



Hon. John Whitmire

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Hon. Harold V. Dutton

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Delivered via electronic mail

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Dear Chairs Whitmire & Dutton,

As you know, the State is facing yet another round of crises surrounding the ineffective and expensive secure facilities run by the Texas Juvenile Justice Department (TJJD). We appreciate the concern shown by State leadership to the most recent revelations, many of which were discovered and reported by the Office of the Independent Ombudsman (OIO). The problems documented by the recent OIO reports include:

- Inadequate staffing and high turnover among JCOs and support staff;
- Inability to maintain an environment safe for staff and youth;
- Inability to maintain programming, which exacerbates safety problems; and
- A high number of referrals to security, including youth who “self refer” or refuse to leave security units due to safety fears.

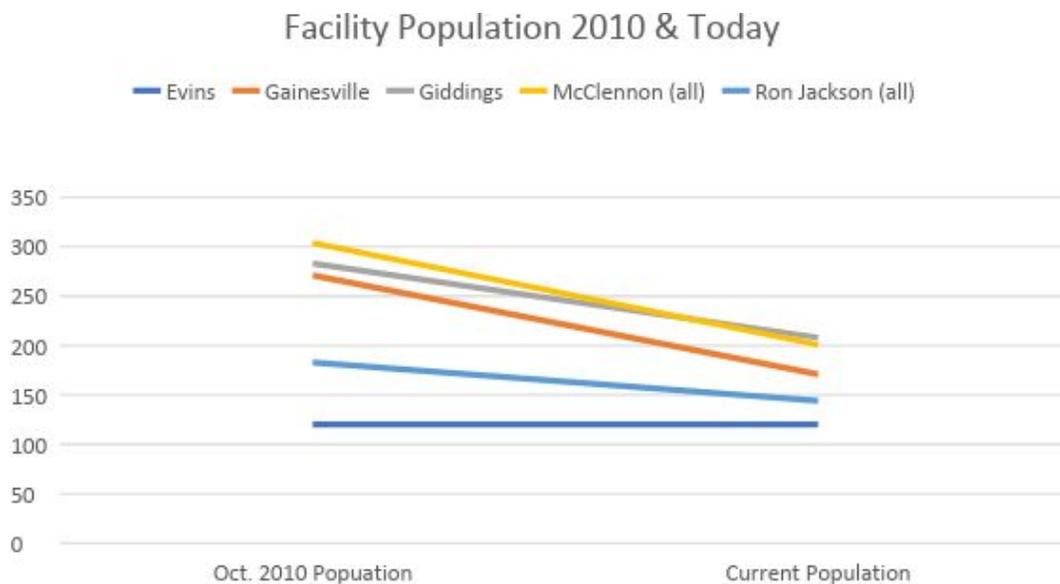
Though these problems were most recently documented by the OIO in three facilities within the system (Evins, Gainesville, and Mart), at various times in recent years similar problems have been documented within the other two facilities (Ron Jackson and Giddings), as well. In fact, all of these problems have been repeatedly documented, system-wide, since a series of sex abuse scandals erupted in 2007.

Texas has been a leader in responding to these crises by moving away from reliance on these ineffective, rural facilities and toward proven alternatives closer to youths’ homes. The crisis in the facilities that we are discussing today should not be seen as a failure of reforms undertaken

since 2007 – but rather as a reminder that Texas still has work to do to ensure that we continue down the successful path that the State began to pave in 2007.

We appreciate the agency’s newest director Camille Cain’s focus on reducing population within facilities and bringing research-based practices in, including trauma-informed care. However, these facilities continue to cycle in-and-out of crisis, even *with* reduced populations and good-faith efforts to bring the situation under control. TJJJ has attempted a number of research-based approaches in its secure facilities, but either failed to maintain them or implement them effectively.¹ Research-based practices cannot take root in facilities that are impossible to appropriately staff with the professionals needed to implement them.

Further, a look at the decline in population in these facilities clearly indicates that reducing population, alone, will not solve the problem:²



Since 2010, Gainesville’s population has been reduced by 37 percent, Giddings’ population has been reduced by 27 percent, Mart’s population (following closure of one side of the facility) has been reduced by 34 percent, and Ron Jackson’s population has been reduced by 21 percent (also as a result of closure of one side of the facility). Despite this, problems persist. Evins, the only facility that has not seen a reduction, has the lowest population of all five facilities – and yet struggles with the same problems.

