

SUNSET ADVISORY COMMISSION

FINAL REPORT

Texas Youth Commission

*Texas Juvenile
Probation Commission*

*Office of Independent
Ombudsman*

July 2011



Sunset Advisory Commission



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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 130 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency’s operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

Texas Youth Commission
Texas Juvenile Probation Commission
Office of Independent Ombudsman

SUNSET FINAL REPORT
JULY 2011

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Report, November 2010* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.
 - *Hearing Material, December 2010* – Summarizes all responses from agency staff and the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission at its public hearing.
 - *Decision Material, January 2011* – Includes additional responses, testimony, or new policy issues raised during and after the public hearing for consideration by the Sunset Commission at its decision meeting.
 - *Commission Decisions, January 2011* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency’s Sunset bill.
 - *Final Report, July 2011* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency’s Sunset bill.
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Summary

Summary

The special purpose reviews of the Texas Youth Commission (TYC), Texas Juvenile Probation Commission (TJPC), and Office of the Independent Ombudsman for TYC (OIO) follow up on the full Sunset reviews of these agencies conducted in 2008. At that time, the Sunset Commission voted to consolidate TYC and TJPC into one large juvenile justice agency, but the Legislature ultimately continued TYC and TJPC as stand-alone agencies for a two-year probationary period, and required the Sunset Commission to re-evaluate the agencies' implementation of recent reforms. Specifically, the Legislature directed Sunset staff to examine implementation of the major reforms associated with Senate Bill 103 (2007) and the 2009 Sunset bill – House Bill 3689, the creation of a program to divert youth from TYC, and the agencies' efforts to improve interagency coordination and services.

The three agencies have implemented the vast majority of legislative reforms.

Based on this re-examination, Sunset staff concluded that the three agencies have implemented the vast majority of required reforms. Specifically, the agencies have implemented 96 percent of the reforms required by SB 103 and HB 3689. The Juvenile Probation Commission has successfully launched a diversion program that reduced juvenile court commitments to TYC in fiscal year 2010. TYC and TJPC have increased coordination through meaningful joint strategic planning and meetings of governing board committees. The agencies continue to work on a statewide system for data sharing between probation departments, TJPC, TYC, and other stakeholders. Appendix A provides detail on the six provisions that the agencies have yet to fully implement.

While the agencies have implemented most of the required reforms, the juvenile justice system remains in transition and TYC needs to make additional improvements. As the youth population continues to decline, commitment costs and worker injury rates remain high. Staff turnover rates are down, but TYC continues to have difficulty staffing specialized treatment positions, and the agency can still improve the number of youth enrolling in and completing needed treatment.

Ultimately, it is too early to measure the impact of recent reforms on recidivism of youth on probation or exiting TYC, making it difficult to assess the success of the State's investment in diversion and treatment. Sunset staff found that while the agencies have progressed, more work is needed and some time must elapse before reforms can be fully evaluated. Accordingly, staff concluded that TYC and TJPC should be continued for six years. The Office of the Independent Ombudsman is not subject to abolishment and would continue to be reviewed concurrently with TYC. The following material provides detail on Sunset staff's recommendations.

Issue and Recommendations

Issue 1

Texas Has a Continuing Need for TYC and TJPC but More Work Is Needed to Ensure Better Outcomes for Youth.

Recommendations

- Continue the Texas Youth Commission for six years.
- Continue the Texas Juvenile Probation Commission for six years.

Fiscal Implication Summary

None of the recommendations in this report would have a significant fiscal impact to the State.

Summary of Legislative Action ***S.B. 653 Whitmire (Madden)***

Senate Bill 653 abolishes both agencies and transfers their functions to a newly created state agency, the Texas Juvenile Justice Department, with a Sunset date of 2017. The Legislature adopted the Sunset Commission's recommendations and added numerous provisions to S.B. 653. Generally, the Legislature's additions either make adjustments to the new agency's governance structure, modify the process for consolidation, or clarify the functions and responsibilities of the new agency. The list below summarizes the major provisions of S.B. 653, and more detailed discussion is located in each issue.

Sunset Provision

1. Abolish TYC and TJPC, and transfer their functions to a newly created state agency, the Texas Juvenile Justice Department, headed by a 13-member Board and with a six-year Sunset date of 2017.

Provisions Added by Legislature

1. Establish statutory purposes and goals for the new Department.
2. Expand the composition and functions of the Advisory Council on Juvenile Services.
3. Require the Inspector General to report to the Department's Board.
4. Clarify the role of the Office of Inspector General in handling complaints related to probation services.
5. Define the role of the Office of Independent Ombudsman in probation services.
6. Require status reports on abuse, neglect, and exploitation investigations.
7. Streamline the operations of the new Department's toll-free hotline.
8. Consolidate Reentry and Reintegration Plan provisions for youth leaving state custody.
9. Establish a program evaluation system for state and county programs for youth.
10. Authorize charters for education programs in residential facilities for youth on probation.
11. Improve coordination and planning for educational services for youth on probation.
12. Establish prevention and early intervention services at the new Juvenile Justice Department.
13. Strengthen requirements for the initial examination of youth committed to state custody.
14. Provide that data obtained through a risk and needs assessment not be used against a child in a hearing.
15. Clarify provisions related to use of gifts, grants, and donations.
16. Exempt the Juvenile Case Management System from inclusion in the State's data center.

Fiscal Implication Summary

Consolidating the Texas Youth Commission and Texas Juvenile Probation Commission will result in an overall savings of about \$3.3 million through the next biennium. The consolidation will result in the reduction of about 21 FTEs.

Annual savings of between \$1.4 million and \$2.1 million will come from the elimination of nine full-time executive positions and a reduction of five percent in central office staff, including salaries and fringe benefits, that will be redundant in the new agency.

The Department will incur an estimated \$7,000 in expenses to support the transition team in 2012, and between \$100,000 and \$120,000 in each year of the biennium to support costs associated with incorporating TJPC's computer and data systems, not including JCMS, into the State's Data Center Consolidation project.

Further significant savings could be realized through the closure of Texas Youth Commission facilities, but such closures were not specifically addressed in S.B. 653.

Fiscal Year	Savings to the General Revenue Fund	Change in the Number of FTEs From FY 2011
2012	\$1,314,449	-21
2013	\$1,981,847	-21
2014	\$1,984,489	-21
2015	\$1,984,148	-21
2016	\$1,984,148	-21

Agency at a Glance
(November 2010)

Agency at a Glance

Texas Youth Commission

Originally established in 1949, the Texas Youth Commission (TYC) is the State's juvenile corrections agency. The Commission promotes public safety by operating juvenile correctional facilities and helping youth in the agency's custody receive the education, treatment, and skills needed to successfully reintegrate back into the community. To accomplish its mission, TYC:

- provides secure confinement for youth committed to its custody;
- operates education and treatment programs designed to reduce criminal and delinquent behavior;
- supervises youth on parole; and
- works with families, volunteers, victims, and advocacy groups to help keep communities safe and increase opportunities for youth to succeed.

Key Facts

- **Policy Body.** In September 2009, in accordance with major reforms initiated in 2007, the Governor appointed a new seven-member governing board with the advice and consent of the Texas Senate. The Board includes four specified positions: one physician, a member of a victims' advocacy organization, a mental health professional, and a current or former prosecutor or judge. A majority of the Board must have experience or education in rehabilitation programs like those at TYC, and at least two members must have experience in a field other than criminal or juvenile justice.
- **Staffing.** TYC has about 3,500 staff, including 1,852 juvenile correctional officers and 213 case managers working in TYC institutions and halfway houses across the state. TYC's headquarters in Austin has 266 employees who perform basic agency business functions, and develop and oversee agency policies, treatment and rehabilitation programs, and facility and parole operations.
- **Funding.** TYC received about \$262.4 million in revenue in fiscal year 2009. General revenue accounted for 86 percent of the agency's total revenue. Other major sources of revenue included general obligation bonds, federal funds, and interagency contracts. Bonds financed the construction and repair of facilities; federal dollars supplemented state funding for nutrition, education, and specialized treatment for youth; and interagency contracts transferred funds to TYC from other state agencies, primarily the Texas Education Agency, Texas Workforce Commission, and the Department of State Health Services, for education, vocational programs, and substance abuse treatment.

In fiscal year 2009, TYC expended \$241.8 million. The difference between revenue received by TYC and the agency's expenditures for fiscal year 2009 was about \$20.6 million. About \$3.2 million of this difference, due primarily to staff vacancies, lapsed to General Revenue and another \$410,292 in budgeted interagency contracts and appropriated receipts did not carry forward. TYC had the authority to carry forward to fiscal year 2010 almost all of the remaining \$17 million, mainly comprised of bond and federal funds.

The table, *Average Cost of TYC Supervision*, shows the average amount TYC spent per youth in fiscal year 2009.

