

Testimony before the Legislative Budget Board

Regarding Texas Youth Commission 2012-13 Appropriations Request

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Effective Justice

Since 2007, Texas has made great strides in juvenile justice through downsizing the Texas Youth Commission (TYC) and strengthening research-based community-based juvenile justice programs. Juvenile crime has declined while taxpayers have saved hundreds of millions of dollars on a smaller TYC. Today, there are less than half of as many youths at TYC as in 2006 and Texas' crime rate is at its lowest level since 1973. We must continue this progress in the upcoming session and budget.

We commend the current leadership at TYC for instituting many positive changes that have improved programming, such as lengthening the school day, and putting in place accountability mechanisms to root out the scourge of sexual abuse that led to the 2007 scandal. However, as the current federal investigation illustrates, more work remains to be done.

The Commission is under federal investigation in light of recent allegations of subpar conditions at some of its facilities, which now are believed to cost some \$320 per day per youth to operate. Taxpayers deserve better, especially for such a high cost. The Foundation supports further downsizing and consolidating the Commission's far-flung remote facilities and moving towards a smaller, more consolidated system with residential programs closer to the major metropolitan areas from where most youths are sent. In this regard, we are pleased that TYC has proposed closing one or two additional institutions as a means of achieving a 10 percent reduction in its budget while maintaining and continuing to strengthen programming at the remaining institutions.

We also see much merit in the agency's exceptional items, including most important-

ly the addition of Multi-Systemic Therapy (MST) and Functional Family Therapy (FFT) to strengthen reentry and parole. All of the evidence in the juvenile justice research indicates that any progress a youth makes in an institution is typically lost upon release to the same situation from where they came if there are not strong reentry programs that build on family and community strengths. These particular programs are evidence-based practices, meaning that they have been proven in controlled studies to significantly reduce re-offending. Clearly, as TYC continues to downsize, we must at the same time make sure we achieve better results, such as lower recidivism and more educational and vocational progress, for those most seriously troubled youths who TYC continues to serve.

The research indicates most youths can be more effectively reformed through community-based approaches such as juvenile probation involving non-residential programs, which costs \$14 a day, or local residential programs for youths on juvenile probation. In Texas, county-run secure postadjudication facilities and non-secure post-adjudication facilities operated by non-profits cost between \$70 and \$140 a day. Similarly, group homes that have worked to reduce re-offending in Missouri cost \$118 a day and TYC's own halfway houses which cost \$190 a day. All of these approaches cost substantially less than the last official Legislative Budget Board 2008 estimate of \$271 a day for TYC's institutions, which is now estimated to be approximately \$320 a day due to further subsequent declines in TYC's population. In fairness to TYC, there are economies of scale and a larger share of the remaining youths at TYC are more serious youths with mental illness who cost the most to treat.

Due to the remoteness of many of TYC's lockups, the agency cannot fill vital positions for treatment professionals and teachers, leaving the agency with few options when teachers at one lockup recently held a sick-out to protest the new curriculum. Also, remotely located facilities discourage visitation and make it difficult for TYC to work with families and communities during reentry, which the research shows is a critical component of reducing re-offending.

In addition to recommending that the agency transition to different types of facilities near population centers, we recommend studying whether TYC's performance can be improved and efficiencies achieved by outsourcing services to private providers through approaches such as placing educational programming at its institutions under a charter school structure and outsourcing operations components such as facilities management and food service. While TYC has made great strides under the leadership of Executive Director Cherie Townsend in improving programs and rooting out misconduct, its remotely located institutions cannot be fully fixed from Austin and it must be fundamentally restructured so that it delivers a better public safety return on taxpayers' investment.

Additionally, it is crucial that policymakers view TYC's budget in conjunction with the Texas Juvenile Probation Commission (TJPC) budget, *as the goal is to achieve overall net savings in juvenile justice expenditures while continuing to reduce crime*. If juvenile probation departments lack sufficient resources to adequately supervise and treat youths in the community, they may send more youths to TYC, which would reverse the recent trend that has reduced the size of TYC and the total cost of the juvenile justice system to Texas taxpayers. More than 80 percent of TYC commitments were on juvenile probation, illustrating how a successful front end of the system has the potential to relieve pressure on the back end of the system. Additionally, new victims will pay a steep human price if youths on juvenile probation re-offend due to a lack of proper supervision and treatment. In the last few years, many of Texas' largest juvenile probation departments have absorbed a cut in the share of their budgets that come from counties who have their own fiscal challenges. Texas juvenile probation departments have also lost \$17 million in federal funding to administer placements for youths in foster care that many departments had used to subsidize basic juvenile probation functions.

Moreover, even if the state cuts some of other streams of juvenile probation funding other than the Commitment Reduction Program (CRP), departments could pull out of the CRP and send many more youths to TYC. The CRP has been credited with the 40 percent decline in TYC commitments so far this fiscal year, which is particularly significant given

that commitments were already at a historically low level. The success of the CRP also depends on the other funding streams departments receive that pay for basics such as juvenile probation officers and short-term local residential placements in lieu of TYC.

More than 97 percent of TJPC's budget is passed through to departments. Because of the underlying fiscal imbalance in the juvenile justice system in which the state foots the entire, exponentially larger per youth cost of TYC while counties pay for about two-thirds of juvenile probation, policymakers must be very careful in addressing TJPC's budget so that counterproductive decisions are not made that jeopardize the recent gains in public safety and cost control that have resulted from strengthening community-based programs while downsizing TYC. Pursuing these two strategies simultaneously and commensurately is vital, because we must not only control system-wide costs, but also break the cost-effectively break the cycle of crime at the earliest point possible. The primary place to find savings is at TYC since it has less than 2,000 youths at about \$300 a day while there are some 80,000 youths referred annually to juvenile probation at \$14 per day.

