

Chapter 1. Texas and its Juvenile Justice System

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Texas Facts

The state of Texas was admitted into the union in 1845 as the 28th state. Its size of 268,601 square miles is only surpassed by Alaska as a larger state land mass. Its 2000 U.S. Census population was 20,851,820, making it the second most populous state trailing only California. The state consists of 254 counties. Known as the Lone Star State, the population is 71% White; 32% Hispanic/Latino (this group may be of any race); 11.5% Black; 2.7% Asian; .6% American Indian; and 11.7% Other (Information Please 2007). The state has one of the largest Latino populations, with most originating from Mexico (Texas shares a 1,240 mile boarder with Mexico (Governors Office 2007)). Over 28% of the population for the state is under the age of 18, with the median age being 32.3 years old (Information Please 2007). Thus issues of juvenile justice are prominent as this population is expected to rise.

The Juvenile Justice System for the state of Texas has two statewide agencies including the Texas Youth Commission and the Texas Juvenile Probation Commission which includes the 168 juvenile probation departments throughout the state, usually at the county level (Texas Juvenile Probation Commission 2007).

Texas Youth Commission

The Texas Youth Commission (TYC) is the state agency that operates the institutional component of the state's juvenile justice system. It provides care, custody, rehabilitation, and reestablishment in society for juveniles who have been committed by the courts for having participated in delinquent acts. It operates fifteen facilities and nine halfway houses as indicated in Figure 1.1

See Figure 1.1 below

Texas Youth Commission Facilities

**Al Price State Juvenile
Correctional Facility**
3890 FM 3514
Beaumont, Texas 77705
(409) 749-6100
FAX (409) 722-1490

**Corsicana Residential
Treatment Center**
4000 W. 2nd Avenue
Corsicana, Texas 75110
(903) 872-4821
FAX (903) 872-6667

Crockett State School
1701 SW Loop 304
Crockett, Texas 75835
(936) 852-5000
FAX (936) 544-2543

Evins Regional Juvenile Center
3801 E. Monte Cristo Road
Edinburg, Texas 78541
(956) 289-5500
FAX (956) 381-1425

Gainesville State School
1379 Farm Road 678
Gainesville, Texas 76240
(940) 665-0701
FAX (940) 665-0469

Giddings State School
2261 James Turman Rd.
P.O. Box 600
Giddings, Texas 78942
(979) 542-3686
FAX (979) 542-0177

**John Shero State Juvenile
Correctional Facility**
*(formerly San Saba State
School)*
206 S. Wallace Creek Rd.
P.O. Box 935
San Saba, Texas 76877
(325) 372-5795
FAX (325) 372-5629

**Marlin Orientation &
Assessment Unit**
2893 State Highway 6
Marlin, Texas 76661-6588
(254) 883-1100
FAX (254) 883-1145

**McLennan County State
Juvenile Correctional Facility Unit I**
116 Burlison Road
Mart, Texas 76664
(254) 297-8200
FAX (254) 297-8392

**McLennan County State
Juvenile Correctional Facility
Unit II**
116 Burlison Road
Mart, Texas 76664
(254) 297-8200
FAX (254) 297-5706

**Ron Jackson State Juvenile
Correctional Complex Unit I**
Old Bangs Road
P.O. Box 1267
Brownwood, Texas 76804
(325) 641-4200
FAX (325) 646-7704

**Ron Jackson State Juvenile
Correctional Complex Unit II**
Old Bangs Road
P.O. Box 872
Brownwood, Texas 76804
(325) 641-4201
FAX (325) 643-4448

Sheffield Boot Camp
144 Main / School Road
P.O. Box 510
Sheffield, Texas 79781
(432) 836-4624
FAX (432) 836-4472

**Victory Field Correctional
Academy**
8407 FM 433 West
P.O. Box 2010
Vernon, Texas 76384
(940) 552-9347
FAX (940) 552-9638

