

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 Youth Commission

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

1986

411

TEXAS YOUTH COMMISSION

February 1986

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SUMMARY OF STAFF REPORT

The Texas Youth Commission (TYC) is responsible for rehabilitating youth who have been committed by the courts for engaging in delinquent conduct. The agency was originally established as the Texas Youth Development Council in 1949, but significant changes have occurred since its creation. One of the most significant changes resulted from the Morales vs. Turman federal law suit which requires the agency to provide less restrictive, community placements for youth rather than placing all juveniles in institutions. As a result, TYC now serves almost 40 percent of its population in community-based programs.

The Texas Youth Commission is governed by a six-member policy body comprised of individuals recognized for their interest in youth. The agency carries out its responsibilities through four major programs: institutional services, community-based services, special services, and parole services. These programs are supported by various activities in the agency's central office.

Institutional services include the Statewide Reception Center in Brownwood and five training schools located throughout the state. All youth committed to TYC initially go to the Reception Center to determine the most appropriate placement for them. If a student has committed a serious offense and requires the supervision and structure of a secure facility, he or she is usually sent to one of the training schools.

Community-based services are provided in nine TYC halfway houses, two TYC groups homes, and 112 contract programs. These community programs divert less serious offenders from institutions and serve youth returning to the community from institutions who do not have approved homes. The special services programs were developed to serve special needs not met by existing programs and as alternatives to traditional approaches to treatment of juvenile delinquents. Parole services are provided to all youth under the age of 18 when they are released from placement to help ensure a successful re-entry into the community. Parole officers are also responsible for conducting home evaluations and participating in revocation hearings.

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 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 chairperson of TYC's board should be appointed by the governor. (p. 31)**

Currently the members of TYC's board elect a chairperson from their membership. Authorizing the governor to select the chairperson promotes continuity of policy between the state's chief executive officer and the agency's board.

- 2. The board composition should include a juvenile judge and a representative of a private sector agency contracting with TYC. (p. 32)**

The commission currently has a six-member board composed of citizens recognized in their communities for their interest in youth. Limiting this requirement to four members and adding two members who represent other components of the juvenile service delivery system would broaden the board's perspective. To avoid a possible constitutional conflict, any juvenile judge appointed to the board should be prohibited from receiving per diem for his service.

Overall Administration

3. **The agency should be authorized to hold funds in trust for children committed to it. (p. 33)**

While at TYC, a youth can not have more than \$10 in his possession. Any additional money is deposited in a student trust fund until the youth is released. Although the agency has developed appropriate policies governing these funds, the State Comptroller's Office has indicated that TYC should have clear statutory authority for funds held in trust.

4. **The commission should be authorized to maintain four special accounts in the general revenue fund. (p. 34)**

The Texas Youth Commission currently has four special accounts in the state treasury: the Canteen Revolving Fund, the Student Benefit Fund, the Vocational Shop Fund, and the Conference Account. The Appropriations Act authorizes expenditure of these funds and the agency has developed appropriate policies to govern the funds. However, the State Comptroller's Office has indicated that the agency needs clear statutory authority to maintain these special accounts.

5. **The Texas Youth Commission should be required to use a standard methodology in calculating cost per day. (p. 35)**

The method of calculating the cost per day per person varies between TYC and other state agencies that operate residential facilities, and even between programs within TYC. This makes it very difficult to determine which methods of providing residential services are the most cost effective. The Texas Youth Commission's statute should be amended to require that its cost per day calculations reflect true costs to the state and should include depreciation, fringe benefits, and administrative overhead so that cost effective decisions can accurately be made.

Evaluation of Programs

Community-based Services

6. **The Texas Youth Commission should be required to develop and utilize performance-based contracts in specified situations. (p. 38)**

The Youth Commission currently contracts with 112 private residential programs. Twenty-two of these contracts have agreed to serve ten or more TYC students at the more expensive levels of care. This results in a potential situation where buying services for 23 percent of the youth in contract care could consume 75 percent of the contract care budget. To ensure this money is buying the desired

outcome, TYC should be required to develop and utilize performance-based contracts for any program serving ten or more TYC children at the therapeutic, transitional, or secure level of care.

Special Services

- 7. The Texas Department of Mental Health and Mental Retardation and TYC should be required to provide for a continuum of care for mentally ill or retarded juvenile delinquents committed to TYC's care. (p. 41)**

Lack of coordination between TYC and TDMHMR has resulted in problems in the delivery of services to mentally ill or retarded juveniles committed to TYC. Therefore, the statute should require the two agencies to develop a memorandum of understanding to provide clear procedures for serving these youth. These procedures should be adopted as formal rules of each agency.

- 8. The agency should be required to document a reasonable attempt to obtain less costly services for emotionally disturbed youth in contract residential treatment centers prior to placement at the Corsicana Residential Treatment Center. (p. 44)**

The Texas Youth Commission currently has two options for the placement of emotionally disturbed juveniles who cannot be properly cared for in its regular programs. Of these two options, the cost of treatment at TYC's Corsicana Residential Treatment Center is almost twice the cost of treatment in contract residential treatment programs. Therefore, the statute should be amended to require TYC to develop procedures to document a reasonable attempt to obtain less costly, appropriate services for disturbed youth in contract residential treatment centers prior to placement at the Corsicana Center.

Parole Services

- 9. The Texas Youth Commission should be required to implement a standardized case management system for parole which objectively measures certain elements. (p. 46)**

The commission currently does not have an objective method of managing the caseloads of its parole officers. This can result in a disparity of parole officer workloads and of services provided to parolees across the system. Therefore, TYC's statute should be amended to require the implementation of a standardized case management system which includes a case classification system, a case management system, a management information system, and the objective measurement of the parole officers' workloads.

10. The commission should be authorized to utilize restitution as an alternative to parole revocation. (p. 48)

Currently, if a youth on parole is found guilty of committing an offense, parole is revoked and the youth is returned to a TYC institution for a minimum of six months. This approach does not provide for a less restrictive alternative for youth who commit less serious offenses and who may not require the security of an institution. Restitution is one such alternative. It holds the youth accountable for his offense and is more cost effective as it does not require placement in an institution. Therefore, the statute should be amended to authorize TYC to utilize restitution as an alternative to parole revocation when the agency determines it is an appropriate option.

Cross-program Issues

11. The Texas Youth Commission should be authorized to develop programs which encourage family involvement in the rehabilitation of children committed to the agency. (p. 51)

The Morales vs. Turman Settlement Agreement requires the Texas Youth Commission to maintain policies that encourage contact between youth committed to TYC and their families. The agency is complying with this part of the settlement agreement, but needs clear statutory authority to do so.

12. The Youth Commission should be authorized to apprehend a child who escapes while under its authority. (p. 51)

Parole officers are the only members of TYC's staff that have statutory authority to apprehend, without a warrant, a child on escape status. However, in fiscal year 1985, only 26 percent of the 911 escapees were on parole. The remaining 74 percent were students in TYC's institutions, camps, and community-based programs. The staff that works with these students should be authorized to arrest, without a warrant, any child on escape status.

13. Protection from legal liability should be extended to physicians for actions taken in the performance of services under contract with TYC. (p. 51)

The state currently provides protection from legal liability, under specific conditions, to physicians who contract with the Texas Department of Mental Health and Mental Retardation and a division of the Texas Rehabilitation Commission. The Texas Youth Commission also contracts with physicians to provide services, but their contract physicians are not protected by the state. This impedes TYC's ability to contract for physician services. Therefore, the statute

should be amended to extend this protection to physicians for actions taken in the performance of services under contract with TYC.

14. Revocation of CINS probation should be prohibited for commission of status offenses and misdemeanors punishable only by fine in the adult system. (p. 52)

Currently, the Texas Family Code authorizes youth to be committed to TYC for engaging in delinquent conduct. Delinquent conduct is defined as: 1) breaking a penal law which is punishable by imprisonment in the adult criminal justice system; or 2) violating the terms of probation. In addition, juveniles can be placed on probation for certain minor offenses which are not considered acts of delinquency, and can be committed to TYC for violating probation if they commit another similar offense. These offenses which are not considered acts of delinquency but can result in probation and subsequent commitment to TYC are classified as "CINS offenses" or conduct indicating a need for supervision. CINS offenses include status offenses, which are offenses only because of a person's "status" as a juvenile. CINS offenses also include misdemeanors punishable by fine only, violation of local ordinances, illegal use of inhalants, and driving under the influence of alcohol or drugs. The review indicated that it is inappropriate to commit youth to TYC who commit only status offenses and minor misdemeanors which are punishable only by fine in the adult system. The Texas Family Code should be amended to prohibit commitments of this kind.

Non-program Changes

15. The relevant across-the-board recommendations of the Sunset Commission should be applied to the agency. (p. 87)

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 Youth Commission are found in the "Across-the-Board Recommendations" section of the report.

16. Minor clean-up changes should be made in the agency's statute. (p. 91)

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: PROVIDE MORE PAROLE SUPERVISION THROUGH LOCAL PROBATION DEPARTMENTS. (p. 59)

The Texas Youth Commission provides parole supervision services for youth once they are released from a residential program. The agency has 56 parole officers that serve about 2,200 parolees from 18 field offices across the state. In addition, TYC contracts with four county juvenile probation departments for supervision of parolees within their areas. This is a good idea because some local probation departments are able to provide comparable supervision at a lower cost. The review indicted that TYC should expand the use of local probation departments to supervise its parolees. This can be accomplished in several ways. Three options are presented below which gradually increase reliance upon local probation departments.

Option One:

The state should eliminate the statutory limit on contract rates for parole services. (p. 61)

This option would authorize TYC to contract for parole supervision services when it is less costly than TYC providing the service. The statutory limit of \$3 per day and \$60 per month is not needed and can prevent the state from realizing savings in the provision of parole services.

Option Two:

The state could require TYC to contract with local juvenile probation departments for parole supervision, whenever possible. (p. 62)

This option would require TYC to actively pursue contracting, minimize unnecessary contract requirements while maintaining accountability for services, provide parole supervision only when the services cannot be contracted for, and reduce its parole offices and officers as contracts are developed. This approach would provide less flexibility for TYC than Option 1.

Option Three:

The state could transfer the parole supervision function from TYC to local juvenile probation departments. (p. 63)

This option would statutorily transfer the responsibility for parole supervision from TYC to local juvenile probation departments, and provide for distribution of TYC's parole budget among them. The question of what to do if local probation departments fail to provide adequate services or refuse to provide any services should be addressed if this option is adopted.

ISSUE 2: INCREASE CONTRACTING FOR HALFWAY HOUSE SERVICES. (p. 65)

In response to the Morales vs. Turman federal lawsuit, TYC has developed a system of community-based services over the last ten years, which now serves almost 40 percent of their entire population. Initially, TYC developed their own community-based halfway houses because existing private programs were resistant to accepting delinquent youth committed to TYC. However, over the years the private sector has developed a wide range of community-based programs that are meeting the needs of an increasing number of delinquent youth. The review indicated that greater use could be made of the private sector for providing community-based services, thereby reducing the need for TYC to develop and staff agency-operated halfway house programs. Three different options are presented which address this issue, with each option providing an increased level of involvement of the private sector in meeting TYC's need for community-based services.

Option One:

The state should require TYC to contract for future halfway house services, unless appropriate services are not available on a contract basis. (p. 68)

This option would allow TYC to maintain their current system of nine halfway houses, but prohibit any further development of agency-operated halfway houses unless services can not be obtained on a contract basis. This provides the agency with the flexibility to meet the needs of the youth it is responsible for serving, but ensures that the state does not develop programs that can be more economically contracted for in the private sector.

Option Two:

The state could require TYC to contract for all future halfway house services. (p. 71)

This option would also allow TYC to maintain their current system of nine halfway houses. However, it would require the agency to contract with the private sector for any future halfway house services. While there are a number of benefits to contracting for these services, there is a concern that this option would limit the agency's flexibility.

Option Three:

The state could require TYC to contract for existing and future halfway house services. (p. 72)

This option would require TYC to not only contract for future halfway house services, but also to contract for the operation of their nine existing halfway house programs as the current leases expire. Advocates of this option argue that it would provide for a better, more flexible system, with the private sector delivering all direct services, and the state ensuring that quality services are maintained. However, TYC opposes this option, stating that making the agency totally dependent upon the private sector could jeopardize their ability to ensure less restrictive alternatives for youth in the community, as required by the Morales vs. Turman Settlement Agreement.

ISSUE 3: INCREASE EFFORTS IN DELINQUENCY PREVENTION. (p. 75)

Delinquent behavior frequently is related to problems in school, physical and sexual abuse, drug and alcohol abuse, and running away from home. Although the state has developed programs to address these problems, a stronger focus on them has the potential for reducing the incidence of delinquency and providing a long-term solution to a growing problem. The review identified three programs that could be strengthened and these are presented below.

Option One:

The state should expand the "Communities in Schools" program so a greater number of potential school dropouts receive services. (p. 77)

The Communities in Schools program currently exists in five Texas cities. Through the combined efforts of the private sector, local communities, and the federal government, it has successfully served students who were at risk of dropping out of school and/or becoming

involved in criminal activity. Coordination of this program is currently provided in the Governor's Office through a one-year grant from the Texas Education Agency (TEA). To ensure the program continues and is implemented statewide, a state coordinator with specified responsibilities should be established at TEA.

Option Two:

The state could expand the "Communities in Schools" program and shift a portion of the current funding for adult drug and alcohol services to increase such services to youth. (p. 80)

The benefits of expanding the Communities in Schools program were previously discussed. Another way to increase efforts to prevent delinquency would be to expand drug and alcohol-related services to youth. Currently, the Texas Commission on Alcohol and Drug Abuse allocates less than 17 percent of their grant money for alcohol and drug abuse prevention and treatment programs to programs serving adolescents. Increasing this to 30 percent would appear to have long-term benefits for the individuals served, as well as for the state. However, it would require that adult programs be reduced by approximately \$1.2 million.

Option Three:

The state could expand "Communities in Schools" programs, increase drug and alcohol services, and expand services for runaways. (p. 83)

Adopting Options One and Two and increasing services to runaways could reduce delinquency. The Texas Department of Human Services currently contracts with the private sector to provide a variety of services to truants and runaways. An expansion of this program would have the potential for reducing the number of juveniles who end up in TYC. However, there is no proof that a reduction in commitments would occur. In addition, a way to fund these services without utilizing general revenue has not been identified.

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 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.

