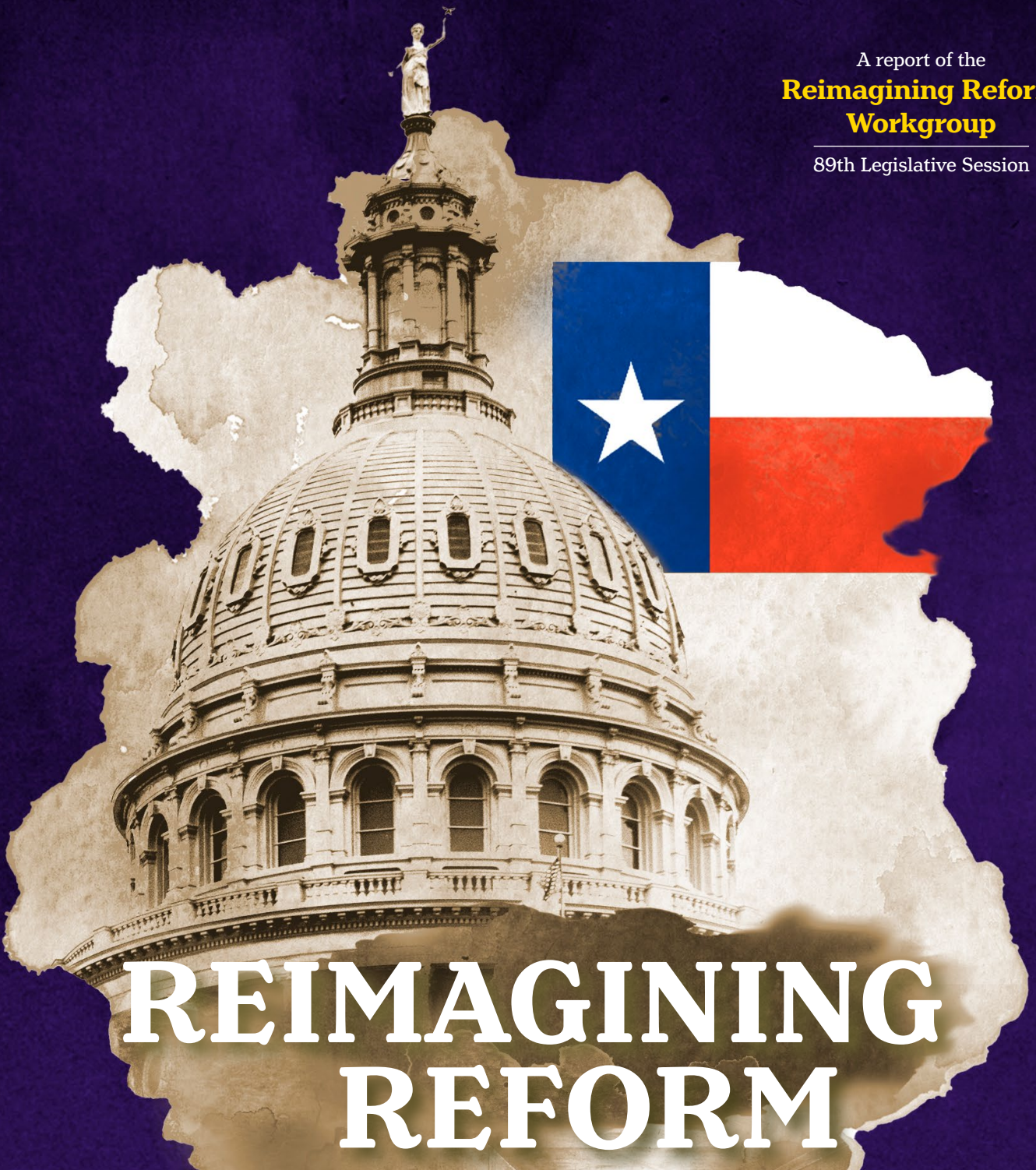


A report of the
**Reimagining Reform
Workgroup**

89th Legislative Session



Findings and Recommendations to Improve the Youth Justice System in Texas



LONE STAR
JUSTICE ALLIANCE

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Executive Summary

The Reimagining Reform Workgroup drafted a Statement of Findings to assist policymakers and officials in understanding the broader rationale for the recommendations contained in this report. Most notably, the workgroup identified statutory amendments to improve juvenile justice court procedures, system operations and oversight, and a robust framework for a continuum of care all with the aim of keeping youth shallow in the system. In addition, the workgroup emphasized that diversion, intervention, prevention, and redirection of youth should be prioritized. In reimagining improvements, the workgroup's national review of selected states with positive outcomes were states that invested in a community infrastructure and supported early intervention to reduce recidivism and the long-term costs associated with mental health care. These findings also underscored the continuing need to develop specialized facilities and a broad geographical network of integrated treatment services to improve the accessibility and quality of mental health in the youth justice system.

RECOMMENDATIONS

Diversion and Deflection

- Amend Title 3 of the Family Code to transfer statutory authority for diversions to a new subchapter.
- Amend the Family Code to prioritize diversion for children under 13 instead of 12.
- Amend the Human Resources Code or related provisions to establish a funding stream to address identified gaps in the community-based continuum of care.
- Authorize the establishment of a community reinvestment fund or other non-criminal justice incentive fund to invest in deflection, diversion, and alternatives to juvenile detention.
- Consider legislation or an appropriations rider that would require community and state-level collaboration to utilize asset mapping to identify community-based programs and services.
- Earmark funding for community-based intervention and prevention programs for youth

prior to system involvement as a primary tool for deflection.

- Leverage funding to encourage schools and related law enforcement agencies to prioritize the diversion of youth to community-based programs rather than referrals to law enforcement and juvenile courts for certain offenses.

- Reduce and/or redirect certain school referrals for student code of conduct violations, status offenses, and low-level offenses committed on school grounds by creating individualized plans for community-based programs and services.

- Gather data on District Alternative Education Programs (DAEP) and Juvenile Justice Alternative Programs (JJAEPs) re-offense rates and/or prevalence of subsequent court involvement.

Procedural Justice

- Analyze data to examine the impact of mandatory referrals of vape pens. Consider reforms to return discretion to juvenile court judges, intake officials, and school administrators based on the individual circumstances of each case.

- Establish a multi-disciplinary study to address the offense of terroristic threat in Texas schools and analyze data, practices, and laws to formulate comprehensive policy recommendations, including ways in which the offense can be reclassified into separate offenses based on conduct type.

- Amend the Family Code to authorize the juvenile court to make special commitment findings for violations of a lawful order of

the juvenile court (i.e., probation violations, revocations) that would result in a commitment to TJJD.

- Analyze the impact and processes outlined in SB 1727 (88th R.S.) for transferring determinate sentenced youth to TDCJ after conviction or adjudication of a felony committed while in TJJD. Assess impact and consider counsel appointment during TJJD all proceedings.

- Amend the Family Code and related provisions in Article 39.14 of the Code of Criminal Procedure to clarify the disclosure of juvenile records in adult cases to prosecutor offices.

- Amend the Family Code to authorize the juvenile court to seal records certain youth with a disposition of determinate sentence probation who have not been transferred to adult court or TDCJ.

- Amend the Family Code and related laws to authorize the appointment and/or continued representation of youth and authorize TIDC to set minimum standards for post-disposition representation.

- Consider adding a post-conviction writ of habeas corpus in the Code of Criminal Procedure that applies specifically to juvenile proceedings and clarify time frames for raising claims; court of final authority; and issues that can be raised.

- Review, redraft, and reintroduce certain legislation filed in prior sessions.

- Consider legislation requiring an examination of detention of youth, locally and under supervision of TJJD, who are also under the conservatorship of Children's Protective

Services and require DFPS and TJJD to collect, track, and analyze placement and detention data on dual status youth.

- Enact legislation that would codify the definition of “opportunity youth” to aid in the collection and tracking of data on this population.

- Seek funding to grow specialty court programs.

Conditions of Confinement

- Confer authority to make a conditions determination or attack the validity of a commitment to TJJD or a county juvenile justice facility when unconstitutional conditions or practices threaten the safety and well-being of youth.

- Examine data to determine the percentage of youth who meet the special findings criteria for commitment to TJJD whose felony offense would make them eligible for placement in a county post-adjudication secure facility.

- Consider a legislative amendment to restrict commitment of non-violent Progressive Sanctions Level 5 felonies to post-adjudication placement only.

- Propose potential interim charges or funding riders to seek appropriations to enhance statewide programs and services to facilitate diversion from state and post-adjudication placement to community-based programs and placements.

- Examine whether the state’s minimum standards are adequate to ensure the safety and constitutional rights of youth in secure custody in county and state facilities as required in the Human Resources Code, Family Code, Texas Administrative Code and other state and federal laws.

- Conduct a long-term study of science-based research and national best practices that promote smaller, homelike facilities that meet the treatment needs of youth diagnosed with serious mental health or mental illness and reevaluate appropriations for facility construction.

- Request and analyze data on the use of special commitment findings to divert and reduce commitments to TJJD and examine the process and documentation submitted to the juvenile courts. Also, examine the efficacy of the use of the validated risk and needs assessment in making commitment findings.

- Fund qualified, trained staff to ensure adequate facility ratios while maintaining proper classification and housing of youth based on risks and needs.

- Discourage legislation, administrative rules, or policies that would lower the age and qualifications of juvenile correctional officers responsible for direct supervision and care of youth in TJJD facilities.

Workgroup Assumptions

The following assumptions have informed the work of the Reimagining Justice Workgroup and guided its findings and recommendations:

Adolescent Brain Development: Studies indicate that the adolescent brain does not fully mature until the mid-20s, recognizing that youth are more capable of change and growth than adults. Policymakers should, therefore, advocate for age-appropriate interventions that reflect the developmental stage of adolescence. Laws should prioritize rehabilitation and alternative sentencing over punitive measures, when appropriate.

Trauma-Informed Care: Many justice-involved youth have experienced significant trauma. Addressing emotional and psychological needs through trauma-informed care will lead to more effective rehabilitation. Policies should therefore influence the creation of supportive environments that focus on treatment, healing, and resilience and promote the use of appropriate screenings and assessments by trained professionals.

Social Determinants of Health: The social determinants of health, such as poverty, education, and access to healthcare, significantly influence youth behavior and justice-involvement. Focusing on broader social inequities by integrating services like mental health care, education, job training, and housing assistance will lead to reforms that address the root causes of delinquency and their long-term impact.

Impact Strategies: Data-driven approaches and measurable outcomes are essential for effective policy implementation. Impact strategies include clear goals, measurable outcomes, and evaluation methods. These approaches drive funding and resources toward programs that are proven to make positive impacts on youth outcomes.

Reimagining Reform: Youth Justice Findings Report

Introduction. The Reimagining Reform Workgroup was established in the Summer of 2024 as an initiative of the Lone Star Justice Alliance (LSJA) to identify critical areas for legislative, practice, and policy changes in the Texas youth justice system as highlighted in the published report *Reimagining Reform: Strategies for Sustainable Change in the Texas Youth Justice System*.¹ The workgroup emerged organically from the strength of LSJA's ongoing efforts to foster community-based alliances with youth, justice practitioners, stakeholders, policymakers, and advocates to amplify the voices and perspectives of youth and their families with lived experience in the justice system. The workgroup functioned as a targeted and organized platform for collaboration, aimed at making findings and recommendations on innovative and cost-effective community-based interventions and alternatives to incarceration. Framed within the context of transparent proceedings in juvenile court, the workgroup focused on developing age-appropriate, evidence-based proposals to enhance the protection and safety of youth in county and state juvenile justice facilities. The workgroup examined statutory provisions in Texas and other state jurisdictions, national best practices, scholarly research articles, and expert panels, with a keen focus on incorporating youth and community input. Key components of the process included information gathering, identification of potential reforms, consensus building, guided proposal development, and other forums of engagement. The principles of consensus decision-making were used to develop conceptual recommendations and proposals that were evaluated and categorized based

REIMAGINING REFORM WORKGROUP

functions as a targeted and organized platform for collaboration aimed at making findings and recommendations.



on the appropriate response strategy.² The workgroup convened a series of meetings over three months to examine structural and statutory issues focused on three conceptual areas of inquiry about juveniles³ as defined in Title 3 of the Family Code – 1) Diversion and Deflection; 2) Procedural Justice; and 3) Conditions of Confinement. Specifically, the conceptual charges were to:

Diversion and Deflection. Examine and make recommendations on evidence-based ways to increase the diversion and redirection of youth at every stage of proceedings (e.g., front-end, procedural, and alternatives to incarceration).

Procedural Justice. Review the adjudication and disposition processes under Title 3 of the Family Code and related laws to advocate for developmentally informed procedural justice for youth and emerging adults.

Conditions of Confinement. Examine and make recommendations for practice reforms, legislative amendments, or policy changes to achieve sustainable improvements to incarceration practices and conditions of confinement.

This work has culminated in the *Reimagining Reform: Youth Justice Findings Report*, which contains a process description of the specific policy and practice findings and general recommendations of the workgroup.

