



**WRITTEN TESTIMONY**

**REGARDING ARTICLE V – TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
TEXAS JUVENILE PROBATION COMMISSION, AND TEXAS YOUTH COMMISSION**

**SUBMITTED BY ANA YÁÑEZ-CORREA, EXECUTIVE DIRECTOR  
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**To**

**THE HOUSE COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON CRIMINAL JUSTICE**

**FEBRUARY 17, 2011**

## TEXAS CRIMINAL JUSTICE COALITION

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The Texas Criminal Justice Coalition (TCJC) is committed to identifying and advancing real solutions to the problems facing Texas' juvenile and criminal justice systems. We provide policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety and preserve human and civil rights.

### TCJC's PROJECTS

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**The Juvenile Justice Initiative:** *Creating Avenues to Success for Troubled Youth and Their Families.*

**The Public Safety Project:** *Advocating for Fair, Effective Police Practices that Improve the Safety of Our Communities.*

**The Fair Defense Project:** *Ensuring a Just and Accountable Judicial System by Protecting the Right to Counsel.*

**The Solutions for Sentencing & Incarceration Project:** *Providing Proven and Cost-Effective Answers that Address Texas' Over-Reliance on Incarceration.*

**Tools for Re-Entry:** *Advocating for Policies that Enable the Previously Incarcerated to Live Responsibly.*

**Tools for Practitioners:** *Featuring Effective Criminal and Juvenile Justice Programs and Practices.*

**Public Policy Center:** *Providing Nonpartisan Criminal and Juvenile Justice Policy Recommendations.*

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Dear Members of the Committee,

My name is Ana Yáñez-Correa. I am the Executive Director of the Texas Criminal Justice Coalition (TCJC). Thank you for allowing me this opportunity to present testimony on Article V.

Below we have explained the impact of budget cuts on the *adult criminal justice system* (specifically, the Texas Department of Criminal Justice (TDCJ)), as well as the *juvenile justice system* (specifically the Texas Juvenile Probation Commission (TJPC) and the Texas Youth Commission (TYC)), under the filed version of House Bill 1. We have also provided relevant policy recommendations for both justice systems that the state can employ to address its immediate financial deficit, as well as preserve public safety throughout our communities in the future. Already, state leadership has laid the foundation for the continuous success of risk-reduction strategies with their bipartisan support during recent legislative sessions. The additional smart-on-crime strategies outlined here must serve as a critical consideration-point for policy-makers seeking to implement a rational, responsible, fiscally sound budgetary approach, as they can and will deliver taxpayers a return on their investment.

## **ADULT CRIMINAL JUSTICE SYSTEM: TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

### **Introduction**

Incarceration currently accounts for more than 88% of the state's corrections spending (more than \$6 billion), and only 12% is allocated for diversions such as probation, treatment, and parole.

<sup>1</sup> Yet **incarceration results in significantly greater levels of re-offending than treatment and other risk-reduction alternatives**, which are proven to be more cost-efficient and programmatically effective.<sup>2</sup>

In fact, alternatives to incarceration – including treatment programming, probation, and parole – have saved the state nearly \$2 billion since 2007 while safely keeping inmate populations from exceeding state and local budget capacity.<sup>3</sup> According to a recent *Dallas Morning News* article, “Texas’ offender population has decreased slightly since 2007, when the Legislature began investing more money in treatment, diversion and lower caseloads for local probation officers.”<sup>4</sup> Further investments in such areas will continue to deliver taxpayer savings by addressing the root causes of criminal behavior, which in turn keeps costly incarceration rates down and results in more productive community members.

On the other hand, cutting diversion funding would simply be an irresponsible approach to budget difficulties, one that will only create problems with high and financially unsustainable incarceration rates, and result in negative long-term public safety consequences. Furthermore, it will force taxpayers to shoulder the additional burden of costly prison construction.

### **Budget Cuts to TDCJ**

TDCJ requested a total of \$6,261,561,994 in GR funds for the 2012-13 biennium, but the filed version of H.B. 1 recommends the agency receive only \$5,227,283,592. That is more than one

billion (\$1,034,278,402) less than requested, or a 16.5% gap between the recommended budget and what TDCJ has requested to sustain its operations and services.<sup>5</sup>

All told, 59% of Article V savings would come from TDCJ, which has been asked to operate with \$786.5 million less than it (will have) spent in the previous biennium.<sup>6</sup> To put things in perspective, the Office of Court Administration's budget during the current biennium is approximately \$5 million per year, and the Texas Commission on Jail Standards' annual budget is under one million. Realistically, the budget cannot be balanced on the backs of these smaller agencies.

The Texas Criminal Justice Coalition agrees that TDCJ's budget must be cut, but H.B. 1 goes about it the wrong way.

### ➤ **Prison Units**

H.B. 1 directs TDCJ to close the Central Unit in Sugar Land no later than September 1, 2011. No other state-owned facilities have been publicly identified as possible candidates for closure. Instead, cuts have been focused nearly exclusively on community supervision, parole, and programming funds.

#### Security Staff:

- *Layoffs:* H.B. 1 reduces staffing for core operational areas within TDCJ's incarceration function by 1,562 positions.<sup>7</sup> Since closure of the Central Unit would eliminate only a few hundred positions, TDCJ will have to also reduce staffing at units it intends to keep open. **This will heighten security risks**, particularly at units that already have difficulty retaining full staffing levels.
- *Pay Cuts:* H.B. 1 eliminates funding required for the biennialization of the FY 2010-11 approved pay raise for correctional officers and unit staff, which had totaled 7%.<sup>8</sup> Also, TDCJ will not pay career ladder salary adjustments in FY 2012 or 2013.<sup>9</sup>

#### Maintenance:

H.B. 1 budgets \$17 million per year for repair and maintenance of facilities in 2012, less than half the amount that TDCJ requested, and it leaves the item unbudgeted for 2013 (D.1.1).<sup>10</sup> Presumably, TDCJ would shift money from other sources to pay for routine maintenance, but on its face **it is untenable to operate 112 prison units with a zero maintenance budget** for a year.

#### Debt Service:

Texas has paid \$479.6 million during the current biennium on criminal justice-related bond debt, most of it for expenses related to past prison construction. However, the LBB has recommended reducing that by 9.7% over the next two years to \$433.3 million.

TCJC has two concerns about this reduction. First, that figure represents a high debt load generated by the state's criminal justice functions. Second, unless some of the bonds have recently been paid off, owners of TDCJ debt will continue to expect the state to service those

obligations, or risk the state's overall bond rating. This is an item that cannot simply be reduced by fiat.

### ➤ **Private Prisons/Contract Beds**

Approximately 11.6% of TDCJ's overall capacity comes in the form of leased beds from private prison operators.<sup>11</sup> Eliminating contract beds has the benefit of immediacy and a less messy wind-down process than closing a state-owned facility, firing state employees, selling real property, etc. On the other hand, private prison's costs-per-day are relatively low compared to some of TDCJ's older, pre-1920 prisons, which are much more costly to run in accordance with modern standards.<sup>12</sup>

H.B. 1 would cut funding for private prisons and state jails (C.1.13) by \$38,001,624 for the biennium, a 16.2% reduction since the previous biennium. The LBB's budget summary estimates that TDCJ would reduce private prison capacity by 2,000 beds,<sup>13</sup> but that estimate seems low. According to its most recent Uniform Cost Report, TDCJ spends an average of \$37.47 per day on private prison beds (excluding transportation and classification costs), from which we may estimate that a reduction by \$38 million would reduce capacity by 2,779 beds.<sup>14</sup>

This could either mean closing one or two private prison units, or spreading the reductions among multiple units within TDCJ's portfolio of private beds. State Senator John Whitmire has publicly suggested closing the Mineral Wells Pre-Parole facility, the contract for which expires at the end of February 2011,<sup>15</sup> not to save money but because the unit is too close to a nearby road that allows contraband to be easily thrown into the prison yard. That unit houses 2,100 prisoners and would seem a likely choice to close that many beds. Separately, funding for pre-parole transfer facilities is also cut in a separate line item (C.1.14, by \$12,869,917, or 19.5%), but if the state must eliminate 2,000-2,800 private beds, it could do so by closing the Mineral Wells facility and perhaps one other private unit.

