

The logo for the Texas Sunset Advisory Commission is a semi-circle with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, white, serif font.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

***Texas Juvenile
Probation Commission***

**A Staff Report
to the
Sunset Advisory Commission**

1986

TEXAS JUVENILE PROBATION COMMISSION

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SUMMARY OF STAFF REPORT

The Texas Juvenile Probation Commission has the primary responsibility of ensuring the availability of quality juvenile probation services throughout the state. The commission was established in 1981 and few changes have been made by the legislature since that time. The commission is a nine-member policy body comprised of six public members and three district court judges with juvenile jurisdiction at the time of appointment. The commission carries out its responsibilities through two basic functions: distributing state aid funds to county juvenile boards and providing support services to county juvenile departments.

The agency distributes about \$12.2 million annually to county juvenile boards through its state aid program. These funds are used to make probation services available throughout the state; improve the effectiveness of those services; and provide alternatives to the commitment of juveniles to the Texas Youth Commission. All counties in the state receive a portion of the state aid funds.

The agency also assists county juvenile departments by providing various support services. These services include training and certification of probation officers, providing technical assistance and legal advice, monitoring of local department activities, and maintaining and reporting statistical data on juvenile activity in Texas.

The sunset review of the agency's programs and responsibilities indicated that there is a continuing need for the state to be substantially involved in rehabilitative services for delinquent youth. The review indicated that the agency has generally met its overall goals and objectives in an efficient and effective manner and should be continued for a 12-year period.

The sunset review also determined that if the agency is continued, a number of changes should be made to improve the efficiency and effectiveness of its operations. These changes are outlined in the "recommendations" section.

During the review, other approaches were identified which could improve state operations but would change the focus of current state policy. These approaches are outlined in the "Major Policy Issues" section. Three options providing differing degrees of change have been developed for each major issue. The first option on each issue is recommended as a baseline approach, and the other two options provide additional degrees of change for that issue.

I.
RECOMMENDATIONS

THE AGENCY SHOULD BE CONTINUED FOR A 12-YEAR PERIOD WITH THE FOLLOWING CHANGES:

Policy-making Structure

- 1. The Texas Advisory Council on Juvenile Services should be responsible for determining the needs and problems of county juvenile boards and departments. (p. 22)**

The Texas Advisory Council on Juvenile Services has generally served a review and comment function for the agency, although no specific responsibilities are set out in the statute. Most agency advisory boards fill a specific purpose or need. Giving the advisory council the responsibility to determine the needs and problems of county juvenile boards and departments should encourage local input and assist the agency in developing programs that will best meet the needs of the juvenile probation system.

- 2. Representatives of the Texas Education Agency and the Department of Human Services should be added to the membership of the advisory council. (p. 22)**

The membership of the advisory council includes citizens, judges, probation officers, and a representative of the Texas Youth Commission. The TYC member provides input as to how policies may affect or can be coordinated with their agency. The Texas Education Agency and DHS also serve significant numbers of youth who may interact with the juvenile justice system. Having the executive director of these agencies or their designees on the advisory council would assist in coordinating policies.

Overall Administration

- 3. The Texas Juvenile Probation Commission should be required to conduct studies of the effectiveness of probation programs. (p. 24)**

One of the purposes of TJPC is to improve the effectiveness of probation services. The commission is authorized to distribute state aid, establish minimum standards for services and train probation officers as means of promoting effective probation

services. However, the agency's current research and statistical efforts are primarily management in nature and do not evaluate the actual effectiveness of the services TJPC promotes. To ensure that TJPC promotes the most effective and least restrictive services for the rehabilitation of delinquents, the agency should be required to undertake an on-going study of the effectiveness of probation services and publish its findings prior to each regular legislative session.

- 4. The executive directors of TJPC, TYC, TEA, TDMHMR, and DHS should meet semi-annually to resolve conflicts in services to juveniles. (p. 25)**

The statute requires the executive directors of TJPC and TYC to meet quarterly to discuss mutual problems and make recommendations to the legislature. Conflicts exist in the provision of services to juveniles by a number of other state agencies. Including the executive directors of TEA, TDMHMR, and DHS in interagency cooperative efforts should result in resolution of policy conflicts.

Evaluation of Programs

State Aid

- 5. The Texas Juvenile Probation Commission should be required to regularly update county population figures used to allocate state aid funds. (p. 27)**

The agency bases a major portion of its formula for distributing state aid funds on juvenile age population figures from the 1980 U.S. Census. This results in counties that have significantly increased in population since 1980 not receiving corresponding increases in funding. In order to more equitably distribute state aid, the agency should regularly update the population figures it uses in their funding formula.

- 6. A one-time juvenile court fee should be assessed to support a special fund for diversion of juveniles from commitment to TYC. (p. 29)**

There is a need for additional services to be made available for diversion of youth from further involvement in the justice system and eventual commitment to TYC. Diversion services can result in an appropriate setting for a youth's rehabilitation and in many cases cost the state considerably less than commitment to TYC. In order to support such services, a special fund should be established, to be supported by a one-time juvenile court fee of \$20.

Juvenile Justice System

7. **All juvenile boards should be required to appoint a local advisory council. (p. 33)**

County juvenile boards are responsible for establishing and supervising county juvenile probation services and certifying the fitness of county detention facilities. Approximately 163 of the 184 juvenile boards have no authority to include public members in the board structure. This composition does not provide for community involvement in board activities. Legislation recently authorized some boards to appoint a nine-member citizen advisory council to provide such a forum. To ensure that a forum for public participation is available in each department throughout the state, the statute should require every juvenile board to appoint a citizen advisory council.

8. **Juvenile courts should be required to examine the parents' ability to contribute to the cost of court-ordered residential care. (p. 35)**

Adequate residential resources are necessary to ensure appropriate placements for the rehabilitation of delinquents. All existing resources to support such services should be examined, including those of the child's family. State law currently authorizes but does not require juvenile judges to look to the family to share in the cost of obtaining the necessary residential services for their child, once that child is placed on probation. However, these provisions are not used uniformly across the state. To correct this problem and provide the additional resources to place probationers in residential care, the current authority provided to juvenile judges to examine parental resources should be made mandatory.

9. **The number of Class C misdemeanors needed to prosecute in juvenile court should be reduced from three offenses to one offense. (p. 36)**

Juvenile authorities must document commission of three Class C misdemeanors in order to prosecute in juvenile court. This requirement has resulted in very few cases actually being prosecuted due to the difficulty of proving offenses that may have occurred months or even years earlier. Allowing juvenile court proceedings to take place upon the first commission of a Class C offense would enable juvenile authorities to provide services at a time when further offenses may be prevented.

10. County juvenile boards should have the authority to contract with TYC for provision of probation services. (p. 38)

Currently TYC has the statutory option to supervise parolees through its own employees or to contract for this service through a local juvenile board. This type of management option is not available to juvenile probation departments, even when it could be more cost effective to contract for probation services. Providing the flexibility to contract would give the local departments an additional method to meet future needs.

Non-Program Changes

11. The relevant across-the-board recommendations of the Sunset Commission should be applied to the agency. (p. 49)

Through the review of many agencies, the Sunset Commission has developed a series of recommendations that address problems commonly found in state agencies. These "across-the-board" recommendations are applied to each agency and a description of the provisions and their application to the Texas Juvenile Probation Commission are found in the "Across-the-Board Recommendations" section of the report.

12. Minor clean-up changes should be made in the agency's statute. (p. 53)

Certain non-substantive changes should be made in the agency's statute. A description of these clean-up changes in the statute are found in the "Minor Modifications of Agency's Statute" section of the report.

II.

MAJOR POLICY ISSUES

ISSUE 1: REQUIRE THAT FEES BE ASSESSED FOR PROBATION SERVICES.

(p. 43)

Since 1979, juvenile courts have had the authority to assess a fee of up to \$15 per month while a child is on formal probation. Although the assessment of these fees is not required, the court can order the child, parent, or other person (usually a guardian) to pay the fee if financially able to do so. Currently, 39 of the 254

counties in Texas indicate that probation fees are assessed, with approximately \$90,000 collected statewide in fiscal year 1984.

A major difference between juvenile and adult probation is that juvenile probation departments receive youths immediately upon arrest or referral, while adult probation departments only receive clients after they are sentenced in court. Therefore many youths receive services prior to, or in place of adjudication. These services are referred to as informal adjustment which includes temporary probation and voluntary probation services.

The review indicated that fees for formal probation should be required unless waived for financial hardship. The arguments for charging fees for informal adjustment services are not as clear, but should also be considered. Three options are presented below which gradually increase the types of services for which fees may be required.

Option One:

The state should require assessment of probation fees unless waived or reduced by the court. (p.45)

This option would require courts to assess fees for court-ordered probation unless waived for financial hardship.

Option Two:

The state could require probation fees and authorize fees for informal adjustment services. (p.45)

This option would also require fees for court-ordered probation. In addition, juvenile probation departments would be authorized to assess fees for informal adjustment services but would not be required to charge a fee for informal services. Fees could be waived for financial hardship.