Workgroup Members. The first phase of the workgroup process began with identifying role-based members of the workgroup with expertise, professional/practice-based experience, justice-involvement, and lived experience. Participants included stakeholders, youth justice practitioners, judges, community-based organizations, decision makers from the Dallas-based Reimagine Justice Coalition (RJC), youth peer advisors, youth, and their families. LSJA extended invitations seeking diverse perspectives that prominently centered the voices of youth and impacted persons

¹ Thomas, N. Henneke, E. (2024) *Reimagining Reform: Strategies for Sustainable Change in the Texas Youth Justice System*, <https://www.lonestarjusticealliance.org/wp-content/uploads/2024/07/LSJA-Reimagining-Reform-V2-1-1.pdf> (Accessed August 30, 2024).

² The workgroup was asked to categorize and prioritize ideas to determine the appropriate responsive action or strategy required to accomplish recommendations. For example, concepts were presented and the workgroup determined whether legislative amendments, rule adoption, training or statewide best practices, or policy changes should be considered to implement the conceptual idea.

³ The Lone Star Justice Alliance recognizes the often negative connotation of the use of the term “juvenile” and encourages system stakeholders to adopt language that upholds the dignity of all youth. In many places throughout this report, we have consciously – albeit interchangeably – substituted “youth justice system” or “youth” in place of the term “juvenile” except in quoted or summarized language or where context and variety otherwise dictate.

to formulate a community-centered unified vision for youth in Texas. The efforts of the Reimagining Reform Workgroup were intended to complement other groups convening in the state on continuums of care and other youth justice issues by providing community-centered collaborative policymaking. A plan was developed to outline the conceptual areas, action steps, and timeline for facilitating the workgroup.

The insight to be gained from this multi-disciplinary workgroup is a crucial step toward

WORKGROUP MEMBERS

are collaborators leveraging role-based expertise, justice involvement, and lived experience.

improving outcomes for youth in Texas. Successful implementation of this initiative includes the development of a strategic framework that values outcome-focused opportunities for youth as well as public safety and

accountability. The role-based diversity of the initial 73 invitees is reflected in Figure 1. Over the course of the convening, participation expanded to include the involvement of an even wider range of workgroup members.

Workgroup Methodology. LSJA hosted a virtual Organizational and Orientation meeting on June 28, 2024, an in-person convening on July 26, 2024 in Dallas, Texas, and concept group work sessions throughout the month of August, 2024. The initial orientation framed youth voice, a history of legislative efforts in Texas, core values, workgroup methodology, time commitment, and overall scope of work. In addition, the workgroup engaged in facilitated interactive discussions on diversion, conditions of commitment, and

Who was invited?		
Youth	9	12%
Community Organizations	13	18%
Legislative Members & Staff	13	18%
State Agency Employees	7	10%
JPOs/Judges	12	16%
Philanthropic Organizations	7	10%
Defense/Prosecution Counsel	4	5%
Advocates	8	11%
Total	73	100%

Figure 1 – Reform Champion Invitees (6/28/2024)

procedural justice. Specifically, the workgroup articulated a conceptual “wish list” containing reform strategies. The original concepts were narrowed, and a response mapping methodology was used to develop ideas that would form the basis of practice, policy, and legislative recommendations. Workgroup members discussed system challenges, fiscal resources, and the infrastructure necessary to meet the need for community-based services. Deeper work occurred during the weekly concept groups sessions that convened each Friday during the month of August to consider and evaluate the viability of actionable proposals that could be developed later by a proposal drafting team. The proposal drafting team, charged with refining proposals, expects to meet after the concept groups have finished the principal task of making findings and recommendations. The task force also conducted extensive information-gathering to review articles,⁴ national trends, and laws of state jurisdictions. Each member of the workgroup, through his or her participation and input, shared in authoring the findings and recommendations contained in this report.

⁴ Bibliographic resources and online resources were provided to workgroup members. See Appendices.

The Youth Justice System in Texas

The Texas youth justice system is designed to rehabilitate youth who have engaged in delinquent conduct. Unlike in the adult criminal justice system, the primary goal is to redirect youth away from deeper justice involvement and toward productive citizenship. Despite these lofty goals and the work of countless dedicated professionals, the youth justice system in Texas and many other states have faced criticism for the lack of adequate mental health services and the overrepresentation of youth from marginalized communities. The system has, therefore, struggled to provide a range of services, including detention, probation, and alternative programs focused on education, mental health, and skill development with the goal of addressing the root causes of delinquent behavior. In response to these concerns, a reform workgroup was convened to evaluate the key aspects of the Texas youth justice system and propose meaningful changes. First, it is important to understand the context for the proposals presented by the Reimagining Reform Workgroup.

URGENCY OF NOW

The fierce urgency of now demands that reforms be made swiftly.

A Brief Perspective: The Urgency of Now. The phrase “the fierce urgency of now,” attributed to Dr. Martin Luther King Jr., underscores the critical need to address pressing issues in the Texas youth justice system without delay. Finding sustainable ways to divert youth from deeper justice involvement is not just a moral imperative, but also a practical one. Investing in community-based programs, education, and mental health services can provide the state’s youth with the support and resources they need to avoid the pitfalls of delinquent behavior. A collaborative all-hands approach

is necessary to break the cycle of incarceration and to reduce the fiscal burden on the justice system. The fierce urgency of now demands that reforms be made swiftly.

Federal Investigation. In an August 2024 postscript to the litany of concerns expressed by lawmakers and practitioners alike, the U.S. Department of Justice (DOJ) concluded its investigation of the Texas Juvenile Justice Department (TJJD) and found significant constitutional and legal violations across five of its facilities.⁵ These violations included 1) excessive use of force, 2) prolonged isolation, 3) inadequate mental health services, and 4) disability rights violations.⁶ TJJD asserts that the agency has cooperated with DOJ and many of the corrective actions have already occurred. The DOJ warned, however, that legal action might be taken if these issues are not adequately addressed.⁷ The DOJ has emphasized the need for significant reforms to protect the rights and well-being of these vulnerable children. For more details, explore the findings from the DOJ's *Official Findings Report*⁸ and media coverage in the *Texas Tribune*⁹, among others.

Monitoring Youth Justice Related Interim Charges. The House Interim Committee Charges were released by the Office of Speaker Dade Phelan in May 2024. In advance of the 89th Session, the Legislature will track the

implementation of prior enactments and assign relevant committees with the task of studying and reviewing issues that will be taken up when the legislature convenes in 2025. Throughout this process, workgroup members will monitor and engage in the committee process to ensure that the complementary policy initiatives of the Reimagining Reform Workgroup are noted. The House Committee on Juvenile Justice and Family Issues and the Committee on Youth Health and Safety will be charged with making policy recommendations on the following:

Committee on Juvenile Justice & Family Issues.

1. Monitoring: Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation.

2. "Best Interest of Child" in Family Law: Examine the Texas Family Code definition of "best interest of a child" used in determining issues of conservatorship of and access to a child; determine whether policy changes can better protect the rights and interest of children and parents.

3. Juvenile Justice System Outcomes: Evaluate the system for adjudicating and disposing

⁵ Department of Justice, Civil Rights Division. (2024). *Investigation of the Texas Juvenile Justice Department* https://www.justice.gov/d9/2024-07/2024_tjjd_findings_report.pdf (Accessed August 30, 2024).

⁶ Ibid at pgs. 4 – 5.

⁷ Ibid at pg. 70. TJJD was advised that a CRIPA lawsuit may be initiated within forty-nine days after issuance of the report if state officials had not satisfactorily addressed concerns.

⁸ Id.

⁹ Guo, Kayla. *Justice Department finds Texas juvenile detention centers violated youth offenders' rights*, Texas Tribune, August 1, 2024. <https://www.texastribune.org/2024/08/01/texas-juvenile-justice-facilities-doj/> (Accessed August 30, 2024).



of cases involving delinquent conduct and determine whether changes to juvenile court proceedings and improvements to the planning and funding for services to keep children in the juvenile justice system closer to home will lead to better overall outcomes for youth and public safety.

Committee on Youth Health and Safety.

1. *Monitoring:* Monitor the programs under the Committee’s jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

■ HB 3, relating to measures for ensuring public school safety, including the development and implementation of purchases relating to and

funding for public school safety and security requirements and the provision of safety-related resources; and

■ HB 18, relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services and electronic devices, including the use and transfer of electronic devices to students by a public school.

2. *Behavioral Health Services for At-Risk Youth:*

Evaluate programs and services currently available to children and families that are either involved with, or at high risk for becoming involved with, the foster care and juvenile justice systems. Study the current barriers for accessing community-based behavioral health services for children with intense behavioral health needs, with an emphasis on ensuring that parents do not have to give up custody of children to gain access to services.

On August 26, 2024, the Juvenile Justice and Family Issues Committee (JJFI)¹⁰ convened to take testimony on the implementation of legislation enacted during the 88th session and to receive an update on the status of the Texas Juvenile Justice Department’s utilization of funding to provide better resources to serve juveniles.¹¹ JJFI members recounted various issues over the two decades that have demanded legislative attention and funding. Despite significant appropriations, members expressed their ongoing concerns over the repetitive nature of the problems within state secure facilities that have often been attributed to staffing shortages. TJJD agency leadership also testified that many of the issues cited in a recent Department of Justice Report have been resolved. In particular, agency staff highlighted funding appropriated by the Legislature for direct staff pay increases and the hiring of additional mental health professionals. The August JJFI meeting followed a meeting of the Youth Health and Safety, House Select Committee on July 31, 2024 to consider Interim Charge 2 regarding behavioral health services for at-risk youth in foster care and the juvenile justice system. Specifically, the committee was charged with studying the current barriers for accessing community-based behavioral health services for children with intense behavioral needs.



Funding Priorities. TJJD’s 2024-2026 Legislative Appropriations Request (LAR) acknowledges difficulty serving the projected¹² population of total youth in their residential care as a result of problems staffing large aging facilities located in rural areas. For the 89th Session, the agency will seek a total base request of \$850 million¹³ that prioritizes exceptional items to offer competitive staff salaries and additional probation resources to address operational strains. As TJJD cautioned during the 88th Session, without additional funding “high-risks, high-needs offenders will be forced into placements inadequate to deal with their needs.”¹⁴ At the same time, the LAR for the upcoming session also includes exceptional items that would expand intensive treatment and programming along with funds to increase local and contract bed capacity statewide.

¹⁰ Rule 3, Standing Committees Sec. 21 The Juvenile Justice, and Family Issues Committee is a standing legislative committee in the Texas House of Representatives with oversight over juvenile delinquency, the commitment and rehabilitation of youth, youth correctional facilities and delinquency laws applied to youth as well as state agencies such as TJJD, OIO, and OIG.

¹¹ Juvenile Justice and Family Issues Committee Interim Hearing, Texas House of Representatives (August 26, 2024) <https://capitol.texas.gov/tlodocs/88R/schedules/html/C3402024082609301.HTM>.

¹² TJJD Legislative Appropriations Request 2026-2027, Texas Juvenile Justice Department., <https://www.tjjd.texas.gov/wp-content/uploads/2024/08/TJJD-LAR26-27-Final.pdf> (Accessed August 30, 2024).

¹³ Id. at pg. 1.

¹⁴ TJJD Legislative Appropriations Request 2024-2025, Texas Juvenile Justice Department. https://www.tjjd.texas.gov/wp-content/uploads/2024/02/TJJD_LAR_FY24-25.pdf, (Accessed August 30, 2024).

The pressing urgency of the moment demands immediate attention to issues concerning youth in confinement in the state and highlights the crucial need for diversions to avoid more profound involvement in the youth justice system. Youth are at a critical stage of development and the totality of their justice system experiences impact rehabilitative outcomes.

Confinement often intensifies existing problems, such as mental health issues, educational performance, and social stigmatization.¹⁵

Sunset Review in 2027. TJJD is the entity responsible for oversight of the unified youth justice system. The Legislature often makes its policy and funding decisions based on the advice and information provided by entities such as the Sunset Advisory Commission and the State Auditor's Office at certain statutory intervals.

These entities help to ensure that agencies are fulfilling legislative mandates and utilizing state funds efficiently. Members of the public, practitioners, stakeholders, and community organizations impacted by the operations of the Texas Juvenile Justice Department (TJJD) have an interest in ensuring compliance with investigative findings, statutory mandates, and ongoing efforts to protect youth in its custody.

The Sunset Review process is mandated by

law and usually occurs every 12 years.¹⁶ Since its creation in 2011, the operational authority for TJJD has been on shorter review cycles by statutory continuation without review in 2015, 2019, and 2021.¹⁷ During the 88th Session in 2023, the Sunset Review Commission ultimately conducted a comprehensive review of the agency, and its recommendations were contained in SB 1727.¹⁸ The original version of that bill continued TJJD for two years and required a review of selected topics such as coordination with the Texas Department of Criminal Justice. The final version of SB 1727 ultimately continued the agency for four years and the agency is set to undergo the next sunset review process in 2027.

In 2023, policymakers considered legislative proposals would have abolished TJJD and created a new agency under the Health and Human

Services Commission and included a plan to close state secure facilities by September 2030.¹⁹ It is noted that the Texas Department of Criminal Justice is subject to review in advance of the 2025 session.²⁰ To that end, when TJJD is reviewed during the 90th Legislative Session in 2027, it will be critical to ensure the legislature maintains a structurally distinct youth justice agency without altering the system in a way that diminishes its rehabilitative and developmentally appropriate mission.

