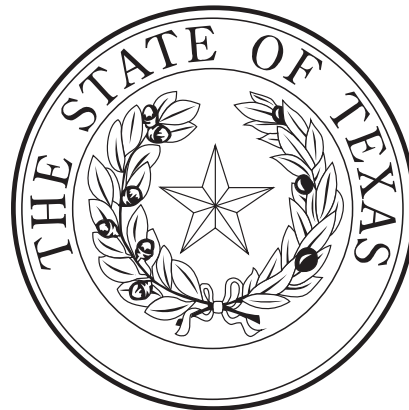




Interim Report

to the 84th Legislature

House Committee on
Corrections



January 2015

**HOUSE COMMITTEE ON CORRECTIONS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2014**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
84TH TEXAS LEGISLATURE**

**TAN PARKER
CHAIRMAN**

**COMMITTEE CLERK
LESLEY FRENCH**

**ASSISTANT COMMITTEE CLERK
MEAGAN SMITH**



Committee on Corrections

January 5, 2015

Tan Parker
Chairman

P.O. Box 2910
Austin, Texas 78768-2910


The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

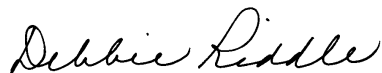
The Committee on Corrections of the Eighty-third Legislature hereby submits its interim report including recommendations for consideration by the Eighty-fourth Legislature.

Respectfully submitted,

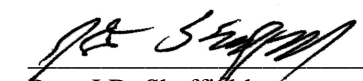

Tan Parker

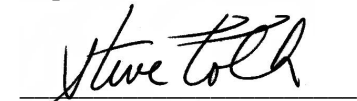

Rep. James White, Vice-Chair


Rep. Alma Allen


Rep. Debbie Riddle


Rep. Toni Rose


Rep. J.D. Sheffield


Rep. Steve Toth

James White
Vice-Chairman

Members: Alma Allen, Debbie Riddle, Toni Rose, J.D. Sheffield and Steve Toth

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CORRECTIONS COMMITTEE

At the beginning of the 83rd Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Corrections (the Committee). The Committee membership included the following appointees: Tan Parker, James White, Alma Allen, Debbie Riddle, Toni Rose, J.D. Sheffield, and Steve Toth.

During the interim, Speaker Straus assigned the Committee on Corrections the following charges:

1. Study and review the correctional facilities and processes within Texas Department of Criminal Justice, Texas Board of Pardons and Paroles, and Texas Juvenile Justice Department with emphasis on efficiencies, effectiveness, and recidivism. Examine the existing programmatic approach per facility in the areas of the vocation, education, visitation, rehabilitation, health and mental health services, parole supervision, and reentry initiatives. Evaluate opportunities for partnerships between facilities and private industries to offer education, job training, and potential employment for offenders during incarceration, parole, and final release.
2. Examine the association between co-occurring serious mental illness and substance use disorders and parole revocation among inmates from the Texas Department of Criminal Justice; review current policies and procedures for incarcerating individuals with a dual mental health diagnosis in both state and county correctional facilities and examine potential remedies within the State's criminal justice system to ensure that the public is protected and that individuals with a mental health diagnosis receive a continuum of mental health services. (Joint charge with the House Committee on Criminal Jurisprudence).
3. Analyze and make recommendations within the Juvenile Justice on outcome-based financing models that allow the state to partner with private investors and innovative service providers willing to cover the upfront costs and assume performance risk to divert youths into cost-effective programs and interventions, while assuring that taxpayers will not pay for the programs unless the programs demonstrate success in achieving the desired outcomes.
4. Study the impact of SB 393 (83R) and SB 1114 (83R). Assess the impact of school discipline and school-based policing on referrals to the municipal, justice, and juvenile courts, and identify judicial policies or initiatives designed to reduce referrals without having a negative impact on school safety. (Joint charge with the House Committee on Public Education).
5. Monitor the administration of the Correctional Managed Health Care system and examine forecasts for short and long-term criminal justice populations and health care cost trends. (Joint charge with the House Committee on Appropriations).

-
6. Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 83rd Legislature. In conducting this oversight, the committee should:
 - a. Consider any reforms to state agencies to make them more responsive to Texas taxpayers and citizens;
 - b. Identify issues regarding the agency or its governance that may be appropriate to investigate, improve, remedy, or eliminate;
 - c. Determine whether an agency is operating in a transparent and efficient manner; and
 - d. Identify opportunities to streamline programs and services while maintaining the mission of the agency and its programs.

The Committee met in three public hearings, held April 22, 2014, May 29, 2014, and October 8, 2014. The Committee would like to express its appreciation to the staff at the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, Correctional Managed Healthcare Committee, and the Texas Board of Pardons and Paroles.

The Committee would also like to express its appreciation to the state government employees, industry representatives, advocates and interested public citizens who testified before the Committee and contributed to the interim process.

REVIEW CORRECTIONAL FACILITIES AND PROCEDURES

Background

In preparation for the 84th Legislative Session, Speaker Joe Straus charged the Committee on Corrections to study and review the correctional facilities and processes within the Texas Department of Criminal Justice (TDCJ), Texas Board of Pardons and Paroles (BPP), and the Texas Juvenile Justice Department (TJJJ) with emphasis on efficiencies, effectiveness, and recidivism. The committee was tasked with examining the existing programmatic approach per facility in the specific areas of vocation, education, visitation, rehabilitation, health and mental health services, parole supervision, and re-entry initiatives. Additionally, the committee was asked to evaluate opportunities for partnerships between facilities and private industries to offer education, job training, and potential employment for offenders during incarceration, parole, and final release.¹

Texas Department of Criminal Justice

To understand our future goals for the prison system, we need to understand the history of TDCJ. In 1849, Texas established its prison system and the probation system in 1913.²

Due to growth the of overcrowded prisons, the legislature instituted mandatory supervision for offenders released based on good time plus calendar time calculations for all offenders, regardless of the nature of their offense in 1977.³ During the 1980s, Texas began to build more prisons to accommodate the population growth.⁴ In 1987 and in subsequent years, offenders serving time for certain categories of offenses, including most violent offenses, were made ineligible for mandatory supervision release.⁵

The most dramatic development during this period was the *Ruiz v. State* decision in 1980. Judge William Wayne Justice's original *Ruiz* opinion ruled that the Texas Department of Corrections imposed cruel and unusual punishment.⁶ In 1982, the United States Court of Appeals-Fifth Circuit upheld Judge Justice's finding (*Ruiz* lawsuit) that TDC imposed cruel and unusual punishment; however, the Appellate Court reversed some of the more specific remedial measures ordered by Judge Justice.⁷ The legislature renamed TDC to the Texas Department of Criminal

¹ Speaker Joe Straus, *2014 Interim Charges to House Committees*, January 31, 2014.

² Agency Strategic Plan, Fiscal Years 2013-2017, by the Texas Department of Criminal Justice, pages 2 - 6.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

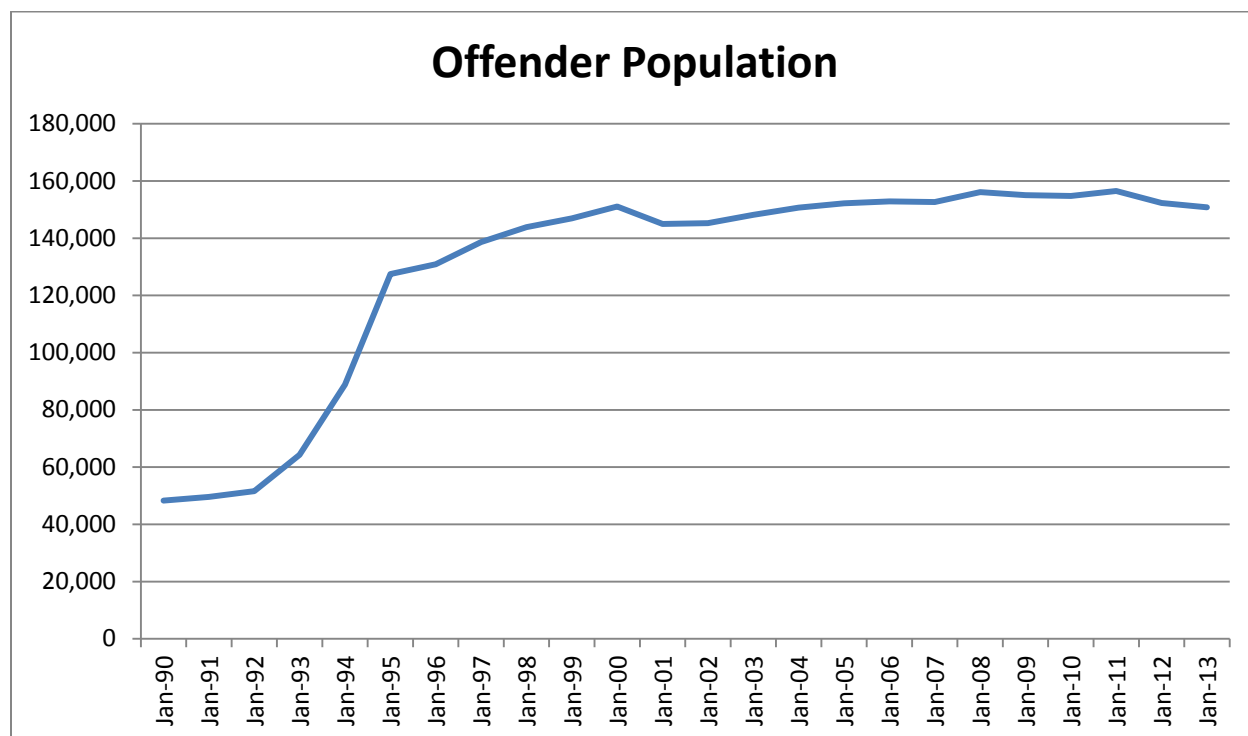
⁶ *Id.*; See also *Ruiz v. Estelle*, 503 F. Supp. 1265 (S.D. Tex. 1980).

⁷ *Id.*

Justice (TDCJ) in 1989 and established the first substance abuse program.⁸ In 1992, the *Ruiz Final Judgment* consolidated all previous orders related to the lawsuit, and allowed the TDCJ to be governed by departmental policies and procedures.⁹

The legislature created the offense category of state jail felony in 1993, which required additional prisons to be built to house the new state jail felony population.¹⁰ Adding to the prison population growth, the legislature in 1993 gave the Board of Pardons and Paroles the authority to block a scheduled mandatory supervision release based on factors such as an assessment of risk to the public.¹¹

The chart below illustrates the population growth within TDCJ over the last twenty years.¹²



In 1997, the legislature created the Programs and Services Division of the TDCJ (now the Rehabilitation Programs Division) to administer rehabilitation and re-entry programs.¹³ It also gave TDCJ's Parole Division the authority to create a Super-Intensive Supervision Program (SISP) category for violent mandatory supervision releasees and parolees who need a very high degree of supervision, as determined by the Board of Pardons and Paroles.¹⁴ Under SISP, releasees who pose a significant threat to public safety face supervision measures whose scope is

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Texas Department of Criminal Justice, *FY 1990-FY 2014 Population Chart*, December 2014.

