



**TEXAS CRIMINAL
JUSTICE COALITION**

WRITTEN TESTIMONY

**SUBMITTED BY ALCIA CASTILLO
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ON

**ARTICLE V
TEXAS JUVENILE JUSTICE DEPARTMENT**

TO

THE SENATE COMMITTEE ON FINANCE

MARCH 3, 2021

Dear Chair Nelson and Members of the Committee:

My name is Alycia Castillo; I am a Policy Analyst for the Texas Criminal Justice Coalition. Thank you for this opportunity to provide written testimony with respect to the Texas Juvenile Justice Department (TJJD), including recommendations for funding over the next biennium.

The Texas Criminal Justice Coalition has been closely monitoring the juvenile justice system in Texas for years and, as an organization, we support a community-based system of care that safely reduces the number of kids in secure confinement while addressing the root causes of crime, increasing public safety, and saving taxpayers money.

Opportunities for Necessary Investments in the Future of Texas

With the leadership and support of TJJD's Board and Executive Director, Camille Cain, the agency has made tremendous strides toward becoming a more rehabilitative space for children who have made mistakes. In calendar year 2019, TJJD's average daily population (secure detention) totaled 949 children between the ages of 10 and 16, down 180 from 1,129 children in 2016, prior to Director Cain's leadership. Referrals have also declined by over 1,000 since 2016, with 54,137 referrals processed in 2019.¹

TJJD has recognized the complex and highly-individualized factors that can interfere with children's success, both in school and out of school, and we encourage continued acknowledgment of the driving factors that lead to incarceration but may be out of a child's control: from trauma, to intellectual and developmental disabilities, to lack of community support, to racial discrimination, to victimization.²

TCJC was supportive of the Department's Legislative Appropriations Request, which highlighted its concern about the needs of all children in its care and, despite a challenging budget cycle, sought to prioritize evidence-based care through exceptional items that would restore base funding for various essential services centering rehabilitation. Though tragic, the COVID-19 pandemic has created an opportunity to make lasting changes to the juvenile justice system.

With populations in both TJJD and county detention centers down, we can, for the first time, make significant changes without significant negative financial impact. Below are our recommendations.

What Drives Kids into TJJD?

Trauma:

88% of kids in TJJD have one or more Adverse Childhood Experiences, while 49% of girls have four or more Adverse Childhood Experiences.

Mental Health Needs:

60% of children in TJJD have been diagnosed with a severe mental health issue, with approximately 5% having very significant mental health needs (including depression, autism, and psychosis).

Disability:

Approximately 23% of kids in TJJD have reported intellectual and developmental disabilities, and the average child is 5 grades behind at intake.

Commercial Sexual Exploitation:

91% of girls in TJJD have concern for sex trafficking based on the Commercial Sexual Exploitation Identification Tool.

Texas' most vulnerable children need age-appropriate care and support, not prison cells.

Recommendation 1: Leverage TJJJ's Existing Community Program Grant Funding and Surplus Probation Dollars to Establish Community Reinvestment Funds

A Community Reinvestment Fund is a capacity-building model, enabling a backbone nonprofit organization to act as an intermediary to make grants from the Fund to local grassroots organizations and direct service providers, then actively partner with such entities to strengthen their capacity, improve their services, and monitor whether their services are producing long-term, positive outcomes for the populations they serve.

Community Reinvestment Funds are being utilized throughout the country³ to facilitate the enhancement and expansion of services that ensure public safety, without necessitating the involvement of law enforcement. And there is strong support for such services: A Lake Research poll showed that 90 percent of respondents support treatment for mental health and drug addiction, job and skills training, and mentoring and counseling programs that address the root causes of crime.⁴ Community Reinvestment Funds are typically granted by the state or county, and entrusted to the above-mentioned intermediary organization with the capability of tracking and reporting outcomes.

