

## Testimony before the Senate Health and Human Services Committee Interim Hearing

### *Regarding Interim Charge Relating to Delinquency Prevention*

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#### Introduction

Saving a youth from becoming a chronic offender results in \$1.7 million to \$2.3 million in avoided lifetime costs to taxpayers and victims.<sup>1</sup> Consequently, all Texans have a large stake in cost-effective approaches to juvenile justice that result in more youths turning away from crime and towards a future as a productive citizen in which they are an asset, rather than a liability to their fellow citizens.

#### Prevention and Early Intervention Programs

Prevention and early intervention programs should be evidence-based and matched to the risk and needs of the client. Programs should be rigorously evaluated and have strong performance measures.

Programs should be based on research indicating that they cost-effectively achieve the intended goals, whether that is reducing recidivism, treating mental illness, or ending child neglect and abuse. The Washington State Institute for Public Policy, a think tank that is part of the Washington state government, has published a meta-analysis identifying juvenile probation and prevention programs that achieve net benefits and those that do not.<sup>2</sup>

Moreover, validated risk and needs assessments should be used to match the youth and family with the appropriate program. This avoids allocating limited program space to youths and families who do not need such an intensive program and, in fact, research on probation has found that over-supervising low risk individuals may actually increase recidivism.<sup>3</sup> Risk and needs assessments are particularly important to conduct prior to

placing a youth in a residential setting, as they may identify some youths who could be alternatively handled through a less costly non-residential program. In juvenile probation, examples of such programs that have been demonstrated to reduce recidivism and produce positive outcomes are multisystemic therapy, functional family therapy, vocational training, victim-offender mediation, and mentoring.<sup>4</sup> In early 2010, TJPC rolled out a statewide risk and needs assessment instrument for juvenile probation departments, which was required by the sunset legislation enacted in 2009.

It is vital that programs being funded with taxpayer money be evaluated, preferably by academically rigorous studies with control groups, to determine whether or not they achieve the intended results and are cost-effective relative to other options. Moreover, the performance measures for state agencies should be revised to be more focused on outcomes, rather than the volume of cases. TJPC has instituted performance measures for the specific local juvenile probation programs that are being funded through the new Commitment Reduction Program that is designed to reduce TYC commitments. However, there should also be performance measures for each juvenile probation department as a whole.

#### Policy Department First Offender Programs

Build on success of police department first offender programs that divert appropriate first-time offenders from the juvenile justice system, reduce recidivism, and lower total costs to taxpayers.

Police can divert a case even before it reaches juvenile court, either through a simple warning or by “disposition without referral to court,” as described in Section 52.03 of the Family Code or a “first offender program,” as described in Section 52.031.<sup>5</sup> Section 52.032 states: “The juvenile board of each county, in cooperation with each law enforcement agency in the county, shall adopt guidelines for the disposition of a child under Section 52.03 or 52.031.”<sup>6</sup> In September 2009, the Harris County Juvenile Board adopted guidelines stating that police may not give the warning notices referred to in Section 52.03 and that the County does not have a first offender program.<sup>7</sup> Where guidelines are in effect, a police officer may determine that the case falls within them. If so, police department staff or juvenile probation staff (even though the youth is not on probation) follow up to ensure compliance.

A disposition with referral to court may involve referral of the child to an agency other than the juvenile court, a brief conference with the child and his parent, or referral of child and parent to services such as crisis family intervention, family counseling, parenting skills training, youth coping skills training, and mentoring. A first offender program may involve voluntary monetary restitution; voluntary community service restitution; educational, vocational training, counseling, or other rehabilitative services; and periodic reporting by the child to the law enforcement agency.

The Tarrant County First Offender Program is a police diversion program that is jointly funded by the probation department and the Fort Worth and Arlington police departments and operated by the non-profit Lena Pope Home at a cost of \$7.47 per day.<sup>8</sup> After a youth is referred by the police department for a Class A or B misdemeanor or state jail felony, the parent—92 percent are single mothers—must consent to participation, with seven working days to schedule an appointment. For offenses with a victim, the police department arranges a restitution agreement before referral. The Lena Pope Home program features separate classes for both the youth and parent. These last for seven weeks, with 90 days of follow-up requiring the youth to engage in pro-social activities.