¹³ *Id.*

¹⁴ *Id.*

"construed in the broadest possible manner consistent with constitutional constraints."¹⁵

During the Sunset review process during 2006-2007, the legislature responded to projections of inmate population growth by appropriating additional funding for numerous programs designed to reduce recidivism and provide alternatives to incarceration.¹⁶ This was a significant step to reduce the prison population and find alternative treatments. Inmate population growth peaked during the summer of 2008, and then began a decline which continued throughout the remainder of 2008 and 2009.¹⁷ TDCJ created a new Re-entry and Integration Division to facilitate the successful transition of offenders from incarceration to supervision.¹⁸

With projections of offender population growth relatively flat after the expansion of treatment and diversion programs, the legislature in 2011 authorized the closure of the Central Unit in Sugar Land.¹⁹ In addition, for the first time since the inception of the state jail system, district court judges are able to award good time credit to state jail offenders who diligently participate in work, academic, and treatment programs.²⁰

During the Sunset review process in 2012, the committee recommended closing additional TDCJ units. The legislature agreed and authorized the closure of the Mineral Wells Pre-Parole Transfer Facility and Dawson State Jail in 2013.²¹

Board of Pardons & Paroles

The Board of Pardons and Paroles (BPP) was created by constitutional amendment in 1936.²² BPP is comprised of seven members.²³ Several months before an offender's parole eligibility review date, a parole officer interviews the offender and prepares a case summary. The case summary includes the facts of the offender's offense, disciplinary record while in prison, physical and mental condition, and other factors. Once the review process is completed, it is forwarded to BPP.²⁴ Every year, the state of Texas releases approximately 70,000 individuals from incarceration back into the community.²⁵

A BPP panel reviews the offender's case as the offender's parole eligibility review date approaches. The panel is composed of at least one board member and any combination of board

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Koh, Elizabeth, Texas Tribune, *TDCJ to Close Two Privately Run Jails in August*, June 11, 2013, available at <http://www.texastribune.org/2013/06/11/tdcj-shutters-private-jails/>

²² Agency Strategic Plan, Fiscal Years 2013-2017, by the Texas Department of Criminal Justice, pages 2 - 6.

²³ Texas Board of Pardons and Paroles, *Board Members*, July 1, 2014, available at http://www.tdcj.state.tx.us/bpp/brd_members/brd_members.html.

²⁴ The Texas Department of Criminal Justice (TDCJ) has three different types of secure facilities from which offenders may be released: prison, state jails, and Substance Abuse Felony Punishment facilities (SAFP).

²⁵ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Rissie Owens, Board of Pardons & Paroles).

members and parole commissioners, and two of the three panelists must vote for parole before it can be granted.²⁶ The offender may be interviewed by one or more of the panel members before the final panel vote.

Parole panel members look at a variety of information as they make their decision. Based on the entirety of the available information, the parole panel then determines whether the offender deserves the privilege of parole. The following information is considered:

- Circumstances and seriousness of the offense
- Prior prison commitments
- Relevant input from victims, family members, and trial officials
- Adjustment and attitude in prison
- Offender's release plan
- Factors such as alcohol or drug use, violent or assaultive behavior, deviant sexual behavior, use of a weapon in an offense, and emotional stability.²⁷

Using the case summary and other related documents, BPP makes a decision whether to release the offender on parole or discretionary mandatory supervision. If the board decides to grant parole status, special conditions may be put upon the offender. If an offender's parole is approved, he or she is released on the parole eligibility date, upon completion of a required treatment program or date specified by BPP. If denied, the offender is given either a Serve-All (SA) or a Next Review (NR) date.²⁸ Once approved, the case summary of the offender is

²⁶ *Id.*

²⁷ *Id.*

²⁸ NR vote means that the parole panel has decided the offender is not ready for parole but that a subsequent review should be conducted at a specified future date within one to five years for offenders serving a sentence listed in §508.149(a), Government Code, and one year for an offender not serving a sentence under §508.149(a) Government Code. Serve-All vote means that the offender is not considered ready for parole and that no future parole reviews will be scheduled. A Serve-All may only be given to offenders who have less than five years until their discharge or scheduled release to mandatory supervision if serving a sentence listed in §508.149(a), Government Code and one year for offenders not serving sentences listed in §508.149(a), Government Code.

Texas Government Code, Section 508.149(a) offenses include:

- Injury to a Child or Elderly, 1st Degree
- Arson, 1st Degree
- Robbery, 2nd Degree
- Burglary, 1st Degree
- A Felony Increased Under Health and Safety Code (Drug-Free Zones)
- Injury to Disabled Individual
- Indecency with a Child
- Murder, 2nd Degree
- Capital Murder
- Aggravated Kidnapping
- Aggravated Sexual Assault
- Aggravated Robbery
- Any Offense with an Affirmative Finding of a Deadly Weapon
- Murder, 1st Degree
- Sexual Assault, 2nd Degree
- Aggravated Assault, 1st and 2nd Degree

forwarded to the supervising parole officer.²⁹

Below is a chart that illustrates the parole review summaries between 2010-2012.

The Institutional Parole Offices (IPO) perform a variety of functions for the Board. A primary IPO responsibility is interviewing offenders and preparing case summaries for review by a parole panel. The information in the case summary assists the parole panel in making parole or discretionary release decisions. In FY 2012, there were 78,512 parole case summaries and 19,099 discretionary mandatory supervision transmittals completed. Additionally, 21 summaries were prepared for clemency decisions on death penalty cases.

Summaries Prepared

	FY 2010	FY 2011	FY 2012
Parole Case Summaries	76,164	79,991	78,512
DMS Transmittals	18,654	20,547	19,099
Clemency Case Summaries	23	21	21
TOTAL	94,841	100,559	97,632

Upon a decision being rendered by a voting panel, the IPO is responsible for notifying the offender of the release decision along with the approval or denial reason(s). In FY 2012, IPOs provided notification via status letters to 87,766 offenders.

Offender Notification

	FY 2010	FY 2011	FY 2012
Status Letters Provided to Offenders	82,057	83,711	87,766

Once an offender is identified as being scheduled for release within six months of parole or mandatory supervision, staff reviews case files for statutory, agency and BPP requirements. Certain cases are referred to BPP for review of special conditions and/or Super-Intensive Supervision Program.³⁰

Once a release plan is approved and the Parole Division has received notification from BPP about special conditions of release, a release certificate is issued. A parole release becomes effective when the offender signs his or her release certificate. The certificate orders the release and tells the offender in clear and understandable language where and when to report to their parole orientation. The certificate lists the conditions of release and gives the date on which the

-
- Continuous Sexual Abuse of Young Child
 - Sexual Performance by a Child

²⁹ *Id.*

³⁰ *Id.*

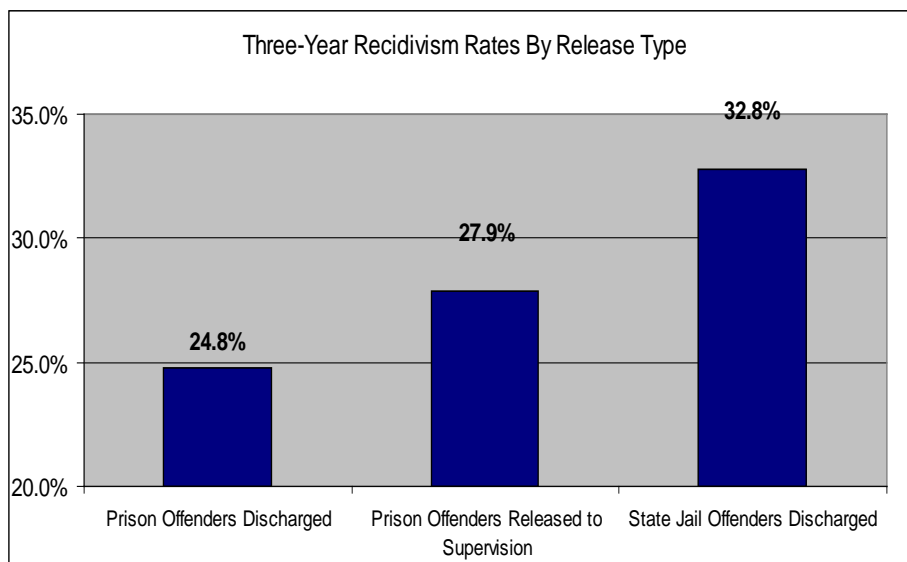
offender will discharge his or her sentence and be free from supervision. The certificate also includes a waiver of extradition.

Offenders released on mandatory supervision are given release certificates that provide parole office information and release conditions. These offenders are not required to sign their release certificates, but they must obey the rules and conditions of supervision and are subject to revocation if they violate the rules or conditions.

TDCJ provides \$50 and a bus ticket to offenders released on parole or mandatory supervision to help with transportation to the community to which they will be paroled. The offender also receives an additional \$50 upon reporting to their parole office.

However, many offenders have trouble adjusting to life once released back into society. Recidivism is generally calculated by the percentage of individuals who return to prison within three years of their release. An individual's return to prison can be triggered either by committing a new offense or by violating the terms of parole under which the person was released.

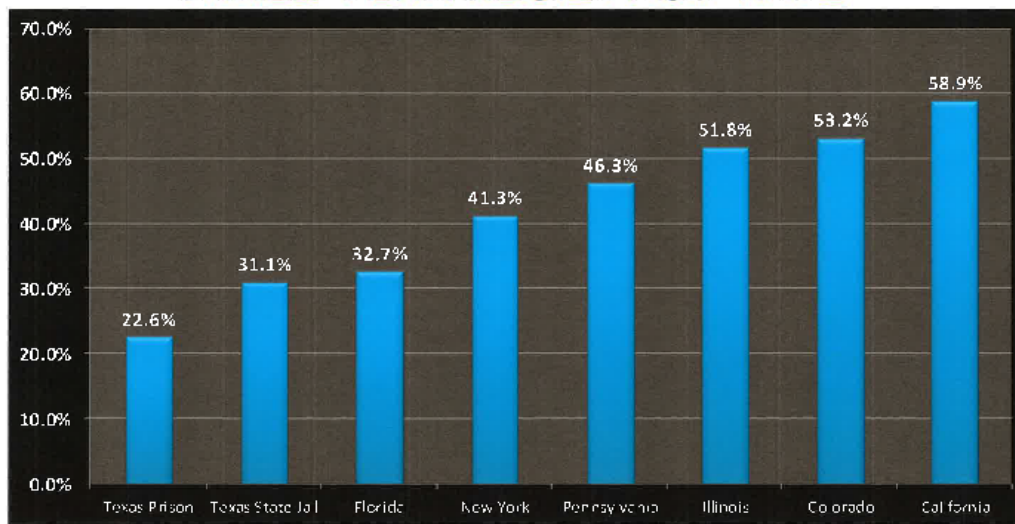
Recidivism rates for inmates of TDCJ are split into three different categories: prison offenders discharged, prison offenders released to supervision and state jail offenders discharged. Below is a chart of recidivism rates for individuals released from TDCJ.³¹



³¹ *Id*

Below is a chart from the most recent data comparing Texas's recidivism rate to other states in the nation.³²

STATE REINCARCERATION RATE COMPARISON THREE-YEAR RECIDIVISM RATE



Source: Legislative Budget Board -ID: 684, January 2013

Texas Board of Pardons and Paroles



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Texas has the lowest recidivism rate compared to other states of similar size and population. California held the title of housing the most prisoners until a new provision required the state to keep lower-level offenders in county jails, rather than prison. In 2014, Texas houses 152,000 offenders compared to 134,000 offenders in California. Florida ranked third with 100,000 offenders.

Texas Juvenile Justice Department

The Texas Juvenile Justice Department (TJJD) and the Texas Juvenile Justice Board (Board) were created on December 1, 2011 as a result of the sunset review process.³³ The 82nd Legislature abolished the existing Texas Juvenile Probation Commission and Texas Youth Commission due to the scandals surrounding them.

TJJD oversees the treatment and rehabilitation of detained youth (also called juvenile offenders).

³² *Id*

³³ S.B. 653, 2011 Leg., 82nd. Sess. (Tx. 2011).

Youth are court ordered to reside in TJJD facilities. A youth must be at least 10 years of age and no older than 17 years of age. TJJD is responsible for the well-being, education, discipline and rehabilitation of youth within its system.

As a continuation of the changes to the juvenile justice system, the 83rd Legislature passed Rider 35 to the General Appropriations Act. Rider 35 mandated TJJD to reduce the number of secure facilities it manages from six to five by January 1, 2014.³⁴ The TJJD secure facilities were Corsicana Residential Treatment Center, Evins Regional Juvenile Center, Gainesville State School, Giddings State School, Ron Jackson State Juvenile Correctional Complex and McLennan County State Juvenile Correctional Facility.