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

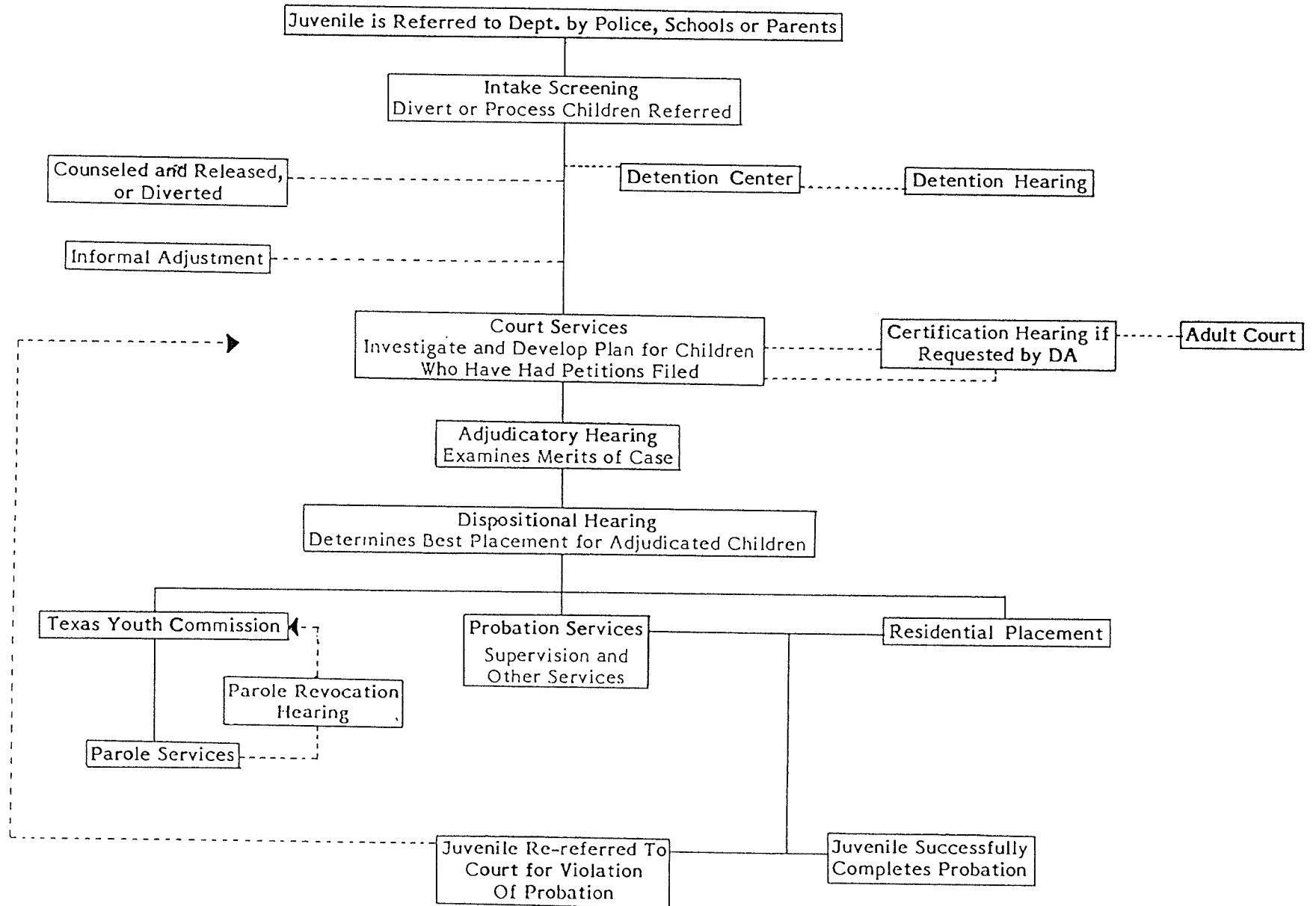
Age youth can be held in TYC institutions or community-based programs
10 _____ 21
**18

*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



AGENCY BACKGROUND

Creation and Powers

The Texas Youth Commission is responsible, under the Texas Family Code, for providing care, custody, and control of youths aged 10 through 21 who have been referred by the courts for engaging in delinquent conduct. The agency was originally established as the Texas Youth Development Council in 1949 to help communities develop child services and to administer the state's correctional facilities for youth. At that time there were three facilities to manage: a training school for boys in Gatesville, an orphans' home in Corsicana, and a training school for girls in Gainesville. The commission's activities, responsibilities and target population have changed significantly since its inception in 1949.

In 1957, the legislature changed the composition of the agency's policy-making body, changed its name to the Texas Youth Council, focused its responsibilities more directly on delinquent youth, and authorized the agency to provide parole services. By 1970, the council was administering three state homes for dependent and neglected children at Corsicana, Waco, and Pyote, and four facilities for delinquent youth at Gatesville, Gainesville, Crockett, and Brownwood. (A fifth facility for delinquent youth was opened in 1972 at Giddings.)

The Morales vs. Turman federal civil rights lawsuit, filed in 1971, required major changes in agency policies and procedures, and shifted the method of service delivery toward community-based programs. Today nearly 40 percent of TYC's students are placed in alternate care settings, a significant change since 1975 when 100 percent were placed in training schools. The agency's focus has also shifted away from dependent and neglected children who are now the responsibility of the Texas Department of Human Services. To adjust to changing target populations and methods of treatment, between 1978 and 1982 the Gatesville State School was transferred to the Texas Department of Corrections, the Waco State Home was transferred to the Texas Department of Mental Health and Mental Retardation, and the facilities at Corsicana and Pyote were converted from orphanages to a residential treatment center and a training school for delinquent youth. The agency's name was changed to the Texas Youth Commission in 1983. The most recent change was effective September 1, 1985 when the agency's jurisdiction was extended to include individuals to the age of 21, up from the age of 18.

Board Structure

The Texas Youth Commission has a six-member policy-making board with members appointed by the governor to staggered six-year terms. Members are Texas citizens who are recognized for their interest in youth. The board is chaired by a member elected by the board.

Funding and Organization

Funding for the agency in fiscal year 1985 totalled \$46,206,533. About \$44 million of this amount is from general revenue, slightly over \$1.7 million is federal funds, and the balance (about \$640,000) is derived from other state sources. Exhibit III indicates the way TYC allocates these funds within the agency's organizational structure.

The commission has 1,602 budgeted employees and operates from headquarters in Austin, with six area offices and 12 district offices located throughout the state. The location of the agency's offices and facilities is illustrated in Exhibit IV.

Programs and Functions

As mentioned earlier, the primary responsibility of the agency is to provide care, custody, and control of delinquent youth. In order to meet its responsibilities, TYC administers four major programs -- institutional care, community-based services, special services, and parole services. These programs are supported by various other agency activities such as legal and public information services, research, and support administration.

For the purpose of the review, the agency's programs were organized along slightly different lines than TYC currently follows. For this reason, certain budget and employee figures may vary between the staff report and figures published by TYC. Exhibit V sets out the agency's programs as organized for the review, and shows the percentage of the agency's budget and personnel used for each program. Descriptions of these programs and support activities are provided below.

Institutional Services

The Texas Youth Commission provides services to delinquent youth within an institutional setting at the Statewide Reception Center in Brownwood and at five training schools located throughout the state. All youth committed to TYC are first taken to the Reception Center in Brownwood for evaluation. The center is a fenced facility, with the capacity to house 114 children on five separate wings within one building. On the average, a child spends less than one month at this

Exhibit III

ORGANIZATIONAL CHART WITH FULL TIME EQUIVALENTS (FTE) POSITIONS AND FISCAL YEAR 1985 EXPENDITURES

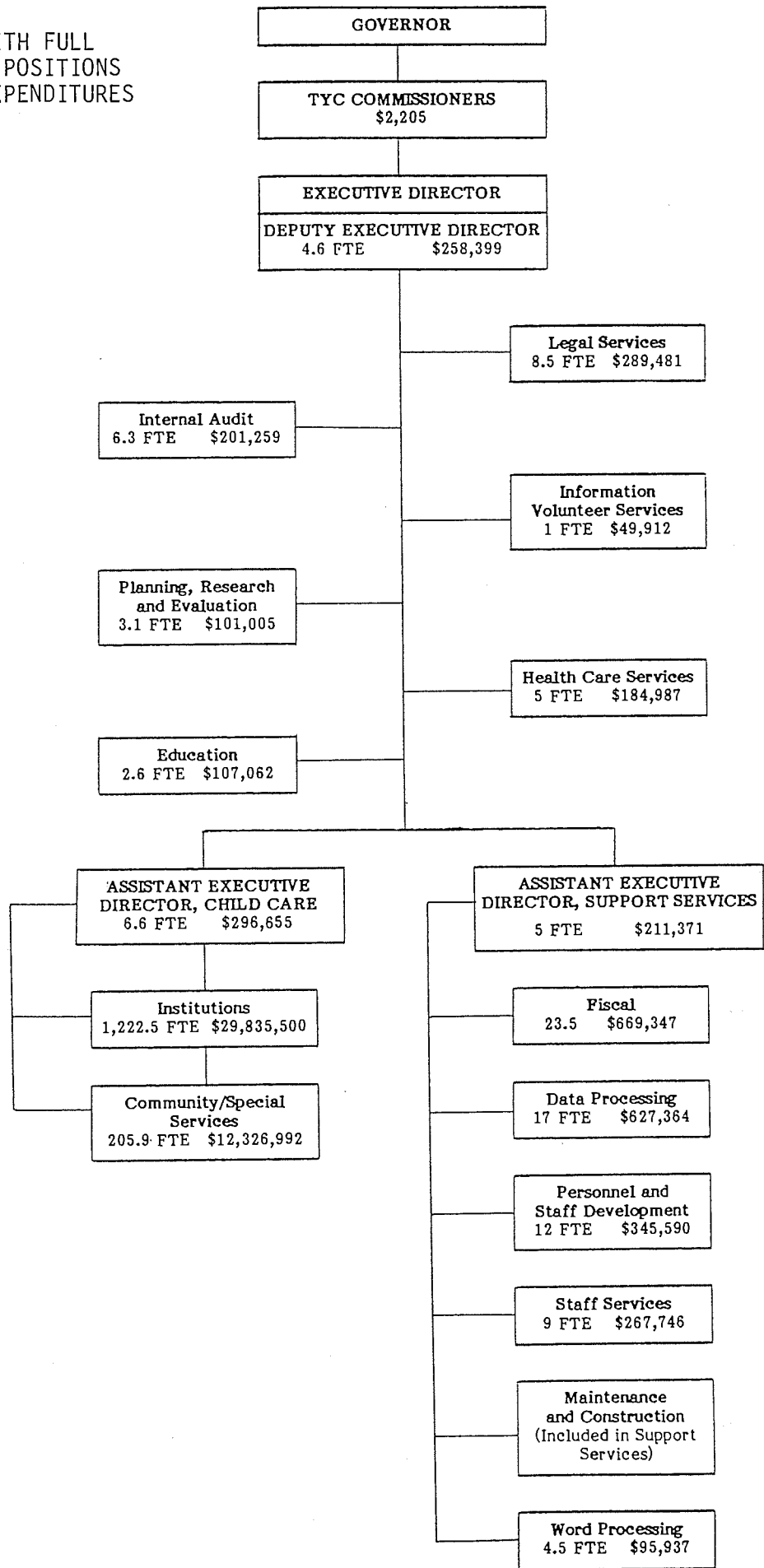
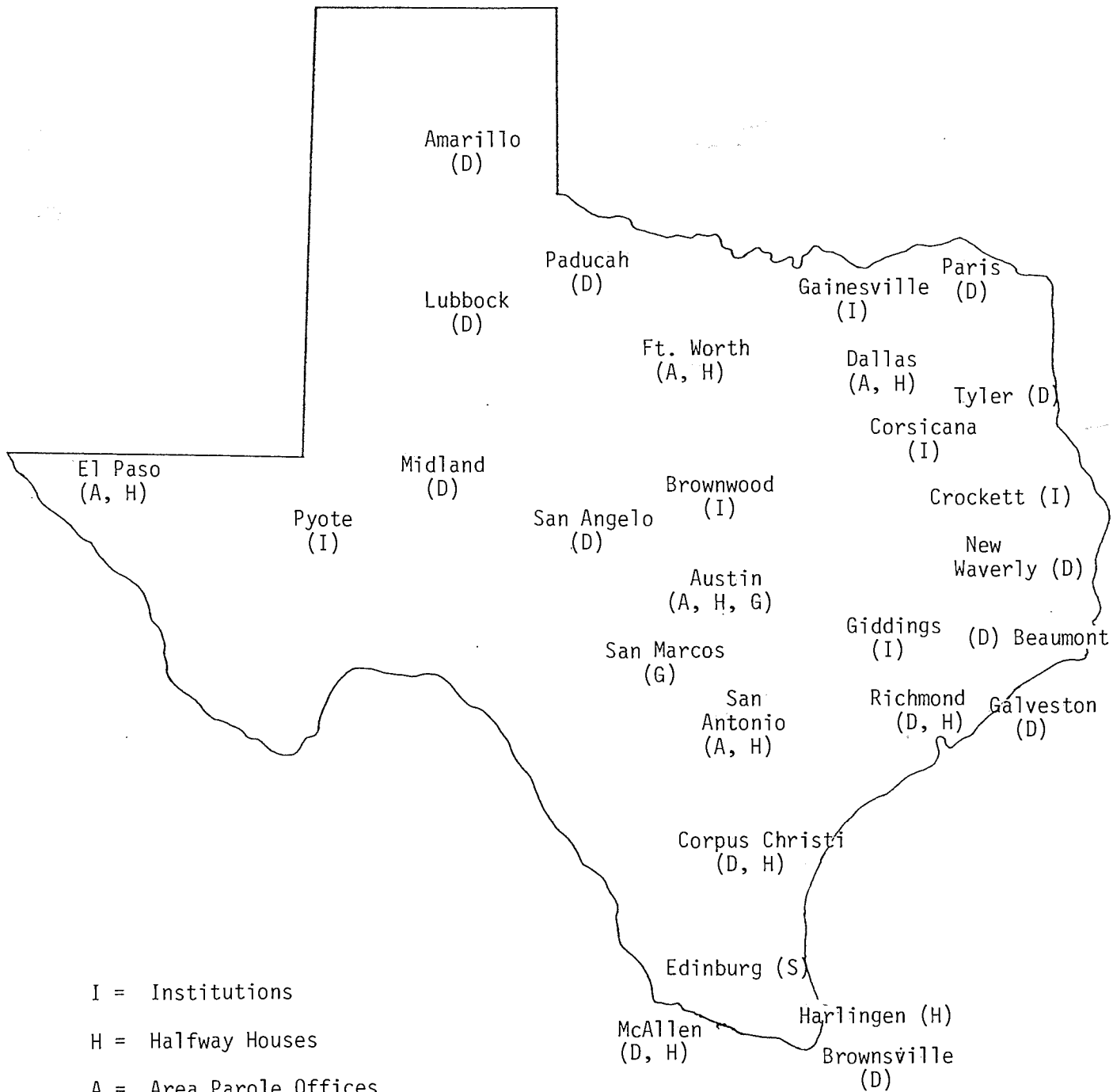


Exhibit IV
 TEXAS YOUTH COMMISSION
 All Facilities



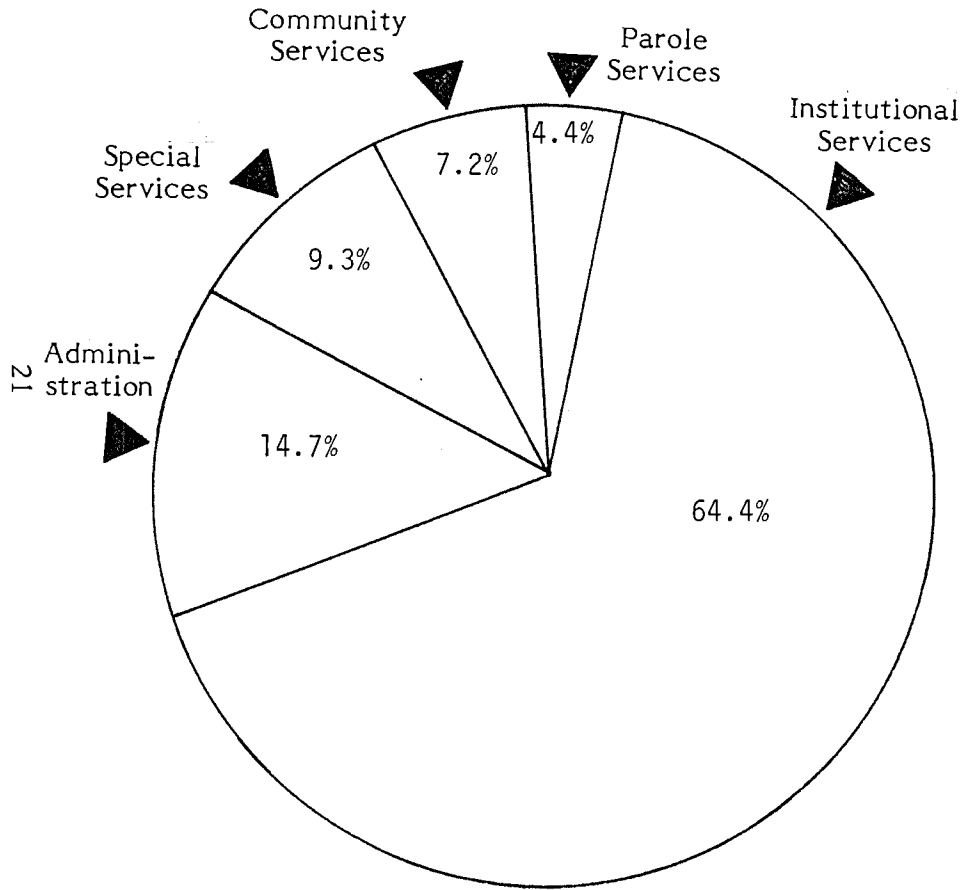
- I = Institutions
- H = Halfway Houses
- A = Area Parole Offices
- D = District Parole Offices
- G = Group Homes
- S = South Texas Regional Facility