Ms. Cain has suggested reducing population by 18 percent as part of the agency’s proposed reform strategy, based on the ability to maintain optimal staff to youth ratios. However, this

¹ The following programs have been attempted in TJJJ facilities over the last twelve years in an effort to address behavioral issues: Positive Behavioral Interventions and Supports, Aggression Replacement Training, the Phoenix Program (which has incorporated elements of research-based practices).

² Population numbers taken from a facility comparisons matrix created by TJJJ in 2011, and numbers reported by the OIG in the TJJJ board materials for March 15, 2019.

analysis is based on the *current* ability of the agency to staff facilities; it assumes the availability of the workforce in those rural communities will not change, an assumption that fails to take into account current trends in rural areas as well as trends related to the strengthened economy.³ While reducing population may be a temporary solution to managing some of the worst problems reported by the OIO, the fact that these problems continue to recur in facilities despite the more dramatic population reductions over the last 10 years suggests it is unlikely to keep problems from recurring.

In January of 2018, after Gainesville’s problems emerged in news headlines, we outlined a series of steps that the State should take to ensure that Texas continues down the path it started in 2007 by closing the remaining facilities. We are renewing our call for a planning process for facility closure: there is no justification for continuing to invest more than \$120 million each biennium in this model which fails to deliver the intended results. While we understand TJJJ’s concern that closing a facility might destabilize the remaining facilities, we simply do not see any evidence that keeping the facilities open and reducing population eliminates the likelihood of crisis.

In fact, what we instead see is that despite a reduction in population in the facilities, the same problems and patterns continue to emerge. Furthermore, we know from comprehensive research published by the Council of State Governments (CSG) in 2015 that TJJJ facilities are failing in their primary role of rehabilitation of youth, making youth worse rather than better.⁴ The same report also found that comparisons of youth who were committed to state secure facilities to those placed under the supervision of their local probation department showed “there continue to be a number of youth committed to state-run secure facilities who could be effectively served under the supervision of a county juvenile probation department.”⁵

The benefit of staggered closure of the remaining five facilities is not simply a question of eliminating an expensive, ineffective feature of Texas’ juvenile system. Closure of these facilities will also allow TJJJ to better focus on its critical role of serving as a source of funding, technical assistance, and support to the State’s juvenile probation departments. Once it is able to extricate itself from oversight of facilities that stay in crisis mode, the agency will be able to dedicate itself to providing critical assistance to counties that will improve outcomes, reduce recidivism, and improve public safety for Texas’ families and communities.

³ See Emily Foxhall & John D. Harden, *New 2016 Texas county population estimates show continued urban rise*, Houston Chronicle, May 4, 2018 (documenting shrinking population in Texas’ rural communities); Elizabeth Trovall, *Report: Immigration Curbs Population Decline in Rural Texas Communities*, KUT, September 11, 2018 (discussing report showing 19 percent decline in native-born population in rural Texas communities); Jackie Benton & Bruce Wright, *State Employees: Turnover Rises in Hot Economy*, Texas State Comptroller website, May 2018 (also reporting TJJJ had the highest turnover rate of all state agencies in FY 17).

⁴ The Council of State Governments Justice Center, *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms*, Table 6 & Appendix D (2015)(showing statistically identical youth who received no intervention were significantly less likely to be arrested and less likely to recidivate by committing a felony than youth committed to state secure facilities).

⁵ *Id.* at 59.

CREATING THE ROADMAP: Supporting Local Closer to Home Plans

To be effective, the process will need:

