



House Corrections Committee
House Bill 1915: Creating the Texas Juvenile Justice Department
March 9, 2011

Members, I am Jodie Smith with Texans Care for Children, a statewide nonprofit organization dedicated exclusively to improving the lives of Texas children through policy change. We look to our broad base of community-based experts—our partners and 220 members throughout the state who together represent thousands of Texas children—to inform our work and help us in developing our legislative agenda. We also co-convene various stakeholder groups, including the *Texas Juvenile Justice Roundtable*, that bring together a wide range of organizations, families, and advocates around our areas of focus, which are: family economic security; infant, child and maternal health; children’s mental health; child welfare; and juvenile justice.

Link the Sunset Review to Budget Decisions

All too often, youth involved in the juvenile justice system get caught in a costly cycle of repeat offense and supervision or graduate into the adult criminal justice system because of a lack of resources and effective rehabilitation programs. We are concerned about the deep cuts recommended in SB1/HB1, given the Sunset Commission’s recommendation to restructure the juvenile justice system by merging the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) into the Texas Juvenile Justice Department (TJJD). We agree that evidence supports the prioritization of community-based corrections over commitment to correctional institutions—treating youth in community-based programs is more effective and less expensive than treating youth in large facilities. However, Texas is far from achieving consistently good outcomes for youth involved in the juvenile justice system, and the deep cuts you are considering to public schools, the public mental health system, delinquency prevention, drop-out prevention, teen parenting supports, and other youth programs are likely to translate into juvenile justice system involvement for more young people. Until you reinforce these programs and interventions that help put young people on a positive path in life, and until we see better outcomes for the youth who are already involved in the justice system, cutting juvenile justice resources should be off the table for consideration.

Realign Funding towards Greater Use of Community-Based Interventions

Recognizing that proven, non-institutional, community-based programs are less expensive and more effective than secure facilities, Texas should move away from institutional care towards using taxpayer dollars to fund proven and effective community-based services for youth and families. Significantly fewer youth should be incarcerated, more should be treated under community supervision with appropriate strength-based and family-focused interventions and supports, and 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.

Community-based corrections is one of the most cost effective tools within the juvenile justice system in both the short and long term. As the 2010 Sunset Advisory Commission staff report on TYC and TJPC finds, the fiscal realignment the Legislature guided in 2009 to redirect money from TYC into community corrections through TJPC and county juvenile probation departments has been very successful.

Commitments to TYC are down 30% from the previous year, and all counties that accepted the diversion money successfully met their diversion targets. Only .02% of the youth served by these diversion programs ended up being committed to TYC last year.¹ SB1/HB1 would cut community corrections diversion funds by \$24.1 million on top of an \$11.1 million cut to basic probation.

A community corrections strategy that locks youth in secure facilities—albeit ones run locally rather than by the state—is *not* a positive change for Texas youth. While HB 1915 would potentially prioritize non-institutional placements, we recommend that you clearly write legislative intent into this Sunset bill that community corrections dollars are not to be used, at least not in large degree, for secure institutional placements. Without your clear direction on this, future administrative guidance may mirror unclear current guidelines that state *both* that the focus of the funds is not residential placement *and* that the grant funds can be used for residential programs. A year ago, before current-year budget cuts began to be implemented, of the 144 juvenile departments receiving (Grant C) funds, 110 were using funds towards residential services. The funds often go toward contractors, even in counties that also operate their own residential facilities, with some residential placement facilities offering specialized treatment and programming while others simply house youth. Rather than create a decentralized system of mini secure lock-ups, HB 1915 should unequivocally require that resources shifted to counties under this Sunset restructuring prioritize research-based, non-institutional interventions.

For Confined Youth, Use Small Facilities

This juvenile justice Sunset review process builds upon significant juvenile justice reforms that have occurred in the last five years, not just in community corrections, but also for our state's juvenile facilities. SB 103 in 2007 and HB 3689 in 2009 made much-needed changes to the Texas Youth Commission, and both legislative and agency leaders have made significant commitments of resources, policy reforms, and practice improvements. Improvements in some areas are being achieved. However, we are working with a physical plant of large, correctional facilities in geographic areas far removed from the population centers most TYC youth come from. This capital infrastructure is not conducive to rehabilitation even under the best conditions, much less under the condition of having very limited pools of professionals qualified to meet youths' rehabilitation needs in these rural areas. The juvenile justice physical plant, along with a statutory framework that relies heavily upon incarceration in a secure facility as a punitive measure for juvenile offenders, limits the ability of even the best juvenile justice administrators to run an effective system.