Either way, no funding at all is contemplated over the next two years for contracted capacity with county jails.<sup>16</sup> Several Texas counties have overbuilt local jail capacity hoping to contract with TDCJ for surplus prisoners,<sup>17</sup> but in 2009 TDCJ canceled "contracts to house up to 1,900 state convicts in county lockups because the number of inmates in state prisons has fallen."<sup>18</sup>

### ➤ **In-Prison Programming**

In-prison programming prepares incarcerated individuals for re-entry and makes the parole board more amenable to inmates' release, but such programming will be decimated by proposed cuts.

H.B. 1 eliminates already minimal academic and vocational education services, zeroed out from \$4,841,279 last biennium (C.2.2).<sup>19</sup> Substance abuse treatment in prison also takes a big hit (C.2.6), with a 44.2% decrease over the biennium, amounting to a \$33,080,965 cut.

### ➤ **Special Needs Services**

H.B. 1 cuts funding for special needs services (B.1.1) by \$18,417,308, or 45.1% for the biennium. The number of individuals served through the Continuity of Care program will be reduced from

28,500 to 15,415, or 45.9%. These include people with severe mental illness, geriatric prisoners, and an array of people with chronic medical problems that will not vanish just because the state chooses not to pay to treat or accommodate them. **Such a drastic cut risks the agency falling out of compliance with the Americans with Disabilities Act<sup>20</sup> and/or failing to provide minimum constitutional levels of care to special needs inmates.**

To reduce spending on special needs inmates without running these risks would require use of medical parole, which, if targeted to the most prolific users of medical services, could achieve significant savings.

### ➤ **Probation, Treatment, and Diversions**

**H.B. 1 defunds and denudes Texas' much-lauded probation reforms of 2007**, reducing funding for diversion programming and giving TDCJ greater control over remaining funds by eliminating restrictions in various budget riders.

Diversion/Probation funding overall is cut \$116,085,728 for the biennium, or 20.7%, including in these four categories:

- **Basic supervision** (A.1.1) is cut by \$38,705,846, or 17.5%. Most of this comes through the elimination of state funding for misdemeanor probation.
- **Diversion programs** (A.1.2) are cut by \$47,886,981, or 24.9%.
- **Community Corrections** (A.1.3) is cut by \$8,541,770, or 12.7%.
- **Treatment Alternatives to Incarceration** (A.1.4) is cut by \$20,951,131, or 90.3%.

(*Note:* The Senate budget draft, by contrast, would cut these programs by “only” 11.8% overall.)

In addition to eliminating funding for misdemeanor probation supervision, H.B. 1 reduces the felony basic probation formula funding per diem to \$1.37, based on the LBB's June 2010 population projections.

The bill would also cut funding for Texas' new, highly successful Intermediate Sanctions Facilities (ISFs, used both for parole and probation violators) by 23%; the number of people served would decline from 3,220 this year (FY 2011) to 2,330 each in 2012 and 2013.<sup>21</sup> **Of all the suggested cuts, this is among the most short-sighted.** If ISF beds are cut, judges will instead be forced to send individuals to TDCJ, costing the state significantly more money.

The same goes for reductions in drug treatment programming. Adult probation utilizes approximately 90% of substance abuse felony punishment (SAFP) facility beds.<sup>22</sup> Funding for SAFP facilities would decline by \$4.7 million, but that number understates the cut. This program was eliminated completely in 2003 and only began to ramp up again after 2007, reaching full-participation levels for the first time in FY 2011 (this year), when TDCJ is budgeted to spend \$62.1 million on SAFP programs. Going forward, H.B. 1 budgets SAFP at \$48.8 million for both 2012 and 2013, or a 21% cut from 2012 levels.

Separately, H.B. 1 eliminates program funding for the Battering Intervention and Prevention Program.

Finally, even where diversion programs were not completely eliminated, much of the Rider language prescribing how diversion money would be spent (e.g., prioritizing progressive sanctions programs for diversion grants) has been deleted in the first draft of H.B. 1. So TDCJ would not only have less money to spend if this version of the budget became law, but agency management would have greater flexibility to decide priorities for the money that remains. In effect, H.B. 1 as filed would completely dismantle Texas' 2007 probation reforms, rather than expand on them to reflect the state's stated goal of reducing the inmate population.

## ➤ Parole

There is a bizarre and irreconcilable element to the budget for the Texas Board of Pardons and Paroles (TBPP). As noted, H.B. 1 would shutter the Central Unit and eliminate private prison beds. However, cuts to TBPP's bureaucracy would cause the agency to process an estimated 6,000+ *fewer* parole cases each year,<sup>23</sup> which would immediately boost the prison population by a similar number (unless front-end diversion programming, which is also slated for cuts, is expanded). Costs for prisoners being kept longer as a result of fewer release hearings are simply not accounted for in TBPP's budget, but TDCJ would still be required to feed and house those individuals until TBPP approves their release. In 2010, according to H.B. 1 (pg. V-15), TBPP reviewed 97,376 cases. After proposed staff cuts under H.B. 1, TBPP will only have capacity to review 79,700 cases per year. That represents an 18% reduction in cases reviewed.

Under H.B. 1, parole officer caseloads would also shoot up from 62 per officer to 87 on paper (probably more in reality). Budgetary limits on caseload size are lifted under the bill.<sup>24</sup> Like other TDCJ staff, parole officers will similarly see a salary freeze, cuts in state retirement contributions, and a suspension of raises associated with the career ladder.

Bottom line: The budget's section on parole fundamentally does not make sense. **It is *simply not possible* to let fewer people out of prison each year, presumably keep the same number coming in, and cut the overall number of prison beds.** Short of double-bunking (as they do in California), something has got to give.

Even more critically, there are no savings to be had from cutting parole processing functions. This is because the alternative for every individual whose release date is postponed (incarceration) costs many times more than processing his or her parole application. To really save money, in fact, TBPP would need to *expand the number of parole applications processed* or (even better) simply increase the perennially low approval rate for those convicted of low-risk offenses.

### Other Parole Concerns:

H.B. 1 cuts funding for parolee Sex Offender treatment services (C.2.4) by a staggering \$16,229,087, or 42.1%; however, the budget contemplates only a 20.7% reduction in the number of individuals receiving such treatment. The only way this can work is to reduce the length of some or all sex offender treatment programs.

Funding for halfway houses would be cut 10.5%, by \$4.1 million, which will reduce the number of people they are able to serve by approximately 185 (F.2.2).

County sheriffs concerned about the expense from housing individuals held on “blue warrants” for alleged parole violations will be dismayed to learn of a proposed 15% cut in funds for processing parole revocations, a cut which will pass on extra incarceration expenses to counties as individuals wait longer for their parole revocation hearings to be held. (*Note:* The Sheriffs’ Association of Texas has recommended legislation to allow bail for parole violators held on blue warrants.<sup>25</sup>)

At the very least, one new and welcome element in the budget bill itself is the requirement of a study:

to evaluate and identify process inefficiencies related to parole review and offender release that is contingent upon successful completion of an assigned rehabilitation program. A report including the results of the study shall be submitted to the Legislative Budget Board and the Governor’s Office not later than January 1, 2012. The report shall include recommendations and strategies to better align parole votes, program start dates, and offender releases.

Not later than December 1, 2012, the Board of Pardons and Paroles and the Department of Criminal Justice shall submit to the Legislative Budget Board and the Governor’s Office an update to include actions, if any, implemented since the initial report. The update shall include savings associated with any actions taken to reduce delays in releasing paroled offenders who have completed an assigned rehabilitation program.<sup>26</sup>

In the context of the rest of the budget, though, this may be unrealistic. How can parole be made more “efficient” while fewer cases are processed for release, parole officer caseloads are growing, and funds for revocation hearings are slashed? Even if the study finds “inefficiencies,” there seemingly will not be staff or resources available to implement proposed solutions.

