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# CLARIFY OVERSIGHT OF REGIONALIZATION AT THE TEXAS JUVENILE JUSTICE DEPARTMENT

In 2015, the Eighty-fourth Legislature continued its efforts to reform the state's juvenile justice system by passing legislation to establish a regionalization model of juvenile justice. The Legislature required the Texas Juvenile Justice Department to develop a plan to support regional cooperation among probation departments, established a reimbursement grant program to divert youth from commitment in state-run correctional facilities to settings closer to home, and expanded the authority of the Office of Independent Ombudsman for the Texas Juvenile Justice Department to inspect all county and private-run post-adjudication facilities and other residential facilities in which a youth adjudicated delinquent is placed by a court order.

The actions by the Eighty-fourth Legislature built upon the reforms that were begun by the Eightieth Legislature, 2007, and continue the approach of pairing legislative reform with financial support for juvenile probation departments to serve more youth in their communities. When the Eightieth Legislature established the Office of Independent Ombudsman, it granted the office investigative authority to protect the rights of youth committed to state-operated facilities. The Eighty-fourth Legislature, 2015, increased these protections for youth who are placed in post-adjudication facilities by expanding the authority of the Office of Independent Ombudsman to investigate allegations of abuse in facilities that serve youth under the juvenile probation department's supervision. However, elements of statutory language describing the ombudsman's duties still refer specifically to protecting youth housed in Texas Juvenile Justice Department facilities. Clarifying the authority of the Office of Independent Ombudsman and strengthening its independence will help the office to protect the rights of youth in post-adjudication facilities.

## FACTS AND FINDINGS

- ◆ The primary goals of the regionalization program are to increase the ability of juvenile probation departments to serve youth in their communities and decrease commitments to the secure institutions operated by the Texas Juvenile Justice Department.
- ◆ Statute required the regionalization program to divert 150 juveniles from commitment in the Texas Juvenile Justice Department's secure correctional facilities

during fiscal year 2017 using the Regional Diversion Alternative Program grant. During fiscal year 2017, probation departments diverted 188 juveniles to alternative settings, including local post-adjudication facilities administered privately or by counties.

- ◆ The Eighty-fourth Legislature, 2015, expanded the authority of the Office of Independent Ombudsman for the Texas Juvenile Justice Department to inspect all county and private-run post-adjudication facilities and other residential facilities in which a youth adjudicated delinquent is placed by a court order. The increased inspection requirements increased the number of site visits from 423 during the 2014–15 biennium to 1,203 during the 2016–17 biennium.
- ◆ Of the 299 juveniles discharged from Regional Diversion Alternative placements during fiscal years 2017 and 2018, 229 successfully completed placement and 70 were unsuccessful.

## CONCERNS

- ◆ The duties and powers of the Office of Independent Ombudsman for the Texas Juvenile Justice Department are unclear when conducting oversight of post-adjudication facilities that serve youth under juvenile probation departments' supervision.
- ◆ Statute is unclear as to which records the Office of Independent Ombudsman for the Texas Juvenile Justice Department has access when conducting oversight of post-adjudication facilities that serve youth under the supervision of juvenile probation departments.

## OPTIONS

- ◆ **Option 1:** Amend statute to clarify that the duties and powers of the Office of Independent Ombudsman for the Texas Juvenile Justice Department apply to post-adjudication facilities that serve youth under the supervision of a juvenile probation department.
- ◆ **Option 2:** Amend statute to provide the Office of Independent Ombudsman with access to relevant records for youth under the supervision of a probation department who are placed in a facility by a court order. The amended statute also would

require the Office of Independent Ombudsman and the Texas Juvenile Justice Department to adopt rules to establish a process to facilitate access to all of the information the Office of Independent Ombudsman needs to effectively investigate, evaluate, and ensure that the rights of youth in custody are protected.

## DISCUSSION

The Eighty-fourth Legislature, 2015, continued reforms to the state's juvenile justice system that began in 2007 by enacting legislation to encourage a regionalization model of juvenile justice. Regionalization is an approach to juvenile justice that is characterized by decentralized decision-making and prioritizing serving youth in their communities instead of in large, secure correctional facilities that are located away from the youths' home communities. Most of the reforms of the Texas juvenile justice system since 2007 have tended toward decreasing the state's reliance on incarcerating youth in large, state-run correctional institutions by providing funding for probation departments to serve more of these youth locally.

