

# SUNSET ADVISORY COMMISSION

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STAFF REPORT WITH COMMISSION DECISIONS

## Texas Juvenile Justice Department Office of the Independent Ombudsman

2022-23  
88TH LEGISLATURE



# SUNSET ADVISORY COMMISSION



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*Cover photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the south facade of the Capitol. Photo Credit: Janet Wood*

# **TEXAS JUVENILE JUSTICE DEPARTMENT**

## **OFFICE OF THE INDEPENDENT OMBUDSMAN**

SUNSET STAFF REPORT WITH COMMISSION DECISIONS

2022-23

88TH LEGISLATURE

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## HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at [sunset.texas.gov/how-sunset-works](https://www.sunset.texas.gov/how-sunset-works). The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at [sunset.texas.gov](https://www.sunset.texas.gov).

### **Sunset Staff Report**

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

### **CURRENT VERSION: Sunset Staff Report with Commission Decisions**

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

### **Sunset Staff Report with Final Results**

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

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# SUNSET COMMISSION DECISIONS

## Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendations for the Texas Juvenile Justice Department (TJJD) and the Office of the Independent Ombudsman (OIO), as well as modifications and new recommendations raised at the public hearing.

In response to reports of scandal and inefficiencies, the Legislature abolished the state's two juvenile justice agencies in 2011 and merged their functions into the newly created TJJD. Today, the unified agency both manages state facilities and oversees county juvenile probation departments, but it remains caught in the longstanding cycle of instability that plagued its predecessors. Chronic staff shortages fuel TJJD's current turmoil, heightening safety risks and decreasing access to rehabilitation inside state facilities. Employee turnover understandably consumes TJJD's attention but also prevents greater focus on reforms designed to keep youth closer to home. Meanwhile, the agency's governing board has failed to provide the proactive leadership needed to improve outcomes for youth, TJJD staff, and local stakeholders.

Given TJJD's complex needs and high-stakes mission, the Sunset Commission recommended a limited-scope review in two years so the Legislature can more quickly assess the agency's progress. Additionally, the commission made recommendations that would increase funding for state-level facility construction and county-level capacity building; advance planning efforts to serve more youth locally; restructure the governing board; revise certain sentencing and confinement requirements; and reduce barriers to entry for county-level employees, among other changes.

Finally, while subject to Sunset review but not abolishment, OIO continues to fulfill a critical role in the state's juvenile justice system by investigating, evaluating, and securing youth rights. Nonetheless, the office's statutory authority and internal procedures require updates to minimize unnecessary risks and ensure rights violations do not slip through the cracks.

## ISSUE 1

**Unless TJJD's Critical Staffing Issues are Adequately Addressed, the Juvenile Justice System Will Remain In a Cycle of Instability, Unable to Fully Achieve Legislative Goals.**

**Recommendation 1.1, Alternative Recommendation Adopted** — Replace the original staff recommendation with the following. Express the will of the Sunset Commission that the Legislature consider appropriating additional funding to TJJD for the construction of two new state secure facilities. The appropriative committees could consider:

- a. The number of new beds necessary to adequately house and treat youth adjudicated of a felony offense and committed to the state's care, which the commission suggests should be at least 200;
- b. Suitable locations for the facilities near population centers that offer sufficient workforces to support the staffing, treatment, and programming needs of committed youth; and



- c. Opportunities for either or both of the new facilities to specialize in specific treatment and programming for committed youth, such as crisis stabilization and mental health care.

As a related management action to assist with the appropriative committees' work, the recommendation would direct TJJD to collaborate with relevant stakeholders, including other state agencies, in developing suggested locations for both facilities. The recommended locations may include particular counties or regions of the state, rather than precise sites where construction would occur. The agency would submit its two recommended locations to the Sunset Commission and the Legislature by January 6, 2023. When providing TJJD's recommended locations, agency staff should include relevant information and statistical data demonstrating why the locations were selected, such as increased access to treatment providers and proximity to population centers. The agency may also recommend whether either or both facilities should specialize in specific treatment and programming.

**Recommendation 1.2, Adopted** — Require TJJD to update its regionalization plan biennially to ensure its contents are up-to-date and actionable.

**Recommendation 1.3, Adopted as Modified** — Authorize TJJD to incentivize diversion within and collaboration between Texas counties through its grantmaking processes. Additionally, add the Legislative Budget Board as one of the stakeholders TJJD should consult and coordinate with when developing updates to its funding formula used to calculate financial assistance for county juvenile boards.

**Recommendation 1.4, Alternative Recommendation Adopted** — Replace the original staff recommendation with the following. Continue TJJD as the state's stand-alone juvenile justice agency for two years, until September 1, 2025. Direct Sunset Commission staff to conduct a limited-scope review of TJJD during the 2024-25 biennium focused on the following:

- a. Implementation of Sunset management recommendations adopted by the commission and statutory recommendations passed by the Legislature during the 2022-23 biennium;
- b. Barriers to implementing Sunset management recommendations adopted by the commission and statutory recommendations passed by the Legislature during the 2022-23 biennium;
- c. Any changes needed to improve coordination between TJJD and the Texas Department of Criminal Justice (TDCJ), particularly for youth transferred from TJJD's custody to TDCJ's custody; and
- d. Decision-making processes involving TJJD's board and executive director to evaluate any needed changes in board engagement, delegation of duties, staff discretion, and transparency.

Additionally, specify Sunset's recommendations to the 89th Legislature may include any recommendation the commission considers appropriate based on the limited-scope review.

**Recommendation 1.5, Adopted** — Direct TJJD to complete statutorily required regionalization duties that remain unfinished or underdeveloped. (Management action — nonstatutory)

**Recommendation 1.6, Adopted** — Direct TJJD to seek guidance from the State Office of Risk Management to develop strategies for addressing and minimizing employee injuries. (Management action — nonstatutory)



## ISSUE 2

### TJJD's Board Must Vastly Improve Its Governance and Engagement to Overcome the Agency's Operational Crises and Leadership Instability.

**Recommendation 2.1, Adopted** — Require the board to provide oversight and accountability for any duties the board delegates to the executive director.

**Recommendation 2.2, Adopted as Modified** — Authorize the board to appoint advisory committees. Additionally, require TJJD to create a Youth Career & Technical Education advisory committee to oversee and coordinate ongoing and future vocational training for youth in TJJD's custody, including opportunities for TJJD to partner with community colleges and other local entities to provide this training.

**Recommendation 2.3, Adopted** — Require the board to adopt rules for the Advisory Council on Juvenile Services.

**Recommendation 2.4, Adopted** — Abolish the inactive statutory advisory committee on vocational education and employment programs.

**Recommendation 2.5, Adopted as Modified** — Update the standard across-the-board requirement related to board member training and improve the usefulness of the training. As a related management action, expand training topics for TJJD board members to include overviews of the disbursement of state grant funding to county juvenile probation departments, and the composition, duties, and functions of the Advisory Council on Juvenile Services.

**Recommendation 2.6, Adopted** — Direct the board to evaluate and update its own policies and practices to more efficiently and effectively perform its duties. (Management Action — nonstatutory)

**Recommendation 2.7, Adopted** — Direct TJJD to adopt a four-year rule review plan and rules that are required by statute. (Management Action — nonstatutory)

**Recommendation 2.8, Adopted** — Direct TJJD to seek representation by the Office of the Attorney General to pursue a modification of the Parrie Haynes and John C. Wende trusts that would appoint a qualified third party trustee and an advisory committee to assist the trustee. (Management Action — nonstatutory)

## ISSUE 3

### Key Elements of TJJD's Statute, Rules, and Procedures Do Not Conform to Common Regulatory Standards.

**Recommendation 3.1, Adopted** — Require TJJD to establish a risk-based approach to inspections for county- and state-level entities, including contract facilities operated by private entities.

**Recommendation 3.2, Adopted as Modified** — Remove prescriptive education and experience requirements for juvenile probation officers (JPOs) from statute. However, prohibit TJJD from adopting rules specifying JPOs must acquire a degree higher than an associate's degree from an accredited college or university to be eligible for officer certification.

**Recommendation 3.3, Adopted** — Clearly require TJJD to develop guidelines for evaluating applicants' criminal history for all of its certifications.

**Recommendation 3.4, Adopted** — Remove subjective certification requirements for county-level officers.

**Recommendation 3.5, Adopted** — Authorize TJJD to issue provisional certifications to officer applicants upon employment with a county juvenile probation department or relevant private entity while they complete their required training.

**Recommendation 3.6, Adopted** — Require TJJD to adopt rules governing its administrative investigation process to provide adequate due process for certified officers.

**Recommendation 3.7, Adopted** — Require TJJD to collect, maintain, and make publicly available detailed statistical information on complaints regarding certified officers.

**Recommendation 3.8, Adopted** — Direct TJJD to comply with statutory requirements by developing rules and procedures regarding certification of military service members, veterans, and military spouses. (Management action — nonstatutory)

**Recommendation 3.9, Adopted** — Direct TJJD to develop a formal process to refer nonjurisdictional complaints to the appropriate agency. (Management action — nonstatutory)

## ISSUE 4

### The Office of the Independent Ombudsman Needs Clearer Authority and Formalized Policies to Better Secure the Rights of Youth in the Juvenile Justice System.

**Recommendation 4.1, Adopted** — Require TJJD and county juvenile probation departments to notify OIO about contract facilities in which they place post-adjudicated youth.

**Recommendation 4.2, Adopted** — Require OIO to establish a risk-based approach to site visits for county- and state-level entities, including contract facilities operated by private entities.

**Recommendation 4.3, Adopted** — Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public.

**Recommendation 4.4, Adopted** — Direct OIO to create policies and procedures for consistently collecting and tracking findings from its site visits. (Management action — nonstatutory)

**Recommendation 4.5, Adopted as Modified** — Direct OIO to formalize its policies and procedures for including key site visit findings and trends in its quarterly reports. Additionally, direct TJJD's board to formally discuss and, if needed, take action during public meetings on key site visit findings and trends included in quarterly reports submitted by OIO. (Management action — nonstatutory)

**Recommendation 4.6, Adopted** — Direct OIO to develop clear procedures for referring and tracking nonjurisdictional complaints regarding licensed professionals to relevant state agencies for further inquiry. (Management action — nonstatutory)

## ISSUE 5

### TJJD's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews

**Recommendation 5.1, Adopted** — Combine two TJJD reports related to the effectiveness of youth rehabilitation efforts, and continue all other reporting requirements for TJJD.

**Recommendation 5.2, Adopted** — Update TJJD's statute to reflect the requirements of the person-first respectful language initiative.

**Recommendation 5.3, Adopted** — Direct TJJD to improve and update its website content. (Management action — nonstatutory)

## ADOPTED NEW RECOMMENDATIONS

### Board Governance and Agency Administration

- Sweep the existing Texas Juvenile Justice Board, and reduce its size from 13 to nine members, including the following members appointed by the governor with the advice and consent of the Senate:
  - a. One member who is a district court judge of a court designated as a juvenile court;
  - b. One prosecutor in a juvenile court;
  - c. One member of a county commissioners court with past or current juvenile justice experience;
  - d. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;
  - e. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 persons but fewer than 80,000 persons younger than 18 years of age;
  - f. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age;
  - g. One licensed adolescent mental health treatment professional or a representative from a local mental or behavioral health authority who has past or current experience working with juveniles;
  - h. One certified educator with past or current juvenile justice experience, or one juvenile justice professional with past or current experience operating a county- or state-level secure juvenile justice facility; and
  - i. One member of the general public.

Require a juvenile justice professional appointed under (h) to recuse themselves from voting on or participating in decisions — including matters involving abuse and neglect — that solely impact the department for which they work or contract, or the facility which they oversee.

The recommendation would provide that all current board member terms expire on September 1, 2023, and new members would serve staggered six-year terms. Current members would be eligible

for re-appointment if so determined by the governor to maintain needed expertise. Board members serving on August 31, 2023, would continue to do so until a majority of new appointments are made.

- Amend statute to include requirements regarding the TJJD executive director's qualifications and duties. Statute would require TJJD's board to employ an executive director who possesses the following minimum qualifications:
  - a. Five years of experience in the field of juvenile corrections or congregate care in an administrative capacity;
  - b. Three years of experience in the field of juvenile corrections or congregate care in an administrative capacity and a graduate degree from an institution of higher education in a relevant field, such as penology, adolescent development, behavior management, or rehabilitative services; or
  - c. Seven years of experience in management and administration of a government agency, institution of higher education, or business enterprise of size comparable to the department.

Statute would also require the executive director to acknowledge and discuss all internal audits with the board.

- Require TJJD to track the frequency with which the executive director takes the following actions:
  - a. Selecting youth for conditional placements;
  - b. Selecting youth for home placements;
  - c. Waiving the requirement for determinate-sentenced youth to spend their entire minimum period of confinement in a high-restriction facility;
  - d. Waiving the requirement for youth to be on intensive supervision when initially released on parole;
  - e. Authorizing early discharges for youth on parole; and
  - f. Finalizing appeals brought forward by advocacy groups or social service providers who were denied certain access to TJJD facilities.

Require the executive director to provide the Sunset Commission and TJJD's board with quarterly aggregated data on the number of times the agency took actions described in (a)-(f) during the previous quarter, broken down by action type.

- Direct TJJD's board to periodically convene state staff and county stakeholders to gather feedback on the implementation of and any needed changes to the Texas Model for Reform in state- and county-level facilities. (Management action — nonstatutory)

## Regionalization and County Resources

- Express the will of the Sunset Commission that the Legislature consider appropriating additional funding to TJJD specifically to increase the capacity of pre- and post-adjudication facilities operated at the county level of the juvenile justice system. While reviewing opportunities to expand this capacity, the appropriative committees could consider:
  - a. Opportunities to broaden the accessibility and impact of existing grant programs that directly fund the operation of beds in county-level facilities;

- b. The number of state-funded, county-operated pre- and post-adjudication beds needed to keep more justice-involved youth at the county level while still maintaining public safety; and
- c. Options for ensuring the accessibility and availability of additional capacity across the state's seven juvenile probation regions. (Change in appropriation)
- Express the will of the Sunset Commission that the Legislature consider amending Rider 4 (Restrictions, State Aid) of TJJD's bill pattern in the General Appropriations Act to authorize local juvenile probation boards to provide certain salary increases for individual personnel.

As a related management action, direct TJJD to work with the Legislative Budget Board on clarifying Rider 4. The clarification should authorize local juvenile probation boards to provide salary increases that exceed 112 percent of an individual personnel's salary from the previous year, provided the boards use non-state funds to pay for the portion of any increase above 112 percent. (Change in appropriation)

- Require TJJD, in consultation with the Advisory Council on Juvenile Services, to adopt rules specifying county juvenile probation departments must apply for state diversion funding before a juvenile court commits a youth to TJJD, unless the youth committed certain high-level offenses, as defined in rule.
- Require TJJD to partner with a public or private university, or universities, to inventory and map available resources for justice-involved youth in Texas. TJJD would also consult university partners, the Advisory Council on Juvenile Services, and other relevant stakeholders, as needed, to determine the types of data TJJD requires to timely identify and address regional resource, program, and service gaps that cause commitments of youth to the agency's custody.

TJJD would be required to adopt rules specifying that county juvenile probation departments must, at useful and reasonable intervals, report to TJJD relevant data on resource gaps, including the particular needs of youth the county has committed to the state's custody and the types of resources, programs, and services that — if available in the community — might allow these youth to receive treatment at the county level of the juvenile justice system.

## Sentencing and Confinement

- Prohibit a juvenile court from waiving its exclusive original jurisdiction and transferring a person to a district court or criminal district court for criminal proceedings if the person is:
  - a. A child and allegedly committed a state jail felony; or
  - b. 18 years or older and allegedly committed a state jail felony when they were between 15 and 17 years old.
- Require TJJD to transfer a youth to the most restrictive setting appropriate as the youth awaits a juvenile adjudication or adult conviction for committing a first- or second-degree felony while in TJJD's custody. Require TJJD to adopt rules establishing the transfer process, which must include procedures for determining the most appropriate setting for the youth based on their rehabilitative needs while preserving due process rights.
- Amend statute to specify an individual is not eligible for adult community supervision if the individual is convicted of a felony that occurred when they were:
  - a. At least 17 years old;

- b. Committed to TJJD's custody; and
  - c. Confined in a TJJD facility.
- Require TJJD to refer a youth to the juvenile court that entered the order of commitment for approval of a transfer to the Texas Department of Criminal Justice for confinement if the youth was:
  - a. Committed to TJJD's custody with a determinate sentence; and
  - b. Subsequently convicted or adjudicated of a first- or second-degree felony or assault of a public servant that was committed when the youth was at least 16 years old and in TJJD's custody.
- Allow a youth who commits a first-, second-, or third-degree felony while in TJJD's custody to be eligible for a determinate sentence.
- Direct TJJD to consult with the Office of the Inspector General and Special Prosecution Unit before discharging from custody or releasing under supervision a youth committed to TJJD without a determinate sentence who has completed their minimum length of stay but is:
  - a. Alleged by a pending petition to have committed a felony while in TJJD's custody; or
  - b. Under indictment for a felony that occurred while in TJJD's custody. (Management action — nonstatutory)

### **Data Reporting**

- Require TJJD to publish data on its website by October 1 of each year providing aggregated information on the number of youth committed to its custody during the previous fiscal year, broken down by:
  - a. Committing offense level;
  - b. Sentence type;
  - c. Youth age; and
  - d. Youth gender.

Additionally, require TJJD to publish quarterly aggregated data on its website providing a one-day snapshot of the information in (a)-(d) for TJJD facilities as a whole and for each TJJD facility individually. For any data published online, the agency must ensure the aggregated information does not enable data users to identify individual youth.

### **Facility Capacity**

- Require TJJD to adopt rules authorizing county juvenile probation departments to confine youth committed to TJJD within either a pre- or post-adjudication facility as the youth awaits transfer to the state's custody.
- Authorize TJJD and local juvenile probation departments to use or contract with a facility that was constructed or previously used for the confinement of adult offenders, provided the facility is appropriately retrofitted to accommodate youth-specific requirements and needs.

### **Dual-Status Youth**

- Update the composition of the Advisory Council on Juvenile Services to also include the commissioner of the Department of Family and Protective Services or the commissioner's designee. Among its other



duties, require the advisory council to assist TJJD in assessing and developing recommendations to improve information-sharing processes between youth-serving entities, particularly those serving youth in both the juvenile justice and child welfare systems.

- Direct TJJD, in consultation with the Advisory Council on Juvenile Services and the Department of Family and Protective Services, to develop written comments describing the implementation status of HB 932 and HB 1521 passed by the 85th Texas Legislature. The comments should discuss barriers to efficiently sharing information about youth who are dually involved in the juvenile justice and child welfare systems, as well as recommendations to improve data request and response processes. The agency should provide these written comments to the Sunset Commission and legislative committees with primary jurisdiction over TJJD by January 6, 2023. (Management action — nonstatutory)

## Fiscal Implication Summary

While some of the Sunset Commission's decisions would have a fiscal impact to the state, the exact costs cannot be estimated at this time. For example, recommendations for the House Appropriations and Senate Finance committees to consider funding increases for TJJD would require the state's investment over multiple biennia, but the Legislature must determine the level of funding needed and available to implement improvements. Further, reducing the board's size may result in a positive fiscal impact from decreased reimbursements to members for incurred expenses, but any changes would depend on the board's future practices, such as how often and where members convene. Recommendations for both TJJD and OIO to revamp their inspection processes should increase efficiency by targeting resources based on risk, but the fiscal impact would depend on the results of each agency's assessment tools. Other recommendations adopted by the commission would require staff time to complete, but TJJD and OIO could implement them with existing resources.



# SUMMARY OF SUNSET STAFF REPORT

The Texas Juvenile Justice Department (TJJD) was born out of scandal, and a decade later, it still struggles to avoid the spotlight. In 2011, the Legislature abolished TJJD's predecessors — the Texas Youth Commission and Texas Juvenile Probation Commission — following reports of sexual abuse in state juvenile facilities and significant operational problems. The Legislature created TJJD to take their place, requiring the new agency to manage state facilities, oversee county juvenile probation departments, and ultimately unify the juvenile justice system. However, the Sunset review found state and county silos remain strong, and the system's history of problems continues to repeat itself. Meanwhile, justice-involved youth, TJJD staff, and local stakeholders bear the toughest consequences.

Since TJJD's creation, the agency has been caught in a seemingly endless cycle of crises and instability, even after legislative initiatives cut in half the number of youth it must directly supervise and facilities it must operate. Historically, when scandal breaks, a leadership shakeup quickly follows involving new board chairs, executive directors, conservators, or other officials. With each upheaval comes fast-paced efforts to right past wrongs, improve facility safety, and transform the agency's culture. Wary employees are hesitant to implement new management priorities knowing time-intensive reforms may not survive the next sea change. Staff frustrations and reform fatigue continue to intensify until another scandal takes center stage, prompting the cycle to start all over.

This pattern played out once again over the past year, beginning in July 2021 with a Texas Rangers investigation into staff misconduct at state facilities followed in October by the launch of a U.S. Department of Justice probe into conditions at these facilities. By the time Sunset staff concluded this review, federal intervention was ongoing, and employees were adjusting to yet another leadership overhaul after the board chair, executive director, and chief inspector general all left TJJD during the spring of 2022.

Sweeping leadership changes in response to persistent problems may shift the agency's overall direction, but they fail to address the primary root cause of TJJD's current turmoil: chronic staff shortages. TJJD's employee turnover rates are the worst among large state agencies and drive nearly all other challenges the agency must manage. In recent years, understaffing has heightened youth safety risks, limited their access to rehabilitation, increased their suicidal and aggressive behaviors, and compelled further staff turnover, creating a self-perpetuating and dangerous situation TJJD cannot reverse with existing resources, despite staff's best efforts. Issues in state secure facilities understandably consume the agency's attention and prevent greater focus on reforms designed to keep youth out of TJJD's custody. Sunset staff concluded financial investments are needed to reduce employee turnover rates and bolster TJJD's diversion efforts across the state. Only then can Texas make the vital transition toward fewer large, scandal-ridden state facilities in the future.

Since its creation, TJJD has been caught in a seemingly endless cycle of crises and instability.

To curb staff turnover and implement changes adopted through the Sunset process, TJJD requires attentive, accountable, and proactive leadership — a duty the agency’s governing board has not fulfilled. Despite ongoing challenges, the board has delegated many of its responsibilities to staff without oversight or accountability, which delays necessary actions to keep youth and staff safe. Though this level of disengagement could otherwise warrant a wholesale change to the board’s membership or structure, Sunset staff could not recommend another significant leadership shift that would likely exacerbate TJJD’s ongoing instability. Instead, the board’s engagement requires a jumpstart to effectively lead staff through recurring crises and stabilize the system. Some board members began making improvements during the review to address these problems, though considerable work is still required to ensure staff has steady direction moving forward. Given this need and TJJD’s high turnover rates, Sunset staff recommends another review in six years so the Legislature can assess the agency’s progress more quickly.

Beyond persistent state-level issues, the review also identified opportunities to improve other TJJD functions, such as county officer certification and enforcement practices. For example, adjusting various certification processes and requirements would remove unnecessary barriers to entry for county-level employees who work directly with youth without reducing safety. Together, these changes could expand county departments’ ability to hire staff and use existing bedspace to keep justice-involved youth under local supervision whenever possible.

Finally, while subject to Sunset review but not abolishment, the Office of the Independent Ombudsman (OIO) continues to fulfill a critical role in the state’s juvenile justice system by investigating, evaluating, and securing youth rights. Since juvenile correctional facilities operate behind locked doors, stakeholders rely on OIO to serve as their eyes and ears through routine site visits and complaint investigations. Nonetheless, OIO’s statutory authority and internal procedures require updates to minimize unnecessary risks and ensure rights violations do not slip through the cracks.

The following material highlights Sunset staff’s key recommendations for the Texas Juvenile Justice Department and Office of the Independent Ombudsman.

## Sunset Issues and Recommendations

### ISSUE 1

**Unless TJJD’s Critical Staffing Issues are Adequately Addressed, the Juvenile Justice System Will Remain In a Cycle of Instability, Unable to Fully Achieve Legislative Goals.**

Inadequate staffing levels in state secure facilities have become the agency’s most pressing problem, with juvenile correctional officers reporting a 71 percent turnover rate in fiscal year 2021. Employee shortages limit juveniles’ access to services and force the agency to lock down dorms, which further contributes to youths’ self-injurious and disruptive behaviors. At the same time, TJJD employees face physical harm and have limited capacity to accomplish all of the duties necessary to effectively rehabilitate youth. The staffing crisis also impacts county juvenile probation departments, as they continue to supervise committed youth stuck in TJJD’s prolonged intake backlog. Additionally, chronic state-level issues direct the agency’s attention away from initiatives that would maximize diversion from state facilities, increase capacity at the local level, and encourage collaboration across county departments. Sunset staff found abolishing or transferring TJJD would not meaningfully address any of the issues it must tackle.

Instead, investment in TJJD's state- and county-level duties is needed to stabilize the agency and help balance its focus between safe facility management and increased regional diversion.

### **Key Recommendations**

- The House Appropriations and Senate Finance committees should consider increasing TJJD's appropriation to stabilize staffing levels and ensure the agency accomplishes its statutory regionalization duties.
- Require TJJD to update its regionalization plan biennially to ensure its contents are up-to-date and actionable, and direct the agency to complete unfinished or underdeveloped regionalization duties.
- Authorize TJJD to incentivize diversion within and collaboration between Texas counties through its grantmaking processes.
- Continue TJJD for six years.

## **ISSUE 2**

### **TJJD's Board Must Vastly Improve Its Governance and Engagement to Overcome the Agency's Operational Crises and Leadership Instability.**

TJJD needs a fully engaged, attentive board to effectively oversee the agency's high-stakes, high-risk mission, establish a consistent strategic direction, and unify the juvenile justice system. However, the board has not taken actions to correct serious problems that endanger youth and staff. Further, board members have delegated key statutory duties to the executive director without providing sufficient direction, supervision, or accountability, further burdening staff overwhelmed by employee shortages and operational challenges. Improving the board's understanding and performance of its statutory responsibilities would position the agency to successfully implement current and future juvenile justice reforms.

### **Key Recommendations**

- Require the board to provide oversight and accountability for any duties the board delegates to the executive director.
- Direct the board to evaluate and update its own policies and practices to more efficiently and effectively perform its statutory duties, such as supervising its direct reports, developing strategic plans, setting funding priorities, and adopting required rules.
- Update statutory requirements related to board member training, and direct TJJD to improve the usefulness of this training.
- Authorize the board to establish advisory committees in rule, and require the board to adopt policies and procedures for the statutory Advisory Council on Juvenile Services in rule.

## ISSUE 3

### Key Elements of TJJD's Statute, Rules, and Procedures Do Not Conform to Common Regulatory Standards.

Certain provisions in TJJD's statutes, rules, and procedures do not match model standards or common practices observed through Sunset's experience reviewing agencies. Specifically, procedures for TJJD's inspections of state- and county-level entities, including juvenile correctional facilities, do not adequately incorporate risk to ensure the agency dedicates its limited resources most efficiently and effectively. Additionally, some statutory certification requirements for county-level officers are inappropriately subjective or overly prescriptive and could create barriers to certification for otherwise qualified candidates. Aligning TJJD's statutes, rules, and procedures with best practices would help protect youth and staff, increase efficiency, and maintain public safety.

#### Key Recommendations

- Require TJJD to establish a risk-based approach to inspections for state- and county-level entities, including contract facilities operated by private entities.
- Remove prescriptive education and experience requirements for certified juvenile probation officers from statute, and instead require TJJD to establish requirements in rule.
- Authorize TJJD to issue provisional certifications to officer applicants while they complete their required training.

## ISSUE 4

### The Office of the Independent Ombudsman Needs Clearer Authority and Formalized Policies to Better Secure the Rights of Youth in the Juvenile Justice System.

Since its creation, OIO's authority has expanded to include the protection of youth rights at both the county and state levels of the juvenile justice system, but its enabling statute and internal procedures have not kept pace with these changes. For example, OIO's statute does not provide a clear mechanism through which ombudsmen can readily identify all of the facilities under their jurisdiction, which could lead to rights violations going unnoticed and unreported. Further, while the office collects voluminous information during its routine site visits, it lacks procedures to efficiently track systemic trends and communicate these issues through its existing reporting requirements. Finally, OIO does not formally assess risk to ensure it allocates its resources toward state- and county-level entities with the greatest oversight need. Updating OIO's statute and formalizing its policies would strengthen the office's ability to protect the rights of all youth under its jurisdiction and better ensure continuity of operations over time.

#### Key Recommendations

- Require TJJD and county juvenile probation departments to notify OIO about contract facilities in which they place post-adjudicated youth.



- Require OIO to establish a risk-based approach to site visits for state- and county-level entities, including contract facilities operated by private entities.
- Direct OIO to create policies and procedures for consistently tracking findings from its site visits and including key findings and trends in its quarterly reports.

## ISSUE 5

### TJJD's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Over the years, Sunset reviews have included a number of standard elements designed to ensure open, responsive, and effective government. Sunset staff identified several needed changes to TJJD's reporting requirements and website to improve the agency's effectiveness, efficiency, transparency, and accountability. Sunset staff also identified terms within TJJD's statutes that are not consistent with the Legislature's person-first respectful language initiative.

#### Key Recommendations

- Combine two TJJD reports related to the effectiveness of youth rehabilitation efforts, and continue all other reporting requirements.
- Direct TJJD to improve and update its website content.
- Update TJJD's statute to reflect the requirements of the person-first respectful language initiative.

## Fiscal Implication Summary

While some recommendations in this report would have a fiscal impact to the state, the exact costs cannot be estimated at this time. In Issue 1, the recommendation for the House Appropriations and Senate Finance committees to consider increasing TJJD's appropriation aims to improve staff retention and regionalization efforts and would require the investment of general revenue funds over multiple biennia. However, the Legislature must determine the level of funding needed and available to implement improvements. In Issues 3 and 4, recommendations for TJJD and OIO to adopt risk-based processes for their inspections and site visits should increase efficiency by targeting resources toward the highest-risk entities under their jurisdiction. The fiscal impact, however, would depend on the results of each agency's risk assessments. Other recommendations in the report would require staff time to complete, but TJJD and OIO could implement them with existing resources.



# AGENCY AT A GLANCE

In 2007, the Texas Legislature initiated major juvenile justice reforms after a sexual abuse scandal at the Texas Youth Commission (TYC) led to criminal investigations and a governor-ordered conservatorship.<sup>1</sup> In 2011, the Legislature abolished TYC along with the Texas Juvenile Probation Commission and merged their functions into the new Texas Juvenile Justice Department (TJJD).<sup>2</sup> Today, TJJD is responsible for partnering with county governments, courts, and communities to promote public safety; provide a full continuum of services for justice-involved youth; and produce positive outcomes for youth, families, and communities.<sup>3</sup> To carry out this mission, TJJD performs the following key duties:

- Houses youth committed to TJJD's custody in correctional facilities, halfway houses, and contract facilities, and supervises youth released from TJJD on parole.
- Provides residential treatment programs, mental health services, and education to youth in TJJD's custody.
- Investigates allegations of criminal and administrative misconduct inside TJJD, county, and contract facilities that provide juvenile correctional services.
- Develops a legislatively mandated regionalization plan to divert youth from state commitment, and distributes grants to county juvenile probation departments.
- Regulates, monitors, and oversees county departments, county facilities, and contract facilities that provide juvenile correctional services.
- Certifies county-level employees who work directly with justice-involved youth.

Appendix A provides a more detailed primer on the Texas juvenile justice system, which primarily serves youth who are at least 10 years old but not yet 17 when they commit an offense.<sup>4</sup>

## Key Facts

- **Governance and oversight.** The governor appoints TJJD's 13-member board with the advice and consent of the Senate to serve staggered six-year terms based on qualifications described in the textbox.<sup>5</sup> The board appoints and supervises TJJD's executive director, chief inspector general, and internal auditor.<sup>6</sup>

The 14-member Advisory Council on Juvenile Services assists the board with county-related juvenile justice issues, long-term strategic planning, and the development of minimum standards for county juvenile probation departments and facilities.<sup>7</sup>

As TJJD's administratively attached oversight body, the Office of the Independent Ombudsman (OIO)

### Statutory Qualifications for TJJD Board Members

- One juvenile district court judge
- Three county commissioners
- One juvenile court prosecutor
- Three chief juvenile probation officers, one from each of the following:
  - A county with fewer than 7,500 youth
  - A county with at least 7,500 but fewer than 80,000 youth
  - A county with 80,000 or more youth
- One licensed adolescent mental health treatment professional
- One certified educator
- Three public members

investigates, evaluates, and secures the rights of certain justice-involved youth.<sup>8</sup> The office is also under Sunset review and is described in the next section of this report.