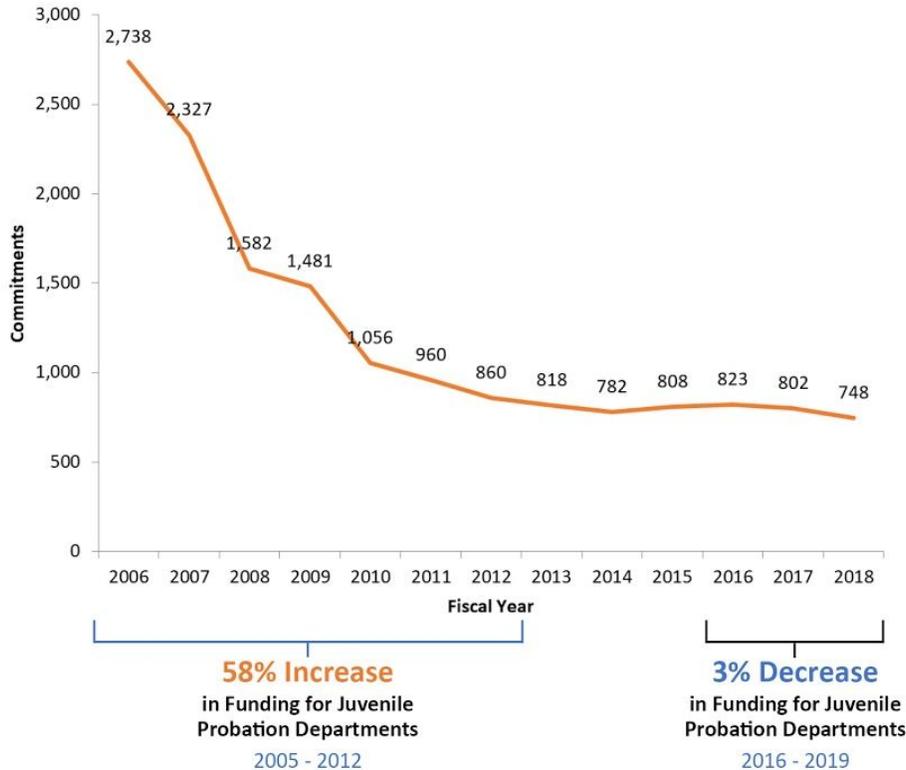
- The right stakeholders at the table;
- Resources for planning;
- A realistic and reasonable timeline; and
- A commitment to effective implementation.

Texas has already done a remarkable job of decreasing the population in state institutions since 2007, but CSG's *Closer to Home* report makes clear that there is an ongoing need for additional work and renewed commitment to restructuring the juvenile system. The next step is to support counties in maintaining and building upon this progress by supporting locally-driven examinations of the resources needed to further reduce or entirely eliminate commitments, while improving outcomes and public safety by supporting research-based initiatives that keep youth closer to home. Once local and regional needs have been identified, state dollars should be moved out of state secure facilities, with staggered facility closures, and into local and regional programs. These local and regionally developed Closer to Home Plans should include key performance indicators that will allow the State to track progress toward goals, and capitalize on its ability to provide technical assistance in a way that ensures the best and highest use of taxpayer funds.

The concerns raised by TJJJ regarding closure of Gainesville are the same concerns that have been raised *each time* a facility has been slated for closure over the last 12 years. And yet, since 2007, 10 facilities have closed. While the early closures (and corresponding increase in funds to juvenile probation) were the result of substantive changes in law that prohibited commitment of youth for misdemeanors, the reductions from 2009 forward were achieved through the budget.

Beginning in 2009, closure of state secure facilities were accompanied by movement of funds into juvenile probation to increase capacity to meet youths' needs in their home counties. As money was moved into funding for juvenile probation and out of state secure facilities, commitments dropped.

COMMITMENTS 2006 - 2018⁶



Texas has not closed a facility since 2013, and juvenile probation funding has decreased slightly. It is no surprise, then, that reductions in commitments have levelled off and even increased slightly in the first year following the funding reduction.

Texas has shown, time and again, that the key to reducing commitments is moving money out of the failed state secure facilities and into local juvenile probation budgets. Closing all five remaining facilities may require new models for the Texas legislature to consider in 2021: for example, it would require substantive changes that allow counties to keep even determinate sentence youth. However, the majority of youth committed to TJJJ facilities are indeterminate-sentence youth, comprising more than 80 percent of all youth committed in 2017.⁷

⁶ 58 percent increase reported in CSG, *Closer to Home*, at page 47. Three percent decrease based on overall decrease in funds appropriated for juvenile probation during the 2015 & 2017 legislative sessions. However, it should be noted that though overall funding decreased, the 2015 & 2017 Texas legislatures did provide new grant funding to juvenile probation departments for mental health services and regional planning and diversions, both intended to reduce commitments to state secure facilities.

