

Chapter 13: The Future of Texas Juvenile Justice

Everette B. Penn and Lindsey Kane

Introduction

This text has provided characteristics of juvenile offenders in Texas, offenses, trends and geographic locations. A theoretical foundation explaining the issue of disproportionality of Latino and African American juvenile in the system provide an understanding for delinquency. The juvenile justice process in Texas, different than the adult system provides due process and procedures to be followed by all personnel in the system. Texas has in place the ability to respond to the needs of children in need of supervision, delinquent children as well as those who are abused or neglected. Cox, Conrad, Allen and Hasner (2008) speculate about national issues of juvenile justice in the future. This chapter will focus on Texas as the Texas Youth Commission scandal will now cause more concern and attention to be fostered upon youth under the care of this agency.

Texas Juvenile Justice Today

The 80th Legislative Session, which ended in the summer of 2007 provides a snapshot of where juvenile justice is in the state of Texas. From this legislative session several significant policy changes emerged:

- ❖ Training for juvenile officers inside of the Texas Youth Commission will increase from the current 80 hours to 300 hours.
- ❖ Texas Youth Commission staff rations will be reduced from as high as 1:24 to the American Correctional Association advised 1:12 ratio.
- ❖ Juveniles inside of the Texas Youth Commission will be segregated by age and offense.
- ❖ The Texas Youth Commission must release all youth once they reach their 19th birthday. This is a change from the previous policy of 21st birthday. Youth 19, 20 and 21 must be released, be paroled or go into the Texas Department of Criminal Justice.
- ❖ In an effort to increase oversight the Office of Inspector General and Office of Ombudsman have been created.
- ❖ Increase the use of community base programs in an effort to lower the TYC population and rehabilitate youth in less restrictive environments.
- ❖ Change in TYC leadership to include a new Executive Commissioner and new advisory board.
- ❖ Youth adjudicated for misdemeanor offenses will no longer be committed to TYC.
- ❖ In an effort to avoid scandal and mistreatment of juveniles TYC will allow advocacy and support groups to provide on-site services to youth in TYC facilities.
- ❖ Changes to improve treatment plans and models.
- ❖ New county-based programs for youth adjudicated for misdemeanor offenses.

(Texans Care for Children, 2007).

These are promising changes for an organization recovering from allegations of sexual abuse to the youth by its employees, hiring of employees with criminal records, fiscal mismanagement, lack of county judges having faith in the agency, law suits by former youth and the agency being placed in conservatorship. It is important that the other statewide juvenile justice agency, the Texas Juvenile Probation Commission is strong and recently received \$39 million and \$43 million for operations in years 2008 and 2009. But all is not good or improving for children in Texas.

Texans Care (2007) a non-partisan, nonprofit network of individuals and organizations advocating for improvement and well-being of children across the state of Texas point out that 1 in 4 children in the state live in poverty and that Texas has the highest high school drop-out rate in the country. These two findings alone are elements for increased social disorganization, sub-cultural life-style and ultimately increased juvenile delinquency in the future.

Poverty

According to the United States Census (2007) the two poorest counties in the United States are located in the southern part of Texas. Hidalgo and Cameron county have 38 and 36 percent of its population living in poverty. When analyzing the poverty rate for children, Hidalgo has 48.6% of its persons under the age of 18 living in poverty. Texas statewide median income is below the national average \$46,037 to \$41,959 and 15.4% of the state's population lives in poverty as compared to 12.4% for the United States (United States Census, 2007).

Education

Since 2003 the State of Texas has administered a series of assessment test for its students. Known as the Texas Assessment of Knowledge and Skills (TAKS) the program assesses: reading at Grades 3-9; English and language arts at Grades 10 and 11; writing at Grades 4 and 7; science at Grades 5, 8, 10, and 11; social studies at Grades 8, 10, and 11. Spanish-version TAKS are available for Grades 3-6. In 2006 67% of children who took the test passed all subjects. Overall the passing rate was 91% for Writing; 87% for Social Studies; 87% for English; 75% for Math; and 70% for Science. Continuously for all subjects African American and Latino children score below their White classmates (Texas Education Agency, 2007).