2027 SUNSET REVIEW

It will be critical to ensure the legislature maintains a structurally distinct youth justice agency without diminishing its rehabilitative and developmentally appropriate mission.

¹⁵ Justice Policy Institute, *The Dangers Of Detention 6* (2006), http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

¹⁶ Sec. 325.015, Government Code.

¹⁷ See S.B. 1630 (84th R.S.) 2015. and S.B. 619 (86th R.S.) 2019 and S.B. 1727 (88th R.S.) 2023.

¹⁸ Id. at note 15.

¹⁹ H.B. 4356, 88th Legis. Reg. Sess. (Tex. 2023).

²⁰ Sec. 492.012, Government Code.

Workgroup Milestones

Framing Youth Voice. From the inception of the workgroup, LSJA determined that it was important to frame the voices of youth at the center of all discussions. To that end, workgroup members were provided with an overview of survey data and feedback from focus groups and direct engagement with nearly 300 youth and emerging adults to solicit responses on authentic experiences and critical needs so that youth justice stakeholders and community-based organizations could identify the areas and levels of support needed to assist justice-involved youth in achieving positive outcomes. Three LSJA reports were highlighted including [Transformative Justice Brief: A Developmental Approach to System-Involved Emerging Adults](#), [Speak-Up! August 2021 – Youth Needs Assessment Report](#) and the soon-to-be-published *Reengaging Justice-Involved Opportunity Youth (JOYs)*. LSJA pointed out data that reflects the critical barriers that many youth and emerging adults face. Links to these reports are incorporated above.

Specifically, data received from survey respondents revealed the following needs: mental health, substance misuse, lack of housing, food, the absence of a supportive social network, and the inadequate training of direct-care justice system staff. Respondents also noted the need for community-based wrap-around support. Real-world comments were shared to contextualize voices and to encourage stakeholders and the community to collaborate to improve the overall outcomes and experiences of system-involved youth.

Reimagining Reform Report. LSJA announced the publication of *Reimagining Reform: Strategies for Sustainable Change in the Texas Youth Justice System*, which provides a comprehensive analysis of the challenges and opportunities for reform in the Texas youth justice system. The report acknowledges the strengths and challenges of the current system and recounts operational failures and reform milestones. It emphasizes the need for comprehensive and collaborative efforts to address systemic issues and highlights the importance



Speak Up! Report: Youth Needs Assessment, LSJA, August 2021.

of prevention, rehabilitation, and community-based alternatives to incarceration within the context of procedural justice.

Legislative Lookback.

To level set the institutional reflection of the workgroup, LSJA provided a Legislative Lookback on the evolution of youth justice legislation since the major rewrite of Title 3 of the Family Code in 1995. The presentation highlighted the linkage between the statutory purposes outlined in Section 51.01, Family Code, and the enactment of laws aimed at addressing system rehabilitative and structural goals. The public purposes of the system were paraphrased:

- 1) provide for safety and protection of the public;
- 2) promote the concept of punishment;
- 3) remove the taint of criminality;
- 4) provide treatment training, and rehabilitation;
- 5) provide for care, protection, and wholesome mental and physical development;
- 6) protect community welfare and control unlawful acts by children;
- 7) achieve these goals in a family environment, separating the child only when necessary;
- 8) child and parent accountability; and
- 9) simple legal procedures to ensure constitutional rights.²¹

In addition, the lookback offered an overview of the importance of the efforts of practitioner workgroups, task forces, and committee work on interim charges that have resulted in specific legislative amendments to Title 3 of the Family Code and related laws enacted over the years.

Concept Groups. After the orientation and organizational meeting in June 2024, three topical subgroups were formed (i.e., concept groups) to continue assignments and review

information between meetings. Each concept group was asked to identify a broad vision and preliminary framework for each topic. The ideas and concepts developed during the initial interactive brainstorming session were narrowed and a response mapping methodology was used to prioritize and focus on the remaining “wish list” items. Concept elimination, narrowing, and development continued throughout the entirety of the process.

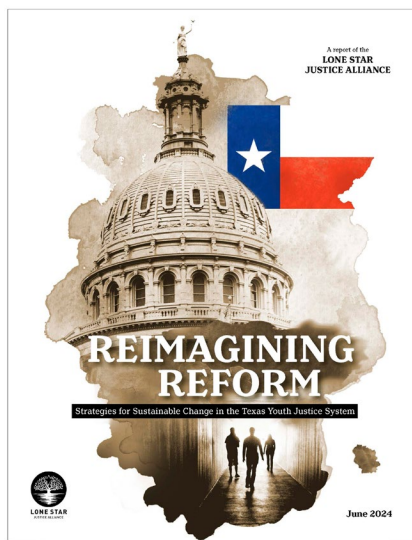
The final findings and

recommendations will be routed to a proposal drafting team selected from the workgroup.

Throughout the month of August, the concept groups held weekly work sessions. A proposal drafting team will begin convening on or after the September 13, 2024, meeting.

Information Gathering and Literature Review.

Throughout the process, members of the workgroup were provided with resource materials, bibliographic sources and links containing relevant reports, statutory provisions, evidence-based best practices, statistical data, and research studies. While not exhaustive of all of the statutes and resource material made available to the workgroup, a useful listing of reports and related literature is available in the Appendices.



²¹ Section 51.01, Family Code.

Workgroup Insights

The workgroup gained valuable insights into the areas of reform by laying the groundwork for interactive discussions to assess the core values of workgroup members. In addition, the information gathering process began by reviewing professional research articles, statistical data, and Texas and out-of-state legislation. Additional insight was gained through information shared by expert panels as well as feedback loops with youth, youth peer advisors, and community organizations. The recommendations of the workgroup were informed through this process and helped to identify best practices and critical gaps in the youth justice system in Texas and throughout the country.

Core Values. The workgroup members engaged in an interactive discussion centering on three basic questions to assess the core values that would guide the strategies and direction for the workgroup. The following summary captures the values expressed by participants. When asked, “What do we believe about Texas youth and emerging adults?” workgroup participants were optimistic about the characteristics of Texas youth, describing them as strong, resilient, worthy of kindness, and in need of individualized care.

The workgroup also had clear ideas about the legacy of youth justice stakeholders when asked ‘What participants wanted to be remembered for their work in youth justice?’ stating that they wanted to uplift and support youth in times of need and be remembered for creating well-resourced systems that affirm each person’s humanity and recognize the ability of youth to change. The final question examined ‘What does justice look like?’ The group had thoughtful descriptive responses about the fair, equitable, transparent, therapeutic, community-driven, compassionate



nature of justice. The Reimagining Reform Workgroup has conducted a review of youth justice initiatives and legislation enacted in other states to identify policies and practices that have proven effective. Best practices from other states offer innovative solutions and promote strategies that can be tailored to meet the unique system needs in Texas. In addition, comparative data analysis revealed potential system gaps and assisted the workgroup in developing a more informed and effective strategy. The review of reform initiatives in other states also provided useful information on cost-effective practices that can be adapted to meet Texas-specific needs.

State Statutes. The workgroup was provided with statutory provisions to examine legislative

reform in the five states that were featured as part of the comparative analysis of Texas, Missouri, Maine, Kentucky, and Utah. The five states were chosen on the basis of the diversionary reforms that have been enacted and the fact that each state's population was located near one or more major metropolitan areas surrounded by rural counties much like Texas. See the Data Walk documents in the Appendix. The legislation in each of the five states focused on different diversionary intervention strategies. For example, Texas has enacted statutory provisions that enable some form of diversion scattered throughout Title 3 of the Family Code. These provisions, however, need a logical structural framework. Under current law, Section 53.03 – Deferred Prosecution is

a form of juvenile diversion that gives eligible youth the opportunity to avoid formal adjudication by complying with court conditions and offers case dismissal upon successful completion. Maine²² and Missouri²³ offer a similar process called “informal adjustment.” Kentucky’s juvenile diversion program is designed for first-time or low-risk offenders. Under the Kentucky statute,²⁴ eligible juveniles can enter into a diversion agreement much like Texas. Other states such as New Hampshire require the arresting agency or prosecutor to screen the youth for participation in diversion prior to filing a petition. If filed, the petition must state affirmatively why diversion was not an appropriate disposition.²⁵

In Utah, the use of non-judicial adjustments increased to almost 64% and success rates increased to 94%. The data also showed an increase in the number of minority youth entering a non-judicial adjustment.²⁶ Most notably, the non-judicial adjustments statute limited the ability of the courts to issue arrest warrants for youth for an infraction or status offense. It also allowed referrals for less serious misdemeanors to be made directly to the juvenile court or an alternative school-based intervention instead of

law enforcement. The Utah statute also prohibited referrals to law enforcement or juvenile court for less severe misdemeanors, infractions, and status offenses that occur on school grounds. Utah court referrals have decreased 35% since the law went into effect and incarcerations are down by 50% resulting in the closure of a state youth facility.²⁷ Juvenile justice reform efforts have yielded important returns. According to the data, millions in cost savings have been reallocated for use in programs and services to help at-risk youth.

COST SAVINGS IN UTAH

The increased use of diversion yielded a cost savings that has been reallocated to community-based programs and services.

Data-Driven Reforms. Statistical information as well as comparative data analysis helped the workgroup gain a comprehensive understanding of how different states have utilized legislative reforms to implement diversion programs and impact outcomes. The TJJD State of Juvenile Probation Activity Report indicates

that in the calendar year 2023, there were 40,453 youth referred to juvenile probation departments. Nearly 68.5% had no prior referrals and 31.5 % had at least one prior referral.²⁸ Although the Office of Court Administration reported that almost half of juvenile adjudications resulted in a finding of delinquent conduct or conduct indicating a need for supervision

²² Maine Revised Statutes Title 15, Sec. 3301 and 3304.

²³ Missouri Revised Statutes, Section 211.081.

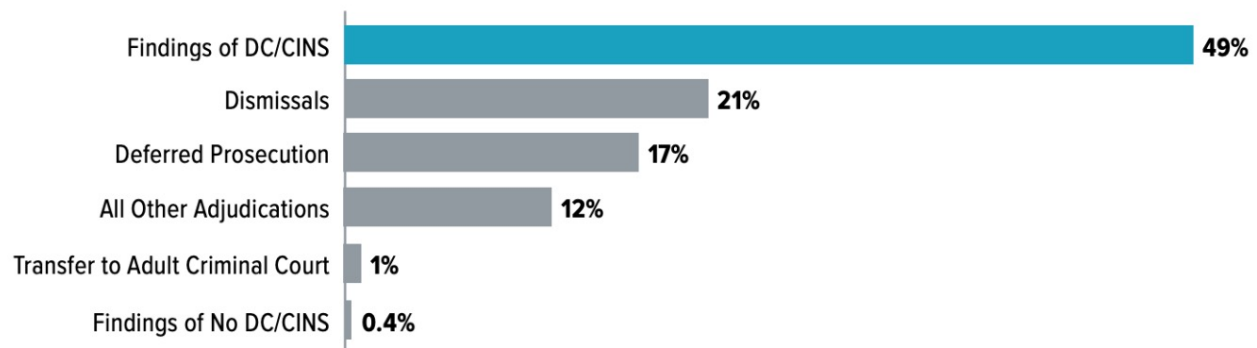
²⁴ Kentucky Revised Statutes, Section 610.030.

²⁵ New Hampshire Revised Statute Annotated, Section 169B.

²⁶ Utah Commission on Criminal and Juvenile Justice, 2023 Juvenile Reform Report, FY 2023.

²⁷ Winslow, B. (Sept. 19, 2021). *Juvenile Justice Reforms Allow for Demolition of Youth Lockup*. Associated Press. <https://apnews.com/article/laws-legislature-utah-d543e9f2e0f61ac7c55a2414b7d28409> (Accessed September 3, 2024).

²⁸ *The State of Juvenile Probation Activity in Texas: Statistical and Other Data on the Juvenile Justice System in Texas, CY 2023* TEXAS JUVENILE JUSTICE DEPARTMENT (Aug. 2024) <https://www.tjjd.texas.gov/wp-content/uploads/2024/08/The-State-of-Juvenile-Probation-Activity-in-Texas-Calendar-Year-2023.pdf> (Accessed September 3, 2024).



Office of Court Administration Annual Statistical Report for the Texas Judiciary, FY 2022

(CINS), it is important to note that a significant percentage of cases were dismissed (21%) or placed on deferred prosecution (17%) and all other adjudications (12%).²⁹ The most serious dispositional options such as transfer to adult court (1%) accounted for a small fraction of cases. Thus, giving credence to the notion that many youth with low level offenses who are under the jurisdiction of the juvenile court may very well be eligible for pre-arrest, intake, detention, or dispositional diversionary alternative options.