The classes teach skills to modify the adolescent’s inappropriate behavior, strengthen family relationships, develop victim empathy, and improve communication and decision-making skills. The program also incorporates substance abuse and educational components, including referrals to tutoring and credit recovery for youths needing academic remediation. The completion rate is 95 percent.<sup>9</sup> Youths who are removed from the program, typically for failure to attend

the program or school, are re-referred to law enforcement, which results in adjudication and formal probation. An audit by the juvenile probation department found that, of 809 graduates from 2005 to 2008, only eight were adjudicated for another offense within a year.<sup>10</sup> A January 2009 Legislative Budget Board focus group involving stakeholders such as probation leaders, prosecutors, law enforcement, and defense attorneys found broad support for expanded use of first offender programs.<sup>11</sup>

Similarly, an Urban Institute study of a youth police diversion program in Maryland found that the six month re-arrest rate was only 4 percent.<sup>12</sup> The program targeted first-time minor property offenders, requiring them to make restitution, perform community service, write essays, and send an apology letter to the victim.

The Administrative Code requires the immediate destruction of information regarding a juvenile, including photographs and fingerprints, when the youth successfully completes disposition without referral to court, and expungement within 90 days for youths successfully completing a first offender program.<sup>13</sup> This likely assists these youths in obtaining employment.

### Focused Prevention Efforts

Prevention efforts should be focused on students in alternative schools who are at high-risk of delinquency. There are approximately 100,000 Texas students in Disciplinary Alternative Education Programs (DAEPs). The vast majority of these students was suspended for misbehavior in school, but did not commit a criminal offense. However, research suggests many of these youths may gravitate towards criminality if there is not effective intervention.<sup>14</sup> Although they are not part of the school rating system, DAEPs must be held accountable just like other schools to ensure that they provide a strong curriculum and incorporate disciplinary practices and programs such as character education that effectively address the misbehavior that brought these students to the alternative school.

In 2007, legislation required an intake and outtake exam to determine whether students placed at a DAEP for 90 days or more advanced academically, but the Texas Education Agency is still working to implement this provision. A review of DAEPs and relevant research is needed to identify best practices that can reduce the number of these students who ultimately enter the juvenile and adult criminal justice systems and lead to positive educational and career outcomes for these students.

*\*The County apparently takes the legal position that this statutory provision is satisfied by adopting guidelines stating that such a disposition may not be made, an approach that may not be consistent with legislative intent.*

## Collaboration: Key to Success

Correctional agencies should work collaboratively with the Texas Department of Family and Protective Services (DFPS) to emphasize prevention and promote safe home environments. Closer collaboration by these entities with school districts can also help the individuals working in these systems to supervise and assist the youth and family do a better job.

DFPS should work more closely with the Texas Juvenile Probation Commission (TJPC) to match juveniles on probation with juveniles involved in child protective investigations to better coordinate the delivery of services. Although juvenile probation and child protective services staff have appropriately unique roles and functions, such coordination could improve outcomes and reduce duplication. For example, if a DFPS caseworker has visited a home earlier in the week and verified that the family and youth are functioning well, the juvenile probation officer may not need to make a visit in the same week. Similarly, the same assessment may be performed on a child by a caseworker immediately after juvenile probation performed that assessment or vice versa. Eliminating duplication can either save taxpayers' money or allow the unused resources to be reinvested into providing needed, effective services that are not duplicative.

Among youths on juvenile probation in Texas, 17 percent are served by a child protective caseworker.<sup>15</sup> The DFPS' Financial Services, Quality Assurance division is responsible for determining whether youths served by TYC and juvenile probation departments are eligible for federal matching dollars that cover half of the cost of out-of-home placement pursuant to Section IV-E of the Social Security Act. Finally, DFPS licenses non-secure facilities, many of which accept clients from both juvenile probation and DFPS.

Texas juvenile probation departments recently lost tens of millions of dollars in federal Title IV-E funds when the federal government discontinued paying for half of the administrative costs attributed to arranging residential placements. The federal government still provides reimbursement for half of the cost of the placement itself. Many juvenile probation departments had used funds tied to arranging for placements to subsidize basic supervision and other programs for probationers.