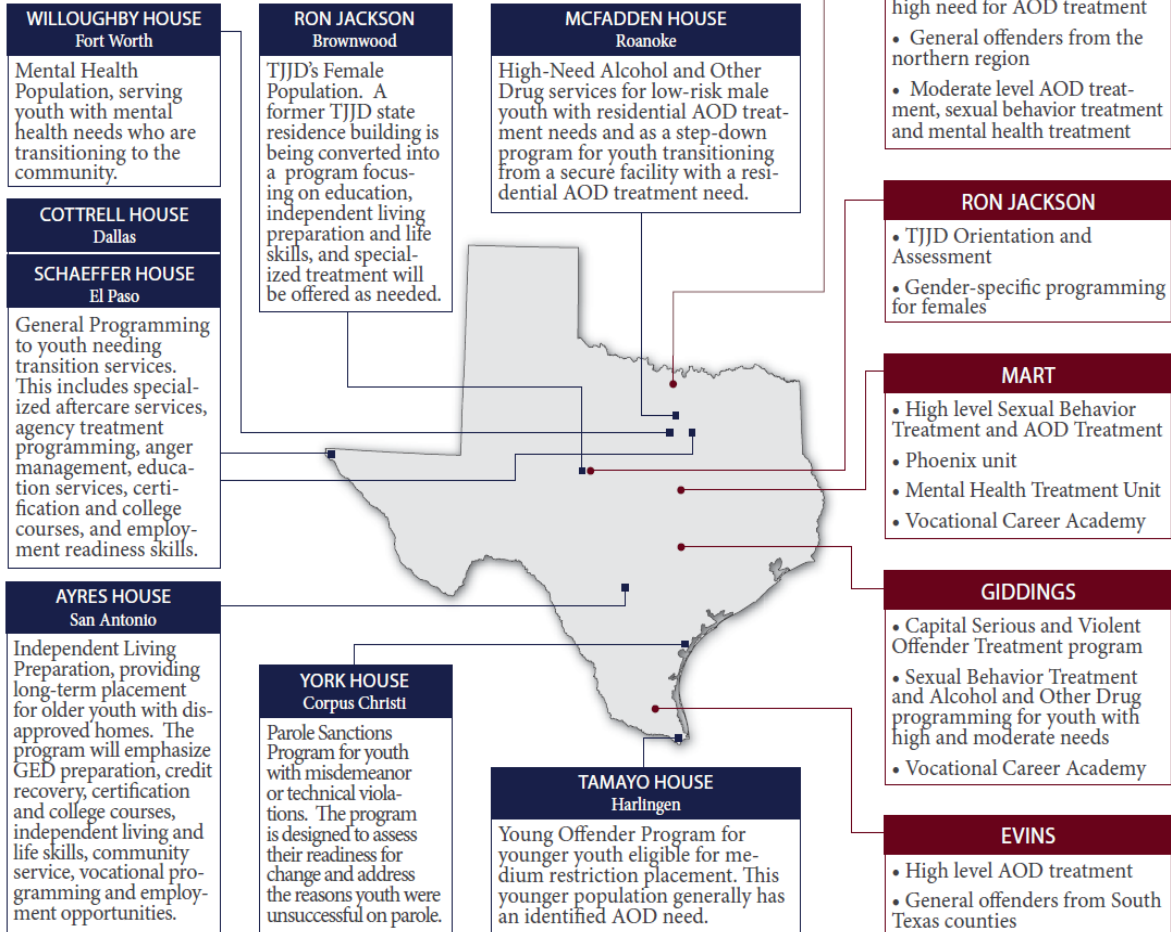
The rider required TJJD to submit a closure plan to the Legislative Budget Board (LBB) by September 1, 2013. After much deliberation and numerous site visits, the Board decided to close the Corsicana unit.³⁵ Below is a chart that illustrates the Board's decision and plan to move forward.

³⁴ General Appropriations Act, Rider 35, 2013 Leg., 83rd. Sess. (Tx. 2013). This rider is further supported by a \$23 million reduction in the agency's Goal B funding for State Services and Facilities, which it uses to operate secure facilities.

³⁵ Texas Juvenile Justice Department, *Closure Recommendation & Transition Plan*, August 30, 2013.

Repurpose Halfway Houses to Specialized Treatment

The number of state-operated TJJD halfway houses will decrease to eight in FY 2014. Halfway houses are being repurposed to meet the vital needs of TJJD youth.



All youth were transferred to other facilities by the end of 2013. By July 31, 2014, 18 of the remaining 21 staffers at Corsicana were no longer employed.³⁶ They were notified earlier in the summer that their positions would be eliminated at the end of this month. Between December 2013 and July 2014, these employees maintained the Corsicana facility, conducted an inventory of property, processed records that have been maintained at Corsicana for decades, continued the support of training at Corsicana, and supported the human resources function for employees that moved to the Mart facility. As of August 1, 2014, there will only be 3 staff at the facility to maintain the physical plant, while TJJD awaits a final approval from LBB to close the facility.³⁷

³⁶ Texas Juvenile Justice Department, *Email to Legislature regarding Corsicana Closure Plan*, July 15, 2013

³⁷ *Id.*

The population within TJJD facilities remains constant with the statutory changes authorized by the Legislature. Below is a chart with the daily population report in September 2014.

TJJD POPULATION SUMMARY REPORT STATE PROGRAMS

UPDATED ON: 09/11/2014

PROGRAMS	FISCAL YEAR-TO-DATE POPULATION					
	BUDGET	ACTUAL	BUDGETED FYTD	ACTUAL FYTD	OVER UNDER	PERCENT
<u>EVINS REG JUV CNTR</u>	136	132	136	134	-2	(1.5%)
<u>GAINESVILLE</u>	252	259	252	256	4	1.6%
<u>GIDDINGS</u>	205	213	205	212	7	3.4%
<u>RON JACKSON YOUNG MALE PROGRAM</u>	20	0	20	0	-20	(100.0%)
<u>MCLENNAN PHOENIX</u>	16	7	16	10	-6	(37.5%)
<u>MCLENNAN RTC</u>	64	49	64	47	-17	(26.6%)
<u>MCLENNAN LONG-TERM</u>	192	203	192	200	8	4.2%
<u>RON JACKSON SHORT-TERM</u>	92	77	92	81	-11	(12.0%)
<u>RON JACKSON LONG-TERM</u>	96	89	96	88	-8	(8.3%)
<u>TOTAL INSTITUTIONS</u>	1073	1029	1073	1028	-45	(4.2%)
<u>AYRES HOUSE</u>	20	18	20	19	-1	(5.0%)
<u>BROWNWOOD HOUSE</u>	6	4	6	4	-2	(33.3%)
<u>COTTRELL HOUSE</u>	16	9	16	9	-7	(43.8%)
<u>MCFADDEN</u>	48	40	48	40	-8	(16.7%)
<u>SCHAEFFER HOUSE</u>	12	13	12	11	-1	(8.3%)
<u>TAMAYO HOUSE</u>	16	12	16	12	-4	(25.0%)
<u>WILLOUGHBY HOUSE</u>	12	14	12	14	2	16.7%
<u>YORK HOUSE</u>	16	6	16	6	-10	(62.5%)
<u>TOTAL HALFWAY HOUSES</u>	146	116	146	115	-31	(21.2%)
<u>CONTRACT CARE</u>	130	93	130	94	-36	(27.7%)
<u>TOTAL RESIDENTIAL</u>	1349	1238	1349	1237	-112	(8.3%)
<u>ICJ</u>	.	16	.	16	.	.
<u>TOTAL PAROLE</u>	0	475	0	480	480	.
<u>TOTAL TJJD</u>	1349	1713	1349	1717	368	27.3%

Analysis

The Committee held two public hearings at the Texas State Capitol on May 29, 2014 and October 8, 2014 to hear invited testimony on this interim charge.

TDCJ - May 29, 2014 Hearing

The committee convened to analyze the processes and procedures of the Texas Department of Criminal Justice, the Windham School District, the Texas Board of Pardons and Parole and other agencies in order to identify recommendations pertaining to interim charge number 1 for the Corrections Committee.

Entry Processes

Bill Stevens (TDCJ) testified in detail about the entry process, offering that the average wait for transfer from county jail to a TDCJ prison is 21 days. TDCJ receives the paperwork from the local jurisdiction and performs a complete medical examination of the offender and then initiates the intake process. Questions were asked regarding the department's records storage procedures and Mr. Stevens explained that TDCJ is in the process of converting old paper files to electronic files and that new incoming offender information is being kept electronically.³⁸

Procurement Issues

Jerry McGinty (TDCJ) testified regarding procurement procedures. He testified that approximately \$1.4 billion in TDCJ items are procured per biennium. He further explained that the Comptroller has the procurement authority for the department unless it is a circumstance specifically delegated to the department, such as commodity and service purchases under a certain cost threshold. Mr. McGinty added that most large purchases, such as food and goods, are bought through the Comptroller's office. For their internal procurement services, TDCJ has a centralized staff of trained individuals and those procurement contracts are internally vetted at different levels depending on the dollar amount before a contract is approved.

Questions were asked regarding contract compliance and Mr. McGinty explained that contracts are regularly reviewed and that if one of the outside contracts is not fulfilled, TDCJ has multiple options at their disposal to address that situation, including the ability to withhold payments until services are fulfilled. The Committee asked if any of these contracts would be beneficial if structured as a pay-for-performance partnership. Mr. McGinty answered that he would have to further research the issue but that he would expect the main challenges to such an arrangement be clearly defining the performance to be met and what the savings/cost avoidance benefit would

³⁸ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Bill Stevens, TDCJ).

ultimately be.³⁹

Services for Health & Rehabilitation

Madeline Ortiz (TDCJ) discussed the rehabilitation programs currently offered through TDCJ that are administered through agency staff, private vendors and community volunteers. She shared examples of their more notable programs, such as the Baby and Mother Bonding Program, the Substance Abuse and Felony Punishment Program, the In Prison Therapeutic Community Program, the Driving While Intoxicated Program, the Two Tier Substance Abuse Program and the Sex Offender Education Program.

Ms. Ortiz further explained that faith-based initiatives within TDCJ assist with the effective delivery of rehabilitative services, and that TDCJ does contract with local colleges and universities in providing education and workforce training services to inmates.⁴⁰ She concluded her testimony by explaining that the TDCJ Chaplaincy Department is comprised of over 100 unit level chaplains of multiple faiths and by describing TDCJ's criteria for assigning chaplains to specific units.⁴¹

Lance Lowry (AFSCME Texas Correctional Employees) testified about the training corrections officers receive to properly address offenders with health issues and mental health issues and his organization's suggestions for properly handling mental health offenders in the future.⁴²

Efficiencies & Opportunities for Public-Private Partnerships

Lathan Watts (Responsive Education Solutions) testified that inmate education and rehabilitation could be a service that would benefit from a pay-for-performance structure between TDCJ and private entities. Mr. Watts explained that charter schools are accustomed to doing more with less and could deliver an innovative educational product at a reduced cost. He testified that competition has improved the tools for education and he would be interested in discussing opportunities for a partnership within the prison system.⁴³

Bert Smith (Prison Entrepreneurship Program) testified that their program recently celebrated its 10th year of providing educational and rehabilitative services to TDCJ inmates by developing their business skill sets and personal character. Over 1,000 offenders have graduated from the

³⁹ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. On Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014)(statement of Jerry McGinty, TDCJ)

⁴⁰ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Madeline Ortiz).

⁴¹ Tex. Department of Criminal Justice, *Faith Based Initiatives*, July 1, 2014, available at http://www.tdcj.state.tx.us/divisions/rpd/rpd_chaplaincy.html

⁴² *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Lance Lowry, AFSCME Texas Correctional Employees).

⁴³ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Lathan Watts, Responsive Education Solutions).

