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A Follow-up Audit Report on

# **The Texas Youth Commission**

May 2009

Report No. 09-036

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## ***Overall Conclusion***

Since March 2007, the Texas Youth Commission (TYC) has improved its investigation of alleged mistreatment, strengthening its security and monitoring of youth, and has made progress in improving its management of agency resources. During this same time period, the total number of youths committed to TYC decreased 49.7 percent from 4,809 on March 1, 2007, to 2,419 on April 15, 2009. Contributing factors for this decline were legislative mandates in Senate Bill 103 (80th Legislature) that prohibited the placement of youth who commit misdemeanors or are between 19 and 21 years of age in TYC facilities.

TYC has fully or substantially implemented 34 of 47 (72.3 percent) prior State Auditor's Office recommendations made in a March 2007 investigative report. Although TYC has made progress toward implementing these prior recommendations, as well as Senate Bill 103 reforms, TYC should continue to strengthen its management of state resources, including contracts, staffing levels and facilities, and its intake and investigation processes.

Specifically, auditors noted the following:

- TYC did not competitively bid 11 contracts totaling \$19.5 million that it awarded while the agency was in conservatorship from March 2007 to October 2008. While the Texas Government Code grants a conservator a series of powers and duties, it does not specifically exempt a conservator from complying with state procurement rules.
- TYC has not increased the number of certified sex offender counselors in its treatment programs or retained necessary documentation to support its staffing projections for juvenile correctional officers for fiscal years 2008 and 2009.

### **Background Information**

Auditors determined the implementation status for 47 of 49 high-risk recommendations to the Texas Youth Commission (TYC) that the State Auditor's Office made in *An Investigative Report on the Texas Youth Commission* (State Auditor's Report No. 07-022, March 2007). See Appendix 3, page 69, and Appendix 4, page 76, of this report for the implementation status of recommendations.

As of January 31, 2009:

- TYC had 4,370 employees, 92.4 percent of whom worked outside the central office in Austin.
- TYC had 2,508 youths in 11 TYC facilities, 9 TYC halfway houses, and 12 contract facilities.
- TYC employed 2,419 juvenile correctional officers (55.4 percent of all TYC employees).
- TYC employed 271 case managers (6.2 percent of all TYC employees).

TYC's appropriations for fiscal years 2008 and 2009 were \$315 million and \$237 million, respectively.

In response to charges of a sexual abuse cover-up at TYC, Senate Bill 103 (80th Legislature) mandated reforms at TYC to ensure the protection and care of youth. These reforms included changes to the following:

- Placement of youth in TYC.
- The staffing and training of juvenile correctional officers.
- The security and monitoring of youth.
- Investigations of allegations of abuse, neglect, or exploitation of youth.
- Rehabilitation and treatment needs of youth.

During fiscal years 2007 and 2008, TYC experienced several **significant events**, including changes to its oversight and leadership, the resignation of its board, and the consecutive appointments of three different conservators. See Appendix 2, page 68, for additional information on TYC leadership changes.

- In fiscal year 2007, TYC proposed closing five residential facilities. As a result, the Legislature reduced TYC's appropriations for fiscal years 2008 and 2009. However, TYC continues to operate the Victory Field Correctional Academy and the West Texas State School, which were two of the facilities that TYC proposed closing. TYC reported it spent \$21.8 million during fiscal year 2008 to operate these two facilities.
- TYC did not ensure that its Office of Inspector General (1) received and investigated all reported allegations of mistreatment or (2) initiated and completed investigations of alleged mistreatment within 30 days as required by agency policy.

## ***Key Points***

**TYC has fully or substantially implemented 6 of 9 (66.7 percent) recommendations for improving its investigation of alleged mistreatment.**

TYC implemented recommendations to correct weaknesses in its oversight of alleged youth mistreatment, including:

- Transferring responsibilities for the investigation and management of reported incidents of alleged mistreatment to the Office of Inspector General.
- Revising and implementing a new disciplinary policy outlining specific consequences for employees who mistreat or abuse youth.
- Establishing interim panels to review recommendations to extend a youth's stay beyond his or her original sentence. As of February 2009, TYC was in the process of adopting policies and procedures to ensure that it conducts these reviews in a consistent and transparent manner. (See Chapter 1-A, page 3.)

**TYC should ensure that its Office of Inspector General receives, investigates, and records all incidents of alleged mistreatment.**

In June 2007, Senate Bill 103 (80th Legislature) became effective and required TYC to create the Office of Inspector General, which investigates allegations of abuse, neglect, or exploitation of youth in TYC facilities. Auditors identified weaknesses that TYC should address. Specifically:

- Management at two of three residential facilities that auditors visited did not report three incidents of alleged youth mistreatment to the Office of Inspector General, even though the residential facility management took disciplinary action against the staff involved in the incidents. (See Chapter 1-B, page 7.)
- TYC lacked guidelines specifying when Youth Care Investigators or the Office of Inspector General can transfer investigations of alleged mistreatment to other agency staff. Auditors identified nine incidents of alleged mistreatment of youth that were properly reported to the Office of Inspector General but were

subsequently investigated by either the Residential Services Division (the division responsible for housing youths) or the Youth Rights Division. (See Chapter 1-B, page 8.)

- Thirty of 85 investigation files reviewed lacked documentation supporting (1) that Youth Care Investigators performed an investigation or (2) the reason for transferring the cases to the Youth Rights Specialists for review. (See Chapter 1-C, page 12)

**TYC did not complete investigative reports of alleged mistreatment in a timely manner.**

For fiscal year 2008, TYC took an average of 100 calendar days to complete an investigative report after an allegation was reported to the Office of Inspector General. In fiscal year 2006, TYC completed investigative reports in an average of 57 calendar days. TYC requires that an investigative report be completed within 30 days after an allegation is reported. TYC should evaluate whether the Office of Inspector General has the staffing resources necessary to complete investigations within required time frames. (See Chapter 1-B, page 9.)

**TYC has fully or substantially implemented 11 of 15 (73.3 percent) recommendations for improving its security and monitoring of youth.**

TYC has (1) increased the number of video surveillance cameras in its residential facilities and (2) reconfigured open-bay dorms at six residential facilities into single-cell dorms. In addition, TYC reported that it considers a youth's proximity to home when making placement decisions. As of February 2009, TYC continued to work toward implementation of recommendations to maintain a juvenile correctional officer-to-youth ratio of 1 to 12, conduct contraband searches of staff, and rotate juvenile correctional officers' dorm assignments. (See Chapter 2, page 14.)

**TYC has fully or substantially implemented 17 of 23 (73.9 percent) recommendations for improving its management of agency resources.**

TYC has improved its policy and processes for conducting criminal history checks of its employees, volunteers, and contractors. TYC also developed an extensive juvenile correctional officer training program that requires 300 hours of on-the-job training and includes curriculum on proper behavior for juvenile correctional officers, proper techniques for control and restraint of youths, and understanding the oversight process for alleged mistreatment. (See Chapter 3, page 21.)

**TYC should continue to improve its allocation of staffing resources.**

Only 6 of the 27 counselors on TYC's staff are certified sex offender counselors. TYC reported that it has developed an agency-wide program for its treatment counselors to obtain sex offender counselor certifications by 2010. TYC also used a reasonable methodology for determining staffing needs for juvenile correctional officers for the 2008-2009 biennium; however, TYC did not maintain

documentation necessary to support its staffing projections. In addition, TYC increased the number of central office manager and director positions by 53.7 percent from 41 positions in fiscal year 2007 to 63 positions in fiscal year 2009 (see Appendix 10, page 92). TYC also reported that it was eliminating 430 agency-wide positions effective March 1, 2009.

**TYC did not competitively bid 11 contracts it awarded while the agency was in conservatorship.**

One of the 11 contracts not competitively bid was a contract that TYC entered into with Youth Services International. The contract required TYC to pay the contractor \$189.50 per youth per day at a guaranteed number of 119 beds for the first 90 days, even though no youths were placed with the contractor for the first 90 days. TYC entered into this agreement to provide start-up funds to the contractor. However, TYC's policy requires start-up funds to be paid to contractors based on a proposed budget approved by TYC during the procurement process. TYC and Youth Services International mutually agreed to terminate the contract in October 2008. TYC paid Youth Services International approximately \$1.3 million in start-up funds. Youth Services International has invoiced TYC for an additional \$1.2 million. As of February 2009, TYC was working with the Office of the Attorney General to resolve the matter regarding the amount invoiced. (See Chapter 4-A, page 30.)

**TYC should ensure that it documents the factors it considered when including minimum payment guarantees in its contract renewals with contract care providers.**

For fiscal year 2009, TYC has contracts with 6 of 12 contract care providers that include minimum payment guarantees. Auditors were not able to determine the reasonableness of TYC's decision to include minimum payment guarantees in these contracts. TYC lacked documentation showing the factors that it used to determine the necessity and reasonableness of the contracts' minimum payment guarantees. TYC reported that, during the contract renewal process in August 2008, payment guarantees were negotiated on a case-by-case basis between the contract care providers and the TYC conservator. (See Chapter 4-C, page 40.)

**TYC should ensure that state resources are used efficiently for the operation of residential facilities.**

TYC proposed the closure of five facilities; but as of April 2009, it had closed only three facilities. It continues to operate the Victory Field Correctional Academy and the West Texas State School, even though it received a reduced appropriation for fiscal years 2008 and 2009. TYC used cost savings from the closure of other facilities and agency-wide job vacancies to pay for the operating costs of the two open facilities. The cost savings included (1) approximately \$14 million from the closure of the Marlin Orientation and Assessment Unit and the John Shero Juvenile Correctional Facility prior to fiscal year 2008 and (2) approximately \$5.7 million from job vacancies during fiscal year 2008. (See Chapter 5-A, page 44.) As of

January 31, 2009, TYC was using 27.7 percent and 37.5 percent of the physical bed capacity at the Victory Field Correctional Academy and the West Texas State School, respectively. The physical bed capacity for all TYC facilities including contract placement was 76.2 percent. (See Appendix 7, page 81 for additional information.)

In fiscal year 2009, TYC did not meet its targeted costs for institutional and contract programs.

Through the second quarter of fiscal year 2009, TYC exceeded its performance target of \$299,404 for daily capacity costs for TYC-operated institutional services by 14.8 percent. TYC's reported results were lower than its target of \$64,978 for daily capacity costs for contracted correctional services by 50.1 percent. TYC reported reliable results for four key performance measures related to these capacity costs that auditors tested for fiscal year 2008 and the first two quarters of fiscal year 2009. (See Chapter 5-C, page 48.)

## *Summary of Management's Response*

TYC generally agrees with the recommendations in this report, and it provided the following summary of its responses:

*Management appreciates the Texas State Auditor's Offices' acknowledgment of TYC's many achievements since the March 2007 investigative report, as well as its assessment and identification of areas where further improvement can be made.*

*Overall, the agency agrees with most of the conclusions and recommendations in this report as it identifies important areas where additional work is needed. Some of the recommendations have been implemented while others are in progress and anticipated to be completed soon or are planned to be initiated and completed in the near future.*

*One of the agency's greatest challenges is to provide effective rehabilitation services efficiently. Continuing the operations at these facilities was a strategic decision in February 2008 based on several factors: population management and service needs resulting from Senate Bill 103 impacts; the emphasis on keeping youth in close proximity to their homes; and the ability to provide services to reduced populations using existing resources. The populations of both of these facilities have been significantly reduced and specialized treatment programming has been added at both locations. When the Legislature removed funding but did not specify closure of these facilities as it did for other facilities, the agency chose to down-size the facilities and seek legislative guidance on the continuation of operations at West Texas and Victory Field. TYC continues to analyze the best use of resources and downsizing for efficient staffing.*

TYC's detailed management responses to the specific recommendations in this report are presented immediately following each set of recommendations in the Detailed Results section of this report. TYC's overall management response is presented in Appendix 13, page 98.

## ***Summary of Information Technology Review***

Auditors examined TYC's former Alleged Mistreatment Incident (AMI) system, which TYC uses to track investigations of alleged mistreatment. TYC implemented a new system to track investigations of alleged mistreatment effective December 1, 2008. Auditors did not examine the controls over the new system. Auditors identified weaknesses in the former system that TYC should ensure are corrected in its new system. (See Chapter 6-A, page 54, of this report for additional information.)

Auditors also examined TYC's Correctional Care System, which it uses to collect and manage youth population data for the four key performance measures that auditors tested. Although TYC has controls over the Correctional Care System that ensure the reliability of performance measure data, auditors identified opportunities for TYC to strengthen its controls to provide greater assurances over the integrity and accuracy of the data. (See Chapter 6-B, page 57, for more information.)

In addition, auditors examined TYC's General Accounting System. TYC had the necessary controls in place to ensure that the system's financial transactions are complete, accurate, timely, and authorized. (See Chapter 6-E, page 62, for more information.)

To minimize the risks associated with public disclosure, auditors communicated other confidential and sensitive information technology issues to TYC management in writing.

## ***Summary of Objectives, Scope, and Methodology***

The objectives of this audit were to:

- Determine the implementation status of selected recommendations from *An Investigative Report on the Texas Youth Commission* (State Auditor's Office Report No. 07-022, March 2007).
- Review abuse and neglect allegations and documentation to ensure that the allegations were properly screened and investigated and that appropriate action was taken.
- Determine whether selected expenditures at TYC comply with state law and are properly authorized and reasonable for the performance of TYC functions and the facilitation of legislative reform efforts.

The audit scope covered TYC's oversight of the alleged mistreatment of youth and management of agency resources as of August 31, 2008; allegations of mistreatment that were identified as a concern by TYC's Office of Independent Ombudsman for fiscal years 2007 and 2008; TYC's contract management processes while the agency was under conservatorship from March 2007 to October 2008; TYC's expenditures related to implementing Senate Bill 103 reforms for fiscal years 2007 and 2008; and TYC's reported performance measures for fiscal years 2008 and the first two quarters of fiscal year 2009.

The audit methodology included identifying high-risk recommendations from the prior State Auditor's Office's investigative report. Additionally, the audit methodology included collecting information and documentation to determine the implementation status of those recommendations; conducting site visits at three TYC residential facilities: the Gainesville State School, the Al Price State Juvenile Correctional Facility, and the Corsicana Residential Treatment Center; performing selected tests and other procedures; analyzing and evaluating the test results; interviewing management and staff from TYC; selecting four key performance measures and auditing the reported results for accuracy; and reviewing controls over the collection, calculation, and submission of data used in reporting selected performance measures.



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# Detailed Results

## Chapter 1

### *While TYC Has Improved Its Oversight of Alleged Youth Mistreatment, It Should Complete Efforts to Strengthen Its Intake and Investigation Processes*

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The Texas Youth Commission (TYC) has fully or substantially implemented six of nine (66.7 percent) high-risk recommendations for correcting weaknesses in its oversight of alleged youth mistreatment identified in *An Investigative Report on the Texas Youth Commission* (State Auditor's Office Report Number 07-022, March 2007). Specifically:

#### Alleged Mistreatment

Alleged mistreatment are those incidents that involve TYC employees, youth, or contractor staff accused of committing acts of abuse, neglect, or exploitation. TYC defines abuse, neglect, or exploitation as follows:

- **Abuse** - an intentional, knowing, or reckless act or omission that causes or may cause emotional harm or physical injury to, or death of, a youth.
- **Neglect** - a negligent act or omission, including failure to comply with an individual case plan, that causes or may cause substantial emotional harm or physical injury to, or death of, a youth.
- **Exploitation** - the illegal or improper use of a youth or the resources of a youth for monetary or personal benefit, profit, or gain.

- TYC transferred responsibilities for the investigation and management of reported incidents of alleged mistreatment (see text box for definition of alleged mistreatment) to the Office of Inspector General.<sup>1</sup>
- TYC installed and maintains a filter that limits which Web pages can be accessed from TYC computers.
- TYC revised and implemented a new disciplinary policy outlining specific consequences for employees who mistreat or abuse youth.

- TYC reported that it established interim panels to review recommendations to extend a youth's stay beyond his or her original sentence. As of February 2009, TYC was in the process of adopting policies and procedures to ensure that it conducts these reviews in a consistent and transparent manner.

Although TYC has made improvements in its oversight of allegations of mistreatment, auditors identified some weaknesses in the oversight process. Specifically:

- Management at two of three residential facilities that auditors visited did not report three incidents of alleged youth mistreatment to the Office of

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<sup>1</sup> The phrase "alleged mistreatment" is used in this report to be consistent with TYC's terminology for discussing alleged incidents of abuse, neglect, or exploitation. The term "grievance" was used in *An Investigative Report on the Texas Youth Commission* (State Auditor's Office Report Number 07-022, March 2007). TYC considers grievances to be concerns by youth, parents, and other youth advocates regarding the denial of certain rights to youth. In general, grievances are of a less serious nature than allegations of mistreatment.

Inspector General, even though the residential facility management took disciplinary action against the staff involved in the incidents.

- TYC lacked guidelines specifying when Youth Care Investigators or the Office of Inspector General can transfer investigations of alleged mistreatment to other agency staff to investigate. Auditors identified nine incidents of alleged mistreatment of youth that were properly reported to the Office of Inspector General but were subsequently investigated by either the Residential Services Division (the division responsible for housing youth) or the Youth Rights Division.
- TYC did not complete investigative reports of alleged mistreatment in a timely manner. For fiscal year 2008, TYC took an average of 100 calendar days to complete an investigative report after an allegation was reported to the Office of Inspector General. TYC requires that an investigative report be completed within 30 days after an allegation is reported.
- Thirty of 85 investigation files reviewed lacked documentation supporting (1) that Youth Care Investigators performed an investigation or (2) the reason for transferring the cases to Youth Rights Specialists for review.

Table 10 in Appendix 3, page 69, provides a summary of the implementation status for each high-risk recommendation that auditors reviewed. Appendix 4, page 76, provides TYC's self-reported status of high-risk recommendations not selected for follow-up audit work.

#### Chapter 1-A

### **TYC Has Fully or Substantially Implemented Six of Nine High-risk Recommendations Regarding Its Oversight of Allegations of Mistreatment**

In its previous investigative report, the State Auditor's Office recommended that TYC strengthen its processes to ensure that all allegations of mistreatment are received and investigated appropriately and in a timely manner. TYC has

fully or substantially implemented six of nine high-risk recommendations to improve its oversight of these allegations (see text box for implementation status definitions).

Two recommendations were fully implemented.

- Recommendation to transfer TYC's automated grievance system to the Office of Inspector General. In June 2008, TYC's conservator transferred the management of the Alleged Mistreatment Incident (AMI) system to the Office of Inspector General (see Chapter 6-A, page 54, for more information).
- Recommendation to perform Web filtering to prevent users from accessing sexually oriented sites. TYC installed and maintains a filter that limits which Web pages staff can access from a TYC

#### **Implementation Status Definitions**

**Fully Implemented** - Successful development and use of a process, system, or policy to implement a prior recommendation.

**Substantially Implemented** - Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.

**Incomplete/Ongoing** - Ongoing development of a process, system, or policy to address a prior recommendation.

**Not Implemented** - Lack of a formal process, system, or policy to address a prior recommendation.

computer. In addition, TYC computers available for youth use are not connected to the Internet. TYC stores Internet content it deems appropriate on its servers, which allows it to limit the content it makes accessible to computers within TYC's residential facilities.

Four recommendations were substantially implemented.

- Recommendation to enforce a disciplinary policy that outlines consequences for employees who mistreat or abuse youths. TYC revised and implemented a new disciplinary policy effective December 1, 2008. This policy outlined specific consequences for employees who mistreat or abuse youth. Auditors did not test for compliance with the policy because TYC implemented it during audit fieldwork.
- Recommendation to ensure that all grievances are received and investigated by requiring staff to immediately report any suspected mistreatment or abuse of youth to the Office of Inspector General for investigation. Effective July 2008, TYC required that all allegations of mistreatment be reported to and investigated by the Office of Inspector General. However, auditors identified weaknesses in TYC's oversight processes (see Chapter 1-B, page 7).
- Recommendation to require TYC's executive director or his or her designee to verify and approve "phase adjustments" that result in extending a youth's stay at a facility. In June 2007, Senate Bill 103 (80th Legislature) became effective and required TYC to determine whether a youth (1) has completed the assigned minimum length of stay and (2) should be discharged or released to parole. TYC reported it established interim panels in August 2007 that review recommendations to extend a youth's stay beyond his or her original sentence, to release the youth to parole supervision, or to discharge the youth. However, as of February 2009, TYC was still in the process of adopting policies and procedures for conducting these reviews in a consistent and transparent manner.
- Recommendation to monitor employees' computers to detect storage of inappropriate images and refer employees to the Office of Inspector General if inappropriate images are detected. TYC reported that it monitors employees' computers for inappropriate images upon investigative request only. In April 2007, TYC installed a Web-filtering system and revised its policy on the appropriate use of information technology resources. This policy stated that TYC's Information Resources Division may monitor any TYC resource to ensure the appropriate use of state property. However, TYC reported that investigative requests to monitor employees' computers have decreased to almost none since it installed the Web-filtering system. As a result, TYC is not actively monitoring employees' computers.

The implementation of two recommendations was incomplete/ongoing.

- Recommendation to allow youths to challenge consequences for misconduct separately from the grievance process.
- Recommendation to develop and implement a policy that outlines consequences to youths according to the level and type of their misconduct.

As of February 2009, TYC was in the process of adopting policies and procedures that define a process to (1) allow youths to challenge consequences (such as loss of privileges or transfer to a different residential facility) separately from submitting grievances or complaints and (2) outline the consequences to youth for misconduct based on the level and type of misconduct.

One recommendation was not implemented.

- Recommendation to strengthen password protection on all TYC computers. TYC still needs to make improvements to strengthen password protection and comply with the information security standards in Title 1, Texas Administrative Code, Chapter 202, on all TYC computers.

Auditors identified additional weaknesses related to the access and security control structure of TYC's information systems (see Chapter 6, page 54, for additional details).

## Recommendation

TYC should continue efforts toward implementing the recommendations related to the oversight of alleged youth mistreatment reported as incomplete/ongoing or not implemented.

## Management's Response

- ***Enforce a disciplinary policy that outlines consequences for employees who mistreat or abuse youths.*** TYC has always had a disciplinary policy, PRS.35.01, Disciplinary Action, which since 2002 was supported by a managerial "grid" which was distributed to all managers to identify the appropriate disciplinary action for employees who mistreat or abuse youth or have otherwise inappropriate behavior. The revised PRS.35.01, effective December 2008, formally links the managerial grid to the policy and expands its content to provide greater guidance in the identification of rules and the disciplinary actions that should result for such violations. It also increases the Central Office oversight of the disciplinary process to ensure consistency of application throughout the agency, timeliness, and fair and equitable treatment for all agency employees. The revised policy ensures that employees who mistreat or abuse youth will be disciplined

*appropriately, up to and including termination of employment. **Fully Implemented***

- ***Require TYC’s executive director or his or her designee to verify and approve “phase adjustments” that result in extending a youth’s stay at a facility.*** As noted in the report, interim review panels were implemented in 2007; results of these panels are reported on the TYC website in accordance with SB 103. The policy establishing the Release Review Panel (RRP) and describing its operations was submitted to the Texas Register for adoption on April 2, 2009, and will be effective on May 1, 2009. In compliance with requirements of SB 103, the RRP is the only means by which indeterminate sentenced youth may be assigned an extension beyond the original length of stay. The RRP’s review will take place within 30 days of the expiration of the youth’s minimum length of stay, regardless of the youth’s progress in the rehabilitation program.

*The phase adjustments referred to in the March 2007 SAO Report were a component of the Resocialization program, which is no longer in use at TYC facilities. The new rehabilitation program, known as CoNEXTions, includes stage assessments rather than phase adjustments. Because stage demotions are not allowed under the CoNEXTions program, a youth’s length of stay may not be extended as a result of demotion in stage.*

***Substantially Implemented – Projected to be Fully Implemented May 1, 2009***

- ***Allow youths to challenge consequences for misconduct separately from the grievance process.*** Current policy provides that any consequence imposed through an administrative due process hearing may be appealed by the youth to the Executive Commissioner.