### ➤ **Re-Entry**

Among states that have successfully reduced their prison populations while simultaneously achieving reductions in crime, a focus on re-entry services has been a critical component.<sup>27</sup> The draft budget of H.B. 1, however, would devastate Texas’ recent investments re-entry programming. Specifically, it would:

- Eliminate Project RIO,<sup>28</sup> which is the primary state job assistance program for previously incarcerated individuals.
- Eliminate the Job Placement Pilot Program, a new project which was funded at \$1,000,000 last biennium.<sup>29</sup>
- Eliminate new Reentry Transitional Coordinators created during the 81<sup>st</sup> Texas Legislature [2009].<sup>30</sup>
- Reduce funding for adult release payments by 50%.<sup>31</sup>
- Eliminate funding (\$50,000 per year) for the Parole Transitional Support Program, a small pilot program that contracts for services with recognized non-profit organizations to facilitate parolees’ transition from incarceration to release on parole.<sup>32</sup>

These cuts are likely to increase costs rather than save money thanks to higher recidivism rates. Indeed, investments in re-entry services can pay big dividends both in reduced incarceration rates and less crime. For example, “Through vigorous job placement programs and prudent use of parole, [Michigan] state officials say they have cut the prison population by 7,500, or about 15 percent, over the last four years, yielding more than \$200 million in annual savings. Michigan spends \$56 million a year on various re-entry programs, including substance abuse treatment and job training.”<sup>33</sup>

Texas’ re-entry investments are still relatively new (having been a big focus during the 81<sup>st</sup> Texas Legislature) and little documentation yet exists regarding their effectiveness. But based on other states’ experience, these line items should be increased, not lowered, if the goal is to reduce overall corrections costs.

### ➤ **Medical Care**

H.B. 1 closes down the Correctional Managed Health Care Committee,<sup>34</sup> moving contract oversight to TDCJ seemingly without giving the agency the commensurate staff and resources to perform the new function. H.B. 1 also reduces prison health care by \$236.9 million from these four critical areas:

- **Psychiatric Care** (C.1.7) would decline by \$11,997,741, or 14.5%
- **Managed Health Care – Unit Level** (C.1.8) would decline by \$76,775,039, or 18.8%.
- **Managed Health Care – Hospital Care** (C.1.9) would decline by \$123,362,800, or 36.3%
- **Managed Health Care – Pharmacy** (C.1.10) would decline by \$24,797,648, or 21.9%.

Overall, medical costs per individual per day in the 2012-13 budget would decline from \$7.67 in 2011 to \$5.84 in 2013<sup>35</sup> – a 24% per-inmate decrease which will challenge the agency to both provide constitutional levels of health care, and maintain a price point that will keep the University of Texas Medical Branch (UTMB) providing services. UTMB has threatened to cancel the contract if the state will not increase compensation. In California, cuts to inmate health care led to federal litigation (still pending) that may ultimately force the state to release tens of thousands of inmates if it cannot improve health services.<sup>36</sup>

The most likely probable method for achieving these reductions will be reducing the compensation rate for UTMB prison services. A recent report from the Texas State Auditor found that UTMB’s “reimbursement amount for physician billing services is, on average, 135 percent of the Medicare reimbursement amount. Additionally, UTMB-CMC Division reimbursement amounts exceeded standard Medicare reimbursement amounts for each type of hospital service, including inpatient and outpatient services.”<sup>37</sup>

### ➤ **Other**

#### Office of Inspector General:

H.B. 1 cuts this office’s budget by 16.2% (G.1.3). **This is especially problematic in light of ongoing TDCJ problems with contraband routinely entering TDCJ facilities.** Reducing resources to investigate wrongdoing at TDCJ will dilute the effectiveness of recent investments

in new security apparatuses because fewer investigators will be available to follow up on leads and complaints. This cut places TDCJ staff and inmates at risk.

#### Victim Services Division:

The Victim Services Division provides immediate services to victims of crime, as well as providing a necessary liaison between the public and TDCJ. Proposed cuts would eliminate the Division (G.1.4),<sup>38</sup> devastating the single most important organization that provides guidance and a myriad of other services to crime victims.

#### Central Administration:

H.B. 1 cuts this line item by 13.5%, or \$7,928,919 (G.1.1).

#### Chaplains:

The powerful impact that these individuals make is worth their presence in prison units. Sadly, under H.B. 1, this program would be completely eliminated.

#### Food Reductions:

In response to calls for budget cuts over the last biennium, TDCJ has already slashed its prisoner food budget by 13.5% from 2009 levels, though its inmate population has remained the same.<sup>39</sup>

### Policy Recommendations

#### **(1) Focus limited corrections dollars on diversions and treatment programming.**

Investments in probation, treatment, and parole have saved money, lives, and prison beds for those who have committed high-level offenses. Cuts in any of these areas *must* be avoided.

#### ***Return on Taxpayer Investment:***

Recently expanded diversion funding has already bore fruit:

- Between 2006 and 2009, 14,019 people were re-routed from prison to felony probation<sup>40</sup> and, during that same period, large urban probation departments decreased revocation rates.<sup>41</sup>
- Over time, there have also been fewer revocations to prison for rule violations and fewer individuals sentenced to prison, likely due to judges' increased confidence in probation and treatment.
- Additionally, the parole board began releasing more people due to a higher parole approval rate, and between 2006 and 2009, the number of parole revocations (both for rule violations and for new crimes) fell from 9,885 to 7,178, the lowest it has ever been.<sup>42</sup>

#### ***Grim Picture:***

Making cuts in areas of probation, parole, treatment, and re-entry now will roll back crucial progress.

- Fewer probation slots would mean increased confinement for individuals suffering from substance abuse and/or mental illness. It would also mean likelier revocations.
- Reduced parole capacity would similarly boost revocations.
- Prisons would fill up with individuals who have committed administrative rule violations or minor crimes, and a lower likelihood of release on parole would cause prisons to become a bottleneck for those eligible for release.
- Taxpayers would foot the bill for thousands more people to be warehoused rather than be given the (much less expensive) tools for personal responsibility they need to become productive and law-abiding community members. This would cause higher rates of re-offending and the need for more prison construction.

The state simply cannot sustain such a cycle – especially with a large projected loss in corrections staffing.

### ***Moving Forward:***

**It is simply not worth the gamble to slash diversion funding, especially given the cost savings and collateral benefits it has produced.** We have seen what happened in 2003 when a similar state budget shortfall, and the resulting cuts to probation and parole, flooded prisons, driving them to a breaking point. The LBB in 2007 consequently projected the need for another 17,000 prison beds by 2012 (in addition to the 5,675 beds added between 2004 and 2007) if Texas’ pace of incarceration continued. The price tag: \$2.63 billion over five years.<sup>43</sup> **Since then, wise investments in diversions have safely reduced incarceration levels and have gotten the state back on track,** prompting the Chief Executive Officer of the National Association of Drug Court Professionals to assert, “Texas is a remarkable example of how to take control of an explosive prison population.”<sup>44</sup> As of June 2010, the LBB projected that incarceration levels will remain flat at almost 155,000 individuals, while felony probation levels and parole levels will steadily increase,<sup>45</sup> provided current, cost-effective diversion policies remain in place.<sup>46</sup>

Why risk a devastating step in the wrong direction? Programs and services that exist solely to rehabilitate individuals and reduce their risk of recidivism must be preserved. Probation must continue to be a strong, viable alternative to prison, while parole departments should be provided more tools to assist those under supervision. Texas needs continued investments in the fidelity and success of diversions today to help meet public safety demands and create safer communities tomorrow. The state simply cannot afford to have costly incarceration be its only option for addressing criminal behavior.

## **(2) Close more corrections facilities than the unit closure recommended in H.B. 1.**

Closing facilities in addition to the Sugar Land unit would allow TDCJ to avoid most of the other painful cuts described above and still save the amount required by the LBB. For instance, **the savings generated could be rerouted towards recently expanded diversions that have produced positive outcomes.** *Note:* Based on the latest inmate population projections, the

Legislature would also have to enact policy changes to reduce the inmate population to achieve that goal, a subject that is beyond the scope of this testimony.<sup>47</sup>

Additional facility closure would also ensure that staffing could be reduced without leaving existing facilities shorthanded and, thus, risking security loss.