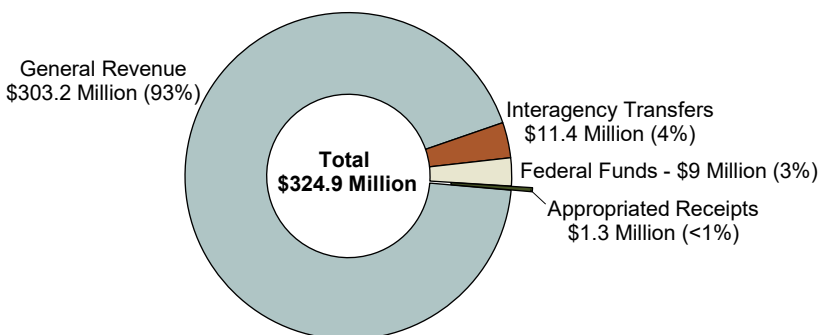
- **Funding.** TJJD received about \$325 million in revenue in fiscal year 2021, mostly from the General Revenue Fund, as shown in the accompanying chart.

The same year, TJJD spent about \$311 million. As the chart shows, most of the agency's expenditures were for county grant disbursements and state facility operations and programs. In fiscal year 2021, the \$14 million gap between revenue and expenditures largely stemmed from a legislative reduction in unexpended revenue made during the 87th Legislative Session.<sup>9</sup> Appendix B describes the agency's use of historically underutilized businesses in purchasing goods and services in fiscal years 2019-21.

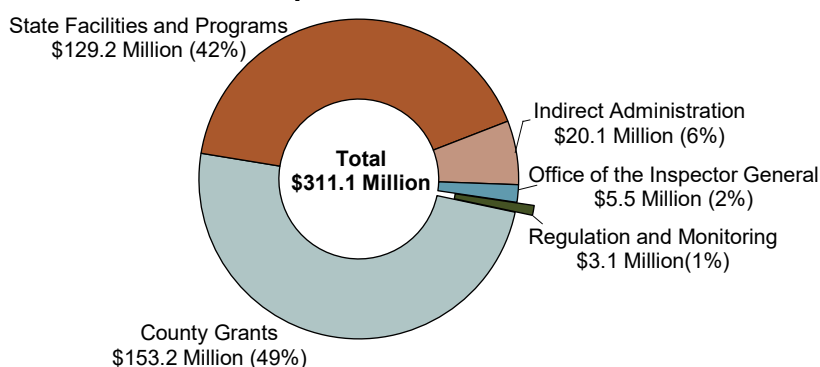
- **Staffing.** At the end of fiscal year 2021, TJJD employed about 1,900 full-time equivalent staff. As shown in the table, over 70 percent of staff worked in one of TJJD's five state secure facilities, discussed in more detail below. Most facility staff are juvenile correctional officers who directly supervise youth 24 hours a day. Appendix C compares the agency's workforce to the percentage of minorities and women in the statewide civilian labor force for fiscal years 2019-21.

- **State juvenile correctional facilities and programs.** Statute authorizes juvenile courts to dispose (sentence) youth to state juvenile correctional facilities for felony-level offenses they commit before turning 17 years old.<sup>11</sup> TJJD is responsible for the treatment, care, and custody of youth committed to its facilities, including providing their housing, food, education, rehabilitative services, and medical care.<sup>12</sup> TJJD carries out state correctional duties through the following functions:

**TJJD Sources of Revenue - FY 2021**



**TJJD Expenditures - FY 2021**



**TJJD Staff by Setting - FY 2021**

Setting	Budgeted Staff	Actual Staff
State Secure Facilities	1,653	1,350
Austin Headquarters	264	229
Halfway Houses	160	145
Office of the Inspector General <sup>10</sup>	85	93
Regional Offices	77	66
<b>Total</b>	<b>2,239</b>	<b>1,883</b>

Operating state-level correctional facilities. TJJD manages and oversees five secure facilities and five halfway houses, as shown in the map in Appendix D. Secure facilities are TJJD's most restrictive residential placements, while halfway houses allow youth to leave the facility for work or services as they prepare to transition back into their communities. In fiscal year 2021, TJJD reported an average daily population of 637 youth in its secure facilities and 56 youth in its halfway houses. TJJD also contracts with eight private facilities and Bexar County for residential placements to house and treat youth in a similar manner to state secure facilities. TJJD reported an average daily population of 56 youth in contract facilities in fiscal year 2021.

Administering treatment services. TJJD assesses all youth in its custody to identify their treatment needs and offers group and individual treatment to meet those needs. All of TJJD's facilities provide general programs for early childhood trauma and focus on four major areas: mental health, substance abuse, sexual behavior, and violent behavior. TJJD also operates specialized residential units for youth with more intensive treatment needs for mental health, sexual behavior, and violent behavior. TJJD provides services to male youth at each of the state's five secure facilities, while all female youth receive services at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas.

Providing parole services. TJJD provides parole services to youth in its custody to help them successfully return to their communities upon release. The agency conducts reintegration planning for youth while they still reside in a facility, and supervises youth and connects them to treatment services after they are released to a halfway house or their home community. In fiscal year 2021, TJJD provided reintegration planning to an average daily population of 749 youth and parole supervision to an average daily population of 270 youth.

- **Office of the Inspector General (OIG).** The Legislature created OIG in 2007 as the state's juvenile justice law enforcement agency.<sup>13</sup> OIG investigates allegations of criminal and administrative misconduct against youth and staff at state, county, and private contract facilities, including incidents involving abuse, neglect, and exploitation. The office operates a 24-hour toll-free hotline for youth, their parents and guardians, staff, and the public to report complaints and crimes. The table summarizes OIG's key activities in fiscal year 2021.

**OIG Key Activities - FY 2021**

Activity	Total
Closed criminal investigations	1,430
Closed administrative investigations	515
Arrests	237

- **Regional and county oversight and services.** In fiscal year 2021, TJJD regulated 76 county-run facilities and eight contract facilities that housed juveniles placed by counties.<sup>14</sup> These facilities must annually register with TJJD.<sup>15</sup> The agency also regulates and supports 165 county juvenile probation departments that serve Texas' 254 counties. In fiscal year 2021, these county departments supervised about 13,500 youth on probation both in the community and in facilities. A county juvenile board oversees each juvenile probation department and appoints a chief juvenile probation officer.<sup>16</sup> Appendix A describes these departments' functions in more detail. TJJD supports local departments through the following functions:

Developing a statewide regionalization plan. Statute requires TJJD to develop a regionalization plan that encourages counties to keep youth closer to home instead of committing them to the state's custody.<sup>17</sup> TJJD's plan divides the state into seven regions, and the counties in each region work together to divert youth from TJJD by identifying alternative residential placements and

community services. TJJD provides funding, technical assistance, and training to counties to assist in these efforts. Appendix E contains information detailing the counties and number of facilities located in each region.

Distributing state grants to counties. TJJD distributes funds to county juvenile probation departments through three mechanisms described below. On average, state grants provide about 25 percent of these departments' annual revenue, while local tax dollars largely fund the rest. In fiscal year 2021, TJJD distributed over \$151 million in state funds to county juvenile probation departments as follows:<sup>18</sup>

- \$131 million in statutorily required formula grants to all county departments for their general operations and programming.<sup>19</sup>
- \$12 million in discretionary state aid grants to most county departments for specific prevention, diversion, and treatment programs and tools.
- \$8 million in mandated grants to specific county departments for legislatively directed programs, such as juvenile justice alternative education programs (JJAEPs) that serve youth expelled from school for certain offenses.<sup>20</sup>

Appendix F provides more detail on all three types of grants.

Developing minimum standards and monitoring compliance. TJJD's board sets minimum standards in rule for county juvenile probation departments, their facilities, and JJAEPs with input from the advisory council.<sup>21</sup> These standards cover a variety of topics, such as facility maintenance, safety protocols, and youth treatment options.

To ensure compliance with minimum standards, TJJD monitors all county departments and facilities, registered contract facilities, and JJAEPs through routine, on-site inspections and desk audits.<sup>22</sup> TJJD provides technical assistance and training to help county departments comply with minimum standards, assists them in developing improvement plans to address issues, and reviews their compliance with the plans. In fiscal year 2021, TJJD inspected 10 departments, 84 county-level facilities, and 17 JJAEPs.

Certifying and disciplining county officers. TJJD certifies employees of county juvenile probation departments and contract facilities who work directly with youth.<sup>23</sup> Certified officers must renew their licenses biennially. Appendix G contains more information about certified officers' duties and qualifications.

TJJD also receives complaints about certified officers, conducts investigations, and takes action against those in violation of statute and rules. These actions include suspensions and revocations of certifications, as well as official reprimands.<sup>24</sup> As shown in the table, almost 5,000 officers held certifications in fiscal year 2021, and TJJD revoked or suspended 82 certifications.

**County Officer Certifications and Disciplinary Actions - FY 2021**

Activity	Total
New Certifications	1,175
Renewed Certifications	2,659
Total Certified Officers	4,897
Revocations	21
Suspensions	61



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<sup>1</sup> Ralph Blumenthal, "Investigations Multiplying in Juvenile Abuse Scandal," *The New York Times*, March 4, 2007, accessed online March 23, 2022, <https://www.nytimes.com/2007/03/04/us/04youth.html>.

<sup>2</sup> Chapter 85 (SB 653), Acts of the 82nd Texas Legislature, Regular Session, 2011.

<sup>3</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 201.002, Texas Human Resources Code.

<sup>4</sup> Section 51.02(2), Texas Family Code.

<sup>5</sup> Section 202.001, Texas Human Resources Code.

<sup>6</sup> Sections 203.002 and 242.102(f), Texas Human Resources Code; Section 2102.006(a), Texas Government Code.

<sup>7</sup> Section 203.0081, Texas Human Resources Code.

<sup>8</sup> Section 261.002, Texas Human Resources Code.

<sup>9</sup> Section 1(77), Chapter 995 (HB 2), Acts of the 87th Texas Legislature, Regular Session, 2021.

<sup>10</sup> Citing a potential funding lapse, the Texas Juvenile Justice Department (TJJD) redirected dollars within the Office of the Inspector General's (OIG) budget toward salaries, enabling OIG to employ more staff than budgeted in fiscal year 2021.

<sup>11</sup> Sections 51.02(2) and 54.04(d)(2)-(3), Texas Family Code.

<sup>12</sup> Section 242.051, Texas Human Resources Code.

<sup>13</sup> Section 242.102, Texas Human Resources Code.

<sup>14</sup> County-level facilities include pre- and post-adjudication facilities operated either by a county juvenile probation department or a private entity. These facilities may be pre-adjudication detention facilities, holdover pre-adjudication facilities, or secure and nonsecure post-adjudication facilities. Pre-adjudication facilities detain youth after they are initially taken into custody, while post-adjudication facilities house and treat youth after a court determines they have committed an offense. Appendix E provides more information.

<sup>15</sup> Sections 51.12(c), 51.125(b), and 51.126(b), Texas Family Code. TJJD maintains a list of regulated county-level facilities in an online registry. In addition to the 84 county-run and contract facilities discussed in the paragraph, the registry also includes one facility that is licensed and regulated by the Department of Family and Protective Services (DFPS). Though the facility may house justice-involved youth, it is not required to comply with TJJD's minimum standards or receive inspections from TJJD.

<sup>16</sup> Section 152.0007(a), Texas Human Resources Code.

<sup>17</sup> Section 203.017, Texas Human Resources Code.

<sup>18</sup> Grant distributions include both upfront allocations of funds to county departments and reimbursements for certain county department expenditures.

<sup>19</sup> Section 223.001, Texas Human Resources Code.

<sup>20</sup> TJJD, Riders 7, 13, 14, 32, and 36, pp. V-30-36, Chapter 1353 (HB 1), Acts of the 86th Legislature, Regular Session, 2019 (General Appropriations Act).

<sup>21</sup> Sections 203.0081(e) and 221.002, Texas Human Resources Code.

<sup>22</sup> Sections 51.12(c-1), 51.125(c), and 51.126(c), Texas Family Code. TJJD does not inspect facilities licensed by other entities that may house and treat justice-involved youth, such as residential treatment centers licensed by DFPS.

<sup>23</sup> Chapter 222, Texas Human Resources Code.

<sup>24</sup> Section 222.053, Texas Human Resources Code.



# OFFICE AT A GLANCE

In 2007, following a sexual abuse scandal at the Texas Youth Commission (TYC), the Legislature created the Office of the Independent Ombudsman (OIO) to investigate, evaluate, and secure the rights of youth committed to TYC.<sup>1</sup> In 2011, the Legislature abolished TYC along with the Texas Juvenile Probation Commission and merged their functions into the new Texas Juvenile Justice Department (TJJD).<sup>2</sup> OIO continued to operate as an independent state agency, performing its functions for youth committed to TJJD instead of TYC.<sup>3</sup> Today, OIO also secures the rights of all post-adjudicated youth — those found to have committed an offense — confined in county-level facilities and private contract facilities. The textbox, *Basic Rights of Youth*, lists the 14 rights OIO secures for youth committed to state, county, or contract facilities and those released on parole before final discharge from the juvenile justice system.<sup>4</sup> To carry out its mission, OIO performs the following key duties:<sup>5</sup>

- Conducts site visits at state, county, and contract facilities that house post-adjudicated youth and at TJJD parole offices.
- Investigates complaints involving youth rights or service delivery issues, and responds to other requests for assistance from youth, their parents and guardians, and other stakeholders.
- Reports significant findings to state and local leadership to incentivize corrective action when needed.

## Basic Rights of Youth

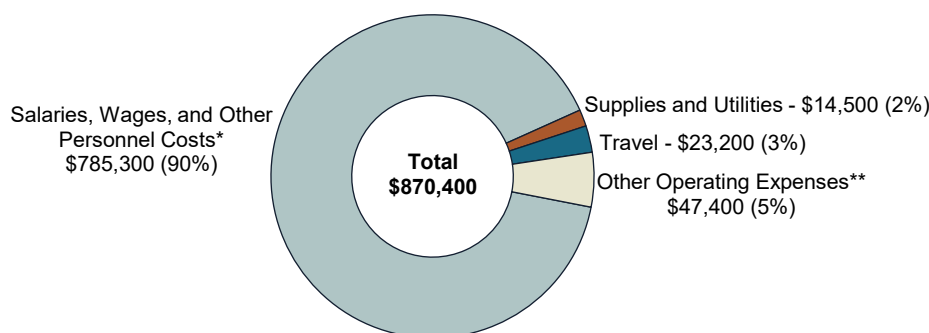
1. Right to Equal Treatment
2. Right of Free Speech and Expression
3. Right of Religious Freedom
4. Right to Personal Possessions
5. Right to Receive Visitors
6. Right of Access to Mail and Telephone
7. Right to Earnings and Monetary Gifts
8. Right to Protection from Physical and Psychological Harm
9. Right to Medical and Dental Care
10. Right of Access to Attorneys
11. Right to be Informed
12. Right to Accuracy and Fairness in Decision Making
13. Right to Confidentiality of Records
14. Right to Express Grievances and Appeal Decisions

## Key Facts

- **Governance.** The governor appoints OIO's independent ombudsman, who is eligible for reappointment, with the advice and consent of the Senate to serve a two-year term.<sup>6</sup> The current independent ombudsman began his first term in January 2018, and his third term will expire in February 2023.
- **Funding.** In fiscal year 2021, OIO received about \$970,000 in revenue, all of which came from the state's General Revenue Fund. Statute specifies funding for the office is appropriated separately from TJJD.<sup>7</sup> However, TJJD must provide indirect support and administrative resources to the office in a way that does not infringe upon OIO's independence.<sup>8</sup>

As shown in the expenditures chart on the following page, the office spent approximately \$870,000 in fiscal year 2021, with 90 percent going toward salaries and other personnel costs. The remaining \$100,000 lapsed back to the General Revenue Fund as a result of staff vacancies and reduced travel expenditures due to the COVID-19 pandemic. TJJD and OIO do not maintain separate purchasing data, so Sunset staff did not prepare a stand-alone analysis of the office's use of historically underutilized businesses in purchasing goods and services.

### OIO Expenditures - FY 2021



\* Other Personnel Costs include insurance and retirement contributions and merit increases or bonuses.

\*\* Other Operating Expenses include miscellaneous expenditures, such as those for vehicle and information technology maintenance.

- **Staffing.** OIO employed 12 full-time staff in fiscal year 2021. Most employees travel throughout the state conducting site visits and investigating complaints at facilities and parole offices, while four employees provide support from the office's Austin headquarters. Because of OIO's small size, Sunset staff did not prepare an analysis comparing the office's workforce to the percentage of minorities in the statewide civilian labor force.
- **Site visits.** OIO conducts periodic site visits at state, county, and contract facilities housing post-adjudicated youth and at TJJD parole offices.<sup>9</sup> Following a site visit, ombudsmen develop reports documenting their findings and may request action plans from relevant staff if needed to correct youth rights issues. In fiscal year 2021, the office conducted 408 site visits, as shown in the table below.

### OIO Site Visits - FY 2021

Entity Type	Number of Entities Visited	Site Visits Conducted
TJJD secure facilities	5	60
TJJD halfway houses <sup>10</sup>	7	33
TJJD parole offices and check-in sites <sup>11</sup>	12	44
County facilities housing post-adjudicated youth	31	110
Contract facilities housing post-adjudicated youth from TJJD, counties, or both	58	161
<b>Total</b>	<b>113</b>	<b>408</b>

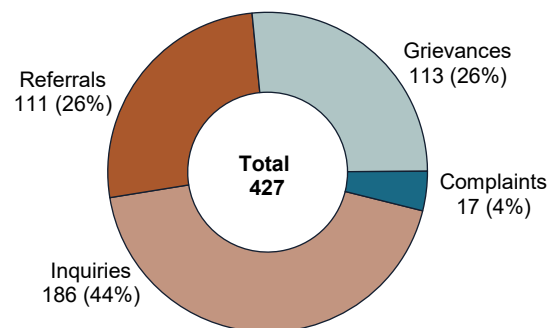
- **Requests for assistance and complaint resolution.** Youth, their parents and guardians, facility staff, and members of the public can request assistance from OIO through the office's 24-hour toll-free hotline, office phone, or email.<sup>12</sup> The office classifies incoming requests for assistance into four categories:
  - *Complaints* involve youth rights or service delivery issues that require OIO to conduct an on-site investigation or desk review. For example, OIO may open a complaint if youth allege they are not receiving access to medical care.

- *Grievances* involve youth rights or service delivery issues that ombudsmen determine facility employees can rectify through internal procedures. For example, OIO may relay information about youth receiving cold food to a facility’s internal grievance system.
- *Inquiries* do not involve youth rights or service delivery issues but still fall within OIO’s jurisdiction or expertise to address. For example, OIO may answer inquiries about a youth’s release date.
- *Referrals* involve matters that do not fall within OIO’s jurisdiction or expertise to address, requiring staff to forward concerns to external entities. For example, OIO must refer allegations of criminal behavior to TJJD’s Office of the Inspector General (OIG) or local law enforcement for further investigation.

As shown in the accompanying chart, OIO closed 427 requests for assistance in fiscal year 2021. Of the 17 complaints closed, OIO sustained nine and required an action plan from TJJD, county juvenile probation departments, or contract entities to address findings. OIO designated the remaining eight complaints as unfounded.

- **Reporting.** As an independent oversight entity, OIO’s reporting function is its primary tool for incentivizing corrections to problems found through site visits and complaint investigations. Statute requires the office to submit a quarterly report to the governor, lieutenant governor, each member of the Legislature, state auditor, and TJJD’s board describing its work, investigation results, and any recommendations for improvement.<sup>13</sup> Additionally, OIO must immediately report serious child abuse cases or problems concerning program administration, services, or investigation interference to the governor, lieutenant governor, speaker of the House of Representatives, state auditor, TJJD’s board, and TJJD’s OIG.<sup>14</sup>

**Closed Requests for OIO Assistance  
FY 2021**



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- <sup>1</sup> Section 57, Chapter 263 (SB 103), Acts of the 80th Texas Legislature, Regular Session, 2007.
- <sup>2</sup> Chapter 85 (SB 653), Acts of the 82nd Texas Legislature, Regular Session, 2011.
- <sup>3</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Sections 261.002 and 261.003, Texas Human Resources Code.
- <sup>4</sup> 37 Texas Administrative Code, Part 11, Chapter 380, Subchapter D, Section 380.9301 (2015) (Texas Juvenile Justice Department (TJJD), *Basic Youth Rights*).
- <sup>5</sup> Sections 261.055 and 261.101, Texas Human Resources Code.
- <sup>6</sup> Section 261.051, Texas Human Resources Code.
- <sup>7</sup> Section 261.003(b), Texas Human Resources Code.
- <sup>8</sup> TJJD, Rider 33, p. V-36, Article V, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (General Appropriations Act).
- <sup>9</sup> Section 261.101(a)(4) and (f)(1), Texas Human Resources Code. The Office of the Independent Ombudsman (OIO) has the authority to review or inspect any facility that houses post-adjudicated youth including facilities that are not operated or regulated by TJJD, such as those licensed by the Department of Family and Protective Services.
- <sup>10</sup> TJJD currently operates five halfway houses. The Brownwood House and McFadden Ranch have closed since OIO completed its final site visits at each location in fiscal year 2021.
- <sup>11</sup> TJJD operated three district parole offices and five parole check-in sites as of May 2022.
- <sup>12</sup> OIO, *Contacts*, accessed online May 12, 2022, <https://www.tjjd.texas.gov/index.php/independent-ombudsman#contacts>. In 2019, OIO and the Office of the Inspector General (OIG) entered into a memorandum of understanding requiring OIG to operate OIO's hotline outside of normal business hours and to maintain the confidentiality of calls received.
- <sup>13</sup> Section 261.055(a), Texas Human Resources Code.
- <sup>14</sup> Section 261.055(b), Texas Human Resources Code.



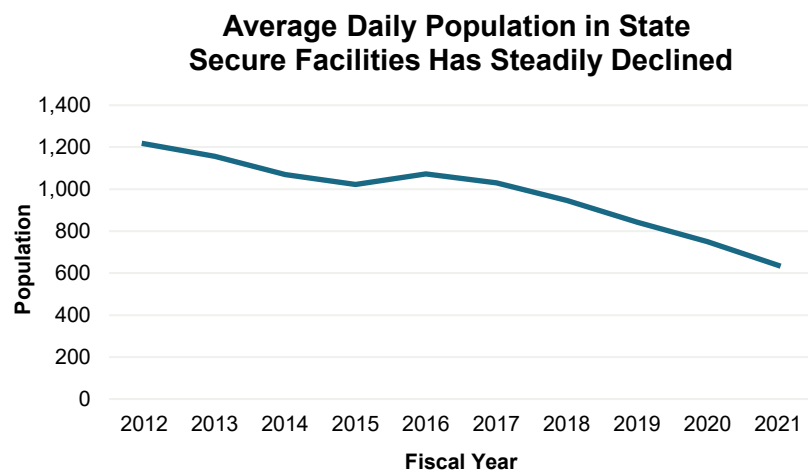
# ISSUE 1

Unless TJJD's Critical Staffing Issues are Adequately Addressed, the Juvenile Justice System Will Remain In a Cycle of Instability, Unable to Fully Achieve Legislative Goals.

## Background

Following reports of scandal and inefficiencies, the Legislature abolished the state's juvenile justice agencies — the Texas Youth Commission (TYC) and Texas Juvenile Probation Commission — in 2011 and formed the Texas Juvenile Justice Department (TJJD).<sup>1</sup> The unified agency took on its predecessors' functions, including management and administration of state-level juvenile justice facilities and oversight of county-level juvenile probation services. The Legislature also required TJJD to work with local communities to promote public safety by providing a full continuum of services to youth.<sup>2</sup> Today, the agency's stated priorities include offering systemwide support to keep youth "shallow" in the juvenile justice system, promoting trauma-informed services, and providing safety and security for Texans.

Since TJJD's creation, legislative reforms, such as mandates to "regionalize" the system by serving more youth locally, have drastically changed the number and makeup of justice-involved youth. Most significantly, the average daily population in TJJD's secure facilities dropped by 50 percent as shown in the accompanying graph, and as a result, the number of these facilities decreased from 10 to five. However, as the population in TJJD's custody decreased, the committed youth who still entered state facilities had more intensive treatment needs and more serious offense histories. Between fiscal years 2013 — the first year after TJJD's creation when reliable statistics were available — and 2021, the proportion of youth entering TJJD facilities with moderate or high mental health needs nearly quadrupled. At the same time, the proportion of youth admitted for aggravated robberies and assaults rose by 80 percent.



## Findings

**TJJD's near-constant state of crisis creates instability, burdening the rest of the juvenile justice system and compromising the success of legislative reforms.**

- **Perpetual crisis management.** The Sunset review process offers a unique opportunity for the Legislature to comprehensively examine TJJD for the first time since its creation. Sunset staff found that after a decade, TJJD still struggles to prevent and recover from the same crises that confronted

TYC. As shown in the timeline in Appendix H, problems like violence perpetuated by staff and youth persist, monopolizing the agency's attention at the expense of implementing systemwide initiatives to keep youth out of the state's care. Between fiscal years 2017 and 2021, the following incidents occurred within or in relation to TJJD's secure facilities:

- Two youth suicides at the Ron Jackson and Evins facilities.<sup>3</sup>
- A sexual and physical abuse scandal at the Gainesville facility, followed later by a series of mass disturbances involving assaults on youth and staff.<sup>4</sup>
- A mass disturbance at the Evins facility that included a 33-person fight and lockdowns.<sup>5</sup>
- Arrests of three teens at the Mart facility for beating a fellow youth for nearly 20 minutes while left unsupervised.<sup>6</sup>
- Arrests of current and former TJJD staff from the Mart and Giddings facilities who helped youth abscond from halfway houses to engage in inappropriate relationships.

Operational  
stalemates  
plague TJJD as  
leaders push for  
rapid fixes and  
staff scrambles  
to keep up.

In response to these types of repeat incidents and controversies, TJJD has undergone multiple investigations that triggered nonstop change efforts, frequent leadership shakeups, and a cycle of instability across the agency. Since 2007, top administrative leadership at TYC and later TJJD has turned over 12 times, with most executive directors and conservators staying on the job for less than two years. The most recent leadership changes occurred throughout the spring of 2022 when the board chair, executive director, and chief inspector general all left the agency. As discussed in Issue 2, the agency's governing board has not provided a consistent strategic direction, leaving a succession of short-term leaders with nearly all of the responsibility for getting TJJD on track.

Employees report this volatility creates a culture in which agency executives must prioritize quick action over calculated implementation of long-term plans. Meanwhile, lower-level staff braces for the next upheaval, wary of investing time in reforms that may not outlast the newest leadership shift. Together, these opposing attitudes contribute to operational stalemates, as agency leaders push rapid fixes and staff scrambles to keep up with changing policies and priorities. For example, an ongoing initiative called the Texas Model aims to rehabilitate youth by prioritizing treatment for their past trauma. However, the model's agencywide rollout occurred without comprehensive training or policies shortly before COVID-19's onset, causing ongoing confusion and limited buy-in four years into the change effort.

- **Negatively impacted county operations.** TJJD's internal crises and instability are no longer confined to its own facilities. In recent years, breakdowns in state operations have encroached on county juvenile probation

departments, which handle 98 percent of all juvenile referrals solely at the local level. Faced with escalating COVID-19 cases and widespread staffing challenges, TJJD closed its doors and stopped accepting newly committed youth five times since fiscal year 2020, with intake closures ranging from 5 to 49 days. This left counties to shoulder even more responsibility for the juvenile justice system. Closures created a significant intake backlog that, at its peak, left more than 100 committed youth waiting in county-level facilities, largely on county taxpayers' dime. Some of these youth waited over five months without the ability to earn credit for time served. Others, such as one juvenile who bit off part of another's nose, disrupted county operations so profoundly that TJJD had to prioritize their transfers to state facilities, which at times lengthened intake delays for others even more.

At its peak, TJJD's intake backlog left over 100 youth waiting in county-level facilities.

Committed youth continue to occupy local detention beds that are already in short supply across the state, forcing some county juvenile probation departments to release youth they would have otherwise detained, including those charged with violent offenses. As of May 2022 when Sunset staff's review concluded, the backlog remained at over 90 youth who were still awaiting transfer to a TJJD facility.

- Limited capacity to focus on legislative reform.** One way to reduce instability within TJJD's secure facilities, and thus its overall operations, is to proactively prevent commitments to state custody in the first place. These efforts allow more youth to stay shallow in the juvenile justice system, thereby decreasing the number of juveniles TJJD must directly house, treat, and supervise. In 2015, the Legislature adopted regionalization reform and directed TJJD to divert youth by keeping them under county-level supervision when possible.<sup>7</sup> Research shows regionalization benefits all parties. For example, justice-involved youth committed to state facilities are 21 percent more likely to be rearrested within one year than comparable peers supervised at the county level.<sup>8</sup> Further, as the table highlights, diversion to residential placements or nonresidential programming at the county level saves hundreds of dollars per day, per youth for state and local taxpayers.<sup>9</sup> However, chronic state-level issues like those described below steer the agency's attention away from helping counties develop the capacity to supervise more youth locally. As a result, overloaded TJJD staff — and by extension, county departments and the state at large — cannot maximize regionalization's benefits over time.

**Total Costs Per Day, Per Youth  
FY 2020**

Commitment to a state facility	\$617
Commitment to a non-state facility using TJJD's regional diversion funds	\$394
Diversion to community-based programs in lieu of a residential commitment	\$67

- Systemwide tipping point.** TJJD's continued turmoil leaves the state at a critical juncture. In addition to reviews conducted by the Sunset Advisory Commission and Legislative Budget Board (LBB), the U.S. Department of Justice is currently completing an investigation of conditions at all five state secure facilities, the results of which may necessitate further reform efforts, process overhauls, and investments to implement required changes.<sup>10</sup> Looking forward, LBB anticipates the average daily population in TJJD's

facilities will increase to a projected 1,500 youth by fiscal year 2026, doubling the actual average from fiscal year 2021 and erasing hard-won gains over the last decade.<sup>11</sup> Without legislative intervention, TJJD's cyclical problems will at best continue or at worst become more dangerous and costly.

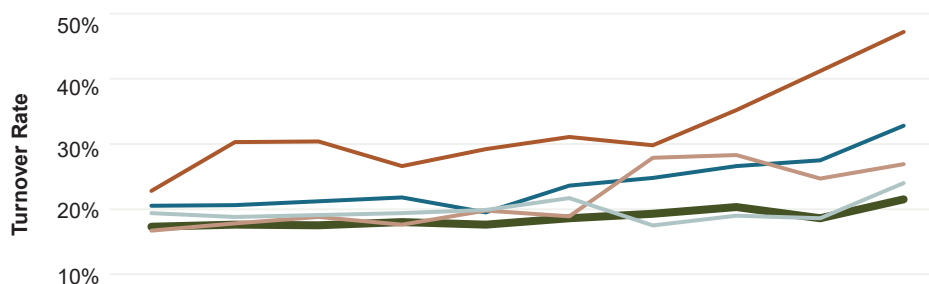
### Unparalleled staff shortages underscore all other problems at TJJD, endangering youth and staff safety.

TJJD's annual turnover rates are the worst among large state agencies in Texas.

Throughout the review, Sunset staff identified various operational issues contributing to TJJD's cycle of instability, but most tied back to a primary root cause: chronic understaffing. Employee turnover usually lies outside of Sunset's focus on maximizing efficiency and effectiveness within an agency's existing resources. However, the impacts of TJJD's severe staffing shortages on agency operations have become so pervasive, Sunset staff determined focusing on other problems could exacerbate rather than fix issues negatively impacting youth, employees, and stakeholders.

Though many entities are experiencing employee turnover problems, TJJD's annual turnover rates are the worst among large state agencies in Texas. As shown in the graph, while statewide turnover rates grew slightly over the last decade, TJJD's rate more than doubled and far exceeded those reported by other agencies.<sup>12</sup> The agency's turnover rates worsened throughout the COVID-19 pandemic, but the graph demonstrates these problems existed long before the onset of the virus.

