



WRITTEN TESTIMONY

**SUBMITTED BY ISELA GUTIÉRREZ
DIRECTOR, JUVENILE JUSTICE INITIATIVE
TEXAS CRIMINAL JUSTICE COALITION**

**REGARDING CSHB 3689
HOUSE CORRECTIONS COMMITTEE**

APRIL 2, 2009

Dear Members of the Committee,

My name is Isela Gutiérrez. I am the Director of the Juvenile Justice Initiative at the Texas Criminal Justice Coalition (TCJC). Thank you for allowing me to present testimony regarding CSHB 3689 by Representatives McClendon, Kohlkorst, Madden, and Isett, the Sunset bill for the Texas Youth Commission (TYC), the Texas Juvenile Probation Commission (TJPC), and the Office of the Independent Ombudsman (OIO).

Once again, we would like to commend Sunset staff for their excellent work in the crafting of this bill as originally filed and in the committee substitute. In general, TCJC is very supportive of CSHB 3689 as introduced today, and we are particularly excited about the potential in a few key provisions of the bill, which are highlighted below.

THE CREATION OF A SINGLE TEXAS JUVENILE JUSTICE BOARD IS A GOOD ALTERNATIVE TO CONSOLIDATION OF THE AGENCIES.

We applaud Rep. McClendon et al for opting for an alternative to the consolidation of TYC and TJPC with the creation of a single Texas Juvenile Justice Board to oversee both agencies. This structure will force the coordination in budget requests and strategic planning sought by Sunset, regardless of the personalities leading the two agencies, and can be revisited by lawmakers during the 2015 Sunset review if necessary.

THE JUVENILE JUSTICE IMPROVEMENT PLAN CAN BE A MEANINGFUL VEHICLE FOR THOUGHTFUL, DELIBERATE, AND LASTING REFORM.

The development of an effective juvenile justice system that delivers adequate rehabilitative services to youth is critical to the current and long-term public safety of Texas communities. A major overhaul of the juvenile justice system requires careful planning by state and local stakeholders to best support youth success. Developing a Juvenile Justice Improvement Plan to guide that effort will provide an opportunity for local juvenile probation departments and the state to partner to determine where service gaps exist and to develop collaborative solutions to address these unmet needs. Critical elements that must be a part of the planning effort to ensure full realization of positive outcomes are below:

- **A transparent and inclusive development process** that includes outside stakeholders, such as youth, families, community and advocacy groups, and experts in the field. The current language in CSHB 3689 is an excellent step in this direction.
- **A major data collection initiative** so that Texas lawmakers can base their deliberations on objective data about effective programs, rather than on anecdotal evidence alone. Currently, no state agency tracks local juvenile probation outcomes to determine which programs are working for youth. This lack of data is a major roadblock to Texas' efforts to rationalize and coordinate state juvenile justice funding. This initiative should receive dedicated funding that can only be used toward this purpose, and lawmakers should require an outside entity to conduct this data collection and research. The outside entity could be either a legislative advisory entity, such as the State Auditor or the Legislative Budget Board, or a nationally recognized organization that specializes in juvenile justice policy research and has done it for other states, such as the Annie E. Casey Foundation or the National Council on Crime and Delinquency.¹

In Florida, the Office of Public Policy and Government Accountability (OPPAGA) conducted extensive research on the provision and quality of juvenile justice services. Many of the areas studied by

OPPAGA are critical for Texas lawmakers to understand in order to develop the juvenile justice system that Texans deserve. **Below are key research topics that should be included for study in any Juvenile Justice Improvement Plan:**

- Use of state and locally-operated post-adjudication facilities, including the kinds of treatment programs offered, staffing ratios for direct care, case management and clinical staff, and the demographics of youth (offense, treatment need, age, race, gender, education, county of origin, etc.) who are placed in state facilities versus locally-operated post-adjudication facilities.
- Outcomes of locally-operated post-adjudication facilities by facility.
- Use of probation revocation to commit youth to TYC custody. Approximately 50% of all youth who are committed to TYC each year arrive as a result of a probation violation.
- Use of progressive sanctions guidelines by juvenile judges.
- Use of risk and needs assessments to guide disposition decisions.