Average Cost of TYC Supervision – FY 2009¹

Element	Cost Per Day	Annual Cost	Percent of Total
Institutional Services	\$186.20	\$67,963	57.6%
Education	\$40.16	\$14,658	12.4%
Medical	\$31.20	\$11,388	9.7%
Treatment	\$26.97	\$9,844	8.4%
Security	\$19.38	\$7,074	6%
Central Administration	\$19.14	\$6,986	5.9%
Total	\$323.05	\$117,913	100%

- TYC Facilities.** In fiscal year 2009, TYC operated 12 institutional facilities but has recently closed two of these. TYC also contracts with nine private providers and Garza County to operate contract care residential programs, which historically have been used as alternatives to institutional placement and for youth with special needs. Finally, TYC operates nine halfway houses to provide community reintegration and independent living preparation for youth, in addition to chemical dependency, mental health, and sex offender aftercare services. The average daily population (ADP) of youth in TYC, both residential and parole, was 4,152 in fiscal year 2009. Of this, approximately 49 percent were in institutions, five percent were in halfway houses, and five percent were in contract care facilities. The remaining 42 percent of youth were on parole.

TYC’s population has declined dramatically in recent years, as demonstrated by the chart *TYC Facilities’ ADP*. The smaller population has resulted in excess physical capacity and a higher cost per youth per day.

TYC Facilities’ ADP – FY 2005-2010

TYC Facility Type	Average Daily Population					
	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10
Institutions	4,127	4,059	3,651	2,468	2,027	1,695
Contract Care Facilities	562	427	438	252	201	133
Halfway Houses	221	219	217	201	197	149
Total	4,910	4,705	4,306	2,921	2,425	1,977

- Intake, Assessment, and Placement.** In fiscal year 2009, TYC had a total of 2,089 intakes, including 1,481 new commitments, 111 recommitments, 421 parole revocations, and 76 negative movements – or movement of youth from less secure placement to more secure placement. Upon arrival from the committing county, each youth receives a comprehensive assessment, including physical, medical, educational, and psychological evaluations to identify their needs. To determine the most appropriate placement option, TYC considers these needs along with the youth’s criminal history and risk to the public. TYC places youth at a facility that provides the

required level of security and the necessary type of treatment and also tries to place youth as close to home as possible. The intake, assessment, and placement process typically takes about 30 days.

- **Treatment and Rehabilitation.** TYC is in the process of implementing its redesigned treatment programs to better rehabilitate youth for their eventual release back into society. TYC has a general rehabilitation program for all offenders called CoNEXTions, which includes academic, behavioral, and therapeutic components and provides the structure for the youth's progress through TYC.

For youth with greater needs, TYC offers specialized treatment programs for capital and serious violent offenders, and offenders with mental health, sexual behavior, and chemical dependency treatment needs. Starting in fiscal year 2009, TYC began offering more specialized treatment programming for youth with moderate needs to supplement its traditional high-intensity programs. Appendix B provides information on the number of youth served in moderate- and high-intensity treatment programs.

- **Health Care.** TYC contracts with the University of Texas Medical Branch (UTMB) – Correctional Managed Care to provide health care that includes nursing, medical, dental, psychiatric, emergency, and specialty care for youth residing in TYC institutions and halfway houses. In fiscal year 2009, TYC paid about \$18.1 million for all health care services delivered by UTMB and its off-campus health care providers. Primary health care is provided directly by UTMB, but urgent and specialty care is generally provided by community providers under contract with UTMB.
- **Education.** Youth in TYC institutions attend classes to learn basic academic skills, including reading and math. TYC employs its own principals and teachers for its institutional facilities, while halfway houses and contract care facilities partner with local school districts for educational services. In fiscal year 2009, 69 youth received high school diplomas and another 660 youth completed the GED. Students also have the opportunity to enroll in college courses if eligible. TYC offers vocational course credits or certifications in fields such as welding, business information management, and horticulture. In fiscal year 2009, TYC youth received 581 certifications. Workforce and education reentry liaisons assist youth with educational or vocational enrollment following release from an institution.
- **Workforce Development.** To prepare youth for the workforce, TYC offers career development and both on-campus and off-campus work opportunities. Through a partnership with the Texas Workforce Commission called Reintegration of Offenders – Youth (Project RIO-Y), TYC offers youth career counseling while in TYC institutions and assistance with employment while on parole. Youth who have completed their high school diploma or GED may participate in campus work programs, helping facility staff in areas such as maintenance and grounds keeping. Through fiscal year 2010, TYC also offered Prison Industry Enhancement (PIE) programs which allowed youth to gain work experience and earn wages working for private-sector employers. In 2009, 817 youth participated in RIO-Y, 156 in campus work programs, and 28 in PIE.
- **Parole and Reentry Services.** TYC administers parole services, directly and through contracts with juvenile probation departments and a private provider, to assist youth in making a successful transition back to the community and to protect the public. After release, each youth meets with a parole officer regularly to ensure compliance with parole conditions, which include attending school or work, participating in community service, not committing a new offense, and other conditions TYC deems necessary. In fiscal year 2009, TYC served about 3,714 youth on parole, and the average length of parole supervision was about 10 months. TYC can revoke parole for a

youth who violates a condition of parole, and after a hearing, return the youth to a TYC facility. In fiscal year 2010, revocations totaled 249, with 49 percent resulting from technical violations of parole conditions.

- **Office of Inspector General.** The Office of Inspector General (OIG) is an independent division of TYC that investigates criminal and administrative allegations primarily related to mistreatment of youth. A 24-hour hotline operated by OIG allows TYC youth, family, staff, and others to report complaints, violations, and crimes that occur in relation to TYC. Criminal investigations include staff assaults on youth; youth assaults on staff; sexual assaults; excessive use of force; possession of a weapon or contraband; and waste, fraud, and abuse. Administrative violations relate to abuse, neglect, or exploitation (ANE) of youth in custody, or other violations of administrative procedure. In fiscal year 2009, OIG operated with a \$2.3 million budget and received 16,551 reports of criminal, ANE, and other administrative violations. Criminal investigations by the OIG in 2009 resulted in 131 convictions or adjudications and 31 arrests. Other administrative investigations, including ANE, resulted in confirmed findings against 88 individuals.

Office of Independent Ombudsman

As part of the 2007 reforms, the Legislature created the Office of the Independent Ombudsman (OIO) as a separate and independent state agency tasked with investigating, evaluating, and securing the rights of children committed to TYC. Additional statutory requirements direct OIO to review and investigate complaints other than ones of a criminal nature, review facilities, and provide assistance to youth and families. The Governor appoints the Ombudsman with the advice and consent of the Senate for a two-year term, with a limit of three terms. The Office has four staff and receives administrative support from TYC. In fiscal year 2009, OIO operated with a budget of \$300,000. Since the office was created in 2007, four people have served as Ombudsman, with the most recent appointment effective November 1, 2010.

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¹ The methodology approximates that used by the Legislative Budget Board in preparing the Uniform Cost Project published each fiscal year. Costs represent full cost to the State and include all indirect costs and salary benefits.

Agency at a Glance

Texas Juvenile Probation Commission

In 1981, the Legislature created the Texas Juvenile Probation Commission (TJPC) to ensure access to juvenile probation services throughout the state. Texas reached that goal in 1984 when, for the first time, all counties had probation services available to them. Today, Texas has 165 juvenile probation departments serving all 254 counties. The agency supports and oversees these departments to help reduce crime and divert youth from possible commitment to the Texas Youth Commission (TYC). The departments provide an array of services, from basic probation to secure community-based placement.

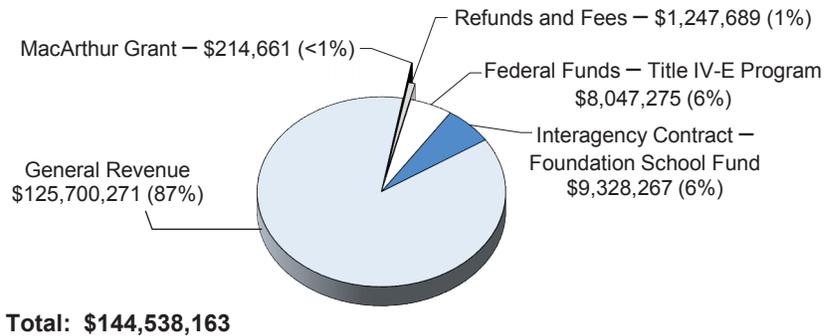
The agency's key functions are:

- disbursing state and federal funding to assist counties in supervising juvenile offenders and to help divert youth from commitment to TYC;
- monitoring and overseeing juvenile probation departments and locally run detention and correctional facilities to ensure compliance with established standards; and
- providing technical and legal assistance and training to counties to improve probation services.