### TJJD's Turnover Rate Remains Unmatched\*

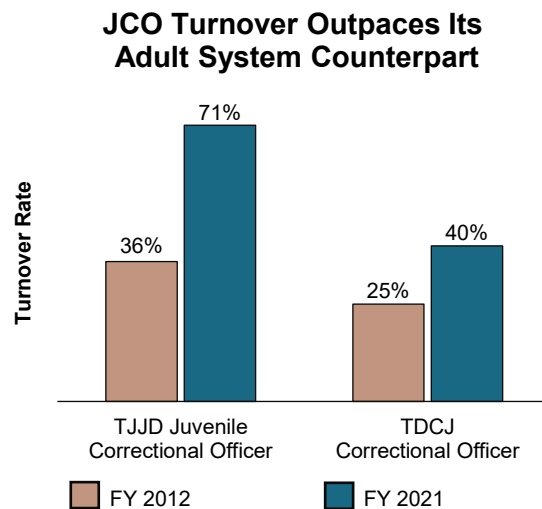


	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
— Texas Juvenile Justice Department	22.8%	30.3%	30.4%	26.6%	29.2%	31.1%	29.8%	35.2%	41.2%	47.2%
— Texas Department of Criminal Justice	20.5%	20.6%	21.2%	21.8%	19.5%	23.6%	24.8%	26.6%	27.5%	32.8%
— Health and Human Services Commission	16.7%	17.8%	18.8%	17.6%	19.8%	18.9%	27.9%	28.3%	24.7%	26.9%
— Department of Family and Protective Services	19.4%	18.8%	19.1%	19.4%	19.9%	21.7%	17.5%	19.0%	18.6%	24.0%
— Statewide Rate**	17.3%	17.6%	17.5%	18.0%	17.6%	18.6%	19.3%	20.3%	18.6%	21.5%

\* The graph includes the top turnover rates among agencies with 1,000 or more employees. It excludes agencies that were abolished or those from which major functions were transferred, resulting in inflated turnover rates during the abolishment or transfer years.

\*\* The statewide rate represents turnover for classified full- and part-time employees at state agencies. The rate does not include interagency transfers.

Juvenile correctional officers (JCOs) who provide daily supervision to committed youth drive the agency's overall staffing shortages. Turnover among these critical employees doubled in the last 10 years and outpaced rates found among the Texas Department of Criminal Justice's (TDCJ) correctional officers, as shown in the accompanying bar graph.<sup>13</sup> In fiscal year 2021, JCOs claimed the highest turnover rate of all state job classifications with 100 or more employees, exceeding the classification with the second highest rate by nearly 20 percentage points.<sup>14</sup> TJJD data suggests the problem is getting worse. As of February, about 30 percent of JCOs hired in fiscal year 2022 left the agency within their first month of employment, up from less than 10 percent in 2019.



In FY 2021, JCOs reported the highest turnover rate among job classifications with 100 or more employees, while correctional officers reported the fifth highest rate.

JCOs are not the only employees TJJD struggles to retain. In fiscal year 2021, seven other positions at TJJD had turnover rates above 30 percent.<sup>15</sup> These positions included health specialists (57.6 percent), case managers (49.5 percent), dorm supervisors (40.5 percent) and security officers (32.3 percent) — all of whom are essential to basic agency operations, youth treatment, and facility safety.<sup>16</sup> Exiting employees consistently cited poor working conditions and low pay as top concerns.<sup>17</sup>

The Legislature and TJJD have taken various steps to address staff shortages, but these efforts have not provided a long-term solution. For example, lawmakers appropriated about \$6 million across fiscal years 2014 and 2015 to target salary increases for JCOs, which contributed to a brief reduction in turnover.<sup>18</sup> In fiscal years 2020 and 2021, the Legislature appropriated about \$8 million to increase pay for JCOs and case managers, but turnover continued to climb, due in part to pay disparities with comparable agencies.<sup>19</sup> For instance, the change temporarily aligned JCOs' salaries with pay for adult correctional officers until TDCJ implemented more expansive and permanent raises during the COVID-19 pandemic. More importantly, in fiscal year 2021, average annual salaries for JCOs and case managers at TJJD fell roughly \$10,000 below pay for Child Protective Services' caseworkers who serve a similar youth population.

Internally, TJJD has also tried the strategies listed in the textbox on the following page to mitigate turnover. While data shows temporary bonuses reduced employee absences at secure facilities, continuing this effort in the next fiscal year is not sustainable within current resources and does not address the root problem of understaffing. Exacerbating the issue are the locations of TJJD's secure facilities, which are far from robust pools of job applicants.

TJJD's facility locations are far from robust applicant pools, exacerbating staffing shortages.

- **Negative impacts on youth.** Chronic staffing shortages in state secure facilities affect nearly every aspect of committed youths' lives and perpetuate TJJD's problems with maintaining safety, providing treatment and



### Efforts to Manage Employee Turnover

- Providing a temporary critical service bonus to certain JCOs and case managers.
- Providing attendance bonuses to facility employees who consistently come to work during their assigned shifts.
- Securing third party staffing assistance from the National Guard and private entities to temporarily fill vacancies.
- Expanding housing options for committed youth by:
  - Contracting for additional beds with a private provider.
  - Developing plans to increase security at a state halfway house and transfer lower-risk youth who otherwise would remain within one of TJJD's secure facilities.
- Creating new positions for county-level employees and former TJJD staff to work in secure facilities on a part-time or as-needed basis.
- Developing plans for roving teams to deploy to facilities in need.
- Starting a pilot program in which newly hired JCOs are paired together to provide increased support and improve safety.
- Attending community events, such as job fairs, to attract new employees.

### Abuse Inside Secure Facilities

In May 2021, a JCO opened the door to a youth's room, allowed four juveniles to enter and attack that youth, signaled when to stop the assault, and coached the victim on how to avoid questions about what happened. During an agency investigation, the JCO confessed to enabling the assault and was subsequently arrested.

Following the incident, the victim had recurring concerns about his safety and refused to leave an isolated unit. He later required off-site medical attention for engaging in self-harm.

services, and ensuring youths' due process rights. Certain longitudinal data shows some incidents like the use of restraints decreased as the youth population fell. However, understaffing coupled with pandemic complications allowed some problems at TJJD to continue, while others worsened between fiscal years 2019 and 2021 — the period for which reliable agency data is most readily available.

Safety risks. Youth safety in correctional facilities largely depends on TJJD staff's ability to provide continuous, active, and effective supervision, but constant turnover creates gaps in this oversight, increasing the risk of sexual and physical abuse against youth. Data released by the federal Bureau of Justice Statistics in 2019 showed Texas ranked fourth in the nation for the percent of youth self-reporting sexual victimization in juvenile justice facilities.<sup>20</sup> In 2021 alone, TJJD's Office of the Inspector General (OIG) arrested current or former TJJD employees from four of the agency's five secure facilities for sexual misconduct, including a JCO who allegedly performed oral sex on a juvenile at a facility.<sup>21</sup>

Physical violence is also ever-present at TJJD. Between fiscal years 2019 and 2021, almost 10,000 major rule violations identified as assaults on youth and staff occurred in secure facilities, about 20 percent of which involved bodily injuries. Numerous stakeholders noted potential undercounting in these statistics, since accurate data collection relies on staff documenting incidents in a timely fashion, a task for which they have limited time. While these violations range widely in type, from non-injurious unauthorized contact

to severe violence, the sheer volume of incidents and their disruptions to safe operations contribute to risk within facilities. The accompanying textbox describes one example of assault in which both juveniles and staff contributed to a youth's injuries.<sup>22</sup>

Increased reliance on lockdowns. TJJD has repeatedly locked down its dorms to prevent dangerous incidents that can occur when there are not enough employees to safely supervise youth. These lockdowns typically



allow the agency to meet staffing requirements under the federal Prison Rape Elimination Act (PREA), which specifies one employee must be available to supervise every eight youth during waking hours.<sup>23</sup> Since 2019, two secure facilities have failed PREA audits due to their inability to maintain this ratio.<sup>24</sup> When a facility is insufficiently staffed, TJJD must secure youth in their individual rooms and allow them out only for basic needs when backup is available. As a result, wait times even for youths' bathroom breaks can take three or more hours. Research also shows these types of lockdowns harm youths' mental health, raising concerns about increased depression and suicide risk in TJJD facilities.<sup>25</sup>

To minimize 24-hour lockdowns, TJJD implemented various strategies like alternative schedules to share available staff among dorms and let youth out of their rooms, but negative outcomes persist. Citing full and partial lockdowns as a root cause, TJJD reported a 35 percent increase in suicide assessments and a 19 percent increase in aggressive behaviors during the fall of 2021. Together, suicidal and aggressive behaviors create a chaotic environment for youth and employees. For example, Sunset staff reviewed multiple incident reports describing youth who harmed themselves while in lockdown, acted out in distress when JCOs attempted to intervene, and were subsequently sprayed with oleoresin capsicum (pepper) spray. The textboxes, *In Youths' Words* and *Lockdown Behaviors*, provide additional information about the effects of lockdowns.

TJJD only began tracking its use of all lockdown types in December 2021 when it became clear these strategies would not be a temporary fix. Between December 2021 and April 2022, dorms in four of TJJD's five secure facilities experienced some form of lockdown for all or part of the day, impacting 116 separate days at the Gainesville facility alone.

Limited access to treatment and case management. Staff shortages and lockdowns decrease access to essential services, despite youths' growing need for more intensive treatment. In fiscal year 2021, TJJD reported more than 6,500 suicide alerts at its secure facilities, an increase of about 40 percent since 2019. TJJD estimated its clinicians each spend roughly 30 hours per week solely on suicide risk assessments, leaving little to no time to provide the rehabilitative treatments youth require including routine counseling. Without adequate and timely support, youths' low or moderate treatment needs become more pronounced, require more intensive intervention, and further fuel treatment shortages inside facilities.

### In Youths' Words

In April 2022, youth wrote letters about the impacts of understaffing and lockdowns on their treatment and behavior. Quotes from those letters include:

"I have to hurt myself to go to the bathroom, and if you don't believe me, I have scars all on my arm."

"It makes me angry when I'm in my cell... It's like you start to go crazy and every little thing upsets you, and that's bad because when you do come out, you might refuse to go back up or worse."

"It doesn't help the brain to function at all. How do you expect for us to learn by just sitting in a room all day long?"

### Lockdown Behaviors

Youth will go to great — and at times, dangerous — lengths to avoid all-day lockdowns. For example, one youth timed the tying of a ligature around his neck to ensure staff performing routine door checks would pull him out of isolation before he was critically injured.

Some case managers can only complete half of their required time with youth.

Similarly, youth have experienced decreased contact with case managers who should serve as each youth's guide through their TJJD commitment. Typically, case managers provide critical services designed to improve youth behavior including individual and group programming, as well as regular coordination between youth, their families, and treatment providers. However, employee shortages mean staff has less time for these activities. For example, over the last year, TJJD cut in half the amount of time case managers must spend one-on-one with youth. Even with these cuts, staff still struggles to meet agency expectations, with internal audits showing some case managers can only complete 50 percent or less of their required time with youth in a given month.

Inadequate access to treatment and case management may prevent youth from completing their required programming, which not only hinders their growth; it can also contribute to extended confinement at TJJD or transfers to adult prison. The textbox describes how this occurs based on the type of sentence a juvenile receives.<sup>26</sup> The agency projects future increases in extensions and adult prison transfers if staffing shortages continue.

### Lengthening Youths' Stay in Confinement

**Indeterminate-sentenced youth.** Most juveniles are sent to TJJD with an indeterminate sentence that commits them to the agency's custody for an indefinite period of time not to exceed their 19th birthday. During intake, TJJD sets a proposed release date and identifies the required treatment and programming youth must complete before this date. At a February 2022 board meeting, TJJD staff reported only five percent of these youth received and completed their required services before their proposed release date last fiscal year. The remaining youth may be subject to release extensions, as determined by an internal agency panel. In fiscal year 2021, this panel recommended extensions in 58 percent of the cases it reviewed, up from 38 percent in 2019.

**Determinate-sentenced youth.** Youth found to have committed certain serious or violent crimes may receive a fixed sentence of up to 40 years. For many of these youth, TJJD makes a recommendation to the court about whether they should transition to adult parole or adult prison when they turn 19; completion of treatment and programming is a key factor the agency considers when making these recommendations. However, staffing shortages limit TJJD's ability to provide timely treatment and services that determinate-sentenced youth need to demonstrate their rehabilitation. Between fiscal years 2019 and 2021, the number of transfers to adult prisons nearly doubled from 21 to 40, due in part to these types of service delays.

Reduced educational opportunities. Altered schedules affect youths' academic growth. In 2017, the Legislature increased flexibility in the number of required instructional minutes youth must receive in correctional facilities, allowing TJJD to implement a four-hour school schedule.<sup>27</sup> Theoretically, such a change could provide youth with more time each day for rehabilitative programs, but as discussed above, the availability of treatment and case management services has worsened over time due to chronic staffing shortages. As a result, youth receive fewer instructional minutes each day and simultaneously have less access to rehabilitative supports and services.

Like most students across the state, TJJD youth experienced disruptions to their education during the COVID-19 pandemic, but committed youth

are particularly vulnerable to the disruptions' negative impacts. On average, youth enter TJJD five grade levels behind in reading and six grade levels behind in math.<sup>28</sup> Reduced instruction makes it even more challenging to catch up to their peers back home. Between fiscal years 2019 and 2021, the rate of TJJD youth who received their high school diploma or equivalent before or shortly after release fell by 33 percent.

Due process delays. Limited staffing can jeopardize youths' right to timely due process. When youth commit certain rule violations, TJJD must hold a Level II due process hearing, which may result in disciplinary sanctions against the youth and influence decisions about their eventual release or transfer to an adult prison. Conducting a single hearing requires assistance from at least three TJJD staff members, some of whom must exit the staff-to-youth supervision ratio to participate. Without enough staff to perform this task, the number of Level II hearings completed after their required due date increased by about 680 percent between fiscal years 2019 and 2021, from 139 hearings to 1,080; meanwhile, the number of total hearings completed increased by only 13 percent. Further, interviews with staff, reviews of independent ombudsman reports, and analyses of hearing recordings showed additional problems tied to understaffing, including late or missing submissions of incident reports that kickstart the hearing process; limitations on youths' right to choose an advocate who assists them during a hearing; and delays in employees submitting and responding to youths' appeal requests.

- **Negative impacts on staff.** Employees in secure facilities are also subject to harm stemming from TJJD's severe understaffing, causing some to leave their positions altogether. This turnover exacerbates the workplace challenges that remaining TJJD employees must manage and perpetuates a negative cycle of poor conditions and overwork across facilities.

Physical injury and harm. While working in a secure facility is an inherently dangerous job, data from the State Office of Risk Management shows TJJD has had the highest injury frequency rate (IFR) among all reporting entities over the last decade. TJJD's IFR has declined in recent years, but the line graph on the following page shows its rate still consistently surpassed those found in other public safety agencies by a significant margin.

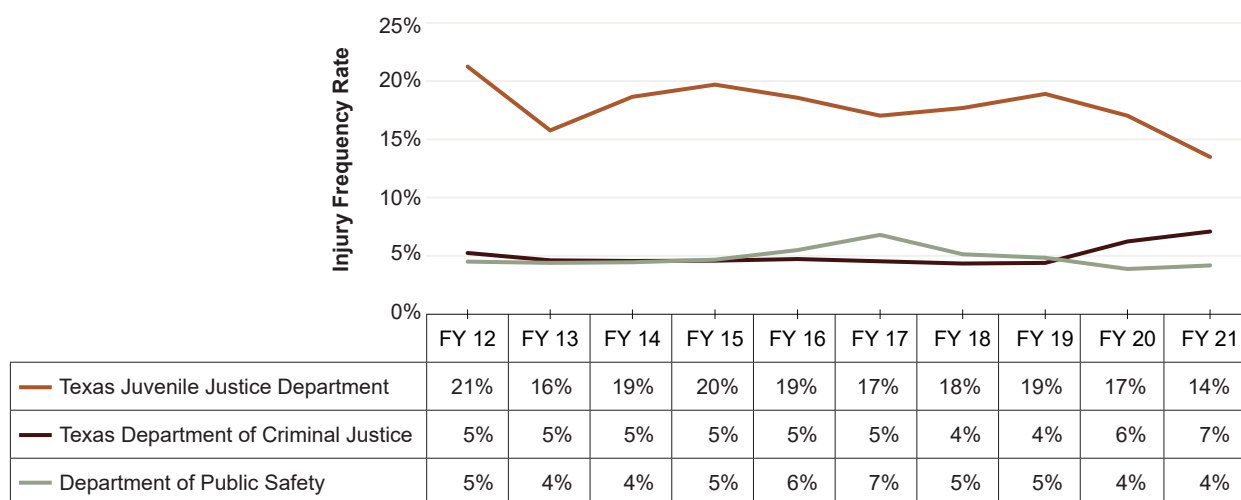
Additional agency data shows recent upticks in harm. For example, between fiscal years 2019 and 2021, major rule violations identified as assaults on staff increased by 23 percent. About 25 percent of assaults on staff during this time period resulted in bodily injuries, such as the case described in the accompanying textbox.

Staffing shortages contributed to a 680 percent increase in late disciplinary hearings.

#### Harm to Staff Inside Facilities

In August 2020, a JCO was left alone to supervise youth in a housing unit reserved for juveniles with violent behavior treatment needs. Two youth subsequently started punching and kicking the employee. After radio calls for assistance, additional staff arrived and intervened. The JCO was transported to receive off-site medical attention and was reportedly treated for a head injury, nose fracture, eye contusion, and multiple lacerations to his face.

### TJJD's Injury Frequency Rate Exceeds Other Public Safety Agencies'



Overworked JCOs. Without adequate staffing, JCOs who are available for coverage must fill in youth supervision gaps by shifting to 12-hour workdays and accruing significant overtime, which increases staff burnout, supervision concerns, and turnover. On average, about 550 JCOs — out of 730 filled JCO positions — worked overtime each month in fiscal year 2021, recording roughly 40 hours of additional work per month, per person. While long work hours are relatively commonplace among state agencies, the potential impacts at TJJD are unique. Overwork diminishes JCOs' ability to maintain a structured and controlled environment where they can remain fully engaged and attentive to youths' needs, which is critically important when suicide risk is a constant concern in state facilities.

Increased job duties without sufficient training. To minimize unsafe conditions caused by JCO shortages, TJJD began assigning case managers and teachers to fill gaps in the staff-to-youth ratio in 2021, but this strategy further increased frustrations, safety concerns, and turnover. While both case managers and teachers are trained to supervise youth independently, they do not receive instruction on all JCO duties related to youth management, movement, and dorm procedures. Shortages forced these employees to learn the JCO role on the fly while providing active supervision to youth.

Additionally, this change took time away from employees' other important tasks. For example, when acting as JCOs, case managers must deprioritize or delay key functions that assist youths' progress and facility operations, such as conducting family outreach, collaborating on youths' care and reentry plans, and managing youth transfers between and out of secure facilities — all of which are vital to ensuring a youth's successful rehabilitation and transition back to Texas communities. Unable to dedicate sufficient time to the duties they were hired to perform, frustrated case managers increasingly left the agency. Between fiscal years 2019 and 2021 alone, their turnover rates rose from about 30 percent to 50 percent.<sup>29</sup>

Staff shortages  
force case  
managers to  
deprioritize  
tasks that are  
vital to youth  
rehabilitation.

**TJJD's focus on problems within its secure facilities prevents full implementation of regionalization reforms, leaving the juvenile justice system at a standstill.**

Consumed by the daily challenges of appropriately staffing and operating its secure facilities, TJJD cannot devote additional needed attention to reforms designed to move the juvenile justice system forward. Throughout the review, Sunset staff found TJJD lacks the administrative capacity to achieve balance between its county-oriented regionalization duties and state-oriented facility management duties. The immediate threat to youth and staff safety in state facilities must take priority. However, the agency's focus on state matters means it misses opportunities to keep more youth out of its custody, which could help alleviate staffing pressures in its struggling facilities. Further, this imbalance reinforces the county and state silos that never dissolved after the Legislature created TJJD to unify the juvenile justice system. While TJJD will always need to focus on high-risk facility operations, the state requires a shift in attention, strategic planning, and resources to continue reforms proven to strengthen systemwide outcomes.

TJJD lacks capacity to achieve balance between its county- and state-oriented duties.

- **Incomplete reforms.** Certain elements of the Legislature's regionalization reforms from 2015 remain unfinished or underdeveloped, which fails to maximize the initiative's known benefits, such as reduced recidivism and lower costs. Among other things, lawmakers directed TJJD to divide the state into regions and develop a plan for diverting youth from state care by prioritizing regional placement and program options.<sup>30</sup> The regionalization plan has helped the agency and its county-level partners divert over 1,000 youth from state custody since 2015, a considerable feat while TJJD was also responding to repeat crises. Still, Sunset identified incomplete legislative initiatives that slow progress toward a more community-based juvenile justice system.

Regionalization staffing. Statute requires the agency to redirect staff toward the plan's implementation, but TJJD has only created seven positions split between this purpose and other agency functions.<sup>31</sup> While these staff members have considerable expertise, they cannot reasonably carry out all duties required for regionalization to succeed. Five of the employees are directly responsible for providing daily support to all 165 county juvenile probation departments across seven regions, in addition to other activities like assessing each diversion application, tracking diverted youths' progress, providing technical assistance on county grant disbursements, conducting training, and helping with intake to state facilities. A single employee is responsible for coordinating with state and local partners to divert youth with complex mental health needs from commitment to TJJD.

Five employees must provide daily support to all 165 county juvenile probation departments.

Data research and support. Statute requires TJJD to analyze agency data and provide clear guidance to counties on outcome measures related to its regionalization plan.<sup>32</sup> However, these efforts are typically limited and ad hoc, since employees once dedicated to this work have been reassigned over time. Further, while TJJD's original 2016 plan provided essential data



outlining each region's unique needs and capacity, TJJD has not updated the plan to keep pace with changes in the field.<sup>33</sup> TJJD also has not critically reviewed the types of data it collects from county departments to ensure it can effectively identify regional service gaps and target regionalization resources accordingly.

Performance reporting. Statute requires TJJD to report on the performance of specific programs and placements to help counties implement best practices and maximize the impact of state funds.<sup>34</sup> An internal agency audit found this does not occur, which limits counties' ability to replicate their peers' success over time and bolster regionalization's benefits across the state.

A shift in focus toward building local capacity could increase alternatives to TJJD commitments.

- **Limited focus on next steps.** Beyond current statutory requirements, chronic problems coupled with disruptions from the COVID-19 pandemic prevent TJJD from focusing on clear, actionable goals for regionalization's next steps. TJJD staff and county stakeholders started collaborating on updates to regionalization initiatives during the Sunset review, but the efforts were still in progress at publication. Sunset staff identified two key priorities for regionalization planning that, along with improved facility staffing, must occur to steady the juvenile justice system and establish balance between TJJD's county- and state-level duties.

Capacity-building initiatives. The state's regionalization efforts primarily focus on diverting individual youth from TJJD's care, which does not address a root cause of many commitments: insufficient capacity of both community-based programs and staffed beds in local facilities. Additionally, concentrating on diverting individual youth without simultaneously enhancing systemwide capacity does not maximize the impact of state dollars. Between fiscal years 2016 and 2021, TJJD reported the cost of successfully diverting a single youth to a non-TJJD placement increased by 25 percent.

### Capacity-Building Grant Initiatives

In 2019, TJJD and the Travis County Juvenile Probation Department (TCJPD) launched a pilot program to divert youth from state facilities while building regional capacity. Through this program, TCJPD receives about \$1 million each year to fund the operations and treatment associated with beds reserved specifically for youth from other counties. County departments that might otherwise commit youth to state care can use these beds, free of charge. In 2020, TJJD implemented this same program in Randall County.

As of May 2022, Travis and Randall counties have discharged 47 youth from their programs. So far, only four youth were later committed to TJJD. **Each placement saved the state more than \$300 per day, per youth.**

A shift in focus toward innovative, capacity-building programs like those described in the textbox could increase affordable alternatives to TJJD commitments and help counties divert youth not only from state care but from the system altogether. In particular, developing programs and beds explicitly for regional use rather than individual county use could help small counties that lack their own facilities gain access to non-TJJD placements without jeopardizing public safety. Given the differing needs and resources across the state, capacity-building initiatives must vary by region and incorporate local expertise to succeed, rather than taking a one-size-fits-all approach dictated at the state level.



Diversion incentives. Despite agency goals to keep youth shallow in the juvenile justice system, TJJD has not established clear incentives to maximize these efforts. In some cases, the agency's practices actively disincentivize diversion. For example, TJJD's formula for allocating state aid to county juvenile boards considers each county's juvenile population, the size of its juvenile probation department, and the number of youth formally referred to each department. Therefore, the formula encourages formal referrals, rather than intentionally compensating counties for programs and community work that keep youth out of the system whenever possible.

In other instances, incentives to motivate systemwide improvements are absent altogether. One of TJJD's core statutory goals is to encourage regional cooperation.<sup>35</sup> However, the agency does not typically use formal incentives, particularly in its competitive grants, to promote contracts between counties that could facilitate the sharing of limited beds and services. As a result, stakeholders reported a county department's perceived risk of serving youth from another county often overshadows systemwide benefits, leaving needed beds empty and services untapped across the state. While TJJD cannot require counties to contract or partner together, establishing clear, state-level incentives for coordination could shift each county's cost-benefit analysis and alter behavior in a way that helps all parties, from youth to county departments to the state.

TJJD's funding incentives do not maximize youth diversion or regional cooperation.

**Texas has a continuing need to perform juvenile justice functions, but significant changes must occur to stabilize the system and revitalize reform efforts.**

- **Shortened continue date.** Considering the agency's current problems, Sunset staff could not justify waiting the typical 12-year period before conducting TJJD's next Sunset review. However, abolishing the agency outright is also inappropriate, as the state still requires TJJD's functions for two key reasons. First, despite downward trends in youth referrals and court dispositions over time, juvenile crime persists in Texas communities. In fact, juvenile arrests for violent felonies increased by about 10 percent between fiscal years 2012 and 2021. At this time, county juvenile probation departments, particularly those in rural areas, lack the staffing, programming, and financial capacity to manage all justice-involved youth. Until the state increases capacity at the local level, TJJD must continue operating state facilities.

Second, even if county departments had greater capacity to shoulder more of the system today, they would still require state oversight and funding to ensure local governments operate safe facilities and provide effective services to youth. Without TJJD's minimum standards and inspections in place, responsibility for consistently maintaining safety and security in juvenile justice settings would fall solely to county departments, some of which lack the resources to do so.

Counties lack the staffing, programming, and financial capacity to manage all justice-involved youth.

Splitting the agency in two would contradict legislative efforts to unify the juvenile justice system.

- **No benefits from agency division.** Though some stakeholders support separating TJJD's county- and state-focused duties, Sunset staff found such a change would be both ineffective and inefficient. Splitting the agency in two would amplify instabilities that already trouble the juvenile justice system and reinforce silos between county departments and the state. Overall, this change would contradict legislative efforts to unify the system and enhance continuity of care for youth.<sup>36</sup> Bifurcation may also complicate internal processes that enabled TJJD to transfer about \$12 million in state-level cost savings back to county-level probation services starting in fiscal year 2019. Further, creating separate state agencies would funnel state dollars into duplicative functions, such as human resources and information technology maintenance, when Texas could instead allocate those limited dollars to addressing systemwide problems.
- **No benefits from agency transfer.** Though various models exist for juvenile justice entities in the U.S., a plurality of states use a stand-alone agency like Texas does. Sunset staff reviewed organizational alternatives for administering TJJD's functions, particularly given its staffing shortages, but concluded no substantial benefit would result from transferring functions to or merging TJJD with another agency. Such a change would likely add greater volatility to an already fragile system and impede timely progress.

Transferring TJJD to another agency would likely add greater volatility to an already fragile system.

Texas Department of Criminal Justice (TDCJ). Though both TJJD and TDCJ focus on the confinement, rehabilitation, and reintegration of individuals who commit crimes, their expertise lies in significantly different populations that have different rights, needs, and risks. Further, PREA requirements for separating youth and adult offenders at all times in institutional settings would complicate efforts to consolidate existing facilities, minimizing any efficiencies that may be gained by a merger.<sup>37</sup> TDCJ does administer a youthful offender program for individuals as young as 14. However, this program only served an average daily population of 14 youth in fiscal year 2021 and would require substantial expansion to accommodate the roughly 640 juveniles per day who resided in TJJD secure facilities that same year. Finally, TDCJ does not have a comparable role performing certain county-oriented regulatory functions, such as certifying county officers who work with youth, setting minimum facility standards, and conducting routine inspections. Taking on these functions would require a direct transfer of resources and increase responsibilities for TDCJ, which already struggles with the second highest turnover rate among large agencies.<sup>38</sup>

Department of Family and Protective Services (DFPS). Though DFPS works with a similar youth population, transferring juvenile justice-related functions to an agency with significant operational challenges may further jeopardize youth and staff safety. A decade-long federal lawsuit and new abuse investigations in March 2022 necessarily occupy the agency's full attention.<sup>39</sup>

Health and Human Services Commission (HHSC). Similar to DFPS, HHSC also has expertise in youth health and rehabilitation. However, the agency is continuing its effort to consolidate functions inherited from other state agencies following its 2015 Sunset review.<sup>40</sup> While enhanced collaboration between the two agencies may improve outcomes for justice-involved youth with mental health needs, merging their functions may disrupt service delivery to both TJJD's youth and HHSC's clients.

## Sunset Staff Recommendations

The following recommendations are designed to work together in an iterative approach to accomplish two related but at times competing goals in the Texas juvenile justice system. First, the recommendations seek to improve stability for youth currently committed to TJJD's facilities. Second, they intend to advance the state's regionalization efforts aimed at decreasing state commitments moving forward. Prioritizing the first goal alone would maintain the status quo by failing to proactively develop next steps for maximizing efficiencies and effectiveness in the system. Conversely, focusing on the second goal alone and dismissing TJJD's current staffing crisis would not address the pressing dangers youth and staff face right now. A measured approach that invests in current and future needs would help steady the system, allowing Sunset staff to consider options for revamping or relocating state facilities and adjusting TJJD's core duties during its next Sunset review.

### ***Change in Appropriation***

#### **1.1 The House Appropriations and Senate Finance committees should consider increasing TJJD's appropriation to stabilize staffing levels and ensure the agency accomplishes its statutory regionalization duties.**

This recommendation would express the will of the Sunset Commission that the Legislature consider appropriating additional funding to TJJD, particularly for salary increases, so the agency could better attract and retain staff who supervise and serve youth committed to its care and who implement regionalization reforms. Specifying the positions that require increased resources and the exact level of resources needed to recruit and keep adequate staff are policy decisions for the Legislature as a whole. Further, economic conditions may change these determinations by January 2023 when the next legislative session begins. However, to inform legislative decision making, this recommendation would direct TJJD to analyze its precise staffing and funding needs, including at a minimum:

- Positions most critical for meeting PREA staffing requirements in secure facilities so youth are safely supervised and able to receive appropriate treatment, case management, education, due process, and reentry services necessary to improve individual outcomes and minimize recidivism.
- Comparisons to salaries provided at state agencies performing similar work with youth populations.
- Comparisons to salaries provided among private employers in the communities surrounding TJJD's facilities.
- Comparisons to salaries across positions within the agency to ensure proposals evaluate and accommodate any ripple effects that may result from adjusting pay for various job classifications.
- Non-salary incentives or initiatives, such as consistent training opportunities, that may assist the agency in attracting and retaining a qualified workforce.

- Increased staffing necessary to complete statutory directives aimed at keeping youth closer to home through the agency's regionalization plan.

To implement this recommendation, TJJD should prepare a report that includes but is not limited to the information above and submit it with its biennial legislative appropriations request to LBB, as well as to the Sunset Commission, House Appropriations Committee, and Senate Finance Committee. The recommendation would require TJJD to provide written updates on its report at the Sunset Commission's meeting in December 2022. While pay raises, non-salary incentives, and increased regionalization staffing would have a fiscal impact on the state, investing these resources would help reduce TJJD's turnover and vacancy costs; stabilize crises in its secure facilities; boost reform efforts; and ultimately improve outcomes for youth, staff, and Texas communities.

