



**WRITTEN RESPONSE  
TO THE SUNSET ADVISORY COMMISSION STAFF REPORT**

**SUBMITTED BY  
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*The Current Issues of Incarcerated Youth in Texas' Adult Criminal Justice System*

**SUNSET ADVISORY COMMISSION**

**JUNE 5, 2012**

## **TEXAS CRIMINAL JUSTICE COALITION**

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The Texas Criminal Justice Coalition identifies and advances real solutions to the problems facing Texas' juvenile and criminal justice systems. We conduct policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety, save taxpayer dollars, and preserve human and civil rights.

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Dear Members of the Commission,

My name is Jennifer Carreon; I work for the Youth Justice Project at the Texas Criminal Justice Coalition (TCJC). Thank you for this opportunity to present a response to the Sunset Advisory Commission's Staff Report. While TCJC is submitting more comprehensive testimony in response to this Report, we feel it is necessary to emphasize two particular recommendations: (1) prohibiting the use of administration segregation for incarcerated inmates aged 14 to 25, who are being housed in adult facilities,<sup>1</sup> and (2) strengthening rehabilitative programming and services for youth incarcerated in adult facilities.<sup>2</sup>

In light of recent reforms that have sought to improve youth justice in Texas, we feel it is imperative that the Commission focuses as heavily on the treatment and rehabilitation of youth in adult correctional facilities as it has on youth housed within secure juvenile facilities.

## **CURRENT ISSUES REGARDING INCARCERATED YOUTH IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ)**

### **ISSUE 1: THE USE OF ADMINISTRATIVE SEGREGATION OF INCARCERATED YOUTH**

Current TDCJ policy does not set minimum ages for assignment to administrative segregation. This means incarcerated individuals as young as 14 who have been adjudicated as adults and sentenced to prison may serve indeterminate lengths in isolation.

This practice ignores research on brain development, as well as the negative effects of isolation on incarcerated individuals, which are exponentially worse for youth.<sup>3</sup> For positive youth development to occur, five programming components must be present: competence, confidence, character, connection, and caring.<sup>4</sup> The use of isolation not only ignores these components, it also perpetuates the harmful exposure of youth to traumatic experiences.<sup>5</sup> Indeed, research on the developing brain and the effects of trauma shows the following:

- The brain is reorganizing during adolescence (ages 14 to 25), which is a critical brain growth period.<sup>6</sup>
- By age 16, adolescents are similar in cognitive functioning to adults, but they lack the ability to regulate their emotions, leading to a disconnect between what they think and how they feel. It is psychological and social development that continues into adulthood.<sup>7</sup>
- Stress and trauma during this time of brain growth cause the development of socially negative behavior due to chemical changes in the brain, signaling the brain to eliminate unused or undesired connections permanently. This leaves the body in a heightened state and manifests as impulsiveness (e.g., theft, aggression) and impaired logical judgment (e.g., rule breaking).<sup>8</sup>

Ultimately, TDCJ's mission is to "promote positive change in offender behavior," and to "reintegrate offenders into society." Current policy allowing for the assignment of incarcerated youth and adolescents to long-term isolation detracts from that mission, while also potentially resulting in higher recidivism rates among the adolescents who are denied access to rehabilitation and education programs. While in isolation, adolescents' developing brains stagnate, and they do not learn to control impulses or develop their cognitive functions. The environment is not

conducive to contemplation and remorse, but instead fosters fear, violence, disregard for others, and impulsive behavior.

➤ **RECOMMENDATION: Prohibit the use of administrative segregation of incarcerated youth.**

TDCJ should reassign all incarcerated youth to alternative placements. Primarily, TDCJ should follow the Alternative Treatment Plan (ATP) outlined in the Youthful Offender Program.<sup>9</sup> The goal of ATP is to redirect incarcerated youth (aged 14-18) toward successful rehabilitation through specialized, individual treatment, daily assignments, group sessions, and progress reviews. The ATP bypasses solitary, administrative segregation custody, instead allowing incarcerated adolescents to identify and examine their socially unacceptable behavior in a pro-social setting, and develop more socially appropriate responses. This can reduce violence and increase incarcerated adolescents' mental health and coping for years to come. Already, the five-year old ATP program is estimated to have an 80-90% success rate in diverting youth from solitary confinement.<sup>10</sup>

For adolescents between the ages of 18 and 25 who do not qualify for ATP, we also advise against the use of administrative segregation, given the above-discussed harmful impact on cognitive development.

## **ISSUE 2: REHABILITATION PROGRAMMING AND SERVICES FOR YOUTH IN ADULT FACILITIES**

### *Lack of Specialized Programming*

Limited programming for youth housed in TDCJ prevents the provision of necessary rehabilitative treatment. This is due in part to the small population of youth housed in TDCJ: youth comprise only one-tenth of one percent of TDCJ's entire population,<sup>11</sup> causing structural inefficiencies and challenges in the agency's provision of adequate programming for this subset of incarcerated individuals.