Option Three:

The state could require that fees be assessed for all probation services. (p.46)

This option requires that fees be assessed for court ordered probation and for informal adjustment services unless waived for financial hardship.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
 2. Does the agency operate efficiently?
 3. Has the agency been effective in meeting its statutory requirements?
 4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
 5. Is the agency carrying out only those programs authorized by the legislature?
 6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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INTRODUCTION

THE JUVENILE JUSTICE SYSTEM IN TEXAS

A juvenile in Texas is a youth between the ages of 10 and 17. Youths who commit an offense prior to their 17th birthday are originally handled within the juvenile justice system (See Exhibit I). This system distinguishes between two types of offenses for which a youth can be adjudicated in juvenile court: delinquent conduct and conduct indicating a need for supervision (CINS). Delinquent conduct is conduct resulting in a violation of adult criminal law or the violation of probation requirements. The CINS offenses are defined as status offenses, Class C misdemeanors, DWI, and the illegal use of inhalants. One type of CINS offense, the status offense, refers to conduct which is considered a violation of law for juveniles but not for adults, such as truancy or running away from home. In other words, it is only an offense because of the status of the person as a juvenile.

There are two state agencies directly involved in the juvenile justice system, the Texas Juvenile Probation Commission (TJPC) and the Texas Youth Commission (TYC). TJPC primarily provides funding and technical assistance to county juvenile boards which operate the county juvenile probation departments and juvenile courts. On a statewide basis, TJPC provides 20 percent and counties provide 80 percent of the funding of juvenile probation departments. Each Texas county has a juvenile board, most of which are composed of county and district court judges, although some boards include public members. County juvenile boards are authorized to join together to provide probation services and 108 counties are served by multi-county departments. In all, there are 153 juvenile probation departments which cover all 254 counties in Texas.

The county juvenile departments work directly with juveniles from the point they are detained or referred through the disposition and supervision of a case. In 1984, there were 77,280 referrals to the juvenile justice system. In general, disposition ranges from informal adjustment where no court action is taken, to formal probation, to commitment to TYC. Exhibit II provides a graphic representation of this system.

Youths who are placed on informal adjustment or formal probation may receive a variety of services from a county juvenile probation department. These services can include supervision by a TJPC certified juvenile probation officer; counseling for the youth, parents, or both; placement in a foster home; or

Exhibit I
AGES OF YOUTH IN THE JUVENILE JUSTICE SYSTEM

Age youth can enter juvenile justice system

10 _____ 17*

Age youth can be certified as adults

15 _____ 17

Age youth can be on probation or parole

10 _____ 18

Age youth can be held in TYC institutions or community-based programs

10 _____ 21

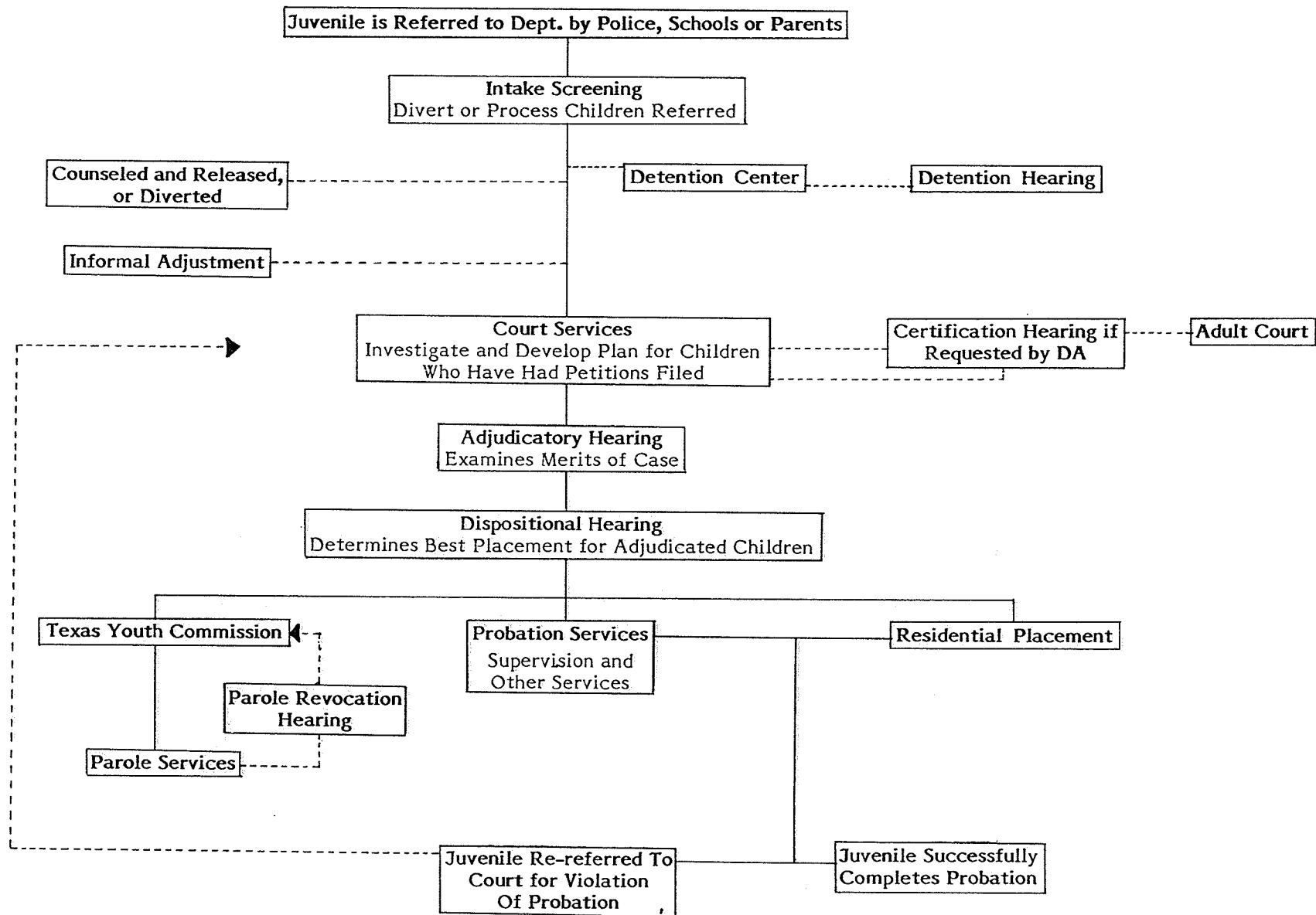
**18

*If a youth commits a crime after their 17th birthday, he/she is considered an adult and handled through the adult criminal justice system.

**Most youth are released on or before their 18th birthday.

Exhibit II

JUVENILE JUSTICE SYSTEM



placement in a residential facility or treatment center. In 1984, there were approximately 20,000 juveniles on probation at any one point in time. If, after exhausting available county resources the child has still not made a successful adjustment within his home community, a juvenile judge may determine that the child should be committed to the Texas Youth Commission.

Only about three percent of the delinquent youths in the state are committed to TYC each year. This resulted in 2,623 commitments in fiscal year 1985. When juveniles are committed to TYC, they are taken to the Statewide Reception Center in Brownwood where they are evaluated to determine their needs. In addition, staff assess their ability to function in an open setting against the need to protect the public by housing them in a secure facility. Based on these evaluations and assessments, TYC staff determine if the youth should be sent to an institution or a community-based program. The Youth Commission's goal is to place delinquent youth in the least restrictive setting possible, consistent with the individual's needs, the public's safety, and the agency's budget restrictions.

Youth committed for violent offenses are sent to TYC's maximum security facility at Giddings for a minimum of one year. Youth committed to TYC for murder, capital murder, or voluntary manslaughter are also sent to this facility. Most of these juveniles remain a minimum of two years. The length of time other juveniles remain in a TYC facility is determined by TYC staff. However, all youth committed to TYC remain under the commission's authority until their 18th birthday, even though they may be paroled to their home communities before that time. TYC does have the authority to keep a juvenile under the agency's authority until his or her 21st birthday, if circumstances warrant such action. To date, the agency has not done this, however, this authority only applies to juveniles who have been committed since September 1, 1985. The agency has developed a policy that specifies this authority will be used for three types of offenders, violent offenders, repeat offenders, and individuals whose parole has been revoked; if these persons have not completed their administrative minimum length of stay. In addition, the authority can be extended to cover other individuals designated by the executive director of TYC.

AGENCY BACKGROUND

Creation and Powers

The Texas Juvenile Probation Commission (TJPC) was created in 1981 by the 67th Legislature. The commission is responsible, under the Texas Human Resources Code, Chapter 75, for the following:

- 1) making juvenile probation services available throughout the state;
- 2) improving the effectiveness of probation services;
- 3) providing alternatives to the commitment of juveniles by providing financial aid to juvenile boards for the establishment and improvement of probation services; and
- 4) establishing communications between state and local entities within the juvenile justice system.

There have been no major changes to the enabling legislation since the creation of the commission.