## ***Change in Statute***

### **1.2 Require TJJD to update its regionalization plan biennially to ensure its contents are up-to-date and actionable.**

This recommendation would amend TJJD's statute to clearly require updates to the agency's regionalization plan by December 1 of each even-numbered year until its next Sunset review. To develop each biennial plan, statute would specify TJJD must collaborate with diverse stakeholders including its Advisory Council on Juvenile Services, regional juvenile probation associations, advocacy groups, parents and guardians of justice-involved youth, and former justice-involved youth. Each iteration of the plan must include information on how the agency is complying with statutory regionalization requirements and internal agency goals for diverting youth from state commitment. In addition, statute would require plans to include concrete, actionable steps detailing how the agency will enhance regional capacity, coordination, and collaboration across the state to keep youth closer to home, while also ensuring access to programs and supervision necessary to maintain public safety. The agency must consider the following as it develops these steps:

- Options to target or expand funding for county juvenile probation departments to enhance community-based programs and maximize the use of existing juvenile justice beds.
- Opportunities to use financial and other incentives to encourage diversion, facilitate cooperation within and across regions, and emphasize the benefits of sharing available resources among counties.
- Plans for creating additional regional capacity to minimize gaps in beds and services at the local level, including the expansion or development of beds and facilities designated specifically for regional use.
- Processes for downsizing, closing, or repurposing large state secure facilities to shift toward a more regionally focused juvenile justice system.

Under this recommendation, TJJD staff would be required to present each updated draft to its governing board for discussion, public comment, and formal approval at a public meeting. Once approved, TJJD should incorporate relevant suggestions, needs, or statutory recommendations into subsequent strategic plans, legislative appropriations requests, and any other necessary documents to support the plan's implementation. To ensure compliance until its next review, this recommendation would also require the agency to submit each updated plan to the Sunset Commission and relevant legislative committees with jurisdiction over juvenile justice issues. Continually updating the plan would help the agency and its stakeholders remain engaged in advancing regionalization efforts, identifying barriers to implementation, and developing practical next steps to divert youth from state care and juvenile justice involvement altogether. The agency would be required to complete its first updated plan by December 1, 2024.

### **1.3 Authorize TJJD to incentivize diversion within and collaboration between Texas counties through its grantmaking processes.**

This recommendation would amend statute by authorizing TJJD to incorporate factors that incentivize diverting youth from the juvenile justice system into the funding formula used to calculate financial assistance for county juvenile boards. For example, the formula could include measures related to a county juvenile probation department's successful administration of prevention and intervention programs. Statute would also authorize the agency to adopt rules establishing and defining these factors. When developing updates to its funding formula, TJJD should consult and coordinate with relevant stakeholders including its Advisory Council on Juvenile Services. While TJJD is best positioned to determine the precise factors appropriate for its funding formula, the agency may prioritize those for which it already collects relevant data, such as performance measures regarding certain prevention and intervention initiatives. Additionally, the recommendation would direct Sunset staff to work with the Texas Legislative Council to ensure this new authority aligns with existing statutory directives concerning funding impacts on juvenile boards or county departments that choose not to serve other counties' youth or operate regional facilities.<sup>41</sup>

The recommendation would also authorize TJJD to incorporate clear incentives for cross-county collaboration into its protocols for competitive discretionary grant opportunities. For example, the agency could include factors related to county partnerships as one of the evaluation criteria in its award review process to encourage coordination and resource sharing across the state. By incorporating clear incentives for collaboration and diversion into its grantmaking processes, TJJD could better implement regionalization reforms and maximize the use of state resources.

### **1.4 Continue TJJD for six years.**

This recommendation would continue TJJD as the state's stand-alone juvenile justice agency for only six years instead of the typical 12 years, until September 1, 2029. This shorter Sunset review date would allow the Legislature to more quickly evaluate TJJD's progress, assess changes in state facilities over time, and explore opportunities to expand diversion across Texas.

## ***Management Action***

### **1.5 Direct TJJD to complete statutorily required regionalization duties that remain unfinished or underdeveloped.**

This recommendation would direct the agency to complete statutory duties related to the Legislature's 2015 regionalization reform effort including the following:<sup>42</sup>

- Redirecting adequate staff to implement the agency's regionalization plan.
- Analyzing agency data to provide county juvenile probation departments clear guidance on outcome measures related to the regionalization plan.
- Reporting on the performance of specific programs and placements to help counties maximize the impact of state funds.

As part of this recommendation, TJJD would evaluate its current data submission requirements for county departments to determine if any information gaps hinder the agency's ability to fulfill its statutory duties. TJJD would then update its submission requirements as appropriate and in consultation with



the Advisory Council on Juvenile Services to ensure the agency receives the information it needs while minimizing burdens on local stakeholders. TJJD should provide the Sunset Commission with an update on its implementation of this recommendation by March 1, 2023.

#### **1.6 Direct TJJD to seek guidance from the State Office of Risk Management to develop strategies for addressing and minimizing employee injuries.**

This recommendation would direct TJJD to partner with the State Office of Risk Management (SORM) to establish, maintain, and update risk management procedures that could improve the identification and control of workplace risks in TJJD's facilities. TJJD's executive leadership would consult with SORM through on-site facility visits and risk management program reviews to determine areas in which facility procedures may differ from best practices. By increasing collaboration with SORM, TJJD would benefit from existing expertise in the state to improve safety and reduce workplace injuries throughout its operations. TJJD should provide the Sunset Commission with an update on its implementation of this recommendation by March 1, 2023.

### **Fiscal Implication**

Overall, these recommendations are designed to provide relief as quickly as possible to TJJD's dire staffing crisis, while also moving the agency forward in its regionalization efforts. However, the exact fiscal impacts of these recommendations cannot be estimated at this time, as the Legislature would determine them through the appropriations process.

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- <sup>1</sup> Chapter 85 (SB 653), Acts of the 82nd Texas Legislature, Regular Session, 2011.
  - <sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 201.002(1), Texas Human Resources Code.
  - <sup>3</sup> Office of the Attorney General, *Custodial Death Report*, June 29, 2017 and June 19, 2018.
  - <sup>4</sup> Brandi Grissom and Sue Ambrose, “Four Officers Facing Prison Time in Sexual Misconduct Scandal at State Youth Lockup,” *Dallas Morning News*, November 7, 2017, accessed online April 10, 2022, <https://www.dallasnews.com/news/politics/2017/11/07/four-officers-facing-prison-time-in-sexual-misconduct-scandal-at-state-youth-lockup/>; Jolie McCollough, “Two Gainesville Youth Lockup Guards Arrested Over Alleged Abuse,” *The Texas Tribune*, December 4, 2017, accessed online April 10, 2022, <https://www.texastribune.org/2017/12/04/texas-youth-lockup-guards-arrested-over-alleged-assaults/>; Keri Blakinger, “Out of Control’: Report on Juvenile Prison ‘Gang War’ Draws Lawmakers’ Attention,” *Houston Chronicle*, February 22, 2019, accessed online April 10, 2022, <https://www.chron.com/news/houston-texas/houston/article/Out-of-control-Report-on-juvenile-prison-13638432.php>.
  - <sup>5</sup> Keri Blakinger, “Worse than the Wild West’: State Reports Reveal ‘Gang War’ at Texas Juvenile Prison,” *Houston Chronicle*, March 10, 2019, accessed online April 10, 2022, <https://www.chron.com/news/houston-texas/article/Worse-than-the-Wild-West-State-reports-reveal-13677865.php>.
  - <sup>6</sup> Keri Blakinger, “3 Texas Teens Charged After 19-Minute Beat-Down Caught on Camera in Waco-Area Juvenile Prison,” *Houston Chronicle*, August 5, 2019, accessed online April 10, 2022, <https://www.houstonchronicle.com/news/houston-texas/houston/article/3-Texas-teens-charged-after-19-minute-beat-down-14282555.php>.
  - <sup>7</sup> Chapter 962 (SB 1630), Acts of the 84th Legislature, Regular Session, 2015.
  - <sup>8</sup> Council of State Governments Justice Center and the Texas A&M University Public Policy Research Institute, *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*, January 2015, p. 57, accessed February 22, 2022, <https://csgjusticecenter.org/wp-content/uploads/2020/01/texas-jj-reform-closer-to-home.pdf>.
  - <sup>9</sup> Legislative Budget Board (LBB), *Criminal and Juvenile Justice Uniform Cost Report, Fiscal Years 2019 and 2020*, January 2021, pp. 2, 13, and 15, accessed February 22, 2022, [https://www.lbb.texas.gov/Documents/Publications/Policy\\_Report/6292\\_CJDA\\_Uniform\\_Cost.pdf](https://www.lbb.texas.gov/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf).
  - <sup>10</sup> U.S. Department of Justice, “Justice Department Announces Investigation into Conditions at Five Juvenile Justice Facilities in Texas,” October 13, 2021, accessed April 10, 2022, <https://www.justice.gov/opa/pr/justice-department-announces-investigation-conditions-five-juvenile-facilities-texas>.
  - <sup>11</sup> LBB, *Adult and Juvenile Correctional Population Projection, Fiscal Years 2021 to 2026*, January 2021, p. 11, accessed online April 10, 2022, [https://www.lbb.texas.gov/Documents/Publications/Policy\\_Report/5941\\_CJDA\\_Population\\_Projections.pdf](https://www.lbb.texas.gov/Documents/Publications/Policy_Report/5941_CJDA_Population_Projections.pdf). LBB projected the average daily population in state residential facilities would be 814 youth in fiscal year 2021. However, factors like the COVID-19 pandemic and backlogs for intake into TJJD’s facilities decreased the actual population. In fiscal year 2021, TJJD reported the average daily population was 749 youth in state residential facilities, which included 637 youth in state secure facilities, 56 youth in halfway houses, and 56 youth in contract facilities.
  - <sup>12</sup> State Auditor’s Office (SAO), *Classification Reports: Employee Turnover*, webpage, accessed online April 10, 2022, <https://hr.sao.texas.gov/Reports/Category/Turnover/>. See annual reports on classified employee turnover for fiscal years 2012–21.
  - <sup>13</sup> SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2012*, December 2012, p. 10, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/13-704.pdf>; SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2021*, March 2022, p. 11, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/22-702.pdf>.
  - <sup>14</sup> SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2021*, March 2022, p. 16, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/22-702.pdf>. SAO reported direct support professionals had the second highest turnover rate (54 percent) among job classifications with 100 or more employees in fiscal year 2021.
  - <sup>15</sup> *Ibid.*, p. 59.
  - <sup>16</sup> *Ibid.*
  - <sup>17</sup> SAO, *Classification Reports: Employee Turnover*, webpage, accessed online April 10, 2022, <https://hr.sao.texas.gov/Reports/Category/Turnover/>. See annual reports on classified employee turnover for fiscal years 2012–21.
  - <sup>18</sup> Miscellaneous Provisions, Section 17.06(c)(10), p. IX-67, Article IX, Chapter 1411 (SB 1), Acts of the 83rd Legislature, Regular Session, 2013 (General Appropriations Act).



<sup>19</sup> Texas Juvenile Justice Department (TJJD), Rider 38, p. V-36, Article V, Chapter 1353 (HB 1), Acts of the 86th Legislature, Regular Session, 2019 (General Appropriations Act).

<sup>20</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS), *Special Report: Sexual Victimization Reported by Youth in Juvenile Facilities, 2018*, December 2019, pp. 8-9, accessed online April 16, 2022, <https://bjs.ojp.gov/content/pub/pdf/svryjf18.pdf>. Sexual victimization reported by youth included any forced or coerced sexual activity with another youth or any sexual activity with facility staff within the previous 12 months or since admission if they had been in the facility for less than 12 months. BJS' survey did not distinguish between completed and attempted sexual victimization. The survey sampled state-committed youth confined in state-owned or -operated facilities and contract facilities operated by local or private entities. In Texas, BJS included youth from all five state secure facilities, six halfway houses, and three contract facilities. Overall, 7.1 percent of surveyed youth across the U.S. reported sexual victimization. The following percentages of youth reported sexual victimization at TJJD's state secure facilities: Mart (16.1 percent); Gainesville (16 percent); Ron Jackson (14 percent); Evins (13.5 percent); and Giddings (2.5 percent).

<sup>21</sup> TJJD Office of the Inspector General (OIG), *Operations Summary FY 2021*, p. 1, accessed online April 16, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/251-annual-reports/3133-annual-report-fiscal-year-2021>; TJJD OIG, *Fourth Quarter Report FY21*, p. 9, accessed online April 16, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/643-fiscal-year-2021/3131-fy21q4>.

<sup>22</sup> TJJD OIG, *Fourth Quarter Report FY21*, p. 10, accessed online April 16, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/643-fiscal-year-2021/3131-fy21q4>.

<sup>23</sup> 28 C.F.R. Section 115.313(c).

<sup>24</sup> Since 2019, the Mart and Ron Jackson facilities have failed PREA audits due to understaffing.

<sup>25</sup> U.S. Department of Justice, Office of Justice Programs, Office of Juvenile and Delinquency Prevention, *Juvenile Suicide in Confinement: A National Survey*, February 2009, pp. 26-28; Joseph Calvin Gagnon, "The Solitary Confinement of Incarcerated American Youth During COVID-19," *Psychiatry Research*, vol. 291, 2020, accessed online April 16, 2022, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7286258/>.

<sup>26</sup> TJJD, February 2022 quarterly board meeting, February 25, 2022, archival video timestamp 18:44, accessed online April 30, 2022, [https://tlchouse.granicus.com/MediaPlayer.php?view\\_id=13&clip\\_id=23139](https://tlchouse.granicus.com/MediaPlayer.php?view_id=13&clip_id=23139).

<sup>27</sup> Chapter 851 (HB 2442), Acts of the 85th Texas Legislature, Regular Session, 2017.

<sup>28</sup> TJJD, *2021 Self-Evaluation Report*, p. 350, accessed February 22, 2022, [https://www.sunset.texas.gov/public/uploads/files/reports/TJJD-SER\\_09-01-21.pdf](https://www.sunset.texas.gov/public/uploads/files/reports/TJJD-SER_09-01-21.pdf).

<sup>29</sup> SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2019*, March 2020, p. 63, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/20-703.pdf>; SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2021*, March 2022, p. 59, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/22-702.pdf>.

<sup>30</sup> Section 203.017, Texas Human Resources Code.

<sup>31</sup> Section 203.017(e)(1), Texas Human Resources Code.

<sup>32</sup> Section 203.017(f)(5), Texas Human Resources Code.

<sup>33</sup> TJJD, *Regionalization Plan*, August 2016, accessed online April 16, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/394-regionalization-planning-documentation/1347-texas-juvenile-justice-department-regionalization-plan-2016>.

<sup>34</sup> Section 203.017(f)(6), Texas Human Resources Code.

<sup>35</sup> Section 201.003(4), Texas Human Resources Code.

<sup>36</sup> Section 201.003(5), Texas Human Resources Code.

<sup>37</sup> 28 C.F.R. Section 115.14.

<sup>38</sup> SAO, *An Annual Report on Classified Employee Turnover for Fiscal Year 2021*, March 2022, p. 24, accessed online April 10, 2022, <https://sao.texas.gov/reports/main/22-702.pdf>.

<sup>39</sup> Reese Oxner, "Judge Loses Trust in Texas' Child Abuse Investigation of Foster Care Facility and Calls for Federal Inquiry," *Texas Tribune*, March 30, 2022, accessed online March 31, 2022, <https://www.texastribune.org/2022/03/30/refuge-texas-rangers-federal-investigation/>.

<sup>40</sup> Sunset Advisory Commission, *Health and Human Services Commission and System Issues Staff Report*, July 2015, accessed April 16, 2022, <https://www.sunset.texas.gov/public/uploads/files/reports/HHSC%20and%20System%20Issues%20Final%20Results.pdf>.

<sup>41</sup> Section 223.001(e), Texas Human Resources Code.

<sup>42</sup> Section 203.017(e)(1) and (f)(5)-(6), Texas Human Resources Code.

## ISSUE 2

# TJJD's Board Must Vastly Improve Its Governance and Engagement to Overcome the Agency's Operational Crises and Leadership Instability.

### Background

The Texas Juvenile Justice Department (TJJD) is governed by a 13-member, part-time board with the statutory qualifications for appointment listed in the textbox.<sup>1</sup> The board is responsible for TJJD's operations and the duties also described in the textbox.<sup>2</sup> The board typically meets four to five times a year and has developed a governance and policy manual for conducting board business.<sup>3</sup> The board has five standing committees — Executive, Finance & Audit, Programs, Safety & Security, and Trust — to help carry out its responsibilities. Additionally, the statutorily created 14-member Advisory Council on Juvenile Services assists the board on matters affecting county juvenile probation departments.<sup>4</sup>

Issue 1 in this report identifies a cycle of crises and instability that has plagued TJJD for a decade, and recommends changes to continue the agency on its path toward developing a unified statewide juvenile justice system. TJJD will need an engaged and strategic board to help stabilize the agency and successfully implement legislative changes made through the Sunset process. The following findings describe critical areas of governance and supervision in which the TJJD board must significantly improve to accomplish these monumental tasks.

### TJJD Board Qualifications and Duties

#### Statutory Qualifications

- One juvenile district court judge
- Three county commissioners
- One juvenile court prosecutor
- Three chief juvenile probation officers one each from small, medium, and large counties
- One licensed adolescent mental health treatment professional
- One certified educator
- Three public members

#### Key Statutory Duties

- Serve as the governing board responsible for the agency's operations.
- Establish TJJD's mission and funding priorities with the goal of keeping youth in their communities, while balancing their rehabilitation with public safety.
- Adopt a regionalization plan to keep youth closer to home in lieu of commitment to TJJD.
- Develop a biennial strategic plan with specific information on regionalization.
- Develop and update performance measures for programs and services to determine funding.
- Adopt rules, and review and approve policies for TJJD's secure facilities.
- Adopt rules to regulate county juvenile probation departments and county-level facilities and staff.
- Hire and supervise the executive director, chief inspector general, and internal auditor.

## Findings

### **The board has not taken needed actions to correct serious problems that endanger the safety and well-being of TJJD's youth and staff.**

The board rarely discusses trends and root causes of serious incidents in state facilities.

The Office of the Inspector General (OIG), Office of the Independent Ombudsman (OIO), and Office of the Internal Auditor routinely report their findings on serious problems in juvenile correctional facilities, including assaults, abuse, neglect, exploitation, and policy and procedural violations that place youth and staff in harm's way. Despite these reports, the board has not taken steps to identify and address root causes, systemic failures, and other contributing factors.

- **Criminal and administrative investigations.** OIG presents quarterly and annual reports to the TJJD board on criminal and administrative investigations at state- and county-level correctional facilities.<sup>5</sup> The reports provide valuable information to the board, but members rarely ask questions of the chief inspector general or the executive director about investigation trends, incident root causes, or potential policy changes supported by the reported data. As a result, the board misses opportunities to reduce risk, such as reallocating resources or updating agency rules. The following statistics from OIG's report to the board about the first quarter of fiscal year 2022 are typical of OIG's findings involving TJJD's state secure facilities, halfway houses, parole services, and contract facilities housing youth committed to the agency:<sup>6</sup>
  - 93 reports of organized crime involving youth.
  - 89 reports of sexual abuse of youth by other youth or staff.
  - 79 reports of youth assaults on staff.
  - 14 reports of narcotics or contraband.
  - 13 reports of abuse of office, such as excessive use of force against youth.

The board has shown little interest in this high-level summary, rarely asking questions or requesting details necessary to better understand the data, such as the types of incidents reported in each category, disposition trends, and lessons learned from closed investigations.

The board does not hold staff accountable for following up on youth rights violations.

- **Ombudsman reports.** Board rules require TJJD to respond within 14 days to reports from OIO — an independent but administratively attached agency that secures youth rights — but TJJD routinely misses that deadline, often by weeks.<sup>7</sup> OIO's site visit reports regularly document inadequate supervision of youth, due process concerns with disciplinary hearings, missing or inaccurate records, and violent incidents between youth or between youth and staff that result in injuries. However, the board does not publicly engage with OIO to gain better insight into the reported findings and underlying causes. The board also does not hold the executive director

accountable for following up on OIO findings in a timely manner or for resolving serious rights violations, which can delay necessary actions to keep youth safe.

- **Internal audit plans and reports.** Statute requires the board to appoint the internal auditor; provide direction on areas of the agency to audit; approve the annual audit plan; review audit reports; and ensure the auditor has sufficient resources.<sup>8</sup> Despite the key role internal audits can play in improving agency functions, the board has remained largely disengaged from this process in recent years. For example:
  - The internal auditor sends the 13 board members a brief four-question survey annually so they can identify their priorities for the annual audit plan. Only two members responded in 2019 and 2020; four responded in 2021.
  - In February 2022, the board learned that nearly 70 audit recommendations remained opened and unresolved, some for five years or more.<sup>9</sup> Board members did not ask for details about or the status of problems the recommendations sought to address, nor did they take or require any action on them. Open recommendations included the need to formalize appeals processes for youth disciplinary hearings, train halfway house staff on youth visitation policies and procedures, and ensure staff have operable radios while working in high-risk areas including youth dorms.
  - Board members did not ask the executive director to discuss troubling violations of body-worn camera policies reported in an August 2021 internal audit of a TJJD secure facility.<sup>10</sup> The audit found 63 percent of 31 officers audited at the facility turned off their body-worn cameras while conducting room checks, talking to or supervising youth, or talking to each other. As of May 2022, TJJD staff reported they are still in the process of implementing the audit’s recommendations to address the problems.
  - The board has not updated its internal audit policy since 2008, long before the Legislature enacted current statutory requirements for auditing state contracting and monitoring processes.<sup>11</sup> Further, board members have yet to request a focused audit of TJJD’s contracting activities after the State Auditor’s Office identified significant process weaknesses in 2019.<sup>12</sup>

The board is disengaged from TJJD’s internal audit process.

**The board has not provided the needed level of engagement, policy direction, or oversight to effectively govern TJJD through ongoing and future challenges.**

The level of engagement by state agencies’ boards can vary widely depending on their statutory mission, functions, and duties. TJJD has a high-stakes, high-risk mission to promote public safety and provide a full continuum of supports and services to justice-involved youth.<sup>13</sup> This alone requires a fully engaged,

attentive board to adequately govern and supervise the agency. The ongoing crises identified in Issue 1 set the stakes even higher and demand strong board leadership and involvement to protect the safety of youth, staff, and the public. However, the TJJD board has delegated many of its key duties to the executive director without sufficient direction, supervision, or accountability, further burdening staff who are already overwhelmed by staffing shortages and resulting operational challenges.

- **Failure to follow board policies.** The board has adopted governance policies for its internal operations but has not fully implemented or complied with those described in the textbox.<sup>14</sup> Given TJJD's unique challenges and crises, closely assessing and implementing these policies is especially important for improving the board's governance, engagement, and overall effectiveness going forward.

### Disregard for Board Policies

The board has not fully implemented or followed its own policies to:

- Develop a governance structure that allows and encourages the board to fulfill its duties.
- Evaluate the overall effectiveness of the board and its committees.
- Advise and assist senior executives.
- Evaluate the performance of the agency and its senior executives.
- Review and approve agency plans, strategies, and objectives.
- Review periodic updates on performance measures.
- Establish an environment of timely and effective disclosure, fiscal accountability, high ethical standards, and compliance with all applicable laws and regulations.

For example, the board has adopted policies related to its standing committees but lacks policies and processes to appoint ad hoc committees and subcommittees to more efficiently handle certain board duties. Ad hoc committees could focus on short-term crises and problems such as staffing shortages or the COVID-19 pandemic, while subcommittees could focus on long-term committee duties such as monitoring and addressing issues identified in OIG, OIO, and audit reports.

Additionally, every board member is statutorily responsible for hiring and supervising the executive director, chief inspector general, and internal auditor, but only three of the 13 members have provided input for top executives' evaluations in recent years. The board could review and update its current evaluation policies and processes to capture all of the board members' individual perspectives and experiences when assessing direct reports' performance, effectiveness, and opportunities for improvement.

- **Insufficient board involvement in strategic planning.** State agency boards are responsible for establishing the agency's strategic vision, goals, and performance measures to help ensure continuity and agency stability, especially during leadership changes and in times of crisis. Although most agency boards rely on staff to prepare the biennial strategic plan, boards are typically engaged in the planning process before final adoption to provide direction on executive management's proposed plans and new initiatives for the next few years. However, TJJD's board does not engage in formal, meaningful discussion or priority-setting before voting on the finished strategic plan developed by staff. The board also has not provided a policy framework or guidance to staff on implementing major strategic initiatives, such as the Texas Model described in the textbox on the following page.



### Lack of Board Leadership: The Texas Model

In 2018, TJJD designed and implemented the Texas Model, a major strategic initiative to use evidence-based, trauma-informed practices to treat and rehabilitate youth in state facilities. The Texas Model impacts nearly every aspect of agency operations, including goals, policies, procedures, funding priorities, staff resources, job duties, and youth treatment programs. Evaluating the effectiveness of the Texas Model is outside Sunset staff's purview. However, the review found the board has not adopted rules, funding priorities, or performance measures to guide staff in implementing and routinely evaluating the model to adjust course if needed.

Absent this clear strategic direction from the board, each executive director must set their own priorities, goals, policies, and procedures. As discussed in Issue 1, Sunset staff repeatedly heard new leadership's continual changes to the agency's operations and overarching vision contribute to unclear job duties, staff burnout, high turnover, and agency instability.

- Significant delegation with unclear authority and minimal oversight.** Statute tasks the TJJD board with a variety of duties to govern the agency, oversee Texas' juvenile justice system, and protect youth and public safety. Effective delegation requires proper board engagement and oversight, but over time the board has delegated some of its most important governance functions to a succession of executive directors without sufficient direction or accountability. Further, while statute clearly states the board is responsible for the department's operations, it is unclear which policies board members can delegate to the executive director, other than those related to the functions of state-operated facilities and their personnel.<sup>15</sup> Statute requires the board to approve the agency's policies and authorizes the board to delegate this approval to the executive director, but the board has failed to ensure such policies are regularly reviewed and updated.<sup>16</sup> For instance, seven of the agency's eight mental health care policies were last updated before TJJD began implementing the Texas Model, which fundamentally altered the approach to treatment services.<sup>17</sup> In addition, TJJD still uses a General Administrative Policy Manual inherited in 2011 from its predecessor — the Texas Youth Commission (TYC) — but has not updated two-thirds of the policies in it.<sup>18</sup>
- Staff-driven funding priorities without board direction.** TJJD's board typically does not provide direction or discuss its funding goals and priorities prior to approving the agency's biennial legislative appropriations request (LAR) and annual operating budget. Generally, a state agency's staff will prepare its LAR in alignment with the strategic direction and priorities set by the agency's board. However, TJJD's board does not set the strategic direction and priorities for the agency or discuss how proposed new initiatives align with the agency's mission and goals. For example, after brief presentations from staff, the board approved — without any substantive public discussion — the agency's proposed \$834 million LAR for fiscal years 2022-23, which included requests for nearly \$200 million in new funding for major initiatives, such as developing three new secure facilities and modernizing IT systems.<sup>19</sup> With the significant staffing and other issues

The board does not set the agency's strategic direction and funding priorities.

facing TJJD as described in Issue 1, the agency's next LAR requires careful deliberation by the board to prioritize the most critical and immediate needs.

The board also delegates authority to the executive director to make "reasonable" changes and adjustments between appropriations line items and capital budget items, but does not set a threshold amount or require reporting of significant changes that could impact budget priorities.<sup>20</sup> This lack of clear accountability further limits board members' involvement in the agency's funding decisions.

- **Insufficient and limited use of advisory bodies.** Most volunteer, part-time state agency boards do not have all of the knowledge needed to effectively govern an agency without assistance. Boards often rely on advisory committees to provide independent expertise and input from subject matter experts, stakeholders, advocates, and community leaders on an agency's responsibilities and operations.

### Advisory Council on Juvenile Services\*

#### Statutory Qualifications

- Seven chief juvenile probation officers\*\*
- Two juvenile court judges\*\*
- One county commissioner\*\*
- Health and Human Services Commission's executive commissioner or designee
- Three ex officio TJJD staff members

#### Statutory Requirements

The advisory council shall assist the agency in:

- Determining the needs and problems of county juvenile boards and probation departments.
- Conducting long-range strategic planning.
- Reviewing and proposing revisions to existing or newly proposed standards affecting juvenile probation programs, services, or facilities.
- Analyzing the potential cost impact on juvenile probation departments of new standards proposed by the board.
- Advising the board on any other matter at the request of the board.

\* The advisory council is exempt from state laws that establish expiration dates and provide general guidance for most other state advisory committees.

\*\* Appointed by the TJJD board.

The TJJD board receives assistance on county-related matters from its statutory Advisory Council on Juvenile Services described in the textbox. However, the board has been reluctant to proactively use this expertise. The board rarely seeks out advisory council perspectives and has not adopted policies or rules to define the advisory council's role and functions, including participation by TJJD's ex officio staff members in formal actions like voting. TJJD staff and advisory council members could identify only a handful of tasks the board has formally assigned to the advisory council in recent years.<sup>21</sup> Instead, advisory council members, county officials, and TJJD staff largely develop the council's projects, such as regulatory rule updates, county-level strategic planning, and stakeholder workgroups on major policy issues — all with little to no board guidance. Even so, the council has performed its duties on its own initiative and continues to be needed. The board's other statutory advisory committee on vocational education and employment programs has been inactive since 2012, was effectively abolished by another statute, and is no longer needed.<sup>22</sup>

Additionally, the TJJD board does not have statutory authority to appoint advisory committees, so the board and agency staff lack access to resources and outside perspectives on complex juvenile justice issues, particularly those affecting state-level facilities. Given the diverse group of stakeholders TJJD impacts, statutorily authorizing the board to formally establish advisory committees by rule would allow for broader input to help board members address problems impacting the juvenile justice system as a whole, such as effective treatment programming and reentry processes.



- **Unmet rulemaking requirements.** Statute requires state agencies to review their rules every four years and determine whether the reasons for initially adopting each rule continue to exist.<sup>23</sup> The TJJD board has significant statutory rulemaking requirements and authority but has never complied with the rule review process. Board members were unaware of this requirement and have not adopted policies requiring staff's compliance. Further, TJJD's current rulemaking policy has not changed since TYC adopted it 25 years ago — three years before the Legislature enacted the four-year rule review requirement.<sup>24</sup> The board also has not adopted rules specifically required in statute. For example, statute specifies the board must publicly adopt rules regulating its proceedings, but members instead adopted internal policies for their proceedings in the board governance and policy manual.<sup>25</sup>

A third of TJJD's nearly 700 rules are out of date.

This ongoing inattention to rulemaking — a core policy function for every state agency's board — has resulted in some mandatory rules never being adopted and a third of TJJD's nearly 700 rules being out of date, including about 100 rules that predate TJJD's creation in 2011.<sup>26</sup> While the board has adopted some regulatory rule changes, most of these were driven by the advisory council without the board's direction or guidance. TJJD's failure to comply with the four-year review requirement results in rules that do not reflect current law, agency practices, or regulatory standards. For example, TJJD has never updated rules originally adopted in 2003 by the Texas Juvenile Probation Commission (TJPC) for short-term juvenile detention facilities that temporarily hold youth — not even to identify itself as the facilities' current regulatory agency.<sup>27</sup>

- **Inadequate board training.** TJJD's statute contains standard Sunset Advisory Commission "good government" language requiring board members to receive training and information necessary for them to properly discharge their duties.<sup>28</sup> However, statute does not contain newer standard requirements for topics the training must cover, such as a discussion of the scope of and limitations on the board's rulemaking authority. Statute also does not require TJJD to create a training manual for all board members or specify that board members must attest to receiving and reviewing the training manual annually.

Board members report feeling overwhelmed by their training and unprepared for their duties.

New TJJD board members attend a full-day training class, receive an 1,800-page manual of miscellaneous documents, and review a 100-slide training presentation. However, overloading board members with information may not help them understand their actual duties and responsibilities in a clear and meaningful way, including how to comply with the Texas Open Meetings Act or even the basic structure and workings of the juvenile justice system. While TJJD's training meets the letter of the law, members reported being overwhelmed by the amount of information provided and feeling unprepared for their duties, despite the training. Focused, thoughtfully prepared summaries and overviews would be more effective tools for training new board members on their duties and current issues so they are better informed before taking office.