Doing otherwise – continuing to keep the financial focus on hard incarceration – will result in another, costly cycle of prison construction, which historically has accompanied reductions in diversion and rehabilitation funding. It will also drastically limit communities' ability to implement crime-reduction strategies that have proven to work.

It is long-overdue that we ask ourselves a practical question: What have we gained through the inefficient and costly incarceration of thousands of Texans whose risk of re-offending would have been more effectively reduced if they had received programming, treatment, re-entry tools, and meaningful supervision? The bottom line is that shifting money from risk *containment* to risk *reduction* means fewer victims in the long term and greater taxpayer savings.

### **(3) Maintain funding for Institutional Parole Officers and Parole Hearing Officers.**

This is especially critical to keep Texas' recidivism rates among parolees low and, thus, preserve public safety goals. Currently, the state's recidivism rate (27.9%) is the lowest among the four largest correctional systems, with California's at 58.23%, Florida's at 44.2%, and New York's at 44.2%.<sup>48</sup>

### **(4) Continue to support re-entry reforms to break the costly cycle of re-offending.**

Annually, over 70,000 people leave Texas prisons, many of whom are released without any supervision requirements.<sup>49</sup> Re-entry strategies are critical to supplementing the diversion and corrections-level practices that reduce incarcerated populations and address the specific needs of those who have exhibited criminal behavior. Indeed, without assistance for those exiting confinement, rates of re-offending are likely to rise – along with comparable increases in enforcement and re-incarceration costs. The cycle will merely continue, and at enormous taxpayer expense. On the other hand, providing tools for personal responsibility to re-entering individuals ensures they are more capable of finding and maintaining both housing and employment, in turn living as contributing members of our communities.

Policy-makers must make every effort to exempt from budget cuts any successful programming and practices that keep individuals from falling back into crime and re-entering prisons and jails. Public safety-driven strategies including tailored in-house programming (e.g., medical treatment, and substance abuse and mental health programming), as well as improved post-release services (e.g., community-based aftercare, services for parolees, etc.) can help individuals become and remain law-abiding, to the benefit of family cohesion, local economies (including through tax savings and employment), and public health.

*Note:* Individuals suffering from mental illness issues are especially in need of pre- and post-release mental health services to best address the associated crime that accompanies mental disorders. Treatment and programming that address schizophrenia, bipolar disorder, and other mental illness issues exist to assist these individuals (including the consistent provision of

psychotropic medication).<sup>50</sup> Such services, when coupled with programs that take into account predictors of recidivism, like antisocial behavior or antisocial associates, substance abuse, and lack of familial support, can minimize rates of re-offending<sup>51</sup> and reduce accompanying costs in enforcement and arrests.

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## **JUVENILE JUSTICE SYSTEM**

In January 2011, the state’s Sunset Advisory Commission members voted in favor of a motion to abolish both the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC), instead transferring their discrete functions to a newly created umbrella agency. Preliminarily designated as the Texas Juvenile Justice Department, this new state agency would be created by September 1, 2012. The Department’s mission would prioritize the use of local probation over incarceration at the state level. In other words, the number of inmates in youth prisons would fall, and community-based alternatives for handling youth with more serious offenses would expand.<sup>52</sup>

However, H.B. 1 assumes that TYC and TJPC will continue to exist as they do today, as separate entities, while a new TYC rider could potentially result in the closure of up to three facilities to reduce institutional capacity. H.B. 1 also proposes cuts to Community Corrections that seem antithetical to the cost-saving approaches recommended by the Commission.

**At the end of the day, funding must follow the youth. Any possible cost savings that may result from facility closures must be reinvested in appropriate and effective community-based, non-institutional services at the county level. Additionally, the state should create a fund to be strictly utilized for the full implementation of this strategy in the long term.**

## **TEXAS JUVENILE PROBATION COMMISSION**

### **Introduction**

Ensuring that sufficient alternatives to incarceration are available in the community is critical to sustaining positive, long-term change in Texas’ juvenile justice system, and improving the chances of success for at-risk youth.

TJPC and local juvenile probation departments are the most imperative components of the juvenile diversion strategy. Indeed, local departments are the “workhorses” of the juvenile justice system, handling 98% of juvenile justice-involved youth.<sup>53</sup> **The state also derives great savings from a strong probation system:** TJPC’s objective to reduce commitments to TYC through the use of various preventative “risk-reduction” (rehabilitation and early intervention) strategies<sup>54</sup> saves Texas money in juvenile incarceration costs.<sup>55</sup> Family-focused programming especially results in better outcomes for youth and their families, which in turn boosts public safety, another long-term cost saver.<sup>56</sup>

Policy-makers must continue to support community-based non-residential and residential services for ongoing economic gains, including through the new Community Corrections Diversion pilot grants that are helping divert youth from placement in TYC.<sup>57</sup>

## Budget Cuts to TJPC

Total General Revenue expended on TJPC under H.B. 1 would decline by 13.5%, or \$39,255,982 for the biennium. Basic probation would slightly increase, while funding for progressive sanctions (levels 1-3) would decline by 10%. These reductions, however, are offset by declining juvenile probation referrals.<sup>58</sup> Indeed, over the last year, according to the LBB's Uniform Cost Report, "The average cost per day per offender for basic community supervision (juvenile probation) was \$14.58 in fiscal year 2009 and \$17.25 in fiscal year 2010."<sup>59</sup> These trends take some of the sting from TJPC budget reductions.

Community Corrections funding, however, would take the biggest and most concern-causing hit: 17%, or \$32,448,128. Community Corrections grants pay for various community-based probation services under the auspices of local juvenile boards.<sup>60</sup>

TJPC is mostly a pass-through agency, the bulk of whose budget goes to counties to pay for probation services. Overall, funding to counties through TJPC would decline 14.1% under H.B. 1 from the last biennium to the next. The line item for salary and wages at TJPC will decline 14.4%, possibly presaging staff cuts at the agency's central office in Austin.

Another critical cut: Training funds for juvenile probation officers would decline under H.B. 1 by a staggering 95%, from more than \$8 million per year to around \$411,000 (C.1.1). This is especially problematic because juvenile probation officers have been asked over the last several years to make shifts toward evidence-based practices that require different strategies and tactics than traditional "trail 'em, nail 'em, and jail 'em" approaches. Funds for programming could be wasted if front-line probation officers are not adequately trained to use them effectively.

Finally, on a somewhat positive note, H.B. 1 eliminates \$1 million in annual funding for the Harris County Community Corrections Facility. Boot camps were a fad that evidence-based practices fail to support,<sup>61</sup> and Harris County ran an "adventure based treatment program," which is similar in type to programs criticized by the U.S. Government Accountability Office.<sup>62</sup>

## Policy Recommendations

As proven by recent investments in juvenile probation,<sup>63</sup> community-based supervision is an appropriate fit for many youth. Yet, it is only effective with **strong, well-resourced programming** (e.g., behavioral, educational, or vocational courses), **qualified probation officers** to ensure tailored supervision settings, and the **funding to contract with specialized treatment providers** (e.g., mental health or special education practitioners) to meet the needs of various populations and in various regions.

Absent a full funding structure for juvenile probation, the youth who will be supervised in our communities are at high risk of re-offending, leading to more victims, more local costs spent on law enforcement, and more reasons to incarcerate youth who do not need it. Texas policy-makers must adopt a responsible approach to downsizing TYC that bears in mind the concerns of local probation departments, our communities' calls for public safety, and the needs of juveniles currently incarcerated. Certainly, stranding youth in current lock-ups with poor conditions of confinement is not the answer, but neither is shifting all of the costs to our communities and transferring the

responsibility for juvenile care to already over-burdened, under-funded counties struggling to provide basic services. Youth will fall through the cracks, and Texans will pay the price for years to come.