Note: Please see appendix for additional data elements that should be gathered by the state in order to inform the Juvenile Justice Improvement Plan.

A RESEARCH-BASED COMMUNITY CORRECTIONS PILOT FOCUSED ON DIVERTING NON-VIOLENT YOUTH FROM TYC IS AN IMPORTANT COMPONENT OF SYSTEM-WIDE REFORM.

On January 14, 2009, the Sunset Advisory Commission voted to establish a community corrections pilot program that would divert lower-risk, non-violent offenders, who had mostly committed drug and property crimes, from TYC by providing county-operated juvenile probation departments with access to state funds through a competitive grant program administered by the state. Sunset also recommended that the Legislature appropriate sufficient funding to establish and implement the pilot.

We support the community corrections pilot as outlined in CSHB 3689, and are eager to see a thoughtful, research-based community corrections pilot implemented. Such a pilot – followed by a thorough evaluation of outcomes – is an important component of system-wide reform, and is key in transitioning the current system to the high quality juvenile justice system that Texas children, families and communities deserve.

However, neither the House nor the Senate has included funding for this type of pilot in their budget recommendations.

The House did not fund a community corrections pilot of any kind, instead opting to restore the state's one-time loss of federal Title IV-E funding,² which can be used by juvenile probation departments to serve youth at risk of being dually dependent and delinquent. Typically, these monies are used to serve lower-level offenders, who are similar to those that Sunset envisioned diverting through the community corrections pilot.

The Senate opted to reallocate \$53 million³ from TYC's budget to TJPC's budget for the operation of three community corrections pilot programs proposed by Dallas County, Travis County, and a 22-county consortium from Southeast Texas⁴ that would target higher-risk youth offenders, rather than the type of pilot program recommended by Sunset. Unfortunately, this funding would not offset the loss of Title IV-E

dollars to juvenile probation departments this biennium, which may result in increased commitments to TYC as counties struggle to maintain existing programming.

While TCJC supports proven, community-based diversions for high-risk, high-needs youth offenders, such as Multi-Systemic Therapy and Functional Family Therapy,⁵ a significant body of research demonstrates that lower-level, non-violent offenders are often best rehabilitated in non-institutional, community-based settings, which are typically less expensive to operate than secure correctional facilities and pose less liability to the state or county.⁶ Thus, the non-violent or “general offender” population (in FY08 this group of youth accounted for 49% of new commitments to TYC) is the youth population that is most likely to be successfully diverted into county-operated, community-based programming.

The lack of coordinated effort between the two chambers in the funding of this important aspect of the Sunset decision is disheartening, as the thoughtful, research-based, and collaborative creation, implementation, and evaluation of this pilot is critical in moving Texas’ juvenile justice reform efforts forward.

In this spirit, TCJC urges the Committee to consider the following as ways to ensure that this important element of the Sunset bill is maintained:

- **Work with House and Senate budget conferees to restructure the funding that is currently appropriated for Title IV-E restoration and the community corrections pilots in Dallas County, Travis County, and Southeast Texas into a competitive pilot that more closely resembles Sunset’s recommendations and will have a greater impact on juvenile justice statewide.**
- **Pass the bill with the community corrections pilot language as is in order to preserve this critical Sunset recommendation, with the intent to find funding for it in the next biennium.** If the Committee opts for this path, it is critical that TJPC not be held liable for failing to implement an unfunded mandate.
- **Mandate the creation of a community corrections pilot targeting non-violent youth as an outcome of the Juvenile Justice Improvement Plan.**

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I appreciate the chance to testify before the committee, and hope that you will seize the opportunity before you to craft CSHB 3689 in a way that will lead to a juvenile justice system that will work for youth, families, and communities. The thoughtful crafting of juvenile justice policies today will strengthen communities in the long-term, and will result in long-term economic and public safety benefits for future Texans.