Business Plan Competition and approximately 900 have returned to the free world. Mr. Smith explained that the recidivism rate for PEP graduates is under 7%, compared to TDCJ's rate of 23 percent.

While the premise of PEP's founding was that "no one will hire these guys," we've proven that's not true: over the past 5 years, 100% of our graduates have landed their first jobs within 90 days of release. On average, our graduates move from prison to paycheck in 25 days and start at an hourly wage of almost \$12 per hour-- about 60% above minimum wage. And so far, PEP graduates have started 165 new companies, 3 of which are generating over \$1 million in annual sales and creating many new jobs in the process.⁴⁴

Mr. Smith offered that PEP relies heavily on volunteers from the business community in delivering their educational program. He explained that the benefits of their services extend to the overall community through costs avoidances associated with a lower recidivism rate among their service population and increased sales tax collections associated with the economic activity derived from their professional activity. Mr. Smith testified that the volunteers they utilize are men and women, but that PEP only serves the male prison population due to their large population numbers compared to their female counterparts.

Mr. Smith concluded his testimony by explaining that PEP is currently 90% funded privately through charitable contributions but as the demand for their service continues to grow they will need to seek additional funding sources and would be interested in exploring a pay-for-performance relationship with the state to help meet that funding need.⁴⁵

Collin Sandifer (Schneider Electric) testified about the facilities efficiency improvement services that Schneider Electric offers and the previous projects with public entities that they have completed. In each case, prior public projects have led to cost savings for the public entities, and the ability for the entities to focus more of their funding in core areas of their strategic operation. Mr. Sandifer explained that Schneider Electric has saved the Texas Health and Human Services Commission \$52 million to date through various projects undertaken with the agency.

Mr. Sandifer explained that their services in a pay-for-performance relationship would allow TDCJ to update their outdated and inefficient facilities so that the cost savings attained could be focused instead on their core functions, such as improving rehabilitative and re-entry services to prison inmates. He further offered that their projects are typically structured in a way that Schneider Electric guarantees a minimum amount of realized savings and will make a corresponding financial payment to their client if that guarantee amount is not reached.

Questions were asked regarding how Schneider Electric's service is procured and Mr. Sandifer explained that the process begins with a no-cost consultation/analysis of a facility to see if a cost

⁴⁴ *Recidivism Reduction and Return on Investment: An Empirical Assessment of the Prison Entrepreneurship Program*. Prison Entrepreneurship Program & Baylor University (2013).

⁴⁵ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Bert Smith, Prison Entrepreneurship Program).

savings opportunity exists, followed by addressing procurement mechanisms, and then a further in-depth facility study is conducted to identify specific efficiency improvement opportunities and cost savings strategies.⁴⁶

Administrative Segregation

Bill Stevens (TDCJ) testified on the administrative segregation setting within TDCJ, including providing an overview of the types of circumstances that will lead an inmate to being placed in administrative segregation. He explained that currently there were slightly fewer than 7,000 inmates in administrative segregation, down 25% from previous population counts. Mr. Stevens continued by outlining several programs within TDCJ that are designed to help administrative segregation offenders transition out of administration segregation and/or prepare for their release into the community, including the Serious and Violent Offender Re-entry Initiative, the Administrative Segregation Pre-Release Program, the Gang Renunciation and Disassociation Program and others. Mr. Stevens concluded his testimony by emphasizing that it is TDCJ's priority to have as few offenders as possible in administrative segregation.⁴⁷

⁴⁶ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Collin Sandifer, Snyder Electric).

⁴⁷ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Bill Stevens, TDCJ).

Following the hearing, TDCJ provided additional information regarding the administrative segregation population by custody level as of June 30, 2014.

Administrative Segregation Population by Custody⁴⁸			
	Male	Female	Total
Security Detention I	5,587	56	5,643
Security Detention II	715	20	735
Security Detention III	233	17	250
Protective Custody I	61	6	67
Protective Custody II	1	0	1
Protective Custody III	0	0	0
Totals	6,597	99	6,696

Burke Butler (Texas Civil Rights Project) testified about the use of administrative segregation. She testified about the expense of administrative segregation, the long-term effects on offenders and that administrative segregation can increase recidivism rates. She concluded her testimony with the project’s support for an independent study of Texas’ use of administrative segregation, with focus on key areas that she listed.⁴⁹

Derek Cohen (Texas Public Policy Foundation) testified about improving the re-entry and transition process from administrative segregation to parole. He explained many of the challenges facing an inmate who is transitioning from administrative segregation directly to the outside world and offered his opinion that a step down process would increase TDCJ efficiency and public safety.⁵⁰

⁴⁸ Texas Department of Criminal Justice, *Post-Hearing Correspondence to House Corrections Committee*, August 8, 2014.

⁴⁹ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Burke Butler, Texas Civil Rights Project).

⁵⁰ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Derek Cohen, Texas Public Policy Foundation).

Visitation

Bill Stevens (TDCJ) testified about TDCJ visitation policies and outlined statistics regarding the use of visitation privileges. He offered that productive visitation helps an inmate adjust to incarceration and also aids in their preparation for successfully transitioning back into society. Mr. Stevens continued by outlining proactive changes to their visitation policies that were made based on feedback received from inmate families.

Mr. Stevens's testimony was concluded by discussing with the committee members additional ideas to improve the visitation experience and access for families, such as videoconferencing for visitation.⁵¹

Jorge Renaud (Texas Criminal Justice Coalition) testified about the impact of visitation on families as well as the offenders. He testified that the coalition has gathered statistics suggesting that effective and meaningful visitation privileges provided to an inmate can reduce recidivism by 25% through fostering an inmate's relationships outside of prison. Mr. Renaud concluded his testimony by complementing recent steps TDCJ has undertaken to improve visitation policies, and offered his suggestions for how additional improvement can be achieved.⁵²

Education & Vocational Training

Dr. Clint Carpenter (Windham School District) testified on the education classes and vocational training offered through Windham School District and its 84 campuses on TDCJ facilities. Dr. Carpenter provided an overview of the core educational programs that Windham provides to help offenders complete their GED, as well as innovative vocational training programs that ready inmates to enter the workforce. He shared with committee members that in school year 2013 31,200 inmates completed their GED, 4,600 completed a vocational training program and 5,500 professional certifications and licenses were awarded.

Dr. Carpenter further reviewed additional self-help programs offered by Windham, such as literacy, special education, ESL classes, prerelease, and cognitive training. He concluded his testimony by offering statistics supporting the premise that offenders who complete vocational training programs while incarcerated are more likely to gain employment and remain employed in the workforce upon their release. He further explained that Windham places great emphasis on matching employer needs with their training programs and they achieve this by collaborating with industry representatives and entering into partnerships with companies for employment placements.⁵³

⁵¹ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. On Corrections, 2013 Leg., 83rd. Sess. Interim (Tx 2014) (statement of Bill Stevens, Texas Department of Criminal Justice).

⁵² *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Jorge Renaud, Texas Criminal Justice Coalition).

⁵³ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Clint Carpenter, Windham School District). *See also* Windham School District, Windham, July 1, 2014, available at <http://www.windhamschooldistrict.org>.

Jennifer Erschabek (Texas Inmate Families Association) testified that vocational training is a key component to improving inmate self-esteem, confidence, focus and hope for a bright future upon being released. She spoke from personal family experiences in complementing the existing educational opportunities, but did suggest areas for improvement, such as: improving class availability, increasing transparency in course requirements, expanding on the job training opportunities within our facilities and continuing to control education costs.⁵⁴

Reentry & Parole

April Zamora (TDCJ) testified that TDCJ's Re-entry and Integration Division assists offenders with re-entry issues by addressing their highest needs when released. Her testimony referenced that TDCJ employs 139 re-entry coordinators throughout the state and that these positions have aided in processing applications for inmate social security cards and birth certificates.

Ms. Zamora explained that the department anticipates fully implementing the Texas Risk Assessment System no later than January of 2015. She concluded her testimony by explaining that this risk assessment is a very useful tool in helping to identify individual inmate risks which allows TDCJ to address re-entry problems before they occur through the use of specialized pre-release plans.⁵⁵

Rissie Owens (BPP) testified regarding the structure, makeup, processes and functions of the Board of Pardons and Parole.⁵⁶ She explained that 95,404 cases were reviewed in FY 2013 for parole or mandatory supervision and that 36% of those were authorized for release. Ms. Owens concluded her testimony with a summary of TDCJ's pre-release treatment programs and the BPP's continued support for the ability to place offenders in treatment programs prior to their release instead of after their release.

Ms. Owens also offered that BPP has been making improvements in two key areas: releasing inmates prior to their discharge date and improving transparency in their evaluation process for inmates and their families and providing additional resources on their website.⁵⁷

Tim McDonnell (BPP) testified by giving an overview of the parole process, which includes presenting each releasee with a certificate of release that includes the standard and specific conditions of their release. He further explained that once released, offenders are supervised by the TDCJ parole division, who can use multiple tools to respond to parole violations, including graduated sanctions and, in some circumstances, revoking an offender's parole.

⁵⁴ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Jennifer Erschabek, Texas Inmate Families Association).

⁵⁵ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of April Zamora, Texas Department of Criminal Justice).

⁵⁶ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Rissie Owens, Texas Board of Pardons and Paroles).

⁵⁷ *Id.* The website updates also include more information about process for family members. The call center will be live in the fall of 2014.

After the hearing, the LBB released its biannual correction population projections report.

FIGURE 2.⁵⁸

Correctional Population Projections Overview, Fiscal Years 2015 To 2017

ADULT/JUV	POPULATION TYPE	2015	2016	2017	PERCENTAGE CHANGE
Adult	Incarceration	151,217	151,817	152,374	0.8%
Adult	Parole	87,155	87,802	87,617	0.5%
Adult	Felony Direct Community Supervision	161,422	160,948	160,895	(0.3%)
Adult	Misdemeanor Community Supervision	102,696	102,380	101,264	(1.4%)
Juvenile	State Residential	1,331	1,304	1,288	(3.2%)
Juvenile	Parole	467	444	433	(7.3%)
Juvenile	Juvenile Probation	23,156	23,572	23,471	1.4%

SOURCES: Legislative Budget Board; Texas Department of Criminal Justice; Texas Juvenile Justice Department.

As indicated by the chart, the population within our prison system is expected to remain consistent in the upcoming years.

Sarah Pahl (Texas Criminal Justice Coalition) testified about TDCJ procedures for mental health and substance abuse treatment and the coalition’s thoughts on how to improve the service systems, including diversion programs for mentally ill offenders and a cost benefit analysis for healthcare services provided to elderly inmates. She also testified about re-entry issues and challenges affecting offenders and that TCJC supports more assistance for offenders with finding employment and permanent housing post release. In answering questions from the committee Ms. Pahl concluded her testimony by speaking toward TCJC’s support for providing landlords with liability protections for renting to certain offenders. Specifically, she cited House Bill 1188 from the 83rd Legislative Session as a potential model to follow in crafting landlord liability legislation with exemptions for violent and sex offenders.⁵⁹

TJJD - October 8, 2014 Hearing

The committee convened to analyze the processes and procedures of the Texas Juvenile Justice Department (TJJD) and to identify recommendations pertaining to interim charge number 1 for the Corrections Committee.

⁵⁸Legislative Budge Board, *Adult and Juvenile Correctional Population Projections, Fiscal Years 2014 to 2019* (June 2014).

⁵⁹*Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Sarah Pahl, Texas Criminal Justice Coalition).

Overview of Entry Into TJJD

David Reilly (TJJD) testified before the committee to give an overview of the current population of juveniles under the care of the department. During his testimony he noted that the number of juveniles committed to TJJD continues to decrease and is currently down almost 50% from 2009. Mr. Reilly further explained the demographic makeup of the juveniles committed to the department, including that 91% are males, the median age of an offender in their care is 16 years old, and 37% have a prior felony conviction.⁶⁰

Teresa Stroud (TJJD) testified before the committee to give an overview of the entry process into TJJD. She explained that all incoming youths are first received at the Jackson unit, where they immediately receive a risk and protective evaluation to assess their individual needs. This assessment includes evaluating their current education level, if the offender has any drug or alcohol dependency issues and other measures. Ms. Stroud explained that this risk and protective evaluation is critical for determining a youth's best housing setting, educational plan and other services.

