

I sela Gutierrez



TEXAS CRIMINAL
JUSTICE COALITION

WRITTEN TESTIMONY

**SUBMITTED BY ISELA GUTIÉRREZ, JUVENILE JUSTICE INITIATIVE
DIRECTOR**

**REGARDING THE TEXAS YOUTH COMMISSION, TEXAS JUVENILE
PROBATION COMMISSION AND THE OFFICE OF THE INDEPENDENT
OMBUDSMAN
SUNSET STAFF REPORT OF NOVEMBER, 2008**

SUNSET ADVISORY COMMISSION

DECEMBER 15 AND 16, 2008

WHO WE ARE

The Texas Criminal Justice Coalition (TCJC) is a non-profit, non-partisan organization that promotes real solutions to the problems facing Texas' criminal and juvenile justice systems through policy analysis and public education. We support evidence-based solutions that embody the principles of effective management, accountability, public safety, and human and civil rights.

TCJC's Juvenile Justice Initiative (JJI) advocates for juvenile justice policy solutions that maximize opportunities for troubled youth to become productive, law-abiding adults. Through educational outreach, JJI promotes reallocation of juvenile justice funding toward community-based alternatives to incarceration, treatment for substance abuse and mental health problems, juvenile drug courts, and restorative justice practices.

Investment in successful juvenile justice policies today will strengthen communities, and result in long-term economic and public safety benefits for future Texans.

Contact Information

Isela Gutiérrez
Juvenile Justice Initiative Director

Dear Sunset Advisory Commission members,

My name is Isela Gutiérrez, Director of the Juvenile Justice Initiative at the Texas Criminal Justice Coalition (TCJC). Thank you for giving me the opportunity to present testimony on behalf of TCJC regarding the Sunset Advisory Commission Staff Report on the Texas Youth Commission (TYC), Texas Juvenile Probation Commission (TJPC) and the Office of the Independent Ombudsman (OIO) released November, 2008.

We would like to commend the staff for their hard work on this report, and to thank the members and staff of the Sunset Advisory Commission for their dedication to ensuring that Texas' juvenile justice system provides high quality, cost-effective rehabilitative programming to troubled Texas youth, families and communities.

Below we respond briefly to the majority of recommendations provided in the report, and offer our suggestions for additional consideration where relevant.

ISSUE 1: TEXAS' JUVENILE JUSTICE AGENCIES, SERVICES, AND FUNDING NEED MAJOR RESTRUCTURING TO ENSURE AN EFFECTIVE CONTINUUM OF TREATMENT AND SANCTIONS FOR YOUTHFUL OFFENDERS.

1.1 Abolish TYC and TJPC and transfer their functions to a newly created state agency, the Texas Juvenile Justice Department, with a Sunset date of 2015.

TCJC Response to Recommendation 1.1: Disagree

While TCJC shares the Sunset staff's frustration with the slow, tortuous pace of TYC reform efforts initiated in 2007, and strongly agrees that lack of coordination between TYC and TJPC is a major shortcoming of Texas' current state juvenile justice services and funding structure, **we do not believe that consolidation of TYC and TJPC into a new Texas Juvenile Justice Department will have the intended effect of establishing a seamless continuum of juvenile justice programming for Texas' youth.**

A merger would further delay implementation of 2007 reforms. With the appointment of permanent leadership in October, 2008, TYC appears at long last to be moving toward implementation of Senate Bill (S.B.) 103's major mandates. Significant work from numerous stakeholders went into the development of S.B. 103, and its proper implementation is critical to restoring the trust of Texans in the state's capacity to protect the incarcerated youth in its custody. Beginning another major juvenile justice reform initiative when S.B. 103's reforms are still not complete would inevitably result in further delays in its implementation.

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. We believe that many of the reforms identified by Sunset staff under Issue 1 can be implemented within the existing structure of two separate state agencies.

1.2 Establish an 11-member Board to govern the Texas Juvenile Justice Department.

TCJC Response to Recommendation 1.2: Disagree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. We believe that many of the reforms identified by Sunset staff under Issue 1 can be implemented within the existing structure of two separate state agencies.

S.B. 103 specifically directed the Sunset Advisory Commission to study the merits of having an executive commissioner govern TYC as compared to a citizen board. TCJC agrees with the Sunset staff's conclusion that a governing board is more likely to ensure broad representation and encourage public participation in the policymaking process. However, we believe it is important to keep TYC's current executive commissioner Cheryl Townsend at the helm of the agency as a permanent leader, regardless of whether it is as a commissioner or as a director.

1.3 Establish community corrections pilot program that encourages counties to keep lower-risk offenders eligible for commitment to TYC in their home communities and out of state confinement.

TCJC Response to Recommendation 1.3: Agree

TCJC supports the Sunset staff recommendation to create a community corrections pilot program to encourage counties to serve lower-risk youth locally, but believes that effective implementation of this recommendation would require new monies and significant dialogue among juvenile justice stakeholders about how best to craft the pilot, if it is to be successfully implemented in the 2010-2011 biennium. The specific pilot provisions provided in the Sunset staff report should serve as a starting point for such stakeholder discussions.