A piecemeal approach that allocates only limited dollars to key services will roll back established progress and create a fractured system of broken program implementation throughout Texas.

#### **(1) Support the juvenile probation system.**

If the Legislature follows through on Sunset Commission recommendations to reduce TYC admissions by having counties manage higher-risk youth in community-based programs, funding cuts for Community Corrections not only must be rescinded but, as noted above, **savings from any TYC unit closures should be partially spent to increase this line item.**

According to TJPC, “Thirty-five percent of juveniles disposed have been assessed as high risk and/or as having high levels of need. The factors contributing to these high levels of risk and need include family criminal history, substance abuse, traumatic experiences, mental health needs and school truancy and disciplinary problems.”<sup>64</sup> In fact, over 40% of youth in Texas’ juvenile probation system are mentally ill.<sup>65</sup> According to TJPC, “These juveniles recidivate at a rate over fifty percent higher than juveniles that are not mentally ill.”<sup>66</sup> Furthermore, according to the results of TJPC’s Risk and Needs Assessment Instrument, 25% of all juveniles assessed from June 1, 2009 – May 31, 2010 were “frequent drug users.”<sup>67</sup>

Policy-makers must ensure that resources are targeted towards rehabilitating youth in proven, community-based diversion programs. Such interventions, which including comprehensive treatment assessments<sup>68</sup> and components to build healthy family relationships,<sup>69</sup> not only save costs in incarceration, but they are more effective at addressing treatable addiction through effective tackling of the root cause. The Legislature should create a budget rider mandating that grant funding for counties must go towards research-based programming, as identified by TJPC. (*Note:* This will also prevent counties from having to expend their own limited funds on research.) Already, Texas has seen success with holistic, family-driven programming,<sup>70</sup> as well as first-offense programs.<sup>71</sup>

The end goal must be increasing the number of youth successfully rehabilitated in their communities, at substantial cost-savings to the state in both the short and long term. Such an emphasis on what truly decreases crime – programming, treatment, community supervision – is not only clear but crucial given the limited dollars Texas can devote to juvenile justice.

#### **(2) Maintain current funding levels for juvenile probation officer trainings.**

Juvenile probation officers are required to take 80 hours of continuing education every two years.<sup>72</sup> As noted above, qualified staff are key in implementing effective programming and supervision that reduce the risk of re-offending. To realize Texas’ public safety needs, state leadership must maintain training funding for juvenile probation officers. Specifically, staff must be trained to meet the needs of youth who require treatment for mental health, substance abuse, sex offenses, and past trauma. Early identification and prompt placement into appropriate programming will best help youths with addiction, mental health, or behavioral problems.

The effective implementation of rehabilitative treatment and programming is key. According to the Texas Public Policy Foundation, “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>73</sup>

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## TEXAS YOUTH COMMISSION

### Introduction

Policy-makers must ensure that, regardless of how many lock-ups remain in place by session’s conclusion, only high-risk, chronic violators who pose a danger to themselves or others should be incarcerated, and they must be provided proven treatment programming and services to reduce their likelihood of re-offending after release.

### Budget Cuts to TYC

H.B. 1 would lower TYC’s budget from \$397 million in general revenue for the current biennium to just over \$334 million for FY 2012-2013, a reduction of \$62.8 million, or 18.8%. Considering all funds, TYC’s budget would be reduced from \$455.9 million in the current biennium to \$360.3 million in the upcoming two-year cycle, a reduction of \$95.6 million, or 20.9%.

### Reduced Institutional Capacity:

A new TYC rider would establish a maximum cap of 1,600 institutional beds beginning January 1, 2012, compared to the current average daily population cap of 1,900. TYC’s current institutional population is 1,459 youth. The agency may close up to three facilities to reduce institutional capacity under the budget, and TYC would be required report the plan for reducing capacity to the LBB by October 2011. According to TYC Executive Director Cherie Townsend in a letter to employees, “There is no current plan for closing specific facilities, therefore, the plan would need to be developed once the budget is finalized.”<sup>74</sup>

Similar to the adult parole system, H.B. 1 makes assumptions about parole funding that appear to contradict other funding priorities in the budget. TYC would be required to reduce institutional capacity, but H.B. 1 also requires the agency to reduce parole services. Specifically, TYC would serve a population of 1,160 youth in FY 2012 and 1,220 youth in FY 2013, down from 1,516 in the current fiscal year.<sup>75</sup> But if TYC reduces institutional capacity, that will likely increase the number of youth on parole. These cost-saving approaches seem to conflict. To reduce incarceration costs, more people inevitably will end up on community supervision.

### Staffing:

TYC will face significant staff cuts. H.B. 1 reduces FTEs (full-time equivalent employee positions) to 2,986.8 in FY 2012-13, down 553.2 from the FY 2010-11 level. As at TDCJ, H.B. 1 freezes the TYC career ladder. Says TYC, “This rider has the potential to significantly impact both recruitment and retention of employees who have the most direct contact with youth.” The proposed budget also scales back employee retirement contributions from 6.95 percent to 6.0 percent.<sup>76</sup>

All staffing estimates, though, and indeed most other legislation regarding TYC and TJPC, must be taken with a grain of salt until the Legislature reconciles its proposed budgets with Sunset Advisory Commission recommendations to merge the agencies. If that happens, the budgets for these agencies will radically change in ways that would be difficult to predict from either the House or Senate budgets.

### Policy Recommendations

- (1) As an alternative to incarceration for high-risk youth, create a regionalized system of state-operated juvenile correctional and transition facilities that are smaller (<100 beds), more therapeutic, and closer to the communities that youth come from.**

To effectively address the needs of our most troubled youth, those for whom there is no programming at the county level, the state should consider smaller, regional facilities with specialized programs and services.

A large majority of youth under supervision in TYC require specialized assistance. According to that agency, “Of the 1,481 commitments in FY 2009, 54% were categorized as high-risk offenders, 47% were chemically dependent, 37% had serious mental health problems, and 36% were identified as eligible for special education services.”<sup>77</sup> Emphasizing treatment and least-restrictive care through the establishment of various service delivery regions would better ensure that youth have access to localized, qualified medical and mental health care professionals in age-appropriate settings. Such a system would also bring youth closer to their parents or caretakers, facilitating inclusion of families and communities in the rehabilitation process, and paving the way for lower recidivism rates upon independent reintegration to the community.

To best create a seamless continuum of care, a regionalized plan should include wrap-around services, halfway houses, and targeted aftercare. Halfway houses, which cost \$100 less than confinement in current TYC facilities per day,<sup>78</sup> should be especially prioritized for youth who have succeeded in confinement and could be safely supervised in the community.

*Note:* Throughout any regionalization effort, Texas should adopt aspects of juvenile justice models that work, specifically those that replace the historical punitive philosophy with one centered on treatment. This will be integral to the success of the entire system.

For example, the “Missouri model” is widely acclaimed by juvenile justice advocates and has garnered bipartisan praise from across Missouri’s political spectrum.<sup>79</sup> Throughout the 1960s and into the early 1970s, Missouri’s large juvenile institutions were struggling with very high numbers of assaults and escapes. By 1971, this violent atmosphere had left about a quarter of staff positions vacant.<sup>80</sup> In 1975, Missouri adopted a five-year plan that laid the groundwork for today’s accomplishments. It called for the closing of the large facilities, the expansion of community-based services, and the establishment of five service delivery regions. The end goal for the change was the creation of a quality continuum of care, which would provide a range of services to youth in each of the five regions within 30 to 50 miles of their homes, bringing them closer to medical and mental health care professionals, as well as their families.

In the three decades since its adoption, the Missouri model has been heralded as a “guiding light” for reform in juvenile justice.<sup>81</sup> Its unconventional approach emphasizing treatment and

least-restrictive care is considered to be far more successful than the incarceration-oriented systems used in most other states.<sup>82</sup> Furthermore, according to the Texas Public Policy Foundation, “the one-year re-incarceration rate in Missouri where group homes replaced institutions is 11 percent compared with 22 percent for TYC.”<sup>83</sup>

## **(2) Continue investments in re-entry practitioners and programs.**

The population of youth that is currently incarcerated requires risk/needs assessments, tailored programming that addresses the root causes of criminal behavior, and a strong re-entry infrastructure to ensure that they succeed after juvenile justice involvement. Current staff levels are imperative in implementing such strategies.