Yet, youth incarcerated in TDCJ are roughly identical to youth housed by the Texas Juvenile Justice Department (TJJD) – both in offense type and in the level of violence involved in their offense.<sup>12</sup> As such, TDCJ must make efforts to improve rehabilitation programming and services for youth, in line with programming provided at youth facilities, to address the severe discrepancy in programming. As an example, the school attendance rate for youth at the adult Clemens Unit is 38%, while the school attendance rate for comparable youth in TJJD's state secure facilities is 96%.<sup>13</sup>

The TDCJ Internal Audit Division has already recommended the implementation of specialized programming for youth to assist in their cognitive development; likewise, it has recommended greater oversight of youth programming, noting that program practices deviate significantly from policy.<sup>14</sup> One program currently available in the Youthful Offender Program (YOP) at TDCJ is the Challenge, Opportunity, Understanding, Respect, Acceptance, Growth and Education (COURAGE) program, which focuses on “basic skills and values building and incorporates an individual strategy for each offender.”<sup>15</sup> But again, TDCJ's current structural problems have reduced oversight, implementation, and outcomes for youth-centered programs, such as the COURAGE program, leaving youth significantly under-treated when compared to youth in juvenile facilities.

### *Lack of Oversight*

Insufficient oversight by TDCJ of its youth programs has particularly hampered their performance. Though Texas has significantly increased oversight of programs for youth in the juvenile justice system through recent legislation, these reforms do not affect youth incarcerated within TDCJ. Furthermore, the extent to which youth programs have been evaluated within TDCJ has been severely limited in scope and provides little direction for future improvement. For instance, since its creation in 1997, the COURAGE program has been externally evaluated<sup>16</sup> and internally audited only once.<sup>17</sup> Without proper and frequent evaluations, programming efficiency cannot be accurately determined.

### *Inadequate Staffing Qualifications*

Interacting with and managing incarcerated youth can prove challenging. Adolescents' ongoing developmental and physical changes can present multiple obstacles to treatment. It is imperative to ensure that staff persons working with this population are highly skilled and trained in managing, interacting with, and supervising youth. Unfortunately, this is not typically the case for correctional officers hired by TDCJ. Staff who supervise youth in the adult system are hired based on their ability to handle interactions with other adults.<sup>18</sup> This can lead to a number of counterproductive and unnecessarily punitive consequences, such as the use of isolation as retaliation for misbehavior, or the denial of treatment and services.

- **RECOMMENDATION: Strengthen rehabilitative programming and services for youth incarcerated in adult facilities.**

### *Address the Lack of Specialized Programming*

Policy-makers should strengthen efforts to provide youth-centered programming at TDCJ, and re-allocate resources where necessary to implement improved programming. Efforts should also be made to ensure that any programming made available to youth is age-appropriate and tailored to youths' specialized needs. TJJD's Capital and Serious Violent Offenders Program, for example, has had a 95% success rate<sup>19</sup> and could serve as a model program within TDCJ.

### *Address the Lack of Oversight*

Policy-makers should abide by the recommendations of TDCJ's Internal Audit Division and independent researchers in regard to improved oversight and evaluation of youth programming, to correct practices that diverge from policy.

Furthermore, policy-makers should expand the oversight duties of the Office of the Independent Ombudsman for TJJD to include all youth in TDCJ. Ultimately, the Ombudsman's oversight responsibilities should match those for youth in TJJD state secure facilities, including the right to full-access inspections, as well as the ability to interview staff and youth, review records, investigate facility conditions, and examine programming.

### *Address Inadequate Staffing Qualifications*

TDCJ should amend staff qualifications for new hires who will be responsible for supervising youth, specifically by mirroring the skills and abilities required by TJJD. Such staff should possess the following:<sup>20</sup>

- An ability to work with youth in an empathetic and understanding manner.
- An ability to foster the cooperation of youth in the treatment process.
- An ability to communicate effectively with youth and to explain the progress of the youth to family members and other treatment staff.
- An introductory knowledge of child development and the role of the family.
- An introductory knowledge of the causes of juvenile delinquency and current methods of juvenile offender treatment.
- An introductory knowledge of the general techniques of communicating with and counseling adolescents.

The curriculum for current staff training should be frequently reviewed to ensure the provision of quality, age-appropriate treatment and services for youth.

### **TCJC'S OPPOSITION TO HOUSING YOUTH IN ADULT FACILITIES**

Given TCJC's goal to advance real solutions to the problems faced by Texas' troubled and at-risk youth, we oppose the certification of youth as adults, and the housing of youth in adult correctional facilities. As discussed, incarcerating youth in adult facilities can be detrimental to their biosocial development and can perpetuate exposure to trauma. Furthermore, national research has found that housing youth within adult facilities is counterproductive in meeting public safety needs; in one study conducted by the Centers for Disease Control, researchers found that youth placed in adult facilities are 34% more likely to violently recidivate.<sup>21</sup>

**TCJC recommends that the Commission conduct a more in-depth review of the current issues faced by incarcerated youth within TDCJ.** Ignoring this population not only contradicts TDCJ's mission but also recent legislative efforts to improve youth justice across the state. More importantly, choosing to overlook these current issues relays a message to society that our state is willing to accept the loss of a life that can be redirected and changed into a contributing member of society.

