PROBATION COMMISSION

### Introduction

Ensuring that sufficient alternatives to incarceration are available in the community is critical to sustaining positive, long-term change in Texas’ juvenile justice system, and improving the chances of success for at-risk youth.

TJPC and local juvenile probation departments are the most imperative components of the juvenile diversion strategy. Indeed, local departments are the “workhorses” of the juvenile justice system, handling 98% of juvenile justice-involved youth.<sup>11</sup> **The state also derives great savings from a strong probation system:** TJPC’s objective to reduce commitments to TYC through the use of various preventative “risk-reduction” (rehabilitation and early intervention) strategies<sup>12</sup> saves Texas money in juvenile incarceration costs.<sup>13</sup> Family-focused programming especially results in better outcomes for youth and their families, which in turn boosts public safety, another long-term cost saver.<sup>14</sup>

Policy-makers must continue to support community-based non-residential and residential services for ongoing economic gains, including through the new Community Corrections Diversion pilot grants that are helping divert youth from placement in TYC.<sup>15</sup>

### Policy Recommendations

As proven by recent investments in juvenile probation,<sup>16</sup> community-based supervision is an appropriate fit for many youth. Yet, it is only effective with **strong, well-resourced programming** (e.g., behavioral, educational, or vocational courses), **qualified probation officers** to ensure tailored supervision settings, and the **funding to contract with specialized treatment providers** (e.g., mental health or special education practitioners) to meet the needs of various populations and in various regions.

Absent a full funding structure for juvenile probation, the youth who will be supervised in our communities are at high risk of re-offending, leading to more victims, more local costs spent on law enforcement, and more reasons to incarcerate youth who do not need it. Texas policy-makers must adopt a responsible approach to downsizing TYC that bears in mind the concerns of local probation departments, our communities’ calls for public safety, and the needs of juveniles currently incarcerated. Certainly, stranding youth in current lock-ups with poor conditions of confinement is

not the answer, but neither is shifting all of the costs to our communities and transferring the responsibility for juvenile care to already over-burdened, under-funded counties struggling to provide basic services. Youth will fall through the cracks, and Texans will pay the price for years to come.

A piecemeal approach that allocates only limited dollars to key services will roll back established progress and create a fractured system of broken program implementation throughout Texas.

### **(1) Support the juvenile probation system.**

If the Legislature follows through on Sunset Commission recommendations to reduce TYC admissions by having counties manage higher-risk youth in community-based programs, funding cuts for Community Corrections not only must be rescinded but, as noted above, **savings from any TYC unit closures should be partially spent to increase this line item.**

According to TJPC, “Thirty-five percent of juveniles disposed have been assessed as high risk and/or as having high levels of need. The factors contributing to these high levels of risk and need include family criminal history, substance abuse, traumatic experiences, mental health needs and school truancy and disciplinary problems.”<sup>17</sup> In fact, over 40% of youth in Texas’ juvenile probation system are mentally ill.<sup>18</sup> According to TJPC, “These juveniles recidivate at a rate over fifty percent higher than juveniles that are not mentally ill.”<sup>19</sup> Furthermore, according to the results of TJPC’s Risk and Needs Assessment Instrument, 25% of all juveniles assessed from June 1, 2009 – May 31, 2010 were “frequent drug users.”<sup>20</sup>

Policy-makers must ensure that resources are targeted towards rehabilitating youth in proven, community-based diversion programs. Such interventions, which include comprehensive treatment assessments<sup>21</sup> and components to build healthy family relationships,<sup>22</sup> not only save costs in incarceration, but they are more effective at addressing treatable addiction through effective tackling of the root cause. The Legislature should create a budget rider mandating that grant funding for counties must go towards research-based programming, as identified by TJPC. (*Note:* This will also prevent counties from having to expend their own limited funds on research.) Already, Texas has seen success with holistic, family-driven programming,<sup>23</sup> as well as first-offense programs.<sup>24</sup>

The end goal must be increasing the number of youth successfully rehabilitated in their communities, at substantial cost-savings to the state in both the short and long term. Such an emphasis on what truly decreases crime – programming, treatment, community supervision – is not only clear but crucial given the limited dollars Texas can devote to juvenile justice.