Board Structure

The Texas Juvenile Probation Commission consists of nine members appointed by the governor to staggered six-year terms. The Texas Human Resources Code requires three members to be judges of Texas district courts with juvenile jurisdiction at the time of appointment and six members to be citizens who are not employed in the criminal or juvenile justice system.

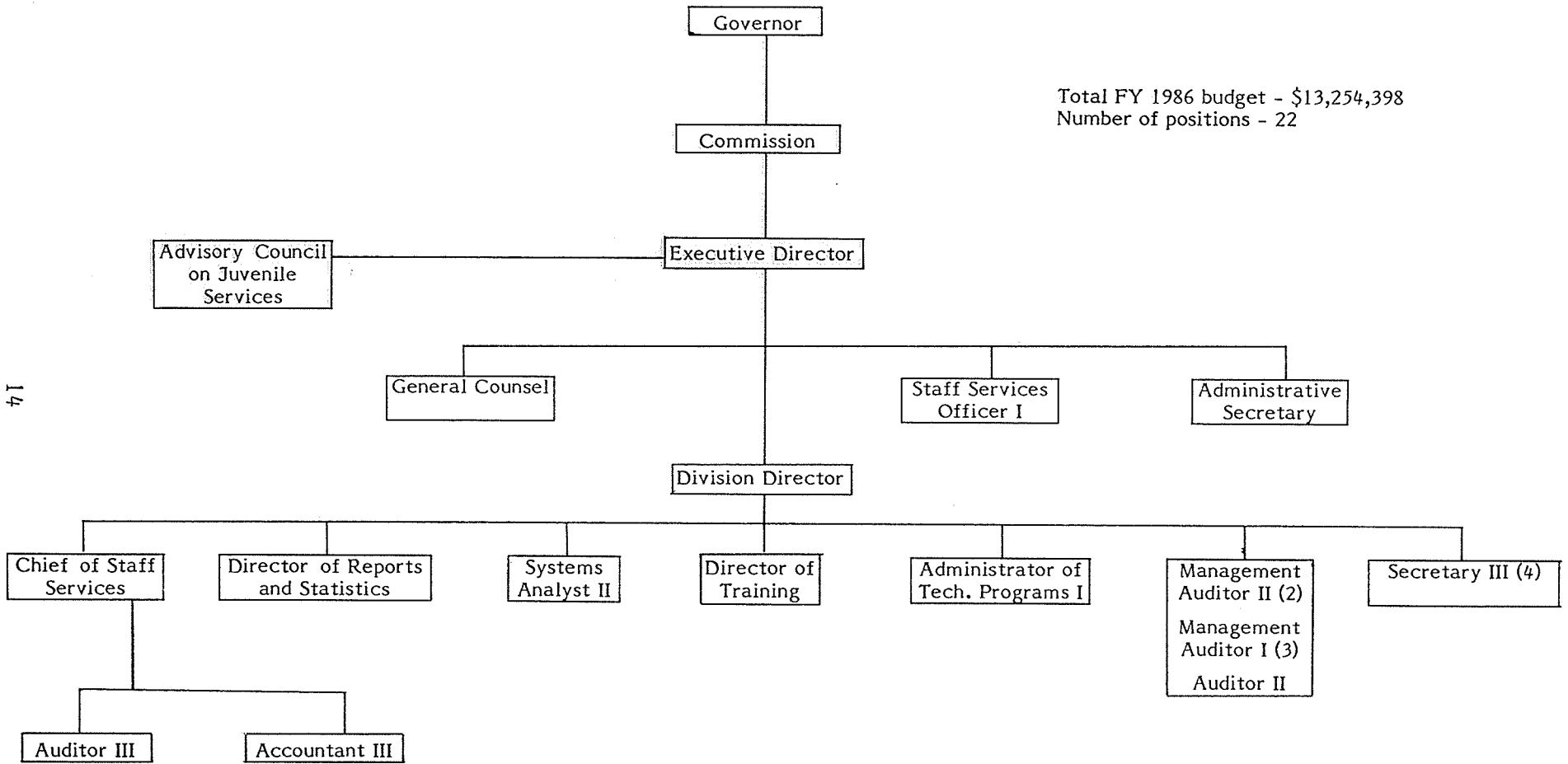
In addition to setting policy for the operation of the agency, the board is required to establish minimum standards for the operation and services of county juvenile probation departments, to establish and enforce a code of ethics for probation officers, and to establish a certification program for these officers.

The statutory Texas Advisory Council on Juvenile Services is an eight-member advisory body appointed by the commission to two-year terms. The membership consists of two juvenile judges, three juvenile probation officers, two citizens knowledgeable of juvenile services and a representative of the Texas Youth Commission. The advisory council reports to and advises the executive director of the Texas Juvenile Probation Commission.

Funding and Organization

The fiscal year 1986 funding for the commission totalled \$13,254,398, all from general revenue. Approximately seven percent of these funds are used for agency administration. The commission has a staff of 22 employees, all assigned to a central office in Austin.

TJPC ORGANIZATIONAL CHART



Total FY 1986 budget - \$13,254,398
Number of positions - 22

**TEXAS JUVENILE PROBATION COMMISSION
FISCAL YEAR 1986 FUNDING**

State Aid Appropriation	\$ 12,481,508
Two Percent (2%) Transfer to Administration Provided by Rider	<u>(249,093)</u>
Total Available for State Aid	\$ 12,232,415

Administration Appropriation	\$ 772,890
Two Percent (2%) Transfer from State Aid	<u>249,093</u>
Total Available for Administration and Support Services	\$ 1,021,983

Administration and support budget includes agency staff:

Executive Administration	4
Legal	1
Fiscal	2
Contract Administration	1
Training and Certification	1
Audit	1
Reports and Statistics	1
Monitoring and Technical Assistance	6
Data Processing	1
Clerical and Support	<u>4</u>
Total	22

Total Appropriation	\$ 13,254,398
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Unexpended Balances from County State Aid Allocations Re-allocated to Discretionary Grant Program	<u>\$ 1,071,299</u>
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Total Available to TJPC in FY '86	<u>\$ 14,325,697</u>
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Two primary functions are performed by the agency -- the distribution of state aid and the provision of support services to juvenile probation departments. Descriptions of these functions and related agency activities are provided as follows.

Programs and Functions

State Aid

The agency distributes about \$12.2 million annually from state appropriations to county juvenile boards through its state aid program. These funds account for approximately 20 percent of the overall funding for the juvenile probation system with the balance contributed primarily by the counties. The agency is authorized to distribute state aid for the following purposes: 1) to make probation services available throughout the state; 2) to improve the effectiveness of those services; and 3) to provide alternatives to the commitment of juveniles to the Texas Youth Commission. TJPC uses two approaches to distribute funds: basic state aid and discretionary grants. These approaches are described below.

In fiscal years 1986 and 1987, \$12.2 million is allocated annually as basic state aid to counties through a three part funding formula. The major part of the formula is based on the county's juvenile age population. The second part is a base component which ensures that even sparsely populated counties receive a minimum amount of funding. Approximately \$10.7 million is allocated in the population and base components of the formula. The third part of the formula is a county match component. The agency allocates \$1.5 million to counties through the match formula as an incentive to increase county contributions. The formula matches a percentage of any new county money greater than the amount spent in the previous year for juvenile probation services. The percentage matched depends on funds available for this purpose in a given year. In fiscal year 1985, TJPC matched 33 percent of new county expenditures on juvenile services. State aid funds may be used by the counties for three purposes: the maintenance of staff services, the purchase of residential services and the purchase of non-residential services such as psychological evaluation and counseling. In fiscal year 1986, basic state aid grants to counties range from \$5,254 to \$1,343,808.

The other type of funding approach is a discretionary grant process. Unexpended balances from the previous year's state aid contracts and agency administration budget are used for discretionary grants. The process allocates funds on an as needed basis to county juvenile probation departments. In fiscal year 1985, \$1.4 million were allocated through discretionary grants. This approach was developed in response to special needs of counties. Funding priorities for the

allocation of discretionary grants include supplements to departments with either inadequate total funding or high rates of delinquency, and funding for special programs to divert children from secure detention or TYC commitment.

The following chart shows the types of programs funded through discretionary grants:

<u>Purpose of Grant</u>	<u>FY 85 Funding</u>
Jail Removal	\$ 733,474
Supplements	\$ 376,662
Foster Care	\$ 233,435
Border Projects	\$ 26,467
Other	<u>\$ 36,967</u>
TOTAL	<u><u>\$1,407,005</u></u>

The major use of discretionary grants is for jail removal. These funds amounted to \$733,474 in fiscal year 1985. The grants are used primarily for the purchase of alternate residential care or secure detention in another county for juveniles who otherwise would be detained in adult jails because of the lack of county resources. Due to the requirements of the federal Juvenile Justice and Delinquency Prevention Act and the associated regulations, alternatives to secure detention are critically needed in counties without separate juvenile detention facilities. Federal requirements state that juveniles can not be held in adult jails after December 1985 and that status offenders cannot be detained over 24 hours in secure detention. Violation of the federal jail removal requirements can lead to the withholding of up to \$3 million annually in federal Department of Justice funding to Texas. Agency records indicated that 12 percent of the 23,138 juveniles held in secure facilities were so detained only because no alternate non-secure placement was available, such as foster care or emergency shelters. The discretionary funds for the jail removal effort could be used to place a portion of that 12 percent in lower cost alternatives to secure detention.

