

Dawn Roberson

From: Julie Fullingim on behalf of Sunset
Sent: Wednesday, December 17, 2008 9:38 AM
To: Dawn Roberson
Subject: FW: Comments on proposed merger of TYC and TJPC
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From: William S Bush
Sent: Wednesday, December 17, 2008 9:32 AM
To: Sunset
Subject: Comments on proposed merger of TYC and TJPC

Dear Sunset Commission,

Thank you for extending the period for public comments this week, and for your good work on the crucial problems facing the juvenile justice system in Texas.

My name is Bill Bush and I'm a history professor at Texas A&M University - San Antonio System Center. I've written widely on the history of juvenile justice, including two brief reports for the Texas Criminal Justice Coalition and a book-length study to be published in Fall 2009 by the University of Georgia Press.

I humbly submit my two areas of concern about the proposal to merge TYC with TJPC:

1. There is historical precedent for the concerns expressed by many individuals at the hearing yesterday that a merger would cause a struggle over resources between institutional and non-institutional programs.

When TYC's forerunner agency (the Texas State Youth Development Council) was first constituted in 1949, it was divided into two Directorates for "Institutions" and "Community Services." The latter was supposed to assist local jurisdictions in developing probation, prevention, recreation, diversion, and parole programs.

At that time only about 24 of the state's 254 counties offered any semblance of juvenile probation. Between 1949 and 1955, TYC consultants visited 200 counties with substantial results. However, early in its existence, this directorate was quickly marginalized within TYC and then defunded by the legislature. By 1957, when TYC was re-authorized as an independent state agency, the agency had eliminated its community services directorate while expanding the construction of secure facilities for juvenile offenders. This choice started TYC on the path that would end in the landmark civil rights case *Morales v. Turman*, with which I'm sure you are familiar.

By the time of *Morales*, TYC had been criticized for years by some state legislators for failing to develop juvenile parole programs, for which the agency received substantial funds throughout the 1960s. While TYC energetically pursued the construction of new secure facilities at Mountain View, Gatesville, Giddings, and Brownsville, it did not even use most of the funds allocated for parole - a stark contrast in priorities.

Although parole is not probation, the services shared the important similarity of being community-based rather than institutional functions. TYC abandoned its community services

function in favor of institutions in the 1950s and 60s for several reasons: a national panic over juvenile crime, a political climate that was hostile to less punitive interventions for juvenile offenders, and the bureaucratic imperative for self-preservation (several times in this period the agency was threatened with dissolution, much like today).

Today TYC's population is low and the agency faces heightened scrutiny of its treatment of juveniles. But what happens when the pendulum swings, as history suggests it well might? An omnibus agency might prove easier prey for a shift back toward incarceration and punishment.

2. Related to this is my concern that budgetary imperatives are driving this discussion at the expense of a more effective overall system that provides robust prevention and rehabilitation services. That has been my perception based on public comments by some key legislators. In this regard, I was heartened by the comments of Representative McClendon yesterday.

I would urge the Commission as a whole to view the problem of cost not in terms of how much money is spent but in where and how it is spent. While underfunding has been a longtime historical problem for juvenile justice, it has been especially pronounced for non-institutional, community-based prevention and rehabilitation programs. And yet, costs have consistently risen over the years. I would argue that a short-term investment in real reform will pay off down the road in reduced first-time and repeat offenses.

Many of the key reforms proposed in last year's Blue Ribbon Report are not new. "Regionalization" was first suggested to the Texas legislature in 1948 by national experts who advised on the creation of TYC. These same experts also told Texas that a greater investment in smaller facilities with low staff-to-juvenile ratios modeled on schools rather than prisons would pay greater dividends - and save money - in the long term.

Perhaps the Commission associates a TYC-TJPC merger itself with a move toward regionalization. After all, probation is inherently a local function, and a merger might in some way force TYC in the direction suggested 50 years ago. However, as I've suggested above, such a merger could just as easily have the opposite effect. More important, in my view, is what structural constraints are put in place for either TYC or a merged omnibus juvenile justice agency. How can the state ensure that reforms survive the inevitable changes in leadership and swings in public opinion down the road?

Thank you again for accepting my comments. I'm happy to provide any further information and can be reached at the phone and email contacts listed below.

Sincerely,
Bill Bush

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