### **(2) Maintain current funding levels for juvenile probation officer trainings.**

Juvenile probation officers are required to take 80 hours of continuing education every two years.<sup>25</sup> Qualified staff are key in implementing effective programming and supervision that reduce the risk of re-offending. To realize Texas’ public safety needs, state leadership must maintain training funding for juvenile probation officers. Specifically, staff must be trained to meet the needs of youth who require treatment for mental health, substance abuse, sex offenses, and past trauma. Early identification and prompt placement into appropriate programming will best help youths with addiction, mental health, or behavioral problems.

The effective implementation of rehabilitative treatment and programming is key. According to the Texas Public Policy Foundation, “Saving a youth from becoming a chronic offender results in \$1.7 million to \$2.3 million in avoided lifetime costs to taxpayers and victims.”<sup>26</sup>

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## TEXAS YOUTH COMMISSION

### Introduction

Policy-makers must ensure that, regardless of how many lock-ups remain in place by session’s conclusion, only high-risk, chronic violators who pose a danger to themselves or others should be incarcerated, and they must be provided proven treatment programming and services to reduce their likelihood of re-offending after release.

### Policy Recommendations

- (1) As an alternative to incarceration for high-risk youth, create a regionalized system of state-operated juvenile correctional and transition facilities that are smaller (<100 beds), more therapeutic, and closer to the communities that youth come from.**

To effectively address the needs of our most troubled youth, those for whom there is no programming at the county level, the state should consider smaller, regional facilities with specialized programs and services.

A large majority of youth under supervision in TYC require specialized assistance. According to that agency, “Of the 1,481 commitments in FY 2009, 54% were categorized as high-risk offenders, 47% were chemically dependent, 37% had serious mental health problems, and 36% were identified as eligible for special education services.”<sup>27</sup> Emphasizing treatment and least-restrictive care through the establishment of various service delivery regions would better ensure that youth have access to localized, qualified medical and mental health care professionals in age-appropriate settings. Such a system would also bring youth closer to their parents or caretakers, facilitating inclusion of families and communities in the rehabilitation process, and paving the way for lower recidivism rates upon independent reintegration to the community.

To best create a seamless continuum of care, a regionalized plan should include wrap-around services, halfway houses, and targeted aftercare. Halfway houses, which cost \$70 less than confinement in current TYC facilities per day,<sup>28</sup> should be especially prioritized for youth who have succeeded in confinement and could be safely supervised in the community.

***Note:* Throughout any regionalization effort, Texas should adopt aspects of juvenile justice models that work, specifically those that replace the historical punitive philosophy with one centered on treatment. This will be integral to the success of the entire system.**

For example, the “Missouri model” is widely acclaimed by juvenile justice advocates and has garnered bipartisan praise from across Missouri’s political spectrum.<sup>29</sup> Throughout the 1960s

and into the early 1970s, Missouri's large juvenile institutions were struggling with very high numbers of assaults and escapes. By 1971, this violent atmosphere had left about a quarter of staff positions vacant.<sup>30</sup> In 1975, Missouri adopted a five-year plan that laid the groundwork for today's accomplishments. It called for the closing of the large facilities, the expansion of community-based services, and the establishment of five service delivery regions. The end goal for the change was the creation of a quality continuum of care, which would provide a range of services to youth in each of the five regions within 30 to 50 miles of their homes, bringing them closer to medical and mental health care professionals, as well as their families.

In the three decades since its adoption, the Missouri model has been heralded as a "guiding light" for reform in juvenile justice.<sup>31</sup> Its unconventional approach emphasizing treatment and least-restrictive care is considered to be far more successful than the incarceration-oriented systems used in most other states.<sup>32</sup> Furthermore, according to the Texas Public Policy Foundation, "the one-year re-incarceration rate in Missouri where group homes replaced institutions is 11 percent compared with 22 percent for TYC."<sup>33</sup>

*Please see Appendix B for other guiding principles of juvenile justice reform.*

## **(2) Continue investments in re-entry practitioners and programs.**

The population of youth that is currently incarcerated requires risk/needs assessments, tailored programming that addresses the root causes of criminal behavior, and a strong re-entry infrastructure to ensure the youth succeed after juvenile justice involvement. Current staff levels are imperative in implementing such strategies.

