



WRITTEN TESTIMONY

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**REGARDING JUVENILE PROBATION REFORM PROPOSALS
HOUSE CORRECTIONS COMMITTEE**

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Dear Members of the Committee,

My name is Isela Gutiérrez, Director of the Juvenile Justice Initiative at the Texas Criminal Justice Coalition (TCJC). Thank you for allowing me the opportunity to present testimony on behalf of TCJC in regards to the juvenile probation reform proposals.

A REDIRECTION OF STATE FUNDING FROM SECURE CONFINEMENT TO PROVEN, COMMUNITY-BASED PROGRAMS IS AN IMPORTANT COMPONENT OF SYSTEM-WIDE JUVENILE JUSTICE REFORM.

We support the concept of increased state investment in juvenile probation interventions that has been advanced through the Sunset review process, and we are eager to see it implemented. Such a shift in state funding – followed by a thorough evaluation of outcomes – is an important component of system-wide reform. The various reform proposals currently under consideration by lawmakers, in conjunction with the 5-year Juvenile Justice Improvement Plan outlined in the juvenile justice Sunset bills (SB 1020/HB 3689), will be key in transitioning the current system from its over-reliance on secure confinement into a high-quality juvenile justice system that delivers proven interventions to Texas children, families, and communities.

STATE FUNDS SHOULD BE USED TO PROMOTE THE DEVELOPMENT OF EVIDENCE-BASED, NON-RESIDENTIAL PROGRAMS.

TCJC particularly supports the use of state funding to assist counties in developing proven, community-based diversion programs, which are typically less expensive to operate than secure correctional facilities and pose less liability to the state or county.

Many of the county-operated, secure, post-adjudication facilities are not markedly different from TYC institutions in size, architecture, or culture.¹ As demonstrated by last session's tragic revelations about TYC, without adequate oversight any secure correctional environment can – and all too often does – become the setting for abuse, neglect and exploitation of incarcerated youth.² Sadly, this reality has been demonstrated in juvenile corrections systems across the country.³

Shifting youth downstream to be incarcerated in county-operated correctional facilities – a secure setting where the state has little information or oversight over performance outcomes – is something that Texas must be cautious about. The state's goal should be safe communities and successful juvenile justice interventions, with only those youth who pose a danger to themselves or others incarcerated in TYC facilities or county-operated post-adjudication facilities.

A significant body of research demonstrates that lower-level, non-violent offenders are often best rehabilitated in non-institutional, community-based settings,⁴ thus suggesting that the “general offender” population, who typically have committed non-violent drug or property crimes, may have better outcomes if diverted from TYC institutions into non-residential, community-based programming. In FY08, this group of youth accounted for 49% of new commitments to TYC.⁵

Proven interventions also exist for high-risk, high-needs, violent youth offenders, such as Multi-Systemic Therapy (MST) and Functional Family Therapy (FFT).⁶ MST has demonstrated decreases in long-term re-arrest rates ranging from 20 to 70%,⁷ while FFT has also been shown to reduce recidivism rates by between 25 and 60%⁸

THE REFORM PROPOSALS CAN STRENGTHEN JUVENILE PROBATION DEPARTMENTS, WHILE SIMULTANEOUSLY INCREASING ACCOUNTABILITY TO THE STATE AROUND ISSUES SUCH AS PROBATION REVOCATION.

Some have characterized the juvenile probation reform proposals as TYC reform. However, we believe that the desired outcome of these proposals would be better defined as strengthening local juvenile probation departments. The goal is to provide juvenile probation departments with additional resources from state coffers, so that counties are able to do a better job rehabilitating youth in the community than they have done in the past, thus reducing the total number of youth sent to TYC without negatively impacting the safety of the local community.

On the criminal justice side, the state has looked closely at the use of revocations for non-law violations of probation (also called “technical violations”) by local adult probation departments to commit individuals to state prison. We believe that such an examination is also necessary on the juvenile side.

Every year since 1997, between 45-50% of youth committed to TYC arrive as a result of having violated a condition of their probation. However, there is no state-level entity that keeps data on the type of probation violation (e.g., technical, law, status offense, etc.) that triggers the revocation. Without this data, it is not possible for the state to determine whether such revocations to TYC are the result of law violations or technical violations. The latter could be indicative that a locally operated juvenile probation department requires additional resources or technical assistance.

In an attempt to better understand the nature of youth revocation to TYC, TCJC gathered data from five counties. From an analysis of the data, it appears that the majority of probation violators revoked to a TYC facility arrive as the result of a technical violation. These violations include: failure to follow curfew, failure to report, failure to attend school, or simply failure to follow rules.

Note: In reviewing data provided by the county juvenile probation departments, it is important to recognize that many counties differ in the way they document youth violations of probation, which hampers attempts at data analysis.