100 Miles
 1 inch

Exhibit V

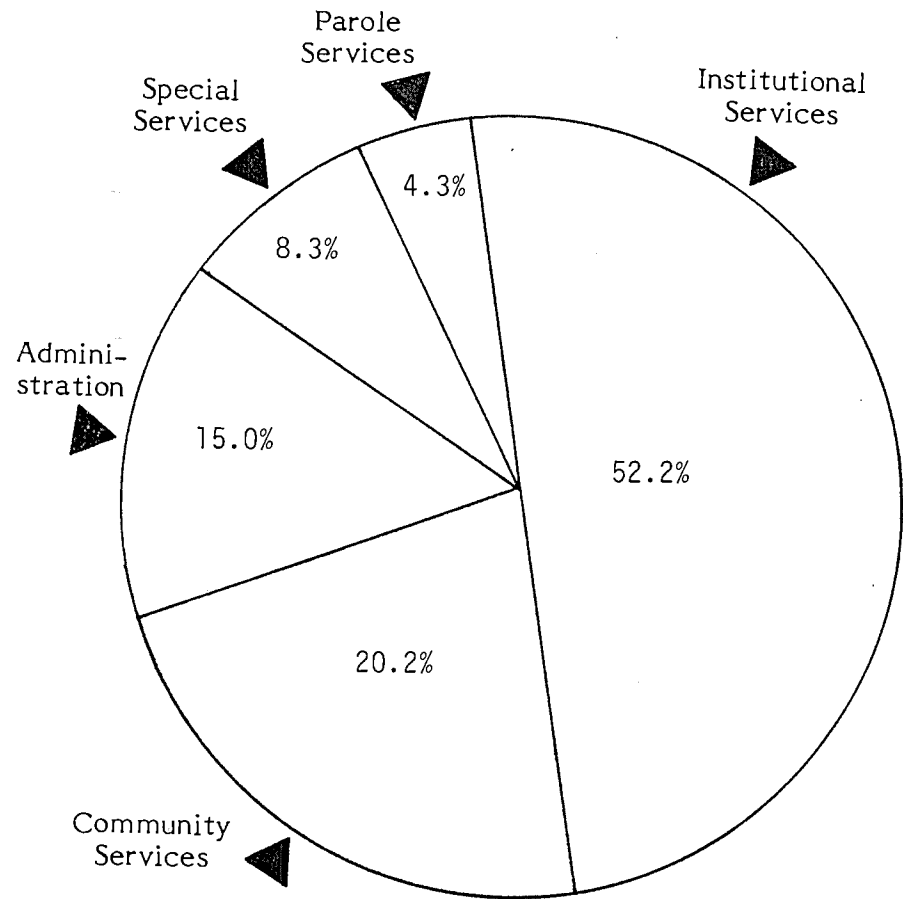
TEXAS YOUTH COMMISSION
FISCAL YEAR 1985

Percent of Employees by Programs



Total Budgeted Employees = 1,602

Percent of Budget by Programs



Total Budget = \$46,206,533

facility. During this time, the child is tested to assess his or her psychological, educational, and medical needs. These needs, along with the child's history of delinquency, are evaluated to determine the most appropriate, but least restrictive placement option. Of the 2,496 youth placed from the Reception Center in fiscal year 1985, 59 percent were sent to training schools, 19 percent to contract care facilities, 13 percent to TYC halfway houses, seven percent to TYC camps and two percent to the Corsicana Residential Treatment Program. The Reception Center is operated with a staff of 88 employees and a total operating budget of slightly more than \$2 million for fiscal year 1985. The cost per day per child was \$51.09 for fiscal year 1985.

Youth sent to one of TYC's five training schools have generally committed more serious offenses and require the structure and supervision of a secure facility. All of the training schools restrict youth to locked buildings and the Brownwood and Giddings facilities are secured by fences. The training school at Giddings is TYC's maximum security facility for youth who were committed for violent offenses. The following table provides some general information on each of TYC's training schools.

<u>Training Schools</u>	<u>Average Daily Population</u>	<u>Average Length of Stay (Months)</u>	<u>No. of Employees FY 1985</u>	<u>Annual Operating Expenditures FY 1985</u>
Brownwood	243	6.38	202	\$ 5,099,974
Crockett	112	5.78	138	3,292,847
Gainesville	263	6.67	218	5,491,216
Giddings	299	11.98	241	5,917,435
<u>West Texas</u>	<u>191</u>	<u>5.88</u>	<u>186</u>	<u>4,365,754</u>
Total/Average	1,108	6.95	985	\$24,167,226

Except for Crockett, which is for boys only, the institutions are coeducational. Each institution has an accredited on-campus academic school, counseling services, and organized recreational activities. The facilities at Brownwood, Giddings, and Gainesville also offer vocational training, including instruction in auto mechanics, paint and body repair, welding, and building trades.

Within each training school, youth live in dormitories ranging in size from 25 to 40 beds each. They eat in a centralized cafeteria and can be cared for in an on-

campus infirmary if they become ill. Individual counseling is provided, but the major focus of TYC's treatment is through group counseling. Within each dorm, youth are divided into small groups of 10 to 12 which meet five times a week for group counseling. Any problems which arise during the course of a day are resolved through the group. Youth learn responsibility for their actions by having to identify and understand any inappropriate behavior of a group member. As a group they decide on an appropriate consequence, rather than staff being solely responsible for sanctioning inappropriate behavior.

Youth also earn privileges based on a level system, which ranges from freshman to senior level. Both the group and staff determine when a youth's behavior indicates he is ready to move to a higher level. Students on senior level are eligible for release.

In fiscal year 1985, a total of 3,024 youth were served in these five training schools. The average length of stay was just under seven months. The total number of employees in the training schools was 985. The cost per day per youth was \$59.57. The total operating expenditures for all five training schools in fiscal year 1985 was \$24,167,226.

Community-based Residential Services

The Texas Youth Commission provides community-based residential services for juveniles in nine TYC halfway houses, two TYC group homes, and in 112 privately-run programs that the agency contracts with for services. The development and expansion of these services have been largely in response to the Morales vs. Turman federal litigation, but also represents a nationwide trend in juvenile corrections. These programs provide a less restrictive alternative and diversion from institutionalization for less serious juvenile offenders. They are also utilized for youth returning to the community from institutions who do not have an approved home.

The Texas Youth Commission's halfway house program was established in 1975 and has steadily grown since that time. Currently TYC has eight, 24-bed, all male halfway houses located in the following cities: Austin, Corpus Christi, Dallas, El Paso, Harlingen, McAllen, Richmond, and San Antonio. A ninth halfway house is near completion in Ft. Worth and will be the first TYC halfway house for girls. A primary goal of the halfway house program is to maintain or develop the children's involvement in the community. Youth attend public schools, work in local businesses, or participate in vocational education or GED preparation. They are involved in recreational activities in the community, work as volunteers for social

service agencies, participate in community service projects, and attend religious activities of their choice. Group counseling is the primary way in which the residents learn and develop the skills necessary to return home successfully. Individual counseling is provided as needed, and specialized treatment needs are met through resources in the community.

In fiscal year 1985, a total of 760 juveniles were served through the halfway house program. Of youth placed in halfway houses, 49 percent came directly from the Reception Center, 25 percent from training schools, eight percent from parole, six percent from other halfway houses, and 12 percent from other programs. The average length of stay was just over five months. The total number of staff was 104, with an average of 13 staff per halfway house. The cost per day per resident was \$40.01 and total operating expenditures for all eight houses were almost \$3 million.

The TYC operation of its own group homes is a more recent development, with the San Marcos Group Home for girls opening in 1984 and the Austin Group Home for boys opening in August 1985. Each group home serves a maximum of eight children in a small family-like setting. The staff, or houseparents, actually live in the group home with the children. The purpose of the group homes is to serve less serious offenders who do not belong in institutions but who are difficult to place in contract care because of special needs or past behaviors. Youth attend public school, receive GED or vocational training, or work in the community. All basic needs of the youth are met by the houseparents, with any specialized needs met through community resources. In fiscal year 1985, a total of 25 youth were served in TYC group homes. Total operating expenditures were \$229,697.

In addition to TYC's own community-based services, the agency contracts with 112 privately-run residential programs. The Residential Contract Program was initiated in 1974 and since that time the number of youth served by the private sector has increased each year. The type of programs that are under contract provide a wide spectrum of services. The following is a breakdown of the different types of facilities that TYC currently contracts with: 30 foster group homes, 23 foster homes, 22 residential treatment centers, 14 emergency shelters, 12 basic child care facilities, four therapeutic camps, four maternity homes, two halfway houses and one drug treatment program. The level of care provided in these programs varies, as does the daily rate that TYC pays for these services. Each program provides basic child care, 24-hour supervision, and special services and counseling in accordance with their contract. Most contract programs require

school attendance. Work, vocational education and job placement assistance are frequent components. Residential treatment centers provide specialized counseling for severely emotionally disturbed youth. Foster homes emphasize the maintenance of a family environment. This variety provides TYC with the ability to meet the special needs of less serious juvenile offenders in the community.

The Texas Youth Commission maintains contact with and support to these contract programs through the local parole staff that provide casework services to these youth, as well as through the agency's community resource specialists, who develop the contracts, monitor the programs and provide technical assistance to them, as needed. The commission regularly monitors the contract programs to insure that the programs continue to operate effectively and according to the provisions of their contract.

In fiscal year 1985, a total of 1,494 youth were served in the contract care program. Of the youth placed in contract programs in fiscal year 1985, 33 percent came directly from the Reception Center, 19 percent from training schools, 22 percent from other contract programs, 21 percent from parole, and five percent from other programs. The average length of stay was 7.89 months. The cost per day was \$36.33. Total operating expenditures for fiscal year 1985 were \$5,863,606.

Special Services

The Texas Youth Commission provides special services through the following three programs: the Corsicana Residential Treatment Center, the Fairfield Wilderness Camp, and the Wilderness Challenge Program. Each of these programs was developed to serve a special need that could not be met by an existing program or as an alternative to traditional approaches to treatment for juvenile delinquents.

The Corsicana Residential Treatment Center began operation in 1982 to meet the needs of emotionally disturbed youth that were difficult to find services for in the community. The facility at Corsicana has a long history, having originally been created in 1887 as the State Orphan Asylum. During the depression years, over 800 children lived at the home, most of whom were later reunited with their families. With the declining number of orphans and the increased use of foster care for these children, the use of the facility was altered to meet the changing needs of the agency. For the last four years, the facility has moved from serving only dependent and neglected children referred by the Department of Human Services, to serving emotionally disturbed delinquent children committed to TYC.

Currently, the program at Corsicana focuses on the treatment of emotionally disturbed, behaviorally disordered, and learning disabled youth within a therapeutic

environment. The size of the program is limited to serve a maximum of 66 youth. Individual attention to each child's needs is facilitated by the fact that Corsicana has nearly twice the number of staff per students as any other TYC program. Admissions criteria focus on children who are non-psychotic, amenable to treatment, and motivated to change. The program teaches basic living skills, as well as providing treatment of specific psychiatric symptoms. The facilities are similar to a training school in that the youth live in 16 to 24 bed dorms and eat in a centralized dining hall. Most youth attend school on-campus, which has the advantage of small class sizes, and a majority of students are enrolled in special education. Some children participate in the educational and vocational training offered through the local public school. From the time of admission, family services are emphasized, with the goal of returning these youth to a family setting upon discharge.

In fiscal year 1985, a total of 139 children were served at Corsicana. Of the youth placed at Corsicana in fiscal year 1985, 43 percent came directly from the Reception Center, 42 percent came from training schools and 15 percent came from other programs. The average length of stay was 13.55 months. The average daily population was 56. The cost per day was the highest of any TYC facility at \$130.70. The total number of staff for fiscal year 1985 was 110, and total operating expenditures were \$2,803,223.

The Fairfield Wilderness Camp is an alternative program that was started in 1979 to serve younger boys, ages 10 to 14½, in a less restrictive environment. Youth live in a camp in the woods outside of Fairfield, Texas. The campers, with the help of staff, construct and maintain their own housing, school and shower facilities, using wood from the immediate area. Youth are divided into four groups of up to 12 campers each, with three caseworkers and one group supervisor assigned to each group. The purpose of the program is to provide the campers with successful experiences in meeting all their basic needs in the wilderness. The major treatment mode is the group session, or "huddle-up", which focuses on solving problems as they arise. The campers attend school five days per week in the camp and cook many of their own meals over a fire.

In fiscal year 1985, 25 staff members served a total of 116 youth in the Fairfield Wilderness Camp program. The average length of stay was 7.59 months. The cost per day per camper was \$54.38. Total operating expenditures for fiscal year 1985 were \$797,499.

The Wilderness Challenge Program is a short-term camping program that lasts 30 days. It serves as a diversion for selected youth, age 15 and above, who are considered a low risk to their communities. The purpose of the program is to learn to overcome physical challenges. Meeting these challenges, coupled with the close interdependence of the group and camp counselors in achieving a set of goals, helps to build the youth's self confidence. Following the trip, the staff and youth meet to discuss the trip and reinforce the youth's positive accomplishments. In fiscal year 1985, a total of 99 boys were involved in the Wilderness Challenge Program. The total number of employees was nine. The cost per day per youth was \$80.30. Total operating expenditures for fiscal year 1985 were \$207,244.

Parole Services

All youth who are under the age of 18 when released from placement are placed under the supervision of TYC parole officers. Usually juveniles remain under some form of parole supervision until their 18th birthday. In addition to providing supervision, parole officers also try to locate needed services for parolees, act as the caseworker for youth in residential contract programs within their districts, evaluate home settings to determine whether they are appropriate for the child to return to upon release, and participate in parole revocation hearings which are conducted by TYC hearings examiners.

During fiscal year 1985, the agency served a total of 4,367 youth on parole with an average daily population of 2,178. The actual cost per day per youth served was \$2.45. Total expenditures for the parole division were \$1,975,272 in fiscal year 1985 and 68 people were employed in this area, including 56 parole officers. The average caseload per parole officer was slightly less than 40. Parole offices are located throughout the state in six area offices and 12 district offices. For locations, please refer back to Exhibit IV.

The parole function of TYC was handled by county probation departments prior to 1961. This concept continues in use on a limited basis currently, with TYC contracting with four county juvenile probation departments for parole services in their areas.

As long as a youth is on parole, the agency has the authority to return the parolee to an institution if parole conditions are not met. Initially, a youth's parole could be revoked simply by a phone call from the parole officer to the parole administrator. However, the Morrissey vs. Brewer federal supreme court decision in 1972 prompted the addition of due process hearings for parole revocations. Youth are now represented by counsel at the hearings and can appeal the decision

to the executive director of TYC. The agency held 501 parole revocation hearings in fiscal year 1985, resulting in 417 revocations.

Executive and Administrative Support

The primary function of TYC's central office in Austin is to administer and support the programs TYC operates across the state. Central office expended \$4,386,926 in fiscal year 1985 with a staff of 132. Please see Exhibit III for details of how the budget and staff are distributed among the various functions. The Texas Youth Commission divides its central office operations into the following categories: Executive Support, Administrative Support, Child Care Support, Institutional Support, and Community Services Administration.