Ms. Stroud further offered that youths receive additional dental, medical, suicide risk and (if necessary) a thorough psychological assessment, among other assessments, before the entry process is completed. She continued her testimony by explaining that children begin receiving educational services almost immediately, focused on a minimum of 4 hours a day of instruction on core subject matters.

Ms. Stroud then described a new program that has been specifically designed for young offenders that will include new recreational activities and a co-educational setting. She explained that 11 young males will open the program and that the program has a capacity for 18 participants. Ms. Stroud then concluded her testimony with a summary of the steps an offender takes to work through the TJJD process and the pathways in which they can be released from a facility, including released to a halfway house or directly back into the community.⁶¹

TJJD Education and Vocational Training

Amy Lopez (TJJD) testified before the committee with an overview on education programs that are made available to the youths in the department's care. She explained that each facility has its own school campus that closely resembles a public school setting. Ms. Lopez explained that TJJD has to comply with nearly every Texas Education Agency rule, including agency rules that govern curriculum standards, student assessments, teacher certification requirements and accommodating special needs students.

Ms. Lopez continued her testimony by offering that they provide students with many of the same innovative educational tools as public schools even though their students are not allowed internet

⁶⁰ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of David Reilly, Texas Juvenile Justice Department).

⁶¹ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Teresa Stroud, Texas Juvenile Justice Department).

access. She further explained that 35% to 40% of their students require special education accommodations due to their disabilities and that 135 of their students use English as a second language.

Ms. Lopez then offered an explanation regarding the steps that the department has taken to create a normal public school setting, including offering boys athletics (football, basketball and track) at three campuses for students who meet certain education and behavioral qualifications. Students in TJJD are also allowed to participate internally in academic and fine arts competitions.

Ms. Lopez's testimony also included a summary of career and vocational training options that are available to students, along with industry certifications, dual and college credit courses and career academies that students can apply to once they have completed their GED. In concluding her testimony, Ms. Lopez informed the committee that TJJD academic scores are currently the highest they have been since 2007.⁶²

Ms. Teresa Stroud (TJJD) testified in response to questions from the committee that TJJD is currently exploring expanding its extra-curricular athletics programs to two more campuses for the 2014-2015 academic year.⁶³

Mr. David Reilly (TJJD) testified in response to questions from the committee that TJJD is currently undertaking an initiative to gather and analyze student data to determine the degree that special education programs and extra-curricular privileges help children reduce their recidivism rates.⁶⁴

TJJD Visitation Policies

Mr. David Reilly (TJJD) testified with an overview of the department's visitation policies and by offering his opinion that the department goes above and beyond to ensure that offenders are afforded every opportunity to remain close to their family. His testimony included explaining that offenders are allowed two visitation days a week along with two more days where they are allowed to make telephone calls to their family members. Mr. Reilly concluded his testimony by offering that the department does allow for family visitation during holidays and will even make for special accommodations when unique visitation circumstances arise.⁶⁵

Ms. Teresa Stroud (TJJD) testified to share her agreement with Mr. Reilly's overall assessment of the department's visitation policies. She further offered that the department tries to work closely with families so that they are well informed of the visitation schedule and if an offender has had any changes made to their visitation privileges. Ms. Stroud also explained that the

⁶² *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Amy Lopez, Texas Juvenile Justice Department).

⁶³ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Teresa Stroud, Texas Juvenile Justice Department).

⁶⁴ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of David Reilly, Texas Juvenile Justice Department).

⁶⁵ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of David Reilly, Texas Juvenile Justice Department).

department works with volunteers and mentors to visit offenders who do not regularly receive visits from their family members.

Ms. Stroud concluded her testimony by sharing that video conferencing has been used to keep families in contact with offenders in their care and that each institution has a family liaison tasked to assist with family re-unification efforts.⁶⁶

TJJJ Offender Re-entry Issues

Mr. David Reilly (TJJJ) testified before the committee to give a summary of the department's re-entry process, which includes an early assessment that identifies what family members the child will reside with upon release and efforts made to keep the child in contact with those family members. He also added that mentors and volunteers work with the children to prepare them for their release. Mr. Reilly concluded his testimony by providing a summary of the parole function within the release process.⁶⁷

Ms. Amy Lopez (TJJJ) testified before the committee to explain that each school in the department is equipped with an education liaison to assist children in transitioning back into a traditional school setting. She further explained that the department also has three regional workforce development liaisons to assist children released from the department with their post-education plans, whether that be a form of secondary education or directly entering the workforce.

Ms. Lopez concluded her testimony by offering her observation that many times the public schools that they seek to transition children back to are hesitant to accept children back and that this creates a large challenge with a child's overall reintegration.⁶⁸

TJJJ Future Goals

Mr. David Reilly (TJJJ) testified before the committee regarding the future direction of the department. He explained that the department's mission remains to improve the outcomes for children who come under their care and that their goals moving forward should be to stabilize the department and reduce the changeover in the department's leadership and staff. Mr. Reilly mentioned that 50% of department employees leave the department within their first year of employment, and that this unnecessarily increases their training costs and presents challenges in having the human resources necessary to accomplish the department's goals. As a possible solution, Mr. Reilly recommended that the mandatory number of pre-service training hours be reduced and that pay rates for department employees be made comparable to similar staff

⁶⁶ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Teresa Stroud, Texas Juvenile Justice Department).

⁶⁷ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of David Reilly, Texas Juvenile Justice Department).

⁶⁸ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of Amy Lopez, Texas Juvenile Justice Department).

positions within the Texas Department of Criminal Justice.

Mr. Reilly continued his testimony with his belief that the department must continue to place a strong emphasis on prevention and diversion programs that keep children from ever entering one of their secure facilities. He concluded his testimony by sharing that the department must also continue to look for ways to keep reducing their population.⁶⁹

⁶⁹ *Reviewing Correctional Facilities and Procedures within the Texas prison system*, House Comm. on Corrections, 2013 Leg., 83rd. Sess. Interim (Tx. 2014) (statement of David Reilly, Texas Juvenile Justice Department).

Conclusions

1. With taxpayers funding such a large and complex system, the legislature and the Texas Department of Criminal Justice should strive to use our correctional budget in the most fiscally responsible way, including exploring the possibility of public-private partnerships in facilities management and efficiency improvements.
2. The legislature and the Texas Department of Criminal Justice should look for more ways to focus a larger component of our correctional budget on rehabilitative investments, as opposed to simply inmate confinement.
3. The legislature and the Texas Department of Criminal Justice should consider ways to expand inmate educational and vocational training programs within the prison system as a core component of effectively rehabilitating offenders. Consideration should be given to accomplishing this objective through public-private partnerships with proven educational providers.
4. The legislature should monitor the implementation of HB 797 (83R) and HB 799 (83R) to ensure that Windham students are provided complete information regarding relevant and in demand employment opportunities post-release and potential restrictions on professional licenses related to criminal offenses, so that inmate-students can focus their education on fields where they can productively participate upon their release.
5. The Texas Department of Criminal Justice should explore new and innovative ways to increase access to prisoner visitation programs in order to fully prepare inmates for the re-entry process, including the potential use of teleconferencing as a visitation option.
6. The legislature should consider amending existing statute to provide landlords with liability protections for renting to certain non-violent offenders in order to help stabilize offenders' housing circumstances and improve their re-entry process.
7. The Texas Department of Criminal Justice should work to improve opportunities for inmates to find adequate housing through strengthening relationships with housing providers in order to help reduce recidivism rates.
8. The legislature and the Texas Juvenile Justice Department should examine the department's current staffing numbers and determine if the department is adequately staffed in order to maintain facility safety and meet the department's goals.
9. The legislature should consider reducing the number of mandatory pre-service training hours that a Texas Juvenile Justice Department employee must undertake as a way to retain employees and lower training costs.

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10. The legislature should examine staffing compensation for Texas Juvenile Justice Department employees and ensure that compensation levels are consistent with comparable staff positions within the Texas Department of Criminal Justice.
 11. The Texas Juvenile Justice Department should consider expanding its student athletic programs to include additional campuses and also compile specific data that tracks the academic progress and recidivism rates of children who participate in an extra-curricular activity to determine how effective athletic programs and other extra-curricular activities are in preparing children to be successful upon their release.
 12. The legislature and the Texas Juvenile Justice Department should continue to look for approaches that would improve upon the accessibility of the department's family visitation programs and also compile data to determine how effective family visitations are in reducing recidivism rates.
 13. The Texas Juvenile Justice Department should continue outreach initiatives with public schools to ensure a student's efficient transition back into the traditional school setting upon their release from the department's custody and that they are not immediately assigned to a disciplinary campus or program within the public school.

REVIEW MENTAL HEALTH SERVICES WITHIN THE CRIMINAL JUSTICE SYSTEM

Background

In preparation for the 84th Legislative Session, Speaker Joe Straus charged the Committee on Corrections and the Committee on Criminal Jurisprudence to examine the association between co-occurring serious mental illness and substance use disorders and parole revocation among inmates from the Texas Department of Criminal Justice; review current policies and procedures for incarcerating individuals with a dual mental health diagnosis in both state and county correctional facilities and examine potential remedies within the State's criminal justice system to ensure that the public is protected and that individuals with a mental health diagnosis receive a continuum of mental health services.⁷⁰

Upon entering the Texas Department of Criminal Justice system, the offenders are assessed at intake and cross-referenced against the Department of State Health Services' Client Assessment and Registry Database. The Texas Uniform Health Status Update form that accompanies the offender from the county is also reviewed. The University of Texas Medical Branch and Texas Tech University provide mental health care to the offender population. The Texas Correctional Office for Offenders with Mental and Medical Impairments (TCOOMMI) provides continuity-of-care for releasing offenders through referrals to local mental health providers, joint planning with state and local entities and assistance with benefit eligibility/application.

As of September 2013, there were 23,270 individuals on an outpatient caseload and 18,089 with prior community contacts for the primary diagnoses (schizophrenia, bipolar, major depression).⁷¹

⁷⁰ Speaker Joe Straus, *2014 Interim Charges to House Committees*, January 31, 2014.

⁷¹ Texas Department of Criminal Justice, *Mental Health Data as of September 15, 2013, Email to House Committee on Corrections*, October 3, 2014.

Analysis

The Committees on Corrections and Criminal Jurisprudence held a joint public hearing at the Texas State Capitol on April 22, 2014 to hear invited testimony on its interim charges.

John Newton (Legislative Budget Board) testified about the costs of services for mental health treatment for adult offenders. Mr. Newton explained that through the Correctional Managed Healthcare System, TDCJ has approximately 22,900 offenders receiving outpatient services and approximately 1,900 offenders receiving inpatient services. He further added that inmates undergo a thorough medical screening within the first 14 days of their incarceration and that the three most common types of diagnosed mental health disorders within the system are Schizophrenia, Bi-polar and Depression. Mr. Newton then explained the total funding for mental health services for FY2013 is \$56,737,472 and that mental health funding for FY2014 is budgeted to be \$59,953,221.⁷²

Brad Livingston (Texas Department of Criminal Justice) testified about the department's processes for diagnosis of mental health conditions, the delivery of services to these offenders and the challenges that TDCJ has historically faced. Mr. Livingston echoed the statistics and process description offered by the Legislative Budget Board. He further explained that while there is always room for improvement that he considers TDCJ's system for delivering mental health services, and recent funding increases provided to these services, a success that is a model for the rest of the nation. Mr. Livingston then explained that the department's greatest challenge continues to be treating those inmates who suffer from both mental illness and chemical dependency.