Supplemental funds amounting to \$376,662 were provided in fiscal year 1985 to 43 counties in amounts ranging from \$881 to \$50,000. These funds were awarded on a case-by-case basis to counties with inadequate total funding due to low county contributions, recent population growth, or high rates of delinquency.

Funds amounting to \$233,435 were allocated to foster care programs in fiscal year 1985. As of August 1985, 48 counties use foster care as a low cost method of diverting certain children from secure detention and TYC commitment. About half of children now placed in foster care are placed there as an alternative to secure detention. Some departments also use foster care as resource for children needing mainly out-of-house placement and supervision. For these children TYC was previously one of the primary resources available.

Since September, 1984 when TJPC first provided discretionary funding for the foster care programs, 260 children have received a total of 11,215 days of foster care funded through TJPC at an average cost of \$11 per day. This compares to an average cost of \$50 per day for secure detention and an average overall cost of residential care at TYC of \$54 per day.

Finally, in another approach to diversion, juvenile probation departments in Cameron and Webb counties receive discretionary grants for border projects to enable undocumented Mexican juvenile offenders to receive services in Mexico rather than in Texas. In addition, El Paso operates a similar program with funds from their current budget. In total, these programs have worked with 480 juveniles since September 1984 and received \$41,141 in discretionary grants. The programs are designed to divert a portion of juvenile offenders who are Mexican citizens from receiving services such as formal probation and TYC commitment in Texas. These juveniles consume an average of 25 to 33 percent of the resources of juvenile probation departments along the border. In addition, Mexican citizens accounted for 33,500 bed days at TYC, at a total cost of \$2.1 million in fiscal year 1985. The grant funds from TJPC pay the county department to develop a liaison in the Mexican Consul's office who either provides probation supervision directly or places the juvenile in the appropriate residential resources in Mexico. Since the program began, 52 juveniles have been diverted from commitment to TYC and placed in residential facilities in Mexico. The goal of the program is for juveniles needing rehabilitation to receive services within their own country and cultural environment.

The annual allocation of state aid and discretionary grants is secured by a contract between TJPC and the county juvenile board. The contract, as well as state law, requires the board to maintain services within the minimum standards established by TJPC for department administration and service provision. The department must also comply with agency monitoring efforts and continue county contributions for delinquency services at a level equal to or greater than the

county's funding in 1980. The agency monitors the counties' expenditure of funds and compliance with standards through its team of program monitors and contract administration staff. The agency is authorized by law to withhold state aid if a county fails to comply with the requirements.

In the past three years since the state aid program began, changes have taken place in both the funding and the availability of probation services. Juvenile probation services are now available in all counties, whereas prior to the initiation of the state aid program in 1982, 32 counties did not have juvenile probation services. County contributions for juvenile probation services have increased from \$34.1 million in 1982 to \$50.2 million in 1986. Counties provide 80 percent and the state provides 20 percent, on the average, of the \$62.7 million expended annually on juvenile probation services in Texas. Since September 1982 when the state aid program was first funded, the number of counties that do not provide money for juvenile probation services has fallen from 88 to 43.

Support Services to Juvenile Probation Departments

The agency assists county juvenile probation departments by providing an array of support services. These services include providing legal advice, training and certification of probation officers, monitoring of department activities, providing technical assistance, and issuing reports and maintaining statistical data on juvenile activity in Texas. These services are described below.

Legal services are provided by the agency's general counsel. In addition to providing legal services to the agency, the general counsel serves as an information resource for juvenile boards, juvenile judges, and probation officers. The counsel provides advice on legal questions raised concerning juvenile law or operation of probation departments, develops legal briefs on major questions, and conducts training sessions on the legal aspects of juvenile probation.

Direct and indirect training services are provided by the agency's training division. Probation officers and juvenile judges obtain direct training through workshops conducted by the agency at 16 regional training sites. During 1985, the agency conducted 462 hours of training to 1,323 participants. In addition, the agency may provide on-site training to local departments during their monitoring and technical assistance visits. Indirect training involves approving relevant training courses offered by other organizations across the state for continuing education credit and disseminating information on such courses.

The agency certifies juvenile probation officers who have met the statutory education requirement of a bachelor's degree and one year of graduate study or one

year experience, and have received 40 hours of basic probation officer training. There are about 1,300 certified juvenile probation officers in Texas. Each officer must also be recertified every two years. Officers are required by TJPC standards to receive 80 hours of training within the two-year period to be eligible for recertification. Documentation of these hours is sent to and reviewed by the agency.

Through the agency's monitoring and technical assistance activities, program monitors evaluate county juvenile probation departments for compliance with standards set by TJPC. The commission has set standards for the operation of county juvenile boards and departments, including provision of services, and standards for probation officers. Technical assistance is often provided during monitoring visits to advise departments of new or more effective procedures, to assist departments in developing programs, or to provide advice in any needed area. An example of the technical assistance made available to juvenile probation departments is the development of a series of computer software packages. These software packages consist of a juvenile statistical information system, a department accounting system, and a juvenile tracking and caseload management system.

The reports and statistics program of TJPC collects information about juveniles referred to the juvenile justice system and the disposition of juvenile cases. The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) requires that the state collect information on juvenile involvement in crime in order to receive federal funding assistance. Documents and statistics provided by the agency are used by probation departments for caseload projections and management, and for targeting future training needs of probation officers. The program also publishes booklets to assist departments with various elements of their operations. Examples of these booklets include "Management of Juvenile Probation" and "Special Programs in Juvenile Justice."

REVIEW OF OPERATIONS

The evaluation of the operations of any agency is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it fairly reflects the interests served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operations of specific agency programs.

Policy-making Structure

In general, the structure of a policy-making body should have as basic statutory components, specifications regarding the composition of the body and the qualifications, method of selection, and grounds for removal of the members. These should provide executive and legislative control over the organization of the body and should ensure that members are competent to perform required duties, that the composition represents a proper balance of interests affected by the agency's activities, and that the viability of the body is maintained through an effective selection and removal process.

The Texas Juvenile Probation Commission is composed of nine members appointed by the governor, with the advice and consent of the senate, for staggered six-year terms. The agency's statute requires that three members be judges presiding over courts designated by at least one county as a juvenile court, and that six members be citizens who are not employed in the criminal or juvenile justice system. The intent of this structure is to provide expertise in the area of juvenile justice, and to obtain input from those affected by the agency's activities with a balance provided by the public members. In addition, the commission is assisted by the statutory Texas Advisory Council on Juvenile Services.

The review of the agency's policy-making structure indicated that the experience and input obtained through the current membership requirements has been helpful in setting agency policy and that the board structure provides a balance of interests. However, improvements could be made concerning the duties and structure of the advisory council.

The Texas Advisory Council on Juvenile Services should be responsible for determining the needs and problems of county juvenile boards and departments.

The Texas Advisory Council on Juvenile Services was created in 1981 in the same legislation which established TJPC. The eight-member council consists of two juvenile judges, three juvenile probation officers, two citizens knowledgeable of juvenile services, and a representative of the Texas Youth Commission. The council reports to the director of TJPC and is appointed by the commission to two-year terms.

The director has used the advisory council primarily as a mechanism to review and comment on policy matters pending before the commission. For example, the advisory council has reviewed the standards for probation departments and probation officers, and the agency's funding distribution formula. However, the statute does not provide any specific responsibilities for the council.

In general, an advisory body should fill a specific purpose or need. The review indicated that the Texas Advisory Council on Juvenile Services has served a review and comment function for TJPC. However, discussions with people familiar with passage of the legislation in 1981 indicated that another purpose of the council is to serve as a place where probation officers and others in the system can have input into policy-making. Although the council has served this purpose to some extent, clear authority for performing this function would encourage probation personnel to use the council. Giving the council the responsibility for determining the needs and problems of county juvenile boards and departments further encourages local input, and assists TJPC in developing programs that will best meet the needs of the juvenile probation system. Therefore, the statute should be amended to give the council the responsibility for determining the needs and problems of county juvenile boards and departments. This responsibility should not prevent the commission and the agency director from giving the council other duties and responsibilities.

Representatives of the Texas Education Agency and the Department of Human Services should be added to the membership of the advisory council.

As discussed previously, the membership of the advisory council includes citizens, judges, probation officers, and a representative of the Texas Youth

Commission. The Youth Commission serves the same age population as that served by probation departments, and all children in TYC have first been handled within the probation system. The person from TYC provides input into how policy matters being considered by TJPC would affect TYC, and brings experience on the problems of youth that have been committed to TYC's custody.

In general, the membership of an advisory body should provide the types of experience, background, and sources of input necessary to perform its function. Although the membership of the advisory council generally meets these criteria, adding representatives of the Texas Education Agency (TEA) and the Department of Human Services (DHS) would give the council additional sources of experience and input.