TCJC believes this recommendation should be administered by TJPC, rather than by a new Texas Juvenile Justice Department.

1.4 The Sunset Commission should recommend that the Legislature designate appropriate funding to establish the community corrections pilot program.

TCJC Response to Recommendation 1.4: Agree

1.5 Consolidate existing community corrections funding for probation departments through the State's appropriations process.

TCJC Response to Recommendation 1.5: Agree

TCJC supports Sunset staff's recommendation to consolidate existing community corrections funding, but believes it should be administered by TJPC rather than a new Texas Juvenile Justice Department.

To the extent possible, grant conditions for community corrections funding should be designed to encourage the use of intensive, non-residential interventions for lower-risk offenders and residential

programs with proven effectiveness (identified by Sunset staff as “programs [that] often emphasize smaller facilities focusing on rehabilitation rather than punishment.”)

1.6 Require the Department to consider past performance in awarding future community corrections grants or pilot program grants.

TCJC Response to Recommendation 1.6: Agree

TCJC believes this recommendation should be administered by TJPC rather than by a new Texas Juvenile Justice Department.

1.8 Require the Department to give juvenile courts access to information on youths’ progress at TYC.

TCJC Response to Recommendation 1.8: Agree

TCJC believes this recommendation should be administered by TYC in collaboration with TJPC and juvenile probation departments, rather than by a new Texas Juvenile Justice Department.

1.9 Require the Department to adopt a memorandum of understanding with TCOOMMI for continuity of care for juvenile offenders with mental impairments.

TCJC Response to Recommendation 1.9: Agree

TCJC believes this recommendation should be administered by TYC, TJPC and TCOOMMI, rather than by a new Texas Juvenile Justice Department.

1.10 Require the development of a comprehensive five-year Juvenile Justice Improvement Plan, with annual implementation updates, to better integrate state and county juvenile justice functions and to address other critical state-level reforms.

TCJC Response to Recommendation 1.10: Agree

TCJC strongly supports Sunset staff’s recommendation to require the development of a five-year Juvenile Justice Improvement Plan. In order to ensure the development of a truly effective plan, the development process should be transparent and inclusive of outside stakeholders, such as youth, families, and community and advocacy groups.

We believe that this, like most of the recommendations made by Sunset staff under Issue 1, can be implemented within the existing structure of two separate state agencies.

ISSUE 2: THE OFFICE OF INDEPENDENT OMBUDSMAN AND THE NEW TEXAS JUVENILE JUSTICE DEPARTMENT NEED CLEARER GUIDELINES TO ENSURE EFFECTIVE INTERACTION.

2.1 Require the new Texas juvenile Justice Department and Office of Independent Ombudsman to jointly develop and adopt rules outlining procedures for TYC to review and comment on OIO's draft reports and to formally respond to OIO's published reports.

TCJC Response to Recommendation 2.1: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC recommends replacing the reference to "the Department" with "TYC."

2.2 Require the Department and OIO to adopt a memorandum of understand outlining how the agencies should communicate in areas of overlapping responsibilities.

TCJC Response to Recommendation 2.2: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC recommends replacing the reference to "the Department" with "TYC."

2.3 Require that OIO undergo Sunset review during the same time period as the Department.

TCJC Response to Recommendation 2.3: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC recommends replacing the reference to "the Department" with "TYC."

ISSUE 3: A SMALL NUMBER OF NONSECURE RESIDENTIAL FACILITIES, USED EXCLUSIVELY BY COUNTIES FOR PLACING YOUTH ON PROBATION, ARE NOT LICENSED OR MONITORED BY ANY STATE AGENCY.

3.1 Require the new Texas Juvenile Justice Department to regulate all public and private nonsecure correctional facilities that accept only youth on probation.

TCJC Response to Recommendation 3.1: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

3.2 Require the new Department to establish certification standards for employees who work in nonsecure correctional facilities that accept only youth on probation.

TCJC Response to Recommendation 3.2: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

3.3 Require a local juvenile board to annually inspect any nonsecure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the Texas Juvenile Justice Department.

TCJC Response to Recommendation 3.3: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

ISSUE 4: ELEMENTS OF TJPC'S OFFICER CERTIFICATION PROGRAM DO NOT CONFORM TO COMMONLY APPLIED LICENSING PRACTICES.

4.1 Authorize the new Texas Juvenile Justice Department to require certified officers to obtain continuing education as a condition of renewal.

TCJC Response to Recommendation 4.1: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

4.2 Require the Department to report annually on the final resolution of abuse, neglect, and exploitation complaints.

TCJC Response to Recommendation 4.2: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

4.4 Authorize the Department to place certified officers on probation.

TCJC Response to Recommendation 4.4: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

4.5 Authorize the Department to temporarily suspend an officer's certification under certain circumstances.

TCJC Response to Recommendation 4.5: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.

4.6 Clarify certified officers' right to appeal Department actions to district court under the substantial evidence standard.

TCJC Response to Recommendation 4.6: Agree

TCJC recommends maintaining TYC and TJPC as separate agencies, and does not agree with the Sunset staff recommendation to establish a new Texas Juvenile Justice Department. TCJC believes this recommendation should be administered by TJPC.