The Committees asked what new items would help TDCJ better deliver mental health services. Mr. Livingston responded that the department is in need of additional resources for TCOOMMI, and additional resources for probation departments and parole departments to monitor offenders with mental health issues.

Questions were then asked regarding the department's intake/medical screening processes. Mr. Livingston responded that all new inmates are given a complete medical screening and substance abuse test within their first 14 days to determine what medical conditions exists and which of those require immediate treatment.⁷³

Rissie Owens (Board of Pardons and Paroles) testified that the Parole Board considers the mental health history of each offender in the parole review process. Ms. Owens explained that mental health treatment services can be made a condition of parole for an offender who has been diagnosed with a mental health disorder, and that the majority of parolees with a mental health disorder do not have their parole revoked. Ms. Owens further explained that ninety percent of those offenders with mental health disorders where parole is revoked were done due to new

⁷² *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of John Newton, Legislative Budget Board).

⁷³ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Brad Livingston, Texas Department of Criminal Justice).

offenses that the offender committed.⁷⁴

Javed Syed (Nueces Co. Chief Probation Officer / Texas Probation Association Legislative Committee) testified that there is a need for additional mental health workers. He explained that the demand on mental health services far exceeds the number of mental health professionals that our correctional system has at its disposal, and asked that the legislature consider additional funding for more mental health treatments.⁷⁵

Nelda Cacciotti (Tarrant County District Attorney's Office) testified that Tarrant County developed a mental health diversion program in 2003 to identify mentally impaired defendants, help them expedite the criminal justice system and avoid further criminal behavior. This program is a judicially supervised mental health treatment option which lasts 12-24 months, depending on the progression rate of the individual participants. The program aims to reduce recidivism and the cost of services by treating those whose primary issue is mental illness and is also at a high risk of re-offending.

Ms. Cacciotti explained that a participant in their mental health diversion program must meet their offense criteria and then pass a thorough screening and interview process in order to determine their eligibility. Participants are required to adhere to a treatment plan, pass random drug screenings, and obtain a GED if they did not graduate from high school. To date, 427 individuals have participated in the program with 348 having graduated. Ms. Cacciotti concluded her testimony by offering that the program's participants have a 15% recidivism rate.

Questions were asked of Ms. Cacciotti regarding the frequency of which a program participant meets with their program supervisor and councilors and she explained that the frequency is determined by an individual's need and their risk for re-offending. Ms. Cacciotti was also asked what the state could potentially do to help expand Tarrant County's program and she answered that additional funding and access to treatment providers would most helpful.⁷⁶

Dr. Joseph Penn (University of Texas Medical Branch, Correctional Managed Care) testified on UTMB's history of delivering general medical care to TDCJ inmates since 1994. With regard to mental health issues, Dr. Penn explained that approximately 16 percent of the offenders in TDCJ are being treated for mental health illnesses. Dr. Penn further explained that UTMB is able to provide a wide array of services to their mental health patients, including inpatient care at the same level of quality as the state hospital system.

Questions were asked regarding the importance of a mental health patient staying current with their medications and Dr. Penn explained that staying current with their medication is very important for a mental health patient to not re-offend. He further offered that a common problem they encounter is the perceived negative stigma that a patient develops for being on medication and the challenge it presents in encouraging offenders to understand the necessity of their

⁷⁴ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Rissie Owens, Board of Pardons & Paroles).

⁷⁵ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Javed Syed, Nueces Co. Chief Probation Officer).

⁷⁶ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Nelda Cacciotti, Tarrant County District Attorney's Office).

medications.⁷⁷

Tracy Koller (MHMR of Tarrant County) testified regarding the service and treatment options Tarrant County utilizes for offenders with mental health issues. She focused her remarks on the Tarrant County Assertive Treatment Program, a multi service approach to treating a target population with mental illnesses that seeks to offer an alternative to incarceration. Ms. Koller explained that the wide array of services offered have helped to reduce incarceration periods while also equipping their participants with the tools and resources necessary to productively live within the Tarrant County communities.

When asked about the general history of the program, Ms. Koller explained that the program has been in place for 7 years, participants typically average 6-8 months completing the program, and that the program's 2013 budget was approximately \$200,000.⁷⁸

Linda Frost (HOGG Foundation for Mental Health) testified regarding her views on how to fully treat patients diagnosed with mental health issues, specifically that medication is not the only treatment they often require. She further explained that many mental health patients also require behavioral therapies as well as social assistance that she believes is not being sufficiently met while incarcerated. Ms. Frost further offered her opinion that nuisance or low level drug offenders with mental health issues are better served in community based treatment services that are at a lower cost to taxpayers and can better address the offender's rehabilitation needs.

Ms. Frost concluded her testimony with her support for diversion programs that keep offenders with mental health disorders out of the incarceration setting, and offering that the desire of the state should be to treat these people before they even get into the system.⁷⁹

Jennifer Herring (Harris County Sheriff's Office) testified about the BAMBI program operating within Harris County that was specifically designed to assist pregnant inmates in a variety of areas, including combating mental health issues such as postpartum depression that can be exhibited in inmates after they give birth to their child. Ms. Herring explained that the BAMBI program offers many different classes and services, partners with over 30 different agencies and is paid for through both commissary funds and financial contributions made through private sector partnerships. Ms. Herring concluded her testimony with her belief that the BAMBI program has helped to salvage the well-being of both mothers who participate and their children while also fostering stronger relationships between the two.

Questions were asked regarding what assistance the state could provide to help mature the BAMBI program and Ms. Herring responded that additional financial resources to increase their services capacity along with changing state law to allow female participants more visitation with their children would be beneficial.⁸⁰

⁷⁷ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Joseph Penn, UTMB).

⁷⁸ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Tracy Koller, MHMR of Tarrant County).

⁷⁹ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Linda Frost, HOGG Foundation).

⁸⁰ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg.,

Douglas Denton (Association of Substance Abuse Programs) testified about their program Homeward Bound, founded in 1980 as a residential treatment alternative to incarceration for young men who needed structure in their lives. Within the program, approximately 60-70 percent of their patients with substance abuse issues also have mental health issues. The majority of the patients they serve do not meet criteria for MHMR treatment. The program works with jail diversion programs. Mr. Denton concluded his testimony with his belief that substance abuse programs are necessary because incarceration is a very stressful environment for people with mental health issues and if not treated properly these patients could quickly see their condition decline.⁸¹

Megan Randall (Center for Public Policy Priorities) testified regarding statistics that the CPPP has collected demonstrating that inmates with mental illnesses who are released from local jails without proper services at their disposal are at high risk for not staying current with their medications, visiting hospital emergency rooms and also re-offending. Ms. Randall offered her opinion that mental health peer support programs offer a great service in this area through securing inmates suffering from mental illnesses peer support prior to and after their release from an individual who previously experienced similar circumstances. She offered that CPPP remains particularly impressed with the peer support service programs offered in the state of Pennsylvania and encouraged the committees to consider creating a peer support service pilot program in Texas to assist inmates suffering from mental illnesses in acclimating to society.⁸²

Sarah Pahl (Texas Criminal Justice Coalition) testified with TCJC's support of testimony and recommendations offered from previous witnesses. Specifically, Ms. Pahl outlined that TCJC supports Texas implementing a system wide risk assessment instrument with well-trained administrators, exploring cost efficient alternatives to incarcerating non-violent offenders suffering from substance abuse and mental illnesses, and adequately training correctional staff on how to manage and treat inmates who are suffering from mental illnesses.⁸³

Joshua Houston (Texas Impact) testified with Texas Impact's request that the joint-committee conduct a thorough review of how offenders with mental illnesses are handled before, during and after incarceration. Mr. Houston offered Texas Impact's support for better identifying offenders with mental illnesses and diverting them from incarceration, increasing access to mental health services available to inmates after they are released from prison, and developing a best practices model for treating and working with inmates suffering with mental illnesses while they are in the state's custody.⁸⁴

Greg Hansch (National Alliance on Mental Illness Texas) testified with the alliance's ongoing concern with the incarceration of and the current treatment options available to offenders who suffer from both mental illnesses and substance abuse. He further explained that Texas should

83rd Sess. Interim (Tx. 2014) (Jennifer Herring, Harris County).

⁸¹ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Douglas Denton, Association of Substance Abuse Programs).

⁸² *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Megan Randall, Center for Public Policy Priorities).

⁸³ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Sarah Pahl, Texas Criminal Justice Coalition).

⁸⁴ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Joshua Houston, Texas Impact).

adopt a more accurate and transparent screening and assessment process for identifying inmates who suffer from mental illnesses, substance abuse or both. Mr. Hansch also suggested that screenings and assessments should take place at multiple stages throughout the criminal justice process. He concluded his testimony with the alliance's support for integrated treatment programs that treat mental illnesses and substance abuse simultaneously, but offered his opinion that current statute does not effectively provide for the rules and procedures for how to integrate these treatments.⁸⁵

Cynthia Humphrey testified on her own behalf with her appreciation of the legislature's more recent approach to handling inmates suffering from mental illness and substance abuse as individuals in need of treatment and not just incarceration. Ms. Humphrey explained, though, that the state needs to develop additional recovery support services in order to be able to fully meet this service need. She testified that these services also require better organization and coordination so that it is easier for people in a substance abuse or mental illness crisis to be able to access these different services.⁸⁶

Lance Lowry (AFSCME Texas Correctional Employees) testified with his support for additional training opportunities for correctional officers in order to properly address and serve offenders with mental health issues. Mr. Lowry also shared his support for diversion programs that would place mentally ill offenders in settings and environments better situated to treat their condition. In concluding his testimony, Mr. Lowry suggested that the recent successes seen with drug courts in Texas could be mirrored in establishing special courts to manage offenders who suffer from a mental illness.⁸⁷

Marc Levin (Texas Public Policy Foundation) testified on potential solutions to the mental health issues in the criminal justice system. He proposed expanding specialized caseloads which could reduce re-incarceration rates for the mental health population. He offered his opinion that the system needs to start looking at mental illness and co-occurring disorder at booking. Mr. Levin also shared his position that state law requiring sheriffs to notify the magistrates of a defendant's mental illness or mental retardation within 72 hours of booking has a low rate of compliance according to the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) reports.

Mr. Levin testified that the State must ensure offenders with co-occurring disorders are discharged with supervision. He shared additional ideas that the State should consider, including expanding mental health and veterans courts, evaluating innovative treatment strategies, and strengthening the re-entry processes to ensure a smooth transition for those exiting the system.⁸⁸

⁸⁵ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Greg Hansch, National Alliance on Mental Illness Texas).

⁸⁶ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Cynthia Humphrey).

⁸⁷ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Lance Lowry, AFSCME Texas Correctional Employees).

⁸⁸ *Reviewing Mental Health Services within the Criminal Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (statement of Marc Levin, Texas Public Policy Foundation).

Conclusions

1. The legislature should explore ways to improve the process for screening new inmates for mental illnesses and substance dependency in order to make the process more timely, accurate and effective for getting patients the immediate services they require.
2. The legislature should look for ways to assist local diversion programs that are proven to keep mentally ill and substance dependent offenders out of the criminal justice system and instead divert them into specific programs for treating their underlying condition.
3. The legislature should consider creating a pilot program for a peer based support service for assisting offenders who suffer from substance dependency with re-entry services that will better acclimate them to society.
4. The legislature should explore new processes that will aid county jails and the state hospital system in better communicating with one another regarding patient records and collected data.

PAY FOR PERFORMANCE WITHIN JUVENILE JUSTICE

Background

In preparation for the 84th Legislative Session, Speaker Joe Straus charged the Committee on Corrections to analyze and make recommendations within the Juvenile Justice System on outcome-based financing models that would allow the state to partner with private investors and innovative service providers. These private investors would cover the upfront costs and assume performance risk to divert youths into cost-effective programs and interventions, while assuring that taxpayers will not pay for the programs unless the programs demonstrate success in achieving the desired outcomes.⁸⁹

PAY FOR PERFORMANCE

A pay for performance contract is also called a social impact bond (SIB). SIB is an innovative government financing program that allows the State to partner with private investors and service providers to provide a needed social service. Unlike its name, SIB is not a bond or a traditional financing model.

