

## Dawn Roberson

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**From:** Julie Fullingim on behalf of Sunset  
**Sent:** Wednesday, December 17, 2008 7:54 AM  
**To:** Dawn Roberson  
**Subject:** FW: TYC testimony

**Attachments:** 081215 Excerpts for TYC Sunset testimony.rtf



081215 Excerpts  
for TYC Sunset...

-----Original Message-----

**From:** Scott Henson  
**Sent:** Wednesday, December 17, 2008 7:39 AM  
**To:** Sunset  
**Subject:** TYC testimony

Please find attached a written summary of my oral testimony from Monday's public hearing on TYC and TJPC for inclusion in the Sunset Commission's public comments. I'm also going to post these comments on my blog.

Thanks for all your hard work on this topic.

Scott Henson  
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# **Written Testimony to the Sunset Advisory Commission Regarding Texas Youth Commission and Juvenile Probation Commission Recommendations**

By Scott Henson, Dec. 17, 2009

Simply merging the Youth Commission and Juvenile Probation Commission won't solve the myriad problems described by Sunset staff facing Texas youth prisons and might result in negative, unintended consequences.

## **Merger ignores biggest problems**

To the extent a merger is done with an eye toward reducing expenditures, it could actually make matters worse because most of the major problems identified by Sunset staff - inadequate mental health treatment, lack of special ed instruction, oversized facilities, etc. - require more resources, not less, to solve. Cost savings predictions also ignore the need for investment in other areas like public schools and healthcare that affect juvenile justice.

## **Why Not Embrace Blue Ribbon Panel Suggestions?**

Sunset staff (who are government efficiency wonks, not juvenile justice experts) failed to advocate a shift to smaller, Missouri-style facilities or a rehabilitation model that conforms to widely acknowledged best practices aimed at reducing recidivism. The gubernatorial Blue Ribbon Panel's detailed suggestion (pdf) in 2007 for reforming TYC along these lines was sadly defenestrated by the adult-prison transplants who were running the agency at the time and was never revived.

Given my druthers, I'd prefer the Sunset Commission had revisited and drawn more heavily from those Blue Ribbon Panel suggestions - they're proposing to take the agency in a different direction than the one suggested by most juvie specialists.

## **Merging Parole with Counties Makes Sense**

There is one area where I agree a merger is justified: TYC's parole services should be managed by county probation departments to create more seamless reentry networks and to ensure that locals are engaged with the kids from their community throughout the process. Reentry after leaving TYC is difficult and local probation offices have more resources and connections to help youth succeed. TYC already contracts for parole services with more than 30 counties, so there's an existing model for how this could work that's transferrable to other jurisdictions.

## **Beware Unfunded Mandates for Counties**

The Sunset report downplayed too much (IMO) the financial impact of downsizing TYC on counties at a time when the Legislative Budget Board says youth inmate populations will be rising. There's a pilot grant program suggested to reimburse counties for costs, but it appears underfunded and speculative whereas if more TYC kids must be handled by counties, those costs will be specific and concrete.

Likely most counties would seek to identify private residential placements to manage these offenders, but the truth is there simply isn't enough private capacity out there right now to pick up the slack if LBB's inmate population projections hold. The Sunset report and the LBB projections, as far as I can tell, cannot be mutually justified - something's got to give.

From the data in Sunset's financial analysis, I'm convinced a merger cannot save the state money, as the report predicts. There are just too many questionable assumptions that will not bear out upon implementation.

### **Overstating Savings from Facilities Closure**

The only absolute, for-sure savings is around \$600,000 annually from eliminating five duplicative executive slots. But the rest of the projected annual savings - \$27.6 million - is entirely speculative. It's based on the assumption the agency will close three facilities and lay off 587 workers, as well as "reducing TYC central office salaries by 10%."

However, the recommendation ignores the fact that TYC has already recently closed three facilities -- San Saba, Marlin, and the Sheffield Boot Camp - and two others were de-funded by the Legislature and are currently paid for from "savings" due to understaffing at other units. *Thus there would be no savings from the closures compared to TYC's current budget.* Plus, the proposal comes at a time when TYC's inmate population is rising. According to the agency's response to the Sunset Commission

The Legislature appropriated funding for an average daily population of 2,292 in institutions. Currently, institutional populations are 7.8% under that number, while the population is projected to increase. If the three facilities identified in the Sunset report were closed, the agency would have insufficient capacity for serving the projected population.

