

PUBLIC TESTIMONY

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ON

TEXAS JUVENILE JUSTICE DEPARTMENT

FOR

**U.S. COMMISSION ON CIVIL RIGHTS
TEXAS ADVISORY COMMITTEE**

MAY 11, 2023

“Perhaps we’ve needed to figure out that kids are people too.”

*-Representative Valerie Swanson (R) on problems in Texas’ youth prisons,
Committee on Juvenile Justice and Family Issues Interim Hearing, August 9, 2022*

Dear Members of the Committee:

My name is Alycia Castillo; I am Director of Policy and Advocacy at the Texas Center for Justice and Equity (TCJE), formerly the Texas Criminal Justice Coalition. Thank you for this opportunity to provide testimony with respect to the Texas Juvenile Justice Department (TJJD).

TCJE has been closely monitoring the juvenile justice system in Texas for nearly two decades. As an organization, we analyze systems that intersect with juvenile justice, and we promote strategies that safely reduce system involvement, address the root causes of crime, and increase long-term public safety and health.

Amid the convergence of multiple crises in TJJD, which have led to dangerous and inhumane conditions for approximately 600 children in its care, we have the responsibility to do something radically different.

A BRIEF HISTORY OF CHILD INCARCERATION IN TEXAS

The ethical dilemma of youth incarceration in Texas should be housed in the context of its inception and historical usage. In the late 1800s, emerging racist theories based in eugenics were used to deem Black, Mexican, and Filipino children “feebleminded” and justify their sterilization and confinement to institutional settings, often called “training schools.”¹ In 1889, Texas created the Gatesville State School for Boys; while this facility now serves as a Texas Department of Criminal Justice institution for adults, it initially housed boys who had previously been held in an adult prison – some who had never committed a crime. Gatesville, like many other child prisons around the country, served as a labor camp and quickly garnered a reputation of ruthlessness. At the same time, scholars across the country were using pseudoscience theories to dehumanize Native and Indigenous children and justify their removal from their homes, as well as establish Indian boarding schools to eliminate their culture, heritage, and language and foster assimilation to White culture.²

Throughout the first half of the 20th century, various examples of inhumane and deadly conditions were reported from inside Texas training schools:

- 1910s: Punishments included “bustings,” where boys were forced to hold their hands above their heads while guards used a bat to flog them.
- 1921: A Gatesville drill master murdered a 15-year-old child for refusing to participate in a military drill.
- 1949-1950: There was an increased use of “whippings” for “insubordination” at the Brady School for Black and Delinquent Girls.³

By the 1980s and 90s, America had committed to a “tough on crime” posture, out of which sprang an “adult time for adult crime” sentiment.⁴ The United States began incarcerating more children for more crimes, even going so far as to impose adult jail and prison time on children.⁵ In 1995, Professor John J. Dilulio coined the term “superpredator,” stating, “America is now home to thickening ranks of youth ‘superpredators’ – radically impulsive, brutally remorseless youngsters, including ever more pre-teenage boys, who murder, assault, rape, rob, burglarize, deal deadly drugs, join gun-toting gangs and create serious communal disorders.”⁶ Just five years later, as the opposite of Dilulio’s predictions materialized and the youth crime rate continued to drop, he apologized and renounced his statements.

Unfortunately, his theorizing had led to an era of policymaking that ushered in harsh new state laws, which did not begin to be rolled back until 2005. Some of the outcomes of the “tough on crime” era included the setting of mandatory minimum terms of incarceration before eligibility for parole, and a 71% increase in youth tried as adults nationally.⁷

Alarming, the racist vestiges of the of the youth punishment system persist today. Black youth comprise 11% of Texas’ youth population but represent 24% of TJJD commitments; White, Hispanic, and Other race youth comprise the remaining 89% of Texas’ overall youth population but represent 31%, 51%, and 7% of TJJD commitments, respectively.⁸

TEXAS’ MOST VULNERABLE POPULATION

It is important to note that the children incarcerated in Texas are the state’s most vulnerable:

- **Adverse Childhood Experiences (ACEs):** 99% of children in the Department have ACEs; 10% of these children have 8-10 ACEs.⁹
- **Mental Health Needs:** 95% of children in TJJD have reported mental health needs.¹⁰
- **Intellectual/Developmental Disability:** The average child in TJJD is 7 grades behind their non-incarcerated peers. 98% of children at TJJD are reading below grade level, and 99% have math achievement below grade level. At least 30% of children in the department are special education eligible.¹¹
- **Commercial Sexual Exploitation:** 91% of girls in TJJD have clear or possible concern for sex trafficking based on the Commercial Sexual Exploitation Identification Tool.¹²