Executive Support includes the activities of the Executive Director and his staff, legal services, information services, internal audit, and planning, research and evaluation. The Legal Services department has four primary responsibilities: to act as the general counsel of the agency in all legal matters; to develop contracts for services, such as residential treatment, counseling, training, medical assistance, parole supervision, construction and maintenance; to maintain a grievance system for youth in its care, as well as for its employees; and to conduct parole revocation hearings.

Information Services is responsible for press relations, public information, agency publications and brochures, and handling general inquiries. This department also supervises and coordinates the volunteer program, which provides opportunities for TYC youth to volunteer for community service projects, and for members of the community to volunteer their time and resources to help TYC youth.

Planning, Research and Evaluation (P,R&E) performs a broad range of information gathering and analytical services. This department produces a series of monthly, quarterly, and annual reports on topics such as population characteristics, cost per day, and recidivism. It is responsible for staying up to date with what is happening across the nation in the area of juvenile justice. It performs program evaluations to determine how well new projects are working, and what changes might help existing programs work better. The Planning, Research and Evaluation staff also receive requests from other divisions of the agency to gather certain information or evaluate a specific concept or program.

The Internal Audit department analyzes the degree to which the various programs are in compliance with agency rules, policies and procedures. This audit function differs from the program evaluation function performed by P,R&E in that the audit staff's review is limited to how a program works within the current TYC

framework. The Planning, Research and Evaluation staff's approach is more outcome oriented and can make recommendations whether or not they are consistent with current policies and procedures.

Administrative support is responsible for fiscal management, construction and maintenance, staff services, data and word processing, and personnel services. The personnel unit administers the agency's staff training center in Corsicana.

Child Care Support oversees the delivery of direct child care services in TYC's programs. This unit employs experts who provide technical assistance to staff in the areas of education, mental health, nutrition, nursing, pharmacy, and medical and dental treatment.

Institutional Support is responsible for directing and coordinating the activities of TYC's training schools, the Statewide Reception Center, the Fairfield Camp, the Wilderness Challenge Program and the mobile diagnostic unit that operates out of the South Texas Regional Facility which is currently under construction.

Community Services Administration is responsible for directing the agency's effort to provide treatment to less serious offenders in community-based programs as opposed to institutions. This department administers the agency's nine halfway houses, two group homes, and eighteen parole offices. It is also responsible for contracting with private programs such as residential treatment centers and foster homes. The Interstate Compact on Juveniles is also staffed by this department. It handles transfers of youth on probation or parole from one state to another, coordinates the return of escapees and runaways, and makes arrangements for cooperative institutionalization of special types of youth.

REVIEW OF OPERATIONS

The evaluation of the operations of an 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 Youth Commission (TYC) board is composed of six members appointed by the governor, with the consent of the senate, for staggered six-year terms. The agency's statute requires that members be citizens who are recognized within their communities for their interest in youth.

The review of the agency's policy-making structure indicated that while it appears to be functioning adequately, certain specific categories of representation would provide a more balanced perspective. In addition, it was determined that the method of selecting the board's chairperson could be improved. These improvements to the current structure are discussed in the material that follows.

The board's chairperson should be appointed by the governor instead of elected by other board members.

The Texas Youth Commission's board members currently elect a chairperson from their membership whereas the governor selects the chair in many other state agencies. For example, this is done at the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, the Texas Air Control Board, and the Texas Water Commission. The governor's selection of the chair encourages and helps ensure continuity of policy from the state's chief executive

officer down to the various agencies which serve the citizens of the state. A review of the TYC board's procedures and types of policy decisions did not reveal any particular need to deviate from this method of selection. The agency did indicate that it would be beneficial to their process to have the chairperson appointed in September of odd-numbered years to coincide with the beginning of the fiscal year. Therefore, it is recommended that the statute be amended to provide for selection of the chairperson by the governor in September of odd-numbered years.

The board composition should include a juvenile judge and a representative of a private sector agency contracting with TYC.

The statute currently requires that members of the Texas Youth Commission's board "be citizens who are recognized within their communities for their interest in youth". Although this requirement appears to encourage the board members to consider the needs of the state as a whole, it forces them to make decisions in a vacuum. TYC has been criticized for developing policies with state-wide impact without getting input from the other segments of the juvenile justice system or from the private providers that contract with the agency.

Generally, the composition of a policy-making body should reflect a proper balance of representatives of those people or groups affected by the actions of the body. Reducing the number of public members on the TYC board from six to four and adding to the board a juvenile judge and a representative of the private sector agencies that contract with TYC will provide that balance. These new members will give the board a perspective that it currently does not have.

Questions have been raised about the constitutionality of judges serving on the board of an administrative agency. Although this question is one which has never been directly presented to the courts of the state, support for allowing judges to serve on the board of an administrative agency may be found in provisions of the state constitution and in the case law of Texas and other states. The only possible constraint appears in Article 16, Section 40 of the Texas Constitution. It prohibits a person from holding more than one "civil office of emolument". This would not prohibit a judge from serving on a state board, but would prevent him from receiving compensation for his service.

Therefore, the following statutory changes should be made to provide a different balance on the board:

- (1) the number of public members should be reduced from six to four;
- (2) a juvenile judge and a private sector representative should be added; and
- (3) a prohibition against the judge receiving per diem for his service on the board should be included.

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 for internal management of time, personnel, and funds. The review indicated that the overall administration was effective but that statutory authority was needed for certain funds, and that the manner in which the cost per day is calculated for the agency's residential facilities could be improved. The recommended changes are discussed below.

The agency should be authorized to hold funds in trust for children committed to it.

When a youth is committed to TYC, the amount of money he is allowed to have in his personal possession is limited to \$10.00. Any other money he receives or earns is deposited in a student trust fund. Each training school, halfway house, and group home has established such a fund in a local bank or savings and loan association. The total amount in all accounts was just over \$124,000 at the time of the review.

The agency has developed policies governing the trust funds which appear reasonable and ensure that the student's rights are protected. However, the State Comptroller's Office has indicated the need for TYC to have clear statutory authority for these trust funds. This would support the provision in the State Funds Reform Act (Article 4393-1, Chapter 4, V.T.C.A.) which specifies that funds held in trust for the benefit of a person or entity other than a state agency do not have to be deposited in the state treasury. Therefore, it is recommended that the statute be amended to authorize the commission to hold funds in trust for children committed to it.

The commission should be authorized to maintain four special accounts in the general revenue fund.

The Texas Youth Commission currently has four special accounts in the state treasury: the Canteen Revolving Fund, the Student Benefit Fund, the Vocational Shop Fund, and the Conference Account. The following chart indicates the source and purpose of each fund, as well as the current balance.

Fund	Source	Purpose	Balance*
Canteen Revolving Fund	The proceeds from the canteen operated at the Gainesville State School.	To support the on-going operation of the canteen.	\$14,128.73
Student Benefit Fund	The money from vending machine sales, profits from the Canteen Fund, and all gifts or donations to TYC.	To assist in the education, recreation and entertainment of children committed to TYC.	\$59,376.96
Vocational Shop Fund	The proceeds from vocational shop projects at Giddings, Gainesville, and Brownwood State Schools.	To purchase and maintain parts, tools, and other supplies necessary to operate the programs and for the compensation of the students who generate these funds through their labor.	\$ 9,464.78
Conference Account	Registration fees from seminars and conferences conducted by the commission.	To defray the costs of conducting these training sessions.	\$ 4,914.43

*As of 11-30-85.

The Appropriations Act authorizes expenditure of these funds and the agency has developed appropriate policies to govern the funds. However, the State Comptroller's Office has indicated that the agency needs statutory authority to maintain these special accounts. Therefore, it is recommended that TYC be authorized to maintain the four special accounts in the general revenue fund. The accounts would remain in the state treasury so that the legislature can maintain control over the expenditure of this money through the appropriations process.

The Texas Youth Commission's statute should be amended to require the agency to use a standard methodology in calculating cost per day.

The commission calculates cost per day per resident figures for each of its programs. These figures are used internally as a management tool and are included in the agency's request to the legislature for appropriations. Cost per day figures are also used extensively by other entities for research at the local, state, and national level. The state's policy-makers use cost per day information in the planning and decision-making process. An example of this would be in determining whether it would be cheaper for the state to build and operate facilities or contract with private organizations for the use of the facilities.

In general, cost per day figures that are developed and used by the state should reflect actual costs, and be computed through the use of a generally accepted methodology. Methods used in the calculation of cost per day per resident by TYC, the Texas Department of Corrections (TDC), and the Texas Department of Mental Health and Mental Retardation (TDMHMR) were compared to determine whether they were consistent and included most major cost elements.

The review indicated that the agencies use different formulae, and that specific cost elements included in a formula can vary from one program to another within a single agency. TYC, for example, includes the cost of buildings and equipment in its halfway houses and group homes which are leased, but not in its institutions which are owned by the state. Generally accepted accounting standards would account for the cost of institutional buildings and equipment by depreciating them over the expected useful life of the asset. Of the three agencies, only TDMHMR makes any use of depreciation.

Another expense which is treated differently among the three agencies is fringe benefits of employees who either work in the facilities or support the facilities from another location. Only TDMHMR includes this item in its cost per day calculations. Not including this information can distort cost per day calculations since the cost of state employee benefits is about 26 percent of total salaries, and salaries are the single largest expense item in the operation of a residential facility.

One reason that fringe benefits are not included is that they are not appropriated to each agency by the legislature and, therefore, do not appear in an agency's budget. However, they are paid from the Employee's Retirement System

and represent a substantial expense to the state that should be taken into consideration.

Finally, the agencies use different methods of allocating overhead costs. The Texas Youth Commission calculates its institutional cost per day by dividing the budget for each institution by its average daily population. This method of calculating the cost per day fails to recognize the proportion of central office administrative cost that is incurred as a result of institutional operations.

As the state's population increases, there is a potential need for increased bed space at TYC, as well as at TDC, TDMHMR, and other agencies that operate residential programs. One of the most important elements in determining how residential space can best be expanded is the cost. The state can determine the cost of contracting with a private organization for residential placement of a child because rates are predetermined and specified in the contract, and can not exceed the amount recommended by the Health and Human Services Coordinating Council. In order to determine whether it would be more cost effective for TYC to build a new institution, or four new halfway houses, or contract with a private organization for a certain number of beds, the actual cost of the state-owned facilities must be known. A decision based on incomplete cost figures could be very costly to the state. For example, the institutional cost per day per student in TYC for fiscal year 1985 was budgeted at \$60.17. This figure increased to \$67.24 when central office support was included, and was \$82.39 after depreciation and employee benefits were added.

Under the current method of calculating the cost per day, the projected cost of operating a new, 100 bed institution would be \$2,196,205 annually. After adding central office overhead, employee benefits and depreciation, the cost would be \$3,007,235, a difference of \$811,030. The current method systematically understates the cost of state-operated residential facilities. This could result in a decision by the state to build a new facility because it was thought to be cheaper than contracting for additional bed space, when it may actually be more expensive when all costs are considered. In order to avoid the possibility of making an important decision based on insufficient cost figures, TYC's statute should be amended to require it to use a standard methodology in calculating its cost per day per resident figures. The formula should be designed to reflect the true cost to the state in operating a residential facility. Specifically, this figure should include depreciation over the expected useful life of buildings and capital equipment, an allocation of overhead costs, and the cost of employee fringe benefits.

Evaluation of Programs

The Texas Youth Commission's primary function is to provide programs aimed at rehabilitating delinquent children and assisting in their re-entry into the community. In order to meet its responsibilities, TYC administers four major child-care programs: institutional care, community-based services, special services, and parole services. During the review, concerns were identified in community-based services, special services, and parole services. In addition, the review indicated the existence of problems that crossed program lines. The following paragraphs summarize the major areas of concern.

Community-based Services

Since the Morales vs. Turman federal law suit was filed, TYC's goal has been to provide services to adjudicated delinquents in the least restrictive setting available. This has resulted in the development of a program of community-based services which include agency-operated halfway houses and group homes and contracts with private sector agencies to provide a broad range of residential and non-residential services. The review of the contracting process led to one concern. The following information describes how this process was evaluated and how the problem was identified.

In general, the contract process can be divided into three primary components. First, a contractor must be selected in a fair and unbiased manner to ensure that potential service providers are aware of the availability of funds and have an equal opportunity to apply. The second phase of the process involves formulation of the contract. A contract should be clear and concise, include an accurate statement of the services that are being purchased, and contain enforcement provisions which afford adequate control over funds. Monitoring is the third and final phase of the process. This stage should allow for early detection and correction of problems, should include use of a standardized monitoring instrument to minimize subjectivity, and should provide an adequate assessment of both the performance of the program and its financial management.

The review indicated that the Texas Youth Commission has developed appropriate processes for selecting contractors, formulating contracts, and monitoring the implementation of the contracts. When a need for new services is identified, the staff in the area parole offices are responsible for identifying new programs that could provide the service. If the service is not available, the staff will work with existing programs to encourage the expansion or addition of needed

services. TYC has indicated that in the future they will also develop a "request for proposals" process that will further ensure that potential service providers are aware of the agency's needs and have an equal opportunity to obtain a contract to meet those needs.

Standardized contracts have been developed by the agency's legal division. The contracts clearly describe the services being purchased, the amount of the contract and the method of payment, and the notice required for termination of the contract by either party. Furthermore, the contracts require the provision of services in accordance with appropriate licensing or certification standards. These standards cover the areas of organization and administration, personnel, admission, child care, training, buildings, grounds, and equipment.

The commission has developed a system of monitoring the contracts that includes monthly visits, an annual review, and special monitoring when needed to investigate a complaint or serious incident. During the annual monitoring visit, TYC staff look not only at compliance with standards and contract provisions, and at the services provided to youth, but also try to measure the outcome of the service delivery. The review indicated that the importance of measuring outcome increases each year with the public's, the judicial system's, and the legislature's desire for state agency accountability. A recommendation to improve the agency's performance in this area is described below.

The Texas Youth Commission should be required to develop and utilize performance-based contracts in specified situations.

The commission currently contracts with 112 privately-run residential programs. In fiscal year 1985, the agency spent over \$5,900,000 to buy services from the private sector for 1,494 youth. The agency uses a standard purchase of service contract that specifies what services are to be provided and how much a program will be paid for providing those services. As mentioned before, TYC staff monitor the contracts to assure that the services paid for are being provided.

The rates that a state agency can pay private child care agencies depend on the "level of care" that is being provided. The Health and Human Services Coordinating Council has designated five levels of care for children based on the difficulty of serving children with varying levels of need. The following chart indicates the different levels of care and the accompanying maximum rate that can be paid.

<u>Levels of Care</u>	<u>Daily Rate Per Child</u>
Basic	\$ 12.00
Specialized	\$ 25.00
Transitional	\$ 30.00
Therapeutic	\$ 61.00
Secure	\$ 105.00

Twenty-two of TYC's 112 contracts with the private sector have agreed to serve ten or more TYC students at the therapeutic or transitional level of care. This results in a potential for service to 349 students at a reimbursement rate of \$61 or \$30 per day. Therefore, services for 23 percent of the youth in contract care could consume 75 percent of the contract care budget. Additional controls should be used to ensure that this money is buying the desired outcome.

In recent years, with the decline in state revenues and a growing population in need of services, the state has placed more emphasis on increased accountability. A guideline has been established that state dollars should be used to buy services that produce a desired outcome. Senate Bill 633, which was passed by the 69th Legislature, exemplifies this approach. That bill changed the funding arrangement between the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the community MHMR centers. Prior to S.B. 633, the centers received grant-in-aid funding from TDMHMR. Now the statute requires performance-based contracts which include the kinds of services to be developed, the priority populations to be served, and the performance standards by which the centers will be measured. Performance-based contracts have also been successfully used since 1981 by Michigan's Department of Social Services for contract programs serving juvenile delinquents.

The utilization of performance-based contracts by TYC would appear to have several benefits. First, it simplifies monitoring because expectations are clearly established and consequences are built into the contract. This approach is especially important for new programs that need assistance in knowing where to concentrate their efforts. The second benefit is that performance-based contracts shift the emphasis from mere compliance to a focus on specific accomplishments. Finally, the entire process allows the agency to be more accountable to the legislature. Not only can TYC report what services are bought with state dollars, but it can also provide information on how effective the programs are for the children served.