Similar allocation strategies have been implemented in many states through the Justice Reinvestment Initiative (JRI).⁵ So far, the savings have been substantial. In Kansas, in the three years following JRI reforms, the state reported \$2.5 million in savings. Some states with similar reforms report even greater savings, like South Carolina, reporting \$490 million in total criminal justice savings from 2015-2017. Furthermore, 15 states that have some form of JRI strategy in place have seen their incarcerated populations decrease by more than projected levels, totaling \$1.1 billion in savings from 2015-2017 across all states.⁶

These Funds can be designed to more fully actualize the “Texas Model” of keeping kids closer to home, and they can help remedy the ongoing difficulties facing TJJJ and local probation departments:

- ***Inadequate alternatives to justice system involvement.*** Throughout 2020, TCJC worked with juvenile judges and probation department personnel to help determine the best alternatives to confinement in the midst of a public health crisis. Repeatedly, they stressed a desire to release more kids with low-level offenses from detention, but they lacked placements or support systems to ensure the child’s and public’s safety after release.

In Harris County, the Juvenile Probation Department partnered with local providers that leveraged their own federal COVID-19 relief funds to expand their service areas to serve more kids on reentry. The outcomes are still undergoing robust study and tracking but, per the most recent data, the re-arrest rates have been remarkably low.⁷ However, the Probation Department and partner organizations have acknowledged that their expanded capacity would not be sustainable once they lost CARES Act funding. The Harris County Commissioners’ Court stepped in: To facilitate the ongoing successes of this model, they voted on February 10, 2021, to establish a Community Reinvestment Fund to increase local efforts to keep kids on a safe, healthy, stable path.

- ***Racial disparities in Texas’ juvenile justice system.*** Despite the successful youth decarceration efforts in Harris County, stark racial disparities were magnified. When the population of kids in detention reached its lowest point, 98 percent of children remaining were Black and Latinx.⁸ By funding grassroots organizations in the communities most affected by the conditions that lead to justice

system involvement, kids of color will have access to the most culturally responsive care and treatment.

The goals of Community Reinvestment Funds fit squarely within the objectives of the existing Grant A-Formula Funding for Community Programs (CP) from TJJJ to local probation departments:

1. Provide, develop, and support community-based juvenile probation services and programs and ensure the delivery of safe and effective juvenile probation programs and services that adhere to the Department's standards and policies while maximizing juvenile outcomes;
2. Increase the availability of mental health screenings, assessments, and evaluations for juveniles referred to and under the supervision of juvenile probation departments and the provision of services, programs, and placements to juvenile offenders with identified mental health needs; and
3. Increase the availability of community-based programs and post-adjudication residential placements in an effort to divert appropriate juvenile offenders from commitment to the Department while maintaining community safety.

In accordance with these grant objectives, the Legislature should direct a portion of this funding toward the establishment of Community Reinvestment Funds that support community-based grassroots organizations and service providers actively working to improve youth outcomes. Doing so will ease the burden on juvenile probation departments seeking to implement localized diversion strategies that keep kids and families safe and healthy.

Additionally, the Legislature should modify the allocation of probation departments' surplus dollars, which stem from successful diversions and which are currently returned to the General Revenue fund. Instead, **the Legislature should allow surplus dollars to be reinvested in probation departments' own neighborhoods through Community Reinvestment Funds.**

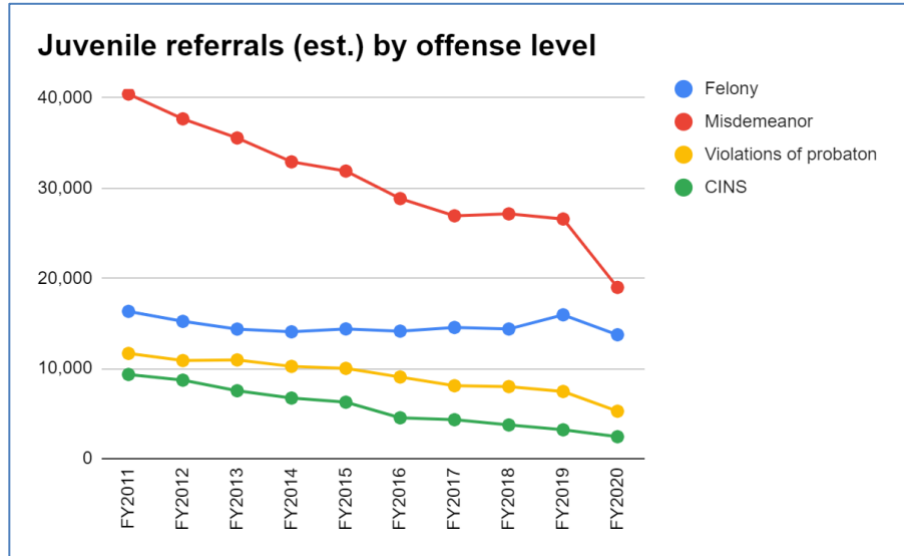
Recommendation 2: Raise the Lower Age of Juvenile Jurisdiction and the Upper Age of Adult Jurisdiction