West Texas State School
Interstate 20
P.O. Box 415
Pyote, Texas 79777
(432) 389-5555
FAX (432) 389-5662

Halfway Houses

Ayres House
San Antonio, Texas 78228
(210) 436-1633
FAX (210) 435-7976

Beto House
McAllen, Texas 78501
(956) 631-5111
FAX (956) 631-5855

Cottrell House
Dallas, Texas 75227
(214) 388-5497
FAX (214) 275-4423

Edna Tamayo House
Harlingen, Texas 78550
(956) 425-6567
FAX (956) 412-0110

McFadden Ranch
Roanoke, Texas 76262
(817) 491-9387
FAX (817) 491-9568

Schaeffer House
El Paso, Texas 79938
(915) 856-9324
FAX (915) 856-9623

Turman House
Austin, Texas 78752
(512) 452-6481
FAX (512) 452-7054

Willoughby House
Fort Worth, Texas 76116
(817) 244-4992
FAX (817) 244-7250

York House
Corpus Christi, Texas 78405
(361) 299-6307
FAX (361) 299-6319

Source: Texas Youth Commission: Facility Address List.
http://www.tyc.state.tx.us/programs/facility_address.html

All youth are processed through the Orientation and Assessment Unit in Marlin. Emotionally disturbed youth are treated at the Corsicana Residential Treatment Center and a boot camp operated in Sheffield (Texas Juvenile Probation Commission 2007).

The Texas Youth Commission was originally established as the Texas Youth Development Council by the Gilmer Aiken Act in 1949. Long before the establishment of TYC the Texas Legislature passed laws in the 1850's to exempt children under the age of 13 from criminal prosecution and authorized a separate facility to house wayward children. This plan was side-tracked and the facility was delayed due to the Civil War. It was not until 1889 that the first facility opened as the Gatesville State School for Boys. A training school for girls opened in 1916 as the Gainesville State School. The Youth Development Council established the Crockett States School for Negro Girls in 1950 for wayward young African American women (Texas Youth Commission 2007a).

Creators of today's TYC were motivated by the same progressive movement which started the juvenile court in 1899 in Chicago, Illinois. The belief of Texas reformers was that children should be rescued and that they should not be imposed with the disabilities that result from criminal conviction. The idea was to create a protective environment for teaching discipline, morality, values, and productive work. Today the TYC balances goals between the interests of individual welfare and public protection; between nurturing care and just punishment of its youth (Texas Youth Commission 2007a).

Early operations of facilities for children were less than ideal in the state of Texas. Reorganization occurred in 1957 which resulted in the state's juvenile training schools and orphanages to be placed under a single agency known as the Texas Youth Council. In 1961, TYC provided parole services for delinquent youth, so as to continue services after the youth's release. The 1960's -1970's brought changes at the federal level with Supreme Court decisions such as Kent v. U.S. (1966) and In Re Gault (1967). This "due process" revolution fundamentally changed the operation and procedures of juvenile justice in the United States. Before the Gault decision, most juvenile court judges were not lawyers and it was rare for prosecutors and defense attorneys to be in the court room together in reference to a juvenile case. Under the direction of the now-repealed Article 2338-1 of the Civil Statues juvenile justice boards had almost unlimited discretion to do what ever they liked with youth charged with crimes and other misconduct (Dawson 2004).

One of the many significant cases of this time period occurred in Texas; *Morales v. Turman* of 1971-1984 (this case will be discussed in detail in Chapter 10). Thus, today's TYC evolved from the Texas Youth Development Council in 1949 to the Texas Youth Council in 1957 and finally in 1983 the name was changed for the last time to become the Texas Youth Commission. The name changes symbolize redirection and restructure. Today TYC focuses on the control and rehabilitation of the state's most violent and chronic juvenile offenders (Texas Juvenile Probation Commission 2007).