- From FY 2000-08, Harris County reported that over 33% of its commitments to TYC had been committed based on technical violations (over 1,400 youths out of a total of 4,238 commitments).
- From FY 2000-2007, Dallas County reported that 50% of its commitments to TYC had been committed based on technical violations (1,112 youth out of a total 2,220 commitments).
- From 2002 through November, 2008, El Paso County reported that 34% of its commitments to TYC had been committed based on technical violations (125 youth out of a total of 370 commitments).
- From FY 2000-07, Denton County reported that 44% of its commitments to TYC had been committed based on technical violations (161 youth out of a total of 363 commitments).

- From FY 2000-09, Williamson County reported that 58% of its commitments to TYC had been committed based on technical violations (95 youth out of a total of 163 commitments).⁹

This initial and limited look at the available data on revocation indicates significant numbers of youth committed to TYC arrive as a result of a technical violation. Additional data collection and analysis, as well as discussions among system stakeholders (such as juvenile probation departments, prosecutors, defense attorneys, and others), is required to understand how many of the youth currently being committed to TYC on a technical violation could be better handled through some kind of community-based sanction. Nevertheless, if even a portion of the youth who are currently revoked to TYC for non-law or technical violations could stay in their communities and be treated along with their families, the state of Texas could save millions of dollars and likely reduce the rate of repeat offense and re-arrest

A THOROUGH EVALUATION OF OUTCOMES, INCLUDING A MAJOR DATA COLLECTION INITIATIVE, IS CRITICAL TO THE SUCCESS OF THE REFORM PROPOSALS AND FUTURE SYSTEM IMPROVEMENT EFFORTS.

Currently, no state agency tracks local juvenile probation outcomes to determine which programs are working for youth. For example, there is no state entity that can readily provide data (e.g., recidivism rates by facility, type of program, profiles of youth served, etc.) to help lawmakers identify “model programs” that currently demonstrate success. This lack of data collection and analysis is a major roadblock to Texas’ efforts to rationalize and coordinate state juvenile justice funding: without it, lawmakers cannot base their deliberations on objective information about effective programs but instead must rely on anecdotal evidence alone. Moreover, this dearth of statewide data also inhibits the ability of counties to engage in real-time, apples-to-apples comparisons of the efficacy of their own programs with others across the state. Access to this information will improve the ability of juvenile probation departments to identify shared challenges and to develop solutions tailored to local realities, thus maximizing the state’s ability to improve juvenile justice outcomes at all levels.

A major data collection and analysis initiative should receive dedicated funding that can only be used toward this purpose, and lawmakers should require an outside entity to conduct the collection and analysis. 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.¹⁰

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I appreciate the chance to testify before the Committee, and hope that you will seize the opportunity before you to develop the juvenile probation reform proposals 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 For more information on locally-operated secure post-adjudication facilities, please see Texas Juvenile Probation Commission, *Registered Secure Juvenile Facilities in Texas*, http://www.tjpc.state.tx.us/publications/other/searchfacilityregistry_results.asp?SelectedFacilityType=2&SortBy=CountyName.

² U.S. Department of Justice, *Beyond the Walls: Improving Conditions of Confinement for Youth in Custody* (Washington, DC: OJJDP, 1998),

http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/72/48.pdf.

³ For a laundry list of horrific conditions in juvenile correctional facilities, please see Abrams, Douglas, "Reforming Juvenile Delinquency Treatment to Enhance Rehabilitation, Personal Accountability and Public Safety," *Oregon Law Review* 84, no. 4 (2006): 1001-1092. For more information on CRIPA investigations by the Department of Justice, please visit <http://www.usdoj.gov/crt/split/cripa.php>.

⁴ 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.

⁵ Texas Youth Commission, *Commitment Profile for New Commitments Fiscal Years 2004 – 2008*, <http://www.tyc.state.tx.us/research/profile.html>.

⁶ Functional Family Therapy is an empirically grounded and highly successful family intervention for at-risk and juvenile justice involved youth. For more information, please see <http://www.fftinc.com>. Multi-Systemic Therapy is a research-proven and cost-effective treatment for youth with serious behavioral problems. For more information, see <http://www.mstservices.com>. Multidimensional Treatment Foster Care is another 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, see <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.

⁷ *More Things That DO Make a Difference for Youth*, (American Youth Policy Forum, 1999), 101,

<http://www.aypf.org/publications/compendium/C2S35.pdf>. For a study of MST rearrest rates over a 14-year period see also, Schaeffer, C.M., & Borduin, C.M., "Long-term follow-up to a randomized clinical trial of multisystemic therapy with serious and violent juvenile offenders," *Journal of Consulting and Clinical Psychology* 73 no. 3 (2005): 449-450.

⁸ James Alexander and others, "Functional Family Therapy (FFT)," *Blueprints for Violence Prevention, Book Three*, (Boulder, CO: Center for the Study and Prevention of Violence, 1998),

<http://www.colorado.edu/cspv/blueprints/modelprograms/FFT.html>.

⁹ No state-level entity keeps this information. This information was gathered by an independent researcher working for the Texas Criminal Justice Coalition from county juvenile probation departments in from October to December, 2008.

¹⁰ 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, AECF 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 demonstrates that successful detention reforms 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.