During the convening of the Reimagining Reform Workgroup in Dallas on July 26, 2024, meeting participants were introduced to the concept of a data walk. A Data Walk is an interactive method used to engage community members, stakeholders, and policymakers in understanding and analyzing data. In the interactive exercise, participants physically moved through the meeting space where statistical data was displayed visually on posters. Stations were set up to allow participants to engage in small groups, discuss implications, and provide feedback or ideas. Participants were also asked

to examine reform outcomes in five states that have implemented extensive youth justice reforms. Specifically, Texas data was viewed comparatively to outcomes in Missouri, Maine, Utah, and Kentucky. Comparing each state to Texas allowed participants to think critically about law-based, geographic, and demographic differences, and whether the reforms and innovations could be implemented or modified to meet the unique challenges in Texas. Posters contained visual representations of relevant state youth justice statistics such as the rate and cost of detention, demographic breakdowns, recidivism rates, and overall impact of the reforms. Each station was hosted by a storyteller who was responsible for describing the data and asking participants questions to guide discussions on the comparative data in each state.

Participants shared insights and engaged in determining the meaning for the data for Texas and their local communities. By moving through the data in a structured ways, participants also noted the impact of policy changes on

²⁹ *Annual Statistical Report for the Texas Judiciary, FY 2022*, OFFICE OF COURT ADMINISTRATION <https://www.txcourts.gov/media/1456803/ar-statistical-fy-22-final.pdf> (2023). (Accessed September 3, 2024).

disparities with the state systems. After viewing and discussing the data, participants were invited to share their thoughts on potential policy changes, program improvements, or other interventions by placing comments and feedback on interactive boards. Overall, the Data Walk provided a dynamic, participatory way to engage participants and stakeholders in understanding the potential impact of innovative statewide reforms. See the Appendix for Data Walk Documents.

Delving into Resource Information. The Reimagining Reform workgroup also reviewed research regarding effective mental health treatment approaches, diversion programs, prevention and interventions, and related methodologies developed by professionals, organizations, and academic associations. Much of the interactive discussions for the concept group on diversion issues centered on the need to utilize asset mapping to identify existing resources, establish a sustainable community-based infrastructure, and leverage investment to build local capacity through a combination of state funding and other public-private partnerships. The workgroup also focused on ways to eliminate procurement barriers that often complicate or lengthen program or service funding and implementation. Data suggests that communities with a sound infrastructure are more effective in fostering positive behavioral changes and ensuring public safety, compared to traditional juvenile justice processes.³⁰ Asset mapping of youth-centered programs and services will assist in building a robust community-based infrastructure, provide alternatives to incarceration and improve access

to programs and services closer to home. For a helpful example of the SIM Mapping process, see the Justice Commission of Mental Health website at www.texasjcmh.gov.

Overall, the literature review by the workgroup revealed noteworthy resource information on national trends in diversion, conditions of confinement, and community-based interventions. The benefits of reviewing reform initiatives in other states helped to create benchmarks for performance based on observed outcomes in other states and broadened the workgroup's understanding of effective practices and policy innovation over the long term.

Interactive Policy Discussions. The workgroup engaged in a series of interactive policy discussions to assist in articulating broad legal and policy goals for achieving its vision of reform. During each discussion, participants provided input on the legal, administrative, operational, fiscal, and collaborative methods to implement practices and policies. During the orientation and organizational meeting, participants were asked to describe a wish list of overall priorities, strategies for achieving stated goals, and concepts for successful implementation and outcomes. The wish list formed the basis for concept development.

Panel of Experts. One essential aspect of the workgroup process included the opportunity to invite testimony and consult with national experts to share deep systems knowledge, laws, and best practices based on the latest research and evidence. Most importantly, the panel represented diverse viewpoints to help shape

³⁰ Office of Juvenile Justice and Delinquency Prevention, *OJJDP Priorities*, <https://ojjdp.ojp.gov/about/ojjdp-priorities>.

policy and guide the discussion on proven youth justice strategies and interventions. During the in-person meeting in Dallas, veteran Attorney Mark Soler provided a keynote address on lessons learned from youth justice reform campaigns in other states from his vantage point of working in the field for more than 40 years.

The keynote focused on diversions, conditions of confinement, Juvenile Detention Alternative Initiatives (JDAI), the MacArthur Foundation's Model for Change, and his work in the state of Maine. After the keynote address, there were three moderated panels.

LSJA moderated three panels featuring national policy experts, youth justice innovators, and organizational leadership. Panel 1 focused on Public, Private, & Philanthropic Partnerships featuring Steve Bishop of the Annie E. Casey Foundation, Hannah Gourgey, Aspen Institute, and Ashley McIver of the Communities Foundation of Texas. While public investment in youth justice is essential, these partnerships are most effectively used to promote innovation and build capacity to address critical needs. Some states have enacted legislation to codify the creation of public-private partnerships, while others have enacted partnerships through executive order.³¹

Panel 2 highlighted the work of Henry Gonzales, Director of the Harris County Juvenile Probation

Department and Charles Rotramel of Houston reVision. Chief Gonzales shared how the Burnett-Bayland Rehabilitation Center in Houston's Gulfton area became The Opportunity Center, a community-based alternative to incarceration. Program and facility partners

at The Opportunity Center include nonprofit WorkTexas, reVision, the Boys and Girls Clubs of Greater Houston, and the Houston Food Bank. The project was funded through the Annie E. Casey Foundation and the Harris County Youth Justice Reinvestment Fund. Workgroup members also screened a video produced by the Annie E.

Casey Foundation showcasing the innovations at the Harris County Opportunity Center.

The third panel was entitled Successful Statewide Innovations: Lessons from the Field. This panel provided insight on the states that have enacted reforms to reduce reliance on locked detention by diverting more youth into community-based programs that hold them accountable at a lower cost with better outcomes. The panel was optimistic because data suggests that the legislative reforms are beginning to reshape traditional notions of youth justice practice and policy. The speakers for the final panel included Mark Soler, formerly of the Youth Law Center, Josh Rovner, the Sentencing Project, and Christian Gilbert with the Council of State Governments.

While public investment in youth justice is essential, public-private partnerships are most effective when used to promote innovation and build capacity to address critical needs.

³¹ National Governor's Association Center for Best Practices, *Partnering with the Private and Philanthropic Sectors A Governor's Guide to Investing in Early Childhood*, <https://files.eric.ed.gov/fulltext/ED504089.pdf>.

Speakers

Mark Soler is a retired Executive Director of the Center for Children’s Law and Policy (CCLP), a public interest law and policy organization in Washington, D.C.

Ashley McIver is Senior Community Philanthropy Officer for Communities Foundation of Texas. Ashley focuses on education and workforce development.

Steve Bishop is Associate Director for Probation and System Transformation with the Annie E. Casey Foundation and part of the leadership team of its Juvenile Justice Strategy Group and Center for Systems Innovation.

Andrew Moore is Director, Youth and Young Adult Connections, Institute for Youth, Education and Families (IYEF) a foundation-funded “action tank” that helps municipal leaders implement practical solutions to ensure that all children, youth, and families thrive.

Hannah Gourgey is a Senior Fellow at the Aspen Institute’s Opportunity Youth Forum. Hannah has over 20 years of experience in Texas Education and Workforce development focused on systems change through community solutions and collective impact.

Chief Henry Gonzales is Executive Director/Chief Juvenile Probation Officer for Harris County, Texas. He works closely with the Annie E. Casey Foundation in their Deep End and Probation Transformation initiatives.

Charles Rotramel is the Chief Executive Officer of Houston: reVision. Charles founded Youth Advocates, Inc., a Houston-based nonprofit that has built a strong youth community around hip-hop culture for over 15 years.

Josh Rovner joined The Sentencing Project in 2014 and has been Director of Youth Justice since 2022. His work aims to limit the number of children and adolescents involved in the juvenile and adult justice systems by closing pathways to adult courts and supporting alternatives to formal court processing and to incarceration.

Christina Gilbert works to improve outcomes for youth involved with the justice system, providing technical assistance across the country. Prior to joining the CSG Justice Center, Christina worked at the Gault Center (formerly the National Juvenile Defender Center), where she built the capacity and quality of youth defense systems and representation.



Balancing Public Safety. Public safety is paramount as states across the country shift to a diversionary model designed to redirect youth from formal judicial proceedings, expand detention alternatives, and implement community-based rehabilitative measures. Balancing best practices and public safety is essential for the successful implementation of the strategies for youth justice reform. Specifically, rigorous assessment, structured supervision, community involvement, and data-driven decisions are critical in maintaining public safety. Together, these factors create a solid framework for supporting the diversion-focused rehabilitation of youth while safeguarding the community. Research

suggests the following elements are essential to maintaining public safety:

■ **Assessment and Screening:** Effective diversion programs incorporate rigorous assessment and screening processes to make individualized diversion decisions. This step is crucial in determining the level of risk each individual poses to public safety. Those who are deemed to pose a minimal risk are diverted, ensuring that the community remains protected.

■ **Structured and Supervised Interventions:** Diversion programs often include structured schedules and close supervision to monitor

progress. These structured environments offer a controlled setting where youth can participate in rehabilitative activities that contribute to positive development.

■ **Community Involvement:** Engaging the community in diversion programs boosts accountability and enhances public safety. Community members can serve as mentors, sponsors, and role models, providing a support system that discourages re-offense. Public involvement helps create a transparent system where the safety of the community is a shared responsibility.

■ **Data-Driven Decisions:** Continuous monitoring and evaluation of diversion programs help ensure they are meeting safety standards. Data-driven decisions allow for real-time adjustments to interventions, ensuring that any emerging risks to public safety are promptly addressed. This constant review mechanism ensures that the programs remain effective and secure.

Reforms that Promote Rehabilitation. Research consistently shows that the environment in which youth are confined can either aid in their rehabilitation or exacerbate the problems that led them to the justice system in the first place. Overcrowding, inadequate access to education, mental health services, and exposure to violence are just some of the issues that can plague youth facilities. Youth justice practitioners must advocate for and implement reforms that ensure secure facilities are conducive

to rehabilitation and offer a safe and supportive environment that addresses the unique developmental needs of young people. In the midst of growing concerns regarding the conditions of confinement in state secure juvenile facilities, these issues have underscored the need for Texans to accelerate its efforts to prevent, divert, and redirect youth from system involvement at every intercept point. The well-being, safety, and rehabilitation of justice-involved youth are of paramount importance.

YOUTH IN CONFINEMENT

are more likely to reoffend and struggle with mental health.

Youth justice practitioners, policymakers, and members of the community have a critical role in addressing the urgent need for reform in the areas of diversion and conditions of confinement for youth. Diversion, as a strategy, aims to steer youth away from formal judicial proceedings, reducing their exposure to the potentially harmful effects of incarceration.³² Given the profound impact that early interactions with the justice system can have on a young person's future, the work of youth justice professionals in crafting and implementing effective diversion programs is essential. Community-based programs and interventions need to be designed not only to prevent recidivism but also to support rehabilitation and reintegration into society.

Youth who are not diverted from the justice system and who endure poor conditions of confinement are more likely to re-offend, struggle with mental health issues, and face significant challenges in achieving stable and productive lives as adults. This creates a cycle of recidi-

³² Robert Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*. THE SENTENCING PROJECT (March 2024) <https://www.sentencingproject.org/app/uploads/2024/03/Protect-and-Redirect-Americas-Growing-Movement-to-Divert-Youth-Out-of-the-Justice-System.pdf>.

vism that not only affects the individual but also burdens the broader community and society at large. Youth justice practitioners are in a pivotal position to break this cycle by implementing evidence-based interventions that prioritize the well-being and the future prospects of the state's youth.

The urgency of this work is underscored by the long-term consequences of failing to address systemic cultural and operational problems. Over the past two decades, the overarching themes contained in legislative interim study reports, workgroups, and other efforts to examine these issues clearly lay out solutions centered around diversion, decriminalization, deinstitutionalization, and due process.³³ While the factors that contribute to youth delinquency are complex, incremental reform of the systems designed to reduce the long-term collateral consequences of justice-involvement have emerged in states that are willing to codify and implement evidence-based, developmentally appropriate alternatives to detention and make the necessary public investment in programs that emphasize diversion, community-based interventions, programs, and services.

In the states where evidence-based reforms have been enacted, lawmakers and policymakers are increasingly recognizing that traditional incarceration and punitive measures often

exacerbate the challenges faced by justice-involved youth. Consequently, state lawmakers have turned to interventions that align with the developmental needs of youth. Furthermore, the examination of the social determinants of health provides a comprehensive understanding of the interconnected factors such as family dynamics, education, peer relationships, and socioeconomic conditions.

NECESSARY PUBLIC INVESTMENT

The necessary public investment in these reforms underscores the importance of adequately funding alternative programs.

The necessary public investment in these reforms underscores the importance of adequately funding alternative programs. These programs often include diversion initiatives that redirect youth from the judicial system to intervention services, thus helping to prevent recidivism. Community-based interventions are also crucial as they provide support within the youth's own environment, involving local organizations and families to enhance social support systems and encourage positive behaviors.

Measures that Undermine Rehabilitation.