In Texas, 17-year-olds who are arrested are automatically sent to the adult justice system. Texas is one of only three states left to treat these teens as adults for criminal justice purposes – removing their parents from the court process, and exposing kids to confinement in adult jails. Of the 16,000 17-year-olds arrested in Texas in 2019, approximately 95 percent were arrested for nonviolent and misdemeanor offenses.⁹

“Raising the Age” would ensure that 17-year-olds are held accountable in the youth justice system, while giving judges the discretion to transfer kids with the most serious offenses to the Texas Department of Criminal Justice on a case-by-case basis. When 17-year-olds (like their 15- and 16-year-old counterparts) have access to services intentionally designed to meet their needs as young people – including counseling, education, and treatment that offers positive, age-appropriate redirection – they have increased chances of future success, with a 34 percent reduction in the rate of re-offending,¹⁰ and they are at reduced risk of exposure to the traumatic experiences and hardships that can lead to further legal involvement. Furthermore, keeping kids under juvenile jurisdiction will prevent them from receiving an adult criminal record, which can create barriers to a college education, employment, housing, and military service.

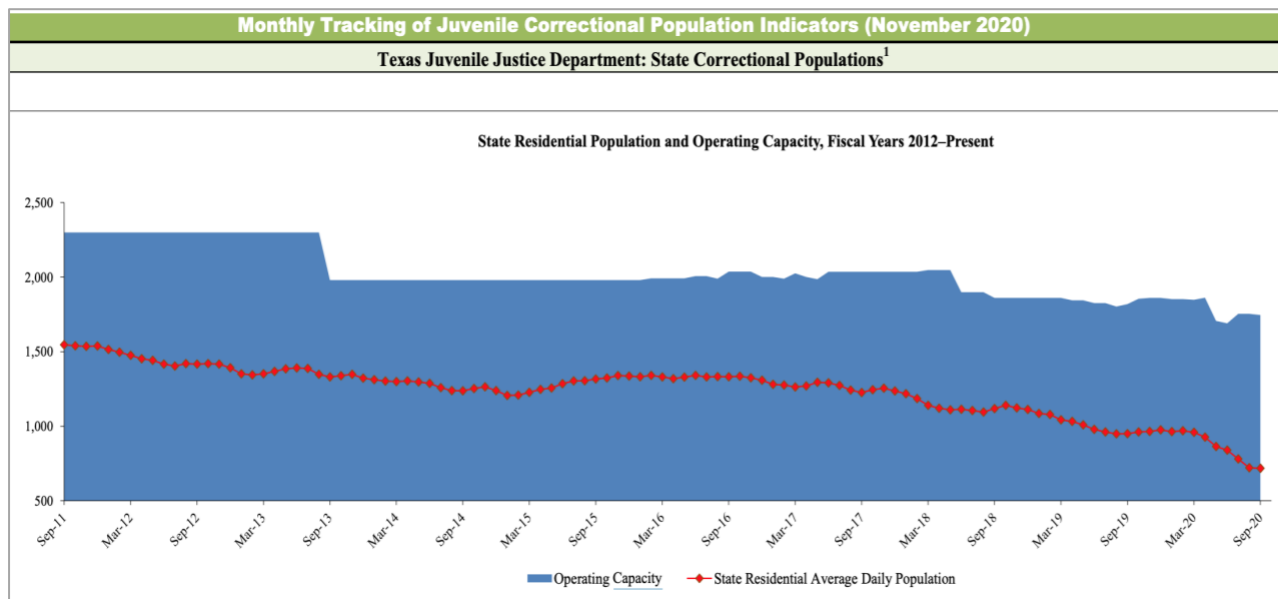
A 2012 Texas study examining the operational impact of a “raise the age” measure shows that raising the age of adult jurisdiction from 17 to 18 would have a **long-term net benefit to the state, counties, taxpayers, and youth of \$88.9 million for every cohort of 17-year-olds moved from the adult system into the juvenile system in Texas.**¹¹