Our other recommendations include:

- **Strengthen performance measures.** Performance measures in the budget for TYC and TJPC should be revised to emphasize results and outcomes rather than process and volume. Examples of volume-oriented existing measures include number of youths at TYC and number of referrals to juvenile probation. Among the results-oriented measures for TJPC that the Foundation recommends adopting are the three year re-referral rate for youths discharged from probation, the technical revocation rate (percentage of youths revoked from probation to TYC for rules violations), and victim satisfaction and restitution collections. TJPC should track the performance of each juvenile probation department on key measures, as this would help identify those departments which could benefit from technical assistance to improve their programs and implement best practices. Recommended new measures for TYC include parole recidivism rate, high school degrees, Graduate Equivalency Degrees, and vocational certificates earned while at TYC and on parole, verified allegations of abuse, parental satisfaction and contacts, volunteer hours worked, and recidivism by unit.
- **Expand participation in the Commitment Reduction Program (CRP).** Currently, four counties with populations of 100,000 or more are not participating. Since the funding that the TJPC receives for the CRP is more than offset by the participating departments' commitment to reduce the number of youths they send to TYC, the state

Cost of Sanctions

Sanction	Cost Per Day
TYC Institution	\$270.49
Secure and Non-Secure Residential Programs	\$68.75-\$169
Missouri Group Homes	\$117.95
Dallas Juvenile Detention	\$150
Intensive In-Home Programs	\$48-\$73
Intensive Supervision Probation	\$32
Basic Juvenile Probation	\$13.98
Tarrant County Police Diversion with Non-Profit Organization	\$7.47

would achieve net savings from additional participation in the CRP while, at the same time, the newly participating departments would be able to expand effective community-based programs. However, state support for departments currently participating in the CRP should not be reduced as a means of expanding participation—instead, any increase in funding for CRP should be offset by a decrease in funding for TYC commensurate with a further reduction in the institutional population.

- **Streamline TYC facilities.** Despite the costs of implementing SB 103, such as increasing juvenile correction officer training to 300 hours (the adult prison guard standard) and staffing the inspector general and ombudsman's office, TYC's total operating budget has substantially declined since 2006, though the cost per youth has increased from \$62,000 per year to \$99,000. TYC institutions that are not being fully utilized should be further consolidated to control costs. Unnecessary TYC lockups should be prioritized for closure based on their recidivism rate, the available local workforce, the number of current and recent staff vacancies, and the remaining lifespan, maintenance costs, and overall suitability of the physical plant. Additionally, some capacity should be shifted from large remotely located institutions to smaller community-based group homes in the urban centers from which most youths. Such homes in Missouri have a much lower recidivism rate than TYC lockups. These facilities would be less costly to operate than institutions, given that TYC's own halfway houses, which are similar in some ways to the Missouri group homes, cost substantially less than TYC institutions that account for 90 percent of capacity. Unlike TYC's halfway houses which receive youths transitioning from an institution, group homes like those in Missouri would serve as the initial form of placement for appropriate youths.
- **Emphasize vocational training at TYC facilities.** Given that the average youth committed to TYC has an IQ of 88, functions at a fifth to sixth grade level despite being 16 years old, and typically has few if any high school credits, high school graduation is often not realistic, particularly in light of the shorter confinement periods at TYC since SB 103. Moreover, most youths discharged from TYC have no source of financial support and thus do not re-enter school. Research indicates employment of ex-offenders substantially reduces recidivism. Consequently, TYC programming should emphasize earning a GED and obtaining vocational training in fields such as welding, automotive repair, and construction. While TYC has vocational programs, many trades are unavailable at particular facilities. TYC should include as a performance measure the number of GEDs and occupational certificates obtained by incarcerated youths.
- **Increase flexibility in state funding.** Research has shown that for all but the highest-risk, most deviant youths in problematic home environments, non-residential programs such as MST, FFT, victim-offender mediation, mentoring, and educational and vocational enrichment programs are the most cost-effective in reducing recidivism. Accordingly, the Legislature should revise the existing line item in TJPC's budget for secure post-adjudication facilities—\$8.29 million in the 2010-11 biennium—to give counties the flexibility to use these funds for less costly non-residential programs, as well as for placement of youths in non-secure facilities.

An effective juvenile justice system is vital for victims, taxpayers, and youths. If a youth becomes a career criminal, the estimated cost to taxpayers and victims over that offender's lifetime is approximately \$2 million. Texas must continue its progress in creating a juvenile justice system that better protects public safety, restores victims, and reforms offenders. ★

About the Author

Marc A. Levin, Esq., is the director of the Center for Effective Justice at the Texas Public Policy Foundation. Levin is an attorney and an accomplished author on legal and public policy issues.

Levin has served as a law clerk to Judge Will Garwood on the U.S. Court of Appeals for the Fifth Circuit and Staff Attorney at the Texas Supreme Court.

In 1999, he graduated with honors from the University of Texas with a B.A. in Plan II Honors and Government. In 2002, Levin received his J.D. with honors from the University of Texas School of Law.

Levin's articles on law and public policy have been featured in publications such as *The Wall Street Journal*, *USA Today*, *Texas Review of Law & Politics*, *National Law Journal*, *New York Daily News*, *Jerusalem Post*, *Toronto Star*, *Atlanta Journal-Constitution*, *Philadelphia Inquirer*, *San Francisco Chronicle*, *Washington Times*, *Los Angeles Daily Journal*, *Charlotte Observer*, *Dallas Morning News*, *Houston Chronicle*, *Austin American-Statesman*, *San Antonio Express-News* and *Reason Magazine*.

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