Therefore, it is recommended that the statute be amended to require TYC to develop and utilize performance-based contracts for any private program serving ten or more TYC children at the therapeutic, transitional, or secure level of care. To ensure sufficient time for the staff to develop contracts that are acceptable to the agency and the private contractors, TYC should have until September 1, 1988 to implement the contracts with the secure and therapeutic programs and until September 1, 1989 to implement the contracts with the transitional programs.

Special Services

Another aspect of TYC's efforts to provide appropriate services to juvenile delinquents in the least restrictive setting has resulted in the development of three special programs. These include the Wilderness Challenge Program, the Fairfield Wilderness Camp, and the Corsicana Residential Treatment Center. The agency developed these programs to serve two specific populations. The two therapeutic camping programs provide an alternative to traditional approaches for the rehabilitation of younger or less serious offenders. The Corsicana Residential Treatment Center was developed to meet the special needs of emotionally disturbed youth committed to TYC.

Each program was examined to determine if the need for the program still existed; if the services provided were meeting the needs of the identified populations; and if there were more cost-effective alternatives available that could meet these needs. The review indicated a continuing need for the therapeutic camping programs. These programs provide an appropriate alternative to institutionalization for certain youth. Although the private sector led the way in the development of such programs, it appears appropriate for TYC to continue to offer similar camping experiences.

The review of the Corsicana Residential Treatment Center resulted in several concerns. Although the quality of the services provided at this facility is excellent and the need for the services is great, TYC's costs in providing these services is very high. In addition, Corsicana can only serve a limited number of the youth at TYC who are classified as mentally disturbed. These concerns led to a broader look at (a) what services are needed for TYC's mentally handicapped students, whether emotionally disturbed or mentally retarded; (b) where these services can best be obtained; and (c) how they can be improved. The following recommendations address each of these questions.

The statute should be amended to require TYC and TDMHMR to provide for a continuum of care for mentally ill or retarded juvenile delinquents committed to TYC's care.

When a youth appears in juvenile court for having engaged in delinquent conduct, if it appears to the court that the youth may be mentally ill, the court shall initiate proceedings to order temporary hospitalization of the child for observation and treatment. These proceedings are governed by Chapter 55 of the Texas Family Code and the Texas Mental Health Code (Article 5547-1 et seq., V.T.C.S.) which define the criteria for court ordered mental health services. Upon completion of their treatment, the court may dismiss the case or continue proceedings to commit the youth to TYC. Similarly, if it appears to the court that a youth may be mentally retarded, the court shall order a comprehensive diagnosis and evaluation of the child to determine if the youth should be placed in a facility for the mentally retarded. These proceedings are governed by Chapter 55 of the Texas Family Code and the Mentally Retarded Persons Act (Article 5347-300, V.T.C.S.) which define the criteria for commitment of a child to a facility for the care and treatment of the mentally retarded. If the youth is committed to a MR facility and subsequently discharged prior to age 18, the court may dismiss the case or continue proceedings to commit the youth to TYC.

These procedures help to ensure that the most severely mentally ill or mentally retarded youth are referred for care and treatment through the Texas Department of Mental Health and Mental Retardation prior to any subsequent commitment to TYC. In addition, TYC's statute provides that if TYC determines that a youth that has been committed to its care is mentally ill or retarded, TYC shall return the youth to the courts for appropriate disposition. However, this provision only pertains to youth in need of commitment to a state hospital or a state school for the mentally retarded. Consequently, TYC maintains custody of a substantial number of youth in need of mental health and mental retardation services, but who do not exhibit difficulties severe enough to warrant commitment to TDMHMR. As part of this review, an evaluation was made of whether the services to these youth under TYC's care were being provided as efficiently and effectively as possible. The review indicated that improved coordination between TYC and TDMHMR could vastly improve the services being provided to these youth.

The last formal coordination between the two agencies in this area occurred in 1974 when the provisions of Chapter 55 of the Texas Family Code regarding mentally ill or retarded children were being revised. The lack of coordination between the two agencies since that time has resulted in the following problems.

First, the mental health division of TDMHMR is currently under a federal court order that requires maintenance of a certain staff to patient ratio. To maintain this ratio they must ensure that only appropriate admissions to state hospitals are made. This change in approach has resulted in there no longer being a clear understanding on TYC's part of what type of youth are now appropriate for referral to the courts for subsequent TDMHMR psychiatric evaluation and hospitalization. Second, when a TYC youth is admitted to a TDMHMR state hospital for psychiatric evaluation, the child has traditionally been returned to TYC within a short period of time, and without adequate documentation concerning recommendations for the child's ongoing treatment. Due to these difficulties, TYC has opted to work with most of these children within their own facilities in order to avoid shuffling them back and forth between the two agencies. However, as TYC has a limited number of resources for treating emotionally disturbed youth, many of these youth are placed in secure training schools because that is the only setting available to TYC in which the behavior of the youth can be controlled. These problems of coordination consequently result in youth not having access to the full continuum of state services available to meet their needs.

The lack of coordination between TYC and the mental retardation division of TDMHMR has not resulted in as serious concerns; however, services to the mildly retarded children within TYC could be improved through better coordination with TDMHMR. Close to ten percent of the children committed to TYC are mildly retarded. However, they do not need to be admitted to a TDMHMR state school because they show no deficits in their ability to perform everyday tasks at the same level as other children their age. Although these children do not need the special services available at TDMHMR's state schools, these children do have special needs which are not generally addressed within the framework of a TYC facility. Improved coordination between these two agencies would provide TYC with the ability to benefit from TDMHMR's expertise in treating mildly retarded children and, therefore, improve the quality of services provided.

Agencies that serve the same population should make certain that each agency's responsibilities are clearly defined to ensure that the dual needs of that population are appropriately met. Currently TYC and TDMHMR lack a clear

understanding of each agency's responsibilities in providing services to mentally ill and mentally retarded juveniles committed to TYC. However, both agencies agree that a continuum of care is essential. To provide for a continuum of services, it is recommended that TYC develop a memorandum of understanding (MOU) with both the mental health and mental retardation divisions of TDMHMR that clarifies each agency's responsibilities in treating these youth.

The MOU between TYC and the mental health division of TDMHMR should address the following areas: (1) specific disorders or diagnoses that TDMHMR considers appropriate for referral to the court for psychiatric hospitalization of a TYC youth; (2) ways to improve communication between the two agencies when a TYC youth is being evaluated and treated by TDMHMR; (3) a means of providing information to TYC staff regarding TDMHMR's recommendations for the ongoing treatment of the children it is returning to TYC; and 4) a means for both agencies to share information on existing training modules or planned staff development programs concerning emotionally disturbed juveniles. The MOU between TYC and the mental retardation division of TDMHMR should address: (1) a means for TDMHMR staff to share information with TYC regarding the development of special services for mildly retarded youth within TYC's current programs; (2) identification of mental retardation services available in the community that could provide assistance to certain TYC children; and (3) a means for TYC staff to participate in any relevant training or staff development regarding mental retardation that is provided through TDMHMR.

In summary, the following changes are recommended. The Texas Youth Commission should develop and jointly agree to a memorandum of understanding with both the mental health and mental retardation divisions of TDMHMR by December 31, 1987. Both MOUs should be mutually agreed to by each agency. They should be adopted as formal rules of each agency, thereby providing for public input from interested parties through the rulemaking process. The MOUs should be updated on an annual basis. These documents should clearly define the role of each agency in providing services to mentally ill or retarded juveniles committed to TYC. They should provide clear procedures for serving these youth, as well as a means of sharing expertise and training opportunities between the two agencies. This will help ensure that a continuum of services is available for any youth committed to TYC who is in need of additional mental health or mental retardation services.

The statute should require TYC to document efforts to obtain services for emotionally disturbed youth in contract care prior to placement at the Corsicana Residential Treatment Center.

Currently, TYC has two options for the placement of emotionally disturbed juveniles who cannot be properly cared for in its regular programs. The first is the Corsicana Residential Treatment Center, which is a 66 bed, TYC institution designed specifically to treat emotionally disturbed youth. The budgeted cost per day per child at Corsicana in fiscal year 1985 was \$138.82. The second option is placement in one of the 22 residential treatment programs TYC contracts with throughout the state to serve approximately 109 youth at any one time. The cost per day for these services ranges from \$61 per day for a therapeutic level of care to \$105 per day for a secure level of care.

The review indicated that the Corsicana program was originally designed to meet the needs of "hard to place", emotionally disturbed adolescents for whom there were no other alternatives. These youth had been denied admission to other facilities either because of special needs or because of a history of extreme acting out behavior. However, Corsicana's current admissions criteria focus on youth who are "aware of discomfort, amenable to treatment, and motivated to change". This has resulted in a shift toward Corsicana accepting more moderately disturbed children in order to maintain a balanced population. This change in the admissions policy no longer reserves the more costly, state operated facility for youth who cannot be served in the community. This situation is further compounded by a provision in the statute that prohibits TYC from paying a private institution for services that a public institution can perform.

Currently, Texas is operating with limited resources which makes it essential that state agencies allocate their resources in a way that maximizes services for the greatest number of people most in need. Every effort should be made to ensure that appropriate services are provided at the lowest available cost. The cost of treatment at the TYC Corsicana Residential Treatment Center is significantly higher than treatment provided in contract residential treatment programs. A comparison of 105 youth served in fiscal year 1983 and 1984 showed that the cost per child, per stay, averaged \$25,812 in contract residential treatment programs versus \$50,482 at Corsicana. The net result is that for every child placed at Corsicana that could have been served in a contract treatment program, the state

expended an extra \$24,670. This significant cost difference necessitates two statutory changes to ensure that Corsicana serves only the more disturbed children whose needs can not be appropriately met by placement in a less costly contract treatment program. First, it is recommended that the statute require TYC to develop procedures to document a reasonable attempt to obtain appropriate, less costly services for disturbed youth in community-based contract residential treatment centers prior to placement at the Corsicana Residential Treatment Center. This will ensure that the Corsicana Residential Treatment Center is reserved for the more difficult hard to place children for whom services cannot be obtained in the community. Second, the statute should be amended to prohibit TYC from paying a private institution or agency for services a public institution is willing and able to provide, unless those services can be provided by the private sector at a lower cost to the state.

Parole Services

The Texas Youth Commission's responsibility to aid in a youth's successful reintegration into the community is carried out by the agency's parole program. This program includes services provided by the parole officers employed by TYC as well as contracts with local probation departments to provide the same services. These services fall into four major categories: home evaluations; casework for juveniles in residential contract care; supervision and case management of juveniles on parole status; and participation in revocation hearings.

The services were reviewed to determine (a) whether the services are needed and adequately provided, (b) if the agency has appropriate mechanisms for evaluating the services provided, and (c) if additional statutory authority is needed for the agency to provide appropriate services. The review indicated a continuing need for the services provided. However, two areas of concern were identified. First, the lack of a standardized method of reporting made it difficult to assess the adequacy of the service provision statewide. Second, the limited options available for a youth whose parole is being revoked places an unnecessary and costly limitation on the agency. The following recommendations offer solutions to these two problems.

The Texas Youth Commission's statute should be amended to require the adoption of a standardized case management system for parole, which objectively measures certain elements.

By the time a child is released from residential placement with TYC, a great deal of information about the child and his or her background is contained in the case file. This information is used by parole officers in the development of the Individual Program Plan (IPP). This plan is agreed to by the parolee and sets out goals and conditions for successful reintegration into the community. The IPP is TYC's primary case management tool. It is used by parole officers as a guide in assessing the needs of the parolee. Its primary purpose is to ensure that parolees receive a standard level of services throughout the system.

Generally, before an agency can manage its resources most effectively, it must have an objective method of determining where the system is working well, where it is not, and what can be done to improve its programs. TYC's parole system was evaluated to determine whether adequate measures were being taken to make the best use of its limited parole resources. During the evaluation, a comparison was made between TYC's case management system and the system used by the Board of Pardons and Paroles (BP&P) for adults.

In 1981, BP&P implemented a comprehensive parole supervision management system. One of the system's components, called Strategies for Case Supervision (SCS), helps standardize supervision of parolees. SCS provides a method of examining the parolee's needs, and arriving at a treatment plan that best addresses the parolee's individual needs. It is based on background information on the parolee, such as criminal history, psychological tests, and level of education, as well as an in-depth interview based on a standard series of questions. The results of this initial examination are entered on scoring forms that quantify key pieces of information. The results of the scoring suggest one of five possible strategies for working with the parolee. These strategies assist the parole officer in defining primary problem areas, identifying primary goals, determining the approach most likely to facilitate the achievement of the primary goals, as well as suggesting appropriate referral sources and supervision techniques.

Another component of BP&P's supervision management system is case classification. Case classification allows the parole officer to divide the parolees into three levels of supervision, based on the seriousness of their needs and the

degree of risk to the public that they present: intensive, medium, and minimum. This information is then transferred from the scoring forms to the computer in the agency's central office and used to evaluate parole officer and program effectiveness.

The review indicated that the supervision management system used by the Board of Pardons and Paroles was superior to TYC's system in two key areas. BP&P's system objectively measures the level of effort of parole officers and the level of services being provided to parolees. The level of effort, or workload, of parole officers can be objectively measured in BP&P's system by analyzing the types of cases on their caseloads, and how often the officers have referred clients with serious needs to specific treatment programs. This standardization of parole supervision services provides objective input for performance appraisals and promotion decisions.

In TYC's parole system, youth are placed on maximum supervision when they are first released, and the level of supervision declines with time as long as the parolee continues to follow his or her program. This method does not necessarily provide more intensive supervision when needs and risk factors are high, and can result in more intensive supervision than is necessary when needs and risk factors are low. In addition, this system fails to provide TYC with objective information on how well a parole officer addresses the parolee's needs. The review indicated that the evaluation of a TYC parole officer does not include an objective assessment of the officer's workload or the specific services provided to parolees. Therefore, this information cannot be a part of management's decision to promote an officer.

The other area in which the management system used by the Board of Pardons and Paroles appears superior is in the measurement of services being provided, and how the services match the needs of the parolees. As mentioned previously, BP&P's case classification forms are entered into the computer at BP&P's central office. The data is stored and analyzed so assessments can be made of the overall percentage of serious needs being met, particular areas where needs are not being met, and how the level of services being provided changes over time. TYC does not routinely receive and analyze this type of information from its field offices, so it is very difficult to know how often services are not being provided when they are needed, and how the level and types of services change over time.

In summary, the review indicated that improvements could be made in TYC's case management system for parole. These improvements are needed primarily to

ensure that basic information is available to management regarding parole officer workload and services being provided to parolees. Once this information is available, TYC will be able to manage its parole resources more effectively. The case management system in use at the Board of Pardons and Paroles demonstrates that the necessary information can be objectively measured. Although BP&P's case management system is designed for use with adults and, therefore is inappropriate for juveniles without extensive modifications, the concept is applicable. The developers of the adult system are in the process of completing an adaptation of it for juveniles which should be finished sometime in 1986. Once completed, it will provide a good model or starting point for TYC.

It is therefore recommended that TYC's statute be amended to require the implementation of a standardized management system for parole. It should be specified that this system will contain certain elements including a case classification system, a case management system, a management information system, and the objective measurement of the workloads of parole officers. In order to provide adequate time to develop the system, the statute should specify that a pilot program covering one district must be in place by December 31, 1987, and that statewide implementation must occur by December 31, 1989.

The statute should be amended to authorize TYC to utilize restitution as an alternative to parole revocation.

Currently, when a juvenile is on parole, TYC has the authority to return the youth to an institution if the youth does not comply with the conditions of parole. If the parole officer determines that a serious violation has occurred and if all other available and appropriate alternatives have been exhausted, a revocation hearing is scheduled. The hearing is conducted by a TYC hearings examiner, who acts in the role of an administrative judge. The youth is represented in a two-part hearing process by an attorney appointed by the State Bar of Texas. If it is concluded in the first part of the hearing that the youth has broken the law or has continuously violated the terms of his parole, then the second part of the hearing is convened. This is the dispositional phase of the hearing. It gives the parolee and parole officer an opportunity to present mitigating circumstances, and to discuss any possible alternatives. If the decision is made that parole is to be revoked, then TYC's current policy requires these youth to be returned to a secure institution for a minimum of six months.