In April 2007, the Interim Director of the Texas Youth Commission, the agency preceding the Texas Juvenile Justice Department, commissioned a task force of academics and juvenile justice practitioners to make recommendations for reforms to the state's juvenile justice system. In September 2007, the task force published *Transforming Juvenile Justice in Texas: A Framework for Action*, commonly referred to as the Blue Ribbon Task Force Report. The report identified the following principles of an effective juvenile justice system:

- ◆ courts should commit only high-risk, serious, chronic juvenile offenders to the state's juvenile correctional facilities;
- ◆ services should aim to decrease the number of youth who are incarcerated and to use the least restrictive and most home-like environment possible to rehabilitate youth; and
- ◆ Texas should implement a regional management delivery system that supports the use of small, community-based facilities, which enable juveniles to remain as close as possible to their home communities.

The juvenile justice system in Texas is largely decentralized, and most youth in the system are served by their local probation departments. A 2015 report by the Council of State Governments' Justice Center and the Public Policy Research Institute at Texas A&M University, regarding the legislative

reforms during fiscal years 2007 and 2009 concluded that youth who were diverted from state-run correctional facilities and instead placed on probation with their local juvenile probation department were less likely to reoffend than youth committed to state-run correctional facilities.

## TEXAS JUVENILE JUSTICE SYSTEM

The state and county governments share responsibility for operating the juvenile justice system in Texas. Counties provide probation services, and the state operates a system of secure correctional institutions and halfway houses. The state is involved in probation by distributing funds, providing training, establishing standards, and monitoring local departments and facilities to ensure compliance with those standards. Before the 2012–13 biennium, the Texas Youth Commission (TYC) operated the secure, state-run institutions and halfway houses, and the Texas Juvenile Probation Commission (TJPC) provided funding, training, and oversight to juvenile probation departments. The Eighty-second Legislature, Regular Session, 2011, abolished TYC and TJPC and consolidated their functions at the newly established Texas Juvenile Justice Department (TJJD).

Local governments are responsible for determining a juvenile's disposition. A disposition in the juvenile justice system is similar to a sentence in the adult system and can include dismissal, supervisory caution, supervision including probation and deferred prosecution, and commitment to TJJD, or certification as an adult to stand trial in the adult system. State law has some limits on dispositions based on offense type and an offender's age, but disposition decisions typically are at the discretion of local judges, probation departments, and district attorneys. A juvenile must be adjudicated delinquent for a felony to be committed to TJJD. Most youth who have participated in the juvenile justice system have not entered the state correctional facilities nor been certified as adults; they have been supervised primarily by local probation departments. During fiscal year 2018, more than 96.0 percent of youth who receive services or supervision receive them through their local probation departments. Among the youth who have been adjudicated delinquent for a felony offense and are eligible for commitment to TJJD, most are placed on supervision, which includes probation and deferred adjudication. From fiscal years 2013 to 2018, approximately 6.0 percent of commitment-eligible youth were committed to TJJD.

Youth who are placed on probation can receive programs and services, including mental health services, substance abuse

treatment, victim–offender mediation, and vocational training from the local probation department. A juvenile under a probation department’s supervision also may be placed into a secure or nonsecure post-adjudication facility for more intensive programming. TJJD has registered 35 post-adjudication facilities operated by county or private operators. These facilities must follow TJJD-mandated standards. However, some youth are placed in residential treatment centers that are overseen by other state agencies.

All service providers that operate programs or facilities that serve youth in the juvenile justice system must comply with all relevant laws, standards, and regulations to ensure that youths receive the services to which they are entitled and that their rights are not violated. TJJD monitors compliance with minimum administrative standards, established in the Texas Administrative Code, at the registered post-adjudication facilities. The Office of Independent Ombudsman (OIO) for TJJD conducts operational oversight and investigates complaints at the secure correctional facilities and halfway houses operated by TJJD, contract facilities that serve some youth who are committed to TJJD, post-adjudication facilities that are registered with TJJD, and any other facilities in which a youth who has been adjudicated delinquent has been placed by a court order.