*Additionally, TYC has developed draft policies to redesign the system of youth rules and disciplinary consequences. Once implemented, these policies will establish that major consequences may only be assigned via a Level I or II administrative due process hearing (i.e., the two highest levels of agency due process hearings afforded to youth).*

*Under the revised policies, a youth may challenge the imposition of minor consequences with his multi-disciplinary treatment team. Policy revisions will clarify that incident reports are merely staff allegations of youth misbehavior. Under the current rehabilitation program, issuance of an incident report no longer has any effect on a youth’s stage level or his/her minimum length of stay date unless the alleged rule violation is proven via a Level I or II administrative due process hearing. As noted above, disciplinary consequences imposed as a result of such hearings may be appealed directly to the Executive Commissioner.*

Youth also have the option of reporting any concern directly to the Central Office through TYC's 24-hour hotline. **In Progress – Projected to be Fully Implemented May 31, 2009**

- **Develop and implement a policy that outlines consequences to youths according to the level and type of their misconduct.** As noted above, TYC has developed draft policies that will define major and minor rule violations, and any resulting major and minor disciplinary consequences. **In Progress – Projected to be Fully Implemented May 31, 2009**
- **Strengthen password protection on all TYC computers.** Management agrees with this recommendation. TYC is in the process of strengthening logon and password security in the agency's primary database management system. TYC Information Resources staff submitted a service request (ticket CRQ52082) for the changes to IBM, as required by the State's contract sponsored by the Department of Information Resources with 27 agencies for consolidation of database management. The developmental tasks for implementing this recommendation will be completed by May 31, 2009 with the remainder completed by the end of fiscal year 2009. **In Progress – Projected to be Fully Implemented August 31, 2009**



## TYC Should Ensure That Its Office of Inspector General Receives, Investigates, and Records All Incidents of Alleged Mistreatment

While TYC has improved its oversight of allegations of mistreatment, it should continue its efforts toward ensuring that its facility staff report all allegations of mistreatment to the Office of Inspector General. TYC should

### TYC's Office of Inspector General

Senate Bill 103 (80th Legislature) required TYC to establish an Office of Inspector General to investigate criminal violations committed by its employees, youth, or contract facilities. The Office of Inspector General is organized into three primary areas:

- **Incident Reporting Center**—Operates the TYC hotline, which is used by TYC youth, family, staff, and others to report complaints, violations, and crimes that are committed by TYC youth, employees, or contractors.
- **Criminal Investigators**— Conducts investigations of (1) crimes committed by TYC employees, including parole officers employed by or under contract with TYC, and (2) crimes committed at a facility operated by TYC or at a residential facility operated by another entity under contract with TYC.
- **Administrative Investigators**—Conducts investigations into allegations of mistreatment that involve acts that may have violated agency policies. In June 2008, the TYC conservator transferred Youth Care Investigators and their responsibilities to the Office of Inspector General (see Appendix 5, page 77, for more information).

As of February 2009, TYC reported that the Office of Inspector General had 21 investigator positions and an operating budget of approximately \$1.7 million for fiscal year 2009.

ensure that the Office of Inspector General (1) receives and investigates all reported allegations of mistreatment and (2) has the staffing resources necessary to complete investigations of alleged mistreatment within 30 days as required by agency policy. In addition, TYC should strengthen the Office of Inspector General's procedures for ensuring the accuracy of data entered into the Alleged Mistreatment Incident (AMI) system (see text box for more information on the Office of Inspector General).

**Residential facilities do not always report allegations of mistreatment to the Office of Inspector General.**

Auditors reviewed TYC's fiscal year 2008 AMI system data and the disciplinary action records at three facilities visited. Fifty-six of 59 incidents of alleged mistreatment reviewed were reported to the Office of Inspector General, and TYC management took disciplinary action. Auditors identified three instances in which allegations of youth mistreatment were not reported to the Office of Inspector General as required. In each case, the residential facility disciplined the employee involved in the incident. Specifically:

- A youth received emergency room treatment after being found in a bathtub breathing and alert but unresponsive. The juvenile correctional officer involved in this incident was placed on probation for 90 days for improper supervision.
- A juvenile correctional officer inappropriately used pepper spray on a youth and received probation for this incident.
- A juvenile correctional officer was alleged to have threatened a youth with physical harm and received a reprimand for this incident.

Although they took timely disciplinary action, the facility management did not report these three incidents to the Office of Inspector General. TYC requires all employees to report all allegations of mistreatment to the Office of Inspector General so that it can enter all reported incidents into the Incident Reporting Center's automated system. This system assigns each incident a case number, which staff can use to track an investigation's progress in the AMI system. TYC established the Office of Inspector General and

subsequently transferred to it responsibility for investigating allegations of youth mistreatment to help ensure that an independent investigation is conducted into all allegations of youth mistreatment.

TYC lacks guidelines establishing when Youth Care Investigators or the Office of Inspector General can delegate the investigation of youth mistreatment allegations to other TYC divisions.

Auditors identified nine allegations of mistreatment that occurred during fiscal year 2008 in which (1) TYC had taken disciplinary action against juvenile correctional officers and (2) the case had been initially assigned to either Youth Care Investigators or the Office of Inspector General but was later reassigned to the Residential Services Division or the Youth Rights Specialists for investigation. TYC lacks guidelines that clearly define under what circumstances Youth Care Investigators or Office of Inspector General investigators should transfer reported incidents of alleged mistreatment to other divisions for investigation. Without clearly defined guidelines, there is an increased risk that allegations may be inappropriately investigated by agency staff.

These nine allegations included charges that juvenile correctional officers had inappropriately used pepper spray and/or excessive force on youths. Residential facility staff reported the allegations to the Office of Inspector General as required, and the allegations were assigned to either Youth Care Investigators or the Office of Inspector General for investigation. However, the management of these areas later reassigned five of the allegations to the Residential Services Division and four allegations to the Youth Rights Specialists for investigation. Effective June 1, 2008, the Office of Inspector General became responsible for conducting investigations of alleged youth mistreatment. Prior to that date, Youth Care Investigators were responsible for investigating alleged mistreatment. Auditors brought these nine allegations to the attention of the Office of Inspector General's management, who reviewed the incidents and determined the following:

- Eight incidents occurred prior to June 1, 2008, and were determined to be policy violations that resulted in either no injury or minor injury to youth. TYC reported it did not investigate policy violations committed by staff as alleged mistreatment of youth prior to the transfer of Youth Care Investigators to the Office of Inspector General.
- One incident occurred after June 1, 2008, and the Office of Inspector General reported that it had opened a criminal investigation into the allegations, even though it had also reassigned the investigation to TYC's Residential Services Division. This case is still under investigation by the Office of Inspector General.

Although the allegations were considered policy violations, the reforms mandated by Senate Bill 103 established an expectation that all investigations

of allegations of youth mistreatment would be conducted by investigators independent of facility management; these would include allegations of policy violations.

Auditors identified additional cases in which Youth Care Investigators lacked documentation supporting decisions to transfer cases to the Youth Rights Division for investigation (see Chapter 1-C, page 12).

TYC may lack an adequate number of investigators to complete administrative investigations in a timely manner.

In *An Investigative Report on the Texas Youth Commission*<sup>2</sup>, the State Auditor’s Office previously reported that it took TYC an average of 57 calendar days to complete investigative reports on 1,347 allegations of mistreatment in fiscal year 2006. In fiscal year 2008, TYC took an average of 100 calendar days to complete investigative reports on 1,392 allegations of mistreatment. Of 665 completed investigations, 118 (17.7 percent) were closed within 30 days after the Office of Inspector General received the initial allegation of mistreatment, as required by TYC policy. Table 1 lists the number of days it took Office of Inspector General investigators to complete investigations of alleged mistreatment that were opened and closed during fiscal year 2008.

Table 1

Timeliness of TYC’s Office of Inspector General Investigations Fiscal Year 2008 <sup>a</sup>	
Number of Days to Complete Investigation of Alleged Mistreatment	Number of Investigations Completed After Incident was Reported
Within 1 Day (24 hours)	4
Within 3 Days	12
Within 10 Days	12
Within 30 Days	90
Within 60 Days	141
Within 90 Days	115
Within 120 Days	86
More than 120 Days	205
<b>Total Complete Investigations</b>	<b>665</b>
Cases Outstanding	727
<b>Total Cases</b>	<b>1,392</b>

<sup>a</sup> The data in this table was taken from the Alleged Mistreatment Incident (AMI) system. During fiscal year 2008, both the Office of Inspector General and the Office of Independent Ombudsman expressed concerns about the accuracy and integrity of the AMI system’s data. However, this data was the only data available to auditors for assessing the timeliness of completed investigations in fiscal year 2008.

Source: TYC.

<sup>2</sup> State Auditor’s Office Report No. 07-022, March 2007.

The increase in the average number of days needed for the Office of Inspector General to complete an investigation may indicate that it does not have sufficient staffing resources to complete investigations in a timely manner.

TYC should ensure the accuracy of data entered into the AMI system.

During fiscal year 2008, TYC's Office of Independent Ombudsman and the Office of Inspector General identified concerns regarding the accuracy of AMI system data. In addition, auditors identified one investigation that the AMI system showed was opened in November 2008 and closed in May 2008. The Office of Inspector General determined that a staff person had backdated the closing of the investigation. Auditors identified additional concerns related to access controls over the AMI system (see Chapter 6-A, page 54).

## Recommendations

TYC should:

- Provide monthly reports to the Office of Inspector General listing all disciplinary actions taken against staff for incidents involving youth. These reports should include a description of the incident and the names of parties involved.
- Ensure that the Office of Inspector General defines criteria and documentation requirements for transferring cases to Youth Rights Specialists for investigation.
- Evaluate the Office of Inspector General's workload to determine whether it has the staffing resources necessary to efficiently complete investigations within the required timeframes.
- Ensure that the Office of Inspector General develops processes for ensuring the accuracy of data entered into its AMI system.

## Management's Response

- ***Provide monthly reports to the Office of Inspector General listing all disciplinary actions taken against staff for incidents involving youth. These reports should include description of the incident and the names of parties involved. Management agrees with this recommendation. The first week of each month, the Central Office Human Resources Department will provide the Office of the Inspector General a report which will include the facility location, date of incident, description of the violation, the disciplinary action(s) taken, and parties involved. Substantially Implemented – Projected to be Fully Implemented May 1, 2009***

- **Ensure the Office of Inspector General defines criteria and documentation requirements for transferring cases to the Youth Rights Specialists for investigation.** Management agrees with this recommendation. The Office of the Inspector General implemented department policies and procedures which include criteria for the Incident Reporting Center to use when assigning cases. Cases assigned to the Administrative Investigations Division (AID) are investigated by that division; cases initially assigned to the Youth Rights Department or the Residential Services Division that are transferred to the AID require an explanation of the reason the transfer is needed. **Fully Implemented**
- **Evaluate the Office of Inspector General's workload to determine whether it has the staffing resources necessary to efficiently complete investigations within the required timeframes.** Management agrees with this recommendation. The agency identified the need for additional investigators and submitted an exceptional item to the Legislative Appropriations Request for six full-time equivalents (FTEs); investigator caseloads are large and continue to grow. In fiscal year 2009 through March 2009, 1,092 administrative investigation cases were opened, adding an average of 21 cases per month to each investigator's caseload.

Since June 2008, when responsibility for the administrative investigations was transferred to the Office of the Inspector General, processes have been implemented to reduce the time to close cases and management actively monitors caseload size and redirects resources as needed. In the absence of the additional positions requested, the Office of the Inspector General will continue to monitor workloads and make adjustments as necessary; however at the current rate cases are being assigned, the 30 day timeframe will be difficult to meet. **Fully Implemented**

- **Ensure the Office of Inspector General develops processes for ensuring the accuracy of data entered into its AMI system.** Management agrees with this recommendation. The Office of the Inspector General has reclassified an Administrative Investigations Division position to a case administrator and posted another position to perform system support and quality assurance duties. Part of the responsibilities of these two positions will include data integrity of the Administrative Investigation Manager database. **In Progress – Projected to be Fully Implemented May 1, 2009**

## TYC Should Define Documentation Requirements for Investigations of Alleged Mistreatment

Auditors reviewed 85 of 564 (15.1 percent) records<sup>3</sup> of alleged mistreatment investigations performed by the Youth Care Investigators during fiscal years 2007 and 2008 and previously reviewed by TYC's Office of the Independent Ombudsman and TYC's Office of Inspector General. Of these 85 files, 55 (64.7 percent) contained supporting documentation that either (1) showed that an investigation of an incident was performed or (2) provided the reason for transferring an incident to Youth Rights Specialists for investigation. However, auditors identified 30 investigation records that lacked documentation to support the closing of an investigation or the reclassification of an incident from alleged mistreatment to a youth grievance. Some investigation records lacked either final investigation reports or documentation of interviews, reviews of videotapes, or other investigative procedures that may have been performed. Specifically:

### Criteria for Closing Investigations

On May 16, 2008, the Director of Youth Care Investigators directed investigators to close investigations that were started in fiscal year 2007 that met the following criteria:

- The alleged victim's account of the incident does not support an allegation of abuse, neglect, or exploitation.
- The investigation was being investigated by local law enforcement; however, local law enforcement had not provided information confirming the allegation.
- The alleged victim had been released or paroled, and attempts to contact the victim had been unsuccessful.
- The alleged incident occurred a number of months ago and the likelihood of collecting evidence was low.
- The alleged perpetrator was no longer an employee of TYC and was not eligible for rehire.

- Eighteen investigation records lacked documentation showing that an investigation had been performed. The Office of Inspector General reported that these 18 investigations were closed according to criteria used by Youth Care Investigators (see text box for criteria). However, the investigation records lacked documentation that either (1) identified the criteria that were used to close the case or (2) showed that investigators reviewed information regarding the incident (such as interviews with witnesses or staff and videotapes) prior to closing the investigation. However, Office of Inspector General management noted that a lack of supporting documentation did not mean that a preliminary investigation had not been conducted.
- Twelve investigation records lacked documentation to justify the reason for transferring an allegation to the Youth Rights Specialists for investigation. Youth Rights Specialists review complaints by youth, parents, and other youth advocates regarding the denial of certain rights to youth. In general, these complaints are of a less serious nature than allegations of mistreatment (see text box on next page).

<sup>3</sup> Auditors determined that none of the 85 investigations reviewed was from an allegation that was referred by the State Auditor's Office's Special Investigations Unit to TYC's Office of Inspector General. The Special Investigations Unit manages the State Auditor's Office's fraud, waste, and abuse hotline and forwards complaints involving TYC to TYC's Office of Inspector General. The Special Investigations Unit follows up on TYC referrals until a final disposition is reported to the Special Investigations Unit.

### TYC Youth Basic Rights

Youths committed to TYC have 14 basic rights. Specifically:

- The right to equal treatment.
- The right to exercise free speech and expression.
- The right to religious freedom.
- The right to have personal possessions.
- The right to receive visitors.
- The right to have access to mail and the telephone.
- The right to receive earnings and monetary gifts.
- The right to protection from physical and psychological harm.
- The right to medical and dental care.
- The right to have access to attorneys.
- The right to be informed about care.
- The right to accuracy and fairness in decision-making regarding care.
- The right to confidentiality of their records.
- The right to express grievances and appeal decisions.

If a youth feels that TYC has violated one or more of these rights, the youth may file a grievance to remedy the situation and may expect the Youth Rights Specialists to work with facility staff to address the concerns.

In addition, 50 of the 85 (58.8 percent) investigations were not assigned to investigators within the same workday as the day that TYC received the allegation, as required by TYC policy. On average, investigations were assigned to investigators within approximately three workdays.

### Recommendation

TYC should establish documentation requirements for Office of Inspector General investigations of alleged mistreatment. At a minimum, these requirements should define the documentation necessary to support (1) the performance of an investigation, (2) the reason for administrative closure, (3) the disposition or periodic status of investigations conducted by local law enforcement, and (4) the reasons for transferring an investigation to the Youth Rights Specialists.

### Management's Response

*Management agrees with this recommendation. The Office of the Inspector General has formalized and implemented internal policies and procedures that address the documentation requirements for investigations. **Fully Implemented***

## *TYC Has Made Progress in Strengthening Its Security and Monitoring of Youth*

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In its previous investigative report, the State Auditor's Office recommended that TYC strengthen its physical security processes to adequately safeguard the youths in its care. TYC has fully or substantially implemented 11 of 15 (73.3 percent) high-risk recommendations in this area. TYC has made progress in making its residential facilities more secure through structural changes and through policy changes in its placement decisions. Specifically, TYC has made progress toward:

### Implementation Status Definitions

**Fully Implemented** - Successful development and use of a process, system, or policy to implement a prior recommendation.

**Substantially Implemented** - Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.

**Incomplete/Ongoing** - Ongoing development of a process, system, or policy to address a prior recommendation.

**Not Implemented** - Lack of a formal process, system, or policy to address a prior recommendation.

- Increasing the number of video surveillance cameras in its residential facilities.
- Reconfiguring open-bay dorms at six residential facilities into single-cell dorms.
- Considering the proximity of committed youths' homes when making placement decisions.

As of February 2009, TYC continued to work toward implementation of four recommendations to improve its management of juvenile correctional officers and improve its security.

Table 11 in Appendix 3, page 70, provides a summary of the implementation status for each high-risk recommendation that auditors reviewed.

Four recommendations were fully implemented.

- Recommendation to consider the addition of some single-cell dorms at facilities. As of February 2009, TYC was in the process of reconfiguring the open-bay dorms at six residential facilities into single cells. For fiscal year 2008, TYC reported that it expended approximately \$3.4 million toward reconfigurations at the following residential facilities: the Al Price State Juvenile Correctional Facility, the Crockett State School, the Evins Regional Juvenile Center, the Giddings State School, the McLennan County State Juvenile Correctional Facility, and the Ron Jackson State Juvenile Correctional Complex.
- Recommendation to require investigators to conduct unannounced visits. Senate Bill 103 established the Office of Inspector General, which has investigators assigned to each residential facility to perform unannounced visits as necessary.
- Recommendation to increase the number and placement of electronic monitoring devices (surveillance cameras and audio recording devices). TYC reported that it



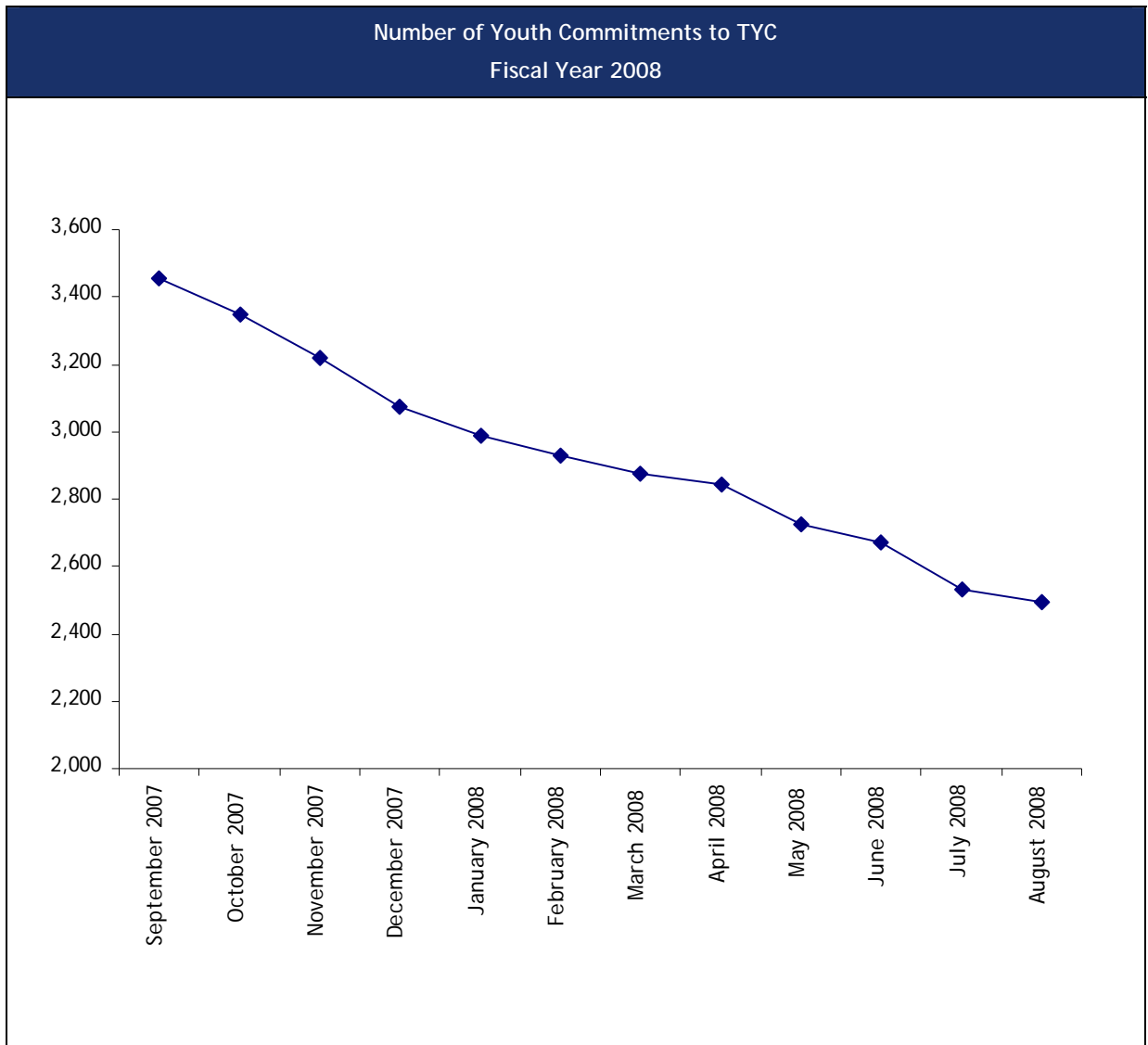
installed approximately 11,000 additional surveillance devices in its residential facilities. However, auditors identified concerns regarding the installation of the video surveillance equipment (see Chapter 4-B, page 35).

- Recommendation to evaluate the West Texas State School for possible closure. Youths could be transferred to other facilities over the next 12 to 24 months, in the event that a decision is made to close the school. TYC evaluated the West Texas State School for possible closure and elected not to close the facility during fiscal year 2008. TYC's Executive Commissioner continues to evaluate the continued operation of the West Texas State School and other residential facilities according to the following factors:
  - ♦ Location of family resources for the youths in facilities.
  - ♦ Availability of workforce and specialized treatments.
  - ♦ Community support and resources.
  - ♦ Percentage of youths from each region.
  - ♦ The type of commitments made to each facility.
  - ♦ Any specialized treatment needs of the youth.
  - ♦ TYC's ability to operate a cost-effective facility.
  - ♦ Other factors related to monitoring.

Seven recommendations were substantially implemented.

- Recommendation to separate different categories of youths, including (1) separating youths by age and (2) separating youths by severity of offense. Senate Bill 103 required TYC to separate youths 15 years old or younger from older youth. TYC drafted policies requiring youths 15 years old or younger to be separated from older youths in its facilities. TYC separated youths 15 years old or younger from older youths in two of three facilities that auditors visited. However, one facility did not separate its female youths by age or youths assigned to its central stabilization unit. TYC also did not separate youths by severity of offense. However, Senate Bill 103 prohibited the placement in a TYC facility of youths who are convicted of misdemeanors or youth who are between 19 and 21 years old. Other than age, TYC reported that the driving factor in its placement decisions is the treatment needs of the youths. (See Appendix 6, page 80, for additional information about the offenses committed by TYC youth.). Figure 1 on the next page shows the total number of youths in TYC facilities during fiscal year 2008.

Figure 1



Source: TYC.

- Recommendation to establish and enforce a limit on the number of youths who can be assigned to an individual, open-bay dorm. While TYC is in the process of reconfiguring its open-bay dorms into single cells, it continues to house youth in a limited number of open-bay dorms until those reconfigurations are complete. As of February 2009, TYC had not established written requirements regarding the number of youths who can be housed in an open-bay dorm. However, TYC reported that the physical capacity of its open-bay dorms is 24 beds, unless bunk beds are used. Auditors reviewed dorm assignments at the Al Price State Juvenile Correctional Facility, one of the six facilities with open-bay dorms. Twenty-five of 30 (83.3 percent) daily dorm assignments reviewed complied with TYC's established maximum capacity of 24 youths per single open-bay dorm.

Two dorms exceeded the daily maximum capacity by two youths and three dorms exceeded the daily maximum capacity by one youth.

- Recommendation to conduct more frequent and random bed checks. TYC requires its juvenile correctional officers to conduct hourly headcounts of youth. Auditors identified inconsistencies in the frequency of hourly headcounts at three facilities visited.
- Recommendation to enforce maximum occupancy rates. During fiscal year 2008, TYC experienced a significant decline in its youth population after the enactment of Senate Bill 103. Ten of 11 TYC residential facilities did not exceed their maximum physical capacity rates during fiscal year 2008. The Giddings State School exceeded its physical capacity rate by 3 youths in September 2007. (See Appendix 7, page 81, for information on fiscal year 2009 physical capacity rates.)
- Recommendation to fill the vacant dog-handler position and evaluate current resources to determine whether additional positions are necessary to search staff and visitors for drugs and other contraband. TYC had originally filled all dog-handler positions. However, as of February 2009, TYC had four filled dog-handler positions and one vacant position. The vacant position did not become vacant until November 2008. TYC did not evaluate whether additional positions were necessary to conduct searches of staff and visitors for drugs and other contraband.
- Recommendation to (1) maintain surveillance data from monitoring devices for at least 15 working days or until grievances alleged to have occurred on a particular day are resolved and (2) consider using digital equipment, which may be more cost-effective than the current equipment in use. TYC reported that it maintains surveillance records or data for six months. However, TYC has not established requirements or a process for ensuring the retention of the surveillance data, which increases the risk that surveillance data may be accidentally or intentionally altered or deleted. In addition, auditors identified areas for improvement in TYC's oversight of the video surveillance equipment used for recording surveillance data (see Chapter 4-B, page 35).
- Recommendation to place youths in close proximity to their homes or communities, when possible. TYC reported that it considers a youth's proximity to home when making placement decisions; however, the youth's gender, medical needs, and treatment needs are also key factors in these decisions. As of February 2009, TYC was in the process of adopting requirements to make proximity to a youth's home a required factor for consideration in placement decisions. According to data provided by TYC, it placed the majority of youths in facilities that were in the same region as the region in which the youths were sentenced by a court (see Appendix 8, page 83, for more information).

