

**WRITTEN TESTIMONY**

**SUBMITTED BY ISELA GUTIÉRREZ  
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TEXAS CRIMINAL JUSTICE COALITION**

**REGARDING JUVENILE PROBATION REFORM PROPOSALS  
JOINT CRIMINAL JUSTICE LEGISLATIVE  
OVERSIGHT COMMITTEE**

**APRIL 22, 2009**

Dear Members of the Committee,

My name is Isela Gutiérrez, Director of the Juvenile Justice Initiative at the Texas Criminal Justice Coalition (TCJC).

TCJC is a non-profit, non-partisan organization funded exclusively by private foundations and individual donors. We promote real solutions to the problems facing Texas' criminal and juvenile justice systems through policy analysis and public education. TCJC's Juvenile Justice Initiative (JJI) advocates for juvenile justice policy solutions that maximize opportunities for troubled youth to become productive, law-abiding adults. Through educational outreach, JJI promotes reallocation of juvenile justice funding toward community-based alternatives to incarceration, treatment for substance abuse and mental health problems, juvenile drug courts, and restorative justice practices.

Thank you for allowing me the opportunity to present testimony on behalf of TCJC in regards to the juvenile justice 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 (see below) – 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.

**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.<sup>1</sup>

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

**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.<sup>2</sup> 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.<sup>3</sup> Sadly, this reality has been demonstrated in juvenile corrections systems across the country.<sup>4</sup>

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 must be safe communities and successful juvenile justice interventions. Only those youth who pose a danger to themselves or others should be 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,<sup>5</sup> 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.<sup>6</sup>

Proven interventions also exist for high-risk, high-needs, violent youth offenders, such as Multi-Systemic Therapy (MST) and Functional Family Therapy (FFT).<sup>7</sup> MST has demonstrated decreases in long-term re-arrest rates ranging from 20 to 70%,<sup>8</sup> while FFT has also been shown to reduce recidivism rates by between 25 and 60%.<sup>9</sup>

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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 community corrections 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.

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<sup>1</sup> 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

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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.

<sup>2</sup> 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](http://www.tjpc.state.tx.us/publications/other/searchfacilityregistry_results.asp?SelectedFacilityType=2&SortBy=CountyName).

<sup>3</sup> 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](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/15/72/48.pdf).

<sup>4</sup> 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>.

<sup>5</sup> 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.

<sup>6</sup> Texas Youth Commission, *Commitment Profile for New Commitments Fiscal Years 2004 – 2008*, <http://www.tyc.state.tx.us/research/profile.html>.

<sup>7</sup> 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.

<sup>8</sup> *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.

<sup>9</sup> 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>.

## APPENDIX

### IMPORTANT DATA ELEMENTS THAT SHOULD INFORM THE JUVENILE JUSTICE IMPROVEMENT PLAN

#### *TYC Institutions and TJPC Post-Adjudication and Detention Facilities*

##### Security

- Physical security available
- Staff ratio
- Restraints used (type, frequency)
- Disciplinary system for youth and staff

##### Problems

- Number of incidents reported per facility
- Complaints (number filed, action taken, resolution, consumer survey of confidence in the system)
- Number of law enforcement investigations, if any

##### Services offered

- Kinds of programs offered; number of beds available per facility, including specialized treatment beds
- Quality of services
  - Use of risk-needs assessments, if any
  - Availability and quality of after-care programs
  - Outcomes for youth and families, including recidivism rates, subsequent out-of-home placement, and sibling referrals

##### Population

- Demographics
- Youth history of juvenile justice involvement
- Reasons for referral/commitment
- Special needs
- Length of stay

##### Staff

- Demographic profile
- Employment and/or educational background
- Training
- Turnover and retention rates

##### Costs per day

- Services included in this cost
- How costs per day are calculated

### **Judges**

- Reasons why judges might refer a youth to TYC or secure confinement, other than for a violent felony
- Kinds of outcomes that judges are hoping to see as a result of post-adjudication confinement

### **Progressive Sanctions**

- Whether progressive sanctions guidelines are being followed
- Extent of deviation from the guidelines
- Ramifications for the deviations (either upward or downward) for youth, families, counties, and TYC

### **Juvenile Probation Departments**

- Program outcomes by type of program and 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 (technical violation, law violation)
- Ways to reduce the numbers of youth revoked to TYC for non-law violations of probation

### **Schools**

- Number and demographic profile of youth referred to juvenile probation departments for school-based offenses
- Number and demographic profile of youth referred to JJAEPs
- Proportion of discretionary versus mandatory referrals to JJAEPs