Children served by juvenile probation departments are of school age, and most are registered in school. Discussions with probation officers indicated that when a youth is having problems with the law, they are often also having school related problems. For example, a child can be referred to juvenile authorities for truancy. In 1984, there were 4,518 referrals for truancy.

The Texas Department of Human Services also serves a population which overlaps with the juvenile justice system. Children in juvenile detention centers, in residential placements, or on probation are often eligible to receive benefits under Medicaid or other DHS operated programs. County juvenile department personnel indicated that it is often difficult to obtain services and benefits from DHS due to conflicts with federal and state policy.

Having persons with experience in these areas would be beneficial to the efforts of the advisory council. In addition, representatives of TEA and DHS would serve a similar role as that of the TYC representative by advising how policy might affect their agency or school districts. For these reasons, it is recommended that the executive directors of TEA and DHS or their designees be added to the membership of the Texas Advisory Council on Juvenile Services.

Overall Administration

The evaluation of the overall agency administration was designed to determine whether the management policies and procedures, the monitoring of management practices, and the reporting requirements of the agency, were consistent with the general practices used by state agencies. The review indicated that the overall administration was effective but two elements of the agency's operation could be improved. These improvements concern the availability of information with

regards to the effectiveness of probation services and interagency cooperation. Recommendations concerning these improvements are described below.

The Texas Juvenile Probation Commission should be required to conduct studies of the effectiveness of probation programs.

One of the purposes of the Texas Juvenile Probation Commission is to improve the effectiveness of probation services. To accomplish this the agency is authorized to: 1) distribute state aid for the operation of local departments; 2) provide these departments with training and technical assistance; 3) set and enforce minimum standards for services; and 4) conduct studies of correctional methods, systems, treatment, and therapies.

The agency has initiated the first three functions and probation services now exist in all counties. Further, all probation departments are in general compliance with minimum standards for personnel, administration, and services. However, much of the agency's research and statistical efforts do not focus on studies of the actual effectiveness of the probation services it promotes. For example, there is little information available on the effectiveness of agency promoted programs such as foster care, in-home detention, financial and community service restitution, informal probation, and border projects.

The Texas Juvenile Probation Commission currently maintains and analyzes statistical information on the offenses of juveniles served by departments, services provided, and the disposition of the cases. This information is published annually. The agency also conducts an annual survey of local departments with regards to administration, personnel, services, funding, training, and further needs. This type of information, while necessary for management, provides little insight as to the effects of the various types of services funded and promoted by TJPC.

In general, agencies that distribute public funds should ensure that the most reasonable and effective programs receive funding. In the area of juvenile justice, services are necessary for the protection of the public, avoidance of wasted human potential, and prevention of commitment to TYC facilities. These programs should work to guarantee to both the public and the offender, that the most effective and least restrictive rehabilitation services are provided. Therefore, the agency should place the on-going study of the most effective programs for rehabilitation of juveniles as a top priority now that minimal services and standards have been established throughout the state.

The 69th Legislature indicated a need for information as to the effectiveness of probation services by adopting a rider to TJPC's appropriation. This rider requires TJPC to report to the 70th Legislature on the effectiveness of probation services by studying TYC commitments. This study is underway and will be completed in December 1986.

The study of commitments however, does not provide complete information as to the effectiveness of all probation services. The study only identifies what did not work, or was deemed inappropriate, for the three percent of the total number of referrals who are committed to TYC annually. It does not directly address the effectiveness of the services provided to the other 97 percent of the referrals.

The review found that on-going study is needed to determine the effects of the various types of services currently promoted for the rehabilitation of the juvenile delinquent. While most of these types of services are used in other states, little information is available as to the effectiveness of these services. Such evaluation does appear to be consistent with the purposes of the commission and would be a necessary component in future expansion of services or standards.

To ensure that reasonable and effective services are developed for the rehabilitation of juveniles, the statute should be amended to require the agency to initiate an on-going study of the effectiveness of the probation services it funds beginning in fiscal year 1988. This will allow the agency to conclude its current study of TYC commitment information and incorporate the results of that study in the design of the longer on-going study of services. Conclusions and observations made through the studies should be published and distributed prior to each regular legislative session.

The executive directors of TJPC, TYC, TEA, TDMHMR and DHS should meet semi-annually to resolve conflicts in services to juveniles.

Juvenile probation officers often work with state agencies to secure foster homes, psychological testing, psychiatric services, drug counseling and other services for juveniles under their jurisdiction. County juvenile departments have limited funds to purchase these services and therefore must turn to existing state agency programs.

However, probation officers in the field indicate that there are often legal and state policy barriers to participation of juveniles in services regularly provided by the Texas Department of Mental Health and Mental Retardation (TDMHMR) and

the Texas Department of Human Services (DHS). Also, involvement with the juvenile justice system can conflict with requirements of the Texas Education Agency (TEA) or school districts. While the responsibilities of these agencies are defined by statute, the broad treatment which is typical of statutes occasionally causes confusion among agencies in regards to jurisdictional responsibilities for juveniles.

An example of this possible confusion concerns the recent education reform package which specifies that children with five or more unexcused absences be given failing marks in school. This means that many children temporarily detained in juvenile facilities would automatically fail in school due to their absence. However, coordination between TJPC and TEA resulted in an agreement whereby children in detention facilities would receive excused absences. This enables them to continue their school courses when they are released.

In general, state government has adopted formal methods for interagency coordination in situations where jurisdictional conflicts are possible between agencies. Examples of this policy include the Health and Human Services Coordinating Council which is currently focusing on services to children and the Criminal Justice Coordinating and Policy Councils which coordinate activities in the criminal justice system. Even though these existing interagency councils generally coordinate social service and criminal justice system issues, specific points of agreement concerning mutual responsibilities with regards to delinquents are narrower than the intended scope of their duties.

The statute creating TJPC addresses one problem relating to interagency cooperation. This provision directs the executive directors of TJPC and TYC to meet quarterly to discuss mutual problems and make recommendations to the governor and the legislature. Both agencies have indicated that these periodic meetings have resolved several conflicts such as the extent of information to be provided by counties to TYC and procedures for counties to provide secure detention for TYC parolees awaiting parole revocation hearings. However, TJPC and TYC are not the only agencies involved in conflicts over the jurisdiction of services to delinquents. One example of a barrier in service delivery exists for youth that receive services from the Department of Human Services through the dependent and neglected children program. These children are no longer eligible to receive DHS services once adjudicated as delinquent.

To address the current conflicts between the major service agencies dealing with services to delinquents, the TJPC statute should be expanded to include the

executive directors of TDMHMR, DHS, and TEA, along with TJPC and TYC in the interagency cooperative efforts. The statute should also require these directors to meet at least semi-annually and submit a biennial report to the governor and the legislature concerning changes made and recommendations for needed legislation. This would benefit all concerned since differences in policy and procedure which may result in juveniles not receiving services could be worked out by the directors of the agencies. In-house policies could then be developed to ensure provision of services when needed. In addition, the reporting requirement will provide a formal means for recommending legislation to remove possible legal barriers to the effective provision of services.

Evaluation of Programs

For the purposes of the evaluation, the functions of TJPC can be divided into two main areas. First, the agency distributes state aid to local juvenile probation departments. Second, the agency provides certain services to counties in support of quality probation services. Such services include monitoring the quality of services, certifying probation officers, providing training and technical assistance, and preparing reports and statistics. Two concerns were identified in the state aid program which are discussed in the following material.

State Aid

The review of TJPC's state aid program focused on the methods by which funds are distributed, whether the funds were adequate to meet the statutory mandate, the contracting methods employed, and the agency's monitoring of the use of these funds. The analysis of information gathered showed that the agency has developed an effective system for distribution of the funds it administers and that controls are adequate to ensure the proper use of these funds. The review indicated, however, that one part of the agency's funding formula could be improved and that adequate resources are not currently available to assist counties in diverting youth from commitment to TYC. Recommendations concerning these problems are set out below.

Texas Juvenile Probation Commission should be required to regularly update county population figures used to allocate state aid funds.

The commission allocates state aid to counties through a formula incorporating the county's juvenile population. The 1980 U.S. Census is used to obtain the county's juvenile age population for the formula. Many other agencies also use

population figures in the allocation of funds. Most agencies use either the 1980 U.S. Census data, or population projections from one of three sources: the Texas Texas Water Development Board, the Texas Department of Health (TDH), or the Texas Advisory Commission on Intergovernmental Relations. Human service agencies find the TDH projections particularly useful since they are the only projections that make yearly population projections by age and by county. However, some agencies such as TJPC prefer instead to use census figures since they represent an actual head count instead of a projection.

While many agencies use TDH population projections, concerns have been raised as to their statewide validity. The Texas Juvenile Probation Commission staff analyzed the TDH projections and believe that most county figures are reliable for their purposes. However, the estimates concerning certain counties have been questioned. For example, Coryell County may be overestimated due to an earlier projection that Ft. Hood would continue its wartime growth.