The implementation of three recommendations was incomplete/ongoing.

- Recommendation to establish and enforce juvenile correctional officer-to-youth ratios that provide for a safe and effective environment. Senate Bill 103 mandated a juvenile correctional officer-to-youth ratio of 1 to 12. As of February 2009, TYC was in the process of adopting requirements to ensure enforcement of this mandate. However, the juvenile correctional officer-to-youth ratio continues to vary significantly among individual facilities. For example, one facility consistently met or was below the required ratio of 1 to 12, while another facility had a ratio of 1 to 18. (See Chapter 5-B, page 46, for additional information on TYC's methodology for determining the number of juvenile correctional officers needed to maintain required staff-to-youth ratios.)
- Recommendation to search staff for drugs and contraband, including staff working on night shifts, and consider random drug testing. While TYC has policies allowing it to conduct contraband searches of employees, it has not defined the documentation requirements for these contraband searches. In addition, only one of three residential facilities auditors visited could provide documentation showing that it had conducted contraband searches on employees during fiscal year 2008. This facility had documented two contraband searches; the other two facilities could not provide documentation of contraband searches they reportedly performed. TYC does not conduct random drug tests; it limits its drug testing to job applicants and current employees who operate motor vehicles used to transport youths.
- Recommendation to rotate juvenile correctional officers' dorm assignments every six months so that they do not always work with the same personnel and supervise the same youths. Senate Bill 103 required the rotation of juvenile correctional officer assignments at set intervals so that a juvenile correctional officer is not assigned to the same station for an extended period of time. However, TYC assigned juvenile correctional officers permanently to specific dorms during fiscal year 2008. Officers were reassigned only in instances in which an allegation had been made against the officer or to ensure adequate coverage of a dorm. As of February 2009, TYC was in the process of adopting policies requiring juvenile correctional officers to have rotated assignments at regular intervals.

One recommendation was not implemented.

- Recommendation to replace some solid doors with glass doors to allow staff to monitor youths more easily. TYC reported that it did not replace any solid doors; however, it installed additional surveillance cameras to address concerns about staff's ability to monitor youths.

## Recommendations

TYC should:

- Continue efforts toward implementing the recommendations related to the security and monitoring of youth reported as incomplete/ongoing.
- Evaluate whether to implement the recommendation related to the security and monitoring of youth currently not implemented. If management determines not to implement the recommendation, it should document its reasoning.

## Management's Response

*Management agrees with the recommendation. Several items warrant specific comments:*

- ***Establish and enforce juvenile correctional officer-to-youth ratios that provide for a safe and effective environment.*** *The agency has established 1:12 as the required staff-to-youth coverage ratio and has implemented processes to monitor compliance with the requirement. Weekly reports are generated to show ratios by dorm at each facility; the most recent Compliance Rate Report, which tracks year to date compliance, shows TYC meeting the 1:12 requirement nearly 90 percent of the time. Coverage ratios are specified in GAP 105.5, JCO Staffing Requirements, which was submitted to the Texas Register on November 13, 2008 and is pending final approval. **Substantially Implemented – Projected to be Fully Implemented May 1, 2009***
- ***Search staff for drugs and contraband, including staff working on night shifts, and consider random drug testing.*** *Facilities conduct daily searches of staff at the entry point as required by PRS.01.04, Search of Employees, Personal Property and Vehicles, and Agency Property, including searches of briefcases, bags, and personal belongings to prevent the introduction of contraband. The Residential and Community Services Department will develop a form to document when searches of staff and their personal and/or state issued property contain illegal items or items of interest. This form will be maintained in the staff's personnel file as well as in a separate search log at the facility.*

*The agency has considered random drug testing. The legal principle that drug testing is a "search" implicating fourth amendment protection against unreasonableness is well established in both state and federal law. Two Texas Attorney General opinions, JM-1274 and DM-121, indicate random drug testing is likely invalid under the Texas constitution. These same opinions suggest that "reasonable suspicion" drug testing of*

employees in safety-sensitive positions is lawful. Therefore, absent a reasonable suspicion of possible drug use or misconduct, TYC staff will not be subject to random drug testing. **Substantially Implemented – Projected to be Fully Implemented May 1, 2009**

- **Rotate juvenile correctional officers' dorm assignments every six months so that they do not always work with the same personnel and supervise the same youths.** While JCO staff typically work the same dorm, the on-duty supervisor shifts their location based on the specific need of the facility for each shift, providing for variations in dorm assignments. Best practices in juvenile justice encourage establishing consistent environments and engagement to effect positive changes in behavior which provides a better overall success in rehabilitating youth. Management is working to identify the most efficient, yet least disruptive, way to ensure the spirit of SB 103 and this SAO recommendation can be fully implemented and documented. This issue is also addressed in GAP.105.5. **Substantially Implemented – Projected to be Fully Implemented May 1, 2009**
  
- **Evaluate whether to implement the recommendation related to the security and monitoring of youth currently not implemented. If management determines not to implement the recommendation, it should document its reasoning.** This recommendation refers to replacement of some solid doors with glass doors to allow staff to monitor youths more easily. With the exception of two dorms at Giddings State School, viewing panels are in all doors to rooms where youth sleep. These doors at Giddings were removed to provide a clear view of the youth and staff at all times. Additionally, the installation of surveillance cameras in offices and other areas throughout the agency's facilities has also increased staff's ability to monitor youth. **Fully Implemented**

## *TYC Has Made Progress Toward Improving Its Management of Agency Resources*

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In its previous investigative report, the State Auditor's Office recommended that TYC re-evaluate its (1) organizational structure, (2) allocation of resources, and (3) employee hiring and disciplinary practices. TYC has fully or substantially implemented 17 of 23 (73.9 percent) high-risk recommendations in this area. Specifically:

### Implementation Status Definitions

**Fully Implemented** - Successful development and use of a process, system, or policy to implement a prior recommendation.

**Substantially Implemented** - Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.

**Incomplete/Ongoing** - Ongoing development of a process, system, or policy to address a prior recommendation.

**Not Implemented** - Lack of a formal process, system, or policy to address a prior recommendation.

- TYC improved its policy and processes for conducting criminal history checks of its employees, volunteers, and contractors.
- TYC developed an extensive juvenile correctional officer training program that requires 300 hours of on-the-job training, which includes curriculum on proper behavior for juvenile correctional officers, proper techniques for control and restraint of youths, and understanding the oversight process for alleged mistreatment.

However, TYC has not implemented recommendations that would increase the number of certified sex offender counselors in its treatment programs. Only 6 of the 27 counselors on TYC's staff are certified sex offender counselors.

See Table 12 in Appendix 3, page 73, for a summary of the implementation status for each high-risk recommendation that auditors reviewed. See Appendix 4, page 76, for TYC's self-reported status of high-risk recommendations not selected for follow-up audit work.

See Appendix 9, page 84, for a map of TYC-operated facilities. See Appendix 10, page 87, for a workforce summary on TYC and additional supplemental information on juvenile correctional officer staffing, youth populations, and central office manager and director positions.

Ten recommendations were fully implemented.

- Recommendation to establish and implement a policy that prohibits TYC or its contractors who work with youth from hiring a convicted felon or sex offender. TYC established policies that prohibit TYC employees and contractors who work with youth from hiring individuals convicted of felonies. However, auditors identified weaknesses in TYC's process for conducting criminal history checks of contractors (see Chapter 4-A, page 30).
- Recommendation to require and ensure that contractors that provide services to TYC's youth be fingerprinted and undergo criminal background checks prior to their having contact with the youths. TYC established a standard provision for its

contracts that requires contractors' employees and subcontractors to undergo criminal history checks prior to having contact with youths. One of six contracts that auditors reviewed involved providing direct care services to youth. For that contract, TYC conducted criminal history checks on the contractor's employees.

- Recommendation to obtain fingerprints from all employees so that background checks can be performed using Department of Public Safety (DPS) and Federal Bureau of Investigation databases. TYC requires its employees, volunteers, and contractors to provide fingerprints; the fingerprinting is performed by a contractor with DPS. The contractor sends the results of the fingerprint-based criminal history checks to DPS, which forwards the results to TYC's Human Resources Division.
- Recommendation to require and ensure that post-employment criminal history checks on TYC employees are conducted at least every two years. In August 2007, TYC established requirements for conducting criminal history checks on its employees, volunteers, and contractors on an annual basis. During site visits, auditors confirmed that employees and volunteers received a criminal history check on an annual basis.
- Recommendation to establish on-site grievance officers at TYC facilities who report to the Office of Inspector General. TYC established investigator positions assigned to each of its residential facilities; these investigators report to the Office of Inspector General.
- Recommendation to fill vacant positions for investigators to more effectively handle the investigation of grievances. As of February 2009, TYC reported it had 21 investigator positions in the Office of Inspector General (11 criminal investigators and 10 administrative investigators). Two of these positions were vacant.
- Recommendation to analyze how juvenile correctional officers are (1) allocated across facilities, (2) scheduled at individual facilities, and (3) tasked with duties other than youth supervision to ensure the most effective use of the officers. TYC conducts weekly assessments of its juvenile correctional officers' workload, including shift coverage, and officer-to-youth ratios for each dorm. These assessments were reviewed by the assistant superintendent in charge of scheduling juvenile correctional officers at each facility. (See Chapter 5-B, page 46, for additional information on TYC's process for determining the number of juvenile correctional officers needed to maintain a ratio of 1 officer to 12 youth.)
- Recommendation to develop a core training curriculum that all new juvenile correctional officers must receive during their first 30 days of employment and require annual training updates. At a minimum, the curriculum should include (1) proper behavior for juvenile correctional officers, (2) proper techniques for the control and restraint of youths, and (3) the grievance process. TYC established a training program and required that its juvenile correctional officers



complete at least 300 hours of training prior to assuming responsibility for sole supervision of youth. This training program includes courses on (1) proper behavior for juvenile correctional officers, (2) proper techniques for the control and restraint of youth, and (3) TYC's alleged mistreatment process.

- Recommendation to identify the minimum equipment and supplies needed at facilities to operate effectively and ensure that these items are available. From June 2008 through November 2008, TYC conducted assessments of its 11 facilities. These assessments evaluated juvenile correctional officers' equipment needs, the condition of safety equipment, and facility maintenance issues. TYC reported that it is taking corrective actions for the issues identified during the assessments.
- Recommendation to require and enforce a code of conduct for facility staff that models appropriate behavior for the youths. TYC developed and implemented an Agency Integrity Program in January 2008 that defines a code of conduct defining the expectations for staff to behave as positive role models and maintain professional relationships with the youth. Compliance with the code of conduct is enforced by human resources staff through TYC's disciplinary action process.

Seven recommendations were substantially implemented.

- Recommendation to amend the TYC policy related to criminal background checks so that the results of these checks are retained in employee files. TYC maintained documentation in employees' files showing when it performed criminal history checks. Auditors identified instances in which TYC lacked documented criminal history checks; however, TYC had not established a records retention requirement concerning criminal history checks as of February 2009. TYC management stated they retain copies of criminal history checks for 90 days. In addition, TYC retained all electronic data of criminal history checks it received from DPS since March 2007.
- Recommendation to require that all contracts between TYC and a contractor contain a provision requiring the contractor to certify that the contractor does not have an employee who has been convicted of an offense and that the contractor will take reasonable steps to become informed of each proposed employee's criminal convictions prior to employment and during employment. The contract should be voidable in the event that TYC discovers that the contractor has violated these terms of the contract. TYC's contracts require contractors' employees and subcontractors to receive criminal history checks prior to the contractor delivering services to TYC. However, auditors identified weaknesses in TYC's process for conducting criminal history checks of its contractors (see Chapter 4-A, page 30).
- Recommendation to clarify promotion and transfer guidelines to include a review of the history of disciplinary actions, evaluations, and all current and prior grievances. TYC revised its promotion and transfer guidelines as of June 2008 to reference applicable selection and hiring forms used for an employee's

transfer or promotion. The forms require a review of the employee's history of disciplinary actions, evaluations, and all current and prior grievances. Five of seven transfer records auditors reviewed included documentation confirming that (1) TYC human resources staff reviewed disciplinary actions and grievances and (2) department supervisors reviewed prior evaluations prior to approving a transfer.

- Recommendation that after grievances involving staff are confirmed, local human resources staff, central office human resources staff, and the central office general counsel should determine disciplinary actions based on a policy that outlines a range of disciplinary actions. TYC implemented a new disciplinary action process effective December 1, 2008. The new process outlined consequences to employees according to the level and type of misconduct. However, auditors did not test compliance with the policy because TYC implemented it during audit fieldwork.
- Recommendation to ensure that employee performance evaluations better reflect employee performance by allowing a greater range of rating levels (such as excellent, satisfactory, needs improvement, and unsatisfactory) and that these evaluations take disciplinary actions into account. TYC revised its employee performance evaluations to include a rating level and consideration of disciplinary actions in the performance reviews for Juvenile Correctional Officer II, III, and IV positions. These positions have direct responsibility for monitoring youths. However, TYC did not adopt these revisions for performance reviews of supervisor positions (Juvenile Correctional Officer V and VI positions). These positions are responsible for oversight of juvenile correctional officers and treatment programs for youth.
- Recommendation to require juvenile correctional officers to attain a "satisfactory" rating on at least 75 percent of the required elements to receive an overall "satisfactory" rating. As of May 2008, TYC's performance evaluations for Juvenile Correctional Officer II, III, and IV positions (which have direct responsibility for monitoring youth) required employees to attain a satisfactory rating on at least 80 percent of performance requirements. However, Juvenile Correctional Officer V and VI positions (which are primarily managerial positions) were not evaluated according to this rating system. The supervisor positions continued to be evaluated using TYC's prior evaluation form.
- Recommendation to prepare employee performance evaluations at least annually. TYC established requirements that performance evaluations be conducted six months after an employee's date of hire, again at 12 months after date of hire, and every year thereafter. However, 40 of 93 (43.0 percent) performance evaluations auditors reviewed were not performed within the required timeframes.

The implementation of five recommendations was incomplete/ongoing.

- Recommendation to establish on-site certified sex offender counselor positions at TYC facilities. As of February 2009, TYC had not hired any additional certified sex offender counselors for its residential facilities. Although TYC reported it had a staff of 27 treatment counselors, only 6 were certified as sex offender counselors. TYC reported that it has developed an agency-wide program for its treatment counselors to obtain a sex offender counselor certification; participants in the program are expected to obtain certifications in 2010. TYC added that competition from the private sector has made it difficult to hire certified sex offender counselors.
- Recommendation to reallocate central office staff resources to the highest priority functions. TYC conducted an analysis of its organizational structure. However, TYC lacked documentation describing what changes were made to its organizational structure or explaining why changes were made. (See Appendix 10, page 92, for information on additional manager and director positions TYC created during fiscal year 2008.)
- Recommendation to analyze TYC's juvenile correctional officers, including a review of overtime and the ability of employees to use accrued leave. TYC reported that it provided weekly overtime reports on juvenile correctional officer staff to each facility's superintendent. However, auditors were not able to determine how superintendents used these reports for reviewing overtime or the ability of employees to use accrued leave.
- Recommendation to establish and enforce a policy to assign staff younger than 21 years of age to facilities that house younger youths. As of February 2009, TYC was in the process of adopting a policy to require at least a three-year age difference between a juvenile correctional officer and the youths the officer supervises.
- Recommendation to review rehabilitation programs to improve their effectiveness. As of February 2009, TYC reported it was in the process of implementing a new rehabilitation program, CoNEXTions. TYC reported its Research Department will be conducting a Process Evaluation of the program to ensure that it is being implemented as designed, as well as an outcome evaluation to determine its effect.

One recommendation was not implemented.

- Recommendation to administer reading comprehension and writing tests to facility staff and require passing scores prior to extending a job offer. TYC management decided not to implement this recommendation.

## Recommendation

TYC should continue efforts toward implementing the recommendations related to improving its management of agency resources.

## Management's Response

*Management agrees with the recommendation. Several items warrant specific comments:*

- ***Require juvenile correctional officers to attain a “satisfactory” rating on at least 75 percent of the required elements to receive an overall “satisfactory” rating.*** *As discussed in this report, the JCO II-IV evaluation form was revised and implemented effective May 1, 2008. The revised form establishes the requirement that at least 75 percent of the required elements must be attained for a “satisfactory” rating. The JCO V and VI evaluation forms are currently being revised; these positions are also subject to being required to attain “satisfactory” ratings for 75 percent of the required elements for an overall “satisfactory” rating. **Substantially Implemented – Projected to be Fully Implemented May 1, 2009***
- ***Establish on-site certified sex offender counselor positions at TYC facilities.*** *The agency has identified 21 positions for Licensed Sex Offender Treatment Providers (LSOTP). Due to the limited availability of qualified LSOTPs, the market for these staff is very competitive. TYC has implemented several efforts to recruit individuals already holding this credential. The Human Resources Department: mailed 425 letters to individuals identified on the Department of State Health Services’ website; advertised in multiple newspapers in the areas surrounding the Giddings State School and the McLennan County Juvenile Correctional Facility; posted to Yahoo Hot Jobs; and has had job postings open since December 12, 2008 on the agency’s website and listed with the Texas Workforce Commission on Work in Texas to no avail. There are currently six LSOTPs on staff. To increase this number, TYC has implemented a development program to provide training and clinical supervision for case managers who are on staff and eligible to attain sex offender licensure by October 2010. Currently ten staff are in the program and delivering services to youth in the sex offender treatment programs. **In Progress – Projected to be Fully Implemented September 1, 2009***
- ***Reallocate central office staff resources to the highest priority.*** *The Executive Commissioner continues to evaluate the organization of the Central Office to ensure that functions are assigned as appropriate. In November 2008, 30 central office positions and additional positions in February 2009 were eliminated in an effort to “right size” the*

organization for significantly reduced youth populations and budgetary limitations. Further significant adjustments are anticipated no later than summer 2009 as all central office functions are reviewed during the budget development process for the upcoming fiscal year. The lack of documentation for the organizational analysis referenced in the audit report occurred prior to the Executive Commissioner's appointment. **In Progress – Projected to be Fully Implemented August 31, 2009**

- **Analyze juvenile correctional officer overtime and the ability of employees to use accrued leave.** TYC policy PRS.27.24, Scheduling JCO Work Hours, was developed and implemented to provide guidance to management staff for scheduling overtime. Within the seven-day work cycle, supervisors may require JCOs to use time worked during the period that would accrue as overtime. Once the work cycle in which the time was earned has passed, the supervisor may no longer mandate the use of the overtime leave. Additionally, successful recruitment efforts during 2008 are now resulting in greater availability of JCOs to meet coverage needs. Availability, in turn, will allow greater use of accrued leave. **Fully Implemented**
- **Establish and enforce a policy to assign staff younger than 21 years of age to facilities that house younger youth.** TYC policy GAP 105.5, JCO Staffing Requirements, provides guidelines for assigning staff to workstations, including one based on requiring at least a three-year age difference between staff and the youth they are assigned to supervise. The agency also implemented a management tool to monitor the age of youth assigned to a particular dorm and the age of the staff assigned to that workstation. This quality assurance measure helps to ensure compliance with SB 103 as well as GAP 105.5. **Substantially Implemented – Projected to be Fully Implemented May 1, 2009**
- **Review rehabilitation programs to improve their effectiveness.** Management agrees with this recommendation. Section 61.0315 of the Texas Human Resources Code mandates that TYC annually review the effectiveness of its programs for the rehabilitation and reestablishment in society of children committed to the commission, including programs for sex offenders, capital offenders, children who are chemically dependent, and emotionally disturbed children. This mandated report has been completed each year since the law became effective in 1996. The current review is available on the agency's website.
- TYC implemented the new rehabilitation program CoNEXTions in February 2009. The Treatment Division staff routinely monitors the program, and the Research Department is preparing to conduct a process evaluation to ensure the program is implemented as designed and an outcome evaluation to determine program impacts. **In Progress – Projected to be Fully Implemented January 31, 2010**

## ***TYC Should Follow Its Established Procurement Process to Provide Transparency to Its Procurement Decisions***

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TYC has an established procurement process that was developed to ensure that its contract award decisions are fair, efficient, practical, and achieve TYC's procurement objectives. However, TYC did not competitively bid 11 contracts it awarded while the agency was in conservatorship from March 2007 to October 2008. TYC should (1) improve its procurement process to ensure that it complies with state requirements and (2) provide greater oversight of its inventory, specifically over new video surveillance equipment in its residential facilities.

In addition, TYC lacked documentation showing the factors it considered to determine the necessity and reasonableness of minimum payment guarantees that it included in its contracts with 6 of 12 contract care providers.

### Chapter 4-A

## **TYC Should Ensure That Its Contract Procurement and Management Activities Comply with State and Agency Requirements**

While TYC has established contract procurement processes, it should improve its contract management processes to ensure that it complies with state and agency requirements. During fiscal years 2007 and 2008:

- TYC did not use a competitive bidding process, as required by Texas Government Code, Section 2155.063, to award 11 contracts totaling \$19.5 million.
- TYC did not follow its policies and procedures for start-up funds for one contract awarded.
- TYC did not perform criminal history checks on employees of two contractors, as required by Senate Bill 103. However, TYC asserted that these contract employees did not have direct access to youth.
- TYC did not ensure that two contracts for information resource services included provisions that protect and safeguard the transmission and management of confidential and sensitive data, as required by Title 1, Texas Administrative Code, Chapter 202.
- TYC's procurement procedures did not ensure that essential contract provisions, such as specifications and termination provisions, from the *State of Texas Contract Management Guide* were included in its contracts with five contractors, as required by Texas Government Code, Section 2262.052.

By complying with state requirements, TYC can ensure that its contract management processes protect the State's interests.

TYC did not competitively bid 11 contracts it awarded while the agency was in conservatorship.

From March 2007 to October 2008, TYC was placed under a series of conservators whose role included approving contracts deemed necessary to quickly implement agency reforms outlined by TYC's rehabilitation plan and Senate Bill 103 (see Appendix 2, page 68, for more information on TYC conservators). The conservators did not competitively bid 11 contracts totaling \$19.5 million that TYC entered into during this period. While the Texas Government Code grants a conservator a series of powers and duties, it does not specifically exempt a conservator from complying with state procurement rules. Table 2 lists the descriptions and values of these 11 contracts.

Table 2

Non-competitively Bid Contracts Awarded by TYC Conservators (March 2007 to October 2008)				
Vendor	Description of Services	Contract Period	Maximum Contract Value	Amount Expended (As of March 2009)
Arise Foundation	Staff Training <sup>a</sup>	June 1, 2008 - June 30, 2009	\$ 25,000	\$ 23,205
Assessments.com	Web-hosted Automated Juvenile Assessment System	June 26, 2008 - June 30, 2009	887,604	332,229
Autogov	Automated System for Assessment, Classification, and Placement	June 1, 2008 - June 30, 2011	222,167	114,183
Autogov	Automated System for Assessment, Classification, and Placement	August 23, 2007 - August 30, 2008	275,000	268,817
Daniel C. Murrie, Ph.D.	Consulting	June 1, 2007 - December 31, 2008	95,000	19,261
Pablo E. Martinez, Ph.D.	Consulting	July 1, 2007 - August 31, 2007	10,000	5,900
Peter Scharf, Ph.D.	Consulting	July 1, 2007 - August 31, 2007	14,000	14,000
Positive Solutions Associates	Staff Training	January 15, 2008 - December 31, 2008	141,992	137,106
Robinson Consulting Services	Staff Training	January 1, 2008 - December 31, 2008	12,760	75,655
The Sigma Learning International	Staff Training	May 19, 2008 - December 31, 2008	42,500	42,500
Youth Services International	Residential Services	July 7, 2008 - August 31, 2011	17,810,631	1,262,828
<b>Totals</b>			<b>\$19,536,654</b>	<b>\$2,295,684</b>

<sup>a</sup> As permitted by the Employees Training Act (Texas Government Code, Chapter 656), contracts for the training and development of TYC employees do not require competitive bidding if TYC has on file with the Governor's Office an approved plan for training and education assistance.

Sources: TYC and the Uniform Statewide Accounting System.

TYC should ensure that it negotiates start-up funds in accordance with agency policy.

TYC entered into a contract with Youth Services International to establish a contract care facility near Houston to serve youth from the region. This contract was considered to be part of the conservator's plan to place an increased number of youths closer to home. The contract between TYC and Youth Services International stated that TYC would pay \$189.50 per youth per day for a minimum guaranteed amount of 119 beds for the first 90 days. TYC entered into this payment arrangement to provide start-up funds to the contractor. However, TYC reported that none of its other current contracts involve funding arrangements that provide contractors with start-up funds.