The various proposals currently being discussed would leave 500-1500 youth in state-run secure institutions. For these youth who would remain incarcerated by TJJD to protect public safety, you should structure HB 1915 and the budget so that Texas moves towards the use of small juvenile justice facilities (i.e. under 100 youth) that prioritize youths' treatment needs, provide meaningful rehabilitation in a therapeutic environment, and locate youth in or near their home communities. From Annie E. Casey's report on Missouri's model juvenile justice system,

According to the both Missouri insiders and national justice experts, Missouri's switch to smaller facilities was crucial to improving its juvenile corrections system. Paul DeMuro, a veteran juvenile justice consultant, suggests, 'The most important thing in dealing with youthful offenders is the relationships, the one-on-one relationships formed between young people and staff. And not just the line staff. It's critical that the director of the facility know every kid by name.'

Ned Loughran, executive director of the Council of Juvenile Correctional Administrators, warns, 'The kids coming into juvenile facilities need a lot of specialized attention, and they need to develop a relationship with staff.' Loughran adds, 'A small facility allows the staff to get to know the kids on a very individual basis. The kids interact better with peers and staff. Large facilities routinely suffer with high rates of staff turnover and absenteeism, 'so the kids spend a lot of time sitting in their rooms...With large [facilities] it's like going to a large urban high school. Kids get lost, and these kids can't afford to get lost.'ⁱⁱ

SB1/HB1 projects a TYC incarcerated population of 1489 youth in the next biennium, with Rider 22 capping TYC's incarcerated population at 1600 and directing the agency to close up to three facilities. TYC currently has 10 facilities, which means it would likely have 7 after SB1/HB1 cuts take effect. At best, that means each facility would have an average of 212 youth, *six times* the size of Missouri's largest secure facility.ⁱⁱⁱ SB1/HB1 is not a realistic proposal to support a new TJJD that successfully rehabilitates youth and keeps them free from abuse. Though it will take more than a biennium to fully make the transition to small, therapeutic, evidence-based facilities, HB 1915 and the corresponding strategies in the budget bill should go as far as possible this session to make this principle a reality at TJJD. If you do not do it as part of this comprehensive restructuring, it will likely be a long time before there is another opportunity to make this significant and critical change.

Use Specialized Treatment

Secure and non-secure programs in the new system must have the funding to ensure adequate staffing with qualified personnel trained to meet the needs of youth who require mental health, substance abuse, and sex offender treatment. SB1/HB1 would cut specialized treatment programs that have proven to increase public safety as well as a long-term cost savings to the state. Specialized treatment programs are geared toward offenders with the greatest needs and offenders at high risk of violent reoffending, and have been proven to reduce recidivism. For example, TYC's Capital Offenders program is guided by research and based largely on cognitive, psycho-social techniques that promote self-regulation and empathy, and it has received national recognition and has been proven to be successful at reducing overall recidivism by 55%.^{iv} TYC's specialized treatment for sex offenders has also proven to effectively reduce the likelihood of participants to be reincarcerated for violent felony or felony sex offenses – likelihood of reincarceration for a felony offense reduced by 50%, rearrested for a violent felony offense by 46% and re-arrested for a felony sex offense by 37%.^v

Mental health services are another critical area of specialized treatment. Thirty seven percent of youth in the Texas Youth Commission have been characterized as having "serious mental health problems,"^{vi} and 48% had some need for mental health treatment in 2009. While SB 1/HB1 proposed cuts to the Mental Health and Psychiatric services are not at the same level as many other services at TYC, 7% cuts will be problematic with so many youth needing services. A Texas Youth Commission (TYC) study found that youth who received mental health treatment while incarcerated were significantly less likely to be rearrested or reincarcerated within a year of release.^{vii} Providing mental health treatment upfront is more cost effective than sending youth to TYC again for \$180,000 for the average length of stay.^{viii}

Protect Public Safety by Reducing Recidivism

The Sunset restructuring should foster and protect resources and programming that help youth succeed after juvenile justice system involvement. Educational services, including reading and behavior improvement programs, that support workforce and vocational development are especially critical for easing the re-entry and re-integration of youth into their home communities. The proposed cuts in

SB1/HB1 to parole services will have harmful impacts on the reintegration of youth into their communities and recidivism rates of youth. In 2011, parole services are estimated to be \$23.13 per day per youth for parole versus \$359.58.94 per day per youth housed in a TYC secure facility.^{ix} Given the success rates of parole in Texas, it would be wise for the state to increase funding for parole and increase access to parole rather than make cuts to the services.