### **LEGISLATIVE REFORMS**

Following a sexual abuse scandal at TYC, the Eightieth Legislature, 2007, passed legislation to complete the following actions:

- reform TYC and mandate a 12-to-one youth-to-direct supervisory staff ratio;
- prevent misdemeanants from being committed to TYC;
- lower the age limit of commitment-eligible youth to age 19;
- institute a consistent assessment of youth risk and needs at orientation;
- require TYC to consider placing juvenile offenders close to their homes; and
- establish an Office of Inspector General and Office of Independent Ombudsman for TYC.

TJPC received \$57.9 million in new appropriations for the 2008–09 biennium to distribute grants to fund secure

placements, enhanced community corrections programs, and programs for misdemeanants who no longer were TYC-eligible.

TJPC and TYC were each subject to Sunset review in 2009, followed by a special-purpose Sunset review of both agencies in 2011. In 2009, the Sunset Advisory Commission (SAC) recommended that the Legislature consolidate TJPC and TYC. The Eighty-first Legislature, Regular Session, 2009, instead continued the two agencies and appropriated \$45.7 million to TJPC for a new grant program for the 2010–11 biennium to decrease commitments to TYC through the Community Corrections Diversion Program.

In 2011, SAC recommended continuing TYC and TJPC for six more years. Instead, the Eighty-second Legislature, Regular Session, 2011, passed Senate Bill 653, which abolished TJPC and TYC and established TJJD.

The Eighty-fourth Legislature, 2015, established a juvenile justice regionalization program through the enactment of Senate Bill 1630. The legislation required juvenile courts to submit a special commitment finding that a youth has behavioral health or other special needs that cannot be met with the resources available to the community if the court commits the youth to TJJD. The legislation required TJJD to develop a plan to support regional cooperation among probation departments and develop a reimbursement grant program to divert youth from commitment to TJJD.

### **REGIONALIZATION IN TEXAS**

The regionalization program’s primary goals are to enhance the ability of juvenile probation departments to serve youth and decrease commitments to TJJD secure institutions. Senate Bill 1630 established a framework through which probation departments in a region can work cooperatively to better serve youth in their communities instead of committing youth to TJJD’s secure, state-run institutions. It also required organizational changes at TJJD and start-up grants to support collaborative efforts, established a reimbursement grant program to fund alternative placements and programming for youth who might otherwise be committed to TJJD, and expanded the role of the OIO for TJJD to include visiting any post-adjudication facility that serves a Texas youth who was adjudicated delinquent and sent there by the court.

### **ESTABLISHING A FRAMEWORK FOR REGIONAL COOPERATION**

The Texas Human Resources Code, Section 203.017, establishes TJJD’s responsibilities for supporting regional

cooperation among probation departments. TJJD was required to consult with juvenile probation departments to develop a regionalization plan for keeping youth closer to home in lieu of commitment to TJJD. The plan was required to perform the following actions:

- identify post-adjudication facility capacity that may be dedicated to support the plan and the resources needed to implement the plan;
- include a budget review, redirection of staff, and funding mechanisms necessary to support the plan;
- establish a new division of the department responsible for administering the regionalization plan and monitoring program quality and accountability; and
- include sufficient mechanisms to divert at least 30 juveniles from commitment to TJJD during fiscal year 2016 and 150 juveniles from commitment during fiscal year 2017.

To support the regionalization program, TJJD established a regionalization division to perform the following actions:

- approve plans and related protocols to administer the regional model;
- provide training regarding best practices for all local probation departments affected by the regionalization plan;
- assist in research-based program development;
- monitor contract and program measures for the regionalization plan;
- analyze department data to provide guidance to probation departments regarding outcome measures; and
- report performance of specific programs and placements to assist in implementing best practices and maximize the impact of state funds.

TJJD formed the Regionalization Task Force to develop a regionalization plan that would accomplish the goals of Senate Bill 1630. The task force included representatives of each of the regional chiefs associations, advocacy groups, TJJD's advisory council, and TJJD staff. To comply with the legislation's requirements, TJJD adopted the boundaries of the existing seven regional chiefs associations. **Figure 1** shows the regions that TJJD adopted. TJJD asked each region to identify a core need that could be addressed to improve the

region's ability to treat more youth locally, improve outcomes, and decrease the likelihood of commitment to TJJD. Each region developed and submitted a plan to TJJD.