Under the TAKS assessment program graduation required exams are administered in Grade 11 and include all areas for evaluation. A student who does not pass the exit exam has four times to achieve a passing evaluation in all areas in order to graduate. For those students unable to pass all subjects before their graduation date they continue to retest after their expected graduation date. The cumulative passing rate for the class of 2006 was 87 percent. Asians and Whites both had 94%; Latinos 80% and African Americans was 78%. For students in special education the rate was 56% and those with limited English proficiency the rate was 48% (Texas Education Agency, 2007). Overall Texas is below the national average for persons 25 and older with a high school diploma 75% to the 80% U.S. average. When comparing persons with a BA degree over the age of 25 Texas is slightly behind the national average with 23.2% of its population having a college degree versus 24% (U.S. Census 2007).

From previous chapters about disproportionality and juvenile crime poor education and poverty disproportionately affect African Americans and Latinos. These conditions lead to living in social disorganized areas which may have strong sub-cultural pulls leading to delinquency, crime and gang involvement. With 45% of the youth in Texas Youth Commission Latino a look at demographics will provide insight into what juvenile justice issues may loom in the future.

Texas Future

According to the United States Census (2007b) projections for 2010, 2020 and 2030 the population of persons under the age of 18 will decrease 2.1% in 2010, a 0.9% increase is expected in 2020 and finally a 1.1% increase by the year 2030. Thus there is no significant youth

population coming. If it were then a recommendation for the future would be for law enforcement, and other juvenile justice officials to prepare for an increase in youth who would be involved in delinquent behavior. Additionally the lowering of the age of mandatory release from TYC as well as its use restricted to felony offenses this may be tremendous research opportunity to evaluate its “get tough” policies and explore sound rehabilitative practices as no major population growth may mean stabilization or decreases in TYC commitments or TJPC involvement.

Still racial minority groups such as Latinos and African Americans are most likely to find themselves disproportionately among the poor and educationally challenged in the next few decades. This may lead to greater involvement in the juvenile justice system. Combating this potential problem are statewide initiatives such as Close the Gaps.

Closing the Gaps

In October of 2000 the Texas Higher Education Coordinating Board adopted *Closing the Gaps by 2015*. The goal of the plan is to reduce or eliminate Texas’ educational gaps within the state as well as those between Texas and other leading states. Every summer, the Coordinating Board evaluates the progress of this initiative in 19 measurable goals and targets. The findings for July 2007 are found in Table 13.1:

Table 13.1 Closing the Gaps, July 2007 Assessment

Goal or Target	July 2007 Assessment
Statewide participation goal	On Target but slowing
African American participation	On Target
Hispanic participation	Below Target
White participation	Above Target but declining
Statewide bachelor’s and associate’s degrees, and certificates success goal	On Target but slowing
Bachelor’s degrees	On Target
Associate’s degrees	Above Target
African American bachelor’s and associate’s degrees, and certificates success goal	On Target but Flattening
Hispanics bachelor’s and associate’s degrees, and certificates success goal	On Target
Technology bachelor’s and associate’s degrees, and certificates	Well Below Target
Allied health and nursing bachelor’s and associate degrees, and certificates	Above Target
Teachers initially certified through all teacher certification routes	Slightly Below Target
Math and science teachers certified through all teacher certification routes	Slightly Below Target
National Rankings	Below Target
Program Recognition	On Target
Priority Plan Benchmarks	TBD (Report due in October of 2007)
Federal science and engineering research and development obligations	Slightly Below Target
Public institution’s research expenditures	On Target

Source: Texas Higher Education Coordinating Board

www.thecb.state.tx.us

From the 2007 findings improvement is necessary and progress appears to be slowing, especially when looking at Hispanic involvement. To give an idea of the magnitude of this initiative one simply needs to look at the statewide goal of having 1,432,000 students in higher education in 2010 and 1,650,000 students by 1,650,000 in 2015. Currently there are just over 1 million persons enrolled in public and independent institutions of higher education in the state of Texas.

Promising Initiative for Youth in Texas

For the future programs which engage all youth regardless of their economic background or geographic location will be key to the development of youth in order to avoid juvenile delinquency in the future. Two promising indicatives are youth volunteering and Teen Courts.

Youth Volunteering

Penn (2000) conducted research in order to find a link between service to the community and reducing delinquency in youth who have not been adjudicated. In his research he identified six principles which provide a foundation for an effective program for youth. These principles include: adult support, structure and expectations; creative forms of learning; a combination of guidance and rich connections to the workplace; support and follow-up; youth as resources; and quality of implementation. In his natural research he found that often minority youth have a negative association with service to the community as it is often linked with court ordered community service in which they have observed family and friends complete while under the jurisdiction of the justice system. Thus positive associations must be made with serving the community, investment and bonding to the welfare and improvement of the community. Although service to the community was only cursory in the most effective juvenile prevention programs as identified by the Office of Juvenile Justice and Delinquency Prevention (1997) implementation may be the issue as service takes the commitment of adults, resources and commitment to become a meaningful experience for the youth.