While TYC policy allows for the payment of start-up funds, the payment methodology it negotiated with Youth Services International did not comply with TYC's policy. Specifically, the payment arrangement gave the appearance that TYC was paying Youth Services International for the care of youth; however, no youths were placed with the contractor during the first 90 days of the contract. In addition, TYC did not define how the funding could be spent by the contractor. TYC's policy requires start-up funds to be paid to contractors based upon a proposed budget approved by TYC during the procurement process. In addition, start-up funds are to be restricted to the amount necessary for the contractor's program to become operational. Under TYC's policy, allowable expenditures of start-up funds include those for salaries; travel expenses; training; equipment purchases; TYC-approved renovations; rental of buildings, vehicles, or equipment; and other reasonable and necessary direct costs.

TYC and Youth Services International mutually agreed to terminate the contract in October 2008. TYC paid Youth Services International approximately \$1.3 million in start-up funds. Youth Services International has invoiced TYC for an additional \$1.2 million. As of February 2009, TYC was working with the Office of the Attorney General to resolve the matter regarding the amount invoiced by Youth Services International.

In addition, TYC has requested an accounting of how start-up funds were spent. TYC's policy requires a financial audit of all start-up funding used by a contractor before a contract can be closed.

TYC should ensure that it performs criminal history checks of all its contractors' employees and subcontractors as required by Senate Bill 103.

Senate Bill 103 required TYC to perform criminal history checks on all contract employees. TYC implemented processes to ensure that it conducts criminal history checks of employees, volunteers, and contractors who provide residential contract care services. However, TYC has not developed a process to ensure that employees of contractors providing services other than residential contract care services receive criminal history checks.



TYC did not perform criminal history checks for vendor staff of two of the five contractors auditors reviewed. Of the two contractors for which TYC did not perform checks, one contractor provided information processing services for the development of youth treatment programs and the second contractor provided training services for a TYC rehabilitation program.

#### Information Security Standards

##### Title 1, Texas Administrative Code, Section 202.21

Title 1, Texas Administrative Code, Section 202.21, defines responsibilities for state agencies and contractors that provide outsourced information resource services. These include:

- Implementing the controls specified by the owner(s) of the information.
- Providing physical and procedural safeguards for the information resources.
- Assisting owners in evaluating the cost-effectiveness of controls and monitoring.
- Implementing monitoring techniques and procedures for detecting, reporting, and investigating incidents.

In addition, Title 1, Texas Administrative Code, Section 202.25, identifies the following types of controls that should be in place:

- Access controls over information resources to ensure authorized use.
- Controls to protect the confidentiality of data and systems.
- Identification/authentication controls.
- Encryption for storage and transmission of information based on documented state agency security risk management decisions.
- Audits of automated system processes.
- Documentation of systems development, acquisition, and testing.

TYC should include contract provisions to ensure the security of information systems used to process confidential and sensitive TYC data, as required by Title 1, Texas Administrative Code, Section 202.21.

Two of TYC's information technology contracts did not include specific provisions requiring the contractors to ensure that confidential data received and maintained in automated information systems is protected from potential loss or misuse. Specifically, the two contracts:

- Did not define security requirements for the transmission of data.
- Did not specify processes the contractors must follow to ensure that confidential and sensitive data they receive is protected from potential loss, misuse, or abuse.

Title 1, Texas Administrative Code, Section 202.21, requires contractors that provide information resource services to state agencies to provide safeguards necessary to monitor the security of data that the contractors receive from state agencies (see text box).

TYC should ensure that its contracts include all essential contract provisions required by the *State of Texas Contract Management Guide*.

The contracts between TYC and the contractors reviewed included most, but not all, of the essential contract provisions required by the *State of Texas Contract Management Guide*. (See Appendix 12, page 96, for a complete list of the essential contract provisions.) Texas Government Code, Section 2262.051(d), requires that all essential contract provisions must be included in state agency contracts to protect the interests of the State. The following essential provisions were not consistently included in the TYC contracts with the five contractors that auditors reviewed:

- Abandonment or default.
- Affirmation.
- Antitrust.

- Buy Texas.
- Contract specifications.
- Force majeure.
- Funding out.
- Intellectual property indemnification.
- Payment.
- Rights to data, documents, and computer software.
- Technology access.
- Termination.

TYC processed payments for one contractor's invoices, even though program staff had not reviewed and approved the invoices as required by agency policy.

Auditors reviewed the payment processes for four contractors selected for testing. TYC requires that accounting staff receive program staff approval prior to processing invoices for payment. TYC processed invoices for payment correctly for four of the five contracts. However, program staff did not review and approve invoices for one contract prior to the payments being processed. TYC's accounting staff stated that the contractor's invoices were for a monthly fixed amount of \$15,500, and therefore, it was not necessary for program staff to review and approve each invoice prior to payment. The six monthly invoices tested for this contract totaled approximately \$83,000. (One invoice was for a \$5,500 development fee.) Although the payments that TYC processed were valid and for allowable costs, state agencies are expected to ensure that all invoices are reviewed and approved by program staff prior to payment to ensure that (1) the invoice is only for goods or services received by an agency, (2) goods and services have been accepted, (3) invoices are correct and comply with the terms and conditions of the contract, and (4) total payments do not exceed the contract limits.

## Recommendations

TYC should:

- Evaluate and determine whether contracts awarded while the agency was under conservatorship and that are still in effect provide the best value to the agency in implementing legislative reforms. If TYC determines that a contract is not a best value or does not protect the State's interests, it should consider canceling, restructuring, or rebidding the contract.

- Ensure that its payment methodology for providing start-up funds to a contractor complies with agency policy.
- Perform criminal history checks for all contractor employees and subcontractors.
- Ensure that provisions requiring contractors to secure and protect confidential and sensitive data they receive from the risk of loss, abuse, misuse, or fraud are included in all information technology contracts. These provisions should include periodic audits of the security controls of the information system.
- Ensure that all essential contract provisions required by the *State of Texas Contract Management Guide* are included in all contracts.
- Ensure that program staff review and approve invoices prior to the invoices being processed for payment.

#### Management's Response

- ***Evaluate and determine whether contracts awarded while the agency was under conservatorship and are still in effect provide the best value to the agency in implementing legislative reforms. If TYC determines a contract is not a best value or does not protect the State's interests, it should consider cancelling, restructuring, or re-bidding the contract. Management agrees with this recommendation. Of the eleven contracts awarded under conservatorship without competitive bids, seven were completed, two were cancelled, and two are being evaluated to determine best value. Completion of the evaluation of the two remaining contracts is anticipated no later than May 31, 2009. In Progress – Projected to be Fully Implemented May 31, 2009***
- ***Ensure its payment methodology for providing start-up funds to a contractor complies with agency policy. Management agrees with this recommendation. The issue that resulted in this recommendation relates to a single contract awarded during conservatorship. New executive management is ensuring that contracts fully comply with all relevant laws, regulations, agency policies, and generally accepted best practices. Finance Division staff is revising contract approval procedures to include a requirement for the Contracts Manager in the Procurement Department to certify that a proposed contract complies with all relevant requirements prior to final approval for award, including specified agency policy relating to payment methodology. Additionally, in response to evolving public expectations regarding contract start-up funding, TYC policy GAP 111.11, Start Up Funds, is under review to identify any opportunities for strengthening and to evaluate whether there will be a continuing need for***

*such payments, even on an exceptional basis as currently used. **In Progress – Projected to be Fully Implemented August 31, 2009***

- ***Perform criminal history checks for all contractor employees and subcontractors.*** Management agrees that criminal history checks should be performed on all contractor employees and subcontractors who will have direct contact with youth and/or who handle sensitive youth data. The agency is in the process of requiring compliance for information services contract employees. A strict interpretation of the statutory language supports the recommendation for all contractors, regardless of youth contact, to be checked for criminal history. As the agency gains experience implementing this new requirement, however, it is learning that conducting such checks for several types of contracts may critically impede the achievement of certain agency objectives without any clear potential benefit to youth. Contract examples relate to construction services and local small business contractors for plumbing services, raw food delivery, vending machine supply, and lawn maintenance. These contract employees provide important services for maintaining safe and secure facilities, but they do not interact with or otherwise have contact with TYC youth. In the absence of a clearly defined risk to youth for such routine business services, vendor resistance to the requirement risks the availability of these services as well as job schedule delays and cost increases without any apparent protective benefit to TYC youth. ***Substantially Implemented – Projected to be Fully Implemented May 31, 2009***
  
- ***Ensure contract provisions requiring contractors to secure and protect confidential and sensitive data they receive from the risk of loss, abuse, misuse, or fraud are included in all information technology contracts. These requirements should include periodic audits of the security controls of the information system.*** Management agrees with this recommendation. While the two contracts reviewed did not contain a provision specifically requiring data security, both service providers were required to demonstrate their methodology for securing TYC data. The Legal Division, Information Resources Department, and Procurement Department are collaborating to develop standardized language, including requirements for security controls audits, for inclusion in all current and future information technology contracts. Completion is anticipated during the fourth quarter of FY 2009. ***In Progress – Projected to be Fully Implemented August 31, 2009***
  
- ***Ensure that all essential contract provisions required by the State of Texas Contract Management Guide are included in all contracts.*** Management agrees with this recommendation. Contract development tools have been updated to include all essential contract provisions for future contracts. Existing contracts will be reviewed to establish the

*priority for amending the agreements for these changes. **In Progress – Projected to be Fully Implemented August 31, 2009***

- ***Ensure that program staff review and approve related invoices prior to the invoices being processed for payment. Management agrees with this recommendation. Administrative Services staff has initiated development of a contracts user guide that will clarify the roles and responsibilities of program staff for developing, managing, and monitoring contracts, including appropriate invoice processing. The guide will contain relevant policies and procedures, which are also being reviewed for clarity. Claims payment staff in Administrative Services has been directed to release payment authorizations only after documented review and approval by program staff. **In Progress – Projected to be Fully Implemented August 31, 2009*****

Chapter 4-B

### **TYC Should Strengthen its Accountability and Management of Its Video Surveillance System**

The 80th Legislature appropriated \$20 million to TYC in fiscal year 2007 for acquiring additional video surveillance equipment to monitor TYC's youth facilities. In addition, the Office of Inspector General uses video footage from these cameras in its investigations of alleged mistreatment of youth.

As of December 31, 2008, TYC had expended approximately \$12.6 million of the \$20 million (63.0 percent) for the purchase and installation of video equipment in its facilities and halfway houses. TYC's video surveillance project was planned in two phases. Specifically:

- Phase I included installation of internal video surveillance equipment at the Al Price State Juvenile Correctional Facility, the Corsicana Residential Treatment Center, the Crockett State School, the Evins Regional Juvenile Center, the Gainesville State School, the Giddings State School, the McLennan County State Juvenile Correctional Facility, the Ron Jackson State Juvenile Correctional Complex, and the West Texas State School.
- Phase II includes installation of internal and external video surveillance cameras at the Victory Field Correctional Academy, all halfway houses, and parole offices and installation of external cameras at all TYC facilities listed in phase I.

TYC has installed approximately 11,000 video surveillance cameras in its facilities since June 2007, and it plans to complete the video surveillance project by June 2009. However, TYC should improve its accountability and management of the video surveillance equipment. Specifically:

- Certain surveillance cameras installed at one residential facility were not accessible by the Office of Inspector General through the surveillance monitoring system. TYC reported that 721 of 1,329 operational video cameras at the Gainesville State School were not accessible for real-time viewing by the Office of Inspector General. TYC's Information Resources Division reported that many of the fiber optic cables in the Gainesville facility were old and brittle. As a result, the cables could not be used to connect video surveillance equipment to the TYC network. TYC staff reported that the recorded surveillance data is stored and can be provided to the Office of Inspector General during an investigation. The Office of Inspector General's inability to have real-time access to certain surveillance data could hinder its ability to actively monitor staff under investigation.
- TYC had not documented the placement and location of additional cameras installed at each facility. TYC management focused on ensuring that additional surveillance cameras were installed as quickly as possible and did not ensure that all cameras' locations were documented. Documenting the camera locations would provide a useful tool to the Office of Inspector General and allow it to more effectively locate a specific camera during an investigation, rather than relying on facility staff to verify camera locations.
- TYC had not developed retention requirements for video surveillance data. The prior State Auditor's Office investigative report recommended that TYC ensure that surveillance data is maintained for at least 15 working days or until an allegation of abuse, neglect, or exploitation is resolved. However, as of February 2009, TYC's Information Resources Division and Office of Inspector General had not met to outline the retention requirements. The lack of clear requirements could result in the accidental or inappropriate alteration or deletion of surveillance data.
- TYC staff members who confirmed the receipt of video equipment were not always the employees who physically received and inspected the shipment. TYC has established a process to ensure that payments are not processed until the agency receives a documented confirmation of receipt of the goods or services. Auditors reviewed the payment records for 30 of 97 (30.9 percent) purchase orders for equipment and installation services purchased from June 2007 through December 2008. Thirteen of the 30 (43.3 percent) payment records contained documentation showing that the equipment had been received by a manager with oversight responsibilities for the surveillance camera project for multiple residential facilities. However, this manager did not physically inspect the shipments. Instead, the manager relied on project staff located at each of the facilities to confirm the actual receipt of the equipment. In addition, 6 of 30 (20.0 percent) payment records reviewed indicated that the shipment had been received in full; however, TYC subsequently made several additional

partial payments on the purchase orders, indicating that additional equipment was shipped at a later date.

- TYC did not conduct an inventory of video surveillance equipment. TYC reported that it included an overage of approximately 10 percent when it began ordering video surveillance equipment in June 2007. This equipment included items such as digital video recorders, cameras, and flash drives. TYC reported that equipment not installed was either stored in facility warehouses or securely stored in TYC staff offices. However, as of February 2009, TYC had not conducted an inventory to account for all equipment in storage, as well as equipment installed in the residential facilities. TYC reported it planned to conduct an inventory of all surveillance camera equipment at the end of the project.

In addition, TYC did not ensure that vendors providing installation services received criminal history checks. Along with equipment purchases, TYC purchased professional services for the installation of video surveillance equipment in its residential facilities. TYC used vendors that participate in the Department of Information Resources' Information and Communication Technology Contracts Program to provide both equipment and installation services. Senate Bill 103 required TYC to conduct criminal history checks of all individuals who are contractors working in TYC facilities. However, TYC did not conduct criminal history checks of vendors that provided installation services because TYC staff stated they thought the Department of Information Resources had performed the criminal history checks. According to the Department of Information Resources, it does not conduct criminal history checks on vendors.

## Recommendations

TYC should:

- Replace fiber optic cabling at the Gainesville State School to ensure that all video cameras are accessible for real-time viewing by the Office of Inspector General.
- Develop a map that shows the location of all video cameras for each of its facilities and halfway houses.
- Develop and implement requirements for retaining video surveillance data.
- Ensure that only authorized staff who perform the actual physical inspection of shipments confirm the receipt of goods.

- Perform a complete inventory of its video surveillance equipment. At a minimum, TYC should complete an inventory of all equipment purchased in fiscal years 2007 and 2008.

#### Management's Response

- ***Replace fiber optic cabling at the Gainesville State School to ensure all video cameras are accessible for real-time viewing by the Office of Inspector General.*** Management agrees with this recommendation. Cabling at Gainesville is underway and anticipated for completion in May 2009. ***In Progress – Projected to be Fully Implemented May 15, 2009***
- ***Develop a map that shows the location of all video cameras for each of its facilities and halfway houses.*** Management agrees with this recommendation. The video surveillance project was one of the highest priority agency reforms resulting from SB 103 and one of the largest information resources efforts ever undertaken by TYC staff. Coordinated installation of miles of cabling and thousands of cameras throughout the TYC system had to be completed within two years due to the scheduled expiration of \$18 million in project funding. Management understands the importance of the camera maps; however, ambitious installation goals for a small staff under very aggressive deadlines required difficult choices for the best use of limited resources. The staff responsible for completing the drawings also must complete the installation of cameras at halfway houses and parole offices by the end of the fiscal year. Camera mapping is currently underway with Network Support Specialists conducting camera audits and submitting results to appropriate staff; however, with limited resources the process is slow. The decision to delay mapping was reasonable given the capability of facility staff to verify camera locations until the maps can be completed. Delayed availability of these camera maps is also related in part to the construction project for reconfiguring open bay dormitories into single cell units at TYC institutions. Although cable and camera installations have already occurred there, room reconfigurations are requiring camera repositioning. Camera and cabling installation timelines could not accommodate mapping and remapping at these institutions. ***In Progress – Projected to be Fully Implemented, August 31, 2009***
- ***Develop and implement requirements for retaining video surveillance data.*** Management agrees with this recommendation. The Office of the Inspector General, the Legal Division, and the Information Resources Department are developing clear requirements to ensure the retention of these records for at least 15 working days or until the resolution of an allegation of abuse, neglect, or exploitation. The Information Resources Department anticipates implementing the decision during the fourth



*quarter of FY 2009. In Progress – Projected to be Fully Implemented, August 31, 2009*

- ***Ensure that only authorized staff who perform the actual physical inspection of shipments confirm the receipt of goods.*** Management agrees with this recommendation. Management is clarifying the roles and responsibilities of authorized facility warehouse staff for documenting the receipt of goods following visual inspection. When authorized warehouse staff is unable to verify that the received equipment is consistent with the requisition description, program staff will be notified to perform the visual inspection and documentation. Additionally, warehouse receiving staff must notify procurement staff to review the requisition for any equipment description issues that might have contributed to warehouse staff's inability to verify equipment receipt. ***Substantially Implemented – Projected to be Fully Implemented May 15, 2009***
  
- ***Perform a complete inventory of its video surveillance equipment. At a minimum, TYC should complete an inventory of all equipment purchased in fiscal years 2007 and 2008.*** Management agrees with this recommendation. Inventories for purchases in each fiscal year will be completed during the fourth quarter of FY 2009. ***Planned – Projected to be Fully Implemented August 31, 2009***

## TYC Should Ensure That It Documents the Factors It Considered to Determine the Reasonableness of Minimum Payment Guarantees in Contracts with Contract Care Providers

For fiscal year 2009, TYC has contracts with 6 of 12 contract care providers that include minimum payment guarantees. Auditors were not able to

### Minimum Payment Guarantee

TYC pays its contract care providers a daily unit rate for the care and treatment of youth placed with the provider. A minimum payment guarantee ensures that a provider will be paid for a minimum number of youth, as specified in a contract, at the agreed-upon unit rate.

determine the reasonableness of TYC's decision to include minimum payment guarantees in these contracts. TYC lacked documentation showing the factors that it used to determine the necessity and reasonableness of the contracts' minimum payment guarantees. TYC reported that, during the contract renewal process in August 2008, payment guarantees were negotiated on a case-by-case basis between the contract care providers and the TYC conservator. Table 3 lists the minimum youth placement guarantees that TYC included in contracts with six contract care providers and the average monthly daily youth

population that TYC placed with each provider. See Appendix 11, page 94, for additional information on TYC's 12 contract care providers.

Table 3

TYC Contract Care Providers That Have Minimum Payment Guarantees			
Provider	Guaranteed Minimum Youth Placement	Average Monthly Youth Placement Fiscal Year 2008	Average Monthly Youth Placement Fiscal Year 2009 <sup>a</sup>
Byrd's Foster Group Home, Inc. <sup>b</sup>	4	10	10
Mel Matthews Vocational Center	32	30	30
Garza County Juvenile Detention Center	40	59	39
Southwest Key Supervised Apartment Living	10	12	4
Associated Marine Institute - Rio Grande Marine Institute	32	30	27
Associated Marine Institute - W.I.N.G.S. for Life, Inc. <sup>c</sup>	1	9	10

<sup>a</sup> From September 1, 2009, through February 28, 2009.

<sup>b</sup> TYC reported that Byrd's Foster Group Home, Inc.'s prior contract included a minimum payment guarantee.

<sup>c</sup> The contract with the Associated Marine Institute - W.I.N.G.S. for Life, Inc. was amended in April 2008 to include a minimum payment guarantee for youth placements not to exceed 14 youths. Associated Marine Institute - W.I.N.G.S. for Life, Inc. provides infant care and parenting programs for teen mothers committed to TYC.

Source: TYC.

Table 4 lists the minimum payment amounts that TYC agreed to pay six contract care providers based upon minimum youth placement guarantees.

Table 4

Comparison of Guaranteed Monthly Payment Amounts and Estimated Actual Payment Amounts <sup>a</sup> Fiscal Year 2009						
Provider	Contract Rate per Day	Guaranteed Minimum Youth Placement	Guaranteed Monthly Payment Amount <sup>b</sup>	Estimated Monthly Payment Based on Actual Average Monthly Population	Difference Between Guaranteed Minimum Monthly Payment and Payment Based on Actual Average Monthly Population	Annual Difference Between Guaranteed Payment and Payment Based on Actual Average Population
Byrd's Foster Group Home, Inc.	\$100.00	4	\$ 12,000	\$ 30,000	\$ 0	\$ 0
Mel Matthews Vocational Center	\$155.00	32	\$148,800	\$139,500	9,300	111,600
Garza County Juvenile Detention Center	\$125.00	40	\$150,000	\$146,250	3,750	45,000
Southwest Key Supervised Apartment Living	\$76.00	10	\$ 22,800	\$ 9,120	13,680	164,160
Associated Marine Institute - Rio Grande Marine Institute	\$101.96	32	\$ 97,882	\$ 82,588	15,294	183,528
Associated Marine Institute - W.I.N.G.S. for Life, Inc.	\$3,041.36 <sup>c</sup>	1	\$ 91,241	\$ 91,241	0	0
<b>Total Differences</b>					<b>\$42,024</b>	<b>\$504,288</b>
<sup>a</sup> This comparison is based on the contracted providers' actual average monthly youth populations. <sup>b</sup> For purposes of this comparison, payments are based on a 30-day calendar month. <sup>c</sup> This rate is paid per day for youth placements not to exceed 14 youths. Associated Marine Institute - W.I.N.G.S. for Life, Inc. provides infant care and parenting programs for teen mothers committed to TYC.						

Source: State Auditor's Office analysis.

Table 5 lists additional data about the average youth population at select contract care providers during the first six months of fiscal year 2009.

Table 5

Monthly Average Youth Population of Select Contract Care Providers September 2008 through February 2009								
Provider	September 2008	October 2008	November 2008	December 2008	January 2009	February 2009	Monthly Average for Fiscal Year 2009 <sup>a</sup>	Guaranteed Minimum Youth Placement
Byrd's Foster Group Home, Inc.	9.8	9.6	9.4	9.7	9.8	9.5	9.6	4.0
Mel Matthews Vocational Center	30.4	28.7	31.8	30.4	30.0	30.1	30.2	32.0
Garza County Juvenile Detention Center	44.6	38.0	37.7	36.6	36.7	38.0	38.6	40.0
Southwest Key Supervised Apartment Living	3.4	4.0	4.0	3.9	5.4	4.6	4.2	10.0
Associated Marine Institute - Rio Grande Marine Institute	28.1	25.8	29.8	27.1	26.1	26.6	27.3	32.0
Associated Marine Institute- W.I.N.G.S. for Life, Inc.	9.5	10.5	9.7	9.9	9.8	9.6	9.8	1.0

<sup>a</sup> From September 1, 2008, through February 28, 2009.

Source: TYC.

### Recommendation

Prior to entering into or renewing contracts containing minimum payment guarantees, TYC should document the factors it considered to determine the necessity and reasonableness of these guarantees.

### Management's Response

*Management agrees with this recommendation. Agency policies will be modified to specify documentation as a requirement. **Planned – Projected to be Fully Implemented August 31, 2009***

## ***TYC Should Assess Its Facility and Staffing Levels to Ensure the Efficient Use of State Resources***

Auditors reviewed TYC's use of state resources in (1) its operation of the Victory Field Correctional Academy and the West Texas State School and (2) its process for determining the number of juvenile correctional officers needed to maintain a staff-to-youth ratio of 1 to 12 for the 2008-2009 biennium. TYC should ensure that it uses state resources in a cost-efficient manner in the continued operation of the Victory Field Correctional Academy and the West Texas State School. TYC also should ensure that it maintains supporting documentation used in developing its staffing projections for juvenile correctional officers.

TYC reported reliable results for the following four key performance measures tested for fiscal year 2008 and the first two quarters of fiscal year 2009:

- Average Daily Population: Institutional Programs.
- Average Daily Population: Contract Programs.
- Capacity Cost in Institutional Program per Youth Day.
- Capacity Cost in Contract Programs per Youth Day.

### Chapter 5-A

## **TYC Should Ensure the Efficient Use of State Resources Toward the Care and Rehabilitation of Youth in Certain Facilities**

TYC received appropriations of approximately \$315 million and \$237 million for fiscal years 2008 and 2009, respectively. These appropriations were based on TYC's revised legislative appropriations request to the 80th Legislature, which proposed closing five existing residential facilities in anticipation of a reduction in the facilities' youth population. Table 6 lists the five facilities that TYC proposed to close and the projected cost savings that would have resulted from each of the closures.

Table 6

Projected Cost Savings from Proposed Facility Closures			
Facility	Fiscal Year 2008 <sup>a</sup>	Fiscal Year 2009	Total
Marlin Orientation and Assessment Unit	\$8,021,386	\$15,706,551	\$23,727,937
John Shero Juvenile Correctional Facility	6,549,567	12,824,636	19,374,203
Sheffield Boot Camp	2,354,901	4,611,105	6,966,006

Projected Cost Savings from Proposed Facility Closures			
Facility	Fiscal Year 2008 <sup>a</sup>	Fiscal Year 2009	Total
Victory Field Correctional Academy	6,181,614	12,104,151	18,285,765
West Texas State School	4,415,439	8,645,822	13,061,261
<b>Totals</b>	<b>\$27,522,907</b>	<b>\$53,892,265</b>	<b>\$81,415,172</b>

<sup>a</sup> Projected cost savings are based on a six-month period.