#### *REGIONAL SERVICE ENHANCEMENT PROJECT*

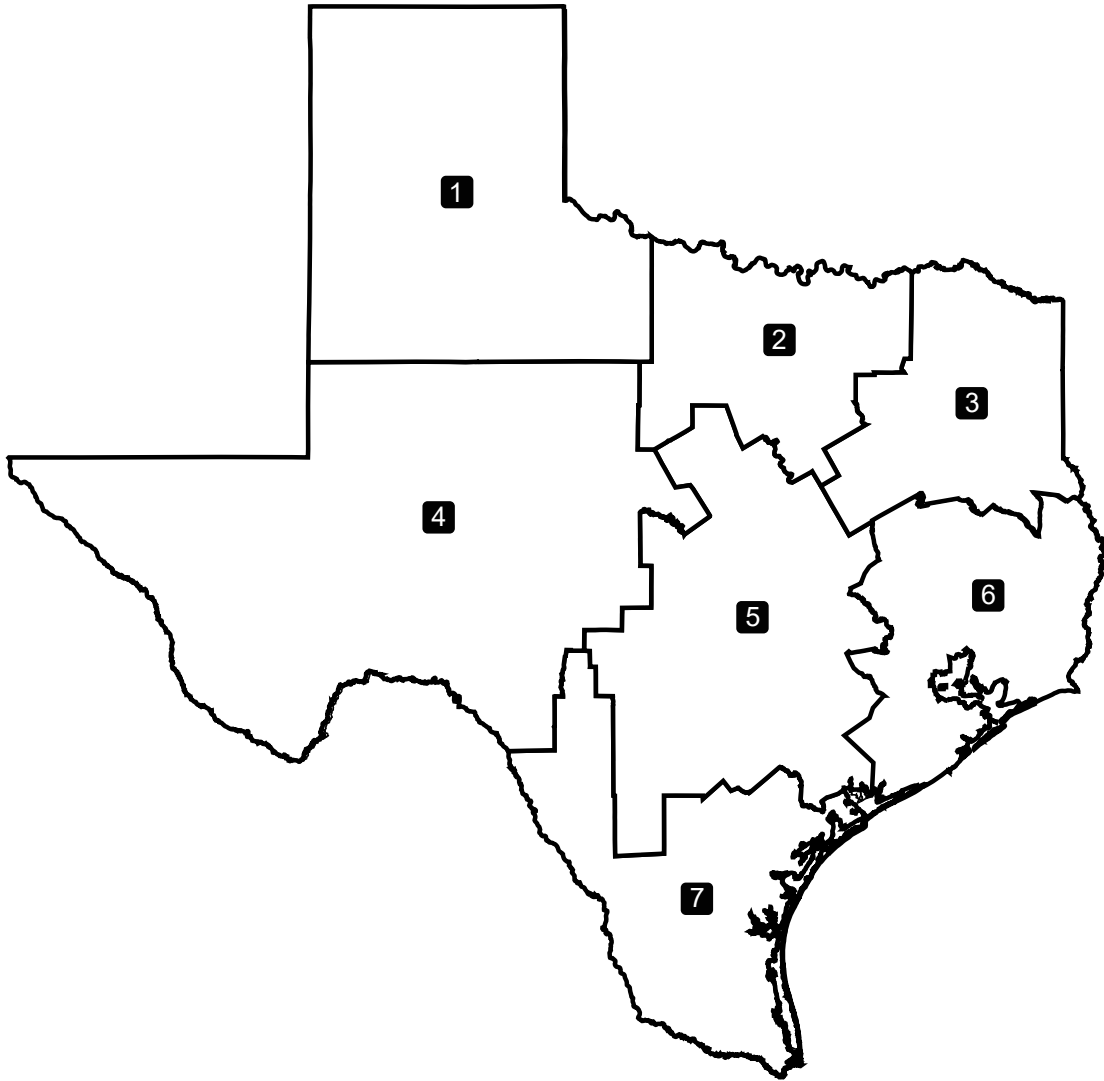
TJJD developed two grant programs to support the regionalization program, the Regional Service Enhancement (RSE) Project and the Regional Diversions Alternatives Program. During the 2016–17 and 2018–19 biennia, TJJD allocated \$1.75 million from the regional diversion alternatives strategy each biennium for RSE. RSE provided each region up to \$125,000 in start-up funds each year of those biennia to increase services available for youth. RSE's purpose is to provide each region with the resources needed to address the primary service gaps identified in the regionalization plan. The RSE grant focuses funds on community-based services for a regionally defined target population. TJJD's regionalization division worked with each region to identify the target population for its enhancement project. **Figure 2** shows the projects each region identified for the RSE start-up funds.