Falling back upon social bonding discussed in chapter nine Penn (2000) presents a model for service to the community which provides for community involvement, bonding and delinquency reduction. He states:

- ❖ Service is good for the individual, community and the nation.
- ❖ A positive role model is necessary for the development of youth.
- ❖ Resources from government agencies are available to promote service in the community.
- ❖ Youth should be empowered when serving the community.
- ❖ Incentives increase service by youth while they provide a benefit to the community.
- ❖ Service is most beneficial when it takes place by all people in the community in order to strengthen the social bond.
- ❖ Therefore, service will have an effect on reducing delinquency and crime.

Organizations such as the Corporation for National and Community Service, Campus Compact and other volunteer organizations will play a major role in getting all citizens to be involved in service to the community. One specific program which uses volunteerism for youth who find themselves in the justice system is Teen Court.

Teen Courts

The birth of Teen Court is most widely recognized as taking place in Odessa, TX almost 25 years ago. Natalie Rothstein established the Odessa Teen Court in response to the juvenile justice system's lack of action concerning the city's juvenile delinquency problem. Rothstein was a strong proponent of intervening in delinquent youths' lives before their law-breaking behavior escalated. Her steadfast promotion of the teen court concept gave way to the development of teen court programs in communities across the nation (Godwin, Steinhart, and Fulton, 1996). The past decade, however, has seen the most growth in the establishment of teen courts. In 1994, there were approximately 78 programs in operating in the United States (Pearson and Jurich, 2005). The number has since dramatically jumped to 1,139, according to the National Youth Court Center (NYCC), 87 of which are located in Texas (National Youth Court Center, 2006). It has been found that there are six major agencies which operate and/or administer teen court programs. Table 13.2 provides a national look at which agencies are most involved in Teen Courts (some are used in combination with one another) (Godwin, et. al., 1996).

Table 13.2 Agencies Leading Teen Court Programs Around the United States

Juvenile Court	29%
Private Non-Profit Organization	29%
Juvenile Probation Department	17%
Law Enforcement Agency	17%
School	10%
Other (city government, administration office of the court)	22%

Source: Godwin, et al., 1996.

Thus from the table above juvenile courts are tied with private entities leading teen court programs. Interestingly, schools were the least likely to lead a teen court program.

Texas and Teen Courts

In the United States, there are a number of different statutory titles are used to describe the type of program first utilized by Rothstein in 1982. Such titles may include youth court, teen court, peer jury, or student court (Pearson and Jurich, 2005). In Texas, teen court is the term used to identify an alternative program to the more formal juvenile court system, in which a delinquent youth has the opportunity to offer restoration for her/his offense by appearing before peers. The trial is authentic in that it hands down a sentence which the offender is legally required to complete. In order for a delinquent youth to participate in teen court, the following criteria must be met:

- 1) The crime committed must be a Class C misdemeanor with a fine of up to \$500.00,
- 2) The youth must specifically request the opportunity to voluntarily participate,
- 3) The youth must waiver any privilege against self-incrimination,
- 4) The youth's parent(s) or guardian(s) must be present when he/she enters a guilty plea before the court with original jurisdiction over the offense,
- 5) The youth must be under the age of 18 or enrolled full-time in an accredited secondary school program leading toward a high school diploma and is the only identified participant in the program, and
- 6) The youth must not have appeared as a defendant in teen court within the past two-years.

The admission of guilt by the youth as a prerequisite to enter a teen court program and the training and expertise required by the fact-finding volunteers is what makes Texas' teen courts "dispositional" in nature. This is a more restrictive option, as the juvenile does not have a choice as to whether to enter a guilty or not guilty plea for admission into the program (Heward, 2002). If the youth is accepted into the teen court program, his/her case will be argued in an actual trial and he/she will incur an actual sentence. Those presenting and hearing the case are teenage volunteers from local secondary schools, as well as youth who were previous defendants. Such teens are trained to act as prosecutors, defense attorneys, or jury members. The jury is responsible for determining how many community hours the defendant is to serve based on the nature of the offense. The sentence will also involve requiring the defendant to serve as a jury member for a selected number of terms. The youth has 90 days to complete his/her sentence as of the date the sentence is handed down, or when the deferral period is up, whichever is earlier. If the youth completes the teen court program, the original plea is dismissed with prejudice and cannot be used as a conviction for any purpose⁵. The youth's record is wiped clean and he/she may only have to pay out \$10 or \$20 to cover juvenile and teen court fees (Texas Family Code, 2006). However, if the youth fails to complete the program, he/she will have to pay the originally set fine for the crime and a conviction will become part of his/her record (Texas Teen Courts, 2007).

