



Testimony of Texas Appleseed
Sunset Advisory Commission Hearing
Re: the Texas Youth Commission
& Texas Juvenile Probation Commission

Sunset Advisory Commission
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Room E1.036

Texas Appleseed Contacts: Rebecca Lightsey, Executive Director
Deborah Fowler, Legal Director
1609 Shoal Creek Blvd., Suite 201
Austin, TX 78701
(512) 473-2800
www.texasappleseed.net

We appreciate the opportunity to present testimony before the Sunset Commission on the Texas Youth Commission and the Texas Juvenile Probation Commission. We believe that this Sunset review creates a unique, valuable and timely opportunity to provide more effective programming for youth, protect communities, and save money.

Texas Appleseed, a non-partisan, non-profit, 501(c)(3) organization, is part of a national network of 16 public interest law centers in the United States and Mexico. Our mission is to promote justice for all Texans by leveraging the volunteered skills and resources of lawyers and other professionals to identify practical solutions that create systemic change in broad-based issues of social equity. Texas Appleseed's work includes advocacy on behalf of youth in the juvenile justice system.

Most recently, Texas Appleseed has worked with a group of organizations focused on ensuring the realization of the reforms enacted by the state's leadership during the last two legislative sessions. As part of that effort, Appleseed spent time interviewing youth and staff in Texas Youth Commission facilities, including visits made to facilities in July and August of 2010. We are deeply concerned about conditions in the facilities we visited, as detailed in our letter urging the Department of Justice to investigate systemic problems that persist in TYC facilities.

Today's System Suffers from Problems that Will Not be Remedied Absent Restructuring

The system, as it exists today, not only falls far short of the reform envisioned by our state leadership, it falls short of Constitutional standards that protect youth from harmful conditions during their incarceration. While TYC leadership has worked hard to bring about change, ongoing issues surrounding staff recruitment, retention, and accountability reflect structural and cultural problems that cannot be eliminated absent a restructuring of the system as a whole.

Texas Appleseed is not alone in recognizing TYC's ongoing structural problems. Both the Moss Group and the Sunset Staff Report note that among its other problems TYC continues to have problems recruiting and retaining staff, in part due to the location of the agency's secure facilities in remote regions of the state.ⁱ These problems contribute to a continuing inability to adequately address entrenched cultural problems, and cause serious shortfalls in treatment and programming for youth in TYC facilities.ⁱⁱ

The failure to address shortfalls in programming and problems with facility culture are clear in TYC's poor success rate with youth. Youth who complete what specialized treatment is available have a shocking 76 percent rearrest rate, with all youth who leave TYC showing a 52 percent rearrest rate.ⁱⁱⁱ Less than half of TYC youth – just 37 percent - who left the system in 2010 left with a high school diploma or GED, down from 40 percent the year before.^{iv}

All of this comes at a high cost to the state. As the population in TYC facilities drops, the agency's per diem cost increases. The Sunset Staff Report notes that the average cost per youth increased almost 29 percent between 2008 and 2010.^v TYC's current cost for youth in its secure facilities is almost \$350 per day.^{vi} This makes the average cost of a one-year stay at TYC close to \$128,000, more than double the annual tuition of the nation's most expensive Ivy League colleges.^{vii} While Ivy League rates might be worthwhile if the agency produced outstanding results, high recidivism rates show Texans are not getting much for their money.

For these reasons, we cannot support the Sunset Advisory Commission Staff's recommendation to continue the Texas Youth Commission for six more years. Rather, we urge the Commission to consider again the recommendation made last session to consolidate the Texas Youth Commission and the Texas Juvenile Probation Commission, and create a streamlined system driven by county-based services. The time is now ripe for consolidation.

Texas Should Not Delay the Next Logical Step in the Reform Process

Restructuring the juvenile system should not be seen as an indication of the *failure* of reform, but instead is more accurately viewed as the *fruit* of the successful reform movement that began in 2007 with Senate Bill 103, and continued through the last legislative session with House Bill 3689. By passing SB 103 in 2007 and HB 3689 in 2009, Texas' leaders took visionary steps meant to ensure youth received the treatment and programming needed to prepare them for productive citizenship.

These measures, along with the programs created by participating counties through the Community Corrections Diversion Program administered by the Texas Juvenile Probation Commission, resulted in a dramatic and appropriate reduction in the number of youth sent to TYC. Commitment of youth to TYC dropped 54 percent between 2008 and 2010, and more than 30 percent just in the last year.^{viii} The number of youth committed to TYC is the lowest it has been in more than 20 years.^{ix} This drastic reduction makes consolidation of TYC and TJPC not only feasible, but now preferable to continuing two state agencies at a time when the state is looking for opportunities to streamline systems.

Streamlining the system by consolidating these agencies will ensure that the state is able to save money through the efficient use of its resources while it increases the availability of *effective* services and treatment to youth in need. Without consolidation, many of the measures that have been so successful over the last four years – including highly effective community-based services and treatment – may fall by the wayside, as TYC and TJPC are forced to cut budgets in a manner that will support a system burdened by the high cost of maintaining two independent agencies.

Taking the Next Step by Consolidating TYC and TJPC will Save Lives and Money

Research repeatedly shows what we've also discovered in Texas: the most effective juvenile justice programs are also the most cost-efficient.^x Incarceration of youth is not

only the most expensive option, it also has consistently been shown to be the least effective.^{xi} In states where reform efforts have been most successful, community-based treatment programs have been prioritized, with money shifted away from expensive secure facilities and into services that keep youth in their communities.^{xii}

Texas' leadership similarly prioritized community-based treatment last session, by appropriating an additional \$48 million over the biennium for county-run programs intended to divert youth away from TYC. Programs funded through this initiative already show promising results.^{xiii} Streamlining Texas' juvenile system by consolidating TYC and TJPC will allow the state to continue to prioritize these programs, even during the existing fiscal crisis.