As noted above, a large percentage of youth in TYC are chemically dependant.<sup>34</sup> Sadly, "fewer than half of TYC youth in need of substance abuse treatment receive it," according to Texans Care for Children.<sup>35</sup> Likewise, just over one-third of youth are receiving needed mental health services.<sup>36</sup> Youth in TYC are also typically 4-5 grade levels below standard when they enter confinement, and most require accelerated instruction to obtain a diploma or GED.<sup>37</sup>

Without effective treatment, substance abuse and mental health disorders will follow youth into the community upon release, leaving them without the tools to participate in society in a fulfilling and productive way. Low education levels and a lack of vocational training will only increase the likelihood of re-offending. Limited community- and family-based support networks will further burden youth entering the community. A continued investment in re-entry practitioners and programs – the foundations of successful reintegration – are important in maintaining progress to keep recidivism rates low, to the benefit of public safety and taxpayers' wallets.

## **(3) Strengthen the juvenile parole system to protect public safety and give troubled youth, families, and communities a chance at success.**

The real measure of a juvenile justice system's effectiveness is a youth's behavior post-release. The first several months following a youth's institutional confinement are critical, where the lessons learned in secure care can be easily undone without proper supports. For instance, in FY 2009, nearly 3,750 youths were on parole,<sup>38</sup> but approximately 420 youths were sent to TYC after a revocation.<sup>39</sup>

Because the period of re-entry should be viewed as the last and most important phase of a youth's treatment while in secure care, the role of parole should be to support youth in applying newly acquired tools for personal accountability, to connect them with needs-based resources, and to closely monitor their progress.

To provide the most meaningful oversight and support to youth exiting juvenile institutions, the juvenile parole program requires an increased investment and focus from the Legislature. Current staffing levels must remain in place, and juvenile parole offices must be able to do the following:

- Provide youth more structured reintegration into their home environments, including day treatment programs, re-entry support groups, and family counseling.
- Increase family and community involvement in parole by implementing elements of proven, non-residential programming such as Functional Family Therapy,<sup>40</sup> Multisystemic Therapy,<sup>41</sup> and Multidimensional Treatment Foster Care.<sup>42</sup> TYC has already considered implementing Functional Family Parole (FFP), an evidence-based program that provides youths and their families with needed reintegration and intervention services.<sup>43</sup> The new juvenile justice entity should fully employ FFP.

Policy-makers must also allocate sufficient resources to the parole division so that offices have funds to send a youth to specialized **aftercare services** (e.g., chemical dependency, sex offender, etc.), or to family counseling. Currently, youth are directed to county-provided services. If counties do not provide adequate medical, behavioral health, educational, or vocational resources, a youth is simply on his or her own.

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Thank you for allowing me the opportunity to provide feedback to this Committee on what an effective juvenile just system should encompass. Again, in order to create avenues to success for troubled youth and their families, we strongly encourage the Committee to incorporate each of the reforms from the previous two sessions, as well as the guiding principles provided in this testimony, into this new system.

## APPENDIX A: KEY COMPONENTS OF PREVIOUS REFORM LEGISLATION

Below are some critical components of previous juvenile justice reform legislation, passed by Texas policy-makers, which must be incorporated into any legislation governing a new juvenile justice entity in Texas.

### Senate Bill 103 (2007)

#### *Key Components of Omnibus Reform Legislation*

- Increased funding for community-based programs at the local level as an alternative to incarceration.
- A system for the inspection and supervision of all locally operated juvenile detention and secure post-adjudication facilities, public or private.
- A change in sentencing guidelines to ensure that misdemeanor offenders are handled locally.
- Increased, specialized training programs for juvenile corrections officers.
- Specialized intake and Texas Juvenile Probation Commission (TJPC) guidelines.
- Appointment of a commission caseworker for each child in custody.
- Rules for the placement and classification of incarcerated youth intended to improve safety.
- An independent ombudsman to act as an advocate for incarcerated youth.
- A special prosecution system and an Office of Inspector General for the independent investigation and prosecution of crimes occurring in Texas Youth Commission (TYC) facilities.  
*Note:* The future juvenile justice entity must emphasize the protection of youth.
- A zero-tolerance sexual abuse and sexual contact policy, as well as sexual abuse and sexual contact reporting mechanisms.
- Public reporting of cases of abuse occurring in TYC facilities.
- Access to commission facilities for advocacy groups specializing in juvenile justice, mental health, victims of sexual assault, and victims of abuse.
- A Parents' Bill of Rights.
- A duty to file complaints against TJPC with law enforcement.
- Gender parity in programs, treatment, and facilities.
- Time-credit for time served in the juvenile justice system for youth with determinate criminal sentences.
- Improved procedures governing the termination of a child's placement in TYC and improved re-integration back into his or her home community.
- A governing board for TYC to include a majority of people with experience addressing rehabilitation and reestablishment in society of youth offenders.

