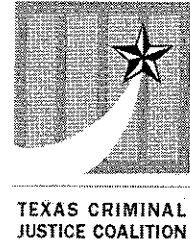


June 22, 2012

Texas Juvenile Justice Department
4900 North Lamar Blvd
Austin, TX 78711



Members of the TJJD Board:

As an organization dedicated to the safety and rehabilitation of youth in the Texas juvenile justice system, we are deeply concerned about the ongoing problems in the state's secure juvenile facilities. Our organization has documented these long-standing problems for several years, and we continue to advocate for the complete implementation of programs and protections previously promised by the Department, including the ReDirect program.

While we appreciate the need to move quickly to respond to these serious safety issues, we believe public input is necessary before implementation of any new programs, and we therefore urge you to use the traditional public comment process for the proposed Phoenix program and not approve any new rules on an emergency basis. The details of the Phoenix rules were made public only this Monday evening, June 18. This program raises complex issues of due process and disability rights, which require sufficient public planning before implementation to avoid further disruption as the rules are modified in response to public comment.

In order to minimize the risk of unintended consequences, the Texas Administrative Procedure Act requires 30 day public notice for proposed rules. These requirements are especially important in the context of the ongoing safety and rehabilitation problems facing youth in the state's secure facilities. Emergency rulemaking short-circuits public input from stakeholders, increasing the risk that the proposed rule will contain a major defect that must be corrected in the near future. **For the affected youth, this could create both immediate harm caused by the rule's defect, as well as future harm caused by disruptions as the rule is revised to fix the defect. Stability is critical for youth in secure facilities.**

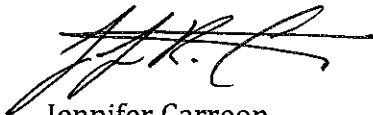
The traditional rulemaking requirements of the Administrative Procedure Act provide the better option, allowing for sufficient public input to avoid unintended consequences. Those procedures promise greater stability for youth in the state's secure facilities, as well as a final rule that will better address the ongoing safety and rehabilitation challenges in those facilities. The Department already has sufficient tools to prevent any imminent public peril; to address the long-standing problems in its secure facilities, the Department will need the public input and planning provided by traditional Texas rulemaking procedures.

Existing rules already allow the Department to prevent any *imminent* peril to public safety in the next 30 days. Although not properly utilized at present, the Department already has authority under its rules to physically intervene in any violent episode, to separate youth for safety, and to place youth in the ReDirect program. Additional rulemaking may be necessary to address the underlying causes of the facilities' safety problems, but those rules should receive public comment before implementation.

Additionally, the emergency rules under consideration go far beyond imminent peril and establish a far-reaching process that will completely restructure the lives of the affected youth; such far-reaching rules are best served by public input. The rules would change an affected youth's placement, obligations, and treatment for years. These fundamental changes require public input.

We look forward to working with the Department to address the serious problems that have dogged our state secure facilities. A critically important opportunity for us to work with the Department is through the public comment process in the Texas Administrative Procedure Act. We urge you to use that public comment process and not adopt any new rules on an emergency basis.

Sincerely,



Jennifer Carreon

Juvenile Justice Researcher
Texas Criminal Justice Coalition



Benet Magnuson

Juvenile Justice Analyst
Texas Criminal Justice Coalition