As noted above, a large percentage of youth in TYC are chemically dependant.<sup>84</sup> Sadly, “fewer than half of TYC youth in need of substance abuse treatment receive it,” according to Texans Care for Children.<sup>85</sup> Likewise, just over one-third of youth are receiving needed mental health services.<sup>86</sup> Youth in TYC are also typically 4-5 grade levels below standard when they enter confinement, and most require accelerated instruction to obtain a diploma or GED.<sup>87</sup>

Without effective treatment, substance abuse and mental health disorders will follow youth into the community upon release, leaving them without the tools to participate in society in a fulfilling and productive way. Low education levels and a lack of vocational training will only increase the likelihood of re-offending. Limited community- and family-based support networks would further burden youth entering the community. A continued investment in re-entry practitioners and programs – the foundations of successful reintegration – are important in maintaining progress to keep recidivism rates low, to the benefit of public safety and taxpayers’ wallets.

## **(3) Strengthen the juvenile parole system to protect public safety and give troubled youth, families, and communities a chance at success.**

The real measure of a juvenile justice system’s effectiveness is a youth’s behavior post-release. The first several months following a youth’s institutional confinement are critical, where the lessons learned in secure care can be easily undone without proper supports. For instance, in FY 2009, nearly 3,750 youths were on parole,<sup>88</sup> but approximately 420 youths were sent to TYC after a revocation.<sup>89</sup>

Because the period of re-entry should be viewed as the last and most important phase of a youth’s treatment while in secure care, the role of parole should be to support youth in applying newly acquired tools for personal accountability, to connect them with needs-based resources, and to closely monitor their progress.

To provide the most meaningful oversight and support to youth exiting juvenile institutions, the juvenile parole program requires an increased investment and focus from the Legislature. Current staffing levels must remain in place, and juvenile parole offices must be able to do the following:

- Provide youth more structured reintegration into their home environments, including day treatment programs, re-entry support groups, and family counseling.

- Increase family and community involvement in parole by implementing elements of proven, non-residential programming such as Functional Family Therapy,<sup>90</sup> Multisystemic Therapy,<sup>91</sup> and Multidimensional Treatment Foster Care.<sup>92</sup> TYC has already considered implementing Functional Family Parole (FFP), an evidence-based program that provides youths and their families with needed reintegration and intervention services.<sup>93</sup> The new juvenile justice entity should fully employ FFP.

Policy-makers must also allocate sufficient resources to the parole division so that offices have funds to send a youth to specialized **aftercare services** (e.g., chemical dependency, sex offender, etc.), or to family counseling. Currently, youth are directed to county-provided services. If counties do not provide adequate medical, behavioral health, educational, or vocational resources, a youth is simply on his or her own.

\* \* \*

Thank you for allowing me the opportunity to provide feedback to this Committee on the devastating impact that budget cuts can have on various areas within the Texas Department of Criminal Justice, the Texas Juvenile Probation Commission, and the Texas Youth Commission.

We have seen throughout the past few years that new investments in diversion programming and re-entry services, in both the criminal and juvenile justice systems, have increased public safety and produced significant, cost-effective outcomes. Our state leadership must continue to invest in smart-on-crime policies that have earned Texas positive national recognition and, most importantly, have strengthened the ability of communities to reduce criminal behavior.

## ENDNOTES

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<sup>1</sup> “Prisons account for 88.1 percent of the 2010-11 budget attributable to adult corrections, including operating and debt service costs.” From Marc Levin, “Texas Criminal Justice Reform: Lower Crime, Lower Cost,” Center for Effective Justice – Texas Public Policy Foundation, January 2010, pg. 2.

<sup>2</sup> Judge Marion F. Edwards, “Reduce Recidivism in DUI Offenders: Add a Cognitive-Behavioral Program Component,” 2006, pg. 3.

<sup>3</sup> The Pew Center on the States, “Issue Brief: Prison Count 2010,” Revised April 2010, pgs. 3-4: “In January 2007, Texas faced a projected prison population increase of up to 17,000 inmates in just five years. Rather than spend nearly \$2 billion on new prison construction and operations to accommodate this growth, policy makers reinvested a fraction of this amount – \$241 million – in a network of residential and community-based treatment and diversion programs. This strategy has greatly expanded sentencing options for new offenses and sanctioning options for probation violators. Texas also increased its parole grant rate and shortened probation terms. As a result, this strong law-and-order state not only prevented the large projected population increase but reduced its prison population over the three years since the reforms were passed.”

<sup>4</sup> Robert T. Garrett, “Acclaimed addiction program for Texas felons is vulnerable to cuts,” *The Dallas Morning News*, August 9, 2010.

<sup>5</sup> Legislative Budget Board (LBB), “Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version” January 2011, pg. V-8.

<sup>6</sup> Legislative Budget Board (LBB), Summary of Legislative Budget Estimates for the 2012-2013 Biennium: House Version,” January, 2011, pg. 147 (Table 29).

<sup>7</sup> *Ibid.*, pg. 152 (Table 32).

<sup>8</sup> Cary Welebob, Executive Director of the Community Justice Assistance Division, in a letter to Texas probation directors, January 20, 2011.

<sup>9</sup> State of Texas, “Legislative Budget Board Recommendations: House Version [House Bill (H.B.) 1],” Eighty-second Legislature, 2011, pg. V-17.

<sup>10</sup> In LBB’s *Summary of Legislative Budget Estimates*, this line item is listed at \$17 million in both 2012 and 2013, an 83% cut in maintenance funds (pg. 159). The document titled *Legislative Budget Estimates* lists the 2013 maintenance funding as zeroed out, but it seems likely the “summary” document is correct.

<sup>11</sup> Suzanne M. Kirchoff, “Economic Impacts of Prison Growth,” Congressional Research Service, April 2010, pg. 22.

<sup>12</sup> Scott Henson, “Data on TDCJ Unit Age and Cost,” *Grits for Breakfast*, November 25, 2009; <http://gritsforbreakfast.blogspot.com/2009/11/data-on-tdcj-unit-age-and-cost.html>.

<sup>13</sup> LBB, “Summary of Legislative Budget Estimates,” January 2011, pg. 150. By these estimates, TDCJ would cut 1,643 contract beds at private prisons and state jails, and 357 beds at pre-parole transfer facilities.

<sup>14</sup> Here is the calculation:  $\$37.45 \times 365 = \$13,676.55$ .  $\$38,001,624 / \$13,676.55 = 2778.6$ , rounded to 2,779 reduction in total private prison beds, since one can’t cut .6 of a bed.

<sup>15</sup> Scott Henson, “Which prison units should Texas close? Private contracts, security concerns may factor in,” *Grits for Breakfast*, March 1, 2010; <http://gritsforbreakfast.blogspot.com/2010/03/which-prison-units-should-texas-close.html>.

<sup>16</sup> In August 2009, reacting to declining inmate population numbers, TDCJ stopped leasing beds entirely from local county jails. Neither the House nor Senate proposed budgets for 2012-2013 would reinstate money for leasing beds from counties.

<sup>17</sup> “Inmates yet to arrive at Jones County jail in Anson,” *Abilene Reporter-News*, December 10, 2010. “For example, in Jones County, ‘Officials originally were expecting [a new, empty jail] facility to be used as an “intermediate sanction facility’ ... But when it was complete, the Texas Department of Criminal Justice said there weren’t enough inmates to house for that purpose.”

<sup>18</sup> “Texas plans to move inmates from county jails,” *Associated Press*, June 27, 2009.

<sup>19</sup> State of Texas, *H.B. 1*, pg. V-22.

<sup>20</sup> In 1998, the US Supreme Court ruled the ADA applied to state prisons in *PENNSYLVANIA DEPARTMENT OF CORRECTIONS ET AL. v. YESKEY*.