Previously the Texas Youth Commission was governed by a board of six members appointed by the governor with the consent of the state's senate. Members serve a six-year term and appoint the executive director. This procedure changed as a result of the TYC scandal described below. The current TYC Interim Executive Director is Edward Owens. The TYC has approximately 4,900 employees divided between the central headquarters, parole services in the community, state schools, and community-based treatment facilities. The nine community-based residential programs are located in Austin, Dallas, Fort Worth, San Antonio, El Paso, Corpus Christy, Harlingen, McAllen and Roanoke. The Texas Youth Commission handles the most serious juvenile offenders in the state thus it has developed several treatment programs in areas such as resocialization, capital murder offenders, sexual offenders and a chemical dependency treatment program to meet its needs (Texas Youth Commission, 2007a).

Texas Juvenile Probation Commission

The second state level agency is the Texas Juvenile Probation Commission (TJPC), created in 1981 by the Texas Legislature in an attempt to bring uniformity to the quality of probation services for juveniles throughout the state. Its birth legislation was Chapter 141 of the Texas Human Resources Code. The statute mandated the following as the purposes for the new agency:

- ❖ To make probation services available to juveniles throughout the state;
- ❖ To improve the effectiveness of juvenile probation services;
- ❖ To provide alternatives to the commitment of juveniles by providing financial aid to juvenile boards to establish and improve probation services;
- ❖ To establish uniform standards for the community-based juvenile justice system;
- ❖ Improve communications among state and local entities within the juvenile justice system; and
- ❖ To promote delinquency prevention and early intervention programs and activities for juveniles.

The TJPC is under the direction of Executive Director, Vicki Spriggs. It is governed by nine board members appointed by the governor with the consent of the state's senate. Each board member serves a six year term. For the size and vast dispersion in rural as urban areas of the state the size of the administration staff is somewhat small, consisting of only fifty-five juvenile justice professionals. The day-to-day functions of the commission consist of thirteen primary functions:

1. Conduit for Legislative Appropriations. With 168 local boards TJPC has the responsibility of distributing funds in order to assist local operations.
2. Strategic Planning and Policy Development. TJPC regularly conducts formal strategic planning sessions with key personnel in the system. The purpose is to be forward thinking about needs and developments crucial to juveniles in the state.
3. Promulgate and Enforce Statewide Standards. TJPC produces administrative standards to regulate practices, administration, and physical construction of local probation departments. This includes pre-adjudication as well as post-adjudication facilities. TJPC monitors compliance of standards by conducting on-site visits to all local probation departments.
4. Education and Training. TJPC provides training for juvenile justice professionals, including local juvenile board members, juvenile court judges, justice and municipal court judges, juvenile prosecutors, probation officers, correctional and detention officers, law enforcement, students, state agencies and the general public. The topics are broad and

cover a variety of subjects in order to aid the operation of the juvenile justice system at the local level.

5. Certify Juvenile Probation and Detention Officers. All juvenile justice officers, inside and outside of a facility must meet minimal requirements. TJPC certifies these personal have at a minimum a bachelor's degree, completed one year of graduate study or one year of social work experience, and forty hours of juvenile justice training.
6. Legal and Technical Assistance. By having three divisions including legal and Legislative, Field Services and Research/Statistics assistance is provided to practitioners statewide regarding juvenile justice laws, practices, programs and services.
7. Interagency Workgroups and Projects. In an effort to improve the delivery of services to children and reduce barriers to efficiency, TJPC develops interagency workgroups with governing boards and staff of other statewide agencies serving the children of Texas.
8. Federal Programs Interface. TJPC serves as the Texas agency handling federal programs such as Title IV-E Federal Foster Care Reimbursement Program and other federal monies for juveniles placed in approved residential facilities.
9. Management Information Systems. The CASEWORKER system is the software program developed by TJPC and used by the majority of local probation departments to facilitate case management and statistical compilation of data.
10. Publications. In order to disseminate information throughout the state, TJPC publishes a variety of documents including annual reports, newsletters, program manuals, references materials and statewide statistical reports.
11. Advocacy for Children. Through the education of lawmakers, juvenile justice professionals and the general public, TJPC works to further the well-being of children in the state of Texas.
12. Programs. TJPC provides funding and statewide assistance for the development of creative and innovative programs for children.
13. Research and Planning. The Research and Statistics Division collects all data related to juvenile crime in the state an annually distributes its findings.