Despite the significant systemic operational issues identified within the Texas youth justice system, many practitioners contend that policymakers should avoid the most drastic and extreme measures. Destabilizing leadership changes or structural dismantling combined with a wholesale transfer of certain committed youth to adult prisons would undermine rehabilitative system purposes. For instance, during the 88th

³³Juvenile Justice and Delinquency Prevention Act, Pub. L. No. 93-415, 88 Stat. The JJDP Act, was reauthorized as the Juvenile Justice Reform Act in 2018. The four Ds refer to: 1. Decriminalization: taking status offenders out from delinquency definitions and constraining court authority with these youths 2. Diversion from the court of lesser offenders, including status offenders 3. Due process implementations at all processing stages 4. Deinstitutionalization of status offenders and delinquents in concert with some expansion of community based institutional alternative programs. Also see, O'Donnell, B. (2015). *Juvenile Justice Delinquency Prevention Act of 1874* [PowerPoint presentation]. American Bar Association. <https://www.wrc.udel.edu/wp-content/uploads/2022/05/UAPP-225-S22-Juvenile-Justice-Bridget-ODonnell.pdf>.

Texas Juvenile Justice Department Determinate Sentenced Youth Discharged to TDCJ or Adult Parole by Month						
Discharges	2022		2023		2024	
	TDCJ	Adult Parole	TDCJ	Adult Parole	TDCJ	Adult Parole
January	3	6	5	8	5	8
February	0	7	6	3	12	6
March	3	4	7	6	2	9
April	3	4	5	6	5	4
May	1	3	4	5		
June	3	5	5	2		
July	3	1	11	4		
August	7	4	7	5		
September	3	7	10	2		
October	6	6	5	4		
November	4	3	9	5		
December	4	1	9	3		
Total	40	51	83	53	24	27

*Time frame excludes May - December of 2024

Public information request submitted by the Lone Star Justice Alliance on May 21, 2024, Texas Juvenile Justice Department, Youth Discharged to TDCJ or Adult Parole by Month.³⁷

Legislative Session, law changes³⁴ modified the legal and administrative requirements to transfer determinate-sentence youth to the Texas Department of Criminal Justice (TDCJ) as a means of addressing in-custody offenses or incomplete sentences.³⁵ This not only contradicts developmentally appropriate evidence-based practices, but data also suggests that the rehabilitative

outcomes for this population of youth are unsuccessful.³⁶

It is worth noting that the practice of integrating youth after age 18 into the general TDCJ adult population³⁸ also heightens the potential for severe psychological damage and unsuccessful rehabilitative outcomes. Adult prisons often lack

³⁴ S.B. 1727, 88th Legis. Reg. Sess. (Tex. 2023).

³⁵ Sect. 244.014, Human Resources Code, as amended in the 88th R.S. (2023).

³⁶ Mendel, Richard. *Why Incarceration Fails: An Updated View of the Evidence*, The Sentencing Project (2023), <https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf>.

³⁷ Public information request submitted by the Lone Star Justice Alliance on May 21, 2024, Texas Juvenile Justice Department, Youth Discharged to TDCJ or Adult Parole by Month.

³⁸ Texas Department of Criminal Justice, Rehabilitative Programs Division: Champions Youth Program, <https://www.tdcj.texas.gov/divisions/rpd/courage.html> (Accessed August 30, 2024).



age-appropriate mental health services, leading to increased rates of depression, anxiety, and even suicide³⁹ among these youth. The adult criminal environment is often violent and predatory. Youth placed in adult facilities are at a greater risk of physical and sexual abuse⁴⁰ and are more likely to re-offend upon release compared to those kept within the youth justice system. This results in a cycle of re-incarceration and makes successful reinte-

gration difficult. From a policy standpoint, the Reimagining Reform Workgroup concluded that lawmakers in Texas should instead investigate successful national models designed to improve conditions of confinement for serious youth with high risks and needs, divert youth to rehabilitative settings that provide intensive treatment, programming, services, and support to address the root causes of delinquent and criminal behavior.

³⁹ Armstrong, Lisa. *Texas imprisoned Joshua Keith Beasley Jr. when he was 11, purportedly for his own good. Five years later, he returned home in a casket.* Texas Tribune, April 28, 2023, <https://www.texastribune.org/2023/04/28/texas-juvenile-justice-suicide-joshua-keith-beasley/> (Accessed August 30, 2024).

⁴⁰ McGaughy, Lauren, *Republican lawmaker wants state to investigate conditions for Texas teens in adult prison*, The Dallas Morning News (Mar. 23, 2018). <https://www.dallasnews.com/news/crime/2018/03/23/republican-lawmaker-wants-state-to-investigate-conditions-for-texas-teens-in-adult-prison/> (Accessed August 31, 2024).

Summary of Findings and Recommendations

This statement is intended to assist policymakers and officials responsible for the oversight and operations of the juvenile justice system in understanding the rationale for the findings and recommendations developed by the Reimagining Reform Workgroup.

- The State of Texas has a duty to ensure the safety and protection of all youth in juvenile justice facilities and programs.
- Statutory amendments to Title 3 of the Family Code and related laws are necessary to make clarifying changes to improve juvenile court procedures and establish a statutory framework for a continuum of care to ensure youth are kept shallow in the system.
- Prior legislation to accomplish certain system goals and objectives merit passage and should be reintroduced during the 89th Session.
- Programmatic, service, and placement alternatives to detention should be prioritized based on developmentally appropriate, data-driven, evidence-based practices and empirical research.
- Funding levels should be increased to expand the statewide, regional, and community-based infrastructure to support intervention, prevention, diversion, and redirection of youth as a system priority.
- Increase the state's investment in a community infrastructure that supports preventative measures and early intervention strategies to reduce the long-term costs associated with mental health care.
- Deepen financial support for developing specialized mental health facilities and integrating mental health services into a broader geographical network to improve the accessibility and quality of mental treatment and services.
- Further study is necessary to examine and address matters of legal or administrative importance relating to the concepts and issues reviewed by this workgroup.

Diversion and Deflection

STATUTORY CHANGES

Diversion-Specific Subchapter

Issue Statement: Title 3 of the Family Code contains an assortment of disconnected provisions that authorize procedural mechanisms to divert youth from formal court proceedings, detention, and out-of-home dispositional placements. Relocation of the statutory provisions that authorize diversion to a designated subchapter would provide an accessible framework, improve clarity, ensure consistent application of the law, and facilitate transparent decision-making by courts and stakeholders.

Recommendation: Amend Title 3 of the Family Code to transfer statutory authority for diversions to a new subchapter. Create a cohesive framework in the new subchapter that interfaces with code provisions outlining recommended dispositions. Include amendments on age and offense criteria for diversion eligibility. Include a statutory provision that contains recommended components of a model diversion program. Prohibit prosecution and/or detention for certain (or all status offenses).

Diversion of Children

Issue Statement: Under current law, the Family Code provides a procedural mechanism to prioritize the diversion of children under the age of 12 in lieu of referral to a prosecutor. Intake officials are also required during the preliminary investigation process to refer, in certain circumstances, a child under 12 to the local community resources coordination group (CRCG) or other community service provider. These 2017 legislative changes were enacted to address problematic delinquency behavior of the youngest children under juvenile court jurisdiction as an alternative to prosecution. Related provisions require the county juvenile board to impose other restrictions on the detention of this population of children. Studies have shown that early involvement and prosecution in the juvenile justice system can have significant psychological impacts that include trauma, stigmatization, and long-term mental health issues. Lawmakers should consider limitations on the prosecution of children under age 13 rather than age 12 as a necessary step towards recognizing the unique developmental needs of the state's youngest children.

Recommendation: Amend Sections 53.01 and 53.011 of the Family Code to prioritize the diversion of children under the age of 13 rather than age 12.

COMMUNITY-BASED INFRASTRUCTURE AND FUNDING

Identify Gaps In The Continuum Of Care And Provide Incentive Funding To Expand Services

Issue Statement: Asset mapping is a method to develop a robust community-based infrastructure to identify existing resources and structures within the community. This process will aid in identifying alternatives and leveraging existing resources. These resources can be redirected towards programs to support youth with education, mental health services, and family support systems, among other interventions. Data suggests that communities with a sound community infrastructure are more effective in fostering positive behavioral changes and ensuring public safety, compared to traditional juvenile justice processes. Asset mapping of youth-centered programs and services will assist in building a robust community-based infrastructure, provide alternatives to incarceration and improve access to programs and services closer to home.

Recommendation:

■ **Asset Mapping.** Consider legislation or an appropriations rider that would require community and state-level collaboration to utilize asset mapping to identify community-based programs and services (statewide, regional, and local); establish a network of support; determine viability and gaps in existing resources; and identify potential partnerships and linkages between a wide range of stakeholders, organizations, and entities.

■ **Community Reinvestment Fund.** Amend the Human Resources Code or related provisions to establish a funding stream to address identified gaps in the community-based continuum of care. Authorize the establishment of a community reinvestment fund or other non-criminal justice incentive fund to invest in deflection, diversion, and alternatives to juvenile detention and promote the provision of services such as mentoring, behavioral, and mental health services, financial or housing assistance, job training, educational services, and after-school activities.

■ **Intervention and Prevention Funding.** Earmark funding for community-based intervention and prevention programs for youth prior to system involvement as a primary tool for deflection. Identify the appropriate funding provider to ensure funds are protected and prioritized for this purpose. Appropriate funds to be used for programming and services that incorporate trauma-informed care, adolescent brain development, and evidence-based practices.

■ **Schools Referrals to Community-Based Programs.** Leverage funding to encourage schools and related law enforcement agencies to prioritize the diversion of youth to community-based programs rather than referrals to law enforcement and juvenile courts for certain offenses.

Capacity Building for Best Practices

Issue Statement: As we bring new approaches to diversion and deflection through community-based infrastructure and services, agencies and providers will require technical assistance and capacity building in these promising and best practices for our children and youth involved in these programs.

Recommendation:

- **Wraparound Initiatives.** Explore the use of Texas Systems of Care Wraparound Initiatives and Yes Waiver for dual system youth, at-risk, and youth under juvenile court jurisdiction.

- **Youth Diversion Centers.** Examine the effectiveness of youth diversion center models in Texas and nationwide to create best practices that provide short and long-term community-based rehabilitation services, crisis intervention, prevention, counseling, and behavioral and mental health services.

- **Community-Based Intermediary.** Assist local jurisdictions in removing barriers and complications associated with procurement processes. One best practice is to identify an organization that can act as intermediary between government agencies and community-based organizations. This intermediary would be responsible for simplifying and streamlining the application process.

- **Model Guidelines and Performance Metrics.** Amend statutes to incorporate model guidelines for community-based programs and require standard performance metrics for the evaluation of community-based programs. The standards should be flexible to accommodate the unique needs and resources of local communities.

- **Shared Resources.** Consider a regional approach to shared community-based resources.

- **Restorative Approaches.** Consider restorative approaches or practices in the deferment process.

Schools and Diversion

Issue Statement: To help ensure that diversion and deflection processes work effectively across systems, state agencies supporting children and youth must evaluate the efficacy of their referral systems and identify and implement procedures and resources that reduce, redirect, and rehabilitate in collaboration with community-based support where appropriate and needed. Equip teachers with tools to assist students in managing anxiety such as the program operated by the non-profit Upstream.

Recommendation: Conduct a joint study with Texas Education Agency and other relevant agencies to explore diversion opportunities and to identify barriers that prevent schools from referring youth to community-based programs instead of law enforcement and juvenile court. Explore potential funding sources. For example, Title 1 Part D monies are traditionally recognized as a fund that can be accessed for prevention and delinquency. In addition, the workgroup recommends the following:

■ **Redirection of School Referrals.** Reduce and/or redirect school referrals for student code of conduct violations, status offenses, and low-level offenses committed on school grounds by creating individualized plans that examine root causes for referrals and assess which set of services need to be marshalled for each student.

■ **DAEP/JJAEP Re-Offense Rates.** Gather data on District Alternative Education Programs (DAEP) and Juvenile Justice Alternative Programs (JJAEPs) re-offense rates and/or prevalence of subsequent court involvement.

Procedural Justice

OFFENSES

Delinquent Conduct Vaping

Issue Statement: Texas schools have increasingly adopted strict no-vaping policies. This includes prohibitions on school grounds but also educational programs to inform students about the dangers of vaping. In 2019, Texas raised the legal age to purchase tobacco products, including e-cigarettes and devices from 18 to 21 years old. In 2023, laws were enacted regarding vaping and the offense of vaping (nicotine/THC) by minors under age 21 (nicotine e-cigarette on a school campus). Ordinarily, minors caught in possession of vaping products can face fines, community service, and mandatory participation in a tobacco awareness program. In 2023, HB 114 enacted provisions to trigger mandatory expulsion of a student from school and a referral to DAEP/JJAEP for anyone caught using a vape pen. As a consequence, Section 53.01, FC requires a referral of any felony vaping conduct to the prosecutor. This has created an unintended consequence of directing youth into juvenile court proceedings and deeper into the system. Local juvenile probation departments contend that referrals for Possession of Controlled Substance, PG2<1gm (vape pen) should be discretionary. This would promote efficiencies in the judicial process for youth who are deemed low-risk, low-needs who can be supervised and provided services through diversion (deferred prosecution) while adequately promoting community-protection. Within the context of delinquency proceedings, Section 481.103, Health and Safety Code makes vaping of tetrahydrocannabinol (THC) (a Penalty 2 Group Substance) in any amount a felony even when the same amount of the substance in solid form would be a misdemeanor.