In general, agencies which distribute funds should use methods to ensure the equitable distribution of these funds. Therefore, funding formulas based on population should use the most recent and accurate figures available. Since TJPC has not updated population figures used in their funding formula, counties which have had a large recent population growth and need additional funds, do not receive an increased amount of funding. The agency's reliance on census data to allocate state aid becomes less equitable with each passing year and does not reflect current needs. Some counties near growing urban areas, like Williamson and Montgomery counties have gained population since 1980 at a very fast rate, while other counties are losing juvenile population. For example, Williamson County recently examined county school enrollment figures and found twice as many children enrolled as was indicated by the 1980 census. Such discrepancies between the 1980 population and the current service population are resulting in an inequitable distribution of funds to this and other counties.

To ensure that the Texas Juvenile Probation Commission uses the most accurate population figures available to allocate state aid, the statute should be amended to require TJPC to periodically update the population figures it uses. However, the agency should retain the flexibility to select the source of these figures. The use of the most accurate population figures available will provide for the equitable distribution of funds by ensuring that counties with recent growth receive adequate funding while counties whose population has declined are not over-funded.

A one-time juvenile court fee should be assessed to support a special fund for diversion of juveniles from commitment to TYC.

Diversion programs are broadly defined as services which are intended to rehabilitate juvenile offenders in the least restrictive environment possible and deter them from further criminal activity so that eventual commitment to TYC is not needed. Diversion services include programs such as foster care, runaway shelters, and residential drug treatment. Such programs attempt to enhance the child's social, educational and decision-making skills and should have the long-term effect of reducing the eventual need for costly prisons and jails. Therefore, dual benefits can be reached through diversion services: decreased state expenditures for incarceration and the provision of rehabilitation services in the least restrictive environment possible.

Juvenile judges, with the assistance of probation officers, determine which juveniles are candidates for diversion services. These determinations are often affected by the availability of funding and services and the potential for the juvenile to be rehabilitated in a less restrictive environment. Local juvenile probation departments use state aid, as well as local funds to purchase diversion services.

Residential placements are the most common method used by judges to divert juveniles from TYC. In 1984, juvenile probation departments contracted for the placement of 5,254 children. Many of these placements were used for diversion of youth from commitment to TYC. A recent TJPC survey of local departments indicated that on the average, one-third of these placements were provided by residential centers free of charge. Of the remaining care that was purchased, approximately eight percent involved foster care at about \$11 per day. The other 92 percent represented residential placements at an average cost of \$25 per day. Despite the documented use of services which were provided in 1984, 55 juvenile probation departments reported the necessity of committing a total of 375 juveniles to TYC due to a lack of placement resources. This fact demonstrates the importance of the availability of diversion services.

In looking at this issue, the review examined the current method of providing diversion services and the availability of these services. Two problems were identified. First, present funding is inadequate to assure that juveniles at risk of TYC commitment can receive diversion services, when appropriate. Second, the

current method by which diversion services are funded does not offer all such juveniles an equal opportunity of receiving these services.

The review first focused on how additional funds could be obtained for diversion services. Although a variety of sources of funding were found to be possible, one source was identified as having several advantages. Court fees have been determined by the legislature to be an appropriate means of funding criminal justice programs. For example, the Criminal Justice Planning Fund, administered by the Office of the Governor was created to support the planning of criminal justice programs throughout the state. The fund is supported by court fees and generated an average of \$21.5 million per year over fiscal years 1983 - 1985. The fees range from \$15 to \$20 and are assessed one time only upon sentencing of the adult. This fee may be waived by the judge for financial hardship. The fees are collected by the county and remitted to the state after withholding 10 percent for administrative purposes.

The juvenile courts could assess a mandatory one-time fee in the same manner as the adult system for the support of additional diversion services. Fees would be assessed to the juvenile and parent or guardian at the disposition phase of the court proceedings and collected by the county. The judge should be provided with the authority to waive the fee for financial hardship. After withholding 10 percent for administrative purposes, the county would submit the balance to the state treasury. These fees would be deposited to a special fund for diversion services, to be administered by the Texas Juvenile Probation Commission.

A fee of \$20 assessed upon disposition of each case in juvenile court would be similar to the fee charged for the Criminal Justice Planning Fund upon sentencing of an adult in criminal court. A \$20 fee would result in total collections estimated at \$200,000 annually. Assuming 20 percent of the fees are waived for financial hardship and 10 percent is held by the counties for administrative purposes, there would be about \$144,000 available for diversion services. This amount would be sufficient to provide residential services to 100 youths for approximately two month stays. In comparison, if 100 similar juveniles were committed to TYC, the average cost to the state would be about \$8,500 per youth for community-based residential care and \$1,700 per youth for processing through TYC's reception center. This would result in a total cost to the state of over one million dollars for 100 juveniles in TYC community-based programs. The estimate, however, assumes a seven month average length-of-stay at TYC compared to the two month estimate under the diversion program. Additional funds for longer lengths-of-stay in

diversion placements could be provided with resources made available through parental contributions and probation fees. Recommendations concerning these revenue sources are discussed later in this report.

Having identified additional funds which can be generated for diversion services, the current mechanisms used to purchase diversion services were examined. Currently, each county is required to submit a budget of the county's projected purchase of services. State aid and discretionary grant funds are provided to the counties by TJPC, some of which are used for the purchase of those services. However, it is difficult for a county to estimate the amount of special diversion services needed in a given year. In addition, some departments cannot budget funds for diversion due to low total budgets, or lack of available local services. These and other problems can often result in commitment of youth to TYC who could possibly have been diverted into more appropriate and less costly programs.

Programs supported through public funds should use the most effective methods available and be targeted at the population most in need of them. In addition, these programs should be provided in the least restrictive and most economical setting possible.

While the distribution method for state aid funds was found to be adequate for the agency's current programs, the review found this method would not be adequate for the distribution of a special fund for diversion services. Therefore, additional controls over the use of this fund are needed to ensure that juveniles who are at risk of commitment to TYC are prioritized to receive diversion services and that funds are available statewide to purchase such services.

One method of providing adequate control and assuring that funds are targeted towards the youth most in need of them is for TJPC to disperse the funds on a case-by-case basis. One example in which the state has established such control is found in the Texas Crippled Children's Services (CCS) program. This program disperses payments for medical expenses on a case-by-case basis. The agency makes a determination of the child's need for the service and the program encumbers funds necessary for each approved case. Referrals are made to the CCS program only when all other resources have been exhausted. Such control over the purchase of services ensures that the services are suitable for that client's needs and are provided in the least costly setting. In addition, such procedures allow the program to focus services statewide on the populations determined to be most in need of the services.

In summary, the review identified a need for additional services to be made available for diversion of youth from further involvement in the justice system and eventual commitment to the Texas Youth Commission. Diversion services can result in an appropriate setting for a youth's rehabilitation and in many cases cost the state considerably less than commitment to TYC. A special fund should be established to support diversion services. The fund would be supported by a one-time juvenile court fee and would be administered on a case-by-case basis by TJPC. The fund should have sufficient controls to ensure that diversion funds will be available throughout the fiscal year. This type of program would provide adequate controls over the use of the funds and would enable counties to obtain diversion services in cases where commitment to TYC is being considered due to a lack of local resources.

Juvenile Justice System Recommendations

In reviewing the operations of the Texas Juvenile Probation Commission it is necessary to also look at relevant portions of the juvenile justice system. The statutory mandate of TJPC includes making probation services available statewide and improving the effectiveness of probation services. Therefore, it was necessary to evaluate the extent to which TJPC has met this mandate and whether statutory changes were necessary to assist the agency in more effectively meeting its mandate. The review indicated that the agency has met the mandate of making probation services available statewide. In addition, TJPC has focused its current efforts on improving the quality of probation services. However, several changes in the juvenile justice system were identified which would improve the ability of TJPC and the local probation departments to increase the effectiveness of probation services. These changes address advisory councils for juvenile boards, parents' contributions for court-ordered care, and the treatment of Class C misdemeanors in the juvenile justice system. The recommendations concerning these changes are set out below.

Juvenile Boards

County juvenile boards are the administrative bodies established by state law for providing juvenile probation services in each county. In most counties, the board consists of the county judge and the district judges with jurisdiction in the county. For all counties the juvenile board's duties include establishing and supervising juvenile probation services, and inspecting and certifying the fitness of detention facilities used by the county. Most of the 184 county boards are

authorized through 128 separate county-specific juvenile board statutes, while 37 are under a general authorization statute, Article 5139.1, V.A.C.S. Most boards vary slightly in composition or duties.

The legislature first created juvenile boards for the four largest Texas counties in 1917. However as of January 1983, 105 counties still had no board and therefore did not provide juvenile probation services. This represented a significant problem for the state's delinquency prevention efforts. In 1983, the 68th Legislature remedied this problem by adopting a general authorization statute which established a juvenile board in each county without county-specific authorization. At present, all counties have a juvenile board, and 108 counties are served by multi-county departments.