According to TJJD, the state's geographical and cultural diversity and the tradition of local control in the operation of juvenile probation departments presents a challenge for agreeing on one project that meets the needs of all the departments in the region. According to TJJD, some service providers are concerned about receiving enough referrals to make operating in some regions financially viable for vendors. TJJD hopes that the RSE grants will result in more program providers offering services throughout the state, which would enable more youth to be treated within their home regions. TJJD acknowledged that this task is a challenge because probation departments may be uncomfortable using service providers with which they are not familiar, and vendors may choose not to operate in a region unless they know they will receive enough referrals to make the operation financially viable.

#### *REGIONAL DIVERSION ALTERNATIVE PROGRAM*

Senate Bill 1630, Eighty-fourth Legislature, 2015, required TJJD to develop a mechanism that was sufficient to divert 180 juveniles from commitment to TJJD during the 2016–17 biennium. To comply with this requirement, TJJD established the Regional Diversion Alternative Program (RDA) to reimburse probation departments that divert youth from commitment to TJJD. TJJD allocated General Revenue Funds from the Regional Diversion Alternatives strategy in the agency's bill pattern for this program in the amount of \$7.8 million during the 2016–17 biennium and

**FIGURE 1**  
**TEXAS JUVENILE JUSTICE DEPARTMENT PROBATION REGIONS**  
**FISCAL YEAR 2018**



**REGIONS**

- |              |              |
|--------------|--------------|
| 1. Panhandle | 5. Central   |
| 2. North     | 6. Southeast |
| 3. Northeast | 7. South     |
| 4. West      |              |

SOURCE: Texas Juvenile Justice Department.

\$16.5 million during the 2018–19 biennium. During fiscal years 2016 and 2017, 209 juveniles were diverted using RDA funds. During fiscal year 2018, 245 juveniles were diverted using RDA funds.

According to TJJD, the RDA grant is intended to divert youth from commitment to TJJD to placement in an evidence-based program, placement in a TJJD-registered secure or nonsecure post-adjudication facility, or a residential child-care facility. In accordance with the focus of the RDA program, TJJD encourages probation departments to place youth at the

**FIGURE 2  
TEXAS JUVENILE JUSTICE DEPARTMENT REGIONALIZATION TASK FORCE REGIONALIZATION PLAN'S PLANNED USE OF REGIONAL START-UP FUNDS, AUGUST 2016**

REGION	USE OF FUNDS
Central Texas	Establishing telecounseling services and providing technical support to encourage participation.
North Texas	Increasing various services, including substance abuse, sexual behavior counseling, and mental health treatment and programming for female and general offenders.
Northeast Texas	Providing preplacement and aftercare intensive counseling and case management services in the region's less populated counties.
Panhandle and West Texas (joint plan)	Implementing a telecounseling program for individual and family therapy sessions.
South Texas	Implementing a case management and telecounseling program.
Southeast Texas	Using telepsychiatry services to provide mental health assessments, case management, medication services, and crisis intervention.

SOURCE: Texas Juvenile Justice Department.

facility closest to their homes that can meet their service needs. The agency prioritizes serving younger offenders, youths with serious mental illness, youths with developmental or intellectual disability, nonviolent youth offenders, and youths with low-risk to moderate-risk levels for reoffense.

A probation department that applies to use the RDA grant for a youth must submit an application to TJJD that includes the following information:

- the results of the youth's risk and needs assessment;
- a description of the youth's prior misdemeanor and felony referrals and adjudications;
- the felony that would result in recommendation of commitment to TJJD;
- a list of previous interventions with the youth;
- supporting documentation;
- any request for help from TJJD to identify treatment options for the youth; and
- the proposed placement or program for the youth.