Recommendation: Analyze data to examine the impact of legislative changes to require mandatory referrals of vape pens and whether this has deepened youth justice system involvement. Consider reforms to return discretion to juvenile court judges, intake officials, and school administrators based on the individual circumstances of each case.

Juveniles and Terroristic Threat

Issue Statement: The offense of terroristic threat captures everything from school yard “trash talk” on one end, to a terrorist threatening to bring down an airplane on the other. When a child makes a terroristic threat, such conduct not only presents significant legal consequences to the child making the threat, but the conduct also creates a danger to others and often disrupts the learning environment in our schools. Under Penal Code Section 22.07, a child engages in conduct containing the elements of the offense of terroristic threat if they commit any offense involving violence to any person or property with intent to cause a reaction of any type to the threat. This offense encompasses a range of verbal threats and situational conduct that may place any person in fear of imminent serious bodily injury. As such, our schools, families, law enforcement agencies, juvenile justice agencies, courts, communities, and other stakeholders must develop strategies related to childhood terroristic threats that focus on prevention, timely identification, and appropriate response protocols that maintain community and school safety while balancing appropriate discipline with rehabilitation. All stakeholders must work together to understand the complexity of this issue and find viable solutions to mitigate the occurrence of terroristic threats made by children and ensure the safety of students, educators, and the community. Most importantly, the stakeholders must identify and share important insights into the influences and triggers of such conduct, as well as develop appropriate case evaluation and rehabilitation frameworks that support the implementation of effective and appropriate prevention and intervention measures.

Recommendation: Authorize a multi-disciplinary school safety study between the Texas Education Agency, law enforcement agencies, juvenile justice agencies, courts, communities, impacted families, and other stakeholders to address the offense of terroristic threat and formulate comprehensive policy recommendations to guide the legislature, our schools, law enforcement agencies, juvenile justice agencies, courts, families, and community members in identifying responses needed to prevent childhood terroristic threats. The study should include data analysis and evaluation of terroristic threat incident reports and response practices at the school, law enforcement, and court levels; a comprehensive review of all existing policies and laws related to terroristic threat as it impacts our children and schools; and give consideration to reclassifying the offense of terroristic threat into a group of separate offenses that are narrowly defined by conduct type in order to better reflect the severity of the conduct charged and to reduce collateral consequences arising from grouping a broad range of conduct under one offense classification.

Special Commitment Findings for Violations of Probations/Revocations

Issue Statement: In 2015, the legislature required the juvenile court to enter special commitment findings to commit a youth adjudicated for an indeterminate sentence to the Texas Juvenile Justice Department (TJJD). It should be noted that nearly 52% of the current commitments to TJJD originate as a probation violation or revocation. Currently, special commitment findings are not required at the conclusion of a modification hearing of a probated indeterminate sentence to TJJD. The committing court should be required to establish the same findings relating to the assessed needs of the child and the available resources in the community as with all other felony adjudications committed to TJJD. These findings equalize the standards for decision making for youth adjudicated for a felony or those modified for a violation of felony probation.

Recommendation: Section 54.05, Motion to Modify Disposition should be amended to authorize the juvenile court to make special commitment findings for violations of a lawful order of the juvenile court (i.e., probation violations, revocations) that would result in a commitment to TJJD. Special commitment findings would still not be required for modifications of a disposition based on a habitual felony or determinate sentence offense.

TJJD Release and Transfer Procedures

Issue Statement: SB 1727 enacted during the 88th Session, made amendments regarding referrals of a determinate sentenced youth to the committing court for approval of transfer to the Texas Department of Criminal Justice after conviction or adjudication of a felony offense while in TJJD custody.

Recommendation: Examine the implementation of the relevant provisions of SB 1727 regarding referrals of a determinate sentenced youth to the committing court for approval of transfer to TDCJ after conviction or adjudication of a felony offense committed in TJJD custody. Obtain data to determine the impact of the implementation of SB 1727. Consider the automatic appointment of counsel at the time of commitment to TJJD, including release and transfer proceedings.

JUVENILE RECORDS AND DISCOVERY

Discovery and Article 39.14, Code of Criminal Procedure

Issue Statement: The Michael Morton Act, SB 1611⁴¹ was enacted in 2013 as Article 39.14 of the Code of Criminal Procedure. It requires the State to disclose any exculpatory, impeachment, or mitigating

⁴¹ SB 1611, 83rd Legis. Reg. Sess. (Tex. 2013).

document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of a defendant or would tend to reduce the punishment. The discovery provisions of the Act apply to juvenile proceedings in accordance with Section 51.17(b) of the Family Code. The Michael Morton Act incorporates general language for an exception to restrictions by the Family Code. Chapter 58 of the Texas Family Code governs specifically to whom juvenile records may be disclosed, including a prosecuting attorney as defined in Section 51.02(11) of the Family Code. Entities interpret the definition of a prosecuting attorney and the requirements of disclosure under the Michael Morton Act differently permitting the disclosure of records that are intended to be confidential.

Recommendation: Amend Chapters 51 and 58 of the Family Code along with related provisions in Article 39.14 of the Code of Criminal Procedure to appropriately limit disclosure of juvenile records in order to maintain confidentiality.

Sealing of Determinate Sentence Offenses

Issue Statement: Under current law, youth adjudicated for a determinate sentence are prohibited from filing an application to seal their records. A youth whose determinate sentence probation has not been transferred to the adult system should be eligible for the additional confidentiality protections afforded in the juvenile system. It should be noted that sealing of the records of a person with a determinate sentence adjudication would not be mandatory. Instead, this process would provide an opportunity for a hearing to allow the court at its discretion to review the rehabilitative progress of the youth, recommendations of probation, and consider prosecutor objections/approval to determine whether sealing is appropriate.

Recommendation: Consider an amendment to Chapter 58 of the Family Code that would authorize the juvenile court to seal records certain youth with a disposition of determinate sentence probation. Sealing would be prohibited for persons whose cases have been transferred to adult court or to the Texas Department of Criminal Justice.

JUVENILE PROCEEDINGS

Post-Disposition Counsel

Issue Statement: After adjudication and disposition in juvenile proceedings, a youth who has been committed to state-secure placement at TJJD may be confronted with complex legal issues that require the appointment and/or continued representation of counsel. As a means of ensuring meaningful access to counsel throughout the delinquency process, Section 2.4. of the National

Youth Defender Standards⁴² recommends that youth defense representation should continue until youth are no longer under court supervision or state jurisdiction. As proposed, post-disposition counsel would advocate for the youth's expressed interest and be responsible for protecting due process rights through discharge and termination of commitment. Post-disposition counsel would be authorized to provide representation to handle matters such as certification reviews, determinate sentence probation transfers, determinate sentence transfers to TDCJ, habeas petitions, appeals, and advocacy regarding conditions of confinement or supervision, collateral consequences, reentry assistance, and sealing/records protection for youth committed to TJJD or in long-term incarceration.

Recommendation: Amend Title 3 of the Family Code and related laws to authorize the appointment and/or continued representation of youth. Authorize TIDC to set minimum standards for post-disposition representation and examine funding options, with reference to similar state funding provided to adults.

Post-Conviction Relief

Issue Statement: Within the context of juvenile proceedings, post-conviction relief is a legal process that allows youth who have been certified and convicted of a crime in adult court to challenge the conviction or the sentence after the conclusion of a trial. Common forms of post-conviction relief allow juveniles to appeal seeking a review of the decision made by the lower courts. Procedural mechanisms include Habeas Corpus Petitions, which are currently authorized by the Texas Constitution, under a claim that the person has been deprived of his or her liberty interest in violation of the constitution or laws. Other post-conviction matters include procedures to protect the disclosure of juvenile or criminal history records through sealing or expungement (if eligible), sentence modifications based on new evidence, evolving case law or science, or administrative matters such as parole eligibility. Post-conviction relief aligns with rehabilitative goals by allowing reevaluation of cases to ensure fairness and just outcomes.

Recommendation: Consider adding a post-conviction writ of habeas corpus that applies specifically to juvenile proceedings. As added to Article 11 of the Code of Criminal Procedure or Chapter 56 of the Family Code, the new provision would 1) clarify time frames for raising claims, 2) determine the court of final authority, 3) outline the issues that can be raised, and 4) clarify whether a decision on the writ is subject to appeal.

⁴² The Gault Center, *National Juvenile Defender Standards* (2024). <https://www.defendyouthrights.org/wp-content/uploads/National-Youth-Defense-System-Standards.pdf>.

Strategic Refiling of Legislation

Issue Statement: In recent sessions, strategic legislation aimed at addressing juvenile court jurisdiction, parole criteria for youth, decriminalization of certain status offenses, duress as an affirmative defense as well as other legislation that would keep youth shallow in the system were filed but not enacted. To date, legislative amendments have been filed over several legislative cycles without passage.

Recommendation: During the 89th Legislative Session, certain legislative concepts should be reviewed, redrafted, and reintroduced.

SYSTEM COLLABORATION AND STRUCTURE

Dual and Multi-System Youth

Issue Statement: According to Texas CASA, it's estimated that 45–75% of first-time juvenile petitions in Texas involve youth who are also involved with foster care.⁴³ This is associated with higher risks for mental health, education, and vocational challenges, as well as higher rates of recidivism.[2] In the 2022–2023 fiscal year, 16% of the 2,079⁴⁴ youth served by the Texas Juvenile Justice Department (TJJD) were in substitute care (e.g., foster homes, group homes, residential facilities, shelters, etc.) at some point in their lives. Unfortunately, there currently is no consistent data collection, at the county level, for dual status⁴⁵ children either through DFPS or TJJD. Under current law, the factors the Department of Family and Protective Services uses to engage juvenile justice youth are unclear and serve as a barrier to early prevention and intervention of system involvement across systems which could be substantially improved if there was more data on dual status youth at the county level (i.e. engaged with county juvenile probation departments).

Recommendation: Amend relevant statutes to require an examination of detention practices regarding youth in the juvenile justice system, locally and under supervision of TJJD, who are also under the conservatorship of Children's Protective Services. Require DFPS and TJJD to collect, track, and analyze placement and detention data on dual status youth and identify opportunities for cross-system collaboration. Seek funding for dual status youth.

⁴³ Texas CASA, Dual Status FAQ Handout, (February 2024) <https://texascasa.org/2024/02/06/dual-status-faq-handout/> [texascasa.org].

⁴⁴ Texas Juvenile Justice Department, *History of Substitute Care for Youth at the Texas Juvenile Justice Department* (January 2024) https://www.tjjd.texas.gov/wp-content/uploads/2024/03/Report_on_TJJD_Youth_Ever_in_Substitute_Care_2022-2023.pdf [tjjd.texas.gov]

⁴⁵ "Dual Status Child" as defined in the Texas Juvenile Justice Code; See Tex. Fam. Code Sec. 51.02(3-a)

Opportunity Youth

Issue Statement: Over 500,000 Texans between the ages of 16 and 24 are disconnected from high school, college, and work. Thousands more are barely connected to these institutions or are involved in state systems that leave them highly vulnerable to persistent disconnection. Reconnecting and strengthening support to this population of Opportunity Youth can return as much as \$7 billion dollars to the state annually in additional earned income alone*. Communities need to develop reengagement programs to support this population of youth and identify opportunities for community collaboration. Consider making extended care more flexible to increase participation and promote greater autonomy and freedom.

* Based on calculations drawn from Belfield, Levin and Rosen (2012) *The Economic Value of Opportunity Youth*. https://www.researchgate.net/publication/358229658_The_Economic_Value_of_Opportunity_Youth

Recommendation: Enact legislation that would codify the definition of “opportunity youth” to aid in the collection and tracking of data on this population.

Specialty Courts

Issue Statement: Specialty courts have shown to be effective for youth as a way to redirect focus on community-based individualized support to address the underlying cause of at-risk and unlawful behavior. Specifically, these courts improve educational outcomes, reduce recidivism, and aid in the identification of mental health and substance use needs. It is in the state’s interest to ensure that specialty courts are part of the continuum of care for delinquent youth.

Recommendation: During the 89th Legislative Session, seek funding to grow specialty court programs.

Conditions of Confinement

STATUTORY CHANGES

Court Conditions Determinations and Habeas Hearings

Issue Statement: Under current law, there is no procedure that allows the juvenile court of continuing jurisdiction or a court that commits a child to TJJD to review placement determinations after disposition. The juvenile court judge, as a member of the juvenile board, has a statutory duty of oversight to ensure that facilities it operates or orders a youth to be placed is suitable or unsuitable for the confinement of children. Inherent in that duty is the ability to identify and act upon

systemic issues within a facility. A procedural mechanism of this kind is necessary because children are more susceptible to the inherent trauma of substandard or dangerous conditions of confinement than are their adult counterparts. When the conditions of confinement pose a risk to the safety of youth and undermine rehabilitative efforts, the court should be empowered to issue facility-based or individualized orders of removal to relocate one or more youth to an alternative secure setting or safe release (i.e., a conditions habeas corpus). In determining conditions, direct or indirect exposure to incidents of physical harm, violence, abuse, neglect or exploitation, egregious failure to meet essential treatment, programming, or educational needs must be supported by facility-specific data or evidence. In cases in which the conditions of a facility pose an immediate danger, the court can expedite facility-based determinations to ensure the safety of juveniles subject to its dispositional orders. The court should also evaluate how the current conditions affect the child's physical, emotional, and mental well-being. In deciding to release a child to the community, the court should consider the nature of the offense and whether the child poses a danger to himself or others. The change in law should require objective criteria supported by documentation, testimony, or other evidence of harmful or unconstitutional conditions. The potential new placement must offer a comparatively improved environment than the current facility and provide programming and services that meet the youth's specific needs. The court or other entity should not be liable for the failure or inability to provide an alternative rehabilitative setting. The failure to perform an act in connection with an order to remove the child may not be used as grounds for an appeal or the exclusion of evidence against the child in any proceeding or forum. In addition, this process does not preclude an application for a post-adjudication writ of habeas corpus.