### **Nonessential duties distract board members and staff from more critical responsibilities.**

Currently, board members serve as trustees for two charitable trusts established over 65 years ago to benefit Texas orphans, as described in the textbox. These trusts are unrelated to TJJD's juvenile justice mission, and TJJD is not a direct beneficiary of the trusts. Even so, the board has appointed a committee to oversee the trusts' assets, primarily real property leased to commercial and nonprofit entities. Further, the board requires TJJD staff to handle complex trust management and beneficiary tasks in addition to their full-time state jobs.<sup>29</sup> These activities take board members' and staff's limited time and attention away from pressing issues affecting the juvenile justice system.

#### **Parrie Haynes and John C. Wende Trusts for Orphans**

More than 65 years ago, Parrie Haynes and John C. Wende made gifts in trust to the state to benefit orphans at the State Orphan Home. As state programs for these youth have evolved, administration of the trusts has passed from one agency to another, eventually ending up at TJJD by default in 2011 when its predecessor was abolished. TJJD board members serve as trustees of the two trusts, while staff manages the trusts' land assets, cash investments, leases, and distributions to eligible beneficiaries. TJJD has been using the trusts' income to support educational opportunities for eligible youth. In fiscal year 2021, the board awarded about \$150,000 from the trusts' cash holdings to 18 recipients.

The state could more effectively and efficiently fulfill the donors' original intent by transferring the trusts to an experienced third party trustee and establishing an advisory committee appointed by TJJD and the Department of Family and Protective Services (DFPS) to help guide distribution of funds to eligible orphaned youth in the state's care. Transferring the administration of the trusts to a third party trustee would maximize returns for the beneficiaries and provide expertise and guidance on how to best use trust assets for the intended beneficiaries.

## **Sunset Staff Recommendations**

The findings above indicate a disengaged board whose level of involvement could warrant recommendations for a wholesale change to the board's membership and structure. However, instead of further destabilizing the agency with another significant leadership change, the recommendations focus on setting clear expectations for the board to improve its performance in carrying out important state duties and responsibilities. In fact, some board members started making improvements to address these findings prior to the publication of this report, such as engaging in more substantive discussions with staff and each other in recent public meetings. Additionally, the shorter Sunset review date recommended in Issue 1 would establish a timeline for the board to show meaningful progress and an opportunity for the Legislature to re-evaluate the board's performance in addressing the problems identified in this report.

### ***Change in Statute***

#### **2.1 Require the board to provide oversight and accountability for any duties the board delegates to the executive director.**

This recommendation would require the board to provide clear direction, performance measures, and reporting requirements when delegating any of its duties to the executive director, enabling the board to monitor performance and ensure the duties are carried out in alignment with the board's vision, mission, goals, and strategies. Examples of delegated duties include reviewing, updating, and approving the agency's operational policies; making substantive changes to the budget; and promptly responding to ombudsman reports on youth rights violations. As with most state governing boards, TJJD's part-time, volunteer board needs administrative and logistical support to perform many of its duties. This

recommendation would clarify the board's authority to delegate duties as needed, while minimizing oversight gaps to provide accountability and ensure these duties are completed in an appropriate and timely manner.

## **2.2 Authorize the board to appoint advisory committees.**

This recommendation would authorize the board to establish advisory committees subject to the requirements of Chapter 2110, Texas Government Code, to provide expertise for rulemaking, policy development, and other activities as determined by the board. The board should adopt rules regarding each advisory committee, including:

- Purpose, role, and goals.
- Appointment procedures, composition, terms, and quorum requirements.
- Membership qualifications such as experience, specific expertise, representation of diverse stakeholders, or geographic location.
- Conflict-of-interest policies.
- Compliance with the requirements of the Texas Open Meetings Act.

This recommendation would enable the board to appoint advisory committees whose members could include a broad cross-section of TJJD stakeholders, such as subject matter experts, advocates, community leaders, parents and guardians of justice-involved youth, and former justice-involved youth, to advise the board on complex problems and innovative solutions relating to the juvenile justice system as a whole.

## **2.3 Require the board to adopt rules for the Advisory Council on Juvenile Services.**

This recommendation would continue the statutorily created Advisory Council on Juvenile Services and require the board to adopt policies and procedures in rule for the advisory council, similar to rules required for other advisory committees created under Chapter 2110, Texas Government Code.<sup>30</sup> The board's rules should address the following topics regarding the advisory council, as well as other policies and procedures the board deems necessary:

- Purpose, role, and goals.
- Meeting procedures, quorum requirements, and the appropriate level of participation of ex officio staff members.
- Election or appointment of the advisory council chair and vice chair.
- Communications with the board including reporting requirements.
- Conflict-of-interest policies.
- Compliance with the requirements of the Texas Open Meetings Act.

The board would not need to adopt rules for topics already addressed in statute, such as the advisory council's composition, terms, member qualifications, and nomination process. This recommendation would ensure the board and the advisory council have clear policies and procedures to maximize their collaboration and coordination on matters affecting county juvenile probation departments.

## **2.4 Abolish the inactive statutory advisory committee on vocational education and employment programs.**

This recommendation would abolish the inactive advisory committee on vocational education and employment programs for juvenile offenders. The recommendation would not change other provisions in the statute that authorize TJJD to provide vocational education and employment programs for youth. The board would have authority under Recommendation 2.2 to appoint a similar advisory body if needed in the future.

## **2.5 Update the standard across-the-board requirement related to board member training and improve the usefulness of the training.**

This recommendation would statutorily require TJJD to develop a training manual that each board member attests to receiving annually and require existing board member training to include information about the scope of and limitations on the board's rulemaking authority. The training should clarify the Legislature sets policy, and agency boards and commissions have rulemaking authority necessary to implement legislative policy.

In addition to these statutory changes, this recommendation would direct TJJD, as a management action, to streamline the training program for new board members by focusing training materials on information board members must know to perform their duties upon taking office. For example, the training should provide high-level summaries and clearer information about board communications and the Texas Open Meetings Act, members' statutory duties, board and committee meeting protocols, and an overview of how the state juvenile justice system functions. This recommendation would ensure TJJD's training program for new board members provides the appropriate type and amount of information they need to know before beginning their critical duties.

### ***Management Action***

## **2.6 Direct the board to evaluate and update its own policies and practices to more efficiently and effectively perform its duties.**

This recommendation would direct the board to evaluate its self-governance policies and practices to identify and implement changes to improve board processes, encourage greater board supervision and engagement, and clarify board members' responsibilities and expectations. In conducting the evaluation, board members should discuss the following board functions and duties, as well as any other topics the board deems necessary:

- Policies, processes, and expectations for performing board duties including but not limited to developing strategic plans; setting funding priorities; developing and updating performance measures; adopting rules and policies; and following up on serious issues raised in OIO, OIG, and audit reports.
- Board self-governance policies, practices, and expectations including board member training, use of ad hoc committees and subcommittees, communications, and engagement.
- Board roles, responsibilities, and processes for supervising and evaluating its direct reports — the executive director, chief inspector general, and internal auditor — to provide adequate accountability for these positions.

These actions would enable the board to update its policies and practices to improve its performance in governing and supervising TJJD. To monitor the board's progress, this recommendation would require TJJD to submit a written status report to the Sunset Commission by December 1 of each even-numbered year until the agency's next Sunset review.

## **2.7 Direct TJJD to adopt a four-year rule review plan and rules that are required by statute.**

This recommendation would direct TJJD to update its rulemaking policy and adopt a rule review plan to help ensure the agency complies with the statutory requirement to regularly review its rules every four years, including determining whether the initial reasons for adopting the rules continue to exist.<sup>31</sup> The plan should include a schedule indicating when each chapter of rules will be reviewed so all rules are timely considered. TJJD would submit the plan and the updated policy to the Sunset Commission by March 1, 2023. The agency should also post the plan on its website to ensure stakeholders and the public are aware of upcoming opportunities to provide input on rule changes. Finally, TJJD should consider filing its rule review plan with the Office of the Secretary of State for publication in the *Texas Register*.

Additionally, this recommendation would direct the board to develop and adopt rules that are required by statute, such as rules regulating the board's proceedings.<sup>32</sup> The board should ensure these rules are regularly reviewed and updated by including them in the rule review plan.

## **2.8 Direct TJJD to seek representation by the Office of the Attorney General to pursue a modification of the Parrie Haynes and John C. Wende trusts that would appoint a qualified third party trustee and an advisory committee to assist the trustee.**

This recommendation would direct TJJD to work with the Office of the Attorney General (OAG) to modify the terms of the Parrie Haynes Trust and the John C. Wende Trust. The modification would transfer the trusts to a qualified third party trustee with relevant experience and expertise, which would require judicial approval.

In seeking this approval, TJJD and OAG should identify any other changes they deem necessary to modernize the trusts while preserving the donors' original intent to benefit orphans in the state's care. TJJD and OAG, in consultation with DFPS, would ask the court to establish an advisory committee to assist the third party trustee on the use of the funds. Transferring these trusts to an experienced third party trustee would relieve TJJD of unnecessary distractions and ensure the trusts fulfill their donors' intent. TJJD would be required to submit a written progress report on modifying the terms of the trusts to the Sunset Commission by March 1, 2023.

## **Fiscal Implication**

These recommendations would not have a fiscal impact to the state. Recommendations to perform four-year rule reviews, evaluate and update policies, and improve board training would require staff time to complete, which could place additional strains on current staff if existing vacant positions remain unfilled. However, these recommendations fall under existing statutory requirements and could be implemented with existing resources.

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<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 202.001, Texas Human Resources Code. Statutory qualifications for the three chief juvenile probation officers appointed to the board require representation of a small county with fewer than 7,500 youth; a medium county with 7,500 to fewer than 80,000 youth; and a large county with 80,000 or more youth.

<sup>2</sup> Sections 203.001, 203.002, 203.017, 221.002, 221.009, 222.003, 242.003, 242.009(h), and 242.102(f), Texas Human Resources Code; Section 2102.006, Texas Government Code.

<sup>3</sup> Texas Juvenile Justice Department (TJJJD), *Board Governance and Policy Manual*, July 17, 2019, accessed online March 27, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/182-governing-board/2027-board-governance-policy-manual>.

<sup>4</sup> Section 203.0081, Texas Human Resources Code. The Advisory Council on Juvenile Services is statutorily exempt from Chapter 2110, Texas Government Code, which establishes general guidelines for most state agencies' advisory committees.

<sup>5</sup> TJJJD, *Office of the Inspector General (OIG) Reports*, webpage, accessed online April 20, 2022, <https://www.tjjd.texas.gov/index.php/inspector-general#reports>.

<sup>6</sup> TJJJD, *TJJJD Board Meeting Information Packet*, February 24-25, 2022, p. 25, accessed online March 23, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/681-feb22/3112-boardbook-022522>. OIG also publishes a more comprehensive version of its quarterly reports to the board online at <https://www.tjjd.texas.gov/index.php/inspector-general#reports>.

<sup>7</sup> 37 Texas Administrative Code, Part 11, Chapter 385, Subchapter C, Section 385.9941(c)(2) (2016) (TJJJD, *Response to Ombudsman Reports*).



- <sup>8</sup> Sections 2102.006(a), 2102.007(a)(6), and 2102.008, Texas Government Code.
- <sup>9</sup> TJJD, *TJJD Board Meeting Information Packet*, February 24–25, 2022, p. 186, accessed online March 23, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/681-feb22/3112-boardbook-022522>.
- <sup>10</sup> TJJD, *TJJD Board Meeting Information Packet*, August 20 and 27, 2021, p. 62, accessed online March 22, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/657-august-2021/2888-info-packet-board-082721>.
- <sup>11</sup> TJJD, General Administrative Policy Manual, GAP .05.01, *Auditing*, effective December 15, 2008, accessed online March 11, 2022, <https://www2.tjjd.texas.gov/policies/GAP/05/gap0501.pdf>; Section 2102.005(b), Texas Government Code.
- <sup>12</sup> Texas State Auditor’s Office, *An Audit Report on Contracting at the Juvenile Justice Department*, July 2019, accessed online April 19, 2022, <https://sao.texas.gov/SAOReports/ReportNumber?id=19-043>.
- <sup>13</sup> Section 201.002(1), Texas Human Resources Code.
- <sup>14</sup> TJJD, *Board Governance and Policy Manual*, July 17, 2019, accessed online March 27, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/182-governing-board/2027-board-governance-policy-manual>.
- <sup>15</sup> Sections 203.001(a) and 242.003(a), Texas Human Resources Code.
- <sup>16</sup> Section 242.003, Texas Human Resources Code; TJJD, *Board Governance and Policy Manual*, July 17, 2019, p. 9, Section (3), accessed online March 22, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/182-governing-board/2027-board-governance-policy-manual>.
- <sup>17</sup> TJJD, online policies library, accessed online April 17, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/category/531-chapter-06-mental-health>.
- <sup>18</sup> TJJD, General Administrative Policy Manual, Chapters 3–10, accessed online March 11, 2022, <https://www2.tjjd.texas.gov/policies/gap/default.aspx>.
- <sup>19</sup> TJJD, September 2020 board meeting on the proposed Legislative Appropriations Request for Fiscal Years 2022 and 2023, September 25, 2020, archival video and related board meeting materials, accessed online April 21, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/category/632-september-2020>.
- <sup>20</sup> TJJD, *TJJD Board Meeting Information Packet*, August 20 and 27, 2021, accessed online March 22, 2022, p. 50, <https://www.tjjd.texas.gov/index.php/doc-library/send/657-august-2021/2888-info-packet-board-082721>.
- <sup>21</sup> Recent examples of board assignments to the Advisory Council on Juvenile Services: In November 2019, the board directed the advisory council to propose rules to comply with Chapter 53, Texas Occupations Code, which requires regulatory agencies to remove unnecessary or subjective barriers to licensure or certification for people with a criminal history unrelated to the occupation. In February 2022, the board discussed asking the advisory council for input on TJJD’s minimum lengths of stay for juveniles in TJJD facilities.
- <sup>22</sup> Section 246.002, Texas Human Resources Code.
- <sup>23</sup> Section 2001.039, Texas Government Code.
- <sup>24</sup> TJJD, General Administrative Policy Manual, GAP .05.13, *Texas Administrative Code*, effective December 31, 1996, accessed online March 11, 2022, <https://www2.tjjd.texas.gov/policies/GAP/05/gap0513.pdf>.
- <sup>25</sup> Section 202.008(b), Texas Human Resources Code; TJJD, *Board Governance and Policy Manual*, July 17, 2019, p. 15, accessed online March 27, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/182-governing-board/2027-board-governance-policy-manual>.
- <sup>26</sup> 37 Texas Administrative Code, Part 11, Chapters 341–385 (TJJD).
- <sup>27</sup> 37 Texas Administrative Code, Part 11, Chapter 351 (TJJD, *Standards for Short-Term Detention Facilities*). The Texas Juvenile Probation Commission adopted these rules in 2003 and updated four of them in 2010.
- <sup>28</sup> Section 202.006, Texas Human Resources Code; Sunset Advisory Commission, “Across-the-Board Policies,” accessed online April 27, 2022, <https://www.sunset.texas.gov/across-board-policies>.
- <sup>29</sup> TJJD, *Board Governance and Policy Manual*, July 17, 2019, p. 10, Section (4), accessed online March 27, 2022, <https://www.tjjd.texas.gov/index.php/doc-library/send/182-governing-board/2027-board-governance-policy-manual>.
- <sup>30</sup> Section 203.0081(f), Texas Human Resources Code, exempts the Advisory Council on Juvenile Services from statutory provisions for state agency advisory committees in Chapter 2110, Texas Government Code, such as duration and composition requirements.
- <sup>31</sup> Section 2001.039, Texas Government Code.
- <sup>32</sup> Section 202.008(b), Texas Human Resources Code.



## ISSUE 3

# Key Elements of TJJD's Statute, Rules, and Procedures Do Not Conform to Common Regulatory Standards.

## Background

The Texas Juvenile Justice Department (TJJD) sets rules and internal policies for the operations of its state secure facilities and halfway houses and conducts compliance inspections for these facilities. TJJD also regulates the county-level components of the juvenile justice system by setting minimum standards for different entities, including county juvenile probation departments, county-level correctional facilities, and juvenile justice alternative education programs (JJAEPs).<sup>1</sup> TJJD conducts routine, on-site inspections and desk audits of these entities to ensure compliance with standards, requests follow-up action to correct violations, and provides technical assistance. In fiscal year 2021, TJJD inspected 10 county departments, 84 county-level facilities, 17 JJAEPs, and nine state facilities.

TJJD also certifies and may take enforcement action against three types of employees who work directly with county youth: juvenile probation officers, juvenile supervision officers, and community activities officers.<sup>2</sup> These employees provide differing levels of supervision to youth both in facilities and communities, and must meet different qualifications for certification described in Appendix G. If an officer engages in abuse, neglect, or exploitation of a youth or violates TJJD's code of ethics, the agency can take disciplinary action, including suspension or revocation of a certification.<sup>3</sup> In fiscal year 2021, TJJD regulated almost 5,000 certified officers, suspended 61 certifications, and revoked 21.

The Sunset Advisory Commission has a long history of evaluating licensing and regulatory agencies, as the increase of occupational regulation was the impetus behind the commission's creation in 1977. Since then, the Sunset Commission has completed numerous reviews of licensing and regulatory agencies, documenting standards to guide future reviews. While these standards provide guidance for evaluating a regulatory agency's structure and functions, they are not intended for blanket application. Sunset staff continues to refine and develop standards to reflect additional experience and changing needs, circumstances, or practices. The following material highlights areas where TJJD's statute and rules differ from these model standards and describes potential benefits of conforming to standard practices.

## Findings

### Bifurcated and inconsistent inspection procedures create inefficiencies and gaps in oversight.

An agency should have processes in place to evaluate the risk level posed by entities subject to inspection and target more staff time and resources to the highest-risk areas. However, TJJD's bifurcated inspection procedures for county- and state-level facilities do not adequately account for risk, decreasing potential efficiencies for the agency.

At the county level, statute requires TJJD to inspect all registered facilities at least once a year, despite data revealing large disparities in the number of rule violations at different facilities over time.<sup>4</sup> As shown in the table, the majority of facilities had fewer than 10 violations over the past

**Standards Violations  
FYs 2019-21**

Number of Standards Violations	Number of Facilities
0	15
1 to 9	56
10 to 19	16
20 or more	6

Statutorily  
prescribed  
inspection  
schedules  
prevent TJJD  
from allocating  
resources  
strategically.

three fiscal years, while some facilities had more than double that number. Further, some facilities with high numbers of standards violations broke the same rules year after year. For example, TJJD cited the Rockdale Youth Academy's post-adjudication facility for 34 standards violations during this time period including three repeat violations, one of which involved a failure to ensure residents received mandatory psychological or medical evaluations prior to admission. Meanwhile, TJJD cited McLennan County's nearby post-adjudication facility for only one violation involving the unauthorized use of a space heater. Additionally, no youth have been placed at McLennan's facility since at least February 2020. Still, TJJD staff conducted the same frequency of inspections at both facilities. The number of past or repeat violations, along with other critical information like the severity of violations and recent serious incidents, can indicate a facility's or county department's need for increased inspections and technical assistance. However, statutorily prescribed inspection schedules prevent the agency from strategically reallocating staff time toward entities that require additional oversight.

Conversely, statute does not prescribe an inspection schedule for state-level facilities, but TJJD has not used this flexibility to formally incorporate risk considerations into its procedures. In 2018, TJJD shifted toward targeted reviews of its own facilities in lieu of comprehensive annual visits, citing limited effectiveness, time constraints, and the presence of other oversight mechanisms, such as limited-scope site visits from the Office of the Independent Ombudsman (OIO). However, TJJD did not implement a risk-based approach to inspecting state facilities along with this shift. Instead, TJJD's executive staff typically dictates the timing and focus of ad hoc inspections within state facilities based on perceived problems, which may allow anecdote to drive resource allocation, rather than deliberate analysis.

Procedural gaps  
allow some  
state facility  
operations to  
go unchecked  
for indefinite  
periods of time.

Though TJJD inspects its state facilities, the agency's lack of strategic resource allocation leaves troublesome gaps in oversight. TJJD has not reviewed several critical areas of facility operations for compliance with internal policy since at least fiscal year 2019, including alleged abuse and neglect reporting and investigation requirements, disciplinary hearing processes, and education practices. Further, no clear plans exist to determine when TJJD will review these areas in the future. Without a standardized procedure for assigning risk, staff prioritizes inspections of some state-level operations and leaves others without thorough review for indefinite periods of time, jeopardizing youth outcomes and facility safety.

Ultimately, by splitting inspections into separate county and state processes, TJJD cannot evaluate the relative risk of harm among all of the facilities it oversees and allocate staff attention accordingly. By prioritizing inspections of high-risk facilities and key operational areas throughout the juvenile justice system, the agency could better protect staff and youth, while maximizing its use of limited resources.

## Nonstandard and unnecessary certification requirements create barriers to entry that exacerbate staffing shortages in county juvenile probation departments.

Similar to staffing shortages in TJJD's state facilities, employee turnover at the county level impacts counties' and private entities' ability to adequately staff their facilities and protect youth and staff. While the agency does not maintain centralized data on turnover rates within county juvenile probation departments or their contracted facilities, stakeholders reported these shortages became more acute during the pandemic and are typically most severe in smaller, more rural departments where applicant pools are limited. Given these concerns, Sunset reviewed relevant certification requirements and identified unnecessary barriers that contribute to hiring problems across the state.

- **Overly prescriptive education and experience requirements.** Education and experience requirements for certification should be the minimum necessary to ensure an applicant's competency and suitability for working with youth without creating barriers to entry. Statute requires county juvenile probation officers (JPOs) to have a bachelor's degree, as well as either a year of graduate school study in a specific discipline or a year of full-time work in a related field.<sup>5</sup> JPOs perform a variety of functions in county juvenile probation departments including developing or implementing case plans, recommending dispositions in formal court proceedings, and interviewing youth referred to county departments.<sup>6</sup> While many JPO duties are comparable to those of a case manager at TJJD or a caseworker at the Department of Family and Protective Services (DFPS), JPOs have higher entry-level requirements than either of these positions as shown in the table below.

Certified juvenile probation officers have higher entry-level requirements than other positions with similar duties.

### Education and Experience Requirements for Juvenile Case Management Positions

Name	Description
Certified County Juvenile Probation Officer <sup>7</sup>	<ul style="list-style-type: none"> <li>• Bachelor's degree; AND               <ul style="list-style-type: none"> <li>— One year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or another field of instruction approved by TJJD; OR</li> <li>— One year of full-time, TJJD-approved case work, counseling, or community or group work in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons.</li> </ul> </li> </ul>
TJJD Case Manager I	<ul style="list-style-type: none"> <li>• Bachelor's degree; OR</li> <li>• High school diploma and either:               <ul style="list-style-type: none"> <li>— 15 college credit hours of related coursework and two years of relevant, full-time work experience; OR</li> <li>— Five years of relevant, full-time work experience.</li> </ul> </li> </ul>
DFPS Conservatorship Specialist I	<ul style="list-style-type: none"> <li>• Bachelor's degree; OR</li> <li>• Associate's degree plus two years of relevant work experience; OR</li> <li>• 60 college credit hours and two years of relevant work experience; OR</li> <li>• 90 college credit hours and one year of relevant work experience.</li> </ul>

Removing  
burdensome  
statutory  
requirements  
would increase  
flexibility  
in TJJD's  
certification  
process.

County stakeholders and TJJD staff reported current requirements prevent them from hiring or certifying desired candidates. To minimize staffing disruptions at the county level, TJJD tries to be as permissive as possible when evaluating each applicant's work history so counties are able to recruit qualified staff, such as teachers making a career change. However, efforts to review and make judgments about applicable work history slow down certification procedures. Removing prescriptive, burdensome requirements from statute and allowing TJJD to establish them in rule would increase flexibility in the certification process without decreasing accountability to the public.

- **Insufficient rules regarding criminal history evaluations.** In determining an applicant's qualifications for certification, Chapter 53 of the Texas Occupations Code requires agencies to apply objective standards that directly connect an applicant's criminal history to the duties and responsibilities of the certified occupation.<sup>8</sup> TJJD is currently out of compliance with this mandate, as agency rules establish blanket bans on applicants with criminal histories, such as individuals convicted of any Class A or B misdemeanor in the past five years.<sup>9</sup> In October 2020, TJJD staff and the Advisory Council on Juvenile Services submitted proposed rule changes to a committee of TJJD's board that would have established the agency's compliance with Chapter 53. However, the committee did not take a vote to move the proposal forward to the full board, preventing its adoption and implementation. Adopting rules that comply with state law would ensure TJJD objectively and fairly evaluates all applicants' criminal history in relation to the profession, while still prioritizing youth safety.
- **Insufficient rules and procedures related to military service members, veterans, and military spouses.** Chapter 55 of the Texas Occupations Code requires agencies to recognize and accommodate the experience of military service members, veterans, and spouses in the certification and renewal process, explicitly requiring rules in some provisions.<sup>10</sup> TJJD has implemented some Chapter 55 requirements, but its approach has been piecemeal. For example, TJJD does not offer expedited certification processes for military service members, veterans, and military spouses. Additionally, TJJD's website does not have a prominently posted notice that describes the accommodations available to this group. Fully complying with legislative requirements related to certification for military service members, veterans, and military spouses would expand employment opportunities for these groups and may attract additional staff to fill vacancies in county departments around the state.
- **Subjective statutory qualification for certification.** Qualifications for certification should be clear and objective and should not unreasonably restrict entry into practice. Currently, TJJD's statute and rules require applicants for certification to be of "good moral character."<sup>11</sup> While of course Texas wants certified officers to have good moral character, the phrase is inappropriately subjective and vague, and could create inconsistent barriers to certification for otherwise qualified applicants. Removing this subjective

TJJD does not  
fully comply  
with legislative  
requirements  
for certifying  
military service  
members.



requirement would better align the agency's evaluation of applicants with more objective and verifiable statutory requirements for certification, such as criminal history.

- **Missing provisional certification authority.** Agencies should have provisional certification authority when applicants must complete high-risk, on-the-job training before obtaining a full certification. Before TJJD certifies an officer, a county or private entity must first hire the applicant, who typically begins working directly with youth prior to finishing required training hours and receiving a full certification. However, if the applicant commits a violation during this time, such as using unnecessary force against a youth, TJJD does not have statutory authority to take enforcement action and prevent the individual from interacting with other juveniles.

Recognizing this risk, TJJD created internal workarounds within the bounds of its current authority, but these workarounds have their own inherent flaws. For example, TJJD flags certain applicants as ineligible for certification in a database using information it receives and confirms from various sources, such as the Office of the Inspector General's (OIG) hotline or the county department where the officer works. The agency then requires relevant entities like county departments to search for that flag as part of their hiring process. TJJD also recently developed internal procedures allowing applicants to contest findings of ineligibility. However, these informal procedures are not detailed in statute or rule and do not provide the same level of due process that certified officers receive, such as the ability to appeal TJJD's decisions to the State Office of Administrative Hearings (SOAH). Statutorily authorizing TJJD to issue provisional certifications to officer applicants as they complete their training would protect applicants' due process rights, while allowing the agency to protect youth in a timely manner without problematic workarounds.

TJJD lacks authority to take enforcement action against officers in training who commit violations.

### **Nonstandard statutory enforcement provisions present obstacles to effective regulation.**

- **Atypical investigatory practices.** An agency should not publish the findings of an investigation against a licensee until the investigation has concluded. At most regulatory agencies, investigators handling complaints are responsible for reviewing relevant evidence and making recommendations to prosecutors about how to proceed. Prosecutors are then responsible for drawing legal conclusions from that information and deciding whether to pursue disciplinary action, but may also request more information from investigators to inform their decisions.

TJJD's procedures do not follow this paradigm. Among other duties, OIG investigates any abuse, neglect, and exploitation (ANE) allegations of an *administrative* nature. OIG may simultaneously investigate these violations for eventual criminal prosecution and administrative enforcement or only for administrative enforcement, in cases such as a certified officer engaging in an inappropriate relationship with a youth that does not rise to the level

TJJD may deem  
certified officers  
“designated  
perpetrators”  
despite  
potential legal  
insufficiencies.

of criminal misconduct. During the course of ANE investigations, OIG staff determines whether the alleged ANE violation is confirmed. Once OIG makes this finding, it sends out notices to the certified officer, alleged victim, and county department where the certified officer works, usually without consulting TJJD attorneys. If OIG makes a confirmed finding, the certified officer is deemed a “designated perpetrator” in a statement that becomes public record. TJJD’s general counsel has the opportunity to review the investigation for legal sufficiency but typically only after OIG makes its determination. As a result, officers who may have been able to defend themselves against allegations through a proper contested case hearing are deemed “designated perpetrators” despite a finding’s potential legal insufficiency, while staff must take additional steps to overturn incorrect findings. Clarifying this administrative process would align TJJD’s procedures with best practices and better ensure the agency upholds respondents’ due process rights.

- **Inconsistent referrals for and tracking of nonjurisdictional complaints.** An agency should have a process to refer and track all complaints not within its jurisdiction to the appropriate organization. However, TJJD does not consistently adhere to this best practice. For example, while agency staff refers some nonjurisdictional complaints to law enforcement agencies, the agency does not refer complaints about juvenile judges to the State Commission on Judicial Conduct or standard of care violations about physicians, nurses, dentists, counselors, and other providers to relevant licensing agencies. TJJD also does not systematically track the number and type of nonjurisdictional complaints it receives. Directing complainants to the entity with authority to address their allegations would provide recourse to such individuals and ensure serious allegations can receive a proper investigation. Tracking these referrals would also more accurately and completely reflect potential problems and concerns in the juvenile justice system.
- **Missing complaint information.** Regulatory agencies should keep and report statistical information detailing the number, source, and type of complaints received and the disposition of complaints resolved. Multiple divisions within TJJD may receive complaints, but the agency does not have a single centralized process for tracking them. For example, complaints against certified officers fall into two general categories: ANE violations and code of ethics violations. Two different divisions address these complaint types, so neither has a complete picture of the universe of complaints TJJD receives against certified officers. Further, TJJD does not publish the data it collects about complaints against certified officers on its website. Tracking and publicly reporting comprehensive complaint data would help the agency better understand trending issues, revise or develop rules accordingly, and inform interested parties including policymakers and county-level stakeholders.

Tracking  
and publicly  
reporting  
complaint data  
would help TJJD  
understand  
and respond to  
trends.

## Sunset Staff Recommendations

### *Change in Statute*

#### **3.1 Require TJJD to establish a risk-based approach to inspections for county- and state-level entities, including contract facilities operated by private entities.**

This recommendation would remove prescribed inspection schedules from statute and instead require the agency to adopt policies formally guiding the prioritization of inspections based on risk posed by facilities under TJJD's jurisdiction. While this recommendation would apply to county- and state-level facilities and county departments, it would not apply to JJAEPs because they do not involve the same risks, processes, or resource allocation.

In establishing these policies, the agency would develop assessment tools with clear, objective thresholds for what constitutes high-, medium-, and low-risk facilities and departments. TJJD would then use these tools to determine how frequently and intensively staff must conduct various inspections and which operational areas should be the focus of such inspections. The assessments would consider key risk factors, such as type of entity, available programming, past and repeat standards violations, volume and type of complaints, recent leadership changes, high staff turnover, relevant OIO and OIG findings, and negative media attention. The assessments may also include the number of months since each entity's last inspection to make sure juvenile correctional facilities and county departments do not go unchecked for extended periods of time, as determined by TJJD staff. Additionally, TJJD's inspection policies should provide for a periodic review of these risk factors so they remain up-to-date and meaningful. TJJD could develop distinct assessments with overlapping factors for the different types of entities it inspects if needed. For inspections deemed low-risk, the recommendation would clearly authorize TJJD to use alternative inspection methods, such as desk audits of key documentation, abbreviated inspection procedures, or videoconferencing technology when necessary.

To establish a fair, efficient, and effective risk assessment, statute would authorize TJJD to request and receive necessary data from county departments and private facilities to help inform its analysis. However, the agency should work with stakeholders to make sure such requests do not create unnecessary burdens. As a management action, TJJD should critically review the additional information and data needed to conduct risk-based inspections and report its findings to the Sunset Commission by December 1, 2022. Establishing a risk-based approach to county- and state-level inspections would ensure the efficient allocation of resources to entities presenting the most potential harm to youth, staff, county governments, and the state.