Source: TYC.

As of March 2009, TYC had closed three of the five facilities it originally proposed for closure. Specifically:

- TYC reported that the Marlin Orientation and Assessment Unit and the John Shero Juvenile Correctional Facility were closed and transferred to the Department of Criminal Justice before September 1, 2007. TYC was required by Rider 24, page V-67, the General Appropriations Act (80th Legislature) to transfer these two facilities by March 1, 2008.
- The Sheffield Boot Camp was closed by the TYC conservator in February 2008; the boot camp was closed because TYC was unable to recruit a sufficient number of juvenile correctional officers and case managers in the West Texas region.
- The Victory Field Correctional Academy and the West Texas State School remained in operation as of March 2009. TYC kept these facilities operating during fiscal year 2008, despite receiving a reduced appropriation based on the assumption that TYC would close the facilities and eliminate \$31.3 million in costs for fiscal years 2008 and 2009.

TYC should ensure that state resources are used efficiently during the continued operation of the Victory Field Correctional Academy and the West Texas State School.

TYC was able to continue operating the Victory Field Correctional Academy and the West Texas State School during fiscal year 2008 because of reported cost savings TYC realized. These cost savings included (1) approximately \$14 million<sup>4</sup> from the closure of the Marlin Orientation and Assessment Unit and the John Shero Juvenile Correctional Facility prior to fiscal year 2008 and (2) approximately \$5.7 million from job vacancies during fiscal year 2008. These cost savings were fully expended for the operational costs of these two

<sup>4</sup> TYC reported that it was appropriated approximately \$7.7 million for the Marlin Orientation and Assessment Unit and \$6.3 million for the John Shero Juvenile Correctional Facility to operate these facilities for the first six months of fiscal year 2008.

facilities. TYC reported that its fiscal year 2008 operating costs for the Victory Field Correctional Academy and the West Texas State School were \$12.1 million and \$9.7 million, respectively. However, TYC will not have cost savings from facility closures available to offset the continued operation of the two facilities during fiscal year 2009. TYC's appropriation for fiscal year 2009 is \$237 million, \$78 million less than its fiscal year 2008 appropriation.

Although TYC continued to operate these facilities, it did not utilize the total physical bed capacity at these facilities. The actual youth populations at the Victory Field Correctional Academy and the West Texas State School were significantly lower as of January 31, 2009, than the physical bed capacity that TYC had estimated (see Table 7). See Appendix 7, page 81, for additional information on physical bed capacity for all TYC facilities.

Table 7

Victory Field Correctional Academy and West Texas State School Operating Costs and Population Totals (Costs are in millions)							
Facility	Fiscal Year 2008 Budgeted Operating Costs	Fiscal Year 2008 Actual Operating Costs	Percent of Budgeted Operating Costs Expended	Physical Bed Capacity	Average Daily Population on August 31, 2008	Actual Population on January 31, 2009	Percent of Physical Bed Capacity Used on January 31, 2009
Victory Field Correctional Academy	\$12.6	\$12.1	96.0%	336	86	93	27.7%
West Texas State School	11.1	9.7	87.4%	240	90	90	37.5%
<b>Totals</b>	<b>\$23.7</b>	<b>\$21.8</b>	<b>92.0%</b>	<b>576</b>	<b>176</b>	<b>183</b>	<b>31.8%</b>

Source: TYC.

A comparison of the percent of budgeted operating costs expended and the percent of the physical bed capacity used suggests that, from a cost perspective, state resources associated with the continued operation of the Victory Field Correctional Academy and the West Texas State School are not being used in a cost-effective manner. However, it is important to note that Senate Bill 103 required TYC to consider the proximity of a youth's home in its placement decisions; this requirement is a contributing factor in TYC's decision to continue using these facilities, which are the only state-operated residential facilities for youth committed from the West Texas region.

### Recommendation

TYC should optimize its appropriated funds by maximizing the physical bed capacity of its facilities and minimizing operating costs.

## Management's Response

*The agency agrees that physical capacity should be used efficiently; however, it is an even higher priority for physical space to be used effectively in rehabilitating youth. The agency did not select the remote locations for its large institutional facilities, most of which were built or acquired during a period of public concern about a lack of correctional facilities in the 1990s and early 2000s. As current legislative reforms result in reduced TYC populations for smaller treatment environments with a focus on specialized services, the agency is in transition toward a system with a better balance of physical resources and program objectives for reducing recidivism. While the West Texas and Vernon facilities are not optimal for physical plant, they currently serve important strategic needs, including regionalization of services and the availability of specialized skills in the community to match new and smaller program needs. Optimizing current resources for physical capacity and operating costs without regard to program effectiveness would result in the loss of a key resource in the western region and an employment resource for a retooled specialized treatment program in the northern region.*

*The Executive Commissioner continues to analyze the optimization of resources and program objectives across the TYC system. The agency is currently seeking legislative guidance regarding continued operations at West Texas and Vernon. **Substantially Implemented – Projected to be Fully Implemented August 31, 2009***

### Chapter 5-B

## TYC Should Ensure That It Maintains Documentation that Supports Its Staffing Projections for Juvenile Correctional Officers

In April 2007, TYC projected its youth population and juvenile correctional officer staffing needs for fiscal years 2008 and 2009. To do so, it considered the impact of reforms mandated by Senate Bill 103 on its agency structure. Specifically, TYC anticipated a reduction in its youth population because youth who commit misdemeanors and all youth who are 19 to 21 years of age are no longer being placed in TYC facilities. While TYC used a reasonable methodology to project the number of juvenile correctional officer full-time equivalent positions (FTEs) needed to maintain a ratio of 1 officer for 12 youths for each facility, it did not retain adequate documentation to support its legislative appropriations request for additional FTEs to maintain the 1 to 12 ratio.

TYC projected the juvenile correctional officer FTEs needed for (1) direct supervision of youth, (2) support staff (juvenile correctional officer supervisors), and (3) other security staffing needs (facility security such as classrooms, medical areas, and facility entrances). To calculate the number of



FTEs needed to maintain its juvenile correctional officer-to-youth ratio of 1 to 12, TYC included only juvenile correctional officers with direct supervision of youth. TYC lacked documentation showing how many juvenile correctional officer FTEs were assigned to each facility before TYC made its request for additional FTEs. Without an accurate count of juvenile correctional officer FTEs assigned to each facility, auditors could not determine whether the 516 additional FTEs requested were needed to maintain a juvenile correctional officer-to-youth ratio of 1 to 12.

Of the \$28.9 million that TYC budgeted toward maintaining the juvenile correctional officer-to-youth ratio of 1 to 12, approximately \$2.7 million (9.3 percent) was allocated for juvenile correctional officer supervisors (\$2.2 million) and radio equipment (\$490,000).

### Recommendation

TYC should ensure that it maintains supporting documentation for all facility staff numbers used in developing its juvenile correctional officer staffing projections.

### Management's Response

*Management agrees that supporting documentation for appropriations requests should be retained as appropriated. TYC provided several documents to the SAO describing exactly how many JCOs were assigned to each facility prior to the funding request during the 80<sup>th</sup> legislative session. These documents are prepared every year and maintained as a part of the TYC budgeting process. Detailed position assignment information is maintained for every TYC position by both location and strategy. **Fully Implemented***

Chapter 5-C

### TYC Reported Reliable Results for All Four Key Performance Measures Tested

TYC reported reliable results for the four key performance measures tested for fiscal year 2008 and the first two quarters of fiscal year 2009. A performance measure result is considered reliable if it is certified or certified with qualification.

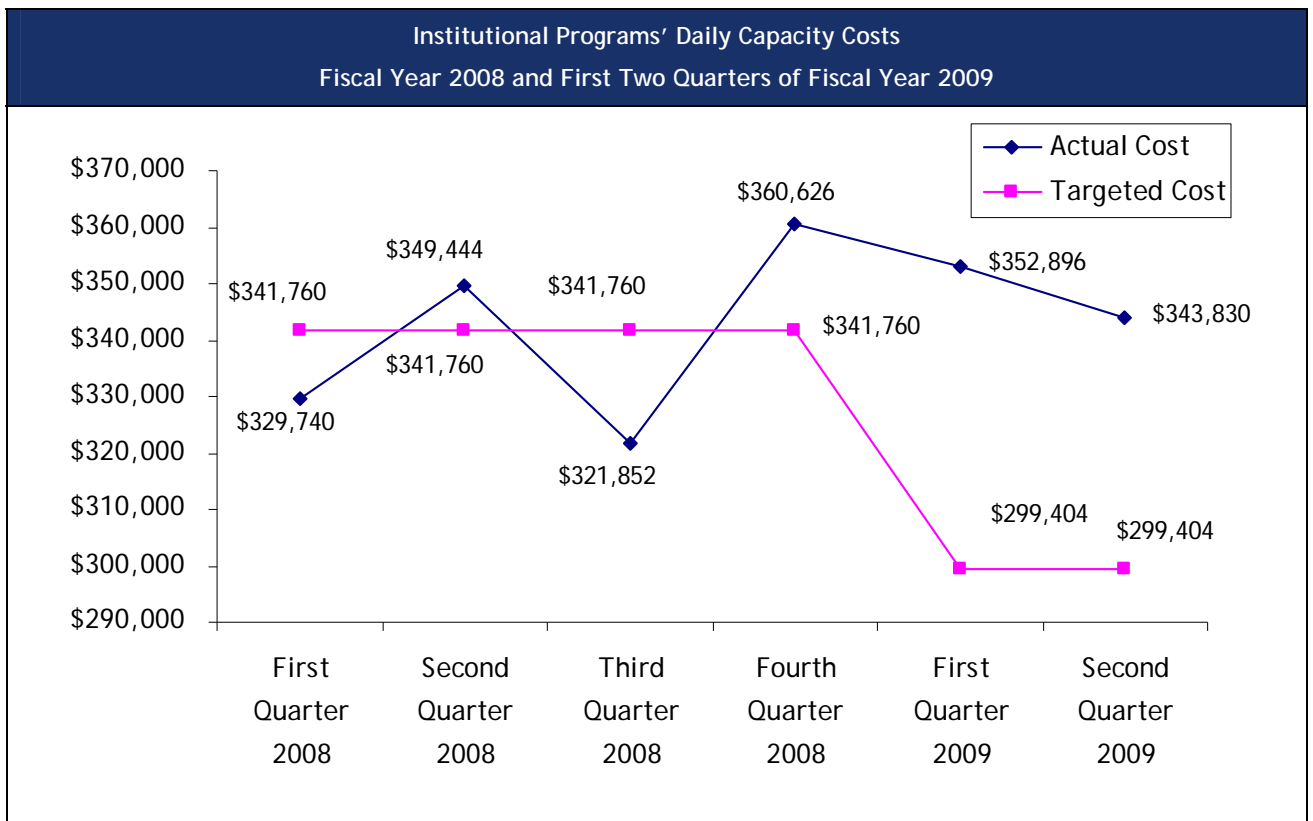
The following four key performance measures tested were certified with qualification:

- Average Daily Population: Institutional Programs<sup>5</sup>.
- Average Daily Population: Contract Programs<sup>6</sup>.
- Capacity Cost in Institutional Program per Youth Day.
- Capacity Cost in Contract Programs per Youth Day.

**Comparison of Performance Measure Targets and Reported Results**

A comparison of the performance measure targets and reported results indicates that institutional programs' daily capacity costs significantly increased during the fourth quarter of 2008, exceeding legislatively targeted costs. These capacity costs continued to be significantly higher than targeted costs during the first and second quarters of fiscal year 2009 (see Figure 2).

Figure 2



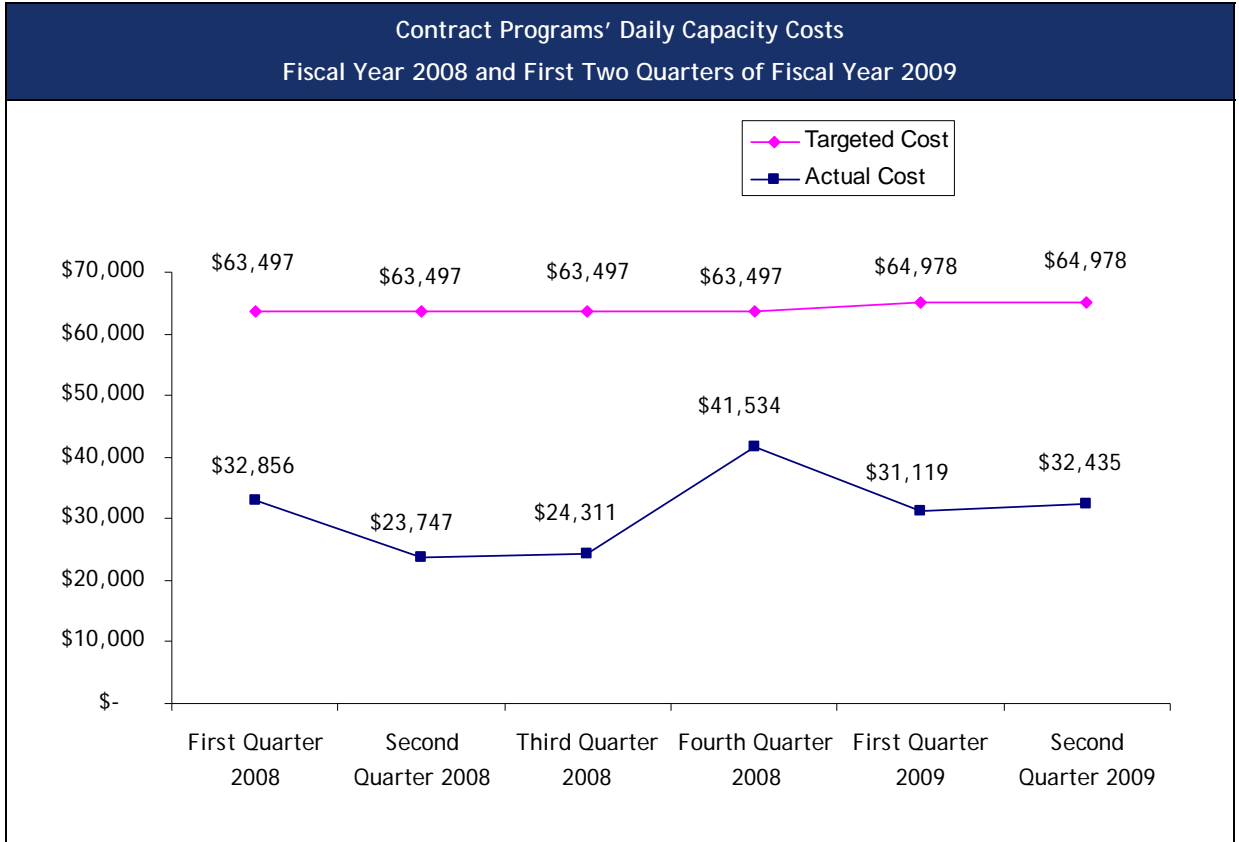
Sources: TYC and the Automated Budget and Evaluation System of Texas (ABEST).

<sup>5</sup> Institutional programs refer to TYC-operated institutional services that provide room, board, and security for committed youth.

<sup>6</sup> Contract programs refer to contracted correctional services that provide room, board, and security for TYC-committed youth.

As Figure 3 shows, contract programs' daily capacity costs were lower than targeted costs for fiscal year 2008 and the first and second quarters of fiscal year 2009.

Figure 3



Sources: TYC and ABEST.

### Performance Measure Certification

TYC has written policies and procedures for collecting, calculating, reviewing, and reporting data to the Automated Budget and Evaluation System of Texas (ABEST) for the four performance measures tested. However, the four performance measures tested were certified with qualification because TYC lacked written policies and procedures for management's review process to verify the accuracy and completeness of youth population data entered into the Correctional Care System (see Chapter 6-B, page 57, for more information about the Correctional Care System). The youth population data is used to calculate the four performance measures tested.

Auditors also determined that the ABEST methodologies for Capacity Cost in Institutional Program per Youth Day and Capacity Cost in Contract Programs

per Youth Day do not clearly identify what dollar amounts should be used to calculate the measures. TYC also made adjustments to its calculations for these two measures that were not defined in ABEST.

Table 8 summarizes the certification results for the four key performance measures tested.

Table 8

Texas Youth Commission, Agency 694					
Objective or Strategy	Description of Measure	Fiscal Year	Results Reported	Year-to-date Target	Certification Results
A. 1. 2. Strategy: Institutional Services	Average Daily Population: Institutional Programs (Output)	2008 (1st Quarter)	2,801.53	2,292.00	Certified with Qualification
		(2nd Quarter)	2,578.73		
		(3rd Quarter)	2,365.86		
		(4th Quarter)	2,130.98		
		Entire Fiscal Year	2,468.26		
		2009 (1st Quarter)	2,048.03		
(2nd Quarter)	2,094.48	2,292.00			
A. 1. 2. Strategy: Institutional Services	Capacity Cost in Institutional Programs Per Youth Day (Efficiencies)	2008 (1st Quarter)	\$117.70	\$149.11	Certified with Qualification
		(2nd Quarter)	\$135.51		
		(3rd Quarter)	\$136.04		
		(4th Quarter)	\$169.23		
		Entire Fiscal Year	\$137.92		
		2009 (1st Quarter)	\$172.31		
(2nd Quarter)	\$164.16	\$130.63			
A. 1. 3. Strategy: Contracted Capacity	Average Daily Population: Contract Programs (Output)	2008 (1st Quarter)	336.57	641.00	Certified with Qualification
		(2nd Quarter)	227.79		
		(3rd Quarter)	229.35		
		(4th Quarter)	217.58		
		Entire Fiscal Year	252.47		
		2009 (1st Quarter)	202.98		
(2nd Quarter)	205.66	641.00			
A. 1. 3. Strategy: Contracted Capacity	Capacity Cost in Contract Programs Per Youth Day (Efficiencies)	2008 (1st Quarter)	\$ 97.62	\$ 99.06	Certified with Qualification
		(2nd Quarter)	\$104.25		
		(3rd Quarter)	\$106.00		
		(4th Quarter)	\$190.89		
		Entire Fiscal Year	\$121.30		
		2009 (1st Quarter)	\$153.31		
(2nd Quarter)	\$157.71	\$101.37			
<p>A measure is <b>Certified</b> if reported performance is accurate within plus or minus 5 percent of actual performance and if it appears that controls to ensure accuracy are in place for collecting and reporting performance data.</p> <p>A measure is <b>Certified With Qualification</b> when reported performance appears accurate, but the controls over data collection and reporting are not adequate to ensure continued accuracy. A measure is also certified with qualification when controls are strong, but source documentation is unavailable for testing. A measure is also certified with qualification if agency calculation of performance deviated from the measure definition but caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure result.</p>					

Texas Youth Commission, Agency 694

Objective or Strategy	Description of Measure	Fiscal Year	Results Reported	Year-to-date Target	Certification Results
<p>A measure is <b>Inaccurate</b> when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested. A measure is also inaccurate if the agency's calculation deviated from the measure definition and caused more than a 5 percent difference between the number reported to ABEST and the correct performance measure result.</p> <p>A <b>Factors Prevented Certification</b> designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and the auditor cannot determine the correct performance measure result.</p>					

Although TYC has a flowchart that shows when management's review of data entry should occur, that flowchart does not provide sufficient information about (1) the required procedures that must be performed for verifying the accuracy and completeness of data or (2) how that review should be documented. However, auditors did not identify any errors in youth population data that would have prevented certification of the performance measures tested.

**Recommendation**

TYC should develop and implement written policies and procedures that (1) describe the required review procedures that should be performed for verifying the accuracy and completeness of youth population data entered into the Correctional Care System and (2) how that review should be documented.

**Management's Response**

*Management agrees with the recommendation. In addition to the current data reconciliation with the Correctional Care System, TYC will develop procedures for management's review of data entered into the system. Procedures will be developed during FY 2009 for implementation in FY 2010. **Planned – Projected to be Fully Implemented August 31, 2009***

Key Measures

**Average Daily Population: Institutional Programs**

**Average Daily Population: Contract Programs**

**Capacity Cost in Institutional Programs per Youth Day**

**Capacity Cost in Contract Programs per Youth Day**

TYC reported accurate results for these measures in fiscal year 2008 and the first and second quarters of fiscal year 2009. As a result of the issues regarding policies and procedures discussed above, these performance measures were certified with qualification.

In addition, the methodologies in ABEST for Capacity Cost in Institutional Programs per Youth Day and Capacity Cost in Contract Programs per Youth Day measures do not specify which dollar amounts should be used to calculate these measures. The methodologies in ABEST for these two performance measures state that results should be calculated by dividing the total dollars expended for each measure strategy by the average daily population for each measure during the reporting period. This amount should then be divided by the number of days in the reporting period. TYC calculated the total dollars expended using accrual basis accounting per legislative appropriations request requirements from the Legislative Budget Board, which requires agencies to recognize all obligations as expenses. The Legislative Budget Board reported that this same method should be used when reporting performance. However, the ABEST methodologies for these performance measures do not state that accrual accounting should be used in calculating total dollars expended.

**Performance Measures Certified with Qualification**

A measure is certified with qualification when reported performance appears accurate, but controls over data collection and reporting are not adequate to ensure continued accuracy. A measure is certified with qualification when controls are strong, but source documentation is unavailable for testing. A measure is also certified with qualification if agency calculation of performance deviated from the measure definition, but it caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure results.

TYC also made adjustments to its calculations for these two performance measures that were not defined in ABEST. Specifically, TYC's procedures specify that the results for these two performance measures should be adjusted for Workers' Compensation and expenditures that were reimbursed by the Office of the Comptroller of Public Accounts. However, TYC made additional adjustments that were not defined in its policies and procedures. For fiscal years 2008 and 2009, TYC adjusted the results for Capacity Cost in Institutional Programs per Youth Day for capital expenditures for vehicles, workstations, and data center services, and for expenditures associated with TYC's Minimum Length of Stay Panel. For the first two quarters of fiscal year 2009, TYC adjusted the results for Capacity Cost in Contract Programs per Youth Day to recognize the reclassification of state funds.

## Recommendation

TYC should work with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to revise the methodologies for Capacity Cost in Institutional Program per Youth Day and the Capacity Cost in Contract Programs per Youth Day to (1) define how total dollars expended should be calculated and (2) specify the types of adjustments that should be considered in calculating the measures.

## Management's Response

*The agency will review the recommendation with the LBB and Governor's Office staff for technical changes relating to accrual accounting and specific adjustments. The report refers to additional adjustments not defined by the measure definitions. However, the measure definitions do not specify the program cost accounts used to tally the costs. TYC currently captures all expenditures at the most detailed level of program cost account for all appropriations for institutional and contract capacity costs. If all relevant expenses are to be captured, the Institutional Strategy, A.1.2., must contain program cost accounts for vehicles, workstations, data center services, and the Minimum Length of Stay Panel. Additionally, for the Contract Care Strategy, A.1.3., certain expenditures were reclassified between method of finance, but they had no impact on the total cost or the cost per day results.*  
**Planned – Projected to be Fully Implemented August 31, 2009**

## ***TYC Should Strengthen the Security and Management Over Its Information Systems***

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In reviewing the investigations of abuse and neglect allegations made during fiscal year 2008, auditors identified several weaknesses in TYC's former system (the Alleged Mistreatment Incident or AMI system) for tracking investigations of allegations of youth mistreatment conducted by the Office of Inspector General. TYC reported that on December 1, 2008, it implemented a

new system for tracking investigations (the Administrative Investigation Management or AIM system). However, auditors did not review the access and security controls over this new system because TYC will continue to use the former system until all investigations opened before November 30, 2008, are closed (see text box).

Auditors also examined TYC's Correctional Care System, which TYC uses to collect and manage data for the performance measures that auditors tested. Although the Correctional Care System has controls in place to ensure the reliability of performance measures, auditors identified opportunities for TYC to strengthen controls over its data to provide greater assurances over the integrity and accuracy of data.

In addition, auditors reviewed the overall access and security controls over TYC's information systems and identified several weaknesses. To minimize security risks, auditors communicated details about some of these weaknesses directly to TYC's management.

### **Tracking Investigations**

TYC's Alleged Mistreatment Incident (AMI) system tracked the intake and investigation of allegations of youth mistreatment. TYC determined that the AMI system was unable to accurately track investigations from start to finish, as well as identify repeat allegations against employees. As a result, TYC replaced the AMI system with a new Administrative Investigation Management (AIM) system to track the intake and investigations of allegations of youth mistreatment. The new AIM system was fully implemented on December 1, 2008.

TYC reported that the new system will be used to track the progress of all investigations of allegations of mistreatment beginning January 1, 2009. It will continue to use the former system until all investigations opened before December 1, 2008, are closed.