Even as the population of system-impacted 17-year-olds is falling, Texas can realize a net benefit. Between 2016 and 2019, arrests of 17-year-olds fell nearly 25 percent (from 21,374 to 16,104).¹² Also during that time, the average daily population in Texas’ secure juvenile facilities fell 16 percent (from 1,129 youth aged 10-16 to 949 youth).¹³ With COVID-19 also reducing populations of kids in

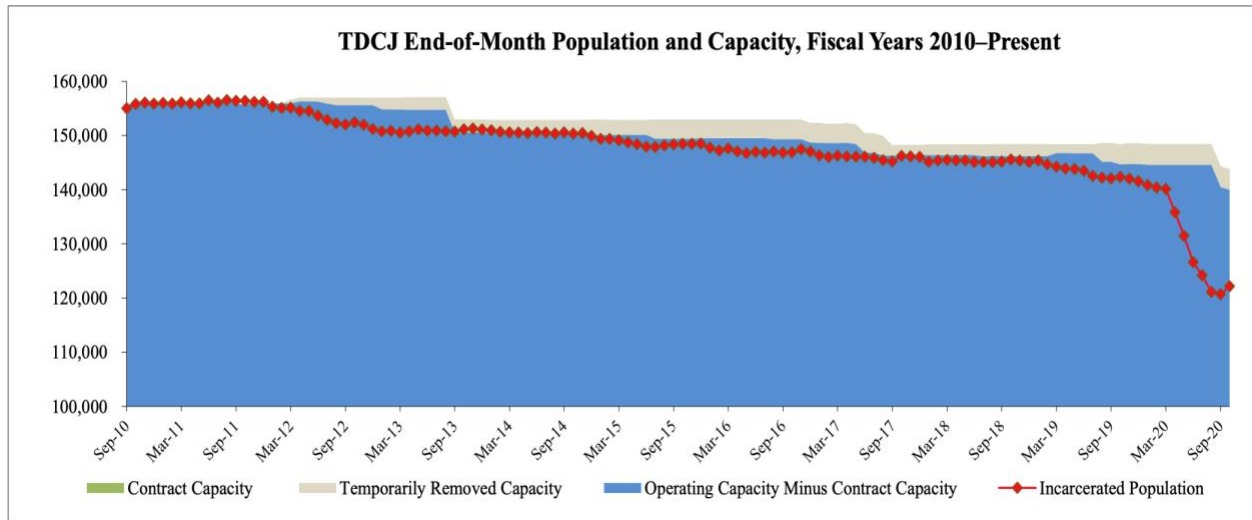


county facilities, **TJJD is well equipped to absorb 17-year-olds who are confined in or facing adult prison,**¹⁴ particularly when compared to the burden facing the Texas Department of Criminal Justice in housing 17-year-olds. **Crucially, reports from other states that have recently “raised the age” have not shown evidence that such a policy change has overwhelmed their juvenile systems.**¹⁵

*TJJD State Residential Population and Operating Capacity, FY 2012-2020:*¹⁶



TDCJ End-of-Month Population and Capacity, FY 2010-2020:



In addition to raising the age of juvenile jurisdiction, **the Legislature should include in its long-term budget planning the cost and savings associated with raising the minimum age of delinquency to at least 12.**

Since the beginning of Director Cain’s leadership, commitments of 10- and 11-year-olds to TJJD have dramatically declined year to year with zero 10- and 11-year-olds incarcerated in a state secure facility as of 2019.¹⁷ Unfortunately, not all counties have yet followed suit – meaning that, in Texas, 10 and 11-year-olds can and do become entangled in the criminal legal system. Though crime rates are low for this age,¹⁸ children under 12 who break the law are often placed on probation, which comes with conditions that even adults struggle to comply with. Removing 10 and 11-year-olds from juvenile jurisdiction will ensure that fewer children enter the pipeline to prison, and it will allow counties to reserve costly supervision services and detention beds for older children.

Citations on following page.