The review indicated that in fiscal year 1985, of the 501 parole revocation hearings held, 83 percent or 417 youth were revoked and subsequently placed in a TYC institution for a minimum of six months. The offenses for which parole was revoked varied in their level of seriousness as indicated below:

<u>Type of Offense</u>	<u>Number of Revocations</u>
Violent Offenses	46
Offenses Against Persons	28
Offenses Against Property	286
Offenses Against the Public Safety, Administration, Health, or Order	29
Status Offenses	<u>28</u>
TOTAL	417

The large number of youth being returned to an institution resulted in an examination of the range of alternatives available to the agency for dealing with these youth. It was determined that a number of alternatives are available to assist these youth prior to the hearing. However, once it is determined in the revocation hearing that a youth has committed an offense, the only current option is to return him to an institution. For some youth who have committed less serious offenses and who do not present a threat to the public, it would be desirable to have an alternative available that would hold the youth accountable for the offense that was committed, but not require his removal from the community and placement in an institution.

In general, state agencies should strive to develop a range of alternatives to meet the needs of the people it serves. One option currently not available to TYC is the utilization of restitution as an alternative to parole revocation. Restitution would require a youth to make compensation for any damages related to the offense he committed, either through public service in the community or through financial reimbursement to the victim. It would allow the youth to maintain his involvement in school or work, and at the same time teach him that he must be accountable for his actions.

Authorizing TYC to utilize restitution would provide the agency with an alternative way to deal with youth facing parole revocation. Restitution puts the responsibility on the youth for the crime that was committed. Second, it provides an alternative that does not require removing the youth from his home, school or

work setting. This less restrictive alternative could be used for youth whom the agency determines do not require the security of an institution. This eliminates the cost to the agency of having to provide 24-hour residential care for this youth. For each youth diverted from institutional placement, the agency would save \$10,980. The number of cases in which restitution would be ordered in lieu of returning a youth to an institution is difficult to predict. However, it can be assumed that it would be utilized primarily with youth being revoked for property offenses, such as burglary, theft, unauthorized use of a motor vehicle, or criminal mischief. In fiscal year 1985, property offenses accounted for 69 percent, or 286 of the 417 youth whose parole was revoked. If restitution was utilized for one-fourth of the youth currently being returned to a TYC institution for property offenses while on parole, there would be a yearly cost savings of over \$785,000.

Therefore, to provide TYC with an alternative in dealing with youth who continue to experience difficulty adjusting to the freedom of life in the community but do not require the security of an institution, the following is recommended. The statute should be amended to authorize TYC to utilize restitution as an alternative to parole revocation when the hearings examiner determines it is an appropriate option. The procedures for how the agency will utilize restitution should be detailed in formal agency rules, thereby providing for public input as they go through the rulemaking process as defined in the Administrative Procedure and Texas Register Act. In addition, the procedures should ensure that a youth's rights to due process are protected.

Cross-Program Issues

During the review, the Texas Youth Commission and other interested parties identified several areas where statutory changes would be beneficial to the agency's efforts to serve delinquent youth. These changes did not apply to a single program, but impacted programs agency-wide. To determine the appropriateness of the proposed changes, the following questions were explored.

- What was the basis for the change?
- What impact would the change have on services?
- What would be the cost to the state if the changes were made?
- How had the state approached similar problems in other state agencies?

The answers to these questions indicated that changes in the identified areas would result in improved operations. Recommendations to make these statutory changes are set out as follows.

The commission should be authorized to develop programs which encourage family involvement in the rehabilitation of the children committed to TYC.

The Morales vs. Turman Settlement Agreement requires the agency to maintain policies that encourage contact between youth committed to TYC and their families. This contact is important since approximately 91 percent of these students return to their homes after completing their rehabilitative program. The commission is complying with this part of the settlement agreement, but does not have clear statutory authority to do so. To correct this problem and to ensure that continued efforts are made in this area, the statute should be amended to require TYC to develop programs which encourage the involvement of families in their children's rehabilitative programs.

The Texas Youth Commission staff should be authorized to apprehend a child who escapes while under the authority of the commission.

In fiscal year 1985, there were 911 escapes from the various programs operated by TYC. Only 239 or 26 percent of these escapes were accomplished by juveniles on parole. The remaining 74 percent of the escapees were students that ran away from TYC's institutions, camps, and community-based programs.

When TYC staff realizes that a youth has escaped, every effort is made to apprehend the person as quickly as possible to ensure the child's safety and the public's protection. However, under current law, parole officers are the only TYC employees authorized to arrest a child without obtaining a warrant. In most cases the opportunity to quickly apprehend runaways and return them to the facility would be lost if TYC staff had to obtain a warrant. Therefore, it is recommended that the statute be amended to authorize any TYC employee to arrest, without a warrant, any child on escape status.

The statute should be amended to extend protection from legal liability to physicians for actions taken in the performance of services under contract with TYC.

The state provides protection from legal liability to state employees if the damages are based on an act or omission by the person in the course of their employment (Section 104, Civil Practice and Remedies Code, V.T.C.A.). The state

is not liable if the act was willful or wrongful, one of gross negligence, or when the court finds that the person acted in bad faith. The state's liability is limited to \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and to \$10,000 for a single occurrence of property damage. Further, the state is not liable to the extent that damages are recoverable under an insurance contract or plan of self-insurance.

This protection also currently extends to a licensed physician who is performing services under contract when the act occurs, if the contract is with the Disability Determination Division of the Texas Rehabilitation Commission or the Texas Department of Mental Health and Mental Retardation. The Texas Youth Commission also contracts with physicians to provide services. However, as these doctors are not protected by the state from legal liability, TYC requires each physician to purchase liability insurance at his own expense. Neither TRC or TDMHMR requires this of the physicians they contract with for services. While no suits have been filed against TYC contract physicians in the last 10 years, this requirement places TYC at a disadvantage and impedes their ability to contract for physician services. In general, the state should provide comparable protection from legal liability for all physicians performing contracted duties with the state. Therefore, it is recommended that the same protection from legal liability that is afforded physicians who contract with TDMHMR and TRC be extended to those physicians with whom TYC contracts for services.

Revocation of CINS probation for commission of status offenses and misdemeanors punishable only by fine in the adult system should be prohibited.

The Texas Family Code 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 includes a violation of adult criminal law or the violation of probation requirements. CINS offenses are defined as status offenses, misdemeanors punishable only by fines in the adult system, violations of local ordinances, driving under the influence of alcohol or drugs, 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.

In recent years, the treatment of status offenders as well as other minor offenders has been a problem for lawmakers at both the state and federal level. In 1973, Title 3 of the Family Code was enacted which prohibited the commitment of status offenders to TYC. At that time about 600 status offenders were in TYC institutions. However, the prohibition against commitments of status offenders was effectively repealed in 1975 by allowing commitment of status offenders who violate their probation in any way. In 1974, the U.S. Congress enacted the Juvenile Justice and Delinquency Prevention Act, which severely limited the circumstances under which youth could be detained. This measure was also subsequently modified to allow status offenders to be held under certain conditions.

Under current Texas law, children can be placed on probation after being found by the court to be either delinquent or a CINS child. Children who are declared delinquent by the court can be committed to TYC. In addition, children whose original offense was a CINS offense can be judged to be delinquent and sent to TYC if they violate the terms of their probation. This makes it possible for a child whose only offenses were running away from home or truancy to be committed to TYC as a delinquent.

The state's handling of juveniles who commit status offenses and minor misdemeanors was evaluated to determine whether it is consistent with the intent of the Family Code and prevailing expert opinion on treatment methods for these youth. The review found that youth whose only offenses are status offenses or minor misdemeanors should be treated in community-based programs and not committed to TYC. The stated purpose of Title 3 of the Texas Family Code includes the following: to substitute a program of rehabilitation for punishment, and to remove a child from his or her home only when necessary to protect the child's welfare or the public safety. The review indicated that it is inconsistent with the purpose of the Family Code to commit youth to TYC if they have committed only status offenses or minor misdemeanors. Three primary reasons for keeping these youth out of the TYC system were identified and are discussed below.

First, there appears to be a consensus among child care and delinquency experts that commitment to TYC for minor offenses is not necessary to protect the child's welfare or the public safety, and is not an appropriate way to rehabilitate them. The minor nature of these offenses demonstrates that public safety is not in jeopardy. If it is feared that by running away children will endanger their own welfare, sending them to TYC is not a good solution because

nothing prevents them from running away from TYC once they are placed in a residential program. The agency regularly places children who have committed a minor offense such as this into a non-secure community-based program. The agency's goal is to deal with the problem that is causing the child to get into trouble with the law, not to just lock them up. Child care and delinquency experts agree that it is preferable to try to rehabilitate these children through community-based treatment and counseling programs.

Although TYC has developed appropriate programs for juveniles who have committed less serious offenses, a commitment to TYC can create problems for a child and should only occur when it is absolutely necessary. When these children are sent to TYC, they frequently are placed with youth who have committed much more serious offenses and who may attempt to influence them towards more serious delinquent conduct. This can occur when the youth are at the Statewide Reception Center and also later when they are in a community-based program with youth who were previously in an institution. In addition, there is a certain stigma attached to being committed to TYC which can result in rejection or isolation by peer groups when the youth returns to the community.

It was for these reasons that legislation was passed at the state and national level restricting commitments of this type of youth. These measures were subsequently modified because alternative ways to deal with the youth did not exist at the local level. Since that time however, there has been a dramatic increase in alternative methods of treatment at the local level. Since 1981 all counties have been required by state law to provide probation services. Efforts by private and civic organizations to provide residential services to this group of children have also increased from 1,112 to 1,310 since 1976. Although state and federal resources for local youth programs are insufficient to meet all of the needs, they have been greatly expanded since the mid-70's. The state provides about \$12.8 million annually in assistance to local probation departments. The Truancy and Runaway Services program operated by the Texas Department of Human Services has contracts for short-term shelter and other services for youth in sixteen Texas communities. The Criminal Justice Division of the Governor's Office distributes about \$8 million in state and federal funds annually for youth programs. These governmental efforts, combined with private and civic residential programs for youth present a different situation than the one that existed in the mid-1970's. Now many more alternatives to committing these youth to TYC exist.

The second reason to keep youth who commit status offenses and minor misdemeanors out of TYC involves the difference in the way the state deals with juveniles and adults who commit similar offenses. The general standard is for juveniles to be treated in a more rehabilitative fashion than adults, but this is not true in the case of juveniles who commit minor offenses. Adults who commit an offense that is punishable by fine only cannot be placed on probation, since probation is a conditional suspension of a sentence. This makes it impossible for adults who commit these minor offenses to be incarcerated. However, juveniles who commit the same offense can be put on probation and end up in TYC. It is inequitable for juveniles to be committed to TYC when adults can not be incarcerated for the same offense.

The third reason for prohibiting the commitment of juveniles to TYC for committing minor offenses relates to the different commitment patterns among judicial districts in Texas. Commitment and population data regarding these youth was analyzed to determine whether a problem really existed. This analysis indicated that for the most part these youth are being dealt with at the local level but there are some exceptions. In fiscal year 1985 there were 108 commitments to TYC in cases where CINS probation was revoked for commission of another CINS offense. Eighty percent of these revocations were for running away from home or truancy. All of these 108 commitments came from only twenty percent of the counties in the state, so the vast majority of counties made no commitments of this kind during the year. Sixty-two percent of the counties that made any of these commitments made only one. Forty percent of the 108 commitments came from six counties and these were not the six major metropolitan counties, as one might expect because of the size of their population. This information indicates that prohibition of probation revocation for minor offenses would have little or no effect on the vast majority of counties in the state. In addition it would encourage the few counties (eight percent) that make more than one commitment per year to develop local programs for these youth, as the other ninety-two percent of the counties in the state have done.

During the review there seemed to be a general perception that as long as TYC beds were available at no cost to the counties, certain counties would continue to use them, instead of trying to develop or contract with alternate programs. An inequity exists when some counties utilize state resources as a

substitute for developing local programs, when the rest of the counties are handling the problems locally. Those that have not developed local programs should be required to, so children receive comparable services across the state.

In summary, three major reasons exist to keep children who commit only minor offenses out of the TYC system. First, it is not a good idea to commit them to TYC from a treatment perspective. Second, it is unfair to deal with children more harshly than adults. Third, the vast majority of counties have developed juvenile probation programs and have expanded local services for these youth. It is therefore recommended that probation revocations be prohibited for youth who commit status offenses and misdemeanors which are punishable only by fine in the adult system.

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 1: PROVIDE MORE PAROLE SUPERVISION THROUGH LOCAL PROBATION DEPARTMENTS

Option 1

1. Eliminate the statutory limit on the rates at which TYC can contract for parole services.
2. Add authority for TYC to contract with county probation departments when equivalent services can be delivered at a lower cost than TYC's average cost per day.

Option 2

1. Eliminate the statutory limit on the rates at which TYC can contract for parole services.
2. Require TYC to actively pursue contracting with local probation departments.
3. Require TYC to minimize unnecessary contract requirements while maintaining accountability for services.
4. Authorize TYC to provide parole services only when equivalent services can not be obtained at an equal or lower cost through contracts.
5. Require TYC to reduce its parole officers and offices as contracts are developed.

Option 3

1. Transfer TYC's statutory authority to provide parole supervision to local probation departments.
2. Authorize TJPC to distribute funds for parole supervision to local probation departments.

ISSUE 1: PROVIDE MORE PAROLE SUPERVISION THROUGH LOCAL PROBATION DEPARTMENTS.

As previously mentioned, TYC provides parole services to youth once they are released and returned to their home communities. Prior to the creation of the Texas Juvenile Probation Commission in 1981, TYC was also responsible for administering the state's limited role in the area of juvenile probation. TYC is now authorized by statute to contract with any of the 153 local probation departments for parole services. Currently, only four counties have entered into contracts with TYC to provide these services.

The review indicated that a number of similarities exist between parole and probation supervision. The qualifications needed to become a parole officer are similar to those required for a probation officer. The goals of probation and parole are similar. Both strive to help youth avoid further contact with the justice system. In both probation and parole, efforts to achieve this goal are made by identifying the youth's needs, making services available, counseling the youth, and working with families, schools, and employers on behalf of the youth. Also, parole offices are located across the state, covering the same areas as one or more probation offices.

This structure was evaluated to determine whether it provided parole services as efficiently and effectively as possible. The evaluation indicated that greater use could be made of local probation departments for supervision of youth on parole. This could be accomplished in several ways, three of which are discussed in the material that follows. The first option is recommended as a baseline approach, with the second and third options providing for additional degrees of reliance upon local juvenile probation departments to serve TYC youth on parole.

Option One:

The state should eliminate the statutory limit on contract rates for parole services.

As previously mentioned, TYC is authorized to contract with local probation departments for the supervision of juveniles on parole. The commission can pay \$3 per day per person supervised, up to a maximum of \$60 per month. The Texas Youth Commission's cost per person per day for parole services in fiscal year 1985 was \$2.66, or approximately \$80 per month. During the review, interviews were conducted with county officials who indicated a willingness to contract with TYC for parole services, if they could receive a higher rate. However, the statutory

limit prohibits TYC from contracting for services at \$75 per month for example, and saving the difference between it and the \$80 per month it costs TYC to provide the services. In addition, when the rate is limited by statute it can not be adjusted to fit changing economic conditions unless new legislation is passed.