There is also a connection between DFPS and the adult criminal justice system. About 28 percent of Texas female state jail inmates with a child said DFPS investigated their families, though this is from the most recent report published in 2001.<sup>16</sup> As with other agencies that receives complaints, there are many complaints that turn out to be unsubstantiated. Among these female inmates who had been

investigated by DFPS, 43 percent had a child brought under CPS custody.<sup>17</sup> Some 53 percent of the inmates who had their child brought under DFPS custody said that alcohol or drugs were involved in the matter.<sup>18</sup>

Accordingly, reports of abuse or neglect are not only an alert that there is a possible danger to a child but also provide an early way of identifying many women who may be prone to engage in criminal activities. Particularly in cases involving alleged neglect rather than abuse, the same type of effective interventions that are vital to protect the child may also prevent criminal activity on the part of the both the parent and youth by strengthening the family environment.

It is important to emphasize that the majority of investigations and foster home placements concern alleged neglect, not alleged abuse, according to a California study.<sup>19</sup> This report by the California State Assembly noted: "Most stakeholders agree that current federal funding mechanisms for child welfare place a greater priority on supports to children while in foster care at the expense of prevention efforts and supports to help at-risk families care for their children at home."<sup>20</sup> Nearly all federal child welfare funding distributed to states must be used for out-of-home placement while only 5 percent is allocated for prevention, early intervention, family preservation and support services, reunification services, and adoption promotion.<sup>21</sup> For this reason, the report observes: "Federal financing has historically been a barrier to the implementation of many strategies to prevent children and their families from unnecessarily entering foster care."<sup>22</sup> Moreover, the cost of keeping children removed from their family in a group home can exceed \$6,000 per month.<sup>23</sup>

However, the federal government has created the Title IV-E Child Welfare Waiver Demonstrations through which states can apply to obtain waivers to use federal child welfare funds more innovatively and efficiently. The waivers that states may apply for include the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project (CAP). Through CAP, states can redirect some of the federal funds that would otherwise be required to be used for out-of-home placement to proven in-home programs that preserve and strengthen the family and prevent neglect and abuse.<sup>24</sup> While many Texas leaders are demanding fewer mandates from Washington D.C., Texas is not among the states that have taken advantage of this waiver.<sup>25</sup>

California is among a handful of states that have obtained a CAP waiver and is using these funds to implement evidence-based alternatives to placement through collaborative and coordinated initiatives by child welfare and juvenile probation agencies in Los Angeles and Alameda counties. Similarly, Indiana, North Carolina, Ohio, and Oregon have obtained

waivers to implement initiatives that enabled counties or local entities to use capped amounts of title IV-E funds more flexibly to provide an array of services to prevent foster care placements and facilitate permanency for children in foster care. Examples of services funded through these waivers include assessment, substance abuse and mental health services, family decision meetings, new utilization review and quality assurance mechanisms, in-home parenting services, post-adoption services, and subsidized guardianships.<sup>26</sup>

A meta-analysis by the Washington State Institute for Public Policy found the flexible funding waivers in North Carolina and Oregon produced \$947 in net benefits to program participants, taxpayers, and avoided crime victims per participating family. The benefits stemmed from lower crime, higher high school graduation rates, and reduced costs to state taxpayers from fewer out-of-home placements.<sup>27</sup> The study also found savings to taxpayers from particularly effective evidence-based child welfare interventions that could be funded through this waiver. According to the meta-analysis, Intensive Family Preservation Service Programs (Homebuilders® model), Parent-Child Interaction Therapy, and Dependency (or Family Treatment) Drug Courts produced net benefits from lower crime, higher graduation rates, and reduced out-of-home placements of between \$2,801 and \$7,875 per participating family involved compared with the control group of comparable families.<sup>28</sup>

Texas has obtained a different type of child welfare waiver for a demonstration project that allows for greater flexibility in the use of federal funds to promote adoption. The rationale for the initiative is that more comprehensive assessment will reduce the disruption and dissolution rate of adoptions, decrease the average time that children spend in foster care prior to adoptive placement, increase satisfaction among children and families, and increase the number of children leaving foster care for placements with adoptive families. These improvements are designed to speed permanency and reduce expenditure of IV-E funds.