Citations

- ¹ Texas Juvenile Justice Department, *The State of Juvenile Probation Activity in Texas: Statistical and Other Data on the Juvenile Justice System in Texas*, 2016 and 2019, <http://www.tjjd.texas.gov/index.php/doc-library/send/334-state-of-juvenile-probation-activity/2479-the-state-of-juvenile-probation-activity-in-texas-2019> and https://www.tjjd.texas.gov/index.php/component/jdownloads/send/594-state-of-juvenile-probation-activity-archive/314-the-state-of-juvenile-probation-activity-in-texas-2016?option=com_jdownloads.
- ² Legislative Budget Board, *Texas Juvenile Justice Department Legislative Appropriations Request for Fiscal Years 2022-2013*, https://www.lbb.state.tx.us/Agency_Docs.aspx.
- ³ Urban Institute, *Investing Justice Resources to Address Community Needs*, 2018, https://www.urban.org/sites/default/files/publication/96341/investing_justice_resources_to_address_community_needs.pdf.
- ⁴ Urban Institute, *Public Investment in Community-Driven Safety Initiatives*, 2018, https://www.urban.org/sites/default/files/publication/99262/public_investment_in_community-driven_safety_initiatives_1.pdf.
- ⁵ Department of Justice, Office of Justice Programs, *Justice Reinvestment Fund*, <https://bjao.ojp.gov/taxonomy/term/77291?page=0>.
- ⁶ Urban Institute, *Reforming Sentencing and Corrections Policy*, 2016, https://www.urban.org/research/publication/reforming-sentencing-and-corrections-policy/view/full_report.
- ⁷ Henry Gonzales, Executive Director, Harris County Juvenile Probation Department, *HCJPD Executive Report November 2020*, <https://hcjpd.harriscountytexas.gov/Published%20Reports/HCJPD%20Executive%20Report%20November%202020.pdf>. Additional information can be found by contacting the department directly.
- ⁸ Henry Gonzales, *2020 Annual Executive Report*, <https://hcjpd.harriscountytexas.gov/Pages/Annual-Reports.aspx>. Additional information can be found by contacting the department directly.
- ⁹ Texas Department of Public Safety, *Crime in Texas, 2019*, <https://www.dps.texas.gov/sites/default/files/documents/crimereports/19/cit2019.pdf>.
- ¹⁰ Centers for Disease Control and Prevention, "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services," *MMWR* 56, No. RR-9 (2007), <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.
- ¹¹ Michele Y. Deitch, "Seventeen, Going on Eighteen: An Operational and Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas," *40 American Journal of Criminal Law*, 1 (2012) (with Rebecca Breedon & Ross Weingarten), <https://law.utexas.edu/faculty/publications/2013-Seventeen-Going-on-Eighteen-An-Operational-and-Fiscal-Analysis-of-a-Proposal-to-Raise-the->.
- ¹² Texas Department of Public Safety, *Crime Records Service*, 2021, <https://www.dps.texas.gov/section/crime-records-service>.
- ¹³ Texas Juvenile Justice Department, *The State of Juvenile Probation Activity in Texas: Statistical and Other Data on the Juvenile Justice System in Texas*, 2016 and 2019, <http://www.tjjd.texas.gov/index.php/doc-library/send/334-state-of-juvenile-probation-activity/2479-the-state-of-juvenile-probation-activity-in-texas-2019>.
- ¹⁴ Office of Juvenile Justice and Delinquency Prevention, *Easy Access to State and County Juvenile Court Case Counts*, 2020, <https://www.ojjdp.gov/ojstatbb/ezaco/>.
- ¹⁵ Justice Policy Institute, *Raise the Age: Shifting to a Safer and More Effective Juvenile Justice System*, 2016, http://www.justicepolicy.org/uploads/justicepolicy/documents/raisetheagesummary_final_3_6_16.pdf.
- ¹⁶ Legislative Budget Board, *Adult and Juvenile Corrections Populations Monthly Report: November 2020*, https://www.lbb.state.tx.us/Documents/Publications/Info_Graphic/812_MonthlyReport_Nov.pdf.
- ¹⁷ Texas Juvenile Justice Department, *The State of Juvenile Probation Activity in Texas*, 2019.
- ¹⁸ U.S. Department of Justice, Office of Justice Programs, *Juvenile Justice Statistics National Report Series Bulletin*, June 2020, <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/254499.pdf>.