ADVERSE CHILDHOOD EXPERIENCES (ACEs)
History of Emotional Abuse
History of Physical Abuse
History of Sexual Abuse
History of Emotional Neglect
History of Physical Neglect
History of Family Violence
Household Substance Abuse
Household Mental Illness
Parents Separated or Divorced
Incarcerated Household Member

SCANDAL AND ABUSE

The first juvenile court in 1899 came about as a reform to punitive facilities. Unfortunately, abuses and harm continued throughout the establishment of juvenile courts and ongoing youth incarceration.¹³

Broadly, agencies, advocacy groups, researchers, and government-funded organizations have come to the same conclusion: youth incarceration produces negative outcomes for children and communities, and it has a negative impact on public safety.¹⁴ Though some of this is due to the inherently challenging conditions of a prison environment, much of it is due to abuse at the hands of prison leaders – including in Texas.

Below is a **small** sample of public scandals that have plagued the Texas Youth Commission (TYC) and, after its establishment in 2011, TJJD.

2006-2007: Intense media and governmental scrutiny expose abuse and violence taking place in TYC. State leaders effect an immediate change in TYC leadership and launch a joint investigative committee.

During the 2007 legislative session, lawmakers pass omnibus reform legislation that, among other things, prohibits transfers to state child prisons for misdemeanors.

2008: A former caseworker at Al Price Juvenile Detention Center, Jude Iwuchukwu, claims he was fired on trumped-up sexual harassment charges after he reported the alleged abuse of youth.¹⁵

2009: A 14-year-old adjudicated to Crockett State School hangs himself using his own underwear.¹⁶

2010: One in five youth in Texas lock-ups report being forced into sexual acts. Corsicana Residential Treatment Center specifically reports the second-largest sexual abuse rate nationally, with 32% of youth reporting having been forced into a sex act.¹⁷ Later that year, the Department of Justice *Report on Sexual Victimization in Juvenile Correctional Facilities* confirms findings and also reports that this facility housed youth with either serious mental illness or cognitive delay.¹⁸

2018: Two teens escape Giddings State School in April,¹⁹ and the following month, a 16-year-old dies overnight at Evins Regional Juvenile Center, with the cause of death unknown.²⁰

2019: Six days of chaos ensue in June at Gainesville State School as staff lose control of more than two dozen youth.²¹ In August, a corrections officer at Ron Jackson State School is fired and arrested for the rape of a youth.²² In October, a staff member sexually assaults a child at McLennan County State Juvenile Correctional Facility in Mart, Texas – a facility known to house the youngest youth in the system.²³

2022: By January, 131 youth at Giddings and 257 youth at McLennan have tested positive for COVID-19 since 2020, and many are held in medical isolation (solitary confinement) for 10 or more days at a time.²⁴

2023: Joshua Beasley, originally incarcerated at the age of 11, is transferred to an adult prison due to TJJD's inability to treat his severe mental health needs. On March 24, 2023, he is found dead in his cell at the Wayne Scott Unit at Texas Department of Criminal Justice (TDCJ). His history of abuse and neglect in TJJD is lengthy, and investigations into both TJJD and TDCJ regarding his death are ongoing.²⁵

These abuses have triggered investigations from Texas investigators like the Texas Rangers and investigators in the U.S. Department of Justice. **Regardless, in over a decade since the reforms of 2007 – and following the closure of eight youth correctional institutions by 2011 – additional facility closures and youth justice reforms have largely stalled.**²⁶

TEXAS MUST CLOSE ITS REMAINING CHILD PRISONS

A growing body of research proves what we know in our hearts to be true: age-appropriate, community-based interventions work for crime prevention, intervention, and restoration for youth. Programs and program pilots across the country demonstrate the effectiveness of various modes of treatment and care, but what all of them have in common is that they occur in a child's own community.²⁷ Furthermore, by and large, children in wealthy communities in Texas and beyond have benefited from a childhood free of incarceration, simply because of their access to resources. Every child in Texas should have this same opportunity.

In order to create capacity to serve children outside of dangerous prisons, Texas must free up investments in punishment. Closing TJJD's five child prisons will be one meaningful step in ensuring this is possible.

IF NOT CHILD PRISONS, THEN WHAT?