The chief probation officer of the department requesting the RDA funds must certify to TJJD that, if not for the Regionalization Diversion program, the department would recommend that the court commit the youth to TJJD. A probation department must exhaust all local options for a youth before applying for the RDA Program grant. According to TJJD, it rejected 30 applications during fiscal year 2016, 81 applications during fiscal year 2017, and 74 applications during fiscal year 2018. Of the 111 juveniles whose diversions

**FIGURE 3  
REGIONAL DIVERSION ALTERNATIVES PROGRAM GRANT APPLICATIONS THAT RESULTED IN A PLACEMENT OR WERE NOT APPROVED BY THE TEXAS JUVENILE JUSTICE DEPARTMENT, FISCAL YEARS 2016 TO 2018**

YEAR	ACCEPTED AND PLACED	NOT APPROVED
2016	21	30
2017	187	81
2018	261	74

NOTE: Some applications are approved by the Texas Juvenile Justice Department and do not result in a placement or a grant being awarded.  
SOURCE: Texas Juvenile Justice Department.

were rejected during the 2016–17 biennium, 33 were committed to TJJD and one was certified as an adult. The other 77 juveniles whose diversion applications were rejected remained within the jurisdiction of their local juvenile probation departments. **Figure 3** shows the number of applications for RDA placements and TJJD's decision from fiscal years 2016 to 2018.

The requirement that a probation department must exhaust all local resources before applying for RDA funds has resulted in departments that operate secure post-adjudication facilities being unable to access RDA funds to place youth in county-operated facilities. This requirement enables TJJD to target the RDA funds to probation departments that do not have sufficient resources to serve a juvenile who may otherwise be appropriate for commitment to TJJD's secure correctional facilities. A probation department may use RDA funds to place a juvenile in a post-adjudication facility operated by another probation department if the receiving department is

accepting contract placements at the facility. TJJD collaborated with probation departments to identify post-adjudication capacity that could be available for regionalization. As of May 2018, 20 of the 35 post-adjudication facilities that are registered with TJJD accept RDA placements. In May 2018, TJJD reported 1,953 beds that were assigned as secure post-adjudication beds by registered county and private-run post-adjudication facilities. Of those beds, 1,630 beds were considered online, that is, available to use with staff budgeted to supervise youth in those beds. As of May 2018, 60.5 percent of the online beds were in facilities that are accepting RDA placements.

Outcome measures for the RDA program are limited because it was not fully implemented until fiscal year 2017. TJJD provided the number of juveniles who were successfully and unsuccessfully discharged from RDA placements during 2017 and 2018. During fiscal year 2017, 99 youth were discharged from RDA-funded placements. Of those youth, 72 were successfully discharged and 27 were unsuccessfully discharged. During fiscal year 2018, 200 youth were discharged from RDA-funded placements. Of those youth, 157 were successfully discharged and 43 were unsuccessfully discharged. During fiscal years 2017 and 2018, 76.5 percent of youth discharged from an RDA-funded placement successfully completed placement. According to TJJD, after sufficient time has elapsed, the department will evaluate the

one-year, two-year, and three-year recidivism rates for all juveniles served by the RDA and RSE programs.

#### *EXPANDED ROLE OF THE INDEPENDENT OMBUDSMAN FOR THE TEXAS JUVENILE JUSTICE DEPARTMENT*

As part of regionalization, the Eighty-fourth Legislature, 2015, expanded the authority of the OIO to inspect all county and private-run post-adjudication facilities and any other residential facility in which a youth adjudicated delinquent is placed by a court order. The increased inspection requirements increased the number of site visits for OIO staff from 423 during the 2014–15 biennium to 1,203 during the 2016–17 biennium. The OIO for TJJD is an independent state agency that was established by actions of the Eightieth Legislature, 2007. The OIO was established to investigate, evaluate, and secure the rights of youth committed to TJJD. The independent ombudsman is appointed by the Governor and serves a two-year term. The Texas Human Resources Code, Section 261.003, states that the OIO performs its duties independently of TJJD, and that funding for the OIO is appropriated separately from funding for TJJD. When the OIO was established, it was funded initially through a contingency rider in TYC's bill pattern in the 2008–09 budget and has remained as a goal in TJJD's bill pattern in subsequent biennia. TJJD provides administrative support to the OIO through an informal agreement between the two. **Figure 4** shows some of the duties and powers of the OIO.