A general definition of SIB is: an arrangement between one or more government agencies and an external organization where the government specifies an outcome(s) and promises to pay the external organization a pre-agreed sum(s) if it is able to accomplish the outcome(s).⁹⁰

With limited financial resources, governments are exploring alternative financing models to providing operating funds for initiatives that have the potential to prevent or mitigate serious social problems that could require expensive state services in the future without issuing traditional bonds or generating new tax revenues. Many state and local governments find SIB agreements "attractive because it transfers financial risk away from the government and its taxpayers. A SIB allows a government entity to only commit funds to social programs that are proven successful."⁹¹

An SIB agreement is a contract between a governmental entity and a private group/not-for-profit/company:

The government agency decides on a measurable outcome it wants to achieve—say reducing juvenile recidivism in a target population by 10 percent—

⁸⁹ Speaker Joe Straus, *2014 Interim Charges to House Committees*, January 31, 2014.

⁹⁰ Hernandez, Monica, *Initiating a Social Impact Bond*, June 2013.

⁹¹ *Id.*

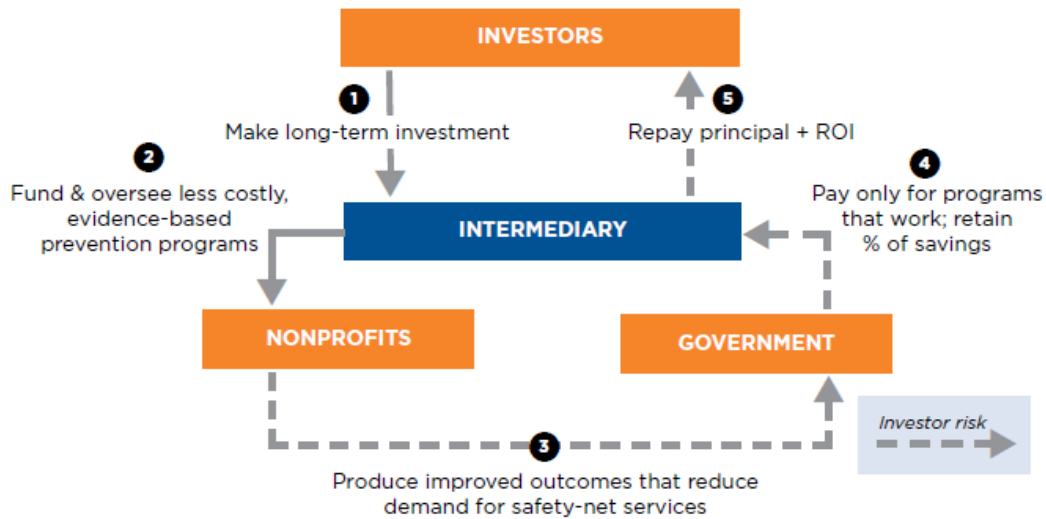
and contracts an external organization that promises to achieve the outcome. The external organization is free to develop and implement its own strategy to achieve the desired outcome. However, the external organization (“intermediary”) must raise its own capital, usually from private investors, to initially fund the program. The external organization then oversees the service provider(s) that carry out in part or in whole the social program.⁹²

The government agrees to pay if the program reaches its desired outcome. Therefore, taxpayer dollars are only invested in programs proven successful, and a social need is met that would not have been otherwise. Successful results also have the added value of relieving expenses for government, since meeting the targets assures a decreased future need for certain public services.⁹³

⁹² *Id.* See also Jitinder Kohli, Douglas J. Besharov, and Kristina Costa, “Social Impact Bonds 101,” *Center for American Progress* (April 2012).

⁹³ Hernandez, Monica, *Initiating a Social Impact Bond*, June 2013.

FIGURE 1 SOCIAL IMPACT BOND MECHANICS ²



- 1 An intermediary issues the SIB and raises capital from private investors.
- 2 The intermediary transfers the SIB proceeds to nonprofit service providers, which use the funds as working capital to scale evidence-based prevention programs. Throughout the life of the instrument, the intermediary would coordinate all SIB parties, provide operating oversight, direct cash flows, and monitor the investment.
- 3 By providing effective prevention programs, the nonprofits improve social outcomes and reduce demand for more expensive safety-net services.
- 4 An independent evaluator determines whether the target outcomes have been achieved according to the terms of the government contract. If they have, the government pays the intermediary a percentage of its savings and retains the rest. If outcomes have not been achieved, the government owes nothing.
- 5 If the outcomes have been achieved, investors would be repaid their principal and a rate of return. Returns may be structured on a sliding scale: the better the outcomes, the higher the return (up to an agreed cap).

² Adapted from Jeffrey B. Liebman, "Social Impact Bonds," Center for American Progress (February 2011).

Today, several other states and countries are considering social impact bonds. Currently, there are four SIB contracts that have been entered into within the United States, with three of the contracts focusing on the criminal justice arena.⁹⁴ For example, New York City partnered with several investors to create a social impact bond in August 2012. Their program called ABLE was developed to reduce the likelihood of re-incarceration by providing education, training and counseling to improve personal responsibility skills, including decision-making and problem-solving. ABLE is aimed to help more young men stay in school, find and keep a job and decrease

⁹⁴ *Id.* Currently there are several social impact bond projects in New York, Utah, Massachusetts and England.

their likelihood of future criminal behavior. Detained and sentenced inmates in the custody of the Department of Correction who are between the ages of 16 to 18 will receive the intervention. In these types of services, rigorous studies on youth in juvenile facilities as well as various juvenile probation sites show that participants have a lower rate of recidivism than those who do not participate. The program features group sessions and practical applications to quickly move participants through stages of the program.

There are only a few SIB contracts currently in existence not because of the lack of interest from all parties involved, but because of the complexity surrounding such a contract. Given the nature of an SIB contract and their need for a clear binary outcome that can be easily identified and evaluated, the correctional system provides a target rich environment for SIB projects.

As of July 1, 2014, there are currently 1,731 youth within our Texas Department of Juvenile Justice (TJJD) programs, including 940 youth in our secure units.⁹⁵ The costs for treating our juvenile population is significantly higher than that of the adult population, with youth in our secure units costing the State approximately \$365 per day, compared to the adult costs of \$50.79 per day.⁹⁶

As depicted in the following graph, several youth commit new offenses during their commitment in a TJJD facility and post final release. Of the 940 youth in the TJJD system, 61 committed new offenses during their time.⁹⁷ New offenses can include assaulting a TJJD employee or another youth. The rate of recommitment for a new offense after release from a TJJD facility is low. Currently, only 5 youth in TJJD facilities are serving a sentence for a new offense committed after their old sentence was discharged.⁹⁸

⁹⁵ Texas Department of Juvenile Justice, *TJJD Population Summary July 1, 2014*, July 1, 2014.

⁹⁶ Texas Department of Juvenile Justice, *Community Juvenile Justice Appropriations, Riders, and Special Diversion Programs*, December 2013. Available at:

http://www.tjjd.texas.gov/statistics/TJJD_Dec_LBB_Rider_Report_2013.pdf.

⁹⁷ Texas Department of Juvenile Justice, *TJJD Population by Secure Location by Commitment/Recommitment as of July 31, 2014*, August 21, 2014.

⁹⁸ *Id.*

**TJJD YOUTH POPULATION BY SECURE LOCATION BY COMMITMENT/RECOMMITMENT: IN FACILITY ON
7/31/2014.⁹⁹**

		FIRST COMMITMENT	RECOMMITTED WHILE IN A SECURE FACILITY	RECOMMITTED AFTER RELEASE FROM A SECURE FACILITY
ASSESSMENT CENTERS	RON JACKSON SHORT-TERM	60	4	.
	SUBTOTAL TYPE	60	4	.
TJJD INSTITUTIONS	EVINS REG JUV CNTR	103	11	.
	GAINESVILLE	223	4	1
	GIDDINGS	195	7	2
	MCLENNAN LONG-TERM	176	17	.
	MCLENNAN PHOENIX	9	3	.
	MCLENNAN RTC	46	4	.
	RON JACKSON LONG-TERM	76	9	.
	SUBTOTAL TYPE	828	55	3
CONTRACT FACILITIES	GARZA COUNTY REGIONAL JUVENILE CENTER	29	1	2
	THE OAKS	23	1	.
	SUBTOTAL TYPE	52	2	2
TOTAL		940	61	5

EXCLUDES YOUTH COMMITTED TO A SECURE FACILITY AS A RESULT OF TJJD PAROLE REVOCATION

Providing these youth with the tools necessary to reduce the likelihood of re-incarceration demonstrates a clear financial benefit in having them avoid re-entering TJJD and/or one day entering TDCJ.

For an SIB to work in Texas, interested groups would need to create a proposal that serves a specific population within the juvenile system. The SIB proposal would need a clear outline of responsibilities that designates the need within a certain targeted group, and establishes a tight intervention model between investment and outcome.

⁹⁹ *Id.*

Analysis

The Committee held a public hearing at the Texas State Capitol on April 22, 2014 to hear testimony on this interim charge.

Ms. Linda Brook (TJJD) testified on the types of contracting that TJJD currently has with private partnerships. She explained that the two separate types of contracts entered into are with the local juvenile probation departments and for youth that have been committed to the agency. She concluded her testimony by explaining that penalties and sanctions are enforced for noncompliance, including holding back grant funds and terminating a contract. In response to questions from the committee, Ms. Brook offered her opinion that if TJJD accepted an SIB contract, it would need to be tailored toward a very specific need.¹⁰⁰

Ms. Madeleine McClure (TexProtects) testified on the makeup and mechanics of SIB contracts. She explained that SIB contracts allow government dollars to be shifted away from programs that are known to be ineffective and instead used to bring effective programs and services to scale so that total potential savings can be realized.¹⁰¹

Ms. Michelle Corson (Champion Impact Capital) testified on the current climate for SIB contracts in the country. At the time of her testimony, she noted that there are currently multiple ongoing projects, with the majority focusing on criminal justice issues. Ms. Corson explained that the criminal justice system represents a top priority area because it has clear binary outcomes. She also noted that an effective SIB structure includes a logical correlation between intervention and the outcome to be served, along with an outcome that can be measured quickly.¹⁰²

Ms. Erica Lee Carter (Nurse-Family Partnership) testified about the work the Nurse-Family Partnership (NFP) is doing in Texas and across the nation. She explained that NFP is an evidence based, nurse home visiting model that has been shown to save government costs through decreased healthcare, incarceration, and social service needs amongst its treatment population. She concluded her testimony by offering that nurses in the program work with young mothers to improve pregnancy outcomes, child health and development, and family self-sufficiency.¹⁰³

Mr. Derek Cohen (TPPF) testified that SIBs offer a financial benefit to the juvenile justice system. He offered that to be successful the state needs to clearly define benchmarks to ensure there is a measurable result, detail the risk involved to investors and explain who is responsible

¹⁰⁰ *Pay for Performance within the Juvenile Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Linda Brooks (TJJD)).

¹⁰¹ *Pay for Performance within the Juvenile Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Madeleine McClure (TexProtects)).

¹⁰² *Pay for Performance within the Juvenile Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Michelle Corson (Champion Impact Capital)).

¹⁰³ *Pay for Performance within the Juvenile Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Erica Lee Carter (Nurse-Family Partnership)).

for what functions in the process.¹⁰⁴

After the hearing, several interested stakeholders formulated a working group to discuss options to bring an SIB project to Texas. The group is actively working to propose a solution to bring to the Texas Legislature.

¹⁰⁴ *Pay for Performance within the Juvenile Justice System*, House Comm. on Corrections, 2013 Leg., 83rd Sess. Interim (Tx. 2014) (Derek Cohen (TPPF)).