Further research is needed to identify whether there are best practices in other states that Texas can learn from in the areas of prevention and early intervention. Recommending that Texas seek any specific waiver is beyond the scope of this testimony, but across policy areas the Foundation has supported approaches that provide Texas leaders and agencies with greater flexibility in regard to federal mandates.

Clearly, children must always be protected from abuse even when that requires removal from the home, but effective interventions can prevent neglect, promote better outcomes for children for every dollar spent, and deter damaging activities such as parental substance abuse that negatively impact children and often lead to family dissolution and incarceration.

In regard to the K-12 system, it is vital that juvenile probation and child welfare caseworkers have collaborative relationships with school districts. A simple example is verifying whether the youth is attending school. While the federal Family Educational Rights and Privacy Act (FERPA) places certain limitations on information sharing of educational records, there may be ways for the juvenile probation and child welfare systems to nonetheless enhance their capacity to cooperate with school districts to most efficiently and effectively serve and supervise youths and their families.

## Conclusion

At a time when resources are scarce, it is particularly important to consider policy approaches that emphasize achieving efficiencies across multiple agencies and systems so that more can be accomplished with every dollar that is currently spent. It is self-evident that rigorous evaluations and strong performance measures that help separate the programs that are cost-effective from those that are not can help policymakers and agency leaders direct limited resources into the areas where they would be most productively spent. Similarly, strategies that involve risk and needs assessments to match the client and program can enable existing resources to be better utilized. More flexibility in spending federal funds may also foster innovation and efficiency.

Given the large stake all Texans have in preventing juvenile delinquency, it is vital that policymakers, even while addressing the projected budget shortfall, keep their eyes on the ball of maximizing the effectiveness of our prevention and early intervention efforts to reduce the long-term costs that crimes imposes on both victims and taxpayers. ★