*Note:* S.B. 103 also directed the Sunset Commission to investigate the benefits of a transition towards a regionalized juvenile corrections system with smaller facilities closer to children's home communities.

## **House Bill 3689 (2009)**

### *Key Components of Sunset Legislation Pertaining to the Texas Youth Commission (TYC), Texas Juvenile Probation Commission (TJPC), and Office of the Independent Ombudsman (OIO)*

#### **System-Wide Reforms**

- Creates the Coordinated Strategic Planning Committee with members appointed by the directors of TYC and TJPC for the purpose of agency collaboration on a variety of initiatives, including implementation of a common data source and data sharing among TYC, TJPC, and various other state agencies that serve youth in the juvenile justice system (Texas Education Agency, Department of State Health Services, Department of Family Protective Services, and the Health and Human Services Commission).
- Requires TYC, TJPC, and various other state agencies to adopt a Memorandum of Understanding (MOU) with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) for continuity of care for juvenile offenders with mental impairments. Requires TCOOMMI, in coordination with TYC, TJPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.

#### **TYC Reforms**

- Requires TYC to create a “reading and behavior plan” for special ed students, and requires 60 minutes per day individualized reading instruction for youth identified with reading deficits.
- Requires TYC to provide information regarding a youth’s progress to the committing court upon request.
- Requires TYC to provide the committing court with notice of a youth’s release no later than the 30<sup>th</sup> day before the release date.
- Requires TYC to provide the committing court or the county/state to which the youth is being released with the youth’s re-entry and reintegration plan and a report on the youth’s progress.
- Requires TYC to develop a comprehensive plan to reduce recidivism and ensure successful re-entry of juveniles into the community upon release from state facilities.

#### **TJPC/County-Operated Juvenile Probation Department Reforms**

- Requires TJPC to regulate, and local juvenile boards to inspect and certify, all non-secure correctional facilities that accept only youth on probation.
- Requires TJPC to ensure that its rules related to minimum standards for confined juveniles comport with constitutional standards, federal law, and state law.
- Requires juvenile probation departments to complete a risk and needs assessment prior to disposition, using a validated risk and needs assessment instrument.
- Requires TJPC to adopt rules for the use of both the mental health screening and risk-needs assessment instruments. Requires juvenile probation departments to report data from the use of both instruments to TJPC.
- Allows TJPC to contract with local MHMR authorities for mental health residential treatment services.

#### **OIO Reforms**

- Requires the OIO and TYC to enter into a Memorandum of Understanding concerning the development of formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility.
- Authorizes the OIO to withhold information concerning matters under active investigation from TYC and to report the information to the Governor.

## **APPENDIX B: GUIDING PRINCIPLES OF JUVENILE JUSTICE REFORM**

Below are principles supported by Advocacy, Inc., the American Civil Liberties Union of Texas, Texans Care for Children, Texas Appleseed, Texas Criminal Justice Coalition, Texas Network of Youth Services, and other juvenile justice advocates.

These principles should guide the efforts of Texas policy-makers and stakeholders in shaping a more effective, efficient, and compassionate juvenile justice system.

- Changes in the governance structures of various components of the juvenile justice system should not be confused with reform. While governance and organizational structure may have a significant impact on the delivery of services to youth, they do not in and of themselves constitute meaningful reform.
- The adult prison system and the adult model of criminal justice are damaging and ineffective options for youth, ignoring their needs for age-appropriate rehabilitation and treatment services. The state should look for ways to remove those youth who are housed in adult prisons and jails and instead place them in more appropriate juvenile settings.
- Recognizing that proven, non-institutional, community-based programs are less expensive and more effective than secure facilities, Texas should move away from prioritizing state spending on institutional care and towards an emphasis on using taxpayer dollars to fund proven and effective community-based services for youth and families.
- The state should keep all but the most serious juvenile offenders (those who present a significant risk to public safety) out of secure facilities. True reform means that significantly fewer youth are incarcerated and more are being treated at home with appropriate strength-based and family-focused interventions and supports. Or, if necessary to protect public safety, youth should be housed in out-of-home programs conducive to rehabilitation. Closing state-run facilities while merely increasing the size of secure county-run facilities does not represent a step towards reform.
- For confined youth, Texas should move towards a juvenile justice system of small juvenile justice facilities that prioritizes youths' treatment needs, provides meaningful rehabilitation in a therapeutic environment, and locates youth in or near their home communities.
- Facilities should be staffed with qualified personnel who are trained to meet the needs of youth who require mental health, substance abuse, and sex offender treatment. Facilities should also offer services to address traumas that youth have experienced. Consistent with the goals of providing effective, trauma informed treatment, staff supervising youth should receive continuing training in the safest protocols possible with respect to restraints, verbal de-escalation techniques, suicide risk and prevention, sexual assault, protection of vulnerable youth, and recognition of signs that a youth that may be overmedicated or having adverse reactions to medication.