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TCJC expresses our deepest gratitude to the Sunset Advisory Commission staff who worked diligently to compile their Staff Report. We commend them on their desire and dedication to initiate what we know will result in significant improvements to the state's criminal justice system. We also want to thank the Commission members for their commitment to the evaluation of the state's criminal justice and corrections agencies. These agencies face numerous challenges, and we are relying on this Commission's leadership to develop solutions that will address the burden of already strained budgets while preserving public safety and meeting the needs of individuals directly impacted by the system.

## REFERENCES

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- <sup>1</sup> Texas Criminal Justice Coalition, Response to Sunset Advisory Commission Staff Report, June 2012, p. 5.
- <sup>2</sup> *Ibid.*, p. 10.
- <sup>3</sup> See, e.g., L.M. Finke “The Use of Seclusion is Not an Evidence-Based Practice” (2001).
- <sup>4</sup> See, J.L. Roth & J. Brooks-Gunn “What is a youth development program? Identification and defining principles,” *Handbook of applied developmental science: Promoting positive child, adolescent, and family development through research, policies, and programs*, Vol. 2., pp.197–223 (2003).
- <sup>5</sup> C. Haney, “Mental health issues in long-term solitary and “supermax” confinement,” *Crime and Delinquency*, Issue 49, pp. 124-156 (2003).
- <sup>6</sup> J. McIntosh & A. Schore, *Family Law and the Neuroscience of Attachment: Part 1*. Family Court Review, vol. 49(3), July 2011.
- <sup>7</sup> Montgomery, *Neurobiology Essentials for Clinicians*; also see Arizona State University, “Adolescent Brain and Juvenile Justice: New Insights from Neuroscience, Genetics, and Addiction Science Panels,” May 2012, available at <http://lsi.law.asu.edu/adolescentbrains2011/index.html>.
- <sup>8</sup> A. Schore, “Affect Dysregulation and Disorders of the Self,” New York: W. W. Norton & Co, 2003.
- <sup>9</sup> TDCJ, *CPOM 04.11 Alternative Treatment Program*, January 2010.
- <sup>10</sup> Stacey Rhodes, Programs Supervisor, TDCJ-Rehabilitations Programs Division, in telephone communication with Jorge Antonio Renaud, Texas Criminal Justice Coalition, 12 January 2012.
- <sup>11</sup> TDCJ, *Statistical Report*, p. 20.
- <sup>12</sup> Michele Dietch, *Juveniles in the Adult Criminal Justice System in Texas*, Special Project Report, Lyndon B. Johnson School of Public Affairs, March 2011.
- <sup>13</sup> *Ibid.*, p. XI.
- <sup>14</sup> TDCJ Internal Audit Division, “A Report on Rehabilitation Programs Division’s COURAGE Program for Youthful Offenders,” Audit 0921, 26 October 2009, pp. 1-2. (This 2009 audit is the most recent audit of the program. The Internal Audit Division noted in conversation that they will likely not audit the program again for five to ten years due to the program’s small size. This suggests oversight for programs for youth in TDCJ is a structural problem. A recent small-scale riot among youth in the Clemens Unit also suggests a need for greater oversight.)
- <sup>15</sup> TDCJ, Rehabilitation Programs Division: COURAGE Program for Youthful Offenders, available at [http://www.tdcj.state.tx.us/divisions/rpd/rpd\\_courage.html](http://www.tdcj.state.tx.us/divisions/rpd/rpd_courage.html).
- <sup>16</sup> Terry Schuster, “Managing the Special Needs of TDCJ’s Youthful Offenders,” 2008.
- <sup>17</sup> To date this is the only internal audits of the COURAGE program since its creation in 1997.
- <sup>18</sup> Texas Department of Criminal Justice Position Description: Correctional Officer, <http://www.tdcj.state.tx.us/vacancy/pd/033203.pdf>.
- <sup>19</sup> See *supra note* 13, p. 33.
- <sup>20</sup> Texas Juvenile Justice Department Juvenile Correctional Officer Job Description, available at [http://austin.tyc.state.tx.us/CfInternet/job\\_posting/jco\\_I-IV.html#elig](http://austin.tyc.state.tx.us/CfInternet/job_posting/jco_I-IV.html#elig).
- <sup>21</sup> Angela McGowan, et al., Centers for Disease Control Task Force on Community Preventive Services, “Effects on Violence of Laws and Polices Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services,” 32 (4S), *American Journal of Preventive Medicine* (2007).