In reviewing the implementation of TJPC's statutory mandate to ensure that juvenile probation services are available statewide, it was necessary to examine the provision of probation services by the local departments. The focus of this review included: the policy-making structure of the county boards, in particular their composition, duties, and the methods they use to obtain information from the community concerning board policies; the availability of placement and funding resources; and statutory limitations that may restrict delivery of services. Certain improvements were found to be needed in the availability of placement resources and a recommendation concerning that issue is presented in the section of the report concerning the State Aid program. In addition, possible improvements were identified in the operation and authority of local juvenile boards and in the operation of the juvenile justice system. These recommendations are described in the material that follows.

All juvenile boards should be required to appoint a local advisory council.

County juvenile boards are the administrative bodies established by state law for providing juvenile probation services in each county. The boards in most counties consist of the county judge and the district judges with jurisdiction in the county. The juvenile board's duties include establishing and supervising juvenile probation services, and inspecting and certifying the fitness of detention facilities used by the county. However, 163 of the 184 juvenile boards in Texas have no public members.

In general, programs which operate through the use of state funds should provide some forum for the public to comment on the way these funds are used.

Nearly all juvenile boards use some state funds although 89 percent of the boards do not include public members and are not authorized to appoint a citizen advisory council. Improvements are needed so that the policy-making process in those counties is in line with general public policy.

One method of obtaining public participation is to include public members in the composition of the juvenile board. Twenty-one boards are authorized to have public members. While this alternative has proven workable when initiated locally, it would require a complete restructuring of the juvenile board system if attempted on a statewide basis due to the number and complex nature of juvenile board statutes.

Another method to obtain information from the community is to have the juvenile board appoint a citizen advisory council. The need for citizen participation through an advisory council was addressed by the 68th Legislature in its adoption of a general authorization statute. This statute establishes juvenile boards in all counties without other county-specific authorization and requires these judicial boards to appoint a nine-person citizen advisory council. Thirty-seven of the 184 juvenile boards in Texas operate under this general authorization statute.

The commission has also indicated a need for citizen advisory councils by providing for such councils in their minimum standards for the operation of county departments and juvenile boards. These standards encourage juvenile boards, if so authorized by statute, to appoint an advisory council. The purpose of the councils are to advise the board of citizen reactions and to serve as a liaison between the board and the community at large. At present, 36 citizen advisory councils have been appointed by juvenile boards in Texas. These boards meet an average of four times a year.

To ensure community involvement in the activities of juvenile boards, the statute should require an advisory council for each juvenile board. The appointment of such a nine-person council by each juvenile board would provide a method for each board to obtain input on board policies and departmental operations and would serve as a liaison between the board and the community at large.

Juvenile courts should be required to examine the parents' ability to contribute to the cost of court-ordered residential care.

The courts often order juvenile probationers to be placed in residential facilities as a means of rehabilitating or protecting the child. Residential care may include placement in a foster home, treatment facility, or group home. In fiscal year 1984, 4,087 children or five percent of those referred to juvenile probation departments were placed into residential care either voluntarily or by the courts for an average of 83 days of care per child.

The total state and county expenditures for all residential services in fiscal year 1985 was about \$3.6 million which was supported by a mix of 49 percent state and 51 percent county funding. In relation to the total \$3.6 million in public funds spent purchasing residential services for these children, family resources provided only a minimal amount for court-ordered care.

Counties report that additional residential placement funds could result in the diversion of certain children from commitment to the Texas Youth Commission. A recent TJPC survey of county departments indicated that 375 or 19 percent of the children committed to TYC in fiscal year 1984 were committed primarily due to the lack of residential placement resources. Often such children are mainly in need of a out-of-home placement at an average cost of \$25 per day. Instead, due to the lack of county funds to purchase such services, children are committed to TYC at an average cost to the state of \$54 per day of residential care. Such commitments are not only costly but are also counter to current concerns that children receive rehabilitative services in the least restrictive environment possible.

The review determined that additional county resources for community residential services could divert additional children from unnecessary and costly TYC commitment while still providing for effective rehabilitation and public safety. However, many local departments have not taken full advantage of parental resources to support the needed services.

A basic tenet of public human service policy is that publicly supported services should be provided without charge only if other resources are not available. For example, service programs within the Texas Department of Health such as the Crippled Children's Services, Hemophilia Assistance, and Dental Health programs are required by law to provide those services only to the extent that the

resources of the parents and other public programs are not sufficient to obtain the needed services.

In keeping with this tenet, the Family Code authorizes juvenile judges to order the parents of probationers to pay a reasonable sum for the support of the child when that child is placed outside his home by the court. However, some juvenile judges do not fully utilize their authority to order parents to pay for the support of their child in court-ordered residential placement. This not only results in the unnecessary expenditure of public funds but also may result in a uneven application of these requirements on families.

While family contributions may not solely support the care of the child in the majority of cases, many parents may be able to support some portion of the care. Employed parents often have health insurance which may cover residential psychiatric and drug treatment. Family contributions and insurance reimbursement should no longer be overlooked by publicly funded departments when the average cost of placing two children in residential care for four months can exceed \$6,000. This amount is greater than the fiscal year 1985 budget for juvenile probation services in 11 counties.

In summary, adequate resources are necessary to ensure appropriate placements for the rehabilitation of delinquents. All existing resources to support such services should be examined, including those of the child's family. State law currently authorizes juvenile judges to look to the family to share in the cost of obtaining the necessary residential services for their child, once that child is placed on probation. However, these provisions are not used uniformly across the state. To correct this problem, the current authority provided to juvenile judges to examine parental resources should be made mandatory. This would require all juvenile judges to examine the parent's ability to contribute to the support of the child when placing probationers in residential services.

The number of Class C misdemeanors needed to prosecute in juvenile court should be reduced from three offenses to one offense.

The juvenile justice system divides juveniles into two categories. First, there are those who commit a criminal act for which an adult could be sent to jail under the criminal justice system. This is considered to be delinquent conduct. Second, conduct indicating a need for supervision (CINS) includes the acts of truancy, being

a runaway, DWI, or committing three class C misdemeanors. Class C misdemeanors are those offenses for which an adult can be fined, but not put in jail.

The CINS category of offenses was developed to handle behavioral problems that were not considered to be delinquent behavior. Since most class C misdemeanors were considered minor in nature they were put in the CINS category. Most referrals to juvenile authorities for class C misdemeanors are for theft under \$20 (usually shoplifting); theft of service under \$20; and public intoxication. Agency personnel indicated that the intent of prohibiting prosecution of juveniles for class C misdemeanors until three offenses had been committed was to determine whether the behavior was habitual before requiring the youth to enter the juvenile justice system.

The review showed that only 50 of the 4,634 referrals for class C theft in 1984 were adjudicated and placed on probation. Interviews with juvenile justice system personnel indicated that few class C offenses are prosecuted due to the difficulty of proving all three violations. For example, under the current system, a youth may be detained early in the year for shoplifting and must be released. A second offense may be committed later in the year with the same result. A few months later, the youth may be detained a third time for shoplifting and can then be prosecuted under the conduct indicating a need for supervision category. However, if the adjudication is opposed, the prosecutor must be able to prove commission of the first offense which occurred many months earlier. This may require locating witnesses who must also remember details about the event. Some prosecutors feel that due to the time and effort necessary to prove such a case, the public may be better served if the time were spent on prosecuting more significant offenses by juveniles. The result of this situation is that very few class C misdemeanor offenses are prosecuted.

The overall intent of the juvenile justice system is to rehabilitate juvenile offenders while providing protection to the public. Requiring documentation of three class C misdemeanors prior to prosecution can result in neither intent being served. Youth who may be in need of rehabilitative services are not necessarily receiving them and the public is not receiving sufficient protection from the commission of these offenses. For these reasons, the statute should be amended to allow any class C misdemeanor offense to be prosecuted in juvenile court.

This change would allow prosecutors and juvenile authorities to treat class C misdemeanors exactly the same as other CINS offenses. Currently a youth can be adjudicated for one instance of being a runaway but must commit three class C

offenses in order for the same result to occur. In addition, interviews showed that it is easier to prosecute the three class C offenses in small towns and rural areas. Authorizing adjudication after one offense would equalize the ability of such cases to be prosecuted across the state.

Another advantage of this change is that it could alter the perception by some youth that they can "get away" with committing class C offenses due to the inability to prosecute. This perception may be a factor in the 72 percent increase in referrals for class C offenses from 1983 to 1984 (2,707 to 4,634).

In summary, juvenile authorities must document commission of three class C misdemeanors in order to prosecute in juvenile court. This requirement has resulted in very few cases actually being prosecuted due to the difficulty of proving offenses that may have occurred months or even years earlier. Allowing juvenile court proceedings to take place upon the first commission of a class C offense would allow these offenses to be treated just like other CINS offenses and would enable juvenile authorities to provide services at a time when further offenses may be prevented. Juvenile authorities would not be required to proceed with class C misdemeanor cases if the youth does not show a need for receiving services under CINS probation.

County juvenile boards should have the authority to contract with TYC for provision of probation services.