⁷ See TJJJ, *Youth Characteristics: New Admissions: FY 2013-2017*, available at <http://www.tjjd.texas.gov/statistics/youth-characteristics1317.pdf>

YEAR ONE OF THE BIENNIUM: Start with Ten Large County Probation Departments

In FY 2018, there were 748 new commitments to TJJD. Texas' ten large county juvenile probation departments – Bexar, Collin, Dallas, Denton, El Paso, Fort Bend, Harris, Hidalgo, Tarrant, and Travis Counties – were responsible for 348 , or 47 percent, of these commitments:

County	Number of Commitments
Bexar	20
Collin	9
Dallas	50
Denton	12
El Paso	11
Fort Bend	13
Harris	156
Hidalgo	17
Tarrant	48
Travis	12
TOTAL	348

In addition to having the highest number of commitments, these urban communities are well-poised to plan for change. At least five of these counties -- Harris, Tarrant, Dallas, El Paso, and Hidalgo Counties -- have (or soon will have) new juvenile probation chiefs, and many of them also have new juvenile judges, new prosecutors and/or new juvenile boards. The change in leadership in these communities means that this a prime time to create new road maps and engage stakeholders in a conversation about what resources are needed, locally, to entirely eliminate or substantially reduce the number of youth they commit to TJJD.

TJJD should provide these ten juvenile departments with a one-year planning grant for developing a Closer to Home Plan for their county. TJJD should identify key performance measures the counties will integrate into their plans that are intended to ensure they are focused on research-based practices intended to reduce recidivism and improve outcomes for youth and families. The performance measures should be consistent with the vision outlined in Texas Human Resources Code Sections 201.002 & 201.003, and the requirements for discretionary grants found in Texas Human Resources Code Section 223.001(c). TJJD should also be required to dedicate staff to assist counties by providing technical assistance, data, and research to support their efforts in developing the county's plan.

The development of the plan should be established through a local key stakeholder group that includes:

- juvenile judges,
- the chief juvenile probation officer,

- the county judge & commissioners,
- defense attorneys,
- prosecutors,
- educators,
- child welfare providers,
- advocates, and
- directly- impacted youth and their families.

Plans should be developed to design a comprehensive and cohesive continuum of non-residential and residential options for youth and, if needed, revamp policies and practices for youth at key decision points, including disposition. This comprehensive plan should be driven by the goals of supporting youth and families in their own homes and communities, reducing out-of-home placements, creating smaller, community-based residences within the counties' jurisdictions, and include a focus on promising-and-research-based practices, and an elimination or substantial reduction of commitments to the state.

Plans should also address the reallocation of existing resources, identify gaps in services and resources, including regional gaps, and determine the state resources needed to address those gaps. The Texas Legislature should require the Urban Counties' Closer to Home Plans to be submitted, no later than July 1, 2020, to a TJJD advisory panel of experts to review the plans and recommend funding allocations for the second year of the biennium, consistent with the plans and state resources.

As this planning is taking place, TJJD should begin the process of winding down operations at its Gainesville facility,⁸ and should assemble a team to develop a plan and timeline for staggered closure of the remaining facilities to share with the Texas legislature in early 2021. TJJD's planning team should include:

- Representatives appointed by the Governor, Lt. Governor, Speaker of the House & LBB;
- The chairs of the appropriate legislative committees in the House and Senate, or their appointees;
- Three juvenile court judges from a large, medium, and small county;
- Two prosecutors from different regions of the state;
- Two defense attorneys from different regions of the state;
- Three probation chiefs from a large, medium, and small county;
- An advocate for children or juvenile justice reform;
- A representative for a membership organization representing service providers; and
- Appropriate TJJD staff.

⁸ In order to reduce population at Gainesville and begin winding down operations, during the first year of the biennium, TJJD should stop placing newly admitted youth in Gainesville, and work with each facility in the system to conduct a review of youth to determine how population can be reduced to make room for Gainesville youth who cannot be relocated outside the system, consistent with our January 2018 recommendations. The Texas legislature should consider allowing this facility to be repurposed for other uses, including repurposing it as a TDCJ facility.

Funds saved from winding down operations at the Gainesville facility should be used to fund Closer to Home planning in both years, and implementation of the plans created by the 10 large counties in year two.

YEAR TWO OF THE BIENNIUM: Fund Urban Counties’ Plans & Begin Planning Process For Mid-Size Counties With High Commitment Numbers

During the second year of the biennium, in addition to providing funding for the large counties’ Closer to Home Plans using savings from winding down Gainesville, 13 mid-size counties that have had high commitment numbers⁹ should be provided planning grants to develop county Closer to Home Plans. These plans should be submitted to TJJJ no later than May 1, 2020, so that funding needs and additional facility closures can be taken into consideration when TJJJ develops its 2021 Legislative Appropriations Request.