- Funding should follow the youth; if more youth are being served at the county level, the state should redirect funding to counties for the provision of appropriate and effective community-based, non-institutional services in those locations.
- Better monitoring, oversight, and reporting of county programs should be ensured by providing the Texas Juvenile Probation Commission (TJPC) the mandate and resources to regularly conduct on-site inspections of both secure and non-secure facilities, use a graduated sanctioning system for facilities that fail to comply with set standards, and provide an annual report to the Legislature addressing violations of standards.

## ENDNOTES

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<sup>1</sup> Mike Ward, “Sunset Panel: Merge TYC and TJPC,” *Austin American-Statesman*, January 12, 2011.

<sup>2</sup> Due to S.B. 103’s preclusion of misdemeanants from incarceration in TYC facilities, the state provided counties with an additional \$57.8 million to handle these youths, which was about half the cost that would have been incurred by the state had the youth been sent to TYC. From Marc Levin, “Texas Criminal Justice Reform: Lower Crime, Lower Cost,” Center for Effective Justice – Texas Public Policy Foundation, January 2010, pg. 2. Note additionally: “juvenile adjudications declined 10.3 percent from fiscal year 2008 to 2009” [pg. 2].

<sup>3</sup> This position was created by S.B. 103 to act as an advocate for incarcerated youth.

<sup>4</sup> 143 departments accepted this funding. From Senate Committee on Criminal Justice, “Senate Committee on Criminal Justice Interim Report to the 82<sup>nd</sup> Legislature,” December 15, 2010, pg. 74. These funds must be used for programs that are proven to reduce re-offending. Most programs are non-residential and focus on treatment, community service, and strengthening the family. From Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 2. Note additionally: Juvenile probation departments that receive the new diversion funding are required to report a variety of information to TJPC about their use of the monies, including details about the kinds of programs that will be developed or expanded, and outcomes for all youth placed in the diversion programs as an alternative to TYC commitment.

<sup>5</sup> House Committee on Corrections, Interim Report to the 82<sup>nd</sup> Texas Legislature, December 2010, pg. 8.

<sup>6</sup> Sunset Advisory Commission, “Commission Decisions: Texas Youth Commission, Texas Juvenile Probation Commission, Office of Independent Ombudsman,” January 2011, pg. 4.

<sup>7</sup> Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 2.

<sup>8</sup> Texas Youth Commission, *Determining How Long Youth Stay in TYC*; [http://www.tyc.state.tx.us/about/how\\_class.html](http://www.tyc.state.tx.us/about/how_class.html).

<sup>9</sup> “The Case for Juvenile Courts,” *The New York Times* – Editorial, August 13, 2008.

<sup>10</sup> Office of the Independent Ombudsman (OIO), “OIO Special Report: SB 103 and Rising Adult Certification Rates in Texas Juvenile Courts,” prepared at the behest of Senator Juan Hinojosa, January 12, 2009, pg. 34

<sup>11</sup> During FY 2010, there were 88,344 referrals to juvenile probation departments. From House Committee on Corrections, *Interim Report to the 82<sup>nd</sup> Texas Legislature*, pg. 4. On the other hand, 1,977 youth were held in institutions, contract care facilities, or halfway houses in FY 2010. From Sunset Advisory Commission, *Commission Decisions*, pg. 4.

<sup>12</sup> Texas Juvenile Probation Commission; *About Us: Our Mission*;

<http://www.tjpc.state.tx.us/aboutus/default.aspx#Our%20Mission>.