(Texas Juvenile Probation Commission, 2007).

The Texas Youth Commission and the Texas Juvenile Probation Commission as well as other state agencies work together to serve the juvenile justice needs of the state. Three other key agencies include the Texas Department of Mental Health and Mental Retardation (TDMHMR), which provides services for youth who are not competent to stand trial or are found to be not responsible for their conduct. Another agency is the Texas Department of Protective and Regulatory Services (TDPRS), (see chapter 11). This agency provides services to abused and neglected children. TDPRS also operates the Services to AT-Risk Youth (STAR) Program for children and family members at-risk. The third agency is the Texas Department of Public Safety (DPS), (see chapter 7). It became a major component of the states' juvenile justice plan after the legislative changes in 1995 (see chapter 5). This agency operates the Juvenile Justice Information System, a computer database for the collection of statewide data regarding arrest, adjudication and disposition of juvenile offenders (Texas Juvenile Probation Commission, 2007).

The Texas Youth Commission handles about 3% of juveniles in the juvenile justice system. The overwhelming bulk, 97% are handled by the 168 local juvenile probation departments located throughout the state. In order to handle this monumental task, there are 2,205 certified juvenile probation officers, 1,176 certified juvenile detention officers, 549 certified juvenile corrections officers, 168 Chief Juvenile Probation Officers, (one for every local jurisdiction) (Texas Juvenile Probation Commission, 2007).

At the local level there are several components including the County Commissioner's Court. This body provides supplemental funding to the state contributions administered by TJPC. Each county is also required to have a juvenile prosecuting attorney or depending on the size attorneys who assist the Assistant District Attorney or Assistant County Attorney. Juvenile matters can be handled at the district or county office. Additionally, justice and municipal court judges are key because they handle most Class

C misdemeanors and ordinance violations of juveniles (this will be covered in chapter 5). These judges magistrate juvenile offenders (Miranda warnings) and conduct detention hearings in the event a juvenile judge is unavailable (see chapter 6.). Law enforcement is also a vital part of the local juvenile justice system as they serve as the entry point. Many counties have specially trained officers to handle juvenile cases. Finally, community volunteers round out the local juvenile justice system by assisting in mediation, victim-offender programs, community restitution programs, mentoring and prevention programs (see chapter 9) (Texas Juvenile Probation Commission, 2007).

Abuse Scandal in the Texas Youth Commission

In February 2007, The Dallas Morning News and other Texas news media began reporting about a sex abuse scandal that had erupted within the TYC. According to *The Dallas Morning News*, this scandal began in 2005, but received little public attention until the news media began publishing reports of it in 2007 (Swanson, 2007a). The two TYC employees that were being accused of sexually abusing juvenile offenders in TYC custody were Ray Brookins, assistant superintendent, and John Hernandez, principal. After the media and lawmakers began looking into the reports of abuse inside the West Texas State School in Peyote, it was discovered that other TYC employees and inmates had been filing complaints against Mr. Brookins and Mr. Hernandez since December of 2003 (Swanson, 2007a). Accusations about the scandal, from the media towards TYC officials, ranged from ignoring signs of the sexual abuse that was occurring to covering up complaints and evidence (Swanson and Hoppe, 2007).