While the state of Texas authorizes municipal courts, justice, and juvenile courts to defer the adjudication process to a teen court program, it does not have legislation requiring such courts to establish or operate a teen court program. Additionally, while Texas is categorized as having comprehensive legislation on teen court programs via the Texas Family Code and the Texas Code of Criminal Procedure, it is one of only two states (West Virginia being the other) that does not offer specific legislation on the establishment of a teen court program (Texas Teen Courts, 2007).

Teen Court Outcomes

The sentences handed down by teen court programs, which include educational classes, community service, and participation in future teen court sessions as a jury member allows the offending youth to avoid incurring the fine and/or sentence which would otherwise be imposed via the traditional court hearing (Texas Teen Courts, 2007). The program also allows the offending youth to steer clear of becoming another statistic in the justice system by offering him/her, not only a second chance, but an opportunity for them to take responsibility for their crime, not their parents, and learn a great deal from the experience.

{Teen court serves to promote the ideals of restorative justice and diversion. Restorative justice refers to the idea that when a crime has been committed, harm has been incurred, not only to the victim of the crime, but to the community within which the crime took place. Justice, in this sense, requires the offender to restore the victim and the community back their original state, before the crime was committed. However, the beauty of teen court is that the offender, too, becomes restored through his/her experience in the program and is even reintegrated back into his/her community, once the community has seen the offender take steps to repair the harm. An additional feature of teen court is its ability to divert delinquent youth from engaging in risky behaviors, i.e. if a youth is engaging in the teen court program, he/she is not engaging in delinquent behaviors.

Since teen court incorporates local adult and teen volunteers into the trial and sentence application, the offending youth has the opportunity to work side by side with his/her peers and non-family adults who can model and share a more positive, civically engaged lifestyle. Godwin et. al. (1996) cited that adolescents place importance on peer influences in their lives, which can sometimes lead to delinquent associations, which can then lead to delinquent behaviors. However, teen courts take advantage of that fact of life by providing the offending youth with the opportunity to be sentenced by those his/her own age, rather than an adult judge. This sends a

strong message to the offender that a jury of his/her peers does not condone the offense. The offending youth also has an opportunity to associate with the teen volunteers, as the process requires much interaction between the two. The teen volunteers are likely to come from different ethnic, social, and economic backgrounds from the offender (Godwin et. al. 1996) and are also less likely to be delinquents themselves, as several studies have found that participation in volunteer activities is likely to yield less delinquency (Hoffman and Xu, 2002; Wong, 2004; Dukes and Stein, 2001). For the offender, the teen court experience will likely offer him/her an opportunity to engage with people his/her own age, who may also be very different in their attitudes, beliefs, and behaviors than those with whom the offender engages with in his/her life outside of teen court.

As for the offender's opportunity to work with non-family adults as being an influential factor in the youth's life, Scales, Benson and Mannes (2006) noted that few young people today have the experiences of bonding with positive non-family adults who serve as role models. Neither do they experience the sense that they are valued by adults in their community. His findings suggested that time spent in activities which allowed them to interact with non-family adult role models was significantly related to lower levels of risk behaviors, or delinquency. He noted, however, that such influence may only provide such outcomes in the short-run, rather than the long-run, because of the fact that peer relations seem to have a stronger influence (Scales et, al 2006). Fortunately, though, teen court offers an offending youth the opportunity to engage with non-family adults as well as his/her peers.

Karp, Sweet ,Kirshenbaum and Bazemore (2004) found while most of the offenders were active participants in the process, the amount of engagement in the restorative aspect of the program appeared limited. This assessment was based on the total number of times and how long the offender spoke during the process, as well as how often he/she prompted a dialogue as opposed to merely answering others' questions, and levels of expressed remorse. It seemed that the offenders who either denied responsibility or tried to minimize the harm caused by their crime did not participate in a manner consistent with rectifying the harm done to the community or the victim, i.e., expressed little remorse and kept verbal interaction relatively minimal. The researchers concluded that their findings raised the question of whether offending youths should be required to admit to their guilt before participating in such restorative programs. They noted that if the offender does not accept at least some responsibility for his/her actions before taking part in the program, the end product is likely to consist of an unsatisfactory level of restoration for the victim as well as a mere disciplinary experience for the offender. The panel is also likely to end up resorting to handing down sentences without the active engagement or investment of the offenders in the decision making process. While the type of program examined in the study was not that of teen court, the ideals of victim, community, and offender restoration through active and quality participation in such programs are vital keys to any restorative justice process, without which, leaves the entire experience looking much more like that found in the formal juvenile courts (Karp et al. 2004). This offers encouragement to the Texas statutes requiring offending youths to admit their guilt and waive their rights against self-incrimination before entering into teen court.