- <sup>1</sup> Mark A. Cohen, "The Monetary Value of Saving a High Risk Youth" *The Journal of Qualitative Criminology*, 14, no. 1 (1998): 5-33, <http://www.byep.org/cost%20of%20not%20saving%20youth.pdf>.
- <sup>2</sup> Steve Aos, Marna Miller, and Elizabeth Drake, "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates," Washington State Institute for Public Policy (Oct. 2006) <http://www.wsipp.wa.gov/rptfiles/06-10-1201.pdf>; Stephanie Lee, Steve Aos, and Marna Miller, "Evidence-Based Programs to Prevent Children From Entering and Remaining in the Child Welfare System: Benefits and Costs For Washington" (July 2008) <http://www.wsipp.wa.gov/rptfiles/08-07-3901.pdf>.
- <sup>3</sup> Pew Center on the States Public Safety Performance Project, "Policy Framework to Strengthen Community Corrections" (15 Dec. 2008) <http://www.pewcenter-onthestates.org/uploadedFiles/Policypercent20Framework.pdf>.
- <sup>4</sup> Marc Levin, Texas Public Policy Foundation, "Getting More for Less in Juvenile Justice: Innovative and Cost-Effective Approaches to Reduce Crime, Restore Victims, and Preserve Families" (Mar. 2010) <http://www.texaspolicy.com/pdf/2010-03-RR01-JuvenileJustice-ml.pdf>.
- <sup>5</sup> Texas Family Code, Title 3 Juvenile Justice Code, Proceedings Before and Including Referral to Juvenile Court (23 Nov. 2009) <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.52.htm>.
- <sup>6</sup> Ibid.
- <sup>7</sup> Kendall Mayfield, Harris County Juvenile Probation Department, email, 1 Dec. 2009.
- <sup>8</sup> Margaret Cohenour, LCSW, Director of Family Matters-Lena Pope Home, email, 23 Nov. 2009.
- <sup>9</sup> Kenny Morgan, Director, Lena Pope Home, email, 23 Nov. 2009.
- <sup>10</sup> Ibid.
- <sup>11</sup> Legislative Budget Board, "Adult and Juvenile Correctional Population Projections Fiscal Years 2009-2014" (Jan. 2009) [http://www.lbb.state.tx.us/PubSafety\\_CrimJustice/3\\_Reports/Projections\\_Reports\\_2009.pdf](http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Reports_2009.pdf).
- <sup>12</sup> Jeffrey Butts, Janeen Buck, and Mark Coggeshall, "The Impact of Teen Court on Young Offenders," The Urban Institute (Apr. 2002) <http://www.urban.org/UploadedPDF/410457.pdf>.
- <sup>13</sup> Texas Administrative Code, Title 37 Public Safety And Corrections , Part 1 Texas Department Of Public Safety, Chapter 27 Crime Records, Subchapter E Juvenile Justice Information System, Rule §27.57 Collection of Records of Children to Be Forwarded to the Juvenile Justice Information System (23 Nov. 2009) [https://secure.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_loc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=37&pt=1&ch=27&rl=57](https://secure.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_loc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=37&pt=1&ch=27&rl=57).
- <sup>14</sup> Marc Levin, Texas Public Policy Foundation, "Schooling a New Class of Criminals" (Mar. 2006) <http://www.texaspolicy.com/pdf/2006-03-PP-DAEP-ml.pdf>.
- <sup>15</sup> Tony Fabelo, "Strengthening Juvenile Probation: Emerging Challenges and Issues to Consider, Report to Texas Juvenile Probation Chiefs Summit, Council of State Governments Justice Center" (Jan. 2009) <http://justicecenter.csg.org/files/TexProbChiefs13108Final3.ppt>.
- <sup>16</sup> Lisa Kerber, "Substance Use Among Female Inmates," Texas Department of Criminal Justice–State Jail Division (1998); Texas Commission on Alcohol and Drug Abuse, (June 2001) [http://www.dshs.state.tx.us/sa/Research/criminaljustice/female\\_inmates1998.pdf](http://www.dshs.state.tx.us/sa/Research/criminaljustice/female_inmates1998.pdf).
- <sup>17</sup> Ibid.
- <sup>18</sup> Ibid.
- <sup>19</sup> "The Child Welfare System Including Foster Care and Adoption Assistance," California State Assembly (2008) [http://docs.google.com/viewer?a=v&q=cache:iTxusYbpoz oJ:democrats.assembly.ca.gov/speaker/Spotlight/FosterCare/assets/Childrens\\_service\\_overview\\_022008.pdf+the+child+welfare+system+including+foster+care+and+concerned+professionals&hl=en&gl=us&sig=AHIEtbQ9G0IAB8gVYNrooheITr7iJWpCQ](http://docs.google.com/viewer?a=v&q=cache:iTxusYbpoz oJ:democrats.assembly.ca.gov/speaker/Spotlight/FosterCare/assets/Childrens_service_overview_022008.pdf+the+child+welfare+system+including+foster+care+and+concerned+professionals&hl=en&gl=us&sig=AHIEtbQ9G0IAB8gVYNrooheITr7iJWpCQ).
- <sup>20</sup> Ibid.
- <sup>21</sup> Ibid.
- <sup>22</sup> Ibid.
- <sup>23</sup> Ibid.
- <sup>24</sup> Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project (CAP), California Department of Social Services, <http://www.dss.cahwnet.gov/cfsweb/PG1333.htm>.
- <sup>25</sup> "Summary of the Title IV-E Child Welfare Waiver Demonstrations" U.S. Department of Health and Human Services (June 2008).
- <sup>26</sup> "A report to Congress on adoption and other permanency outcomes for children in foster care: Focus on older children," U.S. Department of Health and Human Services (2005) [http://www.acf.hhs.gov/programs/cb/pubs/congress\\_adopt/index.htm](http://www.acf.hhs.gov/programs/cb/pubs/congress_adopt/index.htm).
- <sup>27</sup> Stephanie Lee, Steve Aos, and Marna Miller, "Evidence-Based Programs to Prevent Children From Entering And Remaining in the Child Welfare System: Benefits and Costs For Washington" (July 2008) <http://www.wsipp.wa.gov/rptfiles/08-07-3901.pdf>.
- <sup>28</sup> Ibid.

## About the Author

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