According to a report given to The Dallas Morning News from the Texas Youth Commission, Mr. Brookins transferred from San Saba State School to West Texas State School as Director of Security in October 2003. The first complaints from TYC staff about Mr. Brookins taking inmates out of their dorms alone at night began less than two months after he transferred to West Texas State School. In May 2004, Mr. Brookins is promoted to assistant superintendent, and complaints continue about him spending time alone with inmates after hours. From October 8, 2004 until February 7, 2005, Mr. Brookins served as acting superintendent while Superintendent Lemuel Harrison is on medical leave. During this time employees report that Mr. Brookins started interfering with the inmate complaint process. On February 23, 2005, a volunteer at West Texas State School reported the sexual abuse of inmates to Texas Ranger Brian Burzynski and Ranger Burzynski begins to investigate the allegations and found evidence to support the allegations of abuse (Swanson, 2007b).

During the same time that some TYC employees were filing complaints about Mr. Brookins, others were filing complaints about West Texas State School principal John Hernandez. Mr. Hernandez became principal at West Texas State School in November 2003. In May 2004, complaints of Mr. Hernandez being alone in locked rooms with inmates begin. After many complaints Superintendent Harrison met with both Mr. Brookins and Mr. Hernandez about being alone with inmates after hours (Swanson, 2007b).

After Ranger Burzynski's investigation in 2005, both Mr. Brookins and Mr. Hernandez resigned from the positions with TYC ("Sex Abuse", 2007). Ranger Burzynski reported his findings at the West Texas State School to Ward County District Attorney, Randall Reynolds, in 2005 at the completion of his investigation. However, Mr. Reynolds did not initiate a case until 2007 (Swanson, 2007b).

After hearing reports of the sex abuse that had been occurring in the TYC facility, Texas Governor Rick Perry demoted Pete Alfaro, who was chairman of the TYC board. After being demoted Mr. Alfaro resigned. Governor Perry also appointed Jay Kimbrough as conservator and Ed Owens as executive director. Shortly after being appointed Mr. Kimbrough sent extra officers to each TYC facility to begin investigating (Ramshaw, 2007).

These investigations found problems at all of the TYC facilities. Physical abuse (both inmate to inmate and guard to inmate) was common in most facilities. As a result of the investigation close to 3,000 complaint investigations were opened. The main problem cited for the problems within TYC is the structure of the organization. According to a report from TYC (2007b), "the lack of a strong, centralized

management structure allowed for leaders at individual facilities to override agency policies, control hiring, and wield tremendous influence over the complaint process” (pg. 5).

In a report from TYC (2007b), conservator Jay Kimbrough acknowledges that employees at all levels of TYC were accountable for the problems that had occurred. The report states that, “at the lowest levels, reports were handled inconsistently and investigations were often shoddy,” and “at the highest levels, reports were changed or ignored” (TYC, 2007b, pg. 7).

As a result of the investigation into the scandal at TYC, eleven employees were arrested (as of May 2007) and twelve senior executives, as well as three facility superintendents, either resigned or were fired (TYC, 2007b). Mr. Brookins and Mr. Hernandez were both indicted in April 2007 for sexually abusing inmates at West Texas State School (Swanson, 2007c).

Prior to the investigation, the abuse at the West Texas State School was viewed as an isolated incident. Investigations revealed thought that the problems within TYC were system-wide and were, “entrenched in every vessel that channels to the core of the agency’s very existence” (TYC, 2007c, pg 1). Both Jay Kimbrough and Ed Owens have given recommendations on how to reform the TYC. These recommendations range from hiring more, and better trained, guards to lower the inmate to guard ratio to changing who has power within the agency. Some of the biggest changes will occur in the agencies hiring policies and the way it conducts background checks on perspective and current employees (TYC, 2007c). Some of their recommendations have already been implemented and described below as a result of action from the 2007 Texas Legislative Session. TYC is in the process of recovering from this scandal and becoming a better agency to better help the juvenile offenders that are placed in its custody.