Integrate Delinquency Prevention into TJJD

The state's only investment in delinquency prevention is administered by the Department of Family and Protective Services (DFPS), whose scope is child maltreatment, not delinquency. The creation of the TJJD provides an opportunity for a common-sense change in delinquency prevention—make it part of the new juvenile justice system. The two largest delinquency prevention programs at DFPS, within its Prevention and Early Intervention division, are the Community Youth Development (CYD) program and Services to At-Risk Youth (STAR). CYD focuses on the 15 Texas zip codes that have the most juvenile crime. CYD professionals in community organizations use approaches like mentoring, tutoring, career development, life skills, and conflict resolution to keep youth from being referred to juvenile probation. STAR serves every county in the state and is focused on youth who otherwise fall between the cracks, using around-the-clock crisis intervention, emergency shelter, and counseling.

It is certainly true that child abuse/neglect prevention is protective against delinquency and that delinquency prevention programs are protective against child abuse/neglect. However, the target populations and intervention strategies differ, as do the professionals who typically work with youth. After discussing this proposal with youth services professionals and juvenile corrections professionals, we strongly suggest that the Sunset bill move delinquency prevention programs from DFPS to TJJD. Current funding levels should move with the programs, and any cost efficiencies achieved by a greater emphasis on community corrections should be redirected into delinquency prevention.

Reform Policies on Young Adult Offenders and Youth who Stand Trial as an Adult

Much work has been done to identify how policy can better reflect the developmental, rehabilitative, and legal differences between children and adults involved in corrections. Two good proposals have already been filed, SB 1208 & SB 1209 by Senator Whitmire. SB 1208 would extend probation jurisdiction in determinate sentence cases until age 19 to match TYC's jurisdiction and give judges more incentive to keep these youth in the community, SB 1209 would allow certified youth to be held in juvenile detention facilities pre-trial. We recommend that you integrate these proposals into HB 1915, along with the three additional measures:

- house juveniles certified and convicted as adults in TJJD, not TDCJ, with opportunity for judicial review at age 19,
- give judges the opportunity to order that a determinate sentenced youth stay at TJJD after turning 19 years old in order to complete specific programming prior to release, and
- reduce the offenses eligible for juvenile certification to match the 30 offenses eligible for determinate sentencing.

This Sunset Commission review is an opportunity for a thoughtful, comprehensive re-working of the state's approach to juvenile justice. Creating the TJJD is our chance to implement proven strategies that rehabilitate youth and protect public safety, not a way to make a \$100-\$150 million dollar drop in the \$27 billion dollar bucket of the state's budget shortfall. The savings found by treating youth in community-based programs must be re-invested into the system to ensure that prevention, rehabilitation, treatment, and re-entry services effectively reduce recidivism and keep youth out of the costly cycle of repeating offenses and returning to the juvenile and criminal justice systems. Thank you

for your time and commitment. If you have any questions, please feel free to contact me or the staff of Texans Care for Children.

Thank you,
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ⁱ Sunset Advisory Commission. Staff Report. TYC and TJCPD (2010)
http://www.sunset.state.tx.us/82ndreports/tyc/tyc_dec.pdf

ⁱⁱ http://www.aecf.org/~media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/MOModel/MO_Fullreport_webfinal.pdf, p. 15

ⁱⁱⁱ Ibid.

^{iv} "Specialized Correctional Treatment," Texas Youth Commission,
http://www.tyc.state.tx.us/programs/special_treat.html.

^v Ibid.

^{vi} Texas Youth Commission Strategic Plan 2011-2015 (2010).
http://www.tyc.state.tx.us/about/TYC_Strategic_Plan_2011_to_2015.pdf

^{vii} Texas Youth Commission. (2008) *Fiscal Year 2008 Review of Agency Treatment Effectiveness*.
http://www.tyc.state.tx.us/archive/Research/2008_Treatment_Effectiveness.pdf

^{viii} Legislative Budget Board. Criminal Justice Uniform Cost Report. FY 2008-2001.
http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Uniform_Cost_Report_0111.pdf

^{ix} Ibid.