The Sunset report categorizes the 587 layoffs as a loose guesstimate and said savings could be "up to" that amount, implying they could also be, perhaps substantially *less*. After all, we're reminded later in the report, it was only in 2007 the Legislature *added* 516 new staff slots at TYC (p. 64) because the agency was understaffed and otherwise couldn't meet its statutorily required 12-1 staffing ratio.

### **Plan for Inmate Population Increases**

Since that time, the number of youth in TYC declined to half the number where the agency maxxed out just a few years ago, so apparently the Sunset Commission believes that means the new staff aren't needed. But nowhere in the detailed footnotes to the section on the merger do we find any reference to the Legislative Budget Board projections that tell us to expect the state's youth prison population to rise again until the agency is 23% above capacity by 2012. If that happens, the idea of slashing 587 employees (two years after adding 516) will begin to look extremely short-sighted.

Also, the Sunset report assumes fewer youth will go to TYC and instead be handled by local probation departments. Without assessing those costs with any specificity, the report insists that "This initial amount could be drawn from TYC's previous budget and could be supplemented with lapsed TYC funds, if available," adding that as a last resort the Department could "request additional startup funding from the Legislature."

That's the part that keeps tripping me up. It seems obvious that private placement handled by dozens of counties will be a more expensive proposition than when those kids are all handled by a single state agency. But the Sunset report assumes such a switch would save money. I don't think that's true.

### **LBB Projections Ignored**

Sunset failed to base its analysis supporting facility closures on the Legislative Budget Board's official projections regarding youth crime and incarceration in their five year population estimates (pdf), which

are used to set agency budgets.

In 2007 the Legislature took steps aimed at reducing inmate populations at the Texas Youth Commission, including shifting 19-20 year olds to TDCJ and refusing to take misdemeanants at state youth prisons. The population drop can be seen most dramatically in the number of releases. TYC released 4,375 inmates during fiscal year 2007, up from 3,554 in fy 2006. By comparison, the number of new inmates entering TYC decreased from 3,462 in fy 2006 to 2,994 in fy 2007 and an estimated 2,090 in 2008 (based on the monthly rate for the first seven months). LBB predicts the new level of intakes will hold steady at 2,090 over the next five years.

Those declines mainly represent implementation of a new law disallowing judges from sending misdemeanants to TYC, sending 19 and 20 year olds to TDCJ, reduced lengths of stay, and reduced numbers from a handful of counties that essentially quit sending kids to the agency. Indeed, the reduced numbers have allowed TYC to meet minimum staffing requirements for the first time in years.

### **More Changes Needed to Keep Inmate Numbers Down**

TYC's reduced inmate population at first seemed like it might be sustainable, particularly given that juvie crime is declining overall. The Sunset report notes that the "Texas juvenile arrest rate decreased between calendar years 2005 and 2006 (1.3 percent) following a decrease between calendar years 2004 and 2005 (8.3 percent)." Not only are arrests down, says LBB, Texas' overall juvie population is growing at a slower rate than in the past.

Even so, TYC's reduced inmate population will be shortlived unless more is done to reform the system. Today TYC operates at 6.5% below maximum capacity, and will slightly exceed max capacity in FY 2009, says LBB. But it's what happens after that which made me sit up and take notice. LBB predicts TYC's inmate population will resume fairly rapid growth in the near term, rising to 13.5% above capacity by 2010 and shooting up to 23.3% above capacity in 2012.

The worst possible outcome would be to dump a bunch of the worst-behaved kids in the state on county probation departments who're ill-equipped to handle them and then fail to provide adequate resources. If this merger is going to happen (and who knows at this point if it will), the plan must accommodate these new inmates instead of pretend they're just not coming. Downsizing TYC cannot result in a blatant, unfunded mandate for counties.

So the situation is this: Juvie crime is declining but total commitments to TYC will increase by about a quarter over the next four years as the agency's inmate population creeps back up toward their previous, higher levels. By contrast, LBB projects the increase in Texas' juvie probation population will be *de minimus* over the same period, with the number of juvie probationers overall expanding just .03% annually. These are not arguments for downsizing.

That said, the adult system predicted massive overcrowding just a couple of years ago, but reforms implemented by Rep. Madden, Sen. Whitmire and their colleagues staved off that increase for the foreseeable future by expanding treatment and diversion programs. The Legislature could do the same for TYC by beefing up diversion resources at counties, perhaps through the pilot grant program Sunset proposed. But unless such changes are enacted, merging and downsizing TYC seems premature and likely to renew the type of chronic overcrowding problems the agency has only recently overcome.