Key Facts

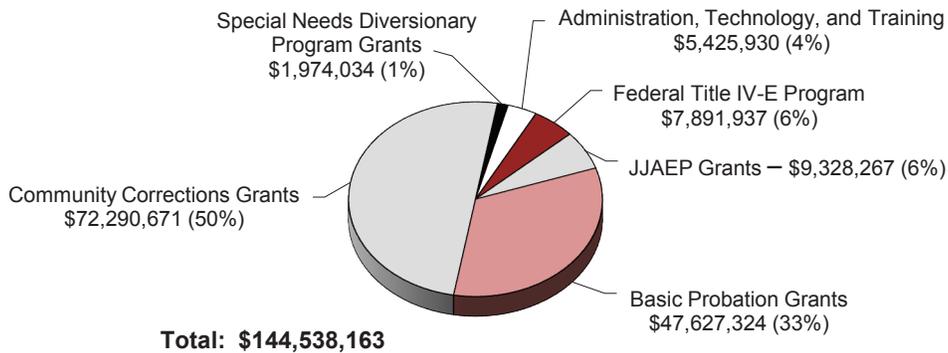
- **Probation Population.** In fiscal year 2009, TJPC provided funding to local probation departments to supervise 103,368 youth – 30 percent for committing felonies, 61 percent for misdemeanors, and the rest for more minor offenses. The average daily population of youth supervised under court-ordered probation and deferred prosecution was about 31,000 in fiscal year 2009. The average daily population for youth in county-based residential placement was 2,800. TJPC reported that 74 percent of youth successfully completed court-ordered probation in fiscal year 2009.
- **Policy Body and Staffing.** TJPC's Board consists of nine members appointed by the Governor for staggered six-year terms. In 2009, the Legislature restructured the Board to include two district court judges who sit as juvenile court judges, two county judges or commissioners, and one of each of the following: chief probation officer, educator, mental health professional, advocate for juvenile offenders or victims of crime, and a public member. TJPC has 76 staff positions, all based in Austin.
- **Funding.** The agency received about \$144.5 million in funding in fiscal year 2009. General Revenue accounted for 87 percent of the agency's total revenue. The remaining 13 percent came from federal Title IV-E foster care funds, which supported residential placement and related costs; the Foundation School Fund, which supported Juvenile Justice Alternative Education Programs; local probation department refunds; conference fees and materials; and a John D. and Catherine T. MacArthur Foundation Grant. The pie chart on the following page, *TJPC Sources of Revenue*, details the agency's funding sources for fiscal year 2009.

**TJPC Sources of Revenue
FY 2009**



In fiscal year 2009, TJPC’s expenditures totaled about \$144.5 million. Approximately 96 percent of TJPC’s expenditures supported the operations and programs of local probation departments. The remaining four percent of funding supported agency administration, technology, and training. The pie chart, *TJPC Expenditures by Key Program*, details the agency’s expenditures in fiscal year 2009.

**TJPC Expenditures by Key Program
FY 2009**



In 2009, TJPC funding accounted for, on average, 26 percent of local probation departments’ operating budgets. However, the percent of a department’s budget provided by TJPC varied by county, from as little as 11 percent to as much as 97 percent. The agency funded departments through 19 separate grants, which are described in Appendix C.

Between fiscal years 2008 and 2011, the Legislature increased TJPC’s annual budget by \$56.4 million, or about 60 percent, to divert youth from TYC, provide support services for misdemeanants, and fund development of an information system for juvenile case management.

- Compliance Monitoring.** The agency monitors each of the 165 local probation departments and 86 secure detention and post-adjudication facilities statewide to ensure compliance with minimum TJPC standards for probation services, as well as compliance with financial and program requirements. In fiscal year 2009, the agency conducted 194 on-site monitoring visits, including 69 financial compliance visits and 86 visits to secure detention and post-adjudication facilities.

The agency also conducts unannounced visits each year based on reported noncompliance and conducted 14 such visits in 2009. In fiscal year 2011, TJPC will begin monitoring the 11 public and private nonsecure correctional facilities used for residential placement of youth on probation.

- **Abuse, Neglect, and Exploitation Investigations.** State law requires TJPC to investigate complaints alleging abuse, neglect, or exploitation (ANE) of youth in any juvenile justice program or facility, excluding TYC facilities. In fiscal year 2009, the agency received 686 reports of ANE allegations, mostly about juvenile supervision officers in secure detention facilities. TJPC conducted 97 on-site investigations in 2009 and determined that abuse, neglect, or exploitation had occurred in 24 cases. In another 153 cases, TJPC found that policy or ethics violations had occurred and is taking disciplinary action in these cases.
- **Officer Certification.** State law requires TJPC to certify all juvenile probation and supervision officers. Probation officers work with youth receiving basic probation services while supervision officers work with youth in detention facilities and other placements. In fiscal year 2009, TJPC certified or recertified 4,353 probation and supervision officers. In fiscal year 2009, TJPC increased pre-service training requirements from 40 to 80 hours.
- **Probation Assistance.** TJPC assists local probation departments and other juvenile justice professionals by providing training, legal assistance, and research and statistical support. The agency provides free and low-cost training to juvenile justice professionals across the state, including juvenile supervision and probation officers, juvenile board members, judges, and prosecutors. TJPC also helps juvenile probation departments maintain quality data on the youth they serve. TJPC uses this data to produce statewide research and statistical reports, including evaluation of probation programs and services as well as analyses of juvenile justice system trends.
- **Juvenile Justice Alternative Education Programs.** In 1995, the Legislature directed probation departments in counties with a population greater than 125,000 to establish Juvenile Justice Alternative Education Programs (JJAEPs), which provide educational services to youth expelled from school. In fiscal year 2009, state law required 26 counties to have a JJAEP, and seven smaller counties elected to operate one. The Commission's role is to provide funding for and oversight of local departments' JJAEPs. In fiscal year 2009, TJPC distributed almost \$9.2 million to JJAEPs, all of which came from the Texas Education Agency. An average of 1,663 youth receive JJAEP education services each day.

Issue

Issue 1

Texas Has a Continuing Need for TYC and TJPC but More Work Is Needed to Ensure Better Outcomes for Youth.

Background

In 2007, the Legislature initiated significant reform of the Texas juvenile justice system to address allegations of abuse and mismanagement at the Texas Youth Commission (TYC). The major reform bill, Senate Bill 103, contained wide-ranging changes to the juvenile justice system as a whole, and especially to the functions and responsibilities of TYC. The Texas Juvenile Probation Commission (TJPC), which represents the front-end of the juvenile justice system, also underwent reform designed to improve youth safety and reduce commitments to TYC. The textbox, *Major Juvenile Justice Reforms of 2007*, details the most significant changes resulting from the reforms in 2007.

Major Juvenile Justice Reforms of 2007

Through SB 103 and changes to TYC and TJPC budgets, the Legislature instituted the following reforms.

- Created an interim commissioner to run TYC, followed by the creation of a more specialized governing board in 2009.
- Reduced the maximum age of youth at TYC from 21 to 19.
- Prohibited commitment to TYC for misdemeanor offenses.
- Established an Inspector General within TYC.
- Established the Office of the Independent Ombudsman for TYC.
- Increased and refocused correctional officer training.
- Reduced youth-to-staff ratios.
- Required new placement policies that accounted for youth age, safety, and proximity to community supports.
- Revised policies for youth release from TYC.
- Increased the focus on rehabilitation of youth at TYC.
- Required additional inspections of probation detention and placement facilities.
- Provided additional funds to probation departments to work with misdemeanants and divert youth from TYC.

In 2009, state law required the Sunset Advisory Commission to review the Texas Youth Commission, Office of the Independent Ombudsman for TYC (OIO), and Texas Juvenile Probation Commission. Both TYC and TJPC are subject to abolishment under the Sunset Act; however, while OIO is subject to review concurrent with TYC, it is not subject to abolishment. The Sunset Commission found that the mission and functions of TYC and TJPC were critical, but the Texas juvenile justice system was still in need of major reform. The Sunset Commission voted to consolidate TYC and TJPC into one large juvenile justice agency, but the Legislature ultimately continued TYC and TJPC as stand-alone agencies for a two-year probationary period, with the requirement that Sunset staff re-evaluate the system's progress at that time.

House Bill 3689 (2009) continued both TYC and TJPC for two years, instituted additional reforms, and required Sunset staff to re-evaluate both agencies based on their implementation of recent reforms. The textbox, *2010 Sunset Evaluation Requirements*, lists the three criteria Sunset staff were directed to use in re-evaluating the agencies prior to the legislative session in 2011.

2010 Sunset Evaluation Requirements*

House Bill 3689 listed three criteria for the Sunset Commission's follow-up evaluation of TYC and TJPC.

1. TYC's and TJPC's compliance with Senate Bill 103 (2007).
2. Implementation of requirements placed on TYC, OIO, and TJPC by legislation enacted by the 81st Legislature, Regular Session, 2009, including implementation of programs for the diversion of youth from TYC.
3. Implementation of initiatives of TYC and TJPC in coordinating activities and services to better integrate state agency and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessments and classification of youth, and collection of data on probation outcomes.

*Texas House Bill 3689, 81st Legislature (2009)

The following material details the agencies' implementation of recent reforms.

Findings

Overall, the agencies have implemented 96 percent of the changes imposed by the major juvenile justice reform bills of 2007 and 2009.

Senate Bill 103 (2007) and House Bill 3689 (2009) contained 144 provisions requiring action by TYC, TJPC, and OIO. As of November 3, 2010, these state agencies had fully implemented 138, or about 96 percent, of the provisions. Appendix A provides information on the six provisions from SB 103 and HB 3689 that are not yet fully implemented by the agencies.