### Chapter 6-A

## **TYC Should Restrict Access to and Strengthen the Security Over the Data in Its New System for Tracking Investigations**

Auditors identified several weaknesses in the former system for tracking investigations that TYC should ensure that the new system corrects. Specifically, the new system should:

- Establish proper segregation of duties by limiting programmers' access to production system data. Auditors identified a programmer who had access to update live production data in the former system. Inadequate segregation of duties could allow unauthorized changes that may not be detected by TYC management.
- Create an audit trail of changes to key data. The former system did not identify and track changes to data, which limited TYC's ability to detect unauthorized changes. By conducting a risk assessment, management can identify key data elements for which changes should be tracked.



- Provide access to users based on their role. Under the former system, TYC could not limit users' ability to edit only certain data. With role-based security, TYC could assign privileges based on individual's job needs.
- Maintain data integrity by keeping all records entered into the system. Auditors' review of the former system identified 65 missing records from fiscal years 2007 and 2008. TYC's Information Resources Division analyzed the missing sequence numbers and accounted for the missing records: 47 records were deleted because a system error created the records and 18 records were deleted because they were duplicates.

Also, TYC programmers have access to the database containing archived information about completed criminal investigations of alleged mistreatment. TYC could limit the risk of unauthorized changes to these historical records by storing the information in a read-only format.

## Recommendations

TYC should:

- Establish controls in the new system for tracking investigations (the AIM system) that includes:
  - ♦ Proper segregation of duties.
  - ♦ An audit trail capable of tracking changes to key data elements identified through a risk assessment.
  - ♦ Role-based security.
- Maintain all records entered into the new system (the AIM system) for tracking investigations.
- Store electronic records of completed investigations in a read-only format.

## Management's Response

- ***Establish controls in the new system for tracking investigations (AIM system) that includes:***
  - ♦ ***Proper segregation of duties.***
  - ♦ ***An audit trail capable of tracking changes to key data elements identified through a risk assessment.***
  - ♦ ***Role-based security.***

*Management agrees with this recommendation. The Information Resources Department worked closely with the Inspector General's management to ensure the appropriate security and other controls were programmed into the AIM application. Controls include, but are not limited to segregation of duties, audit trails for modifications to information, role-based security, and the inability to delete complete records.*

*In addition, the Internal Audit Department's fiscal year 2010 audit plan will include an audit of alleged mistreatment. One of the objectives for this audit will be to evaluate the adequacy of the AIM system's controls.*  
**Fully Implemented**

- ***Maintain all records entered into the new system for tracking investigations (AIM system).*** Management agrees with this recommendation. The new AIM system does not permit the deletion of any records. If a record is inactive or closed by a user, the system marks the record accordingly, but does not physically delete the record from the database. **Fully Implemented**
- ***Store electronic records of completed investigations in a read-only format.*** Management agrees that certain fields in completed investigations should be read-only. After each investigation is closed, the Office of the Inspector General must maintain closed records to collect case-related data that may be discovered after the case is closed. The Information Resources Department will modify the AIM system to allow only specific Inspector General staff to modify or add information only to certain fields in closed investigation records. A control that is programmed in the new database is an audit trail that tracks and stores all changes in the AIM system, including all record and field creations, additions, deletions, and changes. This control operates regardless of whether the case is open or closed. **In Progress – Projected to be Fully Implemented May 31, 2009**

## TYC's Correctional Care System Data is Reliable, But TYC Should Strengthen Controls to Reduce the Risk that Data is Improperly Altered

As discussed in Chapter 5-C, selected performance measures that are calculated using data from the Correctional Care System were reliable (see

### Correctional Care System

The Correctional Care System (CCS) is a database application that TYC uses to store information on all youth committed to TYC. All activity and actions involving youth in TYC custody is reflected in CCS, beginning at intake and continuing until discharge after a youth's completion of parole or transfer to the Department of Criminal Justice. This information can be accessed only by TYC employees who have been granted permission. In addition, the CCS is the primary system for collecting data that is used for TYC's average daily population data used in calculating performance measures.

### Statistical Analysis System

The Statistical Analysis System (SAS) is an application used by TYC that stores data extracted daily from the CCS. SAS processes this data to analyze TYC's average daily population.

text box for more information). TYC's application controls over its Correctional Care System provide assurance about the reliability of performance measure data that is entered into, processed by, and extracted from the Correctional Care System. TYC also has necessary access controls over the network folders that store performance measure data. In addition, the access controls over TYC's Statistical Analysis System (SAS) ensure the reliability of data stored by the application (see text box). However, TYC should strengthen how it manages access to the Correctional Care System and how it documents programming changes it makes to the system. Auditors identified weaknesses that increase the risk that data could be inadvertently or deliberately altered, which would impair the integrity and accuracy of the data that TYC uses to calculate performance measures. These weaknesses are discussed below.

TYC did not ensure that it de-activated former employees' access to the Correctional Care System. TYC did not deactivate the user accounts of 87 users whose employment was terminated from fiscal year 2004 through February 2009. Although network access was removed, a former employee's ID could be used by a current employee to gain unauthorized access to the system. Auditors also identified one former employee who had both an active network account and an active user ID.

TYC did not ensure that changes to the SAS application produced desired results. TYC did not test changes it made to the SAS application prior to implementing the new programs. TYC changed its SAS program code on at least two different occasions, which resulted in the application incorrectly adding youth overnight stays from one facility and subtracting the stays from another facility. While this was a programming error, the net effect was zero for the calculation to determine the average daily population that is used in calculating performance measure results.

TYC does not have an efficient process for tracking program code changes. TYC implemented a manual process for tracking changes to program code in the Correctional Care System after the State Auditor's Office's last performance measures audit in 2005.<sup>7</sup> Although TYC documents the requests for and

<sup>7</sup> See *An Audit Report on Performance Measures at Five State Agencies*, State Auditor's Office Report No. 05-030, March 2005.

approval of program code changes, it was not able to provide a complete listing of all “before” and “after” program code changes to the Correctional Care System. TYC reported that the manual tracking process makes it difficult to identify all program code changes made since 2005.

## Recommendations

TYC should:

- Ensure that it deactivates and removes all former employees’ access to the Correctional Care System.
- Ensure that the SAS program code performs as expected.
- Consider developing a code library for the Correctional Care System to assist in the tracking and comparing program code changes.

## Management’s Response

- ***Ensure it deactivates and removes all former employees’ access to the Correctional Care System.*** *The absence of outward facing portals to the agency’s network mitigates the risk of access to the system by terminated employees. To mitigate the risk of unauthorized use of terminated employees UserIDs, the Information Resources Department will analyze its out-processing procedures to seek additional checks and balances to ensure that when employees or contractors separate all of their UserIDs are deleted or disabled immediately. **Planned – Projected to be Fully Implemented July 1, 2009.***
- ***Ensure that the SAS program code performs as expected.*** *Management agrees with this recommendation. The Research Department will develop and implement requirements for better version control and documentation of changes to the SAS program code used to calculate average daily population. In addition to its current procedure of comparing its output on a quarterly basis with output produced in a separate program developed by the Information Resources Department, Research will also develop procedures for additional testing to ensure the code runs as expected. Procedures will be developed during FY 2009 for implementation by the first quarter of FY 2010. **Planned – Projected to be Fully Implemented August 31, 2009.***
- ***Consider developing a code library for the Correctional Care System to assist in the tracking and comparing of program code changes.*** *Management agrees that a code library is a valuable tool for tracking and comparing coding changes. TYC documents every program change to the Correctional Care System through a multi-step process of forms and*

*approvals; the Information Resources Department will review current capabilities and explore other options to implement a code library to strengthen this process. The agency's decision will be largely dependent on the availability of funds. **In Progress – Projected to be Fully Implemented August 31, 2009.***

Chapter 6-C

## **TYC Should Improve Access Controls Over Its Information Systems**

### **Administrator Access**

Administrator access is defined as a level of access above that of a normal user. Generally, an administrator account has unrestricted access to everything on the computer. This allows the user to create, delete, and modify any of the files and folders on the computer, as well as change any of the settings.

TYC should improve how it manages the access granted to users of its information systems by limiting the number of users with administrator-level access accounts and by segregating incompatible duties.

### **Administrator Access to Systems**

TYC retained a high number of administrative accounts to its information technology resources that were no longer administered by TYC employees. Auditors identified 50 accounts that could be used to access information system resources or servers that are managed by the Department of Information Resources' Data Center Services vendor, IBM. These accounts allow the users to have control over the servers, including the ability to enable or disable services and user access to resources. In *An Audit Report on the Department of Information Resources and the Consolidation of the State's Data Centers* (SAO Audit Report No. 08-038, June 2008), the State Auditor's Office reported that staff at various state agencies were performing service functions that were the responsibility of the vendor, which could artificially influence the service levels. Auditors recommended that agency staff be required to discontinue the performance of outsourced activities on behalf of IBM.

### **Segregation of Duties**

One TYC programmer had administrative access to the server on which the agency's databases are stored. Properly implemented segregation of duties should not allow programmers to have access to update live production system data. If programmers can access the live production data as well as program the code, unauthorized changes to systems and the underlying data could be made that may not be detected by TYC management.

Chapter 6-D

## **TYC Should Strengthen the Policies and Procedures Required by Information Security Standards**

TYC adopted policies and procedures related to information security standards in Title 1, Texas Administrative Code, Chapter 202 (1 TAC 202). To improve its information security, TYC should strengthen its information security policies, perform a security risk analysis, and provide additional details in its disaster recovery plan.

## Security Policies

TYC had not fully addressed all requirements in 1 TAC 202, such as those for change management and administrator access. Fully documented and defined information security policies provide guidance to employees for addressing security issues in a timely, efficient, and effective manner. The Department of Information Resources has security policy templates available on its Web site that could aid TYC in achieving compliance with these requirements.

## Security Risk Analysis

TYC had not documented an information security risk analysis as required by 1 TAC 202. A security risk analysis includes identifying the information technology resources, including (1) the importance and confidentiality of the data, (2) hardware and software, (3) the programmers and end-users of the resources, and (4) security controls that are implemented to help protect the resources. The analysis also should identify potential threats to the resources and the resulting vulnerabilities. A documented information security risk analysis could help TYC apply remedies that would reduce its information security risks.

## Disaster Recovery Plan

TYC developed a disaster recovery plan; however, the plan lacks sufficient details to provide for the timely recovery of information resources necessary to carry out its business functions in the event of an emergency. Because operation of TYC's data center has been outsourced to IBM, the vendor would be responsible for conducting any recovery efforts. However, TYC's recovery plan should include (1) details about its vendors, (2) application version numbers, and (3) others details about the specific applications TYC resources use. These details could assist the vendor to recover from a disaster more efficiently.

## Recommendations

TYC should:

- Limit access to its information systems as appropriate and provide for proper segregation of duties.
- Adopt and implement policies that address all applicable information system standards in 1 TAC 202.
- Conduct and document an information security risk analysis.
- Add details in its disaster recovery plan to allow for the timely recovery of information resources in the event of a disaster.

## Management's Response

- ***Limit access to its information systems as appropriate and provide for proper segregation of duties.*** Management agrees with this recommendation. The audit report references the previous SAO Audit Report No. 08-038, *An Audit Report on the Department of Information Resources (DIR) and the Consolidation of the State's Data Centers*, finding that various agencies were performing service functions that were the responsibility of the vendor (IBM). TYC has maintained programmer access due to poor responsiveness by the vendor during the transition period for consolidation of data centers, and TYC's need for priority reform changes in its systems. TYC will implement the recommendation by documenting and addressing service issues with the vendor and DIR as needed. ***In Progress – Projected to be Fully Implemented May 31, 2009***
  
- ***Adopt and implement policies that address all applicable information system standards in TAC 202.*** Management agrees with this recommendation. TYC is in the process of hiring an Information Security Officer. The first priority for this new position will be to develop and recommend for adoption a complete set of information security policies based on Department of Information Resource templates. ***Planned – Projected to be Fully Implemented August 31, 2009***
  
- ***Conduct and document an information security risk analysis.*** Management agrees with this recommendation. The new Information Security Officer will utilize the Department of Information Resource sponsored tool ISAAC (Information Security Awareness, Assessment, and Compliance System) to conduct a risk analysis for each TYC information system. ***Planned – Projected to be Fully Implemented December 31, 2009.***
  
- ***Add details in its disaster recovery plan to allow for the timely recovery of information resources in the event of a disaster.*** Management agrees with this recommendation. TYC contracts with the Department of Information Resource's vendor (IBM) for disaster recovery plan services. The agency will notify the department and its vendor of the recommendation and provide additional information relating to staff contact and ease-of-transition information for TYC's business continuity plan in the event of a disaster relating to information technology resources. ***Planned – Projected to be Fully Implemented August 31, 2009***

## **TYC's Controls Over Its General Accounting System Allow the Complete and Accurate Processing of Expenditure Transactions**

TYC's General Accounting System contains sufficient controls to ensure that the entering and processing of expenditure information is accurate and completed in a timely manner. The system is responsible for generating payment transactions, which are sent for processing to the Office of the Comptroller of Public Accounts. The system also restricts access based on an employee's job duties and contains edit checks to help ensure the accuracy of the data entered.



# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### Objectives

The objectives of this audit were to

- Determine the implementation status of selected recommendations from *An Investigative Report on the Texas Youth Commission* (State Auditor's Office Report No. 07-022, March 2007).
- Review abuse and neglect allegations and documentation to ensure that the allegations were properly screened and investigated and that appropriate action was taken.
- Determine whether selected expenditures at the Texas Youth Commission (TYC) comply with state law and are properly authorized and reasonable for the performance of TYC functions and the facilitation of legislative reform efforts.

### Scope

The audit scope covered:

- TYC's oversight for alleged mistreatment of youth and the management of agency resources as of August 31, 2008.
- Allegations of mistreatment that were identified as a concern by TYC's Office of Independent Ombudsman for fiscal years 2007 and 2008.
- TYC's contract management processes and selected contracts authorized while the agency was under conservatorship from March 2007 to October 2008.
- TYC's expenditures related to implementing Senate Bill 103 (80th Legislature) reforms for fiscal years 2007 and 2008.
- Four key performance measures TYC reported for fiscal year 2008 and the first two quarters of fiscal year 2009.

### Methodology

The audit methodology included identifying high-risk recommendations from the prior State Auditor's Office's investigative report, collecting information to determine the implementation status of those recommendations, and

conducting site visits at three TYC facilities. The selection of high-risk recommendations was based on the following:

- TYC's preliminary actions to implement recommendations in *An Investigative Report on the Texas Youth Commission* (State Auditor's Office Report No. 07-022, March 2007).
- The TYC conservator's periodic status reports to the Governor's Office and the Legislature about the implementation of organization reforms that were defined by Senate Bill 103.
- Inherent business, financial, or service risk.

Information collected and reviewed included the following:

- *Texas Youth Commission Reform Plan*, Richard Nedelkoff, TYC Conservator, July 1, 2008.
- *TYC Fiscal Year 2008 Annual Internal Audit Report*, October 2008.
- General Appropriations Act (80th Legislature).
- *Fourth Quarterly Report on the Activities of the Office of the Independent Ombudsman for the Texas Youth Commission: July to September 2008*, Office of the Independent Ombudsman.
- *Sunset Staff Report of the Texas Youth Commission, Texas Juvenile Probation Commission, and Office of Independent Ombudsman, Sunset Advisory Commission*, November 2008.
- TYC organizational charts.
- Various TYC job descriptions and job postings.
- Workforce data for selected job classifications, including turnover rates, length of service, average headcount, and average salaries.
- October 2008 and November 2008 leave and overtime summary reports for juvenile correctional officers at all TYC facilities.
- TYC budget reports for fiscal years 2008 and 2009.
- Contracts procured by TYC between March 2007 and October 2008 and related invoices.
- TYC's disaster recovery plan.

Procedures and tests conducted included the following:

- Conducted site visits at three TYC residential facilities: the Gainesville State School, the Al Price State Juvenile Correctional Facility, and the Corsicana Residential Treatment Center.
- Reviewed allegations of mistreatment that were identified as a concern by TYC's Office of Independent Ombudsman for fiscal years 2007 and 2008.
- Reviewed TYC's contract management process and selected contracts while the agency was under conservatorship from March 2007 to October 2008.
- Reviewed selected expenditures related to implementing Senate Bill 103 reforms for fiscal years 2007 and 2008.
- Reviewed controls over the collection, calculation, and submission of data used in reporting selected performance measures.
- Interviewed the TYC Executive Commissioner, executive management, and staff.
- Analyzed the implementation of the recommendation that TYC separate youth by age.
- Analyzed the proximity of youth placed in TYC facilities to their hometowns.
- Reviewed data on bed checks conducted at TYC facilities visited.
- Analyzed juvenile correctional officer-to-youth ratios at facilities visited.
- Compared budgeted maximum occupancy rates to actual occupancy rates at facilities visited.
- Reviewed and analyzed selected allegations of mistreatment of youth for the timeliness and execution of disciplinary actions.
- Verified the placements and operations of blue phones, which allow youths to make phone calls to family members and various hotlines, and security cameras at facilities visited.
- Tested selected personnel files for compliance with TYC policies and procedures.
- Analyzed employee training documents for completion of training curriculum.

- Analyzed and tested various information technology systems used in the investigations of alleged mistreatment of youth.
- Analyzed and tested controls over TYC's General Accounting System.

Criteria used included the following:

- Texas Government Code, Chapter 2104 (Conservatorship as a Result of Fiscal Mismanagement).
- Texas Government Code, Chapters 2155, 2261, and 2262 (Contract Management).
- Title 1, Texas Administrative Code, Chapter 202 (Information Security Standards).
- Senate Bill 103.
- Prior State Auditor's Office recommendations.
- TYC policies and procedures related to oversight of alleged mistreatment, security and monitoring of youth, management of agency resources, and information security.

### **Project Information**

Audit fieldwork was conducted from December 2008 through April 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Willie J. Hicks, MBA (Project Manager)
- Juan R. Sanchez, MPA, CIA, CGAP (Assistant Project Manager)
- Christine Bailey, CCP, GRP (Senior Classification Analyst)
- Isaac Barajas
- Robert Burg, MPA
- Erin Johnson Cromleigh
- Anton Dutchover

- Jeffrey Grymkoski, MA
- Thomas Andrew Mahoney
- John Rios
- Michael Sanford
- Willie J. Showels
- Michael Stiernberg, MBA, JD
- Ken Wade
- Joseph Kozak, CPA, CISA (Information Systems Audit Team)
- Marlen Kraemer, MBA, CGAP, CISA (Information Systems Audit Team)
- Michael Yokie, CISA (Information Systems Audit Team)
- Worth Ferguson, CPA (Quality Control Reviewer)
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- Sandra Vice, CIA, CGAP, CISA (Assistant State Auditor)

## ***Significant Events at TYC from March 2007 through January 2009***

Table 9 shows a list of significant events that have occurred at the Texas Youth Commission (TYC) from March 2007 through January 31, 2009.

Table 9

<b>Significant Events at the TYC from March 2007 through January 2009</b>		
<b>Conservator</b>	<b>Date</b>	<b>Event</b>
Jay Kimbrough	March 2007	TYC board resigns and transfers duties to acting Executive Director Ed Owens Governor Rick Perry appoints Jay Kimbrough as conservator of the TYC.
Ed Owens	June 2007	Jay Kimbrough resigns as conservator of the TYC. Governor Perry appoints Ed Owens as the TYC's second conservator. Senate Bill 103 (80th Legislature), which creates the Office of Inspector General and the Office of Independent Ombudsman, is signed by the Governor. Dimitria Pope is appointed the TYC's acting Executive Director.
	October 2007	Acting Executive Director Dimitria Pope orders the removal of youth placed with Geo Corporation's Coke County Juvenile Justice Center (JJC) in Bronte, Texas, after recent audits of the facility raised concerns about the safety and welfare of the youths.
Richard Nedelkoff	December 2007	The Governor appoints Richard Nedelkoff as the TYC's third conservator.
	February 2008	Acting Executive Director Dimitria Pope resigns. Conservator Richard Nedelkoff closes the Sheffield Boot Camp facility in Sheffield, Texas, due to TYC's inability to recruit juvenile correctional officers and case managers to work in the West Texas town.
	June 2008	Conservator Richard Nedelkoff transfers the management of TYC's Alleged Mistreatment Incident system from the Youth Rights Division to the Office of Inspector General.
	August 2008	Conservator Richard Nedelkoff appoints Cheryln Townsend as TYC Executive Director effective October 1, 2008.
End of Conservatorship	October 2008	Governor Perry removes the TYC from conservatorship and appoints Cheryln Townsend as Executive Commissioner.
	November 2008	Executive Commissioner Cheryln Townsend announces that TYC is eliminating 23 vacant central office positions.
	December 2008	TYC's Administrative Investigation Management (AIM system) goes live. This system will replace the former Alleged Mistreatment Incident system (AMI system) for managing investigations of alleged mistreatment.
	January 2009	TYC announces it is eliminating 430 positions effective March 1, 2009. Of the 430 positions, 100 were filled and 330 were vacant.

## Status of TYC's Implementation of High-risk Recommendations

Tables 10 through 12 summarize the status of the Texas Youth Commission's (TYC) implementation of each of the recommendations made in *An Investigative Report on the Texas Youth Commission* (State Auditor's Report No. 07-022, March 2007) that auditors reviewed.

Table 10

Status of Implementation of High-risk Audit Recommendations Related to the Oversight of Alleged Mistreatment	
Recommendation	Auditors' Comments
<b>Fully Implemented Recommendations</b>	
1 TYC should transfer its automated grievance systems to the Office of Inspector General. <sup>a</sup>	In June 2008, TYC transferred the responsibilities for the management of its Alleged Mistreatment Incident (AMI) system to the Office of Inspector General.
2 TYC should perform Web-filtering to prevent users from accessing sexually oriented sites.	TYC installed and maintains a filter that limits which Web pages staff can access from a TYC computer. In addition, TYC computers available for youth use are not connected to the Internet. TYC stores Internet content it deems appropriate on its servers, which allows it to limit the content it makes accessible to computers within TYC's residential facilities.
<b>Substantially Implemented Recommendations</b>	
3 TYC should enforce a disciplinary policy that outlines consequences for employees who mistreat or abuse youths.	TYC revised and implemented a new disciplinary policy effective December 1, 2008. This policy outlined specific consequences for employees who mistreat or abuse youth. Auditors did not test for compliance with the policy because TYC implemented it during audit fieldwork.
4 TYC should ensure that all grievances are received and investigated by requiring staff to immediately report any suspected mistreatment or abuse of youth to the Office of Inspector General for investigation.	Effective July 2008, TYC required that all allegations of mistreatment be reported to and investigated by the Office of Inspector General. However, auditors identified weaknesses in TYC's oversight processes.
5 TYC should require its executive director or his or her designee to verify and approve "phase adjustments" that result in extending a youth's stay at a facility.	In June 2007, Senate Bill 103 became effective and required TYC to determine whether a youth (1) has completed the assigned minimum length of stay and (2) should be discharged, released to parole, or remain in a high restriction facility. TYC reported it established interim panels in August 2007 that review recommendations to extend a youth's stay beyond his or her original sentence. However, as of February 2009, TYC was still in the process of adopting policies and procedures for conducting these reviews in a consistent and transparent manner.
6 TYC should monitor employees' computers to detect storage of inappropriate images and refer employees to the Office of Inspector General if inappropriate images are detected.	TYC reported that it monitors employees' computers for inappropriate images upon investigative request only. In April 2007, TYC installed a Web-filtering system and revised its policy on the appropriate use of information technology resources. This policy stated that TYC's Information Resources Division may monitor any TYC resource to ensure the appropriate use of state property. However, TYC reported that investigative requests to monitor employees' computers have decreased to almost none since it installed the Web-filtering system. As a result, TYC is not actively monitoring employees' computers.

Status of Implementation of High-risk Audit Recommendations Related to the Oversight of Alleged Mistreatment	
Recommendation	Auditors' Comments
<b>Incomplete/Ongoing Recommendations</b>	
7 TYC should allow youths to challenge consequences for misconduct separately from the grievance process.	As of February 2009, TYC was in the process of adopting policies and procedures that define a process to (1) allow youths to challenge consequences (such as loss of privileges or transfer to a different residential facility) separately from submitting grievances or complaints and (2) outline the consequences to youth for misconduct based on the level and type of misconduct.
8 TYC should develop and implement a policy that outlines consequences to youths according to the level and type of their misconduct.	
<b>Not Implemented Recommendations</b>	
9 TYC should strengthen password protection on all its computers.	Improvements are still needed to strengthen the password protection and comply with information security standards in Title 1, Texas Administrative Code, Chapter 202, on all TYC computers.
<sup>a</sup> The phrase "alleged mistreatment" is used in this report to be consistent with TYC's terminology for discussing alleged incidents of abuse, neglect, or exploitation. The term "grievance" was used in An Investigative Report on the Texas Youth Commission (State Auditor's Office Report Number 07-022, March 2007). TYC considers grievances to be concerns by youth, parents, and other youth advocates regarding the denial of certain rights to youth. In general, grievances are of a less serious nature than allegations of mistreatment.	