For the future programs such as teen court offer hope since they require youth to take ownership of their actions and provide an opportunity for them to reintegrate themselves back into the community by performing service to their community.

Summary

In the future the population of Texas will continue to rise. United States Census estimates do not indicate a significant percentage of the rise in population to be under the age of 17. Thus this provides an opportunity to examine practices and make changes such as the ones from the

2007 Texas Legislative Session. With statewide programs such as the improvement of TYC and Closing the Gaps Texas youth in and out of the juvenile justice system should benefit as the state becomes proactive to future needs and issues. Literature supports how community involvement reduces delinquency thus programs such as volunteering and teen court provide social bonding experiences for youth before, during and after a justice encounter.

Critical Review Questions

1. What is the relationship between income, education and youth involvement in the juvenile justice system?
2. If you were in the Texas Legislature in 2007 what changes would you have proposed for the Texas Youth Commission?
3. What should Texas do about having the two poorest counties in the United States?
4. What volunteer projects do you see in your neighborhood to enhance community involvement?

Bibliography

Dukes, R.L., & Stein, J.A. (2001). Effects of assets and deficits on the social control of at-risk behavior among youth: a structural equations approach. *Youth & Society*, 32(3), 337-359.

Godwin, T.M., Steinhart, D.T., & Fulton, B.A. (1996). *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs*. Office of Juvenile Justice and Delinquency Prevention: Washington: D.C.

Heward, M. (2002). *The organization and operation of teen courts in the United States: a comparative analysis of legislation*. Baltimore: MD: National Youth Court Center.

Hoffman, J.P., & Xu, J. (2002). School activities, community service, and delinquency. *Crime & Delinquency*, 48(4), 568-591.

Karp, D.R., Sweet, M., Kirshenbaum, A., & Bazemore, G. (2004). Reluctant participants in restorative justice? Youthful offenders and their parents. *Contemporary Justice Review*, 4(2), 199-216.

National Youth Court Center (2006). "History." Retrieved December 15, 2006. http://www.youthcourt.net/national_listing/index.htm

Pearson, S. and Jurich, S. (2005). *Youth court: a community solution for embracing at-risk youth*. Baltimore M.D.: National Youth Court Center.

Penn, E. (2000). *Reducing Delinquency Through Service*. Corporation for National Service. Retrieved August 20, 2007 <http://www.national.serviceresources.org>.

Scales, P.C, Benson, P.L., & Mannes, M. (2006). The contribution to adolescent well-being made by nonfamily adults: an examination of developmental assets as contexts and processes. *Journal of Community Psychology*, 34(4), 401-413.

Texans Care for Children (2007). 'At –Risk Youth and Juvenile Justice: Policy Updates.' *Texans Care for Children*. www.texanscareforchildren.org. Retrieved August 19, 2007.

Texas Education Agency (2007). *2006 Comprehensive Annual Report on Texas Public Schools: Report to the 80th Legislature from the Texas Education Agency*. Austin, Texas: Texas Education Agency. Retrieved August 16, 2007
http://www.tea.state.tx.us/research/pdfs/2006_comp_annual.pdf.

Texas Family Code (2006) 54.032.

Texas Higher Education Coordinating Board. "Closing the Gaps by 2015: 2007 Progress Report. Retrieved August 19, 2007 <http://www.theccb.stat.tx.us>

Texas Teen Courts (2007). "Teen Court 101." Retrieved August 20, 2007
<http://www.texasteencourt.com>

U.S. Census (2007a). "Facts: Texas." U.S. Census. Retrieved August 19, 2007
<https://ask.census.gov>.

2007b "Population Pyramids of Texas." U.S. Census. Retrieved August 19, 2007.
www.census.gov/population/projections.

Wong, Siu Kwong. (2004). The effects of adolescent activities on delinquency: a differential involvement approach. *Journal of Youth and Adolescence*, 34(4), 321-333.