#### **3.2 Remove prescriptive education and experience requirements for JPOs from statute.**

This recommendation would remove prescriptive education and experience requirements for JPOs from statute and instead require TJJD, with input from the Advisory Council on Juvenile Services and other relevant stakeholders, to establish these requirements in rule. As the state agency entrusted with regulating certified officers, TJJD is best positioned to determine the proper education and experience requirements for JPOs. However, statute would specify these requirements should be the least restrictive possible to ensure officers are qualified to protect youth and public safety without creating barriers to entry into the profession. Eliminating statutory requirements regarding JPOs' higher education and work histories and giving TJJD flexibility to define them in rule would enable stakeholders to provide input during the public rulemaking process, while minimizing unnecessarily rigid qualifications for certification.

### **3.3 Clearly require TJJD to develop guidelines for evaluating applicants' criminal history for all of its certifications.**

This recommendation would clarify Chapter 53 of the Texas Occupations Code applies to all certifications regulated by TJJD. Under this recommendation, TJJD would develop and publish guidelines to identify and explain which crimes directly relate to TJJD's certifications and would be considered when approving or denying a certification. Developing and publishing criminal conduct guidelines better informs applicants about the qualifications necessary to receive a certification and improves transparency to stakeholders and the public. In implementing this recommendation, the agency should thoroughly document all decisions regarding criminal history evaluations, including the specific reasons for approving or denying a certification, to ensure consistent and fair evaluations of applicants.

### **3.4 Remove subjective certification requirements for county-level officers.**

This recommendation would remove outdated requirements in statute and rule that certification applicants must be of "good moral character," which is unclear, subjective, and difficult to enforce. TJJD would instead assess applicants by receiving and reviewing criminal history information to determine eligibility for certification according to standard, objective requirements in Chapter 53 of the Texas Occupations Code. Relying on objective standards for evaluating applications better adheres to legislative intent and eliminates an unnecessary barrier to entry.

### **3.5 Authorize TJJD to issue provisional certifications to officer applicants upon employment with a county juvenile probation department or relevant private entity while they complete their required training.**

Under this recommendation, statute would authorize TJJD to issue provisional certifications to employees of county departments or private facilities that house county youth until they are fully certified. As part of this recommendation, TJJD would adopt rules outlining the provisional certification process including eligibility requirements and necessary timeframes for applications. This would allow TJJD to take enforcement action against any of these employees who allegedly committed an ANE violation or code of ethics violation, while still protecting each employee's right to due process.

### **3.6 Require TJJD to adopt rules governing its administrative investigation process to provide adequate due process for certified officers.**

Under this recommendation, TJJD would develop and adopt rules and policies to ensure administrative investigation findings that have not been reviewed for legal sufficiency are not made public. Requiring a legal sufficiency review would reduce the number of findings TJJD overturns and ensure certified officers are not labeled "designated perpetrators" based on legally insufficient investigations.

### **3.7 Require TJJD to collect, maintain, and make publicly available detailed statistical information on complaints regarding certified officers.**

Under this recommendation, statute would clearly require TJJD to track and post on its website statistical information detailing the number, source, and types of complaints received regarding certified officers and the disposition of those complaints. Doing so would provide policymakers, stakeholders, and the public a more complete picture of TJJD's regulatory and operational activities. Also, analysis and public reporting of TJJD complaint information would assist the agency and others in identifying regulatory problem areas. At a minimum, the information should include the following:

- Total number of certified officers by certification type.
- Total number of complaints against certified officers by certification type.
- All resolved complaints per fiscal year by each type of action taken (e.g., nonjurisdictional, dismissed, reprimand, suspension, or revocation).
- Breakdown of the resolution for each closed complaint per fiscal year by the nature of the alleged violation (e.g., confirmed abuse of a youth or code of ethics violation).
- Breakdown of each closed complaint per fiscal year by source (e.g., complaints originating from youth; state, county, or contract staff; OIG; the internal grievance system; or the public).
- Number of agreed, default, and board orders.
- Number of cases referred to SOAH.
- Number of contested cases heard at SOAH.
- Number of cases that went to district court.
- Average number of days to resolve a complaint.

### ***Management Action***

#### **3.8 Direct TJJD to comply with statutory requirements by developing rules and procedures regarding certification of military service members, veterans, and military spouses.**

This recommendation would direct TJJD to develop rules and policies to best accommodate military service members, veterans, and their spouses in compliance with Chapter 55 of the Texas Occupations Code. By developing policies to accommodate military service members' challenging schedules, crediting related military experience, and posting provisions available to service members, veterans, and military spouses on its website, the agency could foster greater participation from these groups.

#### **3.9 Direct TJJD to develop a formal process to refer nonjurisdictional complaints to the appropriate agency.**

This recommendation would direct agency staff to refer all nonjurisdictional complaints received to the appropriate agency or entity and track the subject matter or type of such complaints. Formal referral and tracking of all nonjurisdictional complaints would ensure all complaints arrive at the proper authority for evaluation and provide a more complete picture of potential concerns within the juvenile justice system.

### **Fiscal Implication**

Overall, the recommendations would not have a significant fiscal impact to the state. Most recommendations would reduce barriers to certification, strengthen enforcement procedures, and ensure the agency complies with existing statutory requirements, which TJJD could accomplish with existing resources. The recommendation to implement a risk-based inspection process should increase the agency's efficiency by targeting resources toward the highest-risk facilities, but the exact fiscal impact would depend on the results of TJJD's risk assessments and cannot be estimated.

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<sup>1</sup> County-level facilities refer to pre- and post-adjudication facilities operated either by a county juvenile probation department or a private entity. These facilities include pre-adjudication detention facilities, holdover pre-adjudication facilities, and secure and nonsecure post-adjudication facilities.

<sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Chapter 222, Texas Human Resources Code.

<sup>3</sup> Section 222.053, Texas Human Resources Code.

<sup>4</sup> Sections 51.12(c-1), 51.125(c), and 51.126(c), Texas Family Code.

<sup>5</sup> Section 222.001(a)(2)-(3), Texas Human Resources Code.

<sup>6</sup> 37 Texas Administrative Code, Part 11, Chapter 341, Subchapter D, Section 341.400 (2019) (Texas Juvenile Justice Department (TJJJD), *Duties of Certified Juvenile Probation Officers*).

<sup>7</sup> Section 222.001(a)(2)-(3), Texas Human Resources Code.

<sup>8</sup> Sections 53.021(a)(1) and 53.022, Texas Occupations Code.

<sup>9</sup> 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter D, Section 344.400(a)(3) (2018) (TJJJD, *Disqualifying Criminal History*).

<sup>10</sup> Chapter 55, Texas Occupations Code; rules explicitly required in Sections 55.002, 55.004, 55.0041, 55.007, and 55.008, Texas Occupations Code.

<sup>11</sup> Sections 222.001(a)(1) and 222.002(1), Texas Human Resources Code; 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter B, Section 344.200(a)(2), (b)(2), and (c)(2) (2018) (TJJJD, *General Qualifications for Positions Requiring Certification*).



## ISSUE 4

# The Office of the Independent Ombudsman Needs Clearer Authority and Formalized Policies to Better Secure the Rights of Youth in the Juvenile Justice System.

### Background

In 2007, the Legislature responded to scandals and abuse in the juvenile justice system by creating the Office of the Independent Ombudsman (OIO) to investigate, evaluate, and secure the rights of youth committed to the state's care.<sup>1</sup> Since OIO's creation, statute has required the office to periodically conduct reviews or inspections, termed site visits within OIO, of state-level facilities including contract facilities operated by private entities.<sup>2</sup> In 2015, the Legislature also authorized OIO to inspect county-level facilities confining post-adjudicated youth — those found to have committed an offense.<sup>3</sup> These unannounced site visits at facilities and parole offices are OIO's primary mechanism for identifying and investigating rights violations. For each site visit, ombudsmen typically conduct a facility walkthrough, review internal documentation and camera footage, and interview youth and staff. Afterward, they send a report detailing their observations, potential violations, and requests for follow-up action to the appropriate facility, county, and state leaders. In fiscal year 2021, OIO conducted 408 site visits across the state at 113 county, contract, and state facilities including parole offices.

OIO also processes requests for assistance from youth; their parents and guardians; county, contract, and state staff; and the general public.<sup>4</sup> If a request for assistance involves a youth rights or service delivery issue, OIO may open a complaint investigation and ultimately request an action plan from responsible parties. Otherwise, OIO may submit the request for assistance directly to a facility, refer the request to an outside entity, or simply answer inquiries that do not require an in-depth investigation. In fiscal year 2021, OIO closed 427 requests for assistance, 17 of which required individual complaint investigations.

Finally, OIO must immediately report serious child abuse cases or other problems to the governor, lieutenant governor, speaker of the House of Representatives, state auditor, the board of the Texas Juvenile Justice Department (TJJD), and TJJD's Office of the Inspector General (OIG).<sup>5</sup> Additionally, OIO summarizes its work in a quarterly report that it publishes on its website and sends to the governor, lieutenant governor, each member of the Legislature, the state auditor, and TJJD's board.<sup>6</sup> Unlike TJJD, which is subject to review and abolishment under the Texas Sunset Act, OIO is only subject to review, not abolishment.<sup>7</sup>

### Findings

#### **Statute does not provide OIO access to information needed to fully protect youth rights.**

All facilities that house post-adjudicated youth fall within OIO's purview, but statute does not provide a means by which the office can readily identify each facility's location. Currently, TJJD and county juvenile probation departments are not required to inform OIO when they enter into new contracts with private entities to house post-adjudicated youth, creating gaps in OIO knowledge and facility accountability. TJJD maintains a registry of the facilities it annually

OIO relies on word-of-mouth to identify where youth under its purview are placed.

certifies from which OIO may glean information, but this resource is not comprehensive for OIO's purposes. For example, the registry does not include all facilities that can house post-adjudicated youth but are regulated by entities other than TJJD, such as certain residential treatment centers licensed by the Department of Family and Protective Services. No comparable registry exists that is specific to OIO's full jurisdiction. In the absence of statutory notification requirements, OIO must rely on word-of-mouth from youth, staff, and other stakeholders to identify where youth have potentially been placed. As a result, OIO may not know about all of the relevant facilities it should visit, which could lead to youth rights violations going unnoticed and unreported. For example, in April 2022, ombudsmen learned about a residential facility specializing in substance use treatment that had been housing county-level post-adjudicated youth without OIO's awareness or routine oversight.

Additionally, although the Legislature granted OIO authority to conduct site visits at county-level facilities, statute has not been updated to fully reflect this authority, such as ensuring OIO has access to necessary records in all county-level facilities. Requiring TJJD and county departments to routinely notify OIO about their contract facilities and clarifying statute to reflect the full scope of OIO's authority in county-level facilities would help the office provide adequate protection to all youth under its jurisdiction.

### **OIO lacks formal policies and processes to track and address recurring juvenile justice issues over time and across facilities.**

- **No formal procedures to identify and track trends.** OIO does not have established procedures to identify and track trends discovered during site visits, which limits its ability to detect systemic issues impacting youth. While ombudsmen document specific findings in each site visit report, OIO does not catalog or aggregate this information to efficiently identify repeat or ongoing youth rights issues within and across facilities. Without a centralized tracking process or system, OIO staff must manually comb through reports to assess whether issues are ongoing, recurring, or new. Some OIO reports like those for state secure facilities include data pulled from TJJD's internal databases on incident trends over time, such as changes in the number of assaults since the previous year. While this information is useful, OIO does not systematically track data on trends ombudsmen are uniquely trained to identify through their interviews, file and camera reviews, and eyewitness accounts.

OIO staff must manually comb through site visit reports to identify systemic trends.

Currently, ombudsmen meet monthly to share their findings, which can help identify trends among facilities. However, this informal approach to data tracking and analysis relies heavily on institutional knowledge and recent memory, which is vulnerable to error, especially when employees leave the office. In fiscal year 2021 alone, OIO lost three of its eight ombudsmen. Tracking and aggregating site visit findings and formally analyzing this information to identify recurring, systemic issues would make better use of the voluminous documentation OIO compiles, while decreasing reliance on employees' individual observations and institutional knowledge.

- **Inconsistent reporting of key site visit findings.** As an independent oversight body, OIO's reporting function is its primary tool for shining a light on problems and informing policy decisions, but the office's quarterly reports do not capitalize on this opportunity. For example, in the past, OIO has escalated key findings from its site visits, such as understaffing and investigations of staff misconduct, by including issue summaries and possible recommendations in quarterly reports provided to state leadership and the public. This allowed stakeholders to more easily and quickly understand significant issues impacting post-adjudicated youth, since reviewing dense documentation on each site visit is a time-consuming task. However, since 2019, quarterly reports have not consistently included this type of information. For instance, in fiscal years 2021 and 2022, individual site visit reports for state secure facilities repeatedly documented the issues listed in the accompanying textbox, but OIO did not incorporate them into quarterly reports during this same time period.

Highlighting key trends identified during site visits in OIO's quarterly reports would more clearly identify ongoing problems. As a result, OIO could help focus greater attention on the development of workable fixes, which may ultimately decrease youth rights violations. A formal policy on the information OIO needs to include in its quarterly reports, such as criteria for when and how to incorporate significant or recurring findings, would help OIO spotlight problems more consistently. Additionally, this practice would provide stakeholders with the information they need to enact change without adding an entirely new reporting requirement to OIO's workload.

#### **Recurring Issues From OIO Site Visits at State Secure Facilities, FYs 2021-22**

Sunset staff's analysis of OIO site visit reports from fiscal years 2021 and 2022 showed various repeat and ongoing problems across TJJD's state secure facilities, such as:

- Descriptions of youth self-harm including multiple cases of youth sticking objects inside open wounds and requiring medical attention.
- Ongoing complaints from youth about their lack of access to case managers and treatment providers, as well as related concerns about subsequent extensions to their lengths of stay in confinement.
- Problems with the disciplinary hearing process including missed hearings, delayed proceedings, and overlooked or lost appeal requests.
- Late, incomplete, inaccurate, or nonexistent documentation from TJJD staff including serious incident reports, records regarding youth housed in isolation units, and responses to OIO's requests for follow-up action.

### **Developing clear, risk-based procedures for scheduling unannounced site visits would maximize OIO's use of limited resources throughout the juvenile justice system.**

An agency should have clear procedures to evaluate the compliance of entities it oversees and focus its resources on the highest-risk areas. Unlike TJJD, as discussed in Issue 3, OIO does not have statutorily prescribed schedules for its site visits, which allows the office to more easily consider risk when coordinating its small staff's workload. For example, after recognizing fewer serious violations in county-level facilities, the office extended its minimum site visit schedule for these settings from every 60 days to every 90 days in 2018. However, OIO did not document the factors its staff must consider when determining a facility's relative risk level to ensure changes in resource allocation are based on deliberate

Risk-based site visits would enable OIO to prioritize facilities with the greatest need.

analysis, not anecdote. Further, this lack of written documentation may enable inefficiencies and inconsistencies in site visit scheduling over time and across staff, particularly as new independent ombudsmen are appointed and tasked with maintaining continuity of operations.

Without a clear risk assessment process, ombudsmen typically default to self-imposed minimum schedules for site visits and add follow-up work with struggling facilities when feasible, rather than channeling their expertise as strategically as possible. For example, in fiscal year 2021, OIO found no issues during its four routine site visits at Williamson County's facility, which took limited resources away from high-risk settings, such as a nearby state facility where OIO repeatedly cited problems with routine door checks, access to treatment, and youth complaints about safety. Formalizing a risk-based process for site visits would better enable ombudsmen to prioritize facilities that show the greatest need for oversight and maximize efficiency over time.

**OIO does not refer certain nonjurisdictional complaints to relevant state agencies for further inquiry, creating unnecessary gaps in regulation and accountability.**

OIO does not refer standard of care issues to regulatory agencies for potential follow-up action.

During its site visits and complaint investigations, OIO may learn about a service provider's potential standards of practice violations, but the office does not pass these concerns along to the relevant regulatory agency for investigation and follow-up action if needed. OIO receives complaints from youth regarding care provided by physicians, nurses, dentists, counselors, and other providers. While OIO may investigate these complaints for a youth rights violation or refer them back to TJJD staff for internal action, the office does not send information to the Texas Medical Board, Texas Behavioral Health Executive Council, or any other regulatory agency to allow further inquiry into a licensee's standard of care. For example, in fiscal year 2021, site visit reports documented medical complaints from youth that OIO reported solely to TJJD staff. One such complaint came from an injured juvenile experiencing significant pain who received only low-level medication for days before medical staff secured him more specialized treatment. In contrast, OIO does track and refer complaints involving criminal behavior to law enforcement agencies, including OIG. Using a similar process for referring standard of care issues to applicable regulatory bodies would align OIO's procedures with best practices and more comprehensively address problems impacting youth in the juvenile justice system.

**The office's statute does not reflect standard language related to complaint information typically applied across the board during Sunset reviews.**

The Sunset Commission has developed a set of standard recommendations that it applies to all state agencies reviewed unless a strong reason exists not to do so. These across-the-board provisions (ATBs) reflect an effort by the Legislature to place policy directives on agencies that prevent problems from

occurring instead of reacting to problems after the fact. ATBs are statutory administrative policies adopted by the Sunset Commission that contain “good government” standards for state agencies. The ATBs reflect review criteria contained in the Texas Sunset Act designed to ensure open, responsive, and effective government. OIO’s statute contains standard language requiring the office to maintain complete information on complaints and make information on complaint procedures available to the public.<sup>8</sup> However, statute does not specify the office may not inform parties of the status of complaints if doing so would jeopardize an ongoing investigation. Including this provision would help ensure complaints are fully investigated to protect youth rights.

## Sunset Staff Recommendations

### *Change in Statute*

#### **4.1 Require TJJD and county juvenile probation departments to notify OIO about contract facilities in which they place post-adjudicated youth.**

This recommendation would statutorily require TJJD and each county juvenile probation department to notify OIO annually about all of the private facilities they contract with for the placement of post-adjudicated youth, as well as any new contracts entered into after the annual reporting occurs. As part of this recommendation, OIO would be required to develop a process in rule for entities to report their contracts to the office, including specific timeframes by which the notification must occur. Additionally, statute would be updated to clarify the full scope of OIO’s authority in county-level facilities, such as clearly providing statutory authority to access county departments’ and private entities’ records related to post-adjudicated youth. This recommendation would better equip OIO to fully review all facilities and protect all youth under its jurisdiction.

#### **4.2 Require OIO to establish a risk-based approach to site visits for county- and state-level entities, including contract facilities operated by private entities.**

This recommendation would formalize OIO’s current practices by requiring the office to adopt policies guiding the prioritization of its unannounced site visits based on risk for both county- and state-level facilities housing post-adjudicated youth, as well as TJJD parole offices. In establishing these policies, the office would develop one or more assessment tools with clear, objective thresholds for what constitutes high-, medium-, and low-risk entities. OIO would then use these tools to determine how frequently and intensively ombudsmen should conduct site visits based on key risk factors, such as the type of entity, past and repeat youth rights violations, volume and type of complaints, recent facility leadership changes, high staff turnover, relevant OIG investigations, and negative media attention. Assessments may also include the number of months since each entity’s last site visit to make sure facilities and parole offices do not go unchecked for extended periods of time, as determined by OIO staff. Additionally, the office’s policies should provide for a periodic review of its risk factors so they remain up-to-date and meaningful. OIO could develop distinct assessments with overlapping factors for the different types of entities it visits if needed. For facilities and parole offices deemed low-risk, the recommendation would clearly authorize OIO to use alternative facility review methods, such as desk audits of key documentation, abbreviated site visit procedures, or videoconferencing technology when necessary.

To establish a fair, efficient, and effective risk assessment, statute would authorize OIO to request and receive necessary data from entities under its jurisdiction to help inform its analysis. However, the



office should work with stakeholders to make sure such requests do not create unnecessary burdens. As a management action, OIO should critically review the additional information and data needed to conduct risk-based site visits and report its findings to the Sunset Commission by December 1, 2022. Formalizing OIO's risk-based site visits in statute and internal policy would ensure the most efficient allocation of resources to entities presenting the most potential harm to youth, staff, county governments, and the state.

#### **4.3 Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public.**

This recommendation would require OIO to maintain a system for receiving and acting on complaints and to make information available regarding its complaint procedures. OIO would also maintain documentation on all complaints and periodically notify complaint parties of the status of complaints if doing so would not jeopardize an ongoing investigation.

### ***Management Action***

#### **4.4 Direct OIO to create policies and procedures for consistently collecting and tracking findings from its site visits.**

This recommendation would direct the office to establish formal policies and procedures documenting how staff will consistently track quantitative and qualitative data from site visit reports to enable trend analysis. To implement this recommendation, OIO would develop methods for centrally cataloging issues identified during site visits, which would improve staff's ability to assess trends and make recommendations for improvement over time and across facilities. Creating processes for and conducting routine trend analysis of OIO's site visit findings would expand the impact of these critical visits by allowing staff to more easily recognize and respond to developing issues that impact post-adjudicated youth.

#### **4.5 Direct OIO to formalize its policies and procedures for including key site visit findings and trends in its quarterly reports.**

This recommendation would direct the office to formalize its policies and procedures outlining the information it will provide in its quarterly reports. Policies would include the criteria ombudsmen must use to identify and incorporate key site visit findings and trends into quarterly reports. For example, quarterly reports may incorporate recurring findings within or across facilities such as repeat problems with youths' treatment access or records, or particularly egregious findings that require timely stakeholder attention such as patterns in youths' self-harm behaviors. Concisely yet consistently reporting these types of significant site visit trends in OIO's quarterly reports would ensure leadership is aware of new and ongoing problems and has the information necessary to implement workable solutions.

#### **4.6 Direct OIO to develop clear procedures for referring and tracking nonjurisdictional complaints regarding licensed professionals to relevant state agencies for further inquiry.**

This recommendation would direct the office to develop procedures for referring and sharing information on nonjurisdictional complaints against licensed professionals, particularly regarding alleged standard of care violations, to the proper agency with regulatory oversight. Further, OIO would track the subject matter or type of such complaints similar to its current process for referrals to law enforcement agencies. Developing these procedures would ensure the office's staff is fully aware of and adequately trained on how to track and refer nonjurisdictional complaints to the appropriate entity so youth receive competent care.



## Fiscal Implication

Overall, the recommendations would not have a significant fiscal impact to the state. Most recommendations intend to improve OIO's collection, analysis, and use of critical information so the office is better positioned to identify and report on systemic juvenile justice issues, which OIO could accomplish with existing resources using free software options. A risk-based process for site visits should increase OIO's efficiency by targeting resources toward the highest-risk settings, but the exact fiscal impact would depend on the results of the office's risk assessment and cannot be estimated.

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<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 261.002, Texas Human Resources Code; Section 57, Chapter 263 (SB 103), Acts of the 80th Texas Legislature, Regular Session, 2007.

<sup>2</sup> Section 261.101(a)(4), Texas Human Resources Code. State-level facilities include state secure facilities, halfway houses, and parole offices that the Texas Juvenile Justice Department (TJJD) directly operates. Additionally, state-level facilities may include non-TJJD settings in which the agency places committed youth, such as privately operated contract facilities.

<sup>3</sup> Section 7, Chapter 962 (SB 1630), Acts of the 84th Texas Legislature, Regular Session, 2015; Section 261.101(f)(1), Texas Human Resources Code. County-level facilities include post-adjudication facilities that county juvenile probation departments directly operate. Additionally, these facilities may include settings that county departments do not operate but in which they place post-adjudicated youth, such as certain privately operated contract facilities regulated by the Department of Family and Protective Services.

<sup>4</sup> Section 261.101(a)(2), (a)(3), (a)(5), and (f)(2), Texas Human Resources Code.

<sup>5</sup> Section 261.055(b), Texas Human Resources Code.

<sup>6</sup> Section 261.055(a), Texas Human Resources Code.

<sup>7</sup> Section 261.054, Texas Human Resources Code.

<sup>8</sup> Section 261.061, Texas Human Resources Code.



## ISSUE 5

# TJJD's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

### Background

Over the years, Sunset reviews have included a number of standard elements derived from direction traditionally provided by the Sunset Commission, statutory requirements added by the Legislature to review criteria in the Texas Sunset Act, and general law provisions imposed on state agencies. This review identified changes needed to modernize the Texas Juvenile Justice Department's (TJJD) website, address the need for the agency's required reports, and update statute to reflect the state's person-first respectful language initiative.

- **Website accessibility.** State law tasks agencies with informing stakeholders about various agency functions and making information available via a public website.<sup>1</sup> As Texans increasingly rely on online platforms to access and interact with their government, these public websites have become an important consideration for evaluating an agency's ability to engage stakeholders effectively. It is critical for agencies to ensure their websites are up-to-date and accurate so members of the public remain informed and have opportunities to participate in their government.
- **Reporting requirements.** The Sunset Act establishes a process for the Sunset Commission to consider if agencies' reporting requirements need to be continued or abolished.<sup>2</sup> The Sunset Commission has interpreted these provisions as applying to reports that are specific to the agency and not general reporting requirements that extend well beyond the scope of the agency under review. Reporting requirements with deadlines or that have expiration dates are not included, nor are routine notifications, notices, or posting requirements.
- **Person-first respectful language.** Statute requires Sunset to consider and recommend, as appropriate, statutory revisions in accordance with person-first respectful language outlined in general law.<sup>3</sup> The stated intent of the law is to try to affect society's attitudes toward people with disabilities by changing the way the language refers to them. Sunset only changes language that occurs in chapters of law that are opened by the Sunset Commission's recommendations.

### Findings

#### **TJJD's website should be user-friendly, easy to navigate, and up-to-date with information about the agency's activities.**

Stakeholders rely on an agency's website for critical information about agency programs and functions, but TJJD's website is very difficult to navigate, with nonfunctional hyperlinks and information often buried several layers away from the homepage in hard-to-find places. Staff and external stakeholders repeatedly expressed concern with the difficulty of locating what they need, noting it can be easier to find various descriptions, reports, and data through a Google search instead of combing through the website. In addition, the website lacks consistent and current information, depriving agency staff, county juvenile probation departments, interest groups, and parents and guardians of justice-

involved youth of meaningful access to updates about the agency's activities. For example, several pages include outdated information on handbooks and manuals that no longer align with TJJD's practices.

### **TJJD has two reporting requirements that should be combined.**

Statute requires TJJD to produce 14 reports outlined in Appendix I, 12 of which continue to be useful. However, as shown in the table below, Sunset staff found the information in two of TJJD's reports — the *Report on the Rehabilitation of Children* and the *Report on Comprehensive Reentry and Reintegration Plans for Children* — should be consolidated into a single report to increase their effectiveness.<sup>4</sup> Though both reports focus on specific aspects of youth rehabilitation, statute does not require TJJD to provide them to the same recipients. In practice, TJJD combines these reports, along with a statutory requirement to publish certain treatment-related data, to more efficiently communicate agency activities and youth outcomes.<sup>5</sup> However, clarifying statute to require a single biennial evaluation of youth treatment, rehabilitation, reentry, and reintegration programming would eliminate one reporting requirement and maximize the intended impact of the resulting information.

**TJJD Reports Requiring Consolidation**

Name	Description	Due Date	Recipient
Report on the Rehabilitation of Children	Reports on the effectiveness of TJJD programs for the rehabilitation and reestablishment in society of youth committed to TJJD, including programs for sex offenders, capital offenders, youth who are chemically dependent, youth with emotional disturbances, and females.	December 31 of even-numbered years	Legislative Budget Board (LBB)
Report on Comprehensive Reentry and Reintegration Plans for Children	Reports research findings on whether the comprehensive reentry and reintegration plan required for each youth committed to TJJD reduces recidivism rates.	December 31 of even-numbered years	Lieutenant Governor, Speaker of the House of Representatives, and legislative committees with primary jurisdiction over juvenile justice and corrections

### **TJJD's statute does not use appropriate language when referring to persons with disabilities.**

The governing statutes for TJJD contain terms that are not consistent with the person-first respectful language initiative. The agency's Sunset bill should revise the statutes to use person-first respectful language as needed.

## Sunset Staff Recommendations

### *Change in Statute*

#### **5.1 Combine two TJJD reports related to the effectiveness of youth rehabilitation efforts, and continue all other reporting requirements for TJJD.**

This recommendation would combine two related TJJD reports — the *Report on the Rehabilitation of Children* and the *Report on Comprehensive Reentry and Reintegration Plans for Children*. These reports would be replaced by a single biennial evaluation and include information on youth treatment, rehabilitation, reentry, and reintegration programming. The agency would send the combined report to the governor, lieutenant governor, speaker of the House of Representatives, legislative committees with primary jurisdiction over juvenile justice and corrections, and LBB. TJJD's remaining 12 reporting requirements would be continued, as they provide useful information to the Legislature and public. Appendix I summarizes all of the agency's reporting requirements and shows which reports would be continued or modified under this recommendation.

#### **5.2 Update TJJD's statute to reflect the requirements of the person-first respectful language initiative.**

This recommendation would direct the Texas Legislative Council to revise TJJD's governing statutes to conform to the person-first respectful language requirements found in Chapter 392 of the Texas Government Code.

### *Management Action*

#### **5.3 Direct TJJD to improve and update its website content.**

This recommendation would direct the agency, using input from staff and other stakeholders, to evaluate its website for opportunities to improve navigability and ease of use for the public. TJJD should also ensure the information on its website is accurate with hyperlinks and downloads that function properly and updates that reflect the agency's current practices.

## Fiscal Implication

These recommendations would not have a fiscal impact to the state. Several of these recommendations update provisions already required by statute, and TJJD could implement them with existing resources.

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<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Multiple Texas statutes require state agencies to make critical information available online. For example, Sections 2001.023 and 2054.132, Texas Government Code, direct agencies to post proposed rules and all forms to be used by the public on their websites.

<sup>2</sup> Sections 325.0075, 325.011(13), and 325.012(a)(4), Texas Government Code.

<sup>3</sup> Section 325.0123, Texas Government Code.

<sup>4</sup> Sections 242.002(b) and 245.0535(i), Texas Human Resources Code.

<sup>5</sup> Section 242.001(a), Texas Human Resources Code.





# APPENDIX A

## Texas Juvenile Justice System Primer

### Background

Texas statute defines juveniles as individuals who are at least 10 years old but not yet 17 when they commit delinquent conduct or conduct indicating a need for supervision (CINS).<sup>1</sup> Delinquent conduct includes behaviors that, if committed by an adult, could result in incarceration. CINS generally includes behaviors that, if committed by an adult, could result in a fine or are not violations of the law, such as running away from home. Other key juvenile justice terms and their counterparts in the adult system are shown in the table.

### Key Terms in the Texas Justice Systems

Juvenile Justice Term	Adult Criminal Justice Term
Taken into custody	Arrested
Detained	Jailed
Adjudication hearing	Trial
True or not true	Guilty or not guilty
Adjudicated	Convicted
Disposition	Sentence

### Key Components of the Juvenile Justice System

The Texas juvenile justice system involves both local and state levels of government. At the locally driven “front end” of the system, each county’s juvenile board must, among other duties, oversee its county juvenile probation department, designate juvenile courts, and appoint a chief juvenile probation officer.<sup>2</sup> Juvenile boards located in counties that are close in proximity can agree to operate jointly depending on the relevant counties’ statutory authority.<sup>3</sup> Currently, 165 county departments cover all 254 Texas counties. These departments may serve youth in the community or detain them before or after their adjudication hearing in local facilities, including contract facilities operated by private entities.

At the state-driven “back end” of the system, the Texas Juvenile Justice Department (TJJD) takes direct responsibility for supervising youth who are adjudicated of a felony and committed by a court to state custody. TJJD may confine these youth in its own correctional facilities or place them in contract facilities. TJJD may also supervise youth on parole after releasing them to a halfway house or into the community.

### Moving Through the System

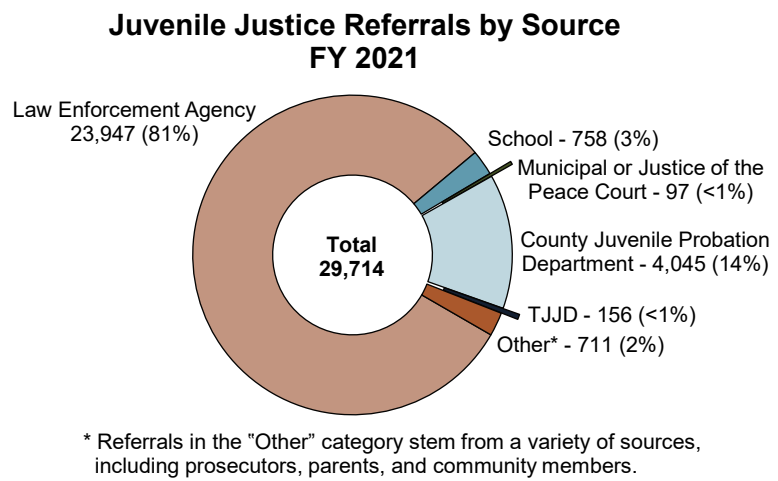
When a youth breaks the law, stakeholders within the juvenile justice system including law enforcement agencies and county departments may respond in a variety of ways based on the seriousness of the offense and needs of each juvenile. The following section outlines key steps youth experience as they move through the system, from initial referral through disposition.