#### **FIGURE 4 DUTIES AND POWERS OF THE OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS JUVENILE JUSTICE DEPARTMENT JULY 2018**

- Review the procedures established by the Texas Juvenile Justice Department (TJJD) board of directors and evaluate the delivery of services to children to ensure that the rights of children are fully observed
- Review complaints filed with the independent ombudsman concerning the actions of TJJD and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman
- Conduct investigations of complaints, other than complaints alleging criminal behavior
- Make appropriate referrals
- Review reports received by TJJD relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints
- Immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county
- Review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by TJJD, whether public or private, to ensure that the rights of children are observed fully
- Provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child
- Review court orders as necessary
- Recommend changes in the procedure relating to the treatment of children committed to TJJD
- Report a possible standards violation by a local juvenile probation department to the appropriate TJJD division

SOURCE: Legislative Budget Board.

**FIGURE 5  
COMPARISON OF OFFICE OF INDEPENDENT OMBUDSMAN SITE VISITS FOR FACILITIES THAT SERVE YOUTH COMMITTED TO THE TEXAS JUVENILE JUSTICE DEPARTMENT AND YOUTH UNDER SUPERVISION BY A PROBATION DEPARTMENT AS OF MAY 2018**

FACTOR	JUVENILE WITHIN JURISDICTION OF THE TEXAS JUVENILE JUSTICE DEPARTMENT (TJJD)	JUVENILE WITHIN THE JURISDICTION OF A JUVENILE PROBATION DEPARTMENT
Deputy ombudsmen who attend	2	1
Typical duration of visit (days)	2 days	1 day
Frequency of visits	Secure facilities are visited monthly; state-operated halfway houses are visited every other month; and contracted nonsecure facilities are visited quarterly	All county and privately run facilities in Texas are visited quarterly with more frequent visits to higher-risk facilities; out-of-state facilities visited annually
Access to information	Access to TJJD’s records, Juvenile Justice Information System, law enforcement, and records of a private entity that relate to a youth committed to TJJD	No specific statutory authority
Site visit reports provided	Governor, Lieutenant Governor, Speaker of the House of Representatives, members of the Texas Legislature, the State Auditor’s Office, TJJD Board of Directors, TJJD executive staff, facility superintendent, administrative staff in TJJD’s State Programs and Facilities Division, and the TJJD Director of Treatment Services	Chief probation officer of the county where the facility is located, the facility administrator, TJJD Deputy Director for Probation Services, and TJJD Executive Leadership Team

NOTE: The frequency of planned visits to facilities in Texas serving youth under supervision was decreased in March 2018 from every other month to quarterly and to facilities out of state serving youth under supervision was decreased from twice a year to once a year due to decreased travel funds. In June 2018, the Office of the Independent Ombudsman requested and received unexpended balance authority between fiscal years to move \$68,305.72 from fiscal year 2018 to fiscal year 2019 to fund travel costs for these visits, which enabled the agency to add targeted visits to facilities that the office identifies as high-risk.

SOURCE: Office of Independent Ombudsman for the Texas Juvenile Justice Department.

Before the Eighty-fourth Legislature’s expansion of the OIO’s role in 2015, the office had jurisdiction over secure correctional facilities and halfway houses operated by TJJD and contract facilities that serve some youth committed to TJJD. Rider 35 in TJJD’s bill pattern specified the appropriation of \$560,500 for fiscal year 2016, which included a onetime cost of \$66,500, and \$494,000 for fiscal year 2017, along with 7.0 full-time-equivalent (FTE) positions to the OIO for the expansion of duties to local facilities. The Eighty-fifth Legislature, 2015, decreased the OIO’s biennial 2018–19 appropriation by \$128,610, which included eliminating the onetime cost of \$66,500. However, Rider 31 in TJJD’s bill pattern maintained the appropriation of \$494,000 per year and 7.0 FTE positions.

**CLARIFY THE AUTHORITY OF THE OFFICE OF INDEPENDENT OMBUDSMAN**

The Texas Human Resources Code, Section 261.101(e), authorizes the OIO to investigate complaints alleging a violation of the rights of youth placed in a secure post-adjudication facility or residential facility that serves juveniles under a probation department’s supervision. The extent of OIO’s authority to inspect these facilities is unclear because

the language describing many of the agency’s duties and powers in the Texas Human Resources Code, Section 261.101, is specific to correctional facilities that serve juveniles who have been committed to TJJD. This language can result in confusion and challenges for OIO when visiting facilities that serve youth supervised by their local probation department. Option 1 would amend the Texas Human Resources Code to clarify that each of the listed duties and powers apply to each facility for which OIO has jurisdiction.