Specifically for SB 103, TYC and TJPC have implemented all of the reforms; however, OIO has not fully implemented one requirement of that legislation. With respect to House Bill 3689, one provision has not been implemented due to budget reductions, and five provisions remain partially implemented. In addition to HB 3689, the 81st Legislature passed several bills which placed additional requirements on the agencies. The Youth Commission and TJPC have implemented all of these additional provisions or will complete implementation within the timeframes established by the Legislature.

As directed, the Texas Juvenile Probation Commission established a diversion program that has reduced commitments to the Texas Youth Commission.

In 2009, to continue reforms began in 2007, the Legislature established a community corrections diversion program to provide additional resources to communities to continue to work with youth on probation instead of committing them to TYC.¹ The Legislature provided \$45.7 million to TJPC over the 2010-2011 biennium to distribute to counties to fund local programs, including residential, community-based, family, aftercare, and mental health programs provided under contract with the Texas Correctional Office on Offenders with Medical or Mental Impairments. The diversion program allows for the allocation of up to \$140 per juvenile per day, or \$51,100 per juvenile per year, to counties that reduce commitments to TYC. If participating counties are unable to reduce commitments, and commit more than 1,783 youth to TYC, then funding would follow the youth from probation to TYC, requiring TJPC to transfer \$51,100 per youth to TYC in the following fiscal year.

Preliminary data indicates that the diversion program is working to significantly reduce commitments to TYC. However, other dynamics may also have contributed to the dramatic 32 percent reduction in overall commitments – which include court commitments, parole revocations, and negative movements – to TYC in fiscal year 2010. Overall, juvenile crime is down and fewer youth are penetrating all levels of the system from arrest and referrals to supervision and commitment to TYC. The 141 probation departments that initially received diversion money all reduced commitments significantly. However, even counties that did not receive funding reduced overall commitments. Taken together these factors each contributed to fewer youth being sent to TYC. The textbox, *Diversion Statistics*, provides additional detail on the recent reduction in commitments from fiscal year 2009 to 2010.

As the diversion program continues, TJPC will collect better data on youth outcomes. Specifically, TJPC will be able to analyze not just how many youth are initially committed by counties, but whether youth that receive diversion programming commit additional crimes in the future, are rearrested, or are later committed to TYC or the adult correctional system.

Total commitments to TYC are down 32 percent.

Diversion Statistics

- Juvenile court commitments to TYC dropped by 481 youth (30 percent) between fiscal year 2009 and 2010.
- The 141 counties that received diversion funding reduced commitments by 32 percent.
- Counties that did not receive funding reduced commitments by 10 percent.
- Only 33 of the 2,213 youth that were served with diversion funds were committed through the first three quarters of fiscal year 2010.

The two juvenile justice agencies continue to implement new initiatives to improve communication, but Sunset staff could not yet determine whether these activities will result in a better integrated juvenile justice system.

Recent reform legislation required additional sharing of information between state juvenile justice agencies, local juvenile probation departments, and community stakeholders to improve services and youth outcomes. Both agencies have implemented, or are in the process of implementing, all required coordination activities, though it is too early to determine the impact of coordination on youth.

Counties will start using the new Juvenile Case Management System in Spring 2011.

- **Joint Strategic Plan.** House Bill 3689 expanded the requirements for TYC's and TJPC's joint strategic plan to improve agency collaboration and system effectiveness. The agencies issued a revised joint strategic plan in November 2009, which identifies 23 operational strategies to address statutory requirements. The agencies outline two-year, five-year, and ongoing timelines for accomplishing the strategies. Staff from both agencies meet regularly to implement strategic plan initiatives and report quarterly on progress. In addition, a subcommittee containing members of each agency's board meets regularly to share information and oversee work on the joint strategic plan.
- **Juvenile Case Management System.** The Juvenile Probation Commission continues to move forward with the creation and implementation of the Juvenile Case Management System (JCMS). In 2009, the Legislature provided \$4.2 million to support the creation and operation of this statewide system. The system is intended to facilitate better information collection and sharing of data between jurisdictions serving youth on probation. Dallas County will begin using JCMS in December 2010 and TJPC anticipates that the system will roll out to other counties throughout the Spring of 2011. The Youth Commission has completed steps to facilitate better internal data sharing, and is currently working with TJPC and other JCMS partners to determine how the system could work to allow sharing of data between counties and TYC.
- **Probation Outcomes.** Several recent bills, as well as TJPC's budget, contain provisions requiring TJPC to improve collection and sharing of data on youth outcomes and programs that work. The intent of these requirements is to collect enough data to allow TJPC and other stakeholders to evaluate which programs work best to rehabilitate youth and reduce commitments to TYC, and to share that information among probation departments and with legislators. TJPC has begun a major data collection effort with the recent creation of a program registry. This registry will list all programs offered by local probation departments and allow comparisons between programs to evaluate program success. While TJPC has increased data collection efforts, it will likely be several years before enough data is available for meaningful analysis.

While the agencies have implemented the vast majority of reforms, continued improvement and evaluation of recent changes at the Texas Youth Commission are needed.

The juvenile justice agencies have generally complied with the requirements put into law by the last two Legislatures. However, concerns remain in several key areas at TYC, and Sunset staff could not yet determine the impact of some reform initiatives.

- **Costs Per Youth.** Commitment of the State’s most serious felony juvenile offenders to the Texas Youth Commission remains costly. While overall expenditures across TYC have gone down since 2008, spending per youth has continued to increase dramatically as a result of ongoing reductions in TYC’s population. In fiscal year 2010, TYC-operated and contract facilities were funded to serve up to 2,414 youth, but the actual average daily population fell below this number by 438. These population decreases result from reforms limiting the types of youth that can be sent to TYC and diversion programs aimed at keeping more children in their communities.

In 2010, the annual cost of committing a youth to TYC rose to \$127,000.

Due in large part to the underutilization of secure institutions and fixed staffing costs, the daily cost of serving a youth in an institution has increased almost 30 percent over the last two years. Commitment at TYC now costs an estimated \$127,000 per youth per year. The chart, *TYC Average Daily Cost per Youth*, breaks the cost-per-day figures out by type of cost. Spending per youth has increased the most in the areas of medical, educational, and institutional services. According to TYC staff, the large increase in medical services occurred due to higher contracted salaries and smaller provider-youth ratios.

TYC Average Daily Cost per Youth

	FY 2008	FY 2009	FY 2010	Percentage Increase FY 2008 – FY 2010
Medical	\$19.12	\$31.20	\$31.30	63.7%
Education	\$35.77	\$40.16	\$46.81	30.9%
Institutional Services	\$156.67	\$186.20	\$200.50	28%
Treatment	\$22.61	\$26.97	\$27.97	23.7%
Central Administration	\$16.68	\$19.14	\$20.32	21.8%
Security	\$19.64	\$19.38	\$21.04	7.1%
Total/Average	\$270.49	\$323.05	\$347.94	28.6%

- **Staffing Challenges.** One of the Youth Commission’s greatest staffing challenges has been high turnover rates, especially for positions providing direct care to youth. The agency’s overall turnover rate has dropped from 41 percent in fiscal year 2007 to 25 percent in fiscal year 2010. However, hiring the specialized treatment and education professionals TYC youth need remains challenging, especially at the Al Price State Juvenile

Correctional Facility in Beaumont, the Corsicana Residential Treatment Center, the Crockett State School, and Evins Regional Juvenile Center in Edinburg. The Youth Commission reports that key substance abuse treatment positions at Al Price have been vacant for months, or more than a year in at least one case. Likewise, senior-level mental health positions at Evins were recently vacant for a significant period. Corsicana, which serves the youth with the most severe mental health needs, currently has five mental health provider vacancies, including the most senior position.

TYC's rate of employee injury hovers around 20 percent.

- **Workers' Compensation Claims.** While TYC leadership has initiated steps to make risk management a priority, TYC's rate of employee injury hovers around 20 percent. This greatly outpaces other state agencies providing direct supervision services to Texans. In fiscal year 2010, TYC staff were injured at a rate more than double that of the next highest agency providing 24-hour care, the Texas Department of Aging and Disability Services, and four times the rate of the Texas Department of Criminal Justice (TDCJ). However, the Youth Commission serves an especially difficult population and, as an agency focused on rehabilitating youth, cannot use some of the techniques available to TDCJ.
- **Specialized Treatment.** Since 2008, TYC has enhanced specialized treatment offerings, and some program enrollment and completion numbers have improved, but others show room for continued improvement. The agency has expanded its treatment programming by establishing new programs for youth with moderate- and low-treatment needs to supplement existing high-intensity programming. The Youth Commission has also changed ineffective policies to better ensure that youth with high needs are enrolled in appropriate programs, and complete programs once they are enrolled. Additionally, more youth receive UTMB-supported psychiatric services than previously.

More youth with identified needs are receiving treatment at TYC.