As ineffective as TYC's programs are today, they can only become more ineffective if they are forced to cut their budget without also significantly reducing their population. At the same time, significantly reducing TJPC's budget, with the resulting reduction in funding available to local communities, will have the effect of driving more youth into TYC facilities.^{xiv}

TJPC's estimate of the impact of just a 15 percent budget cut to the agency shows that this \$37 million reduction will result in an additional commitment of 622 juveniles to TYC, because services that currently exist to treat youth at the local level will have to be discontinued or significantly reduced.^{xv} Rather than saving the state money, reducing TJPC's budget will drive youth into a far more expensive and ineffective system.^{xvi}

Alternatively, consolidation of TYC and TJPC would allow for duplicative administrative functions to be eliminated.^{xvii} At the same time, restructuring the system could also allow for additional facility closures, with some of the savings realized from these measures put back into more effective community-based services. This would allow for both short-term savings from streamlining of administrative duties and long-term savings by redirecting funds into more effective community-based programming. To ensure the full benefits of consolidation, planning should begin immediately.

We are confident that the Legislature, the leadership of the TYC and TJPC and advocates can work together thoughtfully and carefully to ensure success. We strongly endorse and recommend the guiding principles for Texas' juvenile justice system attached to this written testimony and signed by several advocacy organizations. These principles should guide consolidation.

Conclusion

Maintaining TYC and TJPC as independent agencies that will each have to cut their budgets is not the answer. Instead, streamlining the system by consolidating these two agencies will save the state money and – at the same time – allow our leadership to continue its commitment to effective, efficient community-based services and treatment. Texas can save youth, protect communities, and save money by consolidating these two agencies.

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- ⁱ SUNSET ADVISORY COMMISSION, STAFF REPORT: TEXAS YOUTH COMMISSION, TEXAS JUVENILE PROBATION COMMISSION, OFFICE OF THE INDEPENDENT OMBUDSMAN 15 (2010)(“hiring the specialized treatment and education professionals youth needs remains challenging”); THE MOSS GROUP, INC., SYSTEMIC ASSESSMENT OF THE TEXAS YOUTH COMMISSION’S SEXUAL SAFETY REFORM STRATEGIES 23 (2010)(notes the challenge faced by facility administrators of “responding to limited resources in managing special populations”).
- ⁱⁱ Both the Sunset Staff Report and the Moss Group reported shortfalls in specialized treatment for youth, including mental health treatment. The Moss Group also identified problems with youth safety similar to those included in the letter sent by Appleseed and others to the Department of Justice, noting “Youth who felt unsafe commented that they – or someone they knew – had been the victim of ‘catching a cell,’ (e.g., they had been followed into a bedroom when staff were not watching and had been physically assaulted by another youth). They shared that the victims are often hit in the stomach or other soft tissue areas so that the injuries are not readily visible to staff.” THE MOSS GROUP, *supra* note i, at 20.
- ⁱⁱⁱ TEXAS YOUTH COMMISSION, LEGISLATIVE APPROPRIATIONS REQUEST FOR FISCAL YEARS 2012 AND 2013 21 (2010).
- ^{iv} *Id.*
- ^v SUNSET ADVISORY COMMISSION, *supra* note i, at 15.
- ^{vi} *Id.*
- ^{vii} Brian Wingfield, *America’s Most Expensive Colleges*, FORBES.COM, October 4, 2010 (tuition for Sarah Lawrence College highest in the nation at \$57,556 per year).
- ^{viii} TEXAS JUVENILE PROBATION COMMISSION, INFORMATION PREPARED FOR HOUSE COMMITTEE ON CORRECTIONS HEARING 1 (2010).
- ^{ix} CRIMINAL JUSTICE POLICY COUNCIL, AN OVERVIEW OF TEXAS JUVENILE JUSTICE POPULATION TRENDS AND DYNAMICS: AN UPDATE 13 (2000)(1,915 new commitments to TYC in 1988).
- ^x TEXAS PUBLIC POLICY FOUNDATION, GETTING MORE FOR LESS IN JUVENILE JUSTICE (2010).
- ^{xi} *Id.*
- ^{xii} *Id.*
- ^{xiii} TEXAS JUVENILE PROBATION COMMISSION, *supra* note vi, at 8 (out of 2,213 youth served, only 33 committed to TYC).
- ^{xiv} *Id.* at 14.
- ^{xv} *Id.*
- ^{xvi} *Id.*
- ^{xvii} SUNSET ADVISORY COMMISSION, FINAL REPORT: TEXAS YOUTH COMMISSION, TEXAS JUVENILE PROBATION COMMISSION, OFFICE OF THE INDEPENDENT OMBUDSMAN (2009)(estimating savings of consolidation at close to \$28 million per year).

**Guiding Principles of Juvenile Justice Reform for Texas
Fall 2010**

The following principles should guide the efforts of Texas policymakers and stakeholders in shaping a more effective, efficient, and just juvenile justice system.

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

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7. 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.
 8. 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.
 9. 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.
 10. 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.
 11. 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.

The following organizations support these Principles:

Advocacy, Inc.
Texas Appleseed
Texas Criminal Justice Coalition

American Civil Liberties Union of Texas
Texans Care for Children