#### Referral

For youth to be formally referred to the juvenile justice system, they must have allegedly committed an offense defined as delinquent conduct or CINS; a county juvenile probation department must have jurisdiction to intervene; and the county department and youth must make face-to-face contact.<sup>4</sup> In fiscal year 2021, county departments received about 30,000 referrals to the juvenile justice system. Roughly 40 percent of these were for felony offenses.

## Appendix A

As shown in the accompanying chart, law enforcement agencies accounted for the vast majority of all referrals in fiscal year 2021. Notably, these agencies do not make formal referrals to the system following every juvenile arrest. Law enforcement agencies reported about 30,000 juvenile arrests last fiscal year but made 24,000 referrals to the system. The remaining youth were diverted from the adjudication process largely through warnings or placement in specialized programs that allow juveniles to avoid a referral if they do not commit additional offenses during a specified time period.



### Intake and Hearing Process

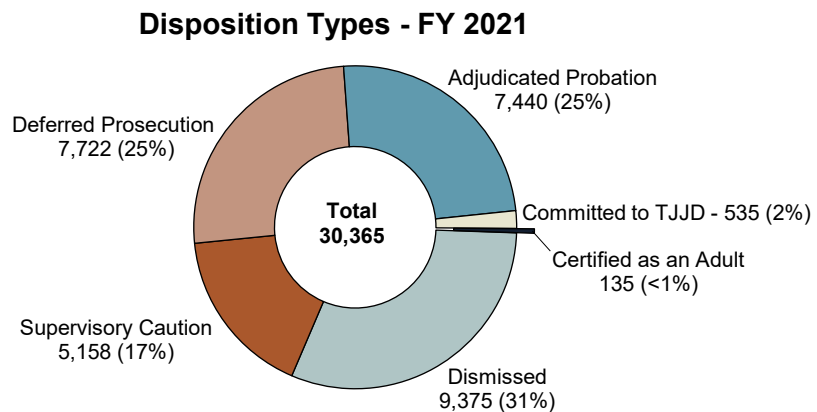
In most cases, county juvenile probation departments conduct the intake process for youth who are referred to the system. The intake process involves crucial decisions, including whether each youth's case can be handled in the community or referred to a prosecutor who may petition a juvenile court to formally charge the youth with an offense. A county department must also determine whether to release youth or detain them in a county-level, pre-adjudication detention facility while they wait for courts to process their case.<sup>5</sup> After intake, the case may proceed, and the following court hearings may occur:

- Detention hearings.** If youth are detained, a court must hold an initial hearing within two working days to determine whether continued detention is necessary.<sup>6</sup> Statute requires courts to order the release of youth from detention unless juveniles meet certain criteria, such as lacking suitable supervision at home.<sup>7</sup> Juveniles who are not released remain in detention and receive similar hearings every 10 or 15 working days, depending on whether the county has its own pre-adjudication facility.<sup>8</sup> At this stage, county departments, attorneys, and judges may also collaborate to divert youth from the system altogether.
- Adjudication hearing.** If a prosecutor files a petition alleging youth committed an offense, then a court holds an adjudication hearing at which a judge, or in some instances a jury, determines if the allegations against the youth are true or not true. However, before this hearing begins, the court may choose to avoid a formal adjudication as described in the "Disposition Types" section on the following page.
- Disposition hearing.** Finally, if youth are adjudicated and the court determines a disposition is necessary, they attend a hearing to determine the consequences of their conduct. A court cannot hand down a disposition unless it determines the juvenile needs rehabilitation or the protection of the public or youth requires the disposition.<sup>9</sup> Key disposition types are broken down in the chart and described in more detail on the following page.<sup>10</sup>

## Appendix A

### Disposition Types

- Supervisory caution and deferred prosecution.** Supervisory cautions and deferred prosecutions occur before a youth's adjudication hearing and are the lowest-level sanctions juveniles can receive because they allow the youth to avoid a formal adjudication. A supervisory caution, or "counsel and release," may include referrals to a social services agency or community-based rehabilitative program. Deferred prosecution is a voluntary supervision option in which youth must follow certain requirements to avoid further action. Requirements may include completing treatment services, routinely meeting with a certified juvenile probation officer, and refraining from committing additional offenses for a specified time period. In fiscal year 2021, youth received about 5,200 supervisory cautions and 7,700 deferred prosecutions.<sup>11</sup>



- Adjudicated probation with or without residential placement.** If a judge places juveniles on probation, they remain under county-level supervision. The goal of probation is to prevent youth from going deeper into the juvenile justice system by providing rehabilitative services and monitoring in local communities. However, TJJD plays a role in each youth's care by inspecting county departments and county-level facilities and responding to certain youth complaints and allegations.

Youth on probation may receive services in the community and routinely meet with a certified juvenile probation officer. Alternatively, a county department may confine these youth in facilities operated by the department itself, another department with which it partners, or a contract entity. These facilities may be secure, meaning the juveniles stay in locked cells or dorms, or facilities may be nonsecure, meaning youth who reside there can move around more freely. Youth placed in residential facilities typically attend school, treatment services, and other programs on-site. In fiscal year 2021, courts disposed about 7,400 cases with adjudicated probation.<sup>12</sup> Since youth may stay on probation for multiple years, county departments served about 13,500 youth under probation supervision in fiscal year 2021, a quarter of whom were confined in a residential facility.

- Commitment to TJJD.**

Confinement. Statute authorizes juvenile courts to commit youth to state-level facilities only for felony offenses.<sup>13</sup> Characteristics for new admissions to TJJD in fiscal year 2021 are provided in the table on the following page. Juveniles' length of stay in state-level facilities depends on their sentence type, as described in the textbox on the following page.<sup>14</sup>

## Appendix A

### New Admissions to TJJD - FY 2021

		Number	Percent
<b>Total New Admissions</b>		569	100%
<b>Offense Type</b>	Capital offense	7	1%
	First degree felony	225	40%
	Second degree felony	132	23%
	Third degree felony	119	21%
	State jail felony	86	15%
<b>Sentence Type</b>	Indeterminate	423	74%
	Determinate	146	26%
<b>Gender</b>	Male	511	90%
	Female	58	10%
<b>Age</b>	10-12 years	1	<1%
	13 years	12	2%
	14 years	38	7%
	15 years	103	18%
	16 years	232	41%
	17 or older	183	32%
<b>Race/Ethnicity</b>	Black	200	35%
	Hispanic	248	44%
	White	115	20%
	Other	6	1%

### Indeterminate vs. Determinate Sentences

**Indeterminate sentence.** An indeterminate sentence commits youth to TJJD for an indefinite period of time not to exceed their 19th birthday. TJJD has authority to determine each youth's minimum length of stay (MLOS) in a facility, though statute specifies it must be between nine and 24 months. TJJD also establishes the required treatment and programming youth must complete before release. If youth have not completed these requirements when their MLOS arrives, TJJD may extend their stay. In fiscal year 2021, about 74 percent of TJJD's new admissions had an indeterminate sentence.

**Determinate sentence.** Youth adjudicated for certain serious or violent crimes may receive a fixed, or determinate, sentence of up to 40 years. For these youth, statute sets a minimum period of confinement (MPOC) between one and 10 years. If youth meet their MPOC before their 19th birthday, TJJD can release them to juvenile parole. Otherwise, they transition to either adult parole or adult prison when they reach 19. TJJD can seek a hearing for an early transfer to prison if the determinate-sentenced juvenile is at least 16 and meets certain criteria. In fiscal year 2021, about 26 percent of TJJD's new admissions had a determinate sentence. That same year, 95 youth transitioned to adult parole, and 40 youth transferred to adult prisons.

## Appendix A

To confine committed youth, TJJD operates five secure facilities and five halfway houses and contracts with nine outside entities for additional residential placement options. While in these facilities, youth receive education, rehabilitative treatment, case management, and other services. Youth in halfway houses may also work and attend treatment in the community as they gradually transition out of the state's custody. In fiscal year 2021, TJJD reported an average daily population of 637 youth in secure facilities, 56 youth in halfway houses, and 56 youth in contract facilities. The average length of stay for youth who were ultimately transferred or discharged from TJJD's secure facilities was 13.2 months in fiscal year 2021.

Parole. TJJD determines when youth will be released on parole or discharged from custody. Usually, TJJD releases youth on parole before discharging them from the state's care to provide structured monitoring and connections to supports and services as they transition back to their communities. TJJD ensures youth meet specific requirements while they are on parole, such as attending school, work, or treatment programs. If youth fail to comply or commit a new offense, TJJD may seek parole revocation and return them to a state facility. Otherwise, TJJD must discharge youth from juvenile parole by age 19. In fiscal year 2021, TJJD served an average daily population of 270 youth on parole in the community and reported about 50 parole revocations.

- **Certification as an adult.** Finally, a judge may choose to certify juveniles as adults so they can face the same range of punishment adults would for the same crime. However, individuals who committed an offense before turning 18 cannot receive the death penalty or life without the possibility of parole.<sup>15</sup> In fiscal year 2021, courts certified 135 youth as adults to serve their sentences at the Texas Department of Criminal Justice.<sup>16</sup>

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- <sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 51.02(2), Texas Family Code.
  - <sup>2</sup> Section 152.0007(a), Texas Human Resources Code; Section 51.04(b), Texas Family Code.
  - <sup>3</sup> Section 152.0036, Texas Human Resources Code.
  - <sup>4</sup> Legislative Budget Board (LBB), *Adult and Juvenile Correctional Populations: Monthly Report (FY 2022)*, March 2022, accessed online April 10, 2022, p. 5, [https://www.lbb.texas.gov/Documents/Publications/Info\\_Graphic/812\\_MonthlyReport\\_FY2022.pdf](https://www.lbb.texas.gov/Documents/Publications/Info_Graphic/812_MonthlyReport_FY2022.pdf).
  - <sup>5</sup> Section 53.02, Texas Family Code.
  - <sup>6</sup> Section 54.01(a), Texas Family Code.
  - <sup>7</sup> Section 54.01(e), Texas Family Code.
  - <sup>8</sup> Section 54.01(h), Texas Family Code.
  - <sup>9</sup> Section 54.04(c), Texas Family Code.
  - <sup>10</sup> LBB, *Adult and Juvenile Correctional Populations: Monthly Report (FY 2022)*, March 2022, accessed online April 10, 2022, p. 4, [https://www.lbb.texas.gov/Documents/Publications/Info\\_Graphic/812\\_MonthlyReport\\_FY2022.pdf](https://www.lbb.texas.gov/Documents/Publications/Info_Graphic/812_MonthlyReport_FY2022.pdf).
  - <sup>11</sup> Ibid.
  - <sup>12</sup> Ibid.
  - <sup>13</sup> Section 54.04(d)(2)-(3), Texas Family Code.
  - <sup>14</sup> Sections 54.04(d)(3) and 59.009(a)(1), Texas Family Code; Section 245.051(c), Texas Human Resources Code.
  - <sup>15</sup> Sections 8.07(c) and 12.31, Texas Penal Code.
  - <sup>16</sup> LBB, *Adult and Juvenile Correctional Populations: Monthly Report (FY 2022)*, March 2022, accessed online April 10, 2022, p. 4, [https://www.lbb.texas.gov/Documents/Publications/Info\\_Graphic/812\\_MonthlyReport\\_FY2022.pdf](https://www.lbb.texas.gov/Documents/Publications/Info_Graphic/812_MonthlyReport_FY2022.pdf).



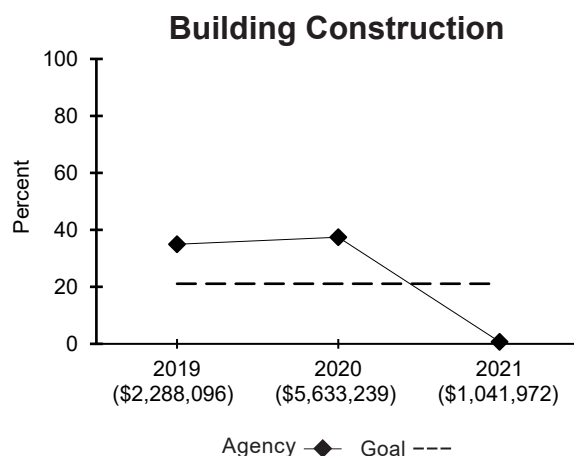
# APPENDIX B

## Historically Underutilized Businesses Statistics, FYs 2019-21

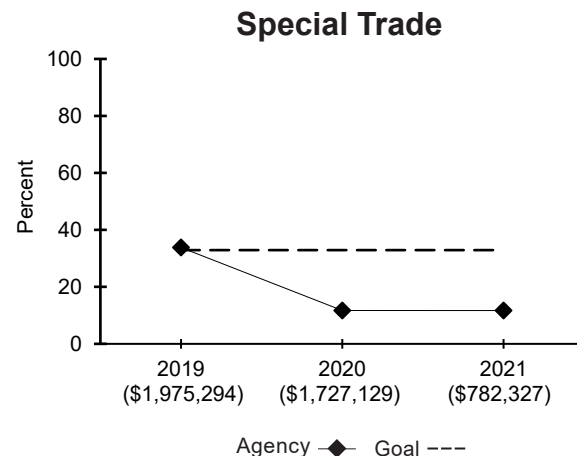
The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.<sup>1</sup>

The following material shows trend information for the Texas Juvenile Justice Department's (TJJD) use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.<sup>2</sup> In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller's office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from fiscal years 2019-21. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

TJJD exceeded state goals for HUB spending only in the commodities category for each year between fiscal years 2019-21. The agency consistently struggled to meet statewide goals for all other categories. The agency had no spending in the heavy construction category during this time period.

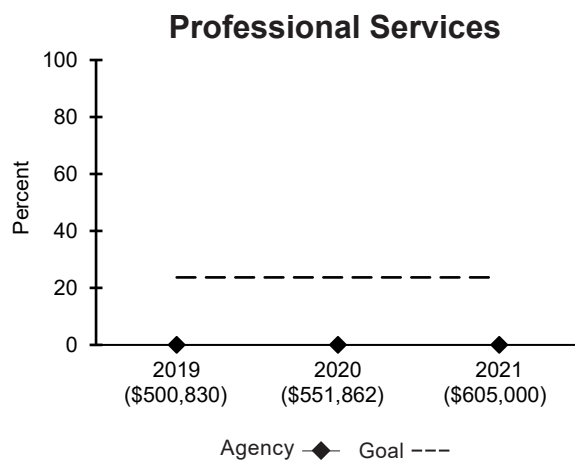


The agency exceeded the state goal for HUB spending in building construction in fiscal years 2019 and 2020 but failed to meet this goal in fiscal year 2021.

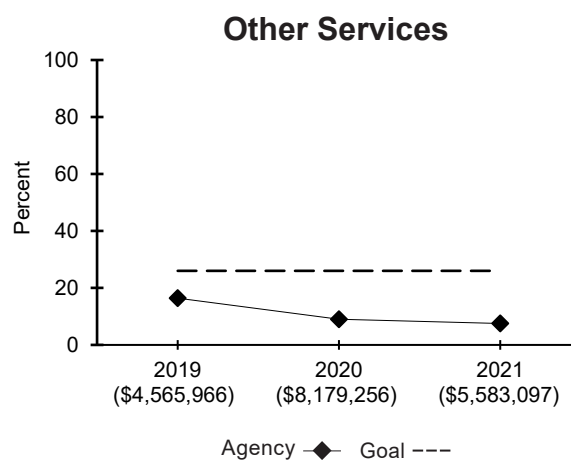


The agency met the state goal for HUB spending in special trade in fiscal year 2019 but failed to meet this goal in fiscal years 2020 and 2021.

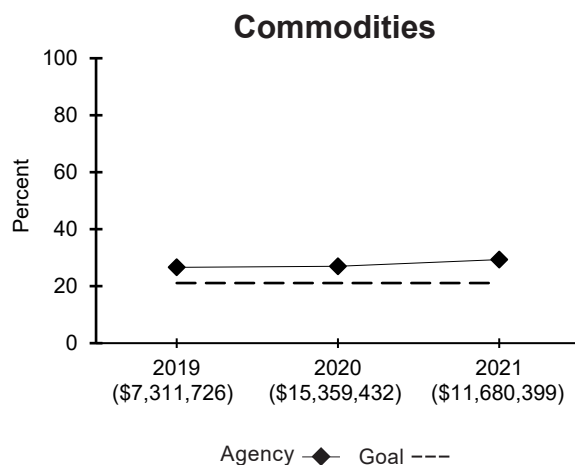
## Appendix B



The agency failed to meet the state goal for HUB spending in professional services in each of the last three fiscal years.



The agency failed to meet the state goal for HUB spending in other services in each of the last three fiscal years.



The agency exceeded the state goal for HUB spending in commodities in each of the last three fiscal years.

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(B), Texas Government Code.

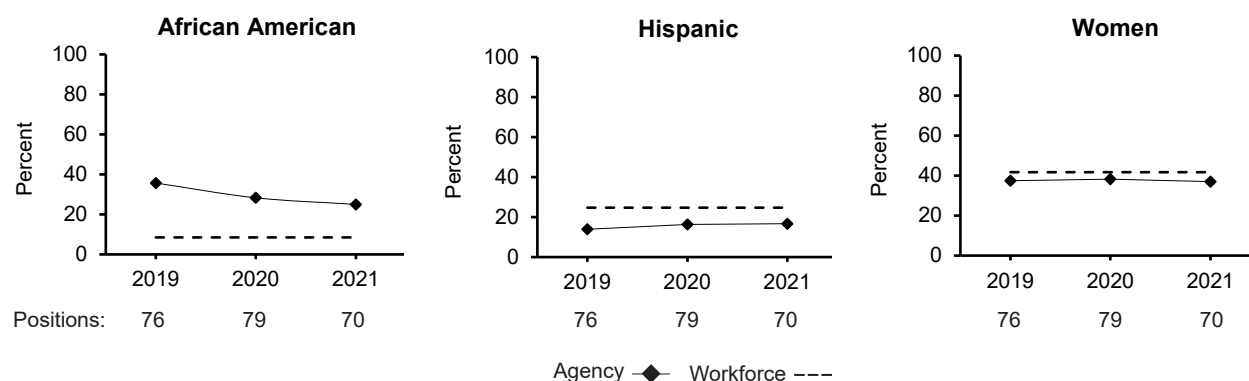
<sup>2</sup> Chapter 2161, Texas Government Code.

# APPENDIX C

## Equal Employment Opportunity Statistics, FYs 2019-21

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and women in all applicable categories by the Texas Juvenile Justice Department.<sup>1</sup> The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.<sup>2</sup> In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.<sup>3</sup> These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the agency's actual employment percentages in each job category from fiscal years 2019-21. During this period, the agency exceeded the civilian workforce percentages for African Americans in each category except the technical, administrative support, and skilled craft categories. The agency only met statewide percentages for Hispanics in the professional and technical categories. Finally, the agency exceeded statewide percentages for women in each category except the administration, technical, and skilled craft categories.

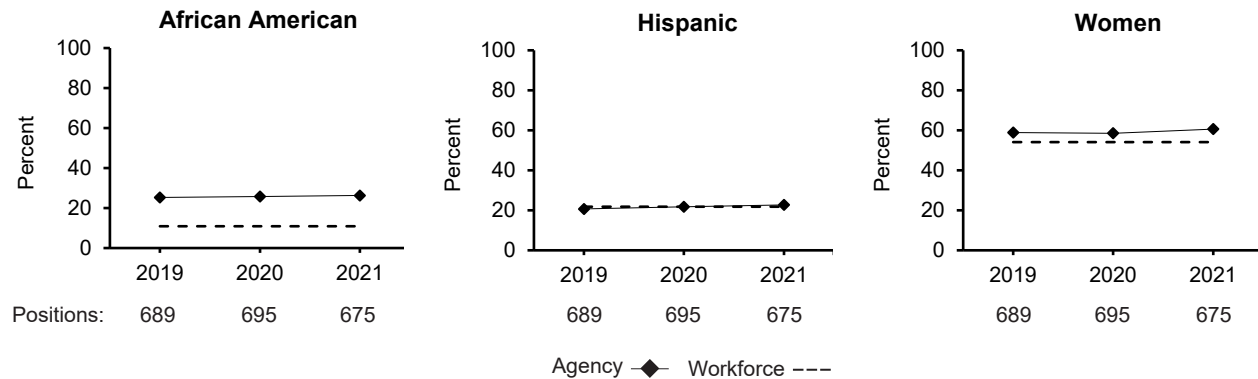
### Administration



The agency exceeded the statewide percentage for African Americans in the administration category, and fell slightly below the statewide percentage for women and Hispanics in the last three fiscal years.

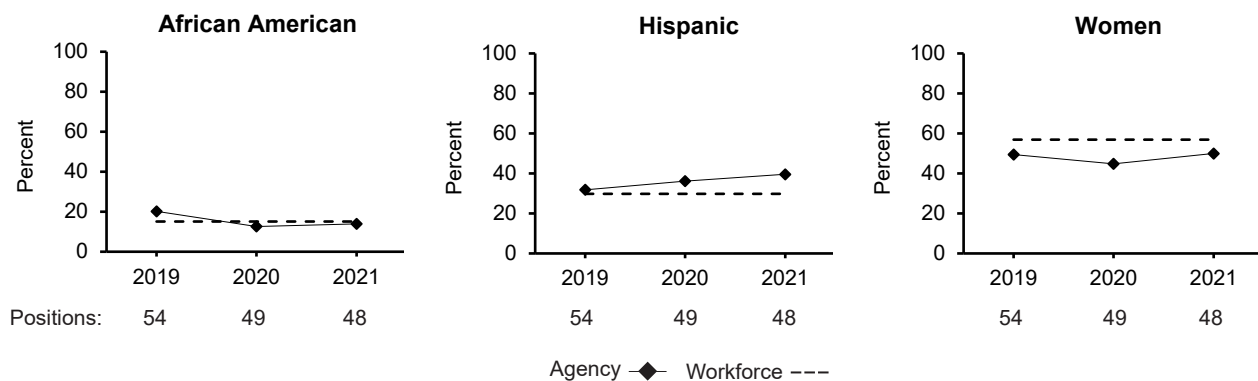
## Appendix C

### Professional



The agency met or exceeded the statewide percentages for African Americans, Hispanics, and women in the professional category in each of the last three fiscal years, except in 2019 when it fell slightly below the statewide percentage for Hispanics.

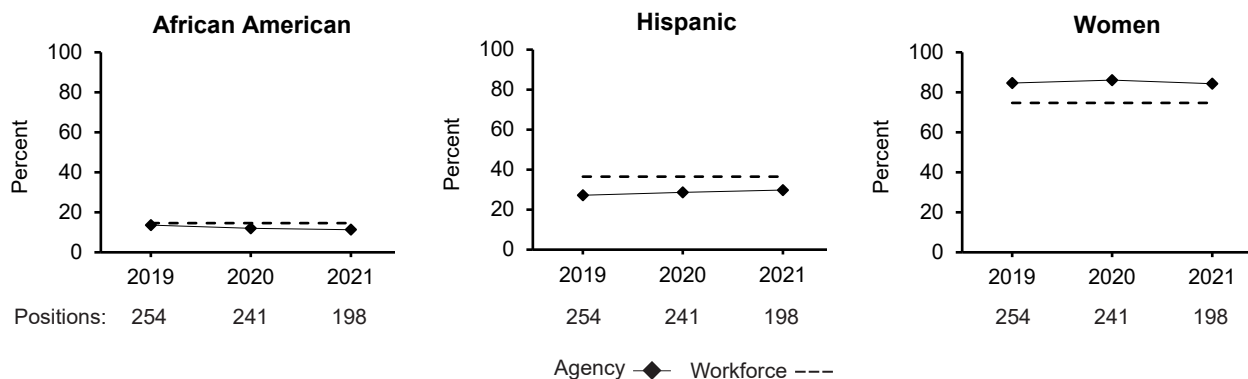
### Technical



The agency exceeded the statewide percentage for Hispanics in the technical category in each of the last three fiscal years. The agency fell below the statewide percentage for African Americans and women in the same period, except in 2019 when it exceeded the statewide percentage for African Americans.

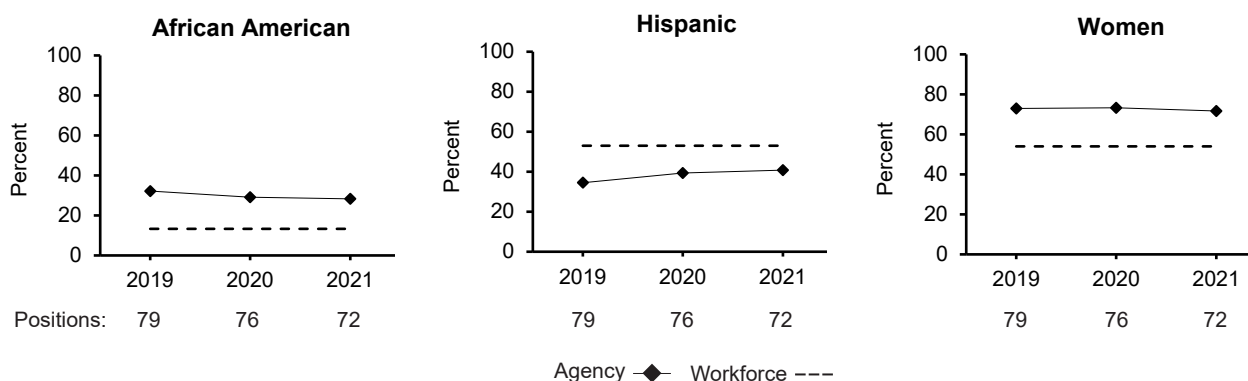
## Appendix C

### Administrative Support



The agency exceeded the statewide percentage for women in the administrative support category in each of the last three fiscal years. The agency fell slightly below the statewide percentage for African Americans and Hispanics in the same period.

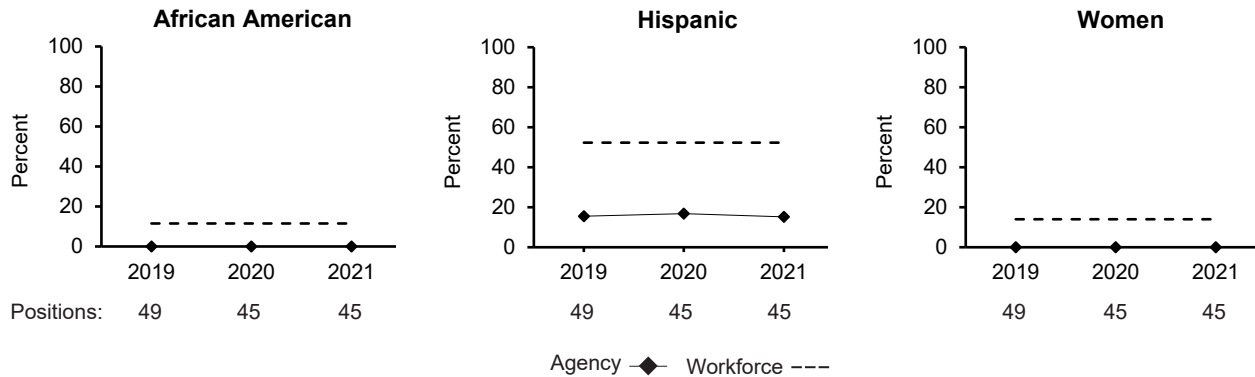
### Service/Maintenance



The agency exceeded the statewide percentage for African Americans and women in the service/maintenance category in each of the last three fiscal years. The agency failed to meet the statewide percentages for Hispanics in the same period but has made improvements each year.

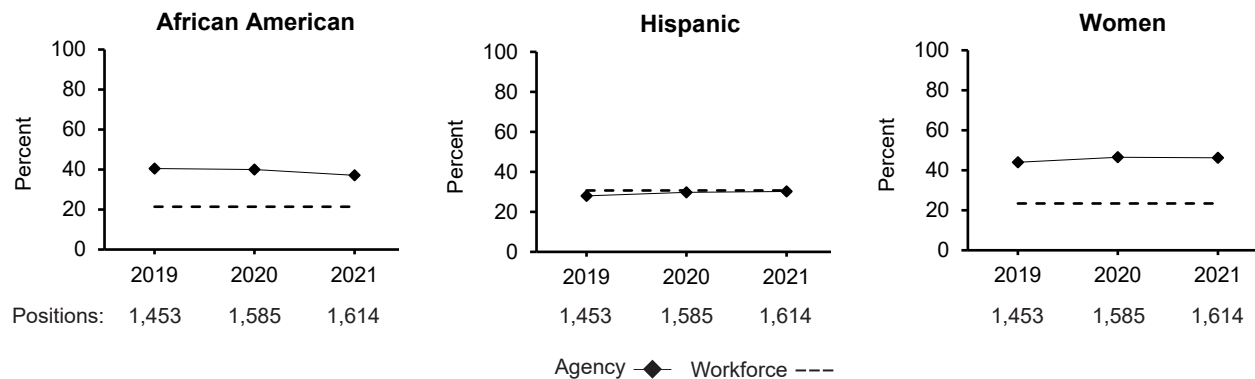
## Appendix C

### Skilled Craft



The agency had no African American or female employees in the skilled craft category, and failed to meet the statewide percentage for Hispanics in the last three fiscal years.

### Protective Services



The agency exceeded the statewide percentage for African Americans and women in the protective services category in each of the last three fiscal years. The agency fell slightly below the statewide percentage for Hispanics in the same period.

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(A), Texas Government Code.

<sup>2</sup> Section 21.501, Texas Labor Code.

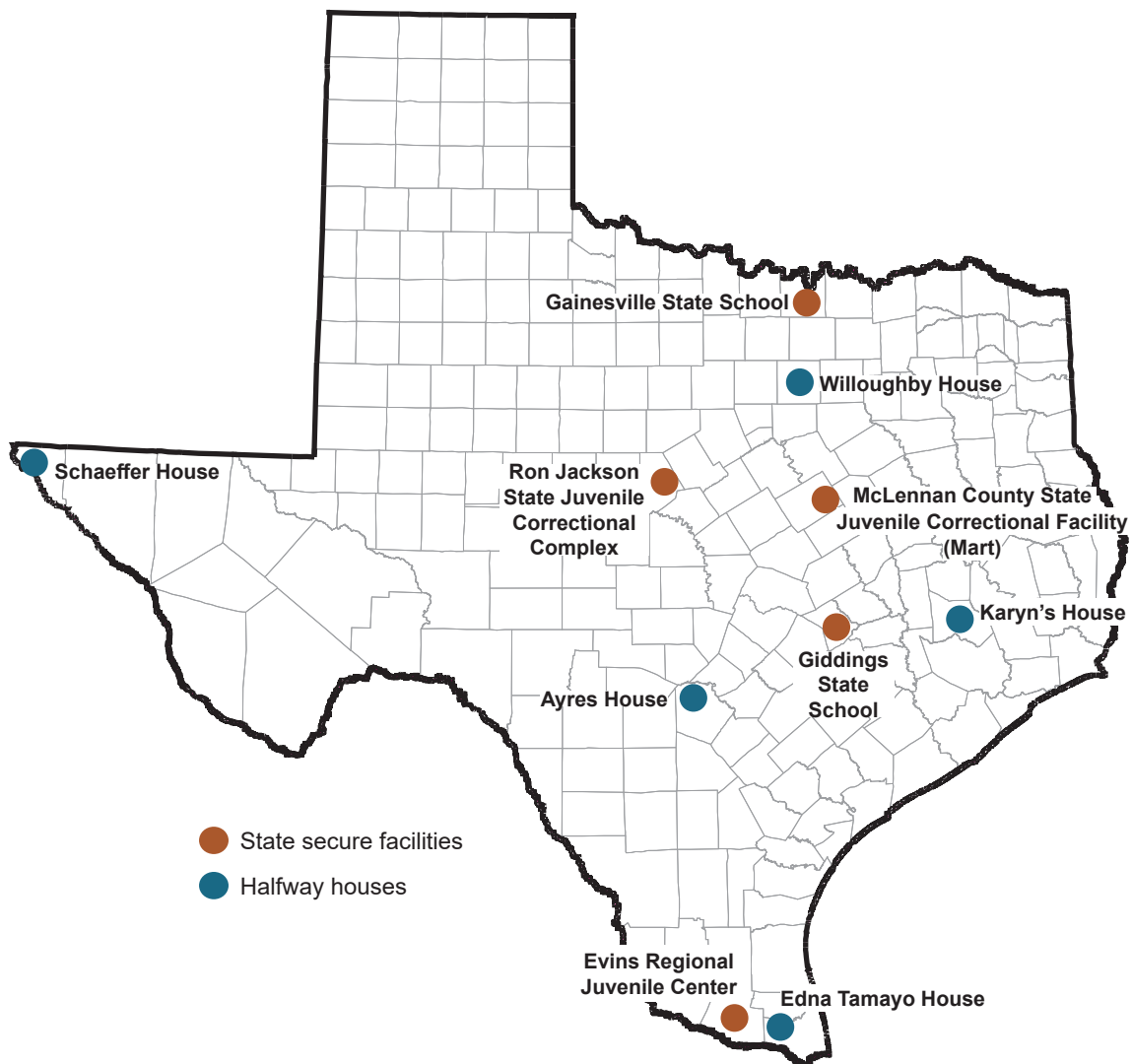
<sup>3</sup> Based on the most recent statewide civilian workforce percentages published by the Texas Workforce Commission.