Table 11

Status of Implementation of High-risk Audit Recommendations Related to Security and Monitoring	
Recommendation	Auditor Comments
<b>Fully Implemented Recommendations</b>	
1 TYC should consider the addition of some single-cell dorms at facilities.	As of February 2009, TYC was in the process of reconfiguring open-bay dorms at six residential facilities into single cells. For fiscal year 2008, TYC reported that it expended approximately \$3.4 million toward reconfigurations at the following residential facilities: the Al Price State Juvenile Correctional Facility, the Crockett State School, the Evins Regional Juvenile Center, the Giddings State School, the McLennan County State Juvenile Correctional Facility, and the Ron Jackson State Juvenile Correctional Complex.
2 TYC should require investigators to conduct unannounced visits.	Senate Bill 103 established the Office of Inspector General, which has investigators assigned to each residential facility to perform unannounced visits as necessary.
3 TYC should increase the number and placement of electronic monitoring devices (surveillance cameras and audio recording devices).	TYC reported that it installed approximately 11,000 additional surveillance devices in its residential facilities. However, auditors identified concerns regarding the installation of the video surveillance equipment.
4 TYC should evaluate the West Texas State School for possible closure. Youths could be transferred to other facilities over the next 12 to 24 months, in the event that a decision is made to close the school.	TYC evaluated the West Texas State School for possible closure and elected not to close the facility during fiscal year 2008. TYC's Executive Commissioner continues to evaluate the continued operation of the West Texas State School and other residential facilities according to the following factors: location of family resources for the youths in facilities; availability of workforce and specialized treatments; community support and resources; percentage of youths from each region; the type of commitments; any specialized treatment needs of the youth; and TYC's ability to operate a cost-effective facility.



**Status of Implementation of High-risk Audit Recommendations  
Related to Security and Monitoring**

Recommendation	Auditor Comments
<b>Substantially Implemented Recommendations</b>	
5 TYC should separate different categories of youths, including (1) separating youths by age and (2) separating youths by severity of offense committed by TYC youth.	Senate Bill 103 required TYC to separate youths 15 years old or younger from older youths, and TYC drafted policies requiring youths 15 years old or younger to be separated from older youths. TYC separated youths 15 years old or younger from older youths in two of three facilities that auditors visited. However, one facility did not separate its female youths by age or youths assigned to its central stabilization unit.  TYC did not separate youths by severity of offense. However, Senate Bill 103 prohibited the placement of youths who are convicted of misdemeanors in a TYC facility. Other than age, TYC reported that the driving factor in its placement decisions is the treatment needs of the youths.
6 TYC should establish and enforce a limit on the number of youths who can be assigned to an individual, open-bay dorm.	While TYC is in the process of reconfiguring its open-bay dorms into single cells, it continues to house youth in a limited number of open-bay dorms until those reconfigurations are complete. As of February 2009, TYC had not established written requirements regarding the number of youths who can be housed in an open-bay dorm. However, TYC reported that the physical capacity of its open-bay dorms is 24 beds, unless bunk beds are used. Auditors reviewed dorm assignments at the Al Price State Juvenile Correctional Facility, one of six facilities with open-bay dorms. Twenty-five of 30 (83.3 percent) daily dorm assignments reviewed were in compliance with TYC's established maximum capacity of 24 youth per single open-bay dorm. Two dorms exceeded the daily maximum capacity by two youths and three dorms exceeded the daily maximum capacity by one youth.
7 TYC should conduct more frequent and random bed checks.	TYC requires its juvenile correctional officers to conduct hourly headcounts of youth. Auditors identified inconsistencies in the frequency of hourly headcounts at three facilities visited.
8 TYC should enforce maximum occupancy rates.	During fiscal year 2008, TYC experienced a significant decline in its youth population after the enactment of Senate Bill 103. Ten of 11 TYC residential facilities did not exceed their maximum physical capacity rate during fiscal year 2008. Giddings State School exceeded its physical capacity rate by three youths in September 2007.
9 TYC should fill the vacant dog-handler position and evaluate current resources to determine if additional positions are necessary to search staff and visitors for drugs and other contraband.	TYC had originally filled all dog-handler positions. However, as of February 2009, TYC had four filled dog-handler positions and one vacant position. The vacant position did not become vacant until November 2008. TYC did not evaluate whether additional positions were necessary to conduct searches of staff and visitors for drugs and other contraband.
10 TYC should (1) maintain surveillance data from monitoring devices for at least 15 working days or until grievances alleged to have occurred on a particular day are resolved and (2) consider using digital equipment, which may be more cost-effective than the current equipment in use.	TYC reported that it maintains surveillance data for six months. However, TYC has not established requirements or a process for ensuring the retention of the surveillance data, which increases the risk that surveillance data may be accidentally or intentionally altered or deleted. In addition, auditors identified areas for improvement in TYC's oversight of the video surveillance equipment used for recording surveillance data.

Status of Implementation of High-risk Audit Recommendations Related to Security and Monitoring	
Recommendation	Auditor Comments
11 TYC should place youths in close proximity to their homes or communities, when possible.	TYC reported that it considers a youth's proximity to home when making placement decisions; however, the youth's treatment needs are the key factors in these decisions. As of February 2009, TYC was in the process of adopting requirements to make proximity to a youth's home a required factor for consideration in placement decisions. According to data provided by TYC, it placed the majority of youth in facilities that were in the same region as the region in which the youth were sentenced by a court.
<b>Incomplete/Ongoing Recommendations</b>	
12 TYC should establish and enforce juvenile correctional officer-to-youth ratios that provide for a safe and effective environment.	Senate Bill 103 mandated a juvenile correctional officer-to-youth ratio of 1 to 12. As of February 2009, TYC was in the process of adopting requirements to ensure enforcement of this mandate. However, the juvenile correctional officer-to-youth ratio continues to vary significantly among individual facilities. For example, one facility consistently met or was below the required ratio of 1 to 12, while another facility had a ratio of 1 to 18.
13 TYC should search staff for drugs and contraband, including staff working on night shifts, and consider random drug testing.	While TYC has policies allowing it to conduct contraband searches of employees, it has not defined the documentation requirements for these contraband searches. In addition, only one of three residential facilities auditors visited could provide documentation showing that it had conducted contraband searches on employees during fiscal year 2008. This facility had documented two contraband searches; the other two facilities could not provide documentation of contraband searches they reportedly performed. TYC does not conduct random drug tests; it limits its drug testing to job applicants and current employees who operate motor vehicles used to transport youths.
14 TYC should rotate juvenile correctional officers' dorm assignments every six months so that they do not always work with the same personnel and supervise the same youths.	Senate Bill 103 required the rotation of juvenile correctional officer assignments at set intervals so that a juvenile correctional officer is not assigned to the same station for an extended period of time. However, TYC assigned juvenile correctional officers permanently to specific dorms during fiscal year 2008. Officers were reassigned only in instances in which an allegation had been made against the officer or to ensure adequate coverage of a dorm. As of February 2009, TYC was in the process of adopting policies requiring juvenile correctional officers to have rotated assignments at regular intervals.
<b>Not Implemented Recommendations</b>	
15 TYC should replace some solid doors with glass doors to allow staff to monitor youths more easily.	TYC reported that it did not replace any solid doors; however, it installed additional surveillance cameras to address concerns about staff's ability to monitor youths.

Table 12

Status of Implementation of High-risk Audit Recommendations for Management of Agency Resources	
Recommendation	Auditor Comments
<b>Fully Implemented Recommendations</b>	
1 TYC should establish and implement a policy that prohibits TYC or its contractors who work with youth from hiring a convicted felon or sex offender.	TYC established policies prohibiting TYC employees and contractors who work with youth from hiring convicted felons. However, auditors identified weaknesses in TYC's process for conducting criminal history checks of contractors.
2 TYC should require and ensure that contractors that provide services to TYC's youth be fingerprinted and undergo criminal background checks prior to their having contact with the youths.	TYC established a standard provision for its contracts that requires contractors' employees and subcontractors to undergo criminal history checks prior to having contact with youths. One of six contracts auditors reviewed involved providing direct care services to youth. For that contract, TYC conducted criminal history checks on the contractor's employees.
3 TYC should obtain fingerprints from all employees so that background checks can be performed by the Department of Public Safety (DPS) and Federal Bureau of Investigation databases.	TYC requires employees, volunteers, and contractors to provide fingerprints; the fingerprinting is performed by a DPS contractor. The contractor sends the results of fingerprint-based criminal history checks to DPS, which forwards the results to TYC's Human Resources Division.
4 TYC should require and ensure that post-employment criminal history checks on TYC employees are conducted at least every two years.	In August 2007, TYC established requirements for conducting criminal history checks on its employees, volunteers, and contractors on an annual basis. During site visits, auditors confirmed that employees and volunteers received a criminal history check on an annual basis.
5 TYC should establish on-site grievance officers at TYC facilities who report to the Office of Inspector General.	TYC established investigator positions assigned to each of its residential facilities; these investigators report to the Office of Inspector General.
6 TYC should fill vacant positions for investigators to more effectively handle the investigation of grievances.	As of February 2009, TYC had 21 investigator positions in the Office of Inspector General (11 criminal investigators and 10 administrative investigators). One of these positions was vacant.
7 TYC should analyze how juvenile correctional officers are (1) allocated across facilities, (2) scheduled at individual facilities, and (3) tasked with duties other than youth supervision to ensure the most effective use of the officers.	TYC conducts weekly assessments of its juvenile correctional officers' workload, including shift coverage, and officer-to-youth ratios for each dorm. These assessments were reviewed by the assistant superintendent in charge of scheduling juvenile correctional officers at each facility.
8 TYC should develop a core training curriculum that all new juvenile correctional officers must receive during their first 30 days of employment and require annual training updates. At a minimum, the curriculum should include (1) proper behavior for juvenile correctional officers, (2) proper techniques for the control and restraint of youths, and (3) the grievance process.	TYC established a training program and required that its juvenile correctional officers complete at least 300 hours of training prior to assuming responsibility for sole supervision of youth. This training program includes courses on (1) proper behavior for juvenile correctional officers, (2) proper techniques for the control and restraint of youth, and (3) TYC's alleged mistreatment process.
9 TYC should identify the minimum equipment and supplies needed at facilities to operate effectively and ensure that these items are available.	From June 2008 through November 2008, TYC conducted assessments of its 11 facilities. These assessments evaluated juvenile correctional officers' equipment needs, the condition of safety equipment, and facility maintenance issues. TYC reported that it is taking corrective actions for the issues identified during the assessments.
10 TYC should require and enforce a code of conduct for facility staff that models appropriate behavior for the youths.	TYC developed an Agency Integrity Program in January 2008 that defines a code of conduct outlining the expectations for staff to behave as positive role models and maintain professional relationships with the youth. Compliance with the code of conduct is enforced by human resources staff through TYC's disciplinary action process.

Status of Implementation of High-risk Audit Recommendations for Management of Agency Resources	
Recommendation	Auditor Comments
<b>Substantially Implemented Recommendations</b>	
11 TYC should amend its policy related to criminal background checks so that the results of these checks are retained in employee files.	TYC maintained documentation in employees' files showing when criminal history checks were performed. Auditors identified instances in which TYC lacked documented criminal history checks; however, TYC had not established a records retention requirement concerning criminal history checks as of February 2009. TYC staff stated they retain copies of criminal history checks for 90 days. In addition, TYC retained all electronic data of criminal history checks it received from DPS since March 2007.
12 TYC should require that all contracts between TYC and a contractor contain a provision requiring the contractor to certify that the contractor does not have an employee who has been convicted of an offense and that the contractor will take reasonable steps to become informed of each proposed employee's criminal convictions prior to employment and during employment. The contract should be voidable in the event that TYC discovers that the contractor has violated these terms of the contract.	TYC's contracts require contractors' employees and subcontractors to receive criminal history checks prior to the contractor delivering services to TYC. However, auditors identified weaknesses in TYC's process for conducting criminal history checks of its contractors.
13 TYC should clarify promotion and transfer guidelines to include a review of the history of disciplinary actions, evaluations, and all current and prior grievances.	TYC revised its promotion and transfer guidelines as of June 2008 to reference applicable selection and hiring forms used for an employee's transfer or promotion. The forms require a review of the employee's history of disciplinary actions, evaluations, and all current and prior grievances. Five of seven transfer records auditors reviewed included documentation confirming that (1) TYC human resources staff reviewed disciplinary actions and grievances, and (2) department supervisors reviewed the prior evaluations before approving a transfer.
14 After grievances involving staff are confirmed, local human resources, central office human resources, and central office general counsel should determine disciplinary actions based on a policy that outlines a range of disciplinary actions.	TYC implemented a new disciplinary action process effective December 1, 2008. The new process outlined consequences to employees according to the level and type of misconduct. However, auditors did not test compliance with the policy because TYC implemented it during audit fieldwork.
15 TYC should ensure that employee performance evaluations better reflect employee performance by allowing a greater range of rating levels (such as excellent, satisfactory, needs improvement, and unsatisfactory) and that these evaluations take disciplinary actions into account.	TYC revised its employee performance evaluations to include a rating level and consideration of disciplinary actions in performance reviews of Juvenile Correctional Officer II, III, and IV positions. These positions have direct responsibility for monitoring youths. However, TYC did not adopt these revisions for performance reviews of supervisor positions (Juvenile Correctional Officer V and VI positions). These positions are responsible for oversight of juvenile correctional officers and treatment programs for youth.
16 TYC should require juvenile correctional officers to attain a "satisfactory" rating on at least 75 percent of the required elements to receive an overall "satisfactory" rating.	As of May 2008, TYC's performance evaluations for Juvenile Correctional Officer II, III, and IV positions (which have direct responsibility for monitoring youth) require employees to attain a satisfactory rating on at least 80 percent of performance requirements. However, Juvenile Correctional Officer V and VI positions (which are primarily managerial positions) were not evaluated according to this rating system. The supervisor positions continued to be evaluated using TYC's prior evaluation form.
17 TYC should prepare employee performance evaluations at least annually.	TYC established requirements that performance evaluations be conducted six months after an employee's date of hire, again at 12 months after the date of hire, and every year thereafter. However, 40 of 93 (43.0 percent) performance evaluations auditors reviewed were not performed within the required timeframes.

Status of Implementation of High-risk Audit Recommendations for Management of Agency Resources	
Recommendation	Auditor Comments
<b>Incomplete/Ongoing Recommendations</b>	
18 TYC should establish on-site certified sex offender counselor positions at TYC facilities.	As of February 2009, TYC had not hired any additional certified sex offender counselors for its residential facilities. Although TYC had a staff of 27 treatment counselors, only 6 were certified as sex offender counselors. TYC reported that it had developed an agency-wide program for its treatment counselors to obtain a sex offender counselor certification; participants in the program are expected to obtain certifications in 2010. TYC added that competition from the private sector has made it difficult to hire certified sex offender counselors.
19 TYC should reallocate central office staff resources to the highest priority functions.	TYC conducted an analysis of its organizational structure. However, TYC lacked documentation describing what changes were made to its organizational structure or explaining why changes were made.
20 TYC should analyze its juvenile correctional officers, including a review of overtime and the ability of employees to use accrued leave.	TYC reported that it provided weekly overtime reports on juvenile correctional officer staff to each facility's superintendent. However, auditors were not able to determine how superintendents used the reports for reviewing overtime or the ability of employees to use accrued leave.
21 TYC should establish and enforce a policy to assign staff younger than 21 years of age to facilities that house younger youths.	As of February 2009, TYC was in the process of adopting a policy to require at least a three-year age difference between a juvenile correctional officer and youths whom the officer supervises.
22 TYC should review rehabilitation programs to improve their effectiveness.	As of February 2009, TYC reported it was in the process of implementing a new rehabilitation program, CoNEXTions. TYC reported its Research Department will be conducting a Process Evaluation of the program to ensure that it is being implemented as designed, as well as an outcome evaluation to determine its effect.
<b>Not Implemented Recommendations</b>	
23 TYC should administer reading comprehension and writing tests to facility staff and require passing scores prior to extending a job offer.	TYC management decided not to implement this recommendation.

***TYC's Self-reported Status of High-risk Recommendations That Were Not Selected for Follow-up Audit Work***

Table 13 lists the Texas Youth Commission's (TYC) self-reported status for high-risk recommendations that were not selected for follow-up audit work. Unless otherwise noted, TYC's responses were as of December 31, 2008.

Table 13

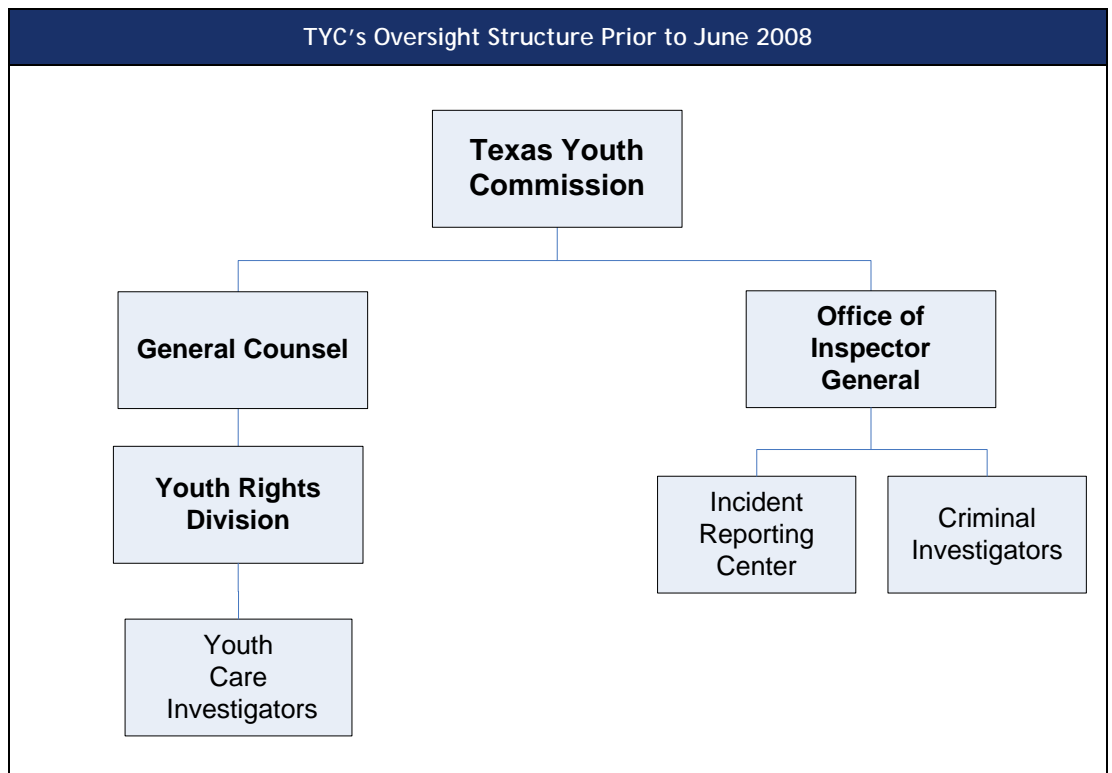
High-risk Recommendations Not Selected for Follow-up Audit Work from <i>An Investigative Report on the Texas Youth Commission</i> (SAO Report No. 07-022, March 2007)		
Recommendation	TYC Self-reported Implementation Status	TYC Comments
1 TYC should, upon admission to a youth facility, provide an information packet to the youth and parents or guardians describing facility services and grievance procedures.	Fully Implemented	Parents or guardians are sent an orientation packet within 48 hours of their youths' arrival at one of the Orientation and Assessment Units which includes, among other things: an introduction to TYC; letters discussing services such as education and treatment; the hotline number and internet contact information; an information pamphlet that discusses the youths basic rights and how to make a complaint or file a grievance; and the Parents' Bill of Rights which outlines their rights as a parent or guardian with a child in TYC. Youth are also provided this information during their orientation through written materials and discussions with staff.
2 TYC should take action to increase the job applicant pool for juvenile correctional officers by encouraging the hiring of part-time officers such as state, military, and other retirees.	Fully Implemented	<p>TYC currently utilizes part-time JCOs in a limited capacity. However, as the right-sizing of the agency is finalized and staffing requirements are determined, we will be able to establish the level of part-time JCO employment that would be most beneficial to the agency. TYC can illustrate historically the level of full time JCO staff we can maintain at any given location. As staffing plans are finalized, any staffing requirement above what has been proven historically as difficult to maintain can be supplemented by part-time JCOs.</p> <p>There has also been consideration of on-call JCOs. This is currently utilized successfully at half-way houses but could also be a valuable resource at institutions as well. These part-time employees can consist of state, military, and other retirees.</p> <p>Part-time employees will often require specialized training plans that must be flexible with the employees other commitments such as military, school or other employment which will require revision to the delivery of our existing 300 hour training.</p>

## Organizational History of TYC's Oversight of Alleged Mistreatment of Youth

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Figures 4 and 5 show the Texas Youth Commission's (TYC) divisions with oversight responsibilities for investigating allegations of mistreatment against youth. Figure 4 shows the oversight structure prior to June 2008.

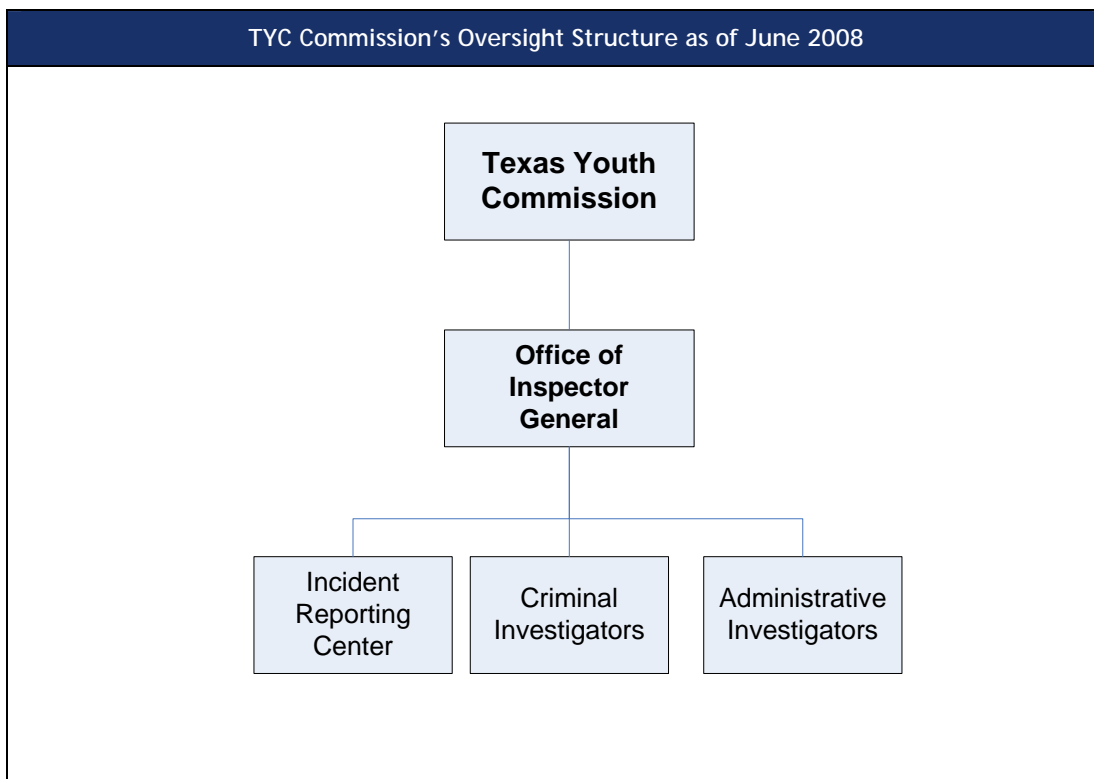
Figure 4



Source: TYC.

Figure 5 shows TYC's oversight structure for allegations of mistreatment as of June 2008. Youth Care Investigators were transferred from the General Counsel's Youth Rights Division to the Office of Inspector General in June 2008 and were renamed Administrative Investigators.