<sup>13</sup> Marc Levin, *New Day for Texas Juvenile Justice*, Texas Public Policy Foundation, December 30, 2008;

[http://www.texaspolicy.com/commentaries\\_single.php?report\\_id=2341](http://www.texaspolicy.com/commentaries_single.php?report_id=2341).

<sup>14</sup> “For example, intensive in-home programs with both a probation officer and family therapist making frequent home visits significantly reduce re-offenses and cost a fraction of TYC. As such local programs take root, juvenile crime continues to drop and TYC commitments have fallen 38 percent this year. Every youth redirected from TYC saves taxpayers about \$80,000 a year.” From Marc Levin, *In Juvenile Justice, Less Is Often More*, Texas Public Policy Foundation, May 7, 2010; [http://www.texaspolicy.com/commentaries\\_single.php?report\\_id=3081](http://www.texaspolicy.com/commentaries_single.php?report_id=3081).

<sup>15</sup> In 2009, policy-makers allocated \$46 million to TJPC to re-distribute to juvenile probation departments in efforts to place youth in proven programming. 143 departments accepted this funding. From Senate Committee on Criminal Justice, *Interim Report to the 82<sup>nd</sup> Legislature*, pg. 74. These funds must be used for programs that are proven to reduce re-offending. Most programs are nonresidential and focus on treatment, community service, and strengthening the family. From Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 2. Note additionally: Juvenile probation departments that receive the new diversion funding are required to report a variety of information to TJPC about their use of the monies, including details about the kinds of programs that will be developed or expanded, and outcomes for all youth placed in the diversion programs as an alternative to TYC commitment.

<sup>16</sup> In the first three quarters of FY 2010, more than 2,200 youth were served through the diversion pilots. From House Committee on Corrections, *Interim Report to the 82<sup>nd</sup> Texas Legislature*, pg. 8. Representatives from Cameron, Dallas, Jefferson, Randall, and Travis Counties have specifically testified before the Senate Committee on Criminal Justice about reductions in commitments to TYC through the use of Community Corrections Diversion Program funding. From Senate Committee on Criminal Justice, *Interim Report to the 82<sup>nd</sup> Legislature*, pgs. 78, 79.

<sup>17</sup> Texas Juvenile Probation Commission (TJPC), “Legislative Appropriations Request for Fiscal Years 2012 and 2013,” August 9, 2010, pg. 3 of 6 (Administrator’s Statement).

<sup>18</sup> Texans Care for Children, Press Release: “Juvenile Corrections System Acts as Mental Health Provider of Last Resort for Many Texas Families,” January 27, 2010; <http://texanscareforchildren.org/For-the-Press/Juvenile-Corrections-System-Acts-as-Mental-Health-Provider-of-Last-Resort-for-Many-Texas-Families?&Sort=>

<sup>19</sup> TJPC, *Legislative Appropriations Request for Fiscal Years 2012 and 2013*, pg. 3 of 6 (Administrator’s Statement).

<sup>20</sup> Texas Juvenile Probation Commission (TJPC), “Strategic Plan: Fiscal Years 2011-15,” June 2010, pg. 23.

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<sup>21</sup> National Institute on Drug Abuse (NIDA), “Frequently Asked Questions (FAQs),” #15: *What are the unique treatment needs of juveniles in the criminal justice system?*: “Assessment is particularly important, because not all adolescents who have used drugs need treatment”; [http://www.nida.nih.gov/podat\\_cj/faqs/faqs2.html](http://www.nida.nih.gov/podat_cj/faqs/faqs2.html).

<sup>22</sup> *Ibid.*: “The effective treatment of juvenile substance abusers often requires a family-based treatment model that targets family functioning and the increased involvement of family members.”

<sup>23</sup> Bexar County operates the Kids Averted from Placement Services (KAPS), which provides intensive family-based services for youths and their families in efforts to address the underlying issues that have led to youth misbehavior. According to the Texas Public Policy Foundation, the program’s success rates are significant: the majority of KAPS participants have not been adjudicated for later offenses, and the one-year re-referral rate is 15% lower than the state average for juvenile probation. The cost-savings are also significant: the program costs \$58.33 per day, compared to \$138.25 per day for the Bexar County post-adjudication facility or a county-contracted residential program. From Marc Levin, “Getting More for Less in Juvenile Justice: Innovative and Cost-Effective Approaches to Reduce Crime, Restore Victims, and Preserve Families,” Texas Public Policy Foundation, March 2010, pg. 30.