## APPENDIX D

### TJJD State Secure Facilities and Halfway Houses

The map below shows the locations of the five state secure facilities and five halfway houses the Texas Juvenile Justice Department (TJJD) operates. Typically, youth committed to TJJD's care reside in a state secure facility, a halfway house, or one of the nine facilities that TJJD contracts with to serve committed youth.





## County Juvenile Probation Department Regions

## ***Appendix E***

### **Pre- and Post-Adjudication Juvenile Correctional Facilities by Region FY 2021**

<b>Region</b>	<b>Pre-Adjudication Detention Facilities</b>	<b>Post-Adjudication Facilities</b>	<b>Total by Region</b>
Central Region	10	9	19
North Region	8	10	18
Northeast Region	4	3	7
Panhandle Region	3	3	6
South Region	6	4	10
Southeast Region	10	5	15
West Region	7	2	9
<b>Total by Facility Type</b>	<b>48</b>	<b>36</b>	<b>84</b>

<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 203.017, Texas Human Resources Code.

<sup>2</sup> Pre-adjudication detention facilities include holdover pre-adjudication facilities that detain youth for short periods of time; post-adjudication facilities include both secure and nonsecure facilities.

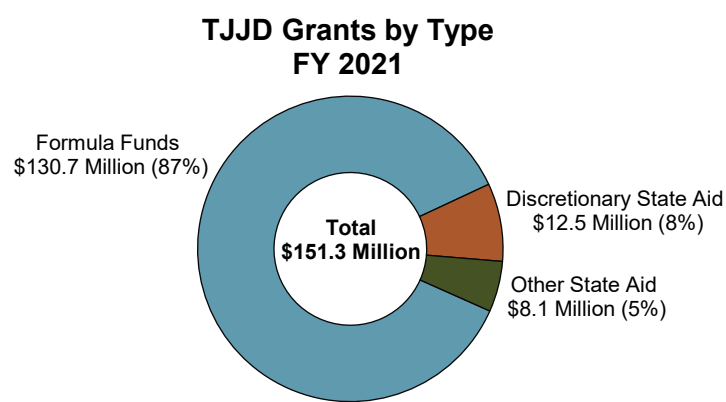
# APPENDIX F

## TJJD Grants for County Juvenile Probation Departments

### Background

The Texas Juvenile Justice Department (TJJD) distributes grants to all 165 county juvenile probation departments in Texas as part of its mission to support the state's juvenile justice system. TJJD distributes three categories of grants: formula funds to all county departments for general operations and programming; discretionary state aid based on funding eligibility criteria; and mandated grants for legislatively directed programs in specific counties.

In fiscal year 2021, TJJD awarded more than \$151 million in grants to county departments, as shown in the chart.<sup>1</sup> Most grant revenue TJJD distributes comes from the state's General Revenue Fund, but TJJD also receives and disburses pass-through revenue from the Texas Education Agency and the Department of Family and Protective Services for specific county-level expenditures. Finally, TJJD funds some of its grants using cost savings generated when county departments serve youth locally, rather than committing them to TJJD's custody.



### Formula Funds

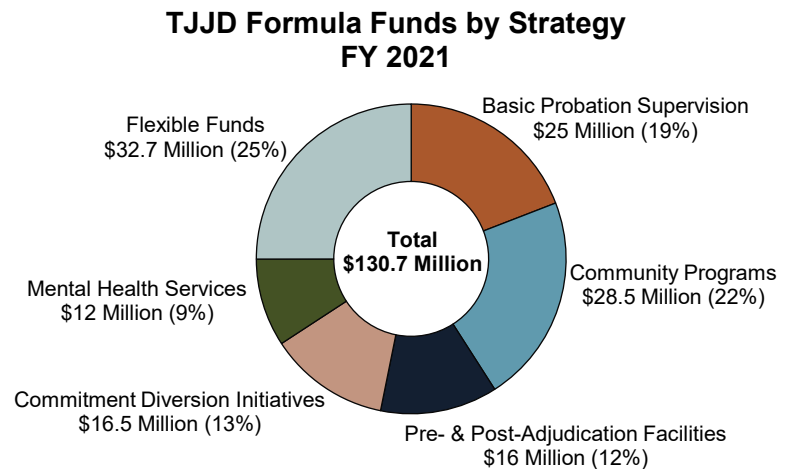
TJJD awards formula grants to all 165 county departments based on each county's juvenile population, the size of its juvenile probation department, and the number of youth formally referred to each department.<sup>2</sup> The General Appropriations Act (GAA) specifies how county departments may use these grants by establishing five funding categories described in the textbox.<sup>3</sup> In fiscal year 2021, TJJD allocated almost \$131 million in formula funds to county departments, as shown in the chart on the following page.

#### Five Formula Grant Funding Categories

- **Basic probation supervision:** Funds day-to-day operations and staffing for county departments.
- **Community programs:** Funds community-based programs for youth under a county department's supervision, such as reentry programs or behavioral treatment.
- **Pre- and post-adjudication facilities:** Funds the confinement of youth under a county department's supervision.
- **Commitment diversion initiatives:** Funds alternatives to committing juveniles to TJJD, such as placement at a private residential treatment facility or a facility operated by a different county department.
- **Mental health services:** Funds services, programs, and placements for juveniles with mental health needs who are under a county department's supervision.

## Appendix F

When county departments cannot spend all of their formula funding by the end of the fiscal year, the GAA requires them to return any unexpended and unencumbered funds back to TJJD.<sup>4</sup> To minimize county refunds, TJJD increases spending flexibility at the county level in two ways. First, TJJD sets aside 25 percent of each county department's formula grant as flexible funds that may be distributed among the five funding categories as each department chooses. Second, county departments may transfer the remaining funds between spending categories as needed, but such changes require TJJD's approval to ensure cumulative transfers across the state do not exceed 20 percent of the agency's overall appropriation. With this flexibility, counties spent all but \$4 million of the nearly \$131 million in formula grants that TJJD allocated in fiscal year 2021. The GAA requires TJJD to disburse refunds back to counties for commitment diversion initiatives undertaken during subsequent fiscal years.<sup>5</sup>



## Discretionary State Aid

TJJD has some discretion in how it distributes other types of funds to county departments, including grants to support specific prevention, diversion, and treatment programs and tools. In fiscal year 2021, TJJD awarded about \$12 million in discretionary state aid grants to county departments, mostly through a competitive proposal process. The categories of discretionary state aid grants include:

- Regional Diversion Alternatives.** These grants to county departments fund residential placements for youth who would otherwise be committed to TJJD facilities. In fiscal year 2021, 81 county departments received \$6.5 million.
- Regional Community and Residential Projects.** These grants fund projects that serve multiple county departments, including treatment programs in both community and residential settings and operations of regional residential facilities. In fiscal year 2021, TJJD allocated \$3 million to 18 county departments.
- Prevention and Intervention Projects.** These grants fund programs that help prevent youth from coming into formal contact with the juvenile justice system, such as after-school or mentoring programs. TJJD did not award these grants in fiscal year 2021 due to state budget cuts but began distributing these funds again in fiscal year 2022.
- Special Needs Diversionary Programs.** These grants fund programs that provide mental health treatment and specialized supervision to youth as they reintegrate back into their communities. In fiscal year 2021, TJJD allocated \$1.9 million to 19 county departments.



## Appendix F

- **Risk and Needs Assessment.** TJJD approves and pays for a statutorily required assessment tool to help county departments determine each youth's risks, needs, and appropriate placement options. In fiscal year 2021, TJJD allocated \$1 million to payments for the assessment, which allowed 164 county departments to benefit from the tool.<sup>6</sup>
- **Border Children Justice Projects.** These grants support county department programs to assist youth from other countries who are involved in the Texas juvenile justice system, as well as Texas youth involved in another country's legal system. In fiscal year 2021, TJJD allocated \$100,000 to three county departments.

### Other State Aid

TJJD distributes grants to certain county departments for legislatively directed programs. In fiscal year 2021, TJJD awarded more than \$8 million for the following programs:

- **Juvenile Justice Alternative Education Programs.** Juvenile boards develop these programs to provide alternative educational services for students expelled from public school for certain offenses, such as unlawfully bringing a firearm to school.<sup>7</sup> The programs are mandatory for juvenile boards in counties with a population over 125,000 and discretionary for all other juvenile boards. In fiscal year 2021, 30 county departments received over \$5.8 million for 25 mandatory and five discretionary programs.
- **Directed State Aid.** The GAA requires TJJD to provide grants for programs in specific counties. In fiscal year 2021, TJJD distributed \$1 million for the Harris County Leadership Academy and \$250,000 for vocational pilot programs in Harris, Hidalgo, and Cameron counties.<sup>8</sup> In fiscal years 2022 and 2023, Harris and El Paso counties both received an additional \$500,000 each year to develop programs that prevent youth from entering the juvenile justice and child welfare systems.<sup>9</sup>
- **Title IV-E Reimbursement Funds.** TJJD provides pass-through funding to reimburse counties that serve youth who are dually involved in the juvenile justice and child welfare systems.<sup>10</sup> In fiscal year 2021, 25 county departments received reimbursements totaling about \$1.1 million.

## Appendix F

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<sup>1</sup> The Texas Juvenile Justice Department (TJJD) distributed grant funding in fiscal years 2020 and 2021 through upfront allocations and reimbursements for certain types of expenditures.

<sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 223.001, Texas Human Resources Code.

<sup>3</sup> TJJD, Article V, Page V-26, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (General Appropriations Act).

<sup>4</sup> TJJD, Rider 19, p. V-33, Article V, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (General Appropriations Act).

<sup>5</sup> Ibid.

<sup>6</sup> Burnet County Juvenile Probation Department chose to use a different assessment tool that TJJD approved but did not fund.

<sup>7</sup> Sections 37.001, 37.007, and 37.011, Texas Education Code.

<sup>8</sup> TJJD, Riders 32 and 36, pp. V-35-36, Article V, Chapter 1353 (HB 1), Acts of the 86th Legislature, Regular Session, 2019 (General Appropriations Act).

<sup>9</sup> TJJD, Riders 37 and 39, pp. V-36-37, Article V, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (General Appropriations Act).

<sup>10</sup> TJJD, Rider 7, p. V-30, Article V, Chapter 1353 (HB 1), Acts of the 86th Legislature, Regular Session, 2019 (General Appropriations Act).

# APPENDIX G

## Certification Qualifications for County-Level Juvenile Probation Employees

The Texas Juvenile Justice Department (TJJD) certifies employees of county juvenile probation departments and private juvenile correctional facilities who work directly with youth. TJJD issues certifications for three types of officers: juvenile probation officers (JPOs), juvenile supervision officers (JSOs), and community activities officers (CAOs). Statute lays out certification requirements for JPOs and JSOs, and requires TJJD to adopt certification requirements for CAOs in rule.<sup>1</sup> These requirements are described in the table below.

	Juvenile Probation Officer	Juvenile Supervision Officer	Community Activities Officer
Duties <sup>2</sup>	Performs a variety of duties, including directly supervising youth, implementing case plans, and recommending dispositions in formal court proceedings	Supervises youth in a pre- or post-adjudication facility or a juvenile justice alternative education program	Supervises and transports youth in a nonsecure setting within a juvenile justice program
Education <sup>3</sup>	Bachelor's degree	High school diploma or equivalent	High school diploma or equivalent
Experience <sup>4</sup>	One year of relevant work experience or one year of graduate school in a related field of study	None	None
Minimum Age <sup>5</sup>	21	21	21
Criminal History <sup>6</sup>	Cannot have disqualifying criminal history, as defined in rule	Cannot have disqualifying criminal history, as defined in rule	Cannot have disqualifying criminal history, as defined in rule
Certification Training <sup>7</sup>	80 hours of training and a passing score on the certification exam	80 hours of training and a passing score on the certification exam	40 hours of training
Continuing Education for Renewal <sup>8</sup>	60 hours of training every two years	80 hours of training every two years	40 hours of training every two years
Number of Certified Officers in FY 2021 <sup>9</sup>	2,317	3,224	160

## Appendix G

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<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Sections 222.001-.003, Texas Human Resources Code.

<sup>2</sup> 37 Texas Administrative Code, Part 11, Chapter 341, Subchapter D, Section 341.400 (2019) (Texas Juvenile Justice Department (TJJJD), *Duties of Certified Juvenile Probation Officers*); 37 Texas Administrative Code, Part 11, Chapter 341, Subchapter D, Section 341.402 (2018) (TJJJD, *Duties of Certified Community Activities Officers*); 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter A, Section 344.100(5), (14), and (15) (2018) (TJJJD, *Definitions*).

<sup>3</sup> Sections 222.001(a)(2) and 222.002(3), Texas Human Resources Code; 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter B, Section 344.200(a)(4), (b)(4), and (c)(4) (2018) (TJJJD, *General Qualifications for Positions Requiring Certification*).

<sup>4</sup> Section 222.001(a)(3), Texas Human Resources Code; 37 T.A.C., Section 344.200(a)(5).

<sup>5</sup> Section 222.002(2), Texas Human Resources Code; 37 T.A.C., Section 344.200(a)(1), (b)(1), and (c)(1).

<sup>6</sup> 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter D, Section 344.400 (2018) (TJJJD, *Disqualifying Criminal History*).

<sup>7</sup> 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter E, Section 344.600 (2018) (TJJJD, *Training Hours Required for Certification*); and 37 T.A.C., Section 344.200(a)(8) and (b)(7).

<sup>8</sup> 37 Texas Administrative Code, Part 11, Chapter 344, Subchapter E, Section 344.640(a) (2018) (TJJJD, *Continuing Education Requirements for Maintaining Certification*).

<sup>9</sup> Officers may hold multiple certifications, so the total number of certifications provided in the table (5,701) does not equal the total number of individual officers holding a certification in Texas in fiscal year 2021 (4,897).

# APPENDIX H

## Key TJJD Events, FYs 2007-22

	Fiscal Year	
3,651 ADP*	2007 <sup>1</sup>	Media reports staff at the West Texas State School sexually abused youth over an extended time period. The governor appoints a conservator for the Texas Youth Commission (TYC). The Legislature passes major reforms to reduce state facility populations and creates the Office of the Independent Ombudsman (OIO) to secure youth rights.
2,468 ADP	2008 <sup>2</sup>	The U.S. Department of Justice (DOJ) reaches a settlement with TYC after finding facility violence and low staffing violate youth rights.
2,027 ADP	2009 <sup>3</sup>	The Legislature increases funding to divert youth from state care. The governor ends TYC's conservatorship.
1,695 ADP	2010 <sup>4</sup>	Federal data shows about 20 percent of surveyed youth reported sexual victimization in Texas juvenile correctional facilities.
1,399 ADP	2011 <sup>5</sup>	The Legislature abolishes TYC and the Texas Juvenile Probation Commission, and creates a unified Texas Juvenile Justice Department (TJJD).
1,216 ADP	2012 <sup>6</sup>	OIO investigates increases in youth assaults at TJJD's state secure facilities. OIO later reports coercion, extortion, and illicit drug use at the Giddings state facility.
1,156 ADP	2013 <sup>7</sup>	The Legislature adopts targeted pay increases for TJJD's juvenile correctional officers.
1,069 ADP	2014 <sup>8</sup>	OIO investigates staff-on-youth violence at the Mart facility, resulting in employee firings.
1,023 ADP	2015 <sup>9</sup>	The Legislature passes regionalization reform to divert youth from TJJD's custody and keep them closer to home under local supervision.
1,072 ADP	2016 <sup>10</sup>	Mass disturbances at the Giddings state facility result in injuries and property damage.
1,030 ADP	2017 <sup>11</sup>	A youth commits suicide at the Ron Jackson state facility.
946 ADP	2018 <sup>12</sup>	Reports of abuse at the Gainesville state facility prompt a Texas Rangers investigation and multiple arrests. A new TJJD board chair, TJJD executive director, and independent ombudsman take office. TJJD begins implementing the Texas Model, an initiative to address committed youths' trauma histories. A youth commits suicide at the Evins state facility.
842 ADP	2019 <sup>13</sup>	The Legislature adopts targeted pay increases for TJJD's juvenile correctional officers and case managers.
750 ADP	2020 <sup>14</sup>	Media reports poor conditions at TJJD's state secure facilities including beatings, gang tensions, suicide attempts, and staffing shortages.
637 ADP	2021 <sup>15</sup>	Advocacy groups file a DOJ complaint alleging abuse in TJJD's state secure facilities. Reports of alleged criminal activity at TJJD's state secure facilities prompt a Texas Rangers investigation and multiple arrests.
617 ADP**	2022 <sup>16</sup>	DOJ begins investigating conditions, allegations of abuse, the use of chemical restraints, isolation practices, and mental health care in TJJD's state secure facilities.

\* ADP = Average Daily Population in TJJD's state secure facilities.

\*\* This figure represents ADP between September 1, 2021 and April 30, 2022.

## Appendix H

<sup>1</sup> Nate Blakeslee, “Hidden in Plain Sight,” *Texas Observer*, February 23, 2007, accessed online April 10, 2022, [https://www.texasobserver.org/hidden-in-plain-sight/?utm\\_campaign=w0aiad&utm\\_medium=article&utm\\_source=site](https://www.texasobserver.org/hidden-in-plain-sight/?utm_campaign=w0aiad&utm_medium=article&utm_source=site); Texas Senate, “Senate Approves Kimbrough as TYC Conservator,” *Texas Senate News*, March 29, 2007, accessed online April 10, 2022, <https://www.senate.texas.gov/news.php?id=20070329a>; Chapter 263 (SB 103), Acts of the 80th Texas Legislature, Regular Session, 2007.

<sup>2</sup> “Justice Department, TYC Reach Settlement on Safety,” *Houston Chronicle*, May 8, 2008, accessed online April 10, 2022, <https://www.houstonchronicle.com/news/houston-texas/article/Justice-Department-TYC-reach-settlement-on-safety-1756266.php>.

<sup>3</sup> Texas Juvenile Probation Commission, Article V, pp. V-33-41, Chapter 1424 (SB 1), Acts of the 81st Legislature, Regular Session, 2009 (General Appropriations Act).

<sup>4</sup> Emily Ramshaw, “Sexual Abuse in State Lock-ups,” *Texas Tribune*, January 7, 2010, accessed online April 10, 2022, <https://www.texastribune.org/2010/01/07/15-of-tx-youth-offenders-forced-into-sex-acts/>.

<sup>5</sup> Chapter 85 (SB 653), Acts of the 82nd Texas Legislature, Regular Session, 2011.

<sup>6</sup> Brandi Grissom, “Agency Will Investigate Violence in Youth Prisons,” *Texas Tribune*, February 27, 2012, accessed online April 10, 2022, <https://www.texastribune.org/2012/02/27/agency-will-investigate-violence-texas-youth-priso/>; Mike Ward, “Lawmakers Livid Over Reports of Coercion, Extortion at Giddings Youth Lockup,” *Austin American-Statesman*, September 1, 2012, accessed online April 10, 2022, <https://www.statesman.com/story/news/2012/09/01/lawmakers-livid-over-reports-of-coercion-extortion-at-giddings-youth-lockup/9811338007/>.

<sup>7</sup> Miscellaneous Provisions, Section 17.06(c)(10), p. IX-67, Article IX, Chapter 1411 (SB 1), Acts of the 83rd Legislature, Regular Session, 2013 (General Appropriations Act).

<sup>8</sup> Patrick Michels, “Guards Joined in Fights at Specialized Juvenile Lockup,” *Texas Observer*, November 1, 2013, accessed online April 10, 2022, [https://www.texasobserver.org/guards-joined-fights-specialized-juvenile-lockup/?utm\\_campaign=w0aiad&utm\\_medium=article&utm\\_source=site](https://www.texasobserver.org/guards-joined-fights-specialized-juvenile-lockup/?utm_campaign=w0aiad&utm_medium=article&utm_source=site).

<sup>9</sup> Chapter 962 (SB 1630), Acts of the 84th Texas Legislature, Regular Session, 2015.

<sup>10</sup> Mike Ward, “Texas Youth Lockup Faces Riots, 3 Injured,” *Houston Chronicle*, September 25, 2015, accessed online April 10, 2022, <https://www.houstonchronicle.com/news/houston-texas/texas/article/Riot-at-Texas-lockup-marks-more-trouble-for-state-6530063.php>.

<sup>11</sup> Office of the Attorney General, *Custodial Death Report*, June 29, 2017.

<sup>12</sup> Jolie McCullough, “In Crisis, Texas Juvenile Justice Department Looks to an Unconventional New Leader,” *Texas Tribune*, January 26, 2018, accessed online April 10, 2022, [www.texastribune.org/2018/01/26/texas-juvenile-justice-department-camille-cain/](http://www.texastribune.org/2018/01/26/texas-juvenile-justice-department-camille-cain/); Jolie McCullough, “Gov. Greg Abbott Replaces Chairman of Texas Juvenile Justice Department Board,” *Texas Tribune*, January 29, 2018, accessed online April 10, 2022, <https://www.texastribune.org/2018/01/29/greg-abbott-replaces-chairman-texas-juvenile-justice-department-board/>; Jolie McCullough, “Texas Juvenile Justice Department’s Watchdog is the Latest to Go in Abbott Shakeup,” *Texas Tribune*, January 30, 2018, accessed online April 10, 2022, <https://www.texastribune.org/2018/01/30/texas-juvenile-justice-departments-watchdog-latest-go-abbott-shakeup/>; Jolie McCullough, “Texas Rangers Arrest Four Amid Investigation of Abuse at State-Run Juvenile Lockups,” *Texas Tribune*, February 1, 2018, accessed online April 10, 2022, <https://www.texastribune.org/2018/02/01/texas-rangers-arrest-four-after-texas-juvenile-justice-department-inve/>; Office of the Attorney General, *Custodial Death Report*, June 19, 2018.

<sup>13</sup> Texas Juvenile Justice Department, Rider 38, p. V-36, Article V, Chapter 1353 (HB 1), Acts of the 86th Legislature, Regular Session, 2019 (General Appropriations Act).

<sup>14</sup> Keri Blakinger, “‘The Place is a Jungle’: Texas Youth Prisons Still Beset by Gangs, Violence, Abuse,” *Houston Chronicle*, December 30, 2019, accessed online April 10, 2022, <https://www.houstonchronicle.com/news/houston-texas/houston/article/The-place-is-a-jungle-Texas-youth-prisons-14938409.php>.

<sup>15</sup> Letter from Brett Merfish (Texas Appleseed, Director of Youth Justice) and Beth Mitchell (Disability Rights Texas, Co-Litigation Coordinator) to Steven H. Rosenbaum (U.S. Department of Justice Civil Rights Division, Special Litigation Section Chief), October 21, 2020, accessed online April 12, 2022, <https://www.texasappleseed.org/press-releases/complaint-us-doj-urges-investigation-abuse-constitutional-violations-youth-texas%E2%80%9999>; Jeff Bell, “Texas Rangers’ Investigation of TJJD Finds Criminal Violations, But No Wider Pattern of Abuse,” *KVUE*, October 18, 2021, accessed online April 10, 2022, <https://www.kvue.com/article/news/local/texas/texas-rangers-investigation-texas-juvenile-justice-department/269-d266cee7-72da-4f67-8caf-c6d45034945f>.

<sup>16</sup> U.S. Department of Justice, “Justice Department Announces Investigation into Conditions at Five Juvenile Justice Facilities in Texas,” October 13, 2021, accessed April 10, 2022, <https://www.justice.gov/opa/pr/justice-department-announces-investigation-conditions-five-juvenile-facilities-texas>.



# APPENDIX I

## Texas Juvenile Justice Department Reporting Requirements

Report Title	Legal Authority	Description	Recipient	Sunset Evaluation
1. Report on the Rehabilitation of Children	Section 242.002(b), Texas Human Resources Code	Reports on the effectiveness of Texas Juvenile Justice Department (TJJD) programs for the rehabilitation and reestablishment in society of youth committed to TJJD, including programs for sex offenders, capital offenders, youth who are chemically dependent, youth with emotional disturbances, and females.	Legislative Budget Board	Modify
2. Report on Comprehensive Reentry and Reintegration Plans for Children	Section 245.0535(i), Texas Human Resources Code	Reports research findings on whether the comprehensive reentry and reintegration plan required for each youth committed to TJJD reduces recidivism rates.	Lieutenant Governor, Speaker of the House of Representatives, legislative committees with primary jurisdiction over juvenile justice and corrections	Modify
3. Report on Studies of the Problem of Juvenile Delinquency in Texas and the Effectiveness of Services	Section 203.007(b), Texas Human Resources Code	Reports on the problem of juvenile delinquency in Texas and the effectiveness of services provided or regulated by TJJD.	Governor, Legislature	Continue
4. Report on Juveniles Participating in Research Programs or Studies	Section 203.007(e), Texas Human Resources Code	Reports the number of juveniles participating in research programs or studies and the type of program or study, the principal investigator, and the sponsoring entity.	Governor, Lieutenant Governor, Speaker of the House of Representatives, Legislature	Continue
5. Report on Results of Internal Audits	Section 203.013(b), Texas Human Resources Code	Reports the results of internal audits of TJJD's state secure facilities and contract facilities and of medical services provided to youth committed to TJJD.	Legislative committees with primary jurisdiction over correctional facilities, State Auditor	Continue
6. Statistics on Children Referred to Juvenile Court	Section 203.019, Texas Human Resources Code	Reports statistical information on youth transferred to a district court for proceedings, and youth committed to TJJD, placed on probation, or discharged without disposition.	Governor, Lieutenant Governor, Speaker of the House of Representatives	Continue

## Appendix I

Report Title	Legal Authority	Description	Recipient	Sunset Evaluation
7. Annual Report of the Texas Juvenile Justice Department	Section 221.012(a), Texas Human Resources Code	Reports on TJJD's operations and the condition of probation services in the state during the previous year, including an evaluation of the effectiveness of certain community-based programs and a comparison of the cost of youth participating in a community-based program with the cost of committing the youth to TJJD.	Governor, Legislature	Continue
8. Report on the Availability of Treatment Programs	Section 242.002(d), Texas Human Resources Code	Reports on any required rehabilitation and reestablishment programs that TJJD is unable to provide and explains why.	Legislative committees with primary jurisdiction over correctional facilities	Continue
9. Investigation Report of the Inspector General	Section 242.102(b)-(c), Texas Human Resources Code	Reports the results of an investigation of crimes, delinquent conduct, or allegations of abuse, neglect, or exploitation of youth perpetrated by TJJD personnel or in a facility housing or treating youth committed to TJJD.	Governor, Lieutenant Governor, Speaker of the House of Representatives, legislative standing committees with primary jurisdiction over correctional facilities, State Auditor, Special Prosecution Unit, state agencies that license or certify TJJD employees or facilities, TJJD Board, TJJD Executive Director, and any applicable advisory board	Continue
10. Inspector General Operations	Section 242.102(g)-(h), Texas Human Resources Code	Reports the types of investigations; numbers of suicides, deaths, and hospitalizations of youth in TJJD's custody; and, if applicable, the relationship between the victim and the perpetrator.	Governor, Lieutenant Governor, Speaker of the House of Representatives, legislative standing committees with primary jurisdiction over correctional facilities, State Comptroller, State Auditor, TJJD Board, TJJD Executive Director, and any applicable advisory board	Continue

## ***Appendix I***

<b>Report Title</b>	<b>Legal Authority</b>	<b>Description</b>	<b>Recipient</b>	<b>Sunset Evaluation</b>
11. Summary of Children in Juvenile Justice Department Custody Who Have Been In Foster Care	Section 243.008(e), Texas Human Resources Code	Summarizes statistics on the number and percentage of youth in TJJD custody the preceding two years who have been in foster care at any time.	Governor, Lieutenant Governor, Legislature	Continue
12. Report on Statistics Regarding Extension Orders	Section 245.103(c), Texas Human Resources Code	Reports statistics on the number of extensions of a youth's minimum length of stay made by a TJJD panel, including youth demographics; facilities in which youth are confined; and any allegations of abuse, mistreatment, or neglect of youth.	Legislative committees with primary jurisdiction over correctional facilities	Continue
13. Report on Statistics Regarding Reconsiderations of Extension Orders	Section 245.105(c), Texas Human Resources Code	Reports statistics on the number of requests for reconsideration of a TJJD panel's extension of a youth's minimum length of stay, including youth demographics; whether the reconsideration resulted in discharge, release under supervision, or the original extension being upheld; facilities in which youth are confined; and any allegations of abuse, mistreatment, or neglect of the youth.	Legislative committees with primary jurisdiction over correctional facilities	Continue
14. Report on the Use of Vocational Rehabilitation Grants	Section 246.007(b), Texas Human Resources Code	Reports on the administration of vocational rehabilitation grant funds.	Lieutenant Governor, Speaker of the House of Representatives	Continue



# APPENDIX J

## Staff Review Activities

During the review of the Texas Juvenile Justice Department (TJJD) and the Office of the Independent Ombudsman (OIO), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with TJJD and OIO personnel; attended TJJD board and committee meetings and reviewed archival meeting videos and minutes; met with staff from key legislative offices; interviewed and solicited written comments from interest groups and the public; reviewed TJJD and OIO documents and reports, websites, rules and policies, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in Texas and in other states; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to these agencies:

- Toured four state secure juvenile correctional facilities and one halfway house operated by TJJD, and interviewed staff and youth.
- Toured two county juvenile probation departments and the facilities they operate, and interviewed staff and youth.
- Accompanied TJJD staff on an inspection of a county juvenile probation department's pre- and post-adjudication facilities.
- Accompanied OIO staff on in-person and virtual site visits to two state secure juvenile correctional facilities and one contract facility.
- Interviewed members of TJJD's governing board.
- Attended meetings conducted by TJJD's Advisory Council on Juvenile Services and its workgroups, reviewed past meeting minutes, and interviewed current and former members.
- Analyzed recordings of Level II due process hearings conducted at TJJD's state secure facilities.
- Reviewed materials from relevant legislative hearings, county juvenile board meetings, agency trainings, and certification exams.
- Conducted surveys of stakeholders including TJJD staff, board members, county juvenile probation chiefs and certified officers, families of justice-involved youth, and interest groups.
- Gathered information from the Texas Department of Criminal Justice, Department of Family and Protective Services, Special Prosecution Unit, Office of the Attorney General, State Office of Risk Management, Department of Information Resources, Comptroller of Public Accounts, Legislative Budget Board, and State Auditor's Office.





Sunset Staff Review of the  
*Texas Juvenile Justice Department*  
*Office of the Independent Ombudsman*

REPORT PREPARED BY

Rachel Gandy, *Project Manager*

Will Bucknall

Merrell Foote

Andrew Vree

Trisha Linebarger

Steven Ogle, *Project Supervisor*

Jennifer Jones  
*Executive Director*

*Sunset Advisory Commission*

**Location**

Robert E. Johnson Bldg., 6th Floor  
1501 North Congress Avenue  
Austin, TX 78701

**Mail**

PO Box 13066  
Austin, TX 78711

**Website**

[www.sunset.texas.gov](http://www.sunset.texas.gov)

**Email**

[sunset@sunset.texas.gov](mailto:sunset@sunset.texas.gov)

**Phone**

(512) 463-1300