While these changes have resulted in more youth with identified needs receiving treatment, TYC needs to continue to work to ensure that as many of these youth as possible receive appropriate treatment. Statutory limitations on youths' lengths of stay, and the fact that youth may require treatment for multiple high-level needs, can create difficulties for TYC in ensuring all youth receive all necessary treatment. In particular, enrollment numbers for chemical dependency treatment have gone down, with just over half of youth with an identified high-level need receiving treatment in fiscal year 2010. Capital and violent offender high-need treatment is also still lacking, with only 26 percent of these youth receiving treatment. The chart on the following page, *TYC Specialized High-Need Treatment*, shows the percentage of youth with identified high-level treatment needs that received and completed programs in fiscal year 2010 in comparison with fiscal year 2007.

TYC Specialized High-Need Treatment

Program	Percent of Youth Enrolled		Percent of Youth who Completed	
	FY 2007	FY 2010	FY 2007	FY 2010
Chemical Dependency	71%	55%	59%	73%
Mental Health	32%	97%	38%	19%*
Sexual Behavior	46%	71%	50%	66%
Capital and Serious Violent Offender	18%	26%	86%	77%

* Due to the ongoing nature of mental health treatment, youth do not always complete programs. Ninety percent of these youth made a positive transition to other placements in fiscal year 2010.

- **Rehabilitation Results.** Recidivism, or whether offenders reoffend, is a key indicator used to measure the quality of rehabilitation, and is typically measured during the three-year period after release. Three-year recidivism rates cannot yet be analyzed for youth receiving TYC’s enhanced treatment programming because the agency is still rolling these programs out.

Recommendations

Change in Statute

1.1 Continue the Texas Youth Commission for six years.

This recommendation would continue the Texas Youth Commission as an independent agency responsible for the commitment and parole of juveniles for six years. The agency has fully implemented the vast majority of provisions required by recent Legislatures, and, under new leadership, continues to develop programs and services at a rapid pace. However, the process of reform and agency transformation is, by its very nature, slow. Though the agency has made great strides, it is too early to determine the full impact of these reforms on youth in care. Accurately assessing how the many changes in policies and processes have translated into change on TYC campuses spread across Texas also cannot be measured at this point in time.

By law, the Office of the Independent Ombudsman is required to undergo Sunset review at the same time as TYC, though OIO is not subject to abolishment. This recommendation would not change the law governing OIO’s sunset review date, and OIO would be required to undergo Sunset review in six years with TYC.

1.2 Continue the Texas Juvenile Probation Commission for six years.

This recommendation would continue the Texas Juvenile Probation Commission as an independent agency responsible for disbursing funding and overseeing local juvenile probation departments for six years. While the focus of recent reforms was on the Texas Youth Commission, the Legislature has significantly increased TJPC’s responsibilities and funding. The agency has implemented most

requirements, but it is too early to understand how funding changes and other initiatives are affecting probation departments and the youth they serve. A six-year sunset date would ensure that the entire juvenile system, including both juvenile justice agencies, is reviewed at the same time, and after enough time to effectively evaluate the impact of recent reforms.

Fiscal Implication Summary

If the Legislature continues the current functions of the Texas Youth Commission using the existing organizational structure, the agency's annual appropriation of \$222.7 million would continue to be needed. Based on the current population and population projections, the Legislature may decide to align TYC's appropriations with the smaller population of youth in care.

If the Legislature continues the current functions of the Texas Juvenile Probation Commission using the existing organizational structure, the agency's annual appropriation of \$179.8 million would continue to be needed.

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¹ Rider 21, pp. V-39 – V-40, Chapter 1424 (S.B. 1), Acts of the 81st Legislature, Regular Session, 2009, General Appropriations Act.

Responses to Issue 1

Recommendation 1.1

Continue the Texas Youth Commission for six years.

Texas Youth Commission Response to 1.1

The Texas Youth Commission supports the recommendation to continue TYC for six years. (Cheryln K. Townsend, Executive Director and Scott K. Fisher, Chair – Texas Youth Commission)

Office of Independent Ombudsman Response to 1.1

The Office of the Independent Ombudsman for TYC supports the Sunset Commission Staff's recommendation to continue TYC operations for six more years. (Debbie Unruh, Chief Ombudsman – Office of the Independent Ombudsman for TYC)

For 1.1

Clifford Gay, Advocate, Buda

Lauren Rose, Mental Health and Juvenile Justice Policy Fellow – Texans Care for Children, Austin

Against 1.1

Kathryn Lewis, Attorney – Advocacy, Inc., Austin

Rebecca Lightsey, Executive Director and Deborah Fowler, Legal Director – Texas Appleseed, Austin

Recommendation 1.2

Continue the Texas Juvenile Probation Commission for six years.

Juvenile Probation Commission Response to 1.2

The Texas Juvenile Probation Commission fully supports Recommendation 1.2. (Vicki Spriggs, Executive Director – Texas Juvenile Probation Commission)

For 1.2

Clifford Gay, Advocate, Buda

Lauren Rose, Mental Health and Juvenile Justice Policy Fellow – Texans Care for Children, Austin

Against 1.2

Kathryn Lewis, Attorney – Advocacy, Inc., Austin

Rebecca Lightsey, Executive Director and Deborah Fowler, Legal Director – Texas Appleseed, Austin

Modifications

1. Consolidate the Texas Youth Commission and the Texas Juvenile Probation Commission to create a streamlined and unified service delivery system in a single state agency. Eliminate duplicative functions that exist between the agencies. Require the juvenile justice system to be driven by community-based services. Require facility closure as part of system restructuring, and redirect a portion of savings to support community-based services. Require the consolidation to be based on the guiding principles identified in Modification 4. (Kathryn Lewis, Attorney – Advocacy, Inc., Austin; Rebecca Lightsey, Executive Director and Deborah Fowler, Legal Director – Texas Appleseed, Austin)
2. Continue TYC and TJPC for six years but establish a Restructuring Team, to develop a Restructuring Plan, to move the juvenile system more towards recognized best practices. Require the team to include leadership from TYC and TJPC, the independent ombudsman, county juvenile chiefs, the judiciary, juvenile defense and prosecution, mental health and education experts, researchers with expertise in juvenile justice, and advocates for children and youth. Establish timelines, in law, for the Restructuring Team to complete its work. Require the Plan to be based on the guiding principles identified in Modification 4. (Lauren Rose, Mental Health and Juvenile Justice Policy Fellow – Texans Care for Children, Austin)
3. Require Sunset staff to evaluate adherence to the guiding principles identified in Modification 4 when TYC and TJPC undergo Sunset review in 2017. (Lauren Rose, Mental Health and Juvenile Justice Policy Fellow – Texans Care for Children, Austin)
4. Modification 4 is intended to work in conjunction with Modifications 1, 2, and 3, and not as a stand alone modification. Adopt, in law, the following guidelines for reform of the juvenile justice system.
 - Changes in the governance structures of various components of the juvenile justice system should not be confused with reform. While governance and organizational structure may have a significant impact on the delivery of services to youth, they do not in and of themselves constitute meaningful reform.
 - The adult prison system and the adult model of criminal justice are damaging and ineffective options for youth, ignoring their needs for age-appropriate rehabilitation and treatment services. The state should look for ways to remove those youth who are housed in adult prisons and jails and instead place them in more appropriate juvenile settings.

- Recognizing that proven, non-institutional, community-based programs are less expensive and more effective than secure facilities, Texas should move away from prioritizing state spending on institutional care and towards an emphasis on using taxpayer dollars to fund proven and effective community-based services for youth and families.
- The state should keep all but the most serious juvenile offenders (those who present a significant risk to public safety) out of secure facilities. True reform means that significantly fewer youth are incarcerated and more are being treated at home with appropriate strength-based and family-focused interventions and supports. Or, if necessary to protect public safety, youth should be housed in out-of-home programs conducive to rehabilitation. Closing state-run facilities while merely increasing the size of secure county-run facilities does not represent a step towards reform.
- For confined youth, Texas should move towards a juvenile justice system of small juvenile justice facilities that prioritizes youths' treatment needs, provides meaningful rehabilitation in a therapeutic environment, and locates youth in or near their home communities.
- Facilities should be staffed with qualified personnel who are trained to meet the needs of youth who require mental health, substance abuse, and sex offender treatment. Facilities should also offer services to address traumas that youth have experienced. Consistent with the goals of providing effective, trauma informed treatment, staff supervising youth should receive continuing training in the safest protocols possible with respect to restraints, verbal de-escalation techniques, suicide risk and prevention, sexual assault, protection of vulnerable youth, and recognition of signs that a youth that may be overmedicated or having adverse reactions to medication.
- Funding should follow the youth; if more youth are being served at the county level, the state should redirect funding to counties for the provision of appropriate and effective community-based, non-institutional services in those locations.
- Better monitoring, oversight, and reporting of county programs should be ensured by providing the Texas Juvenile Probation Commission (TJPC) the mandate and resources to regularly conduct on-site inspections of both secure and non-secure facilities, use a graduated sanctioning system for facilities that fail to comply with set standards, and provide an annual report to the Legislature addressing violations of standards.
- To better protect youth and ensure appropriate treatment and services for them, the Office of the Independent Ombudsman (OIO) should have its jurisdiction expanded so that it can provide oversight over youth anywhere they are being held in correctional settings in Texas, whether at the county or state level, in adult prisons and jails, or juvenile secure facilities. The OIO's effectiveness could be enhanced with a structure that allows for the operation of regional offices.
- As another means of better protecting youth, the state should consider contracting with legal aid entities to provide confined youth with legal advocates to help with civil legal issues such as child custody and other family law or child welfare matters, post-adjudication issues for which counsel is not provided, and civil rights actions.