Conclusions

1. Today, several other states and countries are considering social impact bonds. Given the nature of a social impact bond contract and the need for a clear binary outcome that can be easily identified and evaluated, the correctional system provides a target rich environment for SIB projects.
2. Interested groups in Texas should create a proposal that serves a specific population in the juvenile system with a clear need, and establishes a tight intervention model between investment and outcome.
3. The 84th Texas Legislature should enact legislative changes, including appropriating the necessary funds, to develop and support utilizing a social impact bond in Texas. A framework for establishing a social impact bond within the Texas Juvenile Justice Department system should be considered.

SCHOOL DISCIPLINE AND THE JUVENILE JUSTICE SYSTEM

Background

In preparation for the 84th Legislative Session, Speaker Joe Straus charged the Committee on Corrections to study the impact of SB 393 (83R) and SB 1114 (83R). Specifically, the committee was asked to assess the impact of school discipline and school-based policing on referrals to the municipal, justice, and juvenile courts, and identify judicial policies or initiatives designed to reduce referrals without having a negative impact on school safety.

SB 393 (83R)

Prior to September 1, 2013, Texas students could be given a Class C misdemeanor ticket for misbehavior. Class C misdemeanors on school grounds include disorderly conduct, disruption of class, disruption of transportation, trespass, and minor in possession of alcohol, which are fine-only tickets.¹⁰⁵ These tickets may result in a fine of up to \$500, time in jail if the ticket goes unaddressed and progresses to the warrant stage, and a criminal record for the student.¹⁰⁶

SB 393 was enacted during the 83rd Legislative Session as a result of the old system. SB 393 prohibits peace officers from issuing tickets to school children for offenses that are committed on school property.¹⁰⁷ SB 393 was passed as a way to combat the growing juvenile population entering the criminal justice system due to the fact that there are no other alternatives.¹⁰⁸

SB 393 creates a complaint-based system, similar to what is currently done for truancy. It establishes graduated sanctions, such as warning letters, school-based community service, or referral to counseling, for juveniles who committed certain fine-only misdemeanors prior to referral to court. It expands the use of juvenile case managers by allowing for their use without a formal court order and prior to cases being filed. Finally, it authorizes local juvenile boards to authorize law enforcement to dispose of certain fine-only offenses without referral to a court, and adds Class C misdemeanors, other than traffic offenses, to the list of offenses that can be disposed of through the use of first offender programs. Law enforcement can file criminal complaints for these offenses but must follow new rules.

The problem encountered by law enforcement and school districts is the presumption created by SB 393. The presumption is that students who are at least 10 years old and younger than age 15

¹⁰⁵ Tex. Pen. Code § 12.23; Tex. Educ. Code §37.124.

¹⁰⁶ S.B. 393, 2013 Leg., 83rd. Sess. (Tx. 2013); House Research Organization, *Major Issues of the 83rd Legislature, Regular Session and First, Second and Third Called Sessions*, December 11, 2013, available at: <http://www.hro.house.state.tx.us/pdf/focus/major83.pdf>.

¹⁰⁷ S.B. 393, 2013 Leg., 83rd. Sess. (Tx. 2013).

¹⁰⁸ S.B. 393, Bill Analysis, 2013 Leg., 83rd. Sess. (Tx. 2013), available at: <http://tlis/tlisdocs/83R/analysis/pdf/SB00393F.pdf#navpanes=0>.

are incapable of committing fine-only, Class C misdemeanors such as disruption of class, disruption of transportation, and most disorderly conduct offenses. The presumption can be refuted if the prosecution proves to the court that the child had sufficient capacity to understand that the conduct was wrong at the time of the incident.

SB 1114 (83R)

SB 1114 was enacted during the 83rd Legislative Session and became effective on September 1, 2013. SB 1114 limits law enforcement officers from issuing school-related Class C misdemeanors to children other than traffic offenses.¹⁰⁹ Officers are not allowed to issue tickets or file complaints against children younger than 12 years old for conduct that occurred on school property or on a vehicle owned or operated by a school district.¹¹⁰

While the legislation voids the application of the Education Code offenses of disruption of class and disruption of transportation to primary and secondary grade students enrolled in the school where the offense occurred, the change in law expands the Penal Code offense of disorderly conduct so schools are considered public places where the offense occurs.¹¹¹ If a child is under the age of 17 years old, SB 1114 prohibits the issuance of an arrest warrant for Class C misdemeanor under the Education Code.¹¹²

If a child is accused of any non-traffic Class C misdemeanor, the child is referred to a first-offender program before the complaint can be filed with a criminal court.¹¹³ This process allows for the correction of behavior through intervention and corrective sanctions before using the criminal justice system. In addition, it allows juvenile case managers who currently work for courts that hear juvenile cases, mostly truancy, to intervene and work with a student prior to the student being referred to court.¹¹⁴

Truancy

Under the Texas Education Code, students are considered truant if they miss ten or more days without an excuse during a six-month period or if they miss three or more days without excuse during a four-week period.¹¹⁵ Texas law creates a dual system of justice for handling truancy by giving school districts discretion to either criminalize truancy by referring students to adult courts or to treat truancy as a status offense by referring students to juvenile court.

¹⁰⁹ S.B. 1114, 2013 Leg., 83rd. Sess. (Tx. 2013); House Research Organization, *Major Issues of the 83rd Legislature, Regular Session and First, Second and Third Called Sessions*, December 11, 2013, available at: <http://www.hro.house.state.tx.us/pdf/focus/major83.pdf>.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ S.B. 1114, Bill Analysis, 2013 Leg., 83rd. Sess. (Tx. 2013), available at: <http://tlis/tlisddocs/83R/analysis/pdf/SB01114F.pdf#navpanes=0>.

¹¹⁵ Tex. Educ. Code §25.094.

Under the "Failure to Attend School" provision of the Texas Education Code, students as young as 12 years old can be referred to adult court for truancy and receive a Class C misdemeanor, up to a \$500 fine for each offense, and a permanent criminal record. Under the "Child In Need of Supervision" provision of the Texas Family Code, students can be charged as delinquent and referred to juvenile court for the same truancy offense.¹¹⁶

¹¹⁶ *Id.*; Tex. Fam. Code §51.03

Analysis

The Committees held a public hearing at the Texas State Capitol on October 8, 2014 to hear invited testimony on its interim charges.

School District Perspectives

Chief Craig Goralski, Aldine ISD Chief of Police and School District Police Chiefs' Association, shared with the committees some observations of Texas school district police chiefs regarding the legislation. Chief Goralski stated they have noticed that it has been more difficult to engage parents when students are not actually issued a ticket. He suggested exploring ways to keep parents engaged with their students and maybe requiring parents of repeat offenders to participate in parenting skills classes.

Since the legislation limits the citations that a student can receive in order to decrease the number of students entering the criminal justice system, some districts have chosen to issue warning tickets instead of citations. The warning tickets are intended to alert parents and students to the negative behavior in order to prevent the need for an actual citation in the future.¹¹⁷

Dr. Randall Hoyer, Lampasas ISD, expressed concern that students committing Class C misdemeanor offenses off school property could be issued citations while students committing the same offenses on campus would not receive citations. He is concerned that moving forward students will begin to realize that there is no legal/criminal consequence to these types of disruptive behaviors if it occurs at school.

Dr. Hoyer acknowledged that the bills do not prevent educators from submitting a complaint to a Justice of the Peace or municipal court alleging violations of a Class C misdemeanor. However, the process established in law to file a complaint in lieu of a citation is time consuming and cumbersome. He estimates that the bills double the amount of work required to charge a student with a Class C offense at school.

Dr. Hoyer made several recommendations to the committees which include:

- Restore to local law enforcement officers the ability to perform their job as described in the Code of Criminal Procedure and return to the local school district a tool necessary to maintain a safe and orderly campus;
- Require criminal courts to automatically issue a non-disclosure order upon the conviction of a child for a fine-only misdemeanor offense; and

¹¹⁷ Craig Goralski, Police Chief, Aldine Independent School District. Oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

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- Direct the Texas Education Agency to track the number of Class C misdemeanor citations issued by a campus through PEIMS and require corrective actions plans by campuses that issue excessive citations.¹¹⁸

Criminal Justice Perspectives

Mr. David Slayton with the Texas Judicial Council testified before the committees with a summary of the background information pertaining to school discipline issues. He cited a 2011 report from the Council of State Governments titled Breaking School Rules that provided statistics and data suggesting that the process of school discipline in Texas needed to be reformed. In response, the Juvenile Justice Committee of the Texas Judicial Council put forward many recommendations that were adopted in the legislation passed during the 83rd Legislative Session, including giving judicial courts more options for handling school discipline cases and ensuring that courts were not utilized as the first step in the school discipline process.

Mr. Slayton concluded his testimony by offering statistics demonstrating that the desired reduction in school discipline cases being filed in court has been achieved with the implementation of Senate Bills 393 and 1114. He further explained that stakeholder groups were left with some initial confusion regarding the implementation of this legislation, and that in response the Office of Court Administration developed several training tools to assist stakeholder groups in fully understanding the new processes for handling school discipline matters.¹¹⁹

Ms. Mary Mergler with Texas Appleseed testified before the committees with Texas Appleseed's continued support for the reforms enacted through Senate Bills 393 and 1114. She explained that the legislation was a positive step forward for Texas youths and that Texas Appleseed remains encouraged by the outcomes thus far. Then continued her testimony by providing background information on the issue of school ticketing, citing reports issued by Texas Appleseed in 2010 and 2013 that advocated for the reforms enacted during the 83rd Legislative Session, including the complications that would arise later in life from a student receiving an adult criminal conviction for instances of classroom misbehavior.

Ms. Mergler further explained that schools and law enforcement can still charge a student with a Class C misdemeanor under the new school discipline system and that they are allowed to adopt a graduated sanctions program in order to effectively maintain classroom discipline. She concluded her testimony by making the following recommendations for additional legislative reforms:

- Require a more transparent system of school districts reporting instances of classroom discipline rising to the level of charging a student with a Class C misdemeanor;

¹¹⁸ Randall Hoyer, Superintendent, Lampasas Independent School District. Written and oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

¹¹⁹ David Slayton, Executive Director, Texas Judicial Council. Oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

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- Make the permissive graduated sanctions program a requirement for all school districts; and
 - Decriminalize the offense of failure to attend school so that it no longer results in a Class C misdemeanor conviction.¹²⁰

Ms. Jennifer Carreon with the Texas Criminal Justice Coalition testified with her belief that many of the functional deficiencies found in public schools fail to meet the needs of students and that is what originally led to the problem of students being ticketed for classroom misbehavior. She urged members of both committees to focus their attention on addressing those deficiencies, as well as addressing the root issues that lead children to misbehave in school.

Ms. Carreon concluded her testimony with the Texas Criminal Justice Coalition's support for making the graduated sanctions program a requirement for all school districts.¹²¹

Mr. Derek Cohen with the Texas Public Policy Foundation testified with his agreement with many of the statistics regarding the implementation of Senate Bills 393 and 114 and the general support for the legislation offered by previous witnesses. He offered his belief that the legislation passed during the 83rd Legislative Session correctly recognizes that school discipline is not criminal misbehavior, and that keeping children out of the criminal justice system is a better model for both children and taxpayers.

Mr. Cohen concluded his testimony with the foundation's support for decriminalizing failure to attend school as an effective approach to continuing to reduce the number of student citations.¹²²

¹²⁰ Mary Mergler, Director of the School to Prison Pipeline Project, Texas Appleseed. Oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

¹²¹ Jennifer Carreon, Policy Researcher, Texas Criminal Justice Coalition. Oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

¹²² Derek Cohen, Texas Public Policy Foundation. Oral testimony. House Committee on Public Education and House Committee on Corrections Hearing, October 8, 2014.

Conclusions

1. The legislature should consider creating new mechanisms for engaging parents in the school disciplinary process, especially for repeat offenders.
2. The legislature should continue to monitor closely the impact of the bills on school safety.