OIO’s site visits to facilities that serve juveniles who have been committed to TJJD differ from visits to those that serve juveniles supervised by their local probation departments. A site visit to a facility that serves youth under the supervision of their local probation department involves fewer OIO employees and less staff time than a visit to facility that serves youth who were committed to TJJD. **Figure 5** shows a comparison of OIO site visits to these types of facilities in both categories.

Expanding the OIO’s authority to investigate additional facilities significantly increased the number of visits made by OIO staff. OIO makes site visits to 31 facilities that serve



**FIGURE 6**  
**SITE VISITS BY THE OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS JUVENILE JUSTICE DEPARTMENT (TJJD)**  
**FISCAL YEARS 2014 TO 2018**

YEAR	TJJD SECURE FACILITY	TJJD HALFWAY HOUSE	TJJD STATE CONTRACT	TJJD PAROLE	COUNTY-OPERATED	COUNTY CONTRACT	VISITS
2014	78	48	53	37	0	0	216
2015	83	49	51	24	0	0	207
2016	85	45	52	14	154	147	497
2017	84	47	60	41	221	253	706
2018	83	42	53	44	177	170	569

NOTE: The Office of Independent Ombudsman did not have the authority to make site visits to county-operated or county-contracted post-adjudication facilities before fiscal year 2016.

SOURCE: Office of the Independent Ombudsman for the Texas Juvenile Justice Department.

youth who were committed to TJJD and to 85 facilities that serve youth who are under supervision by juvenile probation departments. **Figure 6** shows the OIO staff visits to different types of facilities from fiscal years 2014 to 2018.

OIO typically has access to more information for youth who are in facilities that serve youth who were committed to TJJD. For youth committed to TJJD, the Texas Human Resources Code provides OIO with access to records from TJJD, the Juvenile Justice Information System (JJIS), local law enforcement agencies, and private entities. JJIS is used to track information for juveniles committed to TJJD. These requirements comply with the standards of practice established by the International Ombudsman Association, which states, “the ombudsman has access to all information and all individuals in the organization.”

In contrast, for youth under juvenile probation supervision, no statute requires that the OIO specifically have access to information in the Juvenile Case Management System, which contains information regarding juveniles in the probation system. Additionally, no statutory requirement specifies that the OIO should have access to information from an entity that is not registered by TJJD but serves juveniles who are on probation, such as residential drug or alcohol treatment facilities licensed by the Health and Human Services Commission (HHSC). In OIO’s Second Quarter Report, Fiscal Year 2018, the agency reported ongoing problems with gaining access to youth grievance files, incident reports, and other records at Azleway Substance Abuse Program, a residential treatment facility licensed by HHSC. Option 2 would amend the Texas Human Resources Code, Sections 261.151 and 261.152, to provide OIO with access to a probation department or board’s records relating to a juvenile placed in a residential facility by court order.

This access would require OIO and TJJD to adopt rules to facilitate access to records. The OIO also would have to coordinate with any organization that registers facilities serving Texas juveniles who have been adjudicated delinquent and placed by a court order. This coordination would ensure that OIO has access to sufficient information to ensure that youth are receiving all services to which they are entitled and that the rights of youth are not violated.

In March 2018, due to insufficient travel funds, OIO decreased the frequency of planned visits to facilities that serve juveniles supervised by a probation department. OIO then requested and received authority to transfer unexpended balances from fiscal years 2018 to 2019 to maintain the site visit frequency adopted in March 2018 and add targeted visits to facilities OIO identified as high-risk.

### FISCAL IMPACT OF THE OPTIONS

Options 1 and 2 would have no fiscal impact to the state. The options would clarify the authority of the OIO and ensure that the office has the information it needs to protect the rights of youth under supervision by a probation department who are placed in post-adjudication or residential treatment facility by a court order.

The introduced 2020–21 General Appropriations Bill does not include any adjustments as a result of these options.