- The state should continually foster and protect resources and programming that help youth succeed during and after juvenile justice system involvement. Educational services (including reading and behavior improvement programs) that support workforce and vocational development are especially critical for easing the re-integration of youth into their home communities.

(Kathryn Lewis, Attorney – Advocacy, Inc., Austin; Rebecca Lightsey, Executive Director and Deborah Fowler, Legal Director – Texas Appleseed, Austin; Lauren Rose, Mental Health and Juvenile Justice Policy Fellow – Texans Care for Children, Austin)

Commission Decision

Adopted a modification as an alternative to Recommendations 1.1 and 1.2 to abolish TYC and TJPC and transfer their functions to a newly created state agency, the Texas Juvenile Justice Department, with a Sunset date of 2017. The following provisions would apply.

- Merge the functions of TYC and TJPC into the new Texas Juvenile Justice Department after a one-year phase-in period ending with creation of the new Department on September 1, 2012.
- Transfer all current duties of TYC and TJPC to the newly created Department, and specify that the mission of the new Department reflect the goal of prioritizing local probation above state commitment.
- Establish a 13-member Juvenile Justice Board with the following composition:
 - four juvenile court judges or county commissioners;
 - one juvenile court prosecutor;
 - three chief juvenile probation officers representing small, medium, and large counties;
 - one mental health or other treatment professional;
 - one education professional;
 - one child or victim advocate; and
 - two public members who are not employees of the criminal or juvenile justice systems.
- Create a transition team to assist the organization of the new agency. The Governor would appoint the team, which would begin work on September 1, 2011 and disband on December 31, 2012 or as soon thereafter as possible. The team would be composed of the following:
 - a representative of the Governor, who would chair the team;
 - administrative heads of TJPC and TYC;
 - representatives of the Lieutenant Governor and Speaker of the House;
 - three stakeholders representing youth, families, and advocacy groups; and
 - three stakeholders representing small, medium, and large probation departments.
- The Department would be subject to the Sunset Act, with an initial six-year Sunset date of September 1, 2017.

Legislative Action

Senate Bill 653 creates a unified juvenile justice system anchored by a single state agency, the Texas Juvenile Justice Department, with a Sunset date of 2017. The Legislature modified the Sunset Commission's approach by shortening the transition period from one year to three months, with creation of the new Department on December 1, 2011. The bill specifies that the mission of the new Department reflect the goal of prioritizing local probation above state commitment.

In S.B. 653, the Legislature adjusted the board composition proposed by the Sunset Commission resulting in a 13-member Juvenile Justice Board with the following composition:

- one member who is a district court judge of a court designated as a juvenile court;
- three county commissioners court members;
- one prosecutor in juvenile court;
- three chief juvenile probation officers representing small, medium, and large counties;
- one adolescent mental health treatment professional;
- one educator; and
- three members of the general public.

The bill specifies that no two board members may represent the same county or judicial district. Senate Bill 653 requires board members that are chief juvenile probation officers to recuse themselves if the Board deliberates on an issue that solely affects their department. The bill specifically prohibits a chief juvenile probation officer from voting or making decisions regarding matters of abuse and neglect affecting the chief's own department.

The bill establishes a seven-member juvenile justice services and facilities transition team to develop a transition plan with short-, medium-, and long-term goals, and to assist the Board in the organization of the new agency. The Governor and the TYC and TJPC Boards will appoint the team members, who will begin work on September 1, 2011 and disband on March 1, 2012, or as soon thereafter as possible. The team will be composed of the following:

- one representative of the Governor, who will chair the team;
- one representative chosen from a list submitted to the Governor by the Lieutenant Governor;
- one representative chosen from a list submitted to the Governor by the Speaker of the House;
- one representative each of TYC and TJPC, appointed by their respective boards;
- one member who represents the interests of offenders or the families of youthful offenders, an organization that advocates on behalf of youthful offenders or the families of youthful offenders, or an organization that advocates on behalf of the victims of delinquent or criminal conduct; and
- one member with experience in organizational mergers. (Commission alternative to Recommendations 1.1 and 1.2)

Finally, the Legislature added numerous provisions to the bill to clarify that the new Department retains all powers, duties, and functions previously granted to TYC and TJPC.

New Issues

New Issues

None received.

Commission Decision

The Commission adopted the following new issue not previously listed.

- Allow the State to transfer any closed TYC facility, in a county with a population of less than 100,000, to the county or city in which the facility is located.

Legislative Action

Senate Bill 653 allows the State to transfer any closed TYC facility, in a county with a population of less than 100,000, to the county or city in which the facility is located.

Provisions Added by Legislature

Provisions Added by Legislature

1. Establish statutory purposes and goals for the new Department.

Senate Bill 653 establishes the purpose of the new Department, and provides that the Department shall be a unified state juvenile justice agency that works with stakeholders; provides a full continuum of effective supports and services to youth; and creates a juvenile justice system that produces positive outcomes for youth, families, and communities.

The bill further establishes the goals of the Department to:

- support a county-based continuum of services for youth and families that reduces the need for out-of-home placement;
- increase use of alternatives to placement and commitment to secure state correctional institutions;
- locate facilities as geographically close as possible to necessary workforce and other services while supporting youths' connections to their families;
- encourage regional cooperation that enhances county collaboration;
- enhance the continuity of care throughout the juvenile justice system; and
- utilize secure facilities whose size supports effective youth rehabilitation and public safety.

2. Expand the composition and functions of the Advisory Council on Juvenile Services.

Senate Bill 653 adjusts the composition of the existing Advisory Council on Juvenile Services to include:

- the executive director of the Department or the executive director's designee;
- the director of probation services of the Department or the director's designee;
- the executive commissioner of the Health and Human Services Commission or the commissioner's designee;
- one representative of the county commissioners courts appointed by the board;
- two juvenile court judges appointed by the board; and
- seven chief juvenile probation officers appointed by the board.

The bill prescribes specific methods for the board's appointment of advisory council members representing county commissioners courts, juvenile courts, and local probation departments. Senate Bill 653 requires members, other than ex officio members, to serve two-year terms.

The bill adjusts the Council's functions to require the Council to assist the Department in determining the needs and problems of county juvenile boards and probation departments;

conduct long-range strategic planning; review existing or newly proposed standards affecting juvenile probation programs, services, or facilities; analyze the potential cost impact on probation departments of new standards proposed by the Board; and advise the Board on any other matter on the request of the Board.

3. Require the Inspector General to report to the Department's Board.

The bill specifies that the Inspector General reports to the Department's Board, not the Executive Director, and requires the Board to appoint the Inspector General.

4. Clarify the role of the Office of Inspector General in handling complaints related to probation services.

The bill requires the Office of Inspector General (OIG) for the Department to refer any criminal complaints received relating to probation services or facilities to the appropriate local law enforcement entities. Senate Bill 653 also requires the Department to provide immediate notice to a local probation department of any complaint received via the hotline or other mechanism, relating to the services or facilities of a probation department. The bill requires the Board to establish policies, by rule, for the referral of noncriminal complaints to the appropriate division of the Department.

5. Define the role of the Office of Independent Ombudsman in probation services.

Senate Bill 653 expands the duties of the OIO to include reviewing and analyzing probation complaint data for trends. The bill requires the Ombudsman to report any possible standards violations to the appropriate probation monitoring entity within the Department.

To facilitate the Ombudsman's review, the bill requires that the Department provide to the OIO any data submitted by local probation departments concerning abuse, neglect, exploitation, or programs complaints.

6. Require status reports on abuse, neglect, and exploitation investigations.

Senate Bill 653 requires the Department to give monthly status updates, and immediate updates upon decisions, to county juvenile probation departments against which the Department has a pending abuse, neglect, or exploitation case.

7. Streamline the operations of the new Department's toll-free hotline.

Senate Bill 653 requires the Department to operate a single toll-free number to receive information concerning the abuse, neglect, or exploitation of children in the custody of the Department or housed in a local probation facility. The bill requires the Department to operate and answer the hotline 24 hours per day, every day of the year, and to share complaints received on the hotline with the OIG and OIO.

8. Consolidate Reentry and Reintegration Plan provisions for youth leaving state custody.

Senate Bill 653 consolidates existing Comprehensive Reentry and Reintegration Plan provisions for youth exiting state custody on supervision into one section of law. The bill also requires the Department to clearly explain a youth's reentry plan to a youth exiting state custody under supervision, and requires the youth under supervision to acknowledge and sign the conditions of supervision before release.