<sup>24</sup> The Dallas Police Department created a voluntary, education-based program to divert first-time offenders, aged 10-16, from the justice system for Class A and B misdemeanor offenses, as well as for nonviolent state jail felonies. Over time, the program has diverted 6,154 youth first-time offenders from probation and, frequently, detention. The program costs 13 times less per day than detention and 25% less than probation. From Marc Levin, “Texas Counties Can Unlock Kids and Savings,” Center for Effective Justice – Texas Public Policy Foundation, December 2009, pgs. 1-2.

<sup>25</sup> Texas Administrative Code, Sec. 344.640 (a): A juvenile probation officer or juvenile supervision officer shall complete a minimum of 80 hours training every 24 months in topics related to the officer’s job duties and responsibilities in order to maintain an active certification: (1) For juvenile supervision officers, this training shall include the facility’s suicide prevention plan and requirements necessary to maintain certification in CPR, First Aid and personal restraint technique approved by the [Texas Juvenile Probation] Commission.

<sup>26</sup> Marc Levin, *Getting More for Less in Juvenile Justice*, pg. 4.

<sup>27</sup> Texas Youth Commission (TYC), “Legislative Appropriations Request For Fiscal Years 2012 and 2013,” August 30, 2010, pg. 29.

<sup>28</sup> Legislative Budget Board, “Criminal Justice Uniform Cost Report: Fiscal Years 2008-2010,” pg. 17; comparing FY 2008 costs-per-day for halfway houses (\$282.01) and state-operated facilities (\$359.58).

<sup>29</sup> Dick Mendel, “Small is Beautiful: The Missouri Division of Youth Services,” *Advocasey: Juvenile Justice at a Crossroads*, Vol. 5, No. 1, Spring 2003, pgs. 30-31.

<sup>30</sup> Douglas Abrams, “A Very Special Place in Life: The History of Juvenile Justice in Missouri,” Missouri Juvenile Justice Association, 2003, pg. 198.

<sup>31</sup> Dick Mendel, *Small is Beautiful*, pg. 34.

<sup>32</sup> Douglas Abrams, *A Very Special Place in Life*, pg. 206.

<sup>33</sup> Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 5.

<sup>34</sup> TYC, *Legislative Appropriations Request For Fiscal Years 2012 and 2013*, pg. 29.

<sup>35</sup> Texans Care for Children, *Press Release: Juvenile Corrections System Acts as Mental Health Provider*.

<sup>36</sup> TJPC, *Strategic Plan: Fiscal Years 2011-15*, pgs. 22, 24.

<sup>37</sup> *Ibid.*, pg. 53.

<sup>38</sup> Sunset Advisory Commission, *Commission Decisions*, pg. 5.

<sup>39</sup> *Ibid.*, pg. 4.

<sup>40</sup> Functional Family Therapy is “an empirically grounded, well-documented and highly successful family intervention for at-risk youth ages 10 to 18 whose problems range from acting out to conduct disorders to alcohol and/or substance abuse” From *Functional Family Therapy*; <http://www.fftinc.com>.

<sup>41</sup> Multisystemic Therapy is “an intensive family- and community-based treatment program that focuses on the entire world of chronic and violent juvenile offenders – their homes and families, schools and teachers, neighborhoods and friends.” From MST, *What is Multisystemic Therapy*; <http://www.mstservices.com>.

<sup>42</sup> Multidimensional Treatment Foster Care is “a cost-effective alternative to regular foster care, group or residential treatment, and incarceration for youth who have problems with chronic disruptive behavior. The evidence of positive outcomes from this unique multi-modal treatment approach is compelling.” From TFC Consultants, Inc.; [http://www.mtfc.com/TFC\\_Consultants.html](http://www.mtfc.com/TFC_Consultants.html). Note additionally: Each of these three programs has been proven to save money and reduce crime. From “Washington State Institute for Public Policy, “Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost,” June 2007, pg. 7.

<sup>43</sup> Texas Youth Commission, *Regionalization Plan: Evolving Regionalization & Population Management (continued)*; [http://www.tyc.state.tx.us/reform/regionalization/2\\_bonds\\_highlights.html](http://www.tyc.state.tx.us/reform/regionalization/2_bonds_highlights.html).