As a general rule, contract rates are more appropriately handled through the legislature's budgeting process. Elimination of the statutory maximum rates would not enable the agency to spend more funds on parole services. The agency's entire budget, which includes parole services as a separate item, is controlled by the appropriations process. Eliminating this statutory limit also would not guarantee that all counties would be eager to contract with TYC. Some may continue to be reluctant for other reasons. Some counties may feel the contracts are too burdensome administratively or do not provide local departments enough decision-making authority. Eliminating the statutory limit would, however, provide TYC the flexibility to make better use of its parole resources. To provide this flexibility, the current restrictive language should be replaced by a statement that the agency may contract with county probation departments when equivalent services can be delivered at a lower cost.

Option Two:

The state could require TYC to contract with local juvenile probation departments for parole supervision, whenever possible.

As previously mentioned, under certain circumstances it is a good idea for TYC to provide parole services by contracting with local probation departments, and this is currently being done in four counties. There are several advantages to using local resources when possible. One is cost, which was touched upon in Option 1. There are additional cost factors to be considered, however. Local probation departments are funded jointly by the state and a county or group of counties. While the percentage of state versus local funding varies, in general the metropolitan departments are funded primarily through local sources and rural departments rely primarily upon state funding. Taken as a whole, the state provides approximately 20 percent of the funds for local probation departments, while the remaining 80 percent is derived from local sources. By contracting with local probation departments the agency can maximize general revenue.

There are several other advantages to contracting for parole services. As previously mentioned, there are 153 local probation departments covering the 254 counties in Texas, but only 18 TYC parole offices. This results in a ratio of one probation department for every one and two-thirds counties, and one parole office

for every fourteen counties. These ratios indicate that the probation departments will usually be closer to a parolee's home and more familiar with local resources and problems. The local probation officer usually would not have to travel as far as a TYC parole officer to visit a youth on parole. In addition, youth are usually placed on probation before being committed to TYC. This means that a local probation officer many times is already familiar with youths and their families when parolees return to the community. This enables the officer to spend more time counseling with the parolee instead of getting acquainted with the individual and the family situation. Finally, the possibility of duplication of time and travel expenditures would be eliminated by contracting for parole supervision with local probation departments. In situations where parolees live in the same area as youth on probation, an officer could make one trip to that area and visit with both. This provides better management of time and travel money than a probation officer going there one day and a parole officer another.

One way to make greater use of local probation departments would be to eliminate the statutory limit on contract rates as discussed under Option 1, and amend TYC's statute to require the agency to: 1) actively pursue contracting; 2) minimize unnecessary contract requirements while maintaining accountability for services; 3) provide parole services only when equivalent services cannot be provided at an equal or lower cost through contracting; and 4) reduce its parole officers and offices accordingly as contracts are developed. Although TYC is currently contracting for parole services in four counties and is planning to expand that number, such an amendment would serve to guide the agency's efforts in the future. Although the advantages are numerous, the agency has expressed concern that statutorily requiring this would limit their flexibility. However, this approach would provide for greater use of local resources, while allowing the agency to continue to provide parole services in areas where probation departments are unwilling or unable to provide them. On the balance, requiring the agency to use the contracting approach whenever feasible does appear to be a beneficial change to current practice.

Option Three:

The state could transfer the parole supervision function from TYC to local juvenile probation departments.

As mentioned previously, there are certain benefits associated with parole supervision by local probation departments. Some critics of the current system have suggested that the statutory responsibility for this function should be

transferred to local probation departments, and that TYC's parole budget should be distributed to the local departments through the funding mechanism which exists in the Texas Juvenile Probation Commission.

While the benefits mentioned previously would be obtained, the review indicated that certain problems may also be created. Some county probation departments may be reluctant to take on this responsibility. Local officials would be concerned that the funding for juvenile parole supervision might be changed in future legislative sessions, shifting more of the burden from the state level to the local level. In addition, TYC would probably need to maintain offices and limited staff in the major metropolitan areas to monitor contracts and do home evaluations which are needed to decide if a youth can return home on parole. This would reduce the amount of savings that could be achieved through a transfer of responsibility.

In summary, while it appears that there would be some benefit to transferring the parole supervision responsibility to local probation departments, it also appears that a number of problems would be encountered. Consideration of ways to solve these problems would be needed if this approach were adopted.

ISSUE 2: INCREASE CONTRACTING FOR HALFWAY HOUSE SERVICES

Option 1

1. Allow TYC to maintain their current system of nine agency-operated halfway houses.
2. Require TYC to maximize efforts to contract for new halfway house programs.
3. Permit TYC to develop agency-operated halfway houses only if program needs cannot be met on a contract basis.

Option 2

1. Allow TYC to maintain their current system of nine agency-operated halfway houses.
2. Require TYC to contract for all new halfway house programs.

Option 3

1. Require TYC to contract for the operation of all existing agency-operated halfway houses as the current leases expire.
2. Require TYC to contract for all new halfway house programs.

ISSUE 2: INCREASE CONTRACTING FOR HALFWAY HOUSE SERVICES

The Texas Youth Commission currently provides community-based services through the agency's operation of nine halfway houses and two group homes, and by contracting for services with 112 privately-run programs in the community. As mentioned previously, the utilization of both halfway houses and contract care has grown steadily over the last ten years. This has been largely in response to the requirement in the Morales vs. Turman Settlement Agreement to provide more community-based services as a less restrictive alternative to institutionalization.

Initially, TYC began the development of its own halfway houses because the private sector was hesitant to work with youth who had been committed to TYC. However, over the years the private sector has developed a wide range of programs in which TYC youth can be appropriately served. The following chart illustrates the increase in the percentage of TYC youth being served in both halfway houses and contract care.

	<u>1975</u>	<u>1980</u>	<u>1985</u>
TYC Institutions	1,056 (100%)	994 (69%)	1,108 (60%)
Contract Care	0	249 (17%)	433 (23%)
TYC Halfway House	0	127 (9%)	189 (10%)
Other TYC Programs	<u>0</u>	<u>65</u> (5%)	<u>130</u> (7%)
	1,056	1,435	1,860

As the need for increased community-based services continues to grow, the agency will be faced with decisions concerning further expansion of its own halfway house programs and/or the increased utilization of contract care programs. The agency's current long range plans provide for the continued expansion of both programs at a similar rate. This is based on the agency's belief that while there are many advantages to utilizing contract care programs, they must maintain and expand their own system of halfway houses to ensure access to community placement for youth the private sector might not accept.

This system of community-based care was evaluated to determine if it provided the necessary services as efficiently and effectively as possible. The evaluation indicated that greater use could be made of private sector contractors to provide services traditionally offered in TYC halfway houses. This could be accomplished in a number of ways and three options are outlined below. The first

option is recommended as a baseline approach and the other two options provide for an additional degree of involvement of the private sector in meeting TYC's need for community-based services.

Option One:

The state should require TYC to contract for future halfway house services, unless appropriate services are not available on a contract basis.

As previously mentioned, TYC currently operates nine halfway houses and plans to continue developing additional halfway houses as the population the agency serves grows. The issue examined as part of this review was whether there was a need for the agency to continue to operate and expand their own system of halfway houses, or whether these services should be contracted for in the private sector. Agency reports indicated that the need for TYC-operated halfway houses is to serve youth that are more delinquent than youth generally served by the private sector. The agency's comparisons of contract care programs and TYC halfway houses indicated that (1) the youth placed in TYC halfway houses were significantly more delinquent, (2) youth released from TYC halfway houses were less likely to recidivate, and (3) the overall cost of service was less in TYC's halfway houses because youth could be treated in a shorter time in these programs than in a contract care program.

A number of concerns arose from an examination of this data. First, all prior comparisons had included within the contract care category a number of long term residential treatment programs for emotionally disturbed youth who would not be appropriate for a TYC halfway house. Including these programs distorted the data since these programs have a much higher cost per day than contract care in general, as well as a much longer length of stay. Second, the figures utilized in calculating the cost per day for halfway houses did not include the cost of benefits for state employees or a percentage of TYC's central office overhead and, therefore, did not accurately reflect the state's true cost. Third, the average age of youth in contract care is lower than the average age of juveniles in TYC's halfway houses, as the halfway houses will not accept a child under age 15. This resulted in the recidivism rates for contract care being inflated because the children were younger at the time of release and had a greater length of time in which to recidivate before they turned 18.

Due to these concerns, a request was made that the agency compare TYC halfway houses with youth in contract care who are the same age and sex as youth in TYC halfway houses, and who are being placed in contract care programs that

provide a comparable level of care. The purpose of the analysis was to determine if there were differences in the TYC halfway houses and comparable contract programs in three areas: (1) the type of youth being placed in these programs, (2) the average length of stay and the average cost per day per program, and (3) the recidivism rates for youth released from the programs. Three separate groups were compared as the agency has not been collecting this data long enough to follow one single group from placement to recidivism by age 18. The analysis of the information provided by the agency is presented below.

The first area of comparison was the type of youth being placed in the programs. Commission staff compared 220 males, age 15 or above, in placement on August 31, 1985. Utilizing figures from the TYC placement form, the agency obtained an overall assessment of the youth's level of delinquency, based on the factors listed in the following chart.

TYC Placement Scoring Form	Halfway House	Contract Care
Commitment Offense	.98	.97
Duration of Delinquent Conduct	1.99	2.10
Offenses Against Persons	.86*	.46
Offenses Against Property	2.43	3.31*
Prior Placements	.47	.54
Runaway/Escape History	.84	1.02
Substance Abuse History	1.43*	1.07
School Adjustment Behavior	2.13*	1.75
Reception Center Behavior	<u>.64</u>	<u>.70</u>
TOTAL - - - - -	<u>11.77</u>	<u>11.92</u>

*Significant at the .10 level

As can be seen above, the scores were almost identical on the "commitment offense" for which the youth were sent to TYC. The commitment offense category rates the seriousness of the offense that the youth was committed to TYC for, from "0" for violation of probation, to "5" for a violent offense, such as robbery or assault. Significant differences in the scores were noted in four areas,

which are indicated on the chart by asterisks. Youth in contract care had committed more offenses against property. Youth in halfway houses scored higher on offenses against persons, substance abuse history and school adjustment behavior. However, the overall scores were not significantly different. This indicates that in terms of their level of delinquency and their degree of risk for placement in the community, the youth being placed in TYC halfway houses are not significantly different from youth being placed in comparable contract care programs.

The second area of comparison was the average length of stay and average cost per day in both programs. The Texas Youth Commission staff compared 629 males, age 15 and above, who completed their stays in fiscal year 1984. The average lengths of stay were as follows: 3.9 months in TYC halfway houses and 5.5 months in contract care. This means that the average length of time that a youth stays in a contract program is more than a month and a half longer than in a TYC halfway house. The average cost per day in a TYC halfway house, according to agency figures is \$42.43. However, when the cost of state employee benefits and a percentage of TYC's central office overhead are added, this figures becomes \$58.95. The cost per day for contract care is \$30, but when monitoring costs and a percentage of TYC's central office overhead are added, this figures increases to \$38.16. Therefore, TYC is paying \$20.79 less per day for contract care than it currently costs the state to operate the agency's halfway houses. These figures were also looked at in terms of overall cost per child served. This was calculated by multiplying the cost per day by the number of days served. In a TYC halfway house, the overall cost averages \$7,074 per child served and in a comparable contract care program it averages \$6,449 per child served. This results in an additional expense of \$625 to the state to serve the child in a TYC-operated halfway house.

The last area of comparison was the rate of recidivism of youth released from halfway houses and comparable contract care. The Texas Youth Commission staff compared a sample of 239 males, age 15 and above, who were released on parole prior to age 17 and tracked for at least one full calendar year to determine if they became reinvolved in the juvenile or criminal justice system. The recidivism rate for TYC halfway houses was 9.7 percent and the rate for contract care was 9.4 percent. These rates indicate that there is not a significant

difference between the percentage of youth who recidivate upon release from a TYC halfway house and the percentage of youth who recidivate upon release from comparable contract programs.

In summary, while there may be a difference between the youth served in TYC halfway houses and all of the programs TYC contracts with, this does not hold true for youth in contract care who are the same age and sex and are receiving a comparable level of care as youth in TYC's halfway houses. Based on the comparisons described above, contract care can and does serve a population that is comparable to the youth in TYC's halfway houses. Although the contract programs generally keep the youth for a longer period of time, they do this at a lower cost overall and can show a similar rate of success, based on the number of children who became reinvolvement in criminal activity after they were released.

In general, the state should not be in the business of developing programs to provide services if comparable services can be contracted for in the private sector, particularly if the services can be contracted for at a lower cost. Currently contract care can and does serve youth as delinquent as those in TYC halfway houses. Consequently, there is no need for TYC to further expand its current system of halfway houses without first trying to contract with the private sector for the services. Therefore, it is recommended that the statute be amended to prohibit TYC from developing any further agency-operated halfway houses unless efforts to contract for the programs are unsuccessful. The agency would be required to send out "Requests for Proposal" (R.F.P.) that identify the program services desired, the type of population to be served, and the locations in which the program could be developed. TYC would be responsible for determining which proposal submitted best fit the agency's requirements. Only in the case of there being no adequate responses to the R.F.P. would the agency be permitted to request funds for the development and operation of an additional agency-operated halfway house. This provides the agency with the flexibility to meet the needs of the youth it is responsible for serving, but ensures that state funds are being utilized to provide services in the most economical way.

Option Two:

The state could require TYC to contract for all future halfway house services.

As laid out in Option 1, contract care programs that provide services which are comparable to TYC's halfway houses can and do deal with youth as delinquent as those in TYC's halfway houses. They keep the youth for a longer period of time

and at a lower cost overall. Their recidivism rates for this population are comparable to those of TYC's halfway houses.

As mentioned previously, when TYC first began developing their own system of halfway houses it was because the private sector was not geared to work with the type of youth TYC was attempting to divert from their institutions. Since that time, the private sector has developed a wide range of programs in which TYC youth can be appropriately served.

One means of ensuring that TYC utilize the private sector for future needs, would be to statutorily prohibit TYC from developing any further agency-operated halfway houses. As in Option 1, this would allow the agency to maintain its nine current halfway houses for the placement of almost 200 youth. However, it would necessitate that the agency work with the private sector to provide for any new programmatic needs that cannot be met through the existing system. The agency has expressed concern that this would limit their flexibility to provide community-based services for youth as required under the Morales vs. Turman Settlement Agreement. They are concerned that the private sector may not be willing to work with the increasingly more delinquent and aggressive youth that are being committed to TYC. However, this approach would provide for the continued operation of almost 200 TYC-operated halfway house beds as a security for those youth that the agency cannot find a placement for in the private sector. In addition, the private sector has shown the capability of effectively dealing with an increasing number of delinquent youth. Therefore, while this alternative might limit TYC's flexibility in placing children, the benefits of ensuring that state funds are being utilized to provide services in the most economical way outweigh this concern.

Option Three:

The state could require TYC to contract for existing and future halfway house services.

As mentioned in Options 1 and 2, there are benefits to contracting for the services traditionally provided in TYC halfway houses. It can be argued that TYC should contract for all of its halfway house services. This approach would take TYC out of the direct provision of services and require them to rely on the private sector for these community-based services.

Advocates of the state contracting for services argue that contracting provides the state with a better system of checks and balances. The private sector is responsible for providing the direct services and the state can monitor the

services to ensure that the quality of services is being maintained. If the needs of the youth being served changes, the private sector has the flexibility to adjust their programming, whereas state-operated programs traditionally have had difficulty changing direction. It is argued that other state agencies successfully rely on contracting for the provision of certain direct services. For example, the Department of Human Services utilizes the private sector for all residential care provided to the approximately 9,000 youth in DHS' care.

The private sector has expressed a strong interest in developing more programs to serve a greater number of delinquent youth in the community. One means of providing for this would be to require TYC to not only contract for future programs, but also require the agency to contract for the operation of all their existing halfway houses. The agency currently leases these facilities, but the leases expire between 1988 and 1994. Contracting for each program as the lease expires would provide for a gradual transition from public to contracted services. It is argued that this would allow the private sector time to develop the necessary programs to meet the needs of youth currently being served directly by TYC.