9. Establish a program evaluation system for state and county programs for youth.

The bill requires the Department to establish and implement a system to evaluate the effectiveness of state and county programs and services for youth, including performance measures in its strategic plan. Measures must evaluate the effectiveness of programs on outcomes for youth, public safety, and victims. The bill requires the Board to make the measures available online, and use these measures to determine funding levels for programs and services.

10. Authorize charters for education programs in residential facilities for youth on probation.

Senate Bill 653 authorizes the State Board of Education to grant charters to detention, correctional, or residential facilities for juveniles on probation. The bill requires these charters to comply with all opportunities and services required of other charter schools. The bill provides that such charters will not be counted against the State's statutory cap on charter schools.

11. Improve coordination and planning for educational services for youth on probation.

Senate Bill 653 requires the Department to encourage compliance with state or federal educational service standards by facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency; and developing a plan to ensure continuity of educational services to juvenile offenders, including special education for youth with disabilities.

12. Establish prevention and early intervention services at the new Juvenile Justice Department.

Subject to available funding, S.B. 653 requires the Department to provide prevention and early intervention services for at-risk youth and their families. The Department must provide services to at-risk youth, ages six to 18, who are subject to compulsory school attendance or under the jurisdiction of a juvenile court.

13. Strengthen requirements for the initial examination of youth committed to state custody.

State law requires that youth committed to the State's custody receive an initial examination and assessment. The bill requires the Department to conduct its initial exam on committed youth within three days of commitment. The bill also requires that the initial exam include specialized treatment planning, and consideration of sex offender history and violent offense history, in addition to other factors already in law. The bill requires the Department to develop a written treatment plan for the child outlining identified specialized treatment needs and recommendations for treatment goals, objectives, and timelines. Senate Bill 653 clarifies that the Department may use a psychiatric evaluation completed within 90 days before commitment, in lieu of conducting a new psychiatric examination, to satisfy initial examination requirements.

14. Provide that data obtained through a risk and needs assessment not be used against a child in a hearing.

Senate Bill 653 provides that, similar to data obtained in mental health screenings, data obtained from youth during the course of a risk and needs assessment by a juvenile probation department is not admissible against the child in any other hearing.

15. Clarify provisions related to use of gifts, grants, and donations.

The bill authorizes the Department to apply for and accept gifts and grants from any public or private source; requires the Department to deposit money received under this section in the state treasury; and authorizes the use of the money for funding any activities of the Department.

16. Exempt the Juvenile Case Management System from inclusion in the State's data center.

The Juvenile Case Management System (JCMS) is the newly developed juvenile justice information and case management system. When fully deployed, JCMS will provide statewide data sharing between all local juvenile probation departments. This system is a public-private initiative involving TJPC, counties, and private partners. Consolidating TJPC and TYC will require that various TJPC information systems become part of the State's data center consolidation project managed by the Department of Information Resources. Senate Bill 653 specifically exempts JCMS from the data center consolidation project.

Appendices

Appendix A

Recent Reform Provisions That Are Not Fully Implemented

Senate Bill 103, as adopted by the Legislature in 2007, and House Bill 3689, as adopted by the Legislature in 2009, included 102 provisions requiring action by the Texas Youth Commission (TYC), 31 provisions requiring action by Texas Juvenile Probation Commission (TJPC), and 11 provisions requiring action by the Office of the Independent Ombudsman for TYC (OIO). The following chart lists the partially implemented or not implemented provisions, with an explanation of the status, and an estimate of when the responsible agency anticipates full implementation.

Number	Requirement	Status
House Bill 3689 (2009)		
1	Requires TJPC to regulate all public and private nonsecure correctional facilities. Defines a nonsecure facility and clarifies who may operate a nonsecure facility.	Partially Implemented – TJPC is in the process of drafting standards, in the form of administrative rules, pertaining to nonsecure correctional facilities. TJPC anticipates presenting these standards to the TJPC Board in November 2010 for initial publication in the Texas Register. TJPC anticipates the rules will become effective in June 2011.
2	Requires TJPC to consider past performance in awarding future community corrections grants or pilot program grants. Requires grant recipients to report on applicable measures.	Partially Implemented – TJPC incorporated provisions in its grant contracts to ensure grantees comply with minimum performance measures, established by the Commission, based on the grantee’s historical performance of services. TJPC is currently working with its advisory council to restructure how grant funds are awarded to local juvenile probation departments. The revisions TJPC seeks to implement will further link performance to grant awards as well as consolidate and streamline existing grants. TJPC is seeking changes through the appropriations process and anticipates it will finish restructuring grants in time for the 2012-2013 biennium.
3	Requires TJPC and TYC to adopt a memorandum of understanding with Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) for continuity of care for juvenile offenders with mental impairments. Requires TCOOMMI, in coordination with the TYC, TJPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.	Partially Implemented – This is implemented in practice; however, the MOU is pending approval by all of the parties.

Appendix A

Recent Reform Provisions That Are Not Fully Implemented

Number	Requirement	Status
4	Adds modified standard Sunset language requiring OIO to maintain information on all complaints that relate to the operations or staff of the office, and to notify the parties about policies for and status of complaints.	Partially Implemented – The Office has drafted procedures and anticipates formal adoption soon.
5	Provides enabling language to permit TJPC to contract with Burke MHMR for the use of the Peavy Switch Facility for youth on probation with mental health needs. Provides that the facility may not continue to operate beyond the end of the school year if it does not provide adequate educational and mental health services. Requires the State Board of Education to grant a charter to the facility.	Not Implemented – TJPC submitted budget materials to the Legislative Budget Board in the Fall of 2009, and drafted a contract for the use of the Peavy Switch Facility with Burke MHMR. The State Board of Education approved a charter school application in January 2010. Funding for this project was returned to the State and the project is on permanent hold consistent with the requirement that all state agencies reduce current budgets by 5 percent.
Senate Bill 103 (2007)		
6	Requires the Office of the Independent Ombudsman (OIO) by rule to establish policies and procedures for the operations of the office.	Partially Implemented – The Office of the Independent Ombudsman began to establish more formal policies and procedures in 2009; OIO anticipates adopting policies in rule by January 1, 2011.

Appendix B

TYC Specialized Treatment Programs, FYs 2009 – 2010

In fiscal year 2009, TYC began expanding the number of specialized treatment programs available to youth. Specifically, the Commission developed additional moderate-intensity programs to augment the high-intensity programs traditionally operated by TYC. The Commission also began offering specialized programs in more of its facilities. The charts below provide information on the number of TYC youth served in high- and moderate-intensity treatment programs in fiscal years 2009 and 2010.

Capital and Serious Violent Offender Program

Facility	Moderate Need		High Need	
	FY 2009	FY 2010	FY 2009	FY 2010
<i>Institutions</i>				
Al Price	–	16	–	–
Corsicana	–	31	–	–
Crockett	–	26	–	–
Evins	–	43	–	–
Gainesville	–	51	–	–
Giddings	1	20	67	82
McLennan I	–	32	–	–
Ron Jackson I	2	31	40	46
Ron Jackson II	–	10	–	–
Victory Field	–	14	–	–

Appendix B

Chemical Dependency Program

Facility	Moderate Need		High Need	
	FY 2009	FY 2010	FY 2009	FY 2010
<i>Institutions</i>				
Al Price	–	12	119	152
Corsicana	–	26	–	–
Crockett	–	11	–	–
Evins	–	25	64	79
Gainesville	–	67	109	131
Giddings	–	–	75	80
McLennan II	–	17	109	116
Ron Jackson I	–	24	61	58
Ron Jackson II	44	45	–	–
Victory Field	–	27	10	2
West Texas	–	0	16	20
<i>Halfway Houses</i>				
Ayres House	11	24	–	–
Beto House	23	9	–	–
Cottrell House	4	7	–	–
McFadden Ranch	1	1	110	121
Schaeffer House	–	6	–	–
Tamayo House	3	–	–	–
Turman House	11	6	–	–
Willoughby House	–	12	–	–
York House	2	17	34	24
<i>Contract Care Facilities</i>	2	3	–	–

Appendix B

Mental Health Program

Facility	Moderate Need		High Need	
	FY 2009	FY 2010	FY 2009	FY 2010
Institutions				
Al Price	17	21	–	–
Corsicana	39	150	378	291
Crockett	49	31	185	136
Evins	12	44	–	–
Gainesville	90	95	–	–
Giddings	27	36	–	–
McLennan II	60	71	–	–
Ron Jackson I	32	35	–	–
Ron Jackson II	4	–	–	–
Victory Field	38	23	–	–
West Texas	4	10	–	–
Halfway Houses				
Ayres House	11	8	–	–
Beto House	5	5	–	–
Cottrell House	2	6	–	–
McFadden Ranch	25	25	–	–
Tamayo House	1	1	–	–
Turman House	6	11	–	1
Willoughby House	2	2	–	–
Contract Care Facilities	2	3	46	33