Currently TYC has the statutory option to supervise parolees through its own employees or to contract for this service through a local juvenile board. In four instances TYC has determined that it is cost effective to contract for these services. Under these contracts, the county juvenile departments provide direct supervision of the parolee, purchase of services and residential placement if needed.

This type of management option is not available to juvenile probation departments. A local department cannot contract with TYC to provide services to probationers, even if it would be more cost effective to do so.

The review did not indicate any valid reason to deny a local probation department the use of this management option. Therefore, the statute should be amended to provide county juvenile boards with the authority to contract with TYC for provision of probation services. Providing the flexibility to contract would give the local departments an optional method of meeting future needs.

MAJOR POLICY ISSUES

During the review of an agency under sunset, different approaches to existing systems are identified and analyzed. While these approaches could improve state operations, they would also involve a significant change in the focus of current state policy. For the purpose of the sunset review, these approaches are broken into definable parts or options for commission consideration. The first option under each approach is recommended as a baseline approach with the other two options providing different degrees of change.

ISSUE

MANDATORY FEES FOR PROBATION SERVICES

Option 1

Option 2

Option 3

1. Require juvenile courts to assess fees for court-ordered probation.
2. Fees can be waived for financial hardship.

1. Require juvenile courts to assess fees for court-ordered probation.
2. Authorize juvenile probation departments to assess fees for informal adjustment services.
3. Fees can be waived for financial hardship.

1. Require juvenile courts to assess fees for court-ordered probation.
2. Require fees to be assessed for informal adjustment services.
3. Fee can be waived for financial hardship.

ISSUE: REQUIRE THAT FEES BE ASSESSED FOR PROBATION SERVICES

Since 1979, juvenile courts have had the authority to assess a fee of up to \$15 per month while a child is on formal probation. Although the assessment of these fees is not required, the court can order the child, parent, or other person (usually a guardian) to pay the fee if financially able to do so. These fees may only be used by the county for juvenile probation or community-based juvenile services including placement in residential care.

Currently, 39 of the 254 counties in Texas indicate that probation fees are assessed, with approximately \$90,000 collected statewide in fiscal year 1984. The chart on the following page shows counties that assess probation fees and the amounts collected.

Records indicate that 6,727 juveniles were placed on formal probation in 1984, although fees were assessed in only a small percentage of these cases. On the adult probation side, fees are assessed on virtually all misdemeanor and felony probationers.

One major difference between juvenile and adult probation is that juvenile probation departments receive youths immediately upon arrest or referral, while adult probation departments only receive clients after they are sentenced in court. Juvenile departments have therefore developed an array of services that are utilized prior to a case ever being adjudicated. Certain youths who have committed minor offenses may be diverted from the justice system in the hope that avoiding the "stigma" of court will be beneficial. These youth may be counseled and released or they may be placed on informal adjustment, which can include temporary probation services and voluntary probation. Youth on informal adjustment may receive services such as counseling, treatment, foster care, or even residential placement. These services are very similar to those received by youth on court-ordered probation.

In general, fees are an appropriate means of funding service programs that are used by the fee-paying population. It is also important that these fees be assessed equitably across the affected population.

The review indicated that probation fees are not regularly assessed in some counties, that a majority of counties do not assess probation fees at all, and that services to youth could be increased if additional revenue for these purposes were generated locally. Options to more regularly and equitably assess probation fees are discussed in the material that follows.

PROBATION FEES COLLECTED IN FISCAL YEAR 1984

Atascosa	\$ 93,841.73*
Austin	1,022.00
Bailey/Parmer	470.00
Bell/Lampasas	1,080.00
Brown	2,385.00
Coleman	1,260.00
Dallas	26,965.86
Erath	210.00
Fayette	190.00
Fort Bend	700.00
Galveston	8,464.00
Grayson	416.00
Gregg	310.00
Guadalupe	3,033.65
Hardin	1,885.00
Harrison	890.00
Haskell	250.00
Hill	496.44
Johnson	8,765.21
Jones	630.00
Kaufman	514.00
Kendall	90.00
Lamb	170.00
Maverick	475.00
Midland	6,118.59
Montgomery	2,651.00
Moore	1,675.00
Nacogdoches	290.00
Nolan	526.00
Randall	4,840.00
Reeves	509.00
Refugio	1,000.00
Tarrant	6,326.00
Taylor	525.00
Upshur	90.00
Van Zandt	2,550.64
Wharton	240.00
Wood	345.00
Yoakum	365.00
TOTAL	\$ 88,723.39

*Atascosa is not included in the total as the reported amounts include adult probation fees collected.

Option One:

The state should require assessment of probation fees unless waived or reduced by the court.

As stated previously, only 39 counties currently assess probation fees, with approximately \$90,000 collected statewide. This option would require the courts to assess the \$15 per month probation fee unless waived or reduced by the judge upon a determination of financial hardship. This provision would ensure that the fee mechanism is used in all counties, and that any determination of waiving or reducing the fee be a matter of record. The fee could be assessed to the child, parent, or to both the child and the parent. Including the parent in the court order for probation fees allows for collection action through contempt of court proceedings if necessary. It is estimated that required probation fees would result in about \$575,000 being made available statewide for services for juveniles.

Discussions with county personnel as well as TJPC surveys have indicated that one of the major needs of county probation departments is additional funding for services. Option 1 would provide the counties with an additional funding source dedicated to providing services for juveniles, and would make the assessment of probation fees equitable statewide.

Option Two:

The state could require probation fees and authorize fees for informal adjustment services.

This option includes the requirement of fees for probation as stated in Option 1, but would also provide authority for fees to be assessed for informal adjustment services. Under this option, the counties would not be required to assess fees for these informal adjustment services.

It can be argued that if fees are assessed for services provided to those placed on formal probation by the court, fees should also be charged for similar services provided to youth being diverted from the court process. However, the types of services made available under informal adjustment can vary from county to county due to the amount of resources available. In addition, the level of supervision often varies between formal and informal probation services. For these reasons, Option 2 would provide the authority to assess the \$15 probation fee for informal adjustment services, while leaving counties the option of actually charging the fee. The fee for formal probation would continue to be mandatory unless waived for financial hardship.

Option Three:

The state could require that fees be assessed for all probation services.

This option would make probation fees mandatory for both formal probation and informal adjustment services unless waived for financial hardship. As stated previously, proponents of these fees argue that all services provided by a probation department are similar in nature and therefore a similar fee should be charged for both. This would then generate revenue to provide increased services to all juveniles.

Opponents of mandatory fees for informal adjustment services can argue that these services vary throughout the state and that a standard fee would not be equitable or appropriate. In addition, some people feel that attaching a fee to a service designed to divert youth from the system may inhibit some juveniles from utilizing these services. Lack of services could result in additional problems for the youth at a later time. In addition, since many of these juveniles never appear before a judge it would be difficult to assess such a fee without developing a separate mechanism for assessing and collecting fees for informal adjustment services.

ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

TEXAS JUVENILE PROBATION COMMISSION

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
X		*	1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X	X		5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
X		*	11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
X			12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
	X		14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

*Already in statute or required.

Texas Juvenile Probation Commission
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		*	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		*	6. Authorize the staggered renewal of licenses.
	X		7. Authorize agencies to use a full range of penalties.
X			8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		*	10. Authorize the board to adopt a system of voluntary continuing education.

*Already in statute or required.

MINOR MODIFICATIONS OF AGENCY'S STATUTE

Discussions with agency personnel concerning the agency and its related statutes indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to clarify existing language or authority, to provide consistency among various provisions, or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

MINOR MODIFICATIONS TO CHAPTER 75, HUMAN RESOURCES CODE

<u>CHANGE</u>	<u>RATIONALE</u>
1. Modify the definition of "Juvenile Board" in Sec. 75.002 by removing juvenile courts from that definition.	1. Juvenile boards are now mandated for all counties. Existence of a juvenile board and a juvenile court in one county can cause conflict under current provisions.
2. Substitute "Texas Youth Commission" for "Texas Youth Council" throughout the chapter (Secs. 75.027 and 75.046).	2. To reflect the proper name of the agency.
3. Repeal the provision authorizing the board to delegate the selection of employees to the director.	3. Provision duplicates other authorization for board to delegate any authority to the director.
4. Modify provisions concerning minimum standards to provide authority for "providing" standards in addition to current authority to "establish" standards.	4. Clarifies on-going authority.
5. Modify the numbering of the minimum standards provisions.	5. Correct numbering error.
6. Repeal requirement for study to be completed on December 31, 1982.	6. Remove out-dated provision.
7. Modify provisions relating to assistance in "establishing" juvenile boards to instead speak to the "continued operation" of juvenile boards.	7. Clarifies TJPC's on-going responsibility since juvenile boards are now established in all counties.
8. Modify language concerning counties without probation services as of September 1, 1985 to speak to all counties that cease providing probation services.	8. All counties currently provide probation services. Amendment clarifies continued responsibility of counties.
9. Repeal provision setting September 1, 1983 as the date of applicability of state aid requirements.	9. Removes out-dated provision.