These 13 mid-size counties were responsible for 27 percent of all new commitments in 2018:

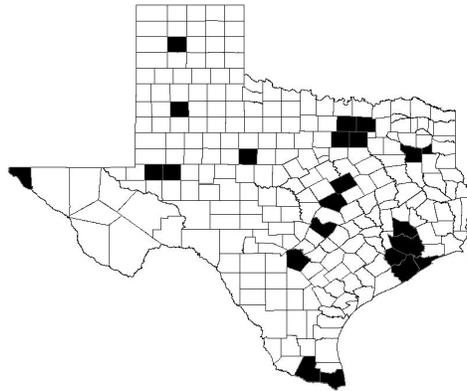
County	New Commitments
Bell	15
Brazoria	9
Cameron	22
Ector	9
Galveston	14
Gregg	10
Lubbock	12
McLennan	30
Midland	13
Montgomery	24
Potter	10
Smith	21
Taylor	11
TOTAL	200

Because many mid-size counties may need to pool resources to successfully implement comprehensive plans, their planning process should include a regional analysis of gaps in services and supports that builds upon the analysis completed as part of regional planning in 2016. This analysis should be done with an eye toward the final phase of planning, for the remaining counties, which will take place in the first year of the next biennium (2022). Regional planning should be developed anticipating that the rural/small counties may need to tap into regional resources once they have completed their plans.

⁹ Counties with more than 9 youth committed in 2018.

The 23 counties that will create plans by the end of the biennium will include counties in each of TJJJ’s seven state regions, making the work they do to advance regional planning critical to ensuring the remaining counties will benefit and be able to tap into and draw upon changes already being made, regionally, during the final planning cycle in the 2022-2023 biennium.

LOCATION OF 23 CLOSER TO HOME PLANNING COUNTIES, 2020-21 BIENNIUM



Shapefile source: U.S. Census Bureau

SAVINGS TO STATE / BUDGET FOR PLANNING & IMPLEMENTATION

The Texas Legislature should fund planning in a way that allows TJJJ, the 10 large, and 13 mid-size counties to devote the time and resources needed to fully engage in the planning process. Effective planning is critical to good implementation and buy-in.

The costs of the planning and implementation in both years of the biennium will be entirely off-set by the closure of Gainesville, even if funding is included for youth currently housed in Gainesville to be moved to other placements.

SAVINGS RELATED TO WIND-DOWN & REPURPOSING OF GAINESVILLE FACILITY

	Year 1	Year 2
Current cost for Gainesville facility, based on FY 19	\$21,082,354	\$21,082,354
Alternative Placements for approx. 100 youth @197/day	- \$5.91 million	
Two months of operations in FY 2020	- \$3.5 million	
TOTAL SAVINGS	\$11,672,354	\$21,082,354

BUDGET FOR YEARS 1 & 2: CLOSER TO HOME PLANNING

	Year 1	Year 2
Planning Grants	\$1.5 million	\$1.95 million
TJJD - Assistance to Counties Creating Local Plans	\$600k	\$600k
TJJD - Planning for Future Repurposing	\$500k	\$500k
Implementation for Large Counties		\$20 million
TOTAL	\$2.6 million	\$23,050,000

The costs for planning & implementation are completely offset by the Gainesville wind-down & repurposing, and would allow for a small savings (roughly \$7.1 million) to the state that could either be reinvested in additional implementation, if needed, or placed back into General Revenue.

The State could expect medium and long-term savings in the form of reduced costs associated with ongoing criminal and juvenile justice system involvement, maintenance and upkeep for the facilities that may be repurposed as a result of reduced commitments, reduction in force following reduction in commitments for facilities that remain open pending planning, overtime and worker's compensation costs associated with unsafe conditions and high JCO turnover, and eventual reduction in facility oversight staff at TJJD. These savings will increase over time as the State continues to execute the Closer to Home plans and additional facilities are closed.

Thank you, again, for the close attention you are paying to these issues. We appreciate your leadership and look forward to working with you on solutions. Please let us know if you have any questions.

Sincerely,

Deborah Fowler

Executive Director, Texas Appleseed

Marc A. Levin

Vice President of Criminal Justice, Texas Public Policy Foundation

Stephanie Rubin

CEO, Texans Care for Children

Matt Simpson

Deputy Political Director, ACLU of Texas