Recommendation:

■ **Conditions Habeas.** Consider amending provisions in Article 11.07, Writ of Habeas Corpus in the Code of Criminal Procedure, TJJD enabling legislation, and Title 3 of the Family Code to clarify authority to attack the validity of a judgment of commitment to an institution under the jurisdiction of TJJD or a county juvenile justice facility when unconstitutional conditions or practices threaten the safety of youth. Consider whether there should be a post-commitment dispositional hearing or other mechanism that confers the juvenile court with jurisdiction to release or transfer a child under exigent circumstances to a local post-adjudication secure correctional facility when unconstitutional conditions or practices are so egregious as to threaten the child's safety and well-being.

■ **Conditions Determinations.** Require Texas juvenile courts and juvenile boards to consider whether the current conditions in TJJD state secure facilities undermine the rehabilitative purpose of commitment and to make facility-based or individualized determinations about whether the special needs of the child can be met within the community or in a post-adjudication facility in the county or region.

Special Commitments

Issue Statement: In 2015, the legislature required the juvenile court to enter special commitment findings in order to commit a child with an indeterminate sentence to TJJD. Section 54.05, Motion to Modify Disposition should authorize the juvenile court to make special commitment findings under Section 54.04013 for violations of a lawful order of the juvenile court (i.e., probation violations, revocations) that would result in a commitment to TJJD. Currently, special commitment findings are not required for modifications of a disposition based on a habitual felony or determinate sentence offense. Legislative reforms should prioritize the collection of data to measure the effectiveness of these findings in reducing the population of youth in state secure commitment. Specifically, it will be important to examine the percentage of youth currently in state secure confinement who are eligible to be placed closer to home in a county or regional post-adjudication secure correctional facility. It is also recommended that the legislature examine the supporting documentation utilized by the court in determining whether resources and treatment are available within the community.

Recommendation:

■ **Special Commitment Findings Data.** Examine data to determine the percentage of youth who meet the special findings criteria for commitment to TJJD whose felony offense would make them eligible placement in a county post-adjudication secure facility. Specifically, youth who are eligible for a county post-adjudication placement include youth adjudicated for: 1) State jail felony or a felony of the third degree; 2) Felony of the second degree; and 3) Felony of the first degree (other than a felony involving use of a deadly weapon or causing serious bodily injury).

■ **Stricter Criteria for Commitment.** TJJD commitment should be reserved for youth with the highest needs and who pose the highest risk to public safety. Request and review data to determine: 1) the number and percentage of youth committed to TJJD by county; 2) the documentation and availability of the youth's special needs; and 3) the availability of services within the county or region. Consider a legislative amendment that would restrict commitment of non-violent Level 5 felonies to post-adjudication placement only.

Prohibition of Pepper Spray

Issue Statement: Nationally, at least 35 states have prohibited the use of pepper spray (i.e., oleoresin capsicum or OC spray) on youth as a behavioral management tool in juvenile justice facilities. Alternative behavior management strategies, such as implementing a response continuum, conflict resolution, training, and therapeutic interventions, have been shown to be more effective and less harmful. The Department of Justice (DOJ) cited the excessive and frequent use of pepper spray in large MK-9 canisters among its findings of unconstitutional practices at TJJD. The DOJ reported that the MK-9 cannisters, intended for crowd control, have been used to manage behavior

and that TJJD was ill-equipped to properly decontaminate youth suffering the effects of the pepper spray. The use of OC spray on youth can lead to severe psychological and emotional trauma and exacerbate mental health issues, including anxiety and depression. Moreover, it can cause significant and sometimes life-threatening physical health issues, especially for youth with pre-existing health conditions such as asthma. Texas remains one of the few outlier states that have not, by legislative amendment or administrative rule, prohibited the use of pepper spray. Legislative reform in this area is consistent with the state's constitutional duty to keep youth in custody safe from harm.

Recommendation: Consider a legislative amendment to ban pepper spray (i.e., oleoresin capsicum or OC spray) and the use of large pepper spray cannisters.

Potential Interim Charges or Funding Riders

Program and Services. Under the agency mandates described in Section 203.017 and 203.0187 of the Human Resources Code TJJD is required to conduct an inventory of programs and services that are available in state institutions and regional county-pre- and post-adjudication facilities. Based on the data and information on available resources, seek funding to enhance statewide programs and services to facilitate diversion from state and post-adjudication placement to community-based programs and placements.

TJJD Contract Beds. Consider an inventory of TJJD contract beds in county post-adjudication facilities in the state.

Provision of Services at Certain Facilities. TJJD considers several factors when deciding the appropriate facility assignment for a youth in its custody such as treatment needs, proximity to home, bed space availability, and educational needs. As such, after orientation and assessment, TJJD youth begin steps toward program completion. Not all treatment programs are available at every TJJD facility. It has been reported that youth are often transferred throughout the state to one of TJJD's five (5) state facilities to receive specialized programs and services that may not be available at the facility where the child was originally assigned. Policymakers and administrators should examine the length of the wait time and the number of youth who are awaiting transfer to a distant TJJD facility in order to access specialized services or programs. In addition, consider whether the lack of specialized programs at certain facilities causes delays to program completion that result in an extension of a youth's minimum length of stay. Reducing wait times and optimizing placement decisions can significantly enhance the rehabilitative outcomes for these youth.

LONG-TERM STUDIES

Facility Construction

In light of the recent Department of Justice report on the unconstitutional conditions of confinement in TJJJ state secure facilities, lawmakers should reevaluate the appropriation of \$200 million for new construction to increase TJJJ capacity by 200 beds. Science-based research and national best practices have shown that smaller, homelike facilities more effectively meet the treatment needs of youth diagnosed with serious mental health or mental illness. TJJJ should examine on or before its Sunset Review in 2027 the feasibility of transitioning all state secure facilities to smaller units located in regions throughout the state.

POLICY/PRACTICE

Adequacy of Minimum Standards

Issue Statement: Minimum standards for the operation and management of secure juvenile facilities are essential components in ensuring the safety, well-being, and rehabilitation of detained youth. The Texas Juvenile Justice Board is responsible for, among other things, adopting statewide minimum standards for facilities. The standards must include a humane physical and psychological environment, safe conditions of confinement, protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law. The Texas Juvenile Justice Department sets these standards, which encompass areas like safety protocols, facility conditions, staff qualifications, mental health services, educational programs, and safety protocols. In light of ongoing concerns regarding compliance with the mandates of its enabling legislation, advocates and policymakers have called for a comprehensive examination of whether the state's minimum standards authorized in the Human Resources Code, Family Code, and the Texas Administrative Code are supported by current national standards, case law, and best practices. Most importantly, examine whether the minimum standards adopted by TJJJ are in fact adequate to ensure the safety and constitutional rights of youth in secure custody in county and state facilities.

Recommendation: Examine whether the state's minimum standards are adequate to ensure the safety and constitutional rights of youth in secure custody in county and state facilities as required in the Human Resources Code, Family Code, Texas Administrative Code and other state and federal laws.

Noncompliance Enforcement

Issue Statement: In its oversight role, the Texas Juvenile Justice Department must establish minimum standards for the operation of juvenile justice facilities, programs, and services at the county and state level. These standards serve as a benchmark that the operation of a program, service, or facility is managed in compliance with statutes, case law, and administrative rules. Adherence to best practices, rules, policies, and procedures confers significance to minimum standards and ensures the safety and protection of youth. Clarification is needed on TJJD's monitoring and enforcement practices (e.g., withholding state funding, facility closure, or technical assistance, etc.) regarding the facilities it operates as well as the county facilities for which it has oversight is needed.

Recommendation: Consider an examination of the historical data on the enforcement of minimum standards and the range of corrective options utilized by TJJD to address non-compliances or failures implement improvement plans.

Commitment Findings Documentation

- Request and analyze data on the use of special commitment findings to divert and reduce commitments to TJJD. Examine the process and documentation submitted to the juvenile courts to support whether the child's behavioral health or other special needs cannot be met with the resources available within the community.

- Examine the efficacy of the use of the validated risk and needs assessments in making a commitment finding.

Officer Qualifications and Training

- Fund qualified, trained staff to ensure adequate facility ratios while maintaining proper classification and housing of youth based on risks and needs.

- Discourage legislation or administrative rules or policies that would lower the age and qualifications of juvenile correctional officers responsible for direct supervision and care of youth in TJJD facilities.

- Provide statistical data array of the ages of TJJD juvenile correctional officers by facility.

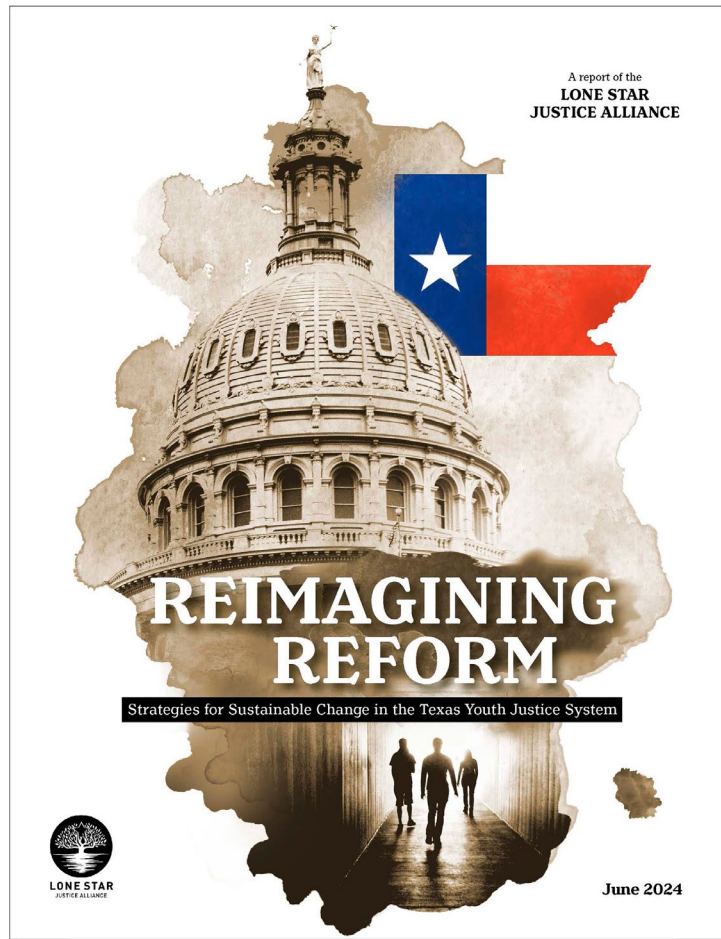
Appendices



Appendix A

IMPACT STRATEGIES





Reimagining Reform:

Strategies for Sustainable Change in the Texas Youth Justice System

Impact Strategies. The *Reimagining Reform Report* presents impact strategies that will assist in articulating youth justice concepts in an accessible, actionable, and qualitative way. This work involves advocating for law changes and reforms within critical policy domains. By working to make changes to system practices, amending existing laws, or proposing new legislation, stakeholders can establish clear guidelines for improving conditions of confinement, implement data-driven evidence-based practices, and invest in the expansion of diversions and alternatives to incarceration in the state.

Now Available on the LSJA Website:

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Appendix B

REIMAGINING REFORM

Selected Literature, Resources and Reports

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Appendix C

DATA WALK POSTERS



TEXAS

OVERVIEW

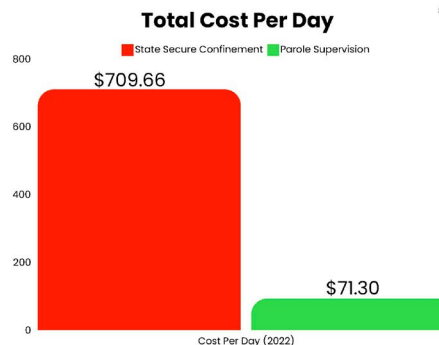
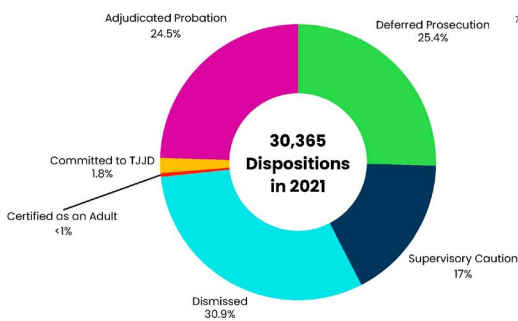
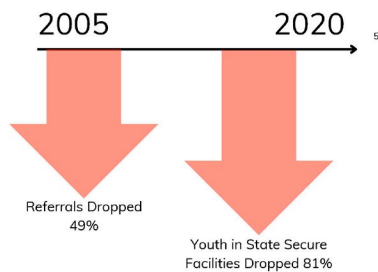
- **Juvenile court jurisdiction:** Over 10 and under 17 years of age¹
- **Population of juvenile age youth:** 2,906,377 (2022)
- **Number of referrals:** 35,085 juveniles accounted for 45,214 formal referrals (2022)
- **Number of facilities:** 45 pre-adjudication centers, 33 post-adjudication centers, 5 state secure facilities (2022)²
- **Number of youth in state secure facilities:** 714 (April 2024)³

REFORM EFFORTS

While the Texas youth justice system has been plagued with scandal, Texas law has **trended towards rehabilitation and diversion** of youth, resulting in a significant decrease of the incarcerated youth population and the closure of state secure juvenile facilities.