<sup>21</sup> LBB, *Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version*, pgs. V-11 and V-15.

<sup>22</sup> “Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds,” December 1, 2010, pg. 7.

<sup>23</sup> LBB, *Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version*, pg. V-15.

<sup>24</sup> *Ibid.*

<sup>25</sup> The Governor vetoed a similar bill, H.B. 541, after the 80<sup>th</sup> Texas Legislature adjourned in 2007.

<sup>26</sup> State of Texas, *H.B. 1*, pg. V-26.

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- <sup>27</sup> Steven Greenhouse, “States help ex-inmates find jobs,” *The New York Times*, January 24, 2011.
- <sup>28</sup> State of Texas, *H.B. 1*, pg. V-21.
- <sup>29</sup> *Ibid.*, pg. V-30
- <sup>30</sup> Cary Welebob, *letter to Texas probation directors*, January 20, 2011.
- <sup>31</sup> *Ibid.*
- <sup>32</sup> State of Texas, *H.B. 1*, pg. V-25
- <sup>33</sup> Steven Greenhouse, *States help ex-inmates find jobs*.
- <sup>34</sup> State of Texas, *H.B. 1*, pg. V-26
- <sup>35</sup> LBB, *Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version*, pg. V-14.
- <sup>36</sup> Solomon Moore, “California prisons must cut inmate population,” *The New York Times*, August 4, 2009.
- <sup>37</sup> John Keel, State Auditor, *An Audit Report on Correctional Managed Health Care at the University of Texas Medical Branch at Galveston*, February 2011; <http://www.sao.state.tx.us/Reports/report.cfm/report/11-017>.
- <sup>38</sup> LBB, *Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version*, pg. V-8.
- <sup>39</sup> *Ibid.*, pg. V-12.
- <sup>40</sup> Dr. Tony Fabelo, data obtained from TDCJ and presented at the Texas Public Policy Foundation (TPPF) criminal justice panel, January 2010.
- <sup>41</sup> Community Justice Assistance Division, “Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds,” Texas Department of Criminal Justice, December 1, 2010, pg. 23.
- <sup>42</sup> Dr. Tony Fabelo, data obtained from TDCJ and presented at the TPPF criminal justice panel.
- <sup>43</sup> “These beds would have cost \$1.13 billion to build based on a \$65,000 per bed construction cost and another \$1.50 billion to operate over five years based on the \$47.50 per day operating cost in 2008.” From Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 1.
- <sup>44</sup> Keith B. Richburg, “States Seek Less Costly Substitutes For Prison: Treatment, Parole Are Gaining Favor,” *Washington Post*, July 13, 2009, quoting C. West Huddleston.
- <sup>45</sup> Legislative Budget Board, “Adult and Juvenile Correctional Population Projections: Fiscal Years 2010-2015,” State of Texas, June 2010, pgs. 4, 5. Felony probation levels are projected to rise from 173,867 (end-of-month yearly average) in FY 2010 to 177,525 in FY 2015. Active parole supervision levels are projected to rise from 81,198 (end-of-month yearly average) in FY 2010 to 84,772 in FY 2015.
- <sup>46</sup> *Ibid.*, pg. 2.
- <sup>47</sup> Examples include changing sentencing laws and/or probation and parole rules to divert individuals who have committed lower-level, nonviolent offenses from prison to community-based punishments. For a good overview of policy options, see Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*. Also see TCJC’s own four-part policy guide, to be released by the end of February.
- <sup>48</sup> Texas Department of Criminal Justice (TDCJ), “H.B. 1711 Implementation Report,” Submitted to Governor, Lieutenant Governor, Speaker of the House, Senate Criminal Justice & House Corrections Committees, September 1, 2010, pg. 4.
- <sup>49</sup> Texas Department of Criminal Justice (TDCJ), “Statistical Report Fiscal Year 2010,” pg. 44. In FY 2010, prisons released 42,115 individuals, 20.4% of whom were released without any supervision.
- <sup>50</sup> National Alliance on Mental Illness, *The Criminalization of People with Mental Illness*; [http://www.nami.org/Content/ContentGroups/Policy/WhereWeStand/The\\_Criminalization\\_of\\_People\\_with\\_Mental\\_Illness\\_\\_WHERE\\_WE\\_STAND.htm](http://www.nami.org/Content/ContentGroups/Policy/WhereWeStand/The_Criminalization_of_People_with_Mental_Illness__WHERE_WE_STAND.htm).
- <sup>51</sup> Jennifer Eno Loudon, Ph.D., “Reducing recidivism risk for offenders with mental disorder,” presented at the 2009 Conference of the Justice Research and Statistics Association and the Bureau of Justice Statistics: Meeting Justice Policy Challenges Through Research and Statistics, slides 11, 15, 16, 24.
- <sup>52</sup> Mike Ward, “Sunset Panel: Merge TYC and TJPC,” *Austin American-Statesman*, January 12, 2011.
- <sup>53</sup> During FY 2010, there were 88,344 referrals to juvenile probation departments. From House Committee on Corrections, Interim Report to the 82<sup>nd</sup> Texas Legislature, December 2010, pg. 4. On the other hand, 1,977 youth were held in institutions, contract care facilities, or halfway houses in FY 2010. From Sunset Advisory Commission, “Commission Decisions: Texas Youth Commission, Texas Juvenile Probation Commission, Office of Independent Ombudsman,” January 2011, pg. 4.
- <sup>54</sup> Texas Juvenile Probation Commission; *About Us: Our Mission*; <http://www.tjpc.state.tx.us/aboutus/default.aspx#Our%20Mission>.
- <sup>55</sup> Marc Levin, *New Day for Texas Juvenile Justice*, Texas Public Policy Foundation, December 30, 2008; [http://www.texaspolicy.com/commentaries\\_single.php?report\\_id=2341](http://www.texaspolicy.com/commentaries_single.php?report_id=2341).
- <sup>56</sup> “For example, intensive in-home programs with both a probation officer and family therapist making frequent home visits significantly reduce re-offenses and cost a fraction of TYC. As such local programs take root, juvenile

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crime continues to drop and TYC commitments have fallen 38 percent this year. Every youth redirected from TYC saves taxpayers about \$80,000 a year.” From Marc Levin, *In Juvenile Justice, Less Is Often More*, Texas Public Policy Foundation, May 7, 2010; [http://www.texaspolicy.com/commentaries\\_single.php?report\\_id=3081](http://www.texaspolicy.com/commentaries_single.php?report_id=3081).

<sup>57</sup> In 2009, policy-makers allocated \$46 million to TJPC to re-distribute to juvenile probation departments in efforts to place youth in proven programming. 143 departments accepted this funding. From “Senate Committee on Criminal Justice Interim Report to the 82<sup>nd</sup> Legislature,” December 15, 2010, pg. 74. These funds must be used for programs that are proven to reduce re-offending. Most programs are nonresidential and focus on treatment, community service, and strengthening the family. From Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 2. Note additionally: Juvenile probation departments that receive the new diversion funding are required to report a variety of information to TJPC about their use of the monies, including details about the kinds of programs that will be developed or expanded, and outcomes for all youth placed in the diversion programs as an alternative to TYC commitment.

<sup>58</sup> Office of Court Administration, “Annual Report for the Texas Judiciary,” 2010, pg. 48. In FY 2010, “The number of cases added to the juvenile dockets of district and county-level courts in 2010—39,822 cases—was 10.0 percent lower than the number added during the previous year and was the lowest number added since 1996 (39,214 cases).”

<sup>59</sup> Legislative Budget Board (LBB), “Criminal Justice Uniform Cost Report, Fiscal Years 2008-2010,” January 2011, pg. 3.

<sup>60</sup> For more detail on Community Corrections grants at TJPC, see <http://www.tjpc.state.tx.us/publications/standards/Grants10/TJPCGRANTS.pdf>.

<sup>61</sup> Lawrence W. Sherman et al, “Preventing Crime: What Works, What Doesn’t, What’s Promising,” National Institute of Justice, July 1998, pg. 9.