Opponents of the state contracting for services argue that the private sector may initially offer to contract at lower costs, but will later want to increase their rates once the state has become dependent upon their services. Concern has also been expressed that private sector costs will soon be going up due to the rising cost of insurance for such programs.

Agency opposition on this issue is also very strong. They argue that their flexibility in managing the total TYC population will be hampered by the elimination of the agency's ability to place youth in their own halfway house programs. Secondly, the agency expresses a concern that eliminating agency-operated halfway houses could cause problems in their ability to comply with the Morales vs. Turman Settlement Agreement. This agreement requires the agency to ensure that less restrictive residential alternatives are available for youth in the community. The agency argues that many contract programs are very selective in the youth they serve and that there are no guarantees that the private sector can be relied upon to take all of the youth TYC currently has in their halfway house system.

ISSUE 3: INCREASE EFFORTS IN DELINQUENCY PREVENTION

Option 1

1. Establish at TEA a state coordinator of the Communities in Schools program who is responsible for encouraging the development of this program throughout the state.

Option 2

1. Establish at TEA a state coordinator of the Communities in Schools program who is responsible for encouraging the development of this program throughout the state.
2. Require the Texas Commission on Alcohol and Drug Abuse to allocate 30 percent of their grant money to prevention and treatment programs serving youth, ages 10-17.

Option 3

1. Establish at TEA a state coordinator of the Communities in Schools program who is responsible for encouraging the development of this program throughout the state.
2. Require the Texas Commission on Alcohol and Drug Abuse to allocate 30 percent of their grant money to prevention and treatment programs serving youth, ages 10-17.
3. Increase DHS' appropriation for truant and runaway services.

ISSUE 3: INCREASE EFFORTS IN DELINQUENCY PREVENTION

The Texas Youth Commission received approximately \$50 million, in fiscal year 1986, for the care and rehabilitation of juveniles committed to the agency. The projected average daily population for all TYC programs in this fiscal year is 4,271 youth. By the end of the next biennium, the agency projects that this number will increase by 13 percent, or up to 4,821 juveniles. If this projection is correct, the state will have to increase the agency's budget or decrease the quantity and/or quality of services provided. A decision to decrease services could violate the terms of the Morales vs. Turman Settlement Agreement and subject the Texas Youth Commission to further federal court orders.

A better alternative would be to reduce the number of youth that TYC serves by reducing the number of delinquent acts committed in the state. The development of programs to prevent delinquency could lead to this reduction. The cost-effectiveness of prevention programs was repeatedly demonstrated in testimony on the indigent health care package that was adopted by the 69th Legislature. The same principle applies to programs geared to prevent delinquency.

There appears to be a strong correlation between delinquency and problems in school, physical and sexual abuse, drug and alcohol abuse, and running away from home. Although the state has developed several programs to address these problems, there have been limited resources made available for this purpose. To focus more resources on the prevention of delinquency could result in a long-term solution to a growing problem.

The review examined various programs that deal with problems that often relate to delinquent behavior to determine if services could be expanded or developed. Numerous options were considered and the three approaches that offered the most benefits are discussed in the material that follows. The first option is recommended as a baseline, with the other two options providing for additional services for delinquency prevention but at an increased cost to the state or a decreased level of services for adults.

Option One:

The state should expand the "Communities in Schools" Program so a greater number of potential dropouts receive services.

According to the Texas Youth Commission, most students who are committed to TYC are two to five years behind their expected grade level. The students' average reading and math scores are at about the fifth grade level or one year below functional literacy. These facts coupled with the information that approxi-

mately 85 percent of all inmates in TDC are non-high school graduates give an indication of the problem that exists. The following information describes a program that appears to be effective in dealing with this problem.

The Communities in Schools (CIS) program began in Houston in 1979 to serve students who were at risk of dropping out of school and/or becoming involved in criminal activity. The purpose of the program is to improve a student's academic, vocational, social, and personal skills so he or she can graduate from high school, enter further training or the job market after graduation, and stay out of the criminal justice system.

The philosophy behind CIS is 1) that services to in-school, at-risk youth can best be provided in the school setting and 2) that the comprehensive services needed can best be provided by a cooperative effort between local service agencies. Sixty to 70 percent of the CIS staff come from existing programs in local agencies. These agencies do not hire new staff, but merely "reposition" their staff so they operate out of the schools rather than from a far-removed office. Local agencies that participate in the Houston program include the community MHMR center, the city/county health department, the child guidance center, and the parks and recreation program.

To participate in the year-round CIS program, students either apply individually or are referred by school personnel, juvenile probation officers, local social service agencies, and parents. Reasons for a referral include poor attendance, low grades, or behavior problems. Before a child is accepted, a home visit is made and the program is explained to the parent(s). For the child to participate, the parent must participate in the development of a service plan and sign a contract. Available services include individual and family counseling, tutoring, recreational activities, and job planning and training.

In the summer, elementary and middle school students receive tutoring help in the morning and participate in recreational activities in the afternoon. This includes day-camps and field trips so students are exposed to a variety of experiences. For high school students, there is a summer employment program. During an eight-week period, the students work four days a week and have class on the fifth day. The educational component is vocationally-related. Students talk about problems experienced on the job and learn appropriate ways to resolve them. In addition, they are taught such things as budgeting, how to set up a bank account, and how to fill out a job application.

The CIS program in Houston showed that of the 500 students enrolled in the summer employment program, 87 percent are continuing in high school or have gone on to college, additional training or unsubsidized jobs. Seventy-eight percent of those who had previously been in trouble with the law have not re-entered the juvenile or criminal justice system. In addition, 54 percent of the students with academic problems showed significant improvement in their studies. Finally, there was a 59 percent reduction of drug use by students in the program.

The success of the Houston program prompted the Governor's Office to look at ways of expanding the concept to other parts of the state. An advisory council, representing major corporations, state agencies, and specialists in the fields of education and youth services, was established in 1985 to assist in raising funds, promoting the program, and providing oversight. A decision was made to set up CIS demonstration projects in four other Texas cities: El Paso, Dallas, Austin, and San Antonio. Through a one-year grant from the Texas Education Agency (TEA), the director of the Houston CIS program was hired to promote and market the program in the four cities, to assist in establishing the local funding base for the projects, and to establish standards for the operation of the projects.

At the beginning of the 1985 school year, CIS programs were established in El Paso, Dallas, Austin, and San Antonio, while Houston's program was continued. The programs operate in selected elementary, middle, and high schools in the five cities with an initial enrollment of 1,500 students. The cost per student is \$750/year or \$225,000 for each school with a total budget of \$1,125,000/year. Private corporations and foundations contribute 26.7 percent of the budget with the remaining funds coming primarily from the federally-funded Job Training Partnership Act. Other funding sources include state and local education funds, community development grants, and criminal justice funds. Each project is set up so that at the end of the first year it will be the local community's total responsibility. Funding will come from the private sector, local government, and the federal government.

To ensure that this program is continued and that the concept is implemented on a statewide basis, statutory authority is needed for a statewide coordinator. The purpose of this position will be to 1) develop and modify standards for the program; 2) obtain data from each participating school district to determine where programmatic changes are needed; 3) promote and market the concept in other Texas communities; 4) assist in establishing the local funding base in communities that want to start a CIS program; and 5) train the director of each community's program. The appropriate place for the state coordinator appears to be the Texas

Education Agency. Therefore, the statute should be amended to establish a state coordinator of the Communities in Schools program at TEA.

Option Two:

The state could shift a portion of the current funding for adult drug and alcohol services to increase such services to youth.

As mentioned previously, delinquent behavior and drug and alcohol abuse appear to be related. Between September and December of 1985, TYC conducted a needs assessment of the 237 juveniles at the agency's Statewide Reception Center. This assessment included questions regarding the youths' use of drugs and alcohol. The responses indicated that 62 percent of the students had used marijuana; 58 percent had used alcohol; 19 percent had used amphetamines, cocaine and/or opiates; and 12 percent had used inhalants and or/ solvents.

The Texas Alcohol and Drug Abuse Services Act provides "it is the policy of this state that an alcohol or drug abuser shall be offered a continuum of services that will enable the person to lead a normal life as a productive member of society" (Article 5561c-2, Sec. 1.01., V.T.C.S.). Currently, the Texas Commission on Alcohol and Drug Abuse (TCADA) allocates less than 17 percent of their prevention and treatment grant money to programs serving adolescents. Exhibit VI shows how the money is divided between programs. An increase in the grants for youth programs would appear to have long-term benefits for the individuals served, as well as for the state. To prevent a juvenile from abusing drugs or alcohol or to assist a juvenile in stopping the abuse of drugs or alcohol, would have potential for keeping him or her out of the juvenile or criminal justice system. In addition, it would increase the chance of that person completing his education, as well as finding and keeping a job.

However, requiring the Texas Commission on Alcohol and Drug Abuse to allocate 30 percent of their funds to adolescent programs would reduce the funding available for existing adult programs by \$1,286,190. If the adult programs could not find a substitute funding source, services would have to be cut.

Reducing funds for existing programs is always difficult. However, with the limited state resources available, priorities must be set. Focusing on the younger citizens of the state could prevent their developing a lifestyle of drug or alcohol abuse that would lead to continued need for the state's assistance in their lives. Therefore, it is recommended that the TCADA be required to allocate 30 percent of the agency's grant money to prevention and treatment programs serving youth between the ages of 10 and 17. This coupled with the recommendation in Option 1

to expand the Communities in Schools program should have a positive impact on the delinquency problem.

Option Three:

The state could expand services delivered by the Department of Human Services for runaways.

According to the Texas Department of Human Services (DHS), an estimated 30,000 Texas youth run away from home each year. In 1983, Texas law enforcement agencies reported 17,582 arrests for runaways while local juvenile probation departments reported 14,142 referrals for runaways. Almost 80 percent of the runaways seen by juvenile probation officers are released to their parents without any legal action or a conference with parents. A referral to appropriate services often does not take place since services to runaways are minimal and somewhat inconsistent statewide.

The scarcity of services was addressed by the 68th Legislature through funding to DHS for "truant and runaway services". The department is responsible for researching the extent of runaway problems in Texas and contracting with service providers to develop new programs and strengthen existing ones. Contractors are required to provide family crisis intervention services, short-term emergency residential care, and aftercare casework services. Some contractors provide additional services such as independent living preparation, psychological testing, and education services. Services were provided in 16 Texas communities to approximately 2,000 youths in fiscal year 1984 and 5,500 youths in 1985. The cost for the program was \$3,979,293 for the biennium.

Although DHS' appropriation for this program was increased to just over \$2 million for each year of the 1986-87 biennium, the agency projects that this will provide services for approximately 6,800 youths per year or less than 23 percent of the runaways in the state. At a cost of \$289 per juvenile served, it has been argued that increasing DHS' appropriation in this area is more cost-effective than not serving more than 77 percent of this population. This argument is supported by the fact that approximately 30 percent of the students committed to TYC have repeatedly run away from their homes. When they end up in TYC, the average cost per stay is \$13,759, or \$13,470 more than DHS' program.

The arguments opposing an increase in state-supported services to runaways are primarily financial in nature. Although services to this population are less expensive when provided by DHS than TYC, there is no proof that the DHS services prevent a child from later getting into trouble and being committed to TYC. When a child is committed to TYC, the state has no choice but to provide services, whereas the services provided by DHS are optional. In addition, a method for

funding the services that does not tap the general revenue fund has not been identified. With the decrease in revenue, it can be argued that the state must proceed with caution before increasing the allocations for any optional services.

In summary, adopting Options 1 and 2 and increasing DHS' appropriation for truant and runaway services would appear to be appropriate means of reducing the incidence of delinquency in the state. However, this can not be proven and would place an increased demand on the general revenue fund unless another funding mechanism can be developed.

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 YOUTH COMMISSION

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
X	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			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.
		*	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.
		X	(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 YOUTH 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.
		X	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.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	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.
		X	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 61, HUMAN RESOURCES CODE

CHANGE	RATIONALE
1. Add a definition for the term "board" and substitute that term for "commission" where appropriate in the Administrative Provisions (Sec. 61.012-61.015, 61.017, and 61.019) and in Sec. 61.044.	To clarify references to the policy-making body.
2. Amend the definition of "delinquent child" by omitting the term "delinquent" in Sec. 61.001 and delete the term "delinquent" where it is found in Chapter 61.	To provide consistency.
3. Modify the per diem provision in Sec. 61.015 by deleting "of \$35" and adding "as provided in the Appropriations Act."	To make TYC's statute consistent with the provisions of the Appropriations Act.
4. Substitute "State Purchasing and General Services Commission" for "State Board of Control" in Sec. 61.016.	To reflect the proper name of this agency.
5. Delete Sec. 61.018, Superintendents.	To remove language that no longer applies. This is a carryover from the days when superintendents were the heads of independent agencies.
6. Modify Sec. 61.032 to change the reference to children being committed "to the state". This should be committed "to TYC".	To accurately reflect current practice and the responsibility the legislature has given TYC.
7. Delete Sec. 61.033, Report to Governor, Legislature.	To remove language that is unnecessary due to the application of the Sunset Commission's ATB concerning annual reports.
8. Modify Sec. 61.034 to authorize TYC to develop policies for all programs under its authority, not just "the schools and facilities".	To accurately reflect current practice.

MINOR MODIFICATIONS TO CHAPTER 61, HUMAN RESOURCES CODE
(Cont.)

CHANGE	RATIONALE
9. Delete subsection (c) of Sec. 61.035 which pertains to superintendents.	To remove language that is no longer necessary since the institutions are not considered separate agencies.
10. Modify Sec. 61.036(a) to provide that TYC shall encourage the establishment of programs for pre-delinquent and delinquent children.	To allow TYC to encourage the development of new programs rather than limiting this only to new agencies.
11. Delete the requirement in Sec. 61.036(b) that TYC assistance to delinquency prevention programs be predicated on the receipt of a request from the governing body of a city or county.	To remove an unnecessary limitation that could hamper TYC's assistance to delinquency prevention programs.
12. Modify Sec. 61.040(2) by deleting references to TYC "segregating and handling juvenile delinquents" and replacing this with the authority to "treat children".	To make the statute comply with the agency philosophy to rehabilitate children rather than punish them.
13. Modify Sec. 61.045 by deleting references to "Duties of Superintendents" and replacing this with "Operations of Programs and Facilities".	To be consistent with # 5 and #9.
14. Specify in Sec. 61.046 that religious training will be provided "according to children's individual choices".	To comply with the constitutional guarantee for religious freedom.
15. Delete Sec. 61.047, Contract with Big Brothers/Big Sisters of America.	To remove unnecessary language. TYC has general authority to contract for services and this specific authority is not needed.

MINOR MODIFICATIONS TO CHAPTER 61, HUMAN RESOURCES CODE
(Cont.)

CHANGE	RATIONALE
16. Delete Sec. 61.061, Admission to State Homes, since TYC no longer serves non-delinquent orphaned or dependent and neglected children in any of its facilities. Add a "grandfather clause" to authorize services to children who were previously admitted under this provision and remain in the commission's custody in foster homes or educational programs.	To comply with current practices.
17. Delete Sec. 61.062, Commitment by Juvenile Court.	To remove language that duplicates the juvenile court dispositional alternative in Title 3 of the Family Code.
18. Delete outdated references to an "epileptic child" in Sec. 61.077.	To remove an unnecessary restriction on TYC serving children with this medical condition. TYC currently can, and does, serve this population.
19. Amend Sec. 61.077 to extend jurisdiction for mental illness or mental retardation proceedings to a court in the county where the child is located.	To limit jurisdiction to the counties where TYC institutions are located places an unnecessary burden on staff and students in TYC's halfway houses, in contract care, or on parole.
20. Delete subsection (b) of Sec. 61.082.	To remove unnecessary specifications on the source of funds used to aid children released on parole.
21. Add a new section authorizing TYC to design, construct, equip, furnish, and maintain buildings and improvements authorized by law at facilities under its jurisdiction. Delete references to TYC in Art. 5561g of the Mental Health Code.	To place TYC's authority within the agency's enabling statute and delete this authority in the Mental Health Code.