- **2007:** SB 103 ended misdemeanor commitments to the state, lowered Texas Youth Commission (TYC) jurisdiction from 21 to 19, allocated money to local probation departments for community-based services, and established the Office of the Independent Ombudsman.
- **2011:** SB 653 established the Texas Juvenile Justice Department (TJJD) to absorb the TYC and Texas Juvenile Probation Commission (TYPC).
- **2015:** SB 1630 required TJJD to develop a regionalization plan to keep youth closer to home and increased investigative authority of the Office of Independent Ombudsman.⁴

DATA



HIGHLIGHTS

- Nearly 98% of dispositions result in youth avoiding secure confinement. Despite this, TJJD received a \$200 million appropriation to build new secure facilities.
- Probation supervision and TJJD parole supervision, which requires youth to follow specific court-ordered guidelines and participate in re-entry programs, are significantly more cost-effective than secure confinement.

MISSOURI

OVERVIEW

- **Juvenile court jurisdiction:** Under 17¹
- **Population between 5 and 17:** 1,081,787 (2021)
- **Number of referrals:** 43,468 (2021)²
- **Number of youth in state facilities:** 513 (2023)³
- **Number of secure state facilities:** 4 - small residential⁴

REFORM EFFORTS

- **The Missouri Model** requires confined youth to be placed in smaller facilities (fewer than 50 beds) near their homes with a focus on intensive, ongoing individual attention. The model offers support and supervision for youth transitioning home both before and after their release.⁵
- Due to the intensive nature of the approach, the state suffers from **staffing issues**.⁶
- The model provides considerable support and supervision for youth transitioning home including pre-release planning, intensive aftercare, and mentoring.⁷

DATA

COMPARISON DATA FOR YOUTH COMMITTED TO STATE SECURE FACILITIES^{8, 9, 10, 11}

	Recidivism Rate (Within 3 Years)	Average Age in Secure Facilities	% Incarcerated for Felonies	% Committed to Secure Facilities	% Change in Enrollment
Texas	30.1%	14.6	56% <small>*remaining 44% incarcerated for probation violations</small>	1.7% of cases	30.5% decrease <small>from 2018 - 2022</small>
Missouri	27.6%	15.4	68%	2.9% of cases	18.3% decrease <small>from 2018 - 2022</small>

	% with Educational Disability	% Needing Mental Health or Behavioral Services	% with Prior Substance Abuse Involvement	% by Ethnicity	Cost per Day at Secure Facilities
Texas	65%	85%	88.1%	<small>Youth of Color in TJJJ</small> 79.8% <small>Youth of Color in Texas</small> 69.1%	\$709.66
Missouri	30%	77.4%	68%	<small>Youth of Color DYS</small> 33% <small>Youth of Color in Missouri</small> 19%	\$307.66

Texas defines recidivism as reincarceration in a state facility. Missouri defines it as "non-law abiding".

HIGHLIGHTS

- Despite using residential-style confinement, Missouri's approach is still 56.6% more cost-effective than Texas' carceral setting.
- Although the Missouri Model is viewed as a standard for youth justice reform, it still faces significant racial disparities and has a recidivism rate similar to Texas.

KENTUCKY

OVERVIEW

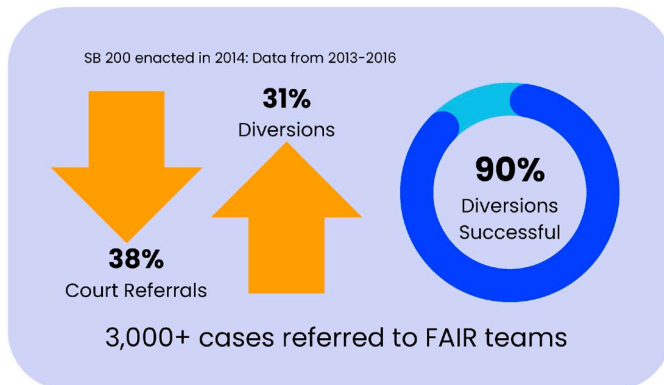
- **Juvenile court jurisdiction:** Under 18¹
- **Youth population under 18:** 1,015,912 (2022)⁷
- **Number of youth intakes:** 3,044 (2022)
- **Average daily population in state secure facilities:** 95.2 (2022)³
- **Number of state secure facilities:** 8⁴

REFORM EFFORTS

SB 200 (2014) - overhauled Kentucky's juvenile justice system to keep children in their communities.

- **Reinvested** dollars saved through the decrease in incarceration into **community programming**.
- Restricted the prosecution of youth for minor crimes, **prohibited the commitment of youth for probation violations**, and restricted the length of time a child can be incarcerated for running away or contempt of court.
- Increased the authority of the individualized Court Designated Workers (CDW) and established the **Family Accountability, Intervention, and Response (FAIR) Team**.⁵
- A 2024 audit by the Kentucky Auditor of Public Accounts highlighted **staffing challenges** and **incidents of improper force**, including the use of pepper spray.⁶

DATA



IN FY 2017, KENTUCKY CLOSED THREE SECURE JUVENILE FACILITIES.

Data from 2014-2019

	Pre SB 200 n (%)	Post SB 200 n (%)
Average youth in out-of-home placements per month	628	466
Race		
White	405 (64%)	251 (54%)
Youth of color	222 (36%)	215 (46%)
<i>Black*</i>	158 (25%)	151 (32%)
<i>Other race/ethnicity*</i>	64 (11%)	64 (14%)

HIGHLIGHTS

- While SB 200 successfully reduced the number of placements into out-of-home secure care facilities, the proportion of youth of color in these facilities increased.
- Despite over 3,000 cases being diverted to CDW workers and FAIR Team members, reports highlighted negative conditions within secure facilities, including an increased use of pepper spray on children.

UTAH

OVERVIEW

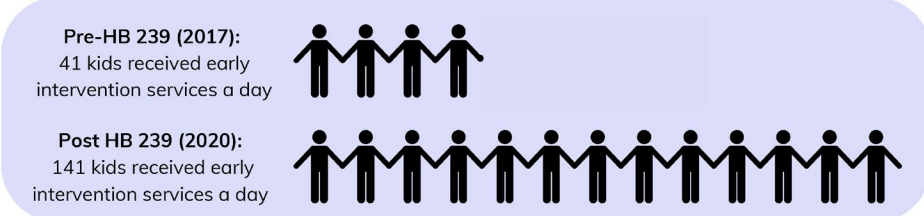
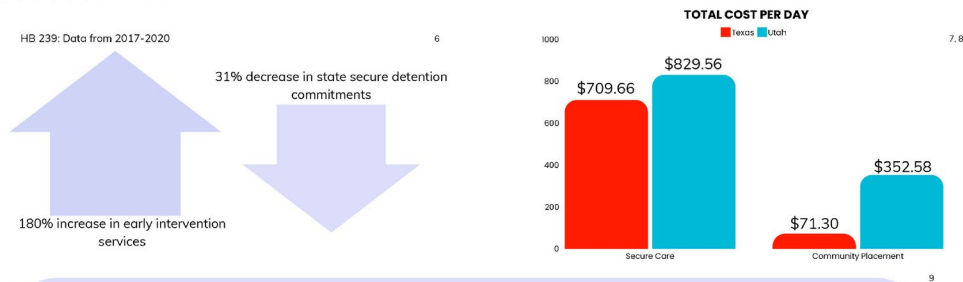
- **Juvenile court jurisdiction:** Over 12 and under 18¹
- **Number of youth in the state:** 943,294 (2023)²
- **Total youth in state secure facilities:** 162 (2022)
- **Number of youth referrals:** 6,134 (2022)
- **Average daily population in state secure facilities:** 77 (2022)³

REFORM EFFORTS

HB 239 (2017) - allocated resources from out-of-home placements to community programs.

- HB 239 expanded Utah's effective diversion program, non-judicial adjustment, by requiring effective diversion for youth who commit misdemeanors, status, or infraction offenses with limited prior history.
- Juvenile Justice and Youth Services (JJYS) custody may **only** be ordered if the youth is **adjudicated for a felony** or if the youth is **adjudicated for a misdemeanor** and has **five prior felony or misdemeanor episodes**. The court must also find that nonresidential options have been exhausted or are not appropriate.
- The **Commission on Criminal and Juvenile Justice** was created to oversee HB 239 implementation, with representation from various stakeholders across the juvenile justice system.⁴
- The legislature appropriated **\$1 million upfront** for expanding evidence-based services and projected a **47% reduction** in out-of-home placements by 2022, freeing up **\$70 million** for reinvestment.⁵

DATA



YOUTH DETAINED IN STATE SECURE FACILITIES

	Recidivism Rates	% By Ethnicity
Texas	30.1% (2019-2022)	Youth of Color in TJJJD 79.8%
		Youth of Color in Texas 69.1%
Utah	51.2% (2020-2022)	Youth of Color in JJYS 57.3%
		Youth of Color in Utah 28%

Texas defines recidivism as re-incarceration into a state secure facility within three years. Utah defines it as a new felony charge within two years.

HIGHLIGHTS

- Since HB 239 in 2017, there have been extreme decreases in secure confinement and significant increases in early intervention services for children.
- With heavy restrictions on incarcerating misdemeanors, the vast majority of Utahns in the youth justice system are incarcerated for felony offenses.
- Despite reforms, Utah has a recidivism rate that is much higher than Texas.

MAINE



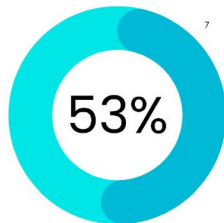
OVERVIEW

- Juvenile court jurisdiction: Over 12 and under 18¹
- Population under 18: 249,306 (2022)²
- Average daily population in state secure facilities: 39 (2020)³
- Number of state secure facilities: 1
- Number of youth referrals: 2,139 (2023)⁴

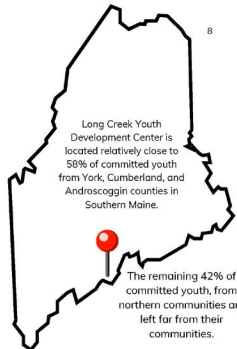
REFORM EFFORTS

- The Maine Juvenile Justice Assessment and Reinvestment Task Force (2019) was created to evaluate and provide suggestions on community-based alternatives to incarceration.⁵
- In 2021, Governor Mills vetoed a bill (LD 1779) that would close the Long Creek Youth Development Center (Maine's only state secure youth facility) but pledged to shift \$6 million in Department of Correction's juvenile budget to community-based programs.⁶

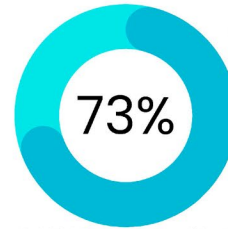
DATA



53% of detained youth were held at Long Creek for reasons related to their personal welfare rather than public safety.



The remaining 42% of committed youth, from northern communities are left far from their communities.



A 2024 Department of Justice investigation found that 73% of children detained for more than 30 days at Long Creek were awaiting placement in community programs.

YOUTH DETAINED IN STATE SECURE FACILITIES

	% Incarcerated for Serious Offenses	% By Ethnicity
Texas	56% Felonies	<u>Youth of Color in TJJD</u> 79.8% <u>Youth of Color in Texas</u> 69.1%
Maine	40% Person offenses	<u>Youth of Color in MDOC</u> 30% <u>Youth of Color in Maine</u> 17.5%

In Texas, children are not incarcerated for misdemeanors, with the remaining 44% being held for probation violations. Conversely, in Maine, the broad criteria for diversion do not cover all misdemeanors and first-time non-violent felony cases. This results in many youths with minor offenses going through the court process.

HIGHLIGHTS

- While Maine only has one state secure facility with fewer than 40 youth on average, most youth are waiting for placement in community programs and are confined for low level offenses.
- Similar to Texas and other states, Maine's youth justice system has significant racial disparities. Additionally, the Long Creek Youth Development Center is located in Southern Maine, resulting in those from Northern Maine being incarcerated far from home.

Appendix D

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Appendix E

REIMAGINING REFORM WORKGROUP

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Thank You

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