Appendix B

Sexual Behavior Program

Facility	Moderate Need		High Need	
	FY 2009	FY 2010	FY 2009	FY 2010
<i>Institutions</i>				
Corsicana	46	32	–	–
Crockett	–	16	–	–
Giddings	1	1	169	187
McLennan II	1	22	87	99
Ron Jackson I	1	–	10	7
Ron Jackson II	–	33	–	–
<i>Halfway Houses</i>				
Ayres House	12	7	–	–
Beto House	9	9	–	–
Cottrell House	5	9	–	–
Schaeffer House	3	6	–	–
Tamayo House	2	5	–	–
Turman House	17	14	–	–
Willoughby House	1	3	1	–
York House	12	6	–	1
<i>Contract Care Facilities</i>	12	7	–	–

Appendix C

Texas Juvenile Probation Commission Grants – FY 2009

Grant (Identifier) ¹	Purpose	Method of Funding	Expenditures FY 2009
Community Corrections (Y)	Provides funding to develop community-based program alternatives for youth at risk of commitment to the Texas Youth Commission (TYC).	<p>Formula – A formula grant with four tiers.</p> <p>Tier 1. TJPC funds departments \$11 per year, per juvenile based on a county's population, with a maximum of \$75,000.</p> <p>Tier 2. Additional funding is allocated based on a county's percentage of total state juvenile population.</p> <p>Tier 3. Twenty-five percent of grant funding is allocated based on a department's percentage of total state felony referrals.</p> <p>Tier 4. Remaining funding distributed based on the county's tax base as reported by the Comptroller of Public Accounts.</p>	\$34,193,889
Community Corrections Diversion Program (C)	Supports programs intended to divert youth from TYC to suitable programs and services in local communities.	<p>Formula – The funding formula is based on each juvenile probation department's proportion of the statewide weighted average of felony commitments to TYC from fiscal years 2006 through 2008. Departments receive a maximum funding rate of \$140 per juvenile per day or \$51,100 annually.</p>	\$22,110,400 ²
Diversionsary Residential Placement (H)	Funds secure post-adjudication or nonsecure residential placement.	<p>Reimbursement – Departments who place youth may apply for reimbursement. TJPC may reimburse at a rate not to exceed \$90 per day.</p>	\$19,450,866
State Aid (A)	Provides funding for basic juvenile probation services and programs including staff services, operational expenses, and residential and nonresidential services.	<p>Formula – A formula grant with two tiers.</p> <p>Tier 1. TJPC funds departments \$12 per year, per juvenile based on a county's population, with a minimum of \$5,200 and a maximum of \$58,000.</p> <p>Tier 2. After grant maximums are met, TJPC allocates funding according to a county's percentage of total juvenile-age population.</p>	\$18,085,092

Appendix C

Texas Juvenile Probation Commission Grants – FY 2009

Grant (Identifier) ¹	Purpose	Method of Funding	Expenditure FY 2009
Progressive Sanctions: Juvenile Probation Officers (F)	Provides salary support for juvenile probation officers for the provision of services and programs for offenders assigned to progressive sanctions levels 1 through 3. Funds approximately 593 officers statewide.	Noncompetitive Grant – Funds a specified number of officers in each department. The grant was originally based proportionally on the number of officers in the department and the state; however, the departments now receive funds based on previous allocations.	\$14,146,305
Salary Adjustment for Juvenile Probation and Supervision Officers (Z)	Provides a salary supplement to departments in the amount of \$2,850 for juvenile probation officers and \$1,425 for juvenile supervision officers.	Noncompetitive Grant – Funds a specified number of officers in each department. The grant was originally based proportionally on the number of officers in the department and the state; however, departments currently receive funds based on previous allocations.	\$10,197,776
Juvenile Justice Alternative Education Program (JJAEP) (P)	Supports JJAEPs in counties with populations greater than 125,000.	Reimbursement – TJPC reimburses departments \$79 per day for each day a mandatory student is in a JJAEP.	\$8,841,369
Title IV-E Federal Foster Care (E)	Permits juvenile boards to recoup federal funds for placement of eligible children and costs related to administering the program.	Reimbursement – Departments that place youth who meet Title IV-E criteria may apply for reimbursement.	\$7,891,937 ³
Intensive Community-Based Program (X)	Provides funding for intensive services to habitual misdemeanor youth. Funds are intended to serve a priority population of youth that, under prior law, would have been eligible for commitment to TYC.	Formula – A formula grant with two tiers. Tier 1. About 30 percent of grant funds are distributed to Texas' five largest counties based on each department's proportion of misdemeanor referrals. Tier 2. Remaining funds are distributed regionally based on each region's percentage of the State's total misdemeanor referrals. Each department within a region receives funding based on its percentage of the region's referrals.	\$5,211,607
Progressive Sanctions: Levels 1-2-3 (G)	Supplies funding for services or programs for offenders on sanctions levels 1 through 3.	Noncompetitive Grant – The grant was originally based on juvenile population; however, departments now receive funds based on previous allocations.	\$5,097,228

Appendix C

Texas Juvenile Probation Commission Grants – FY 2009

Grant (Identifier) ¹	Purpose	Method of Funding	Expenditure FY 2009
Level 5 Post-Adjudication Facilities (L)	Provides secure post-adjudication funding for the placement of approximately 329 offenders annually.	Reimbursement – Eligible placements must meet certain criteria related to severity of the offense. TJPC may reimburse at \$90 per day or \$120 per day depending on the type of treatment.	\$4,394,436
Local Post-Adjudication Funds (V)	Helps defray the cost of operating post-adjudication secure facilities constructed in 1996 using General Obligation bonds. The grant requires these regionally operated facilities to provide reduced rates to counties who place youth.	Reimbursement – Counties that run facilities may receive \$21.25 per day per filled bed.	\$4,147,038
Progressive Sanctions: Intensive Supervision Juvenile Probation Officers (O)	Supports intensive services or programs for Level 4/Intensive Supervision juveniles. Funding provided for approximately 83 officers.	Noncompetitive Grant – Funds a specified number of officers in each department. The grant was originally based proportionally on the number of officers in the department and the state; however, departments currently receive funds based on previous allocations.	\$2,267,112
Special Needs Diversionary Program (M)	Funds probation officers who provide specialized supervision services for offenders with mental health needs. The Texas Correctional Office on Offenders with Medical or Mental Impairments provides additional funding for local Community Mental Health and Mental Retardation Center services.	Noncompetitive Grant – Provides funding for about 20 departments. TJPC pays salaries for about 37 officers.	\$1,974,034
Intensive Community-Based Pilot (U)	Provides funding for intensive services to habitual misdemeanor youth in counties with populations of at least 335,000. Funds are intended to serve a priority population of youth that, under prior law, would have been eligible for commitment to TYC.	Formula/Competitive Grant – TJPC provided \$225,000 to Texas' five largest counties. TJPC provided lesser amounts to an additional three counties with populations over 335,000.	\$1,287,455
Delta Boot Camp (D)	Supports Harris County's Delta Boot Camp program.	Noncompetitive Grant	\$1,000,000
Juvenile Justice Alternative Education Program – Discretionary (W)	Assists counties with populations less than 125,000 in the operation of a JJAEP.	Competitive Grant – Counties that opt to have JJAEPs may apply for funding. Currently 11 counties receive funding.	\$486,898

Appendix C

Texas Juvenile Probation Commission Grants – FY 2009

Grant (Identifier) ¹	Purpose	Method of Funding	Expenditure FY 2009
Small County Diversionary Fund (R)	Assists small counties in paying the cost of residential placement for youth at risk of commitment to TYC.	Reimbursement – TJPC may reimburse placements at a rate not to exceed \$90 per day.	\$300,000
Border Children's Justice Project (B)	Supports joint rehabilitative efforts of Texas and foreign authorities and provides services to offenders and their families.	Competitive Grant – Any border county may apply. TJPC awards several grants per year.	\$100,923
Intensive Community-Based Incentive Grant (K)	Provides funding for intensive services to habitual misdemeanor youth. Funds are intended to serve a priority population of youth that, under prior law, would have been eligible for commitment to TYC.	Competitive Grant – A grant for small counties who may receive up to \$50,000.	\$38,268

¹ TJPC assigns a letter to each grant for accounting purposes.

² TJPC received additional appropriations for fiscal years 2010 and 2011. This grant reflects budgeted amounts and not expenditures.

³ Title IV-E funds vary each year depending on department claims. Due to changes in the structure of the Title IV-E program, in future years departments will receive significantly less funding.

Appendix D

Staff Review Activities

During the special purpose reviews of the Texas Youth Commission (TYC), Texas Juvenile Probation Commission (TJPC), and Office of the Independent Ombudsman for TYC (OIO), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended TYC and TJPC Board meetings; spoke with staff from key legislative offices; conducted interviews and reviewed written comments from interest groups and the public; and reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature.

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

- Toured the Texas Youth Commission's intake and orientation unit in Mart and residential treatment center in Corsicana.
- Interviewed local juvenile probation department chiefs and juvenile judges.
- Interviewed staff from the State Office of Risk Management and the Office of the Governor.

SUNSET STAFF REVIEW OF THE
TEXAS YOUTH COMMISSION
TEXAS JUVENILE PROBATION COMMISSION
OFFICE OF INDEPENDENT OMBUDSMAN

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