<sup>62</sup> Gregory D. Kutz, Managing Director Forensic Audits and Special Investigations, and Andy O’Connell, Assistant Director Forensic Audits and Special Investigations, United States Government Accountability Office, “RESIDENTIAL TREATMENT PROGRAMS: Concerns Regarding Abuse and Death in Certain Programs for Troubled Youth,” Testimony Before the Committee on Education and Labor, House of Representatives, October 10, 2007.

<sup>63</sup> In the first three quarters of FY 2010, more than 2,200 youth were served through the diversion pilots. From House Committee on Corrections, *Interim Report to the 82<sup>nd</sup> Texas Legislature*, pg. 8. Representatives from Cameron, Dallas, Jefferson, Randall, and Travis Counties have specifically testified before the Senate Committee on Criminal Justice about reductions in commitments to TYC through the use of Community Corrections Diversion Program funding. From Senate Committee on Criminal Justice, *Interim Report to the 82<sup>nd</sup> Legislature*, pgs. 78, 79.

<sup>64</sup> Texas Juvenile Probation Commission (TJPC), “Legislative Appropriations Request for Fiscal Years 2012 and 2013,” August 9, 2010, pg. 3 of 6 (Administrator’s Statement).

<sup>65</sup> Texans Care for Children, Press Release: “Juvenile Corrections System Acts as Mental Health Provider of Last Resort for Many Texas Families,” January 27, 2010; <http://texanscareforchildren.org/For-the-Press/Juvenile-Corrections-System-Acts-as-Mental-Health-Provider-of-Last-Resort-for-Many-Texas-Families?&Sort=>

<sup>66</sup> TJPC, *Legislative Appropriations Request for Fiscal Years 2012 and 2013*, pg. 3 of 6 (Administrator’s Statement).

<sup>67</sup> Texas Juvenile Probation Commission (TJPC), “Strategic Plan: Fiscal Years 2011-15,” June 2010, pg. 23.

<sup>68</sup> National Institute on Drug Abuse (NIDA), “Frequently Asked Questions (FAQs),” #15: *What are the unique treatment needs of juveniles in the criminal justice system?*: “Assessment is particularly important, because not all adolescents who have used drugs need treatment”; [http://www.nida.nih.gov/podat\\_cj/faqs/faqs2.html](http://www.nida.nih.gov/podat_cj/faqs/faqs2.html).

<sup>69</sup> *Ibid.*: “The effective treatment of juvenile substance abusers often requires a family-based treatment model that targets family functioning and the increased involvement of family members.”

<sup>70</sup> Bexar County operates the Kids Averted from Placement Services (KAPS), which provides intensive family-based services for youths and their families in efforts to address the underlying issues that have led to youth misbehavior. According to the Texas Public Policy Foundation, the program’s success rates are significant: the majority of KAPS participants have not been adjudicated for later offenses, and the one-year re-referral rate is 15% lower than the state average for juvenile probation. The cost-savings are also significant: the program costs \$58.33 per day, compared to \$138.25 per day for the Bexar County post-adjudication facility or a county-contracted residential program. From Marc Levin, “Getting More for Less in Juvenile Justice: Innovative and Cost-Effective Approaches to Reduce Crime, Restore Victims, and Preserve Families,” Texas Public Policy Foundation, March 2010, pg. 30.

<sup>71</sup> The Dallas Police Department created a voluntary, education-based program to divert first-time offenders, aged 10-16, from the justice system for Class A and B misdemeanor offenses, as well as for nonviolent state jail felonies. Over time, the program has diverted 6,154 youth first-time offenders from probation and, frequently, detention. The program costs 13 times less per day than detention and 25% less than probation. From Marc Levin, “Texas Counties Can Unlock Kids and Savings,” Center for Effective Justice – Texas Public Policy Foundation, December 2009, pgs. 1-2.

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<sup>72</sup> Texas Administrative Code, Sec. 344.640 (a): A juvenile probation officer or juvenile supervision officer shall complete a minimum of 80 hours training every 24 months in topics related to the officer's job duties and responsibilities in order to maintain an active certification: (1) For juvenile supervision officers, this training shall include the facility's suicide prevention plan and requirements necessary to maintain certification in CPR, First Aid and personal restraint technique approved by the [Texas Juvenile Probation] Commission.

<sup>73</sup> Marc Levin, *Getting More for Less in Juvenile Justice*, pg. 4.

<sup>74</sup> Cherie Townsend, Executive Director of TYC, in a letter to TYC staff, January 19, 2011; [http://www.tyc.state.tx.us/news/ctownsend\\_01-19-2011.html](http://www.tyc.state.tx.us/news/ctownsend_01-19-2011.html).

<sup>75</sup> LBB, *Legislative Budget Estimates for the 2012-2013 Biennium: Articles I-X, House Version*, pg. V-40.

<sup>76</sup> Cherie Townsend, *Letter to TYC staff*.

<sup>77</sup> Texas Youth Commission (TYC), "Legislative Appropriations Request For Fiscal Years 2012 and 2013," August 30, 2010, pg. 29.

<sup>78</sup> LBB, *Criminal Justice Uniform Cost Report: Fiscal Years 2006-2008*, pg. 17; comparing FY 2008 costs-per-day for halfway houses (\$184.26) and state-operated facilities (\$270.49).

<sup>79</sup> Dick Mendel, "Small is Beautiful: The Missouri Division of Youth Services," *Advocacy: Juvenile Justice at a Crossroads*, Vol. 5, No. 1, Spring 2003, pgs. 30-31.

<sup>80</sup> Douglas Abrams, "A Very Special Place in Life: The History of Juvenile Justice in Missouri," Missouri Juvenile Justice Association, 2003, pg. 198.

<sup>81</sup> Dick Mendel, *Small is Beautiful*, pg. 34.

<sup>82</sup> Douglas Abrams, *A Very Special Place in Life*, pg. 206.

<sup>83</sup> Marc Levin, *Texas Criminal Justice Reform: Lower Crime, Lower Cost*, pg. 5.

<sup>84</sup> TYC, *Legislative Appropriations Request For Fiscal Years 2012 and 2013*, pg. 29.

<sup>85</sup> Texans Care for Children, *Press Release: Juvenile Corrections System Acts as Mental Health Provider*.

<sup>86</sup> TJPC, *Strategic Plan: Fiscal Years 2011-15*, pgs. 22, 24.

<sup>87</sup> *Ibid.*, pg. 53.

<sup>88</sup> Sunset Advisory Commission, *Commission Decisions*, pg. 5.

<sup>89</sup> *Ibid.*, pg. 4.

<sup>90</sup> Functional Family Therapy is "an empirically grounded, well-documented and highly successful family intervention for at-risk youth ages 10 to 18 whose problems range from acting out to conduct disorders to alcohol and/or substance abuse." From *Functional Family Therapy*; <http://www.fffinc.com>.

<sup>91</sup> Multisystemic Therapy is "an intensive family-and community-based treatment program that focuses on the entire world of chronic and violent juvenile offenders – their homes and families, schools and teachers, neighborhoods and friends." From MST, *What is Multisystemic Therapy*; <http://www.mstservices.com>.

<sup>92</sup> Multidimensional Treatment Foster Care is "a cost-effective alternative to regular foster care, group or residential treatment, and incarceration for youth who have problems with chronic disruptive behavior. The evidence of positive outcomes from this unique multi-modal treatment approach is compelling." From TFC Consultants, Inc.; [http://www.mtfc.com/TFC\\_Consultants.html](http://www.mtfc.com/TFC_Consultants.html). Note additionally: Each of these three programs has been proven to save money and reduce crime. From "Washington State Institute for Public Policy, "Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance, and Cost," June 2007, pg. 7.

<sup>93</sup> Texas Youth Commission, *Regionalization Plan: Evolving Regionalization & Population Management (continued)*; [http://www.tyc.state.tx.us/reform/regionalization/2\\_bonds\\_highlights.html](http://www.tyc.state.tx.us/reform/regionalization/2_bonds_highlights.html).