Because to the scandal several changes evolved from the 2007 Texas Legislative Session directly related to the TYC scandal. They include term limit for the TYC Executive Director, TYC Advisory Board composition and qualifications, appointment of a Special Prosecution Unit, creation of the Office of Independent Ombudsman of the Texas Youth Commission, stiffer penalties for criminal conduct by TYC employees engaging in sexual contact, sexual intercourse or deviate sexual intercourse with youth in TYC (this also includes the employment, authorization or inducement of a youth to engage in sexual conduct or a sexual performance), creation of Inspector General in TYC, housing young juveniles with older ones, and a toll-free number for receiving any information concerning the abuse, neglect, or exploitation of children in the custody of the commission (Garza, 2007).

Summary

Texas juvenile justice is an interwoven system of state and local agencies providing services for youth. The oldest agency, the Texas Youth Commission provides services for the more serious offenders and handles far less cases than the local agencies which are usually at the county level. The 168 local juvenile justice agencies are under the Texas Juvenile Probation Commission. This organization provides a variety of assistance and support in order to aid local juvenile justice efforts. At the local level judges, commissioners, prosecutors, law enforcement and volunteers work together to provide services in all counties of the state.

From the development of TYC in 1949 through the commencement of the TJPC in 1981 through today there have been legislative decisions, court cases, and philosophical beliefs which have molded Texas juvenile justice. As the population increases and the state becomes even more diverse the state juvenile justice agencies balance a need for protection with revalidation efforts.

From the 2007 Legislative Session new positions and policies were implemented as the Texas Youth Commission attempts to recover from the abuse and mistreatment of youth in its custody. Individual training and improved oversight will be keys to improving the care and rehabilitative efforts received by youth in the Texas Juvenile Justice system.

Critical Thinking Questions

1. What is the difference in mission between the Texas Juvenile Probation Commission and Texas Youth Commission?
2. What issues came to national attention as a result of the Texas Youth Commission scandal of 2007?
3. Name and describe the many state-wide Texas agencies working for the well-being of youth in the state?

Bibliography

Dawson, R. (2004). *Texas Juvenile Law*. Austin, Texas: Texas Juvenile Probation Commission.

Garza, P. (2007). "Legislative Update." *2007 Nuts and Bolts of Juvenile Law Conference*. Austin, Texas: Texas Juvenile Probation Commission and Juvenile Law Section of the State Bar of Texas July 30-31, 2007.

Governors Office (2007). *Border Security Plan for Texas*. Office of the Governor, Rick Perry. Retrieved June 29, 2007. www.governor.state.tx.us/priorities

Information Please (2007). *Texas*. Retrieved July 4, 2007. www.infoplease.com/ipa/a0108277.html.

Ramshaw, E., (2007, March 6). Extra officers sent to tyc facilities [Electronic version]
The Dallas Morning News.

Report from the Texas Youth Commission. Retrieved August 9, 2007, from
<http://www.dallasnews.com/sharedcontent/dws/img/02/0718tyc.pdf>

Swanson, D.J., (2007a, February 18). Sex abuse reported at youth jail [Electronic version]
The Dallas Morning News.

Swanson, D.J., (2007b, February 20). Youth jail sex inquiry revived [Electronic version]
The Dallas Morning News.

Swanson, D.J., (2007c, April 10). Officials indicted in abuse at tyc [Electronic version]
The Dallas Morning News.

Swanson, D.J. & Hoppe, C., (2007, February 28). Youth prison official ousted
[Electronic version] *The Dallas Morning News*.

Texas Juvenile Probation Commission (2007). *The Texas Juvenile Justice System*. Retrieved June 27, 2007. www.tjpc.stat.tx.us/about_us/juv_justice_overview.htm.

Texas Youth Commission (2007a). *A Brief History of Texas Youth Commission*. Retrieved June 27, 2007. www.tyc.state.tx.us/about/history.html.

Texas Youth Commission, (2007b), Report from the conservator. Retrieved August 9, 2007, from http://www.tyc.state.tx.us/about/Conservator_Report.pdf

Texas Youth Commission, (2007c), TYC rehabilitation plan approved.
Retrieved August 9, 2007, from http://www.tyc.state.tx.us/news/tyc_rehabilitation_plan.html