¹ The Annie E. Casey Foundation (AECF), founded in 1948, seeks to foster public policies, human-service reforms, and community supports that more effectively meet the needs of today’s vulnerable children and families. To do so, the Foundation makes grants that help states, cities, and neighborhoods fashion more innovative, cost-effective responses to these needs. Currently, both Dallas and Harris Counties are receiving assistance from AECF in seeking alternatives to pre-adjudication detention of youth who do not pose a risk to public safety through AECF’s Juvenile Detention Alternatives Initiative (JDAI). Evidence from other JDAI sites throughout the country demonstrate that successful detention reform at the local level can ultimately lead to fewer youth committed to state care. The National Council on Crime and Delinquency, founded in 1907, is a nonprofit organization which promotes effective, humane, fair, and economically sound solutions to family, community and justice problems. Recently they have worked with juvenile justice reform measures in California, Florida, and numerous other states.

² TJPC anticipated losing as much as \$34 million in Title IV-E funding to juvenile probation departments over the 2010-11 biennium. The House Appropriations Committee opted to restore \$23 million of that money as a one-time cost, and pended the restoration of an additional \$11 million to Article XI of the budget. According to TJPC, 122 counties will be impacted by the loss of Title IV-E funding this biennium.

³ Of this total amount, \$35 million was placed in Article V of SB 1 for community corrections pilots in Dallas and Travis Counties, and \$18 million was placed in Article XI of SB 1 for the Southeast Texas regional pilot.

⁴ The Southeast Texas regional pilot proposal includes the following counties: Angelina, Austin, Brazoria, Brazos, Chambers, Fort Bend, Galveston, Grimes, Hardin, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Orange, Polk, Shelby, Tyler, Walker, Waller and Wharton Counties.

⁵ Functional Family Therapy is an empirically grounded and highly successful family intervention for at-risk and juvenile justice involved youth. For more information, go to <http://www.fftinc.com>. Multi-Systemic Therapy is a research-proven and cost-effective treatment for youth with serious behavioral problems. For more information, go to <http://www.mstservices.com>. 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. For more information, go to <http://www.mtfc.com>. In 2006, the Washington State Institute for Public Policy found that all three of these programs saved money and reduced crime.

⁶ Latessa, Edward J. and Lowenkamp, Christopher T., *Reclaiming Texas Youth: Applying the Lessons from RECLAIM Ohio to Texas*, (Texas Public Policy Foundation, March 2009), 14. Additional research resources are available upon request.

APPENDIX

IMPORTANT DATA ELEMENTS THAT SHOULD INFORM THE JUVENILE JUSTICE IMPROVEMENT PLAN

TYC Institutions and TJPC Post-Adjudication and Detention Facilities

Security

- Physical security
- Staff ratio
- Restraints used
- Disciplinary system

Problems

- Incidents reported
- Complaints (number filed, resolution, action taken, consumer survey of confidence in the system)

Services offered

- What kinds of programs are offered, how many beds?
- How good are the services?
 - Quality assessment questions.
 - Are after-care programs available?
 - Also, what about an outcome study?

Population

- Demographics
- Juvenile justice history
- Reasons for referral/commitment
- Special needs
- Length of stay

Staff

- Who works there?
- What is their background?
- Turnover and retention issues

Costs per day

- What kinds of services are included in this cost?
- How is the cost per day calculated?

Judges

- All types of counties – rural, urban, and in between
- Reasons why they might refer a youth to TYC, other than violent felony
- What kinds of outcomes are judges hoping to see after a youth completes post-adjudication confinement?

Progressive Sanctions

- Are progressive sanctions guidelines being followed?
- How much deviation from the guideline exists?
- What are the ramifications for the deviations (either upward or downward) for youth, families, counties, and TYC?

Juvenile Probation

- Program outcomes by type of youth offender served
- Assessment of service gaps in availability of treatment services and placement options
- Use of intensive, non-residential programming and its success rate
- Recidivism rates by department, facility, and program type, that track youth through the adult criminal justice system
- Reasons for revocation of youth to TYC