A Case Study on Community Reinvestment

One recent reform proving successful in Texas is the use of Community Reinvestment Funds. This is a budget strategy that supports decarceration by reallocating corrections system funding toward evidence-based, community-based interventions. During the onslaught of the COVID-19 pandemic in 2020, advocates in Texas worked with the Harris County (Houston) Juvenile Probation Department to mitigate the harms, ensuring the rapid release and care of more than 80 children. Community-based direct service providers like reVision Houston took over case management for those children, making regular visits to their homes to deliver hot meals, provide homework and tutoring assistance, and offer counseling services, sometimes for the whole family. The result was striking. Only 8 children were rearrested within the first six months of the program. The Columbia Justice Lab is currently studying the long-term impacts of this program for expansion to other jurisdictions.²⁸

Upon the closure of Texas' remaining five child prisons, millions of dollars will be freed up to reinvest in strategies that meet the needs of children in their own communities.

Savings should be redeployed to agencies and community-based programs that serve to prevent and address the root causes of criminalized behavior.

POLICY REFORM TO DECRIMINALIZE YOUTH

There was a time when Texas was lauded for spearheading new, innovative, and promising youth justice reforms. In the wake of chronic scandals and breaking headlines about rampant abuse, the 2007 Texas Legislature enacted Senate Bill 103, which, as mentioned above, ended adjudication to state secure facilities for youth with misdemeanors; it also created a new funding structure for counties to treat youth closer to home, with many counties providing in-home therapeutic care.²⁹ Following these changes, youth incarceration fell by half, from 4,800 to 2,425. Even still, additional reforms built on these positive results in 2009, when the Legislature further funded county supports through the state's correctional budget using savings from the dramatic decreases in youth incarceration. Finally, in 2011, Senate Bill 653 merged the existing agencies responsible for youth corrections into the new Texas Juvenile Justice Department.³⁰ By the end of 2011, the average daily population in TJJD dropped to 1,399. This resulted in enormous savings for the state, at around **\$9.6 million saved per TYC facility closure**. And still, the youth population continues to decline, falling to 598 today.

Importantly, children have not simply been moved from state to county facilities: as the state's daily juvenile population has dropped, so has the county juvenile population. The number of children placed in a county detention facility following their adjudication in 2010 was 6,314; it dropped to 5,864 children in 2011, then to an astonishing 1,156 by 2020.³¹

These reforms show that change *is* possible in Texas. We must continue to divert children from the youth punishment system, including by investing in community- and school-based supports that address the root causes of criminalized behavior and build thriving families – items like restorative justice and mental health supports in schools, as well as drug and mental health treatment and violence intervention programs in the community.

CONCLUSION

Many other states and counties – and even Texas in the not-so-distant past – have successfully closed state secure facilities. Texas can and must take the transformational step to close TJJD’s five remaining state secure facilities and *do it right*: commit to **no new builds or transfers to the adult system**. With smart investments, counties can provide children the resources they need to thrive outside of prison walls.

My recommendation is to make three key changes to resolve this crisis and ensure the safety of the hundreds of young people in Texas’ five child prisons today:

(1) Facility Closures

The Texas Legislature should resolve to shut down TJJD’s five state secure institutions by 2030 or sooner through a thoughtful, staggered closure plan.

(2) Justice/Community Reinvestment Incentives

The Texas Legislature should invest in building communities’ infrastructure to appropriately address the needs of children who would have been incarcerated, and allow recapture from closed facilities to reimburse the costs for community-based resources including the following:

- A new Office of Youth and Community Restoration at the Texas Health and Human Services Commission (HHSC) or other public health-oriented department, to advance the wellbeing of children through a public health lens.
- Significant investments in existing school-based tools like restorative justice to combat the school-to-prison-pipeline and address children’s needs at the earliest possible intervention point.
- Funding to counties to facilitate the transition of children by judges and juvenile probation departments to non-institutional, non-punitive services; this will include the development and expansion of community-based service providers in partnership with the community, schools, and public health-oriented departments.

(3) Policy Solutions to Decriminalize Youth

The Texas Legislature enacted bold and effective policy reforms from 2007-2011 that resulted in a nearly 50% reduction in youth incarceration, without a negative public safety impact.³² The Legislature should build on these solutions by enacting a host of policy changes that ensures as many children as possible are diverted from the youth punishment system altogether.

In its current iteration, Senate Bill 1 in the 88th Texas Legislature accurately identifies that a significant financial investment is needed for children who make mistakes, but the target for investment is not aligned with research or best practices for children. **It is a devastating prospect that over \$200 million has been proposed for the construction of *new* child prisons – particularly when TJJJ is struggling to manage existing child prisons.**

For over a century, Texas has fallen into a pattern of posing woefully insufficient proposals to address ongoing crises in our child prisons. Salary increases, staff recruitment strategies, and prettier prisons will not solve the problems inherent in the inhumane practice of imprisoning the most vulnerable children in Texas. It's time to break the cycle. That begins with a commitment to view and treat all children as human beings deserving of care, protection, and – at the very least – humane treatment.

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