Figure 5

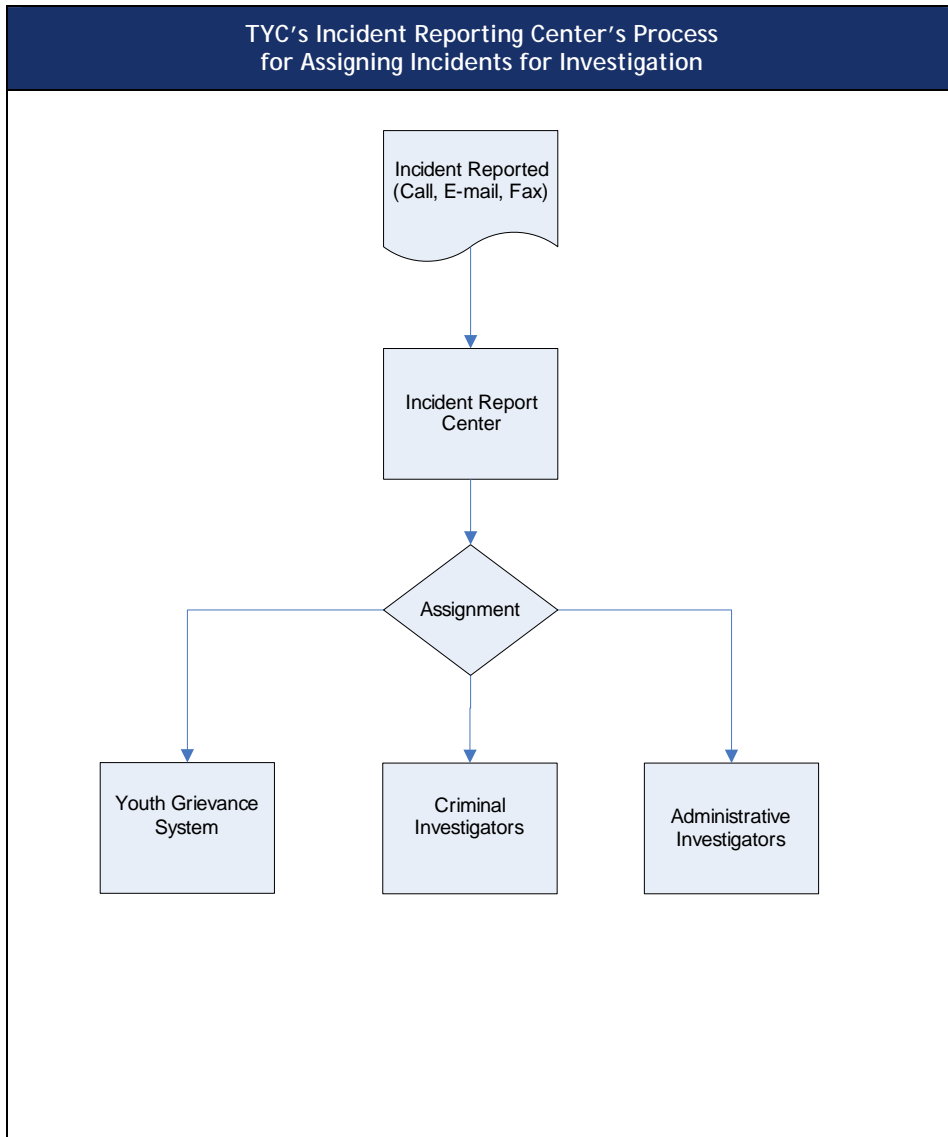


Source: TYC.

Figure 6 on the next page shows an overview of the Incident Reporting Center, which receives all reported incidents ranging from grievances regarding the quality of care and a violation of youth rights to allegations of abuse, neglect, and exploitation. The Office of Inspector General manages the Incident Reporting Center, Administrative Investigators, and Criminal Investigators. The Youth Rights Division is managed by TYC's general counsel.



Figure 6



Source: TYC.

## Profile of New Youth Commitments to TYC Facilities from Fiscal Year 2006 to Fiscal Year 2008

Table 14 lists the total number of youths who were committed to Texas Youth Commission (TYC) facilities for specific criminal offenses from fiscal year 2006 to 2008. The totals may not represent total youths committed because youths may have committed multiple offenses.

Table 14

Criminal Offense Classifications for Youths Committed to TYC Facilities			
Fiscal Years 2006 to 2008			
Offense Classification	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008
Burglary	567	458	376
Aggravated Robbery	134	190	140
Drug Offenses	306	243	138
Aggravated Assault	182	198	132
Unlawful Use of a Motor Vehicle	211	136	108
Sexual Assault or Aggravated Sexual Assault	146	135	105
Simple Assault	292	228	95
Robbery	92	91	71
Theft	157	117	57
Indecency with a Child	94	65	57
Evading/Escaping/Resisting Arrest	125	82	40
Unlawful Weapons	74	71	39
Arson	31	32	37
Injury to Child/Elderly	40	42	29
Criminal Mischief	48	41	18
Deadly Conduct	15	7	17
Organized Criminal Activity	21	21	14
Murder, Capital Murder	14	9	8
Kidnapping or Aggravated Kidnapping	3	4	2
Criminal Trespass	19	25	Not Applicable
Other Crime	167	132	99
<b>Totals</b>	<b>2,738</b>	<b>2,327</b>	<b>1,582</b>

Source: TYC.

## Youth Population at TYC-operated Facilities as of January 31, 2009

Table 15 lists the Texas Youth Commission's (TYC) youth population for each of its residential facilities, including summary totals of the youth population for its halfway houses and contract care providers. The youth population is shown in terms of:

- **Maximum Bed Capacity.** The maximum number of beds that can be placed in a facility's physical space as determined by the TYC.
- **Physical Bed Capacity.** The number of youth beds that TYC projects would be needed based on appropriated funds and the project average daily population.
- **Actual Population.** The actual number of youth beds occupied at a facility.

Table 15

Youth Population at TYC-operated and Contract Care Facilities As of January 31, 2009					
Facility	Maximum Bed Capacity	Physical Bed Capacity	Actual Population	Difference Between Physical Bed Capacity and Actual Population	Percent of Physical Bed Capacity Used
Al Price State Juvenile Correctional Facility	312	216	217	(1)	100.5%
Corsicana Residential Treatment Center	203	187	149	38	79.7%
Crockett State School	264	208	197	11	94.7%
Evins Regional Juvenile Center	240	176	182	(6)	103.4%
Gainesville State School	386	288	262	26	91.0%
Giddings State School	384	320	336	(16)	105.0%
McLennan County State Juvenile Correctional Facility	640	592	393	199	66.4%
Ron Jackson State Juvenile Correctional Complex	356	256	154	102	60.2%
Ron Jackson State Juvenile Correctional Complex II	113	108	29	79	26.9%

Youth Population at TYC-operated and Contract Care Facilities As of January 31, 2009					
Facility	Maximum Bed Capacity	Physical Bed Capacity	Actual Population	Difference Between Physical Bed Capacity and Actual Population	Percent of Physical Bed Capacity Used
Victory Field Correctional Academy	336	336	93	243	27.7%
West Texas State School	220	240	90	150	37.5%
<b>Total, Facilities</b>		<b>2,927</b>	<b>2,102</b>	<b>825</b>	<b>71.8%</b>
Adjustment for 2.5 percent Vacancy Rate <sup>a</sup>		(59)			
Halfway Houses		218	201	17	92.2%
<b>Total, TYC-operated Facilities</b>		<b>3,086</b>	<b>2,303</b>	<b>783</b>	<b>74.6%</b>
Contract Care		205	205	0	100.0%
<b>Total Residential Population</b>		<b>3,291</b>	<b>2,508</b>	<b>783</b>	<b>76.2%</b>
<sup>a</sup> The vacancy rate is the percentage of physical bed capacity expected to be vacant due to the exiting and the admission of youth.					

Source: TYC.

## TYC's Placement of Youth by Region

Table 16 lists (1) the number and percentage of youth whom the Texas Youth Commission (TYC) placed within the same region as the region in which the youth was committed and (2) the total and percentage of youth who were placed outside the region of commitment.

Table 16

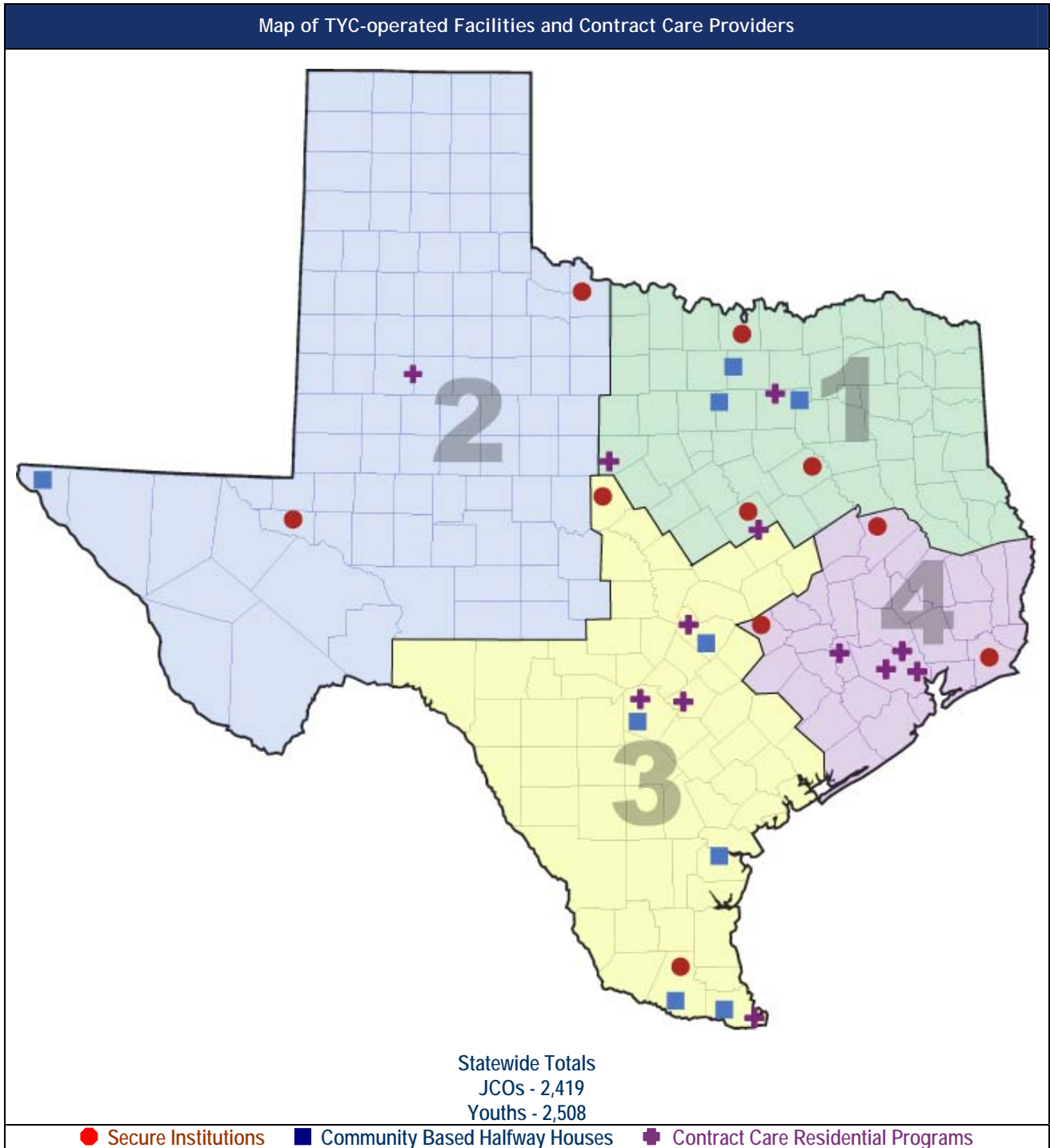
Region of Commitment and Region of Placement of Youth in TYC Facilities <sup>a</sup>								
As of January 31, 2009								
Facility Type	Region of Commitment	Region of Placement				Total	Percentage Placed Within Region of Commitment	Percentage Placed Outside Region of Commitment
		1. North	2. West	3. South	4. East			
Institution	1. North	414	86	71	188	759	54.5%	45.5%
	2. West	52	73	18	24	167	43.7%	56.3%
	3. South	102	20	212	124	458	46.3%	53.7%
	4. East	94	4	48	414	560	73.9%	26.1%
	<b>Subtotals</b>	<b>662</b>	<b>183</b>	<b>349</b>	<b>750</b>	<b>1,944</b>	<b>57.3%</b>	<b>42.7%</b>
Halfway House	1. North	35	2	22	0	59	59.3%	40.7%
	2. West	13	16	9	0	38	42.1%	57.9%
	3. South	13	5	31	0	49	63.3%	36.7%
	4. East	16	0	39	0	55	0.0%	100.0%
	<b>Subtotals</b>	<b>77</b>	<b>23</b>	<b>101</b>	<b>0</b>	<b>201</b>	<b>40.8%</b>	<b>59.2%</b>
Contract	1. North	23	7	6	15	51	45.1%	54.9%
	2. West	10	25	6	4	45	55.6%	44.4%
	3. South	11	3	24	12	50	48.0%	52.0%
	4. East	17	3	19	20	59	33.9%	66.1%
	<b>Subtotals</b>	<b>61</b>	<b>38</b>	<b>55</b>	<b>51</b>	<b>205</b>	<b>44.9%</b>	<b>55.1%</b>
All Facility Types	1. North	472	95	99	203	869	54.3%	45.7%
	2. West	75	114	33	28	250	45.6%	54.4%
	3. South	126	28	267	136	557	47.9%	52.1%
	4. East	127	7	106	434	674	64.4%	35.6%
	<b>Grand Totals</b>	<b>800</b>	<b>244</b>	<b>505</b>	<b>801</b>	<b>2,350</b>	<b>54.8%</b>	<b>45.2%</b>

<sup>a</sup> This table does not include 158 youths in the assessment program.

Source: TYC.

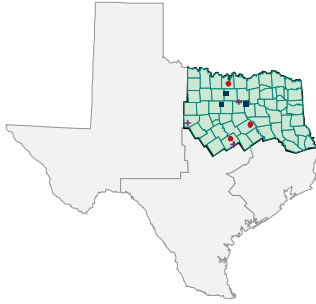
**Map of TYC-operated Facilities and Contract Care Providers, Including Juvenile Correctional Officer (JCO) and Youth Populations as of January 31, 2009**

Figure 7



Source: TYC.

### Region 1



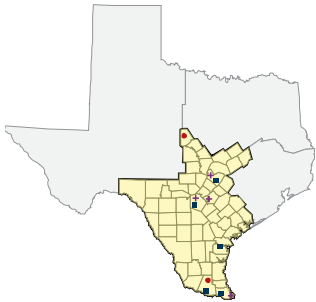
Secure Institutions	City	County	JCOs	Youths
Corsicana Residential Treatment Facility	Corsicana	Navarro	208	149
Gainesville State School	Gainesville	Cooke	215	262
McLennan County State Juvenile Correctional Facility	Mart	McLennan	467	393
<b>Community Based Halfway Houses</b>				
Cottrell House	Dallas	Dallas	14	25
McFadden Ranch (chemical dependency treatment)	Roanoke	Denton	28	40
Willoughby House (for girls)	Fort Worth	Tarrant	14	12
<b>Contract Care Residential Programs</b>				
Brookhaven Youth Ranch, Inc.	West	McLennan	n/a <sup>a</sup>	13
Mel Matthews Vocational Center	Cisco	Eastland	n/a <sup>a</sup>	29
Specialized Alternatives for Youth (SAFY)	Dallas	Dallas	n/a <sup>a</sup>	19

### Region 2



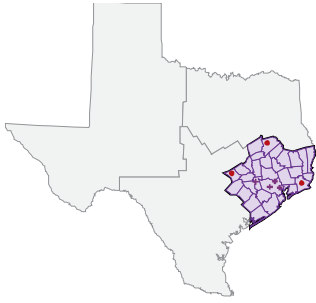
Secure Institutions	City	County	JCOs	Youths
Victory Field Correctional Academy	Vernon	Wilbarger	128	93
West Texas State School	Pyote	Ward	84	90
<b>Community Based Halfway Houses</b>				
Schaeffer House	El Paso	El Paso	14	23
<b>Contract Care Residential Programs</b>				
Garza County Regional Juvenile Center	Post	Garza	n/a <sup>a</sup>	38

### Region 3



Secure Institutions	City	County	JCOs	Youths
Evins Regional Juvenile Center	Edinburg	Hidalgo	187	182
Ron Jackson State Juvenile Correctional Complex Units I and II <sup>b</sup>	Brownwood	Brown	298	183
<b>Community Based Halfway Houses</b>				
Ayres House	San Antonio	Bexar	14	18
Beto House	McAllen	Hidalgo	15	18
Edna Tamayo House	Harlingen	Cameron	15	22
Turman House	Austin	Travis	15	20
York House	Corpus Christi	Nueces	13	23
<b>Contract Care Residential Programs</b>				
Cornell Corrections of Texas, Inc.	San Antonio	Bexar	n/a <sup>a</sup>	21
Alliance Children Services, Inc.	Austin	Travis	n/a <sup>a</sup>	1
Associated Marine Institutes, Inc.	Los Fresnos	Cameron	n/a <sup>a</sup>	24
W.I.N.G.S. for Life, Inc.	Marion	Guadalupe	n/a <sup>a</sup>	9

**Region 4**



Secure Institutions	City	County	JCOs	Youths
Al Price State Juvenile Correctional Facility	Beaumont	Jefferson	202	217
Crockett State School	Crockett	Houston	210	197
Giddings State School	Giddings	Lee	278	336
Contract Care Residential Programs				
Alliance Children Services, Inc.	Houston	Harris	n/a <sup>a</sup>	4
Byrd's Therapeutic Group Home	Houston	Harris	n/a <sup>a</sup>	10
Gulf Coast Trades Center	New Waverly	Walker	n/a <sup>a</sup>	30
Southwest Key Supervised Apartment Living	Houston	Harris	n/a <sup>a</sup>	7

<sup>a</sup> TYC-employed juvenile correctional officers do not work on the staff of contract care providers.

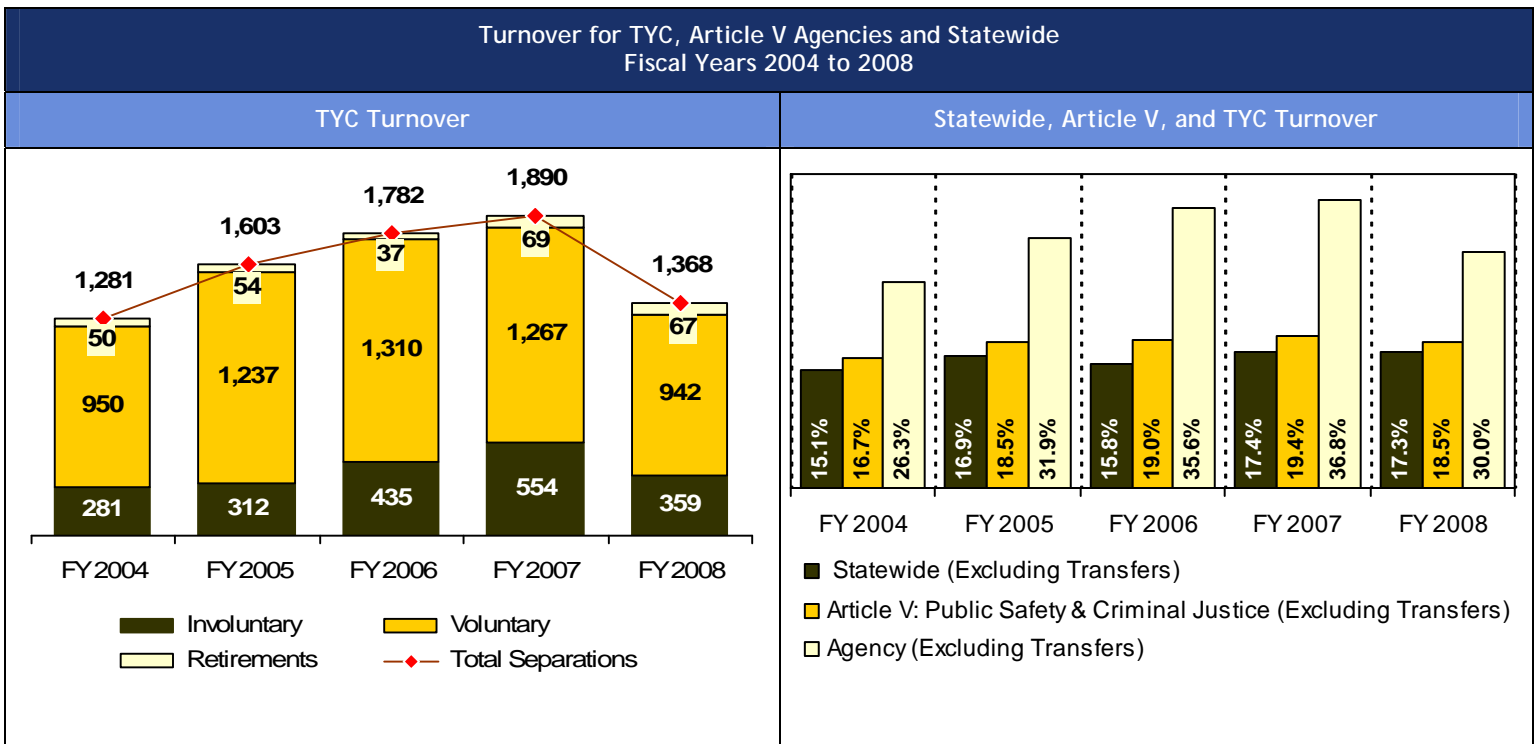
<sup>b</sup> TYC considers Ron Jackson State Juvenile Correctional Complex to be two separate residential facilities.



## TYC Workforce Summary for Fiscal Years 2004 through 2008

Excluding interagency transfers, turnover within the Texas Youth Commission (TYC) was 30.0 percent in fiscal year 2008. This turnover rate was higher than the average turnover for all state agencies (17.3 percent) and higher than the average turnover for public safety and criminal justice or General Appropriations Act Article V agencies (18.5 percent) during fiscal year 2008. Figure 8 summarizes the TYC's turnover for fiscal year 2004 to fiscal year 2008 and compares the TYC's turnover rates with turnover of Article V agencies and all state agencies.

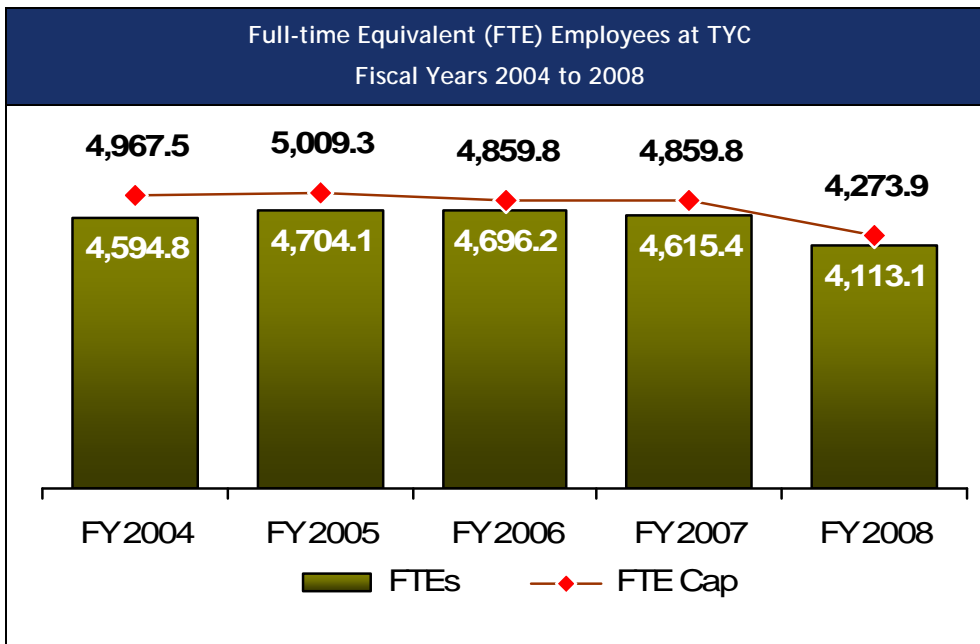
Figure 8



Source: The Comptroller of Public Accounts' Uniform Statewide Payroll/Personnel System.

Figure 9 shows TYC’s full-time equivalent employees for fiscal years 2004 through 2008. Auditors did not analyze fiscal year 2009 totals; however, the TYC Executive Commissioner announced reductions in the workforce that eliminated (1) 23 vacant positions in TYC’s central office in November 2008 and (2) 430 agency-wide positions effective March 1, 2009.

Figure 9



Source: State Auditor’s Office’s Full-time Equivalent Employee Reporting System.

TYC experienced a reduction in its turnover rates for juvenile correctional officers and case managers during fiscal year 2008. However, the turnover rates for those positions in fiscal year 2008 were still high when compared to the average fiscal year 2008 turnover rate for all state agencies. Table 17 on the next page lists TYC’s turnover rates and average length of employment for its juvenile correctional officers and case managers who voluntarily and involuntarily separated from TYC during fiscal years 2006 through 2008.

Table 17

Turnover Rate and Average Length of Employment for TYC's Juvenile Correctional Officers and Case Managers <sup>a</sup> Fiscal Years 2006 to 2008						
Job Classification	Fiscal Year 2006		Fiscal Year 2007		Fiscal Year 2008	
	Turnover Rate	Average Length of Employment with TYC <sup>b</sup>	Turnover Rate	Average Length of Employment with TYC <sup>b</sup>	Turnover Rate	Average Length of Employment with TYC <sup>b</sup>
Juvenile Correctional Officer I	112.6%	4 months	110.8%	3 months	71.1%	3 months
Juvenile Correctional Officer II	59.5%	9 months	92.1%	7 months	79.9%	6 months
Juvenile Correctional Officer III	38.8%	1 year, 9 months	50.6%	1 year, 7 months	49.5%	1 year, 5 months
Juvenile Correctional Officer IV	21.8%	7 years, 3 months	28.7%	7 years, 1 month	25.0%	6 years, 8 months
Juvenile Correctional Officer V	24.9%	6 years, 2 months	32.8%	6 years, 5 months	24.1%	6 years, 10 months
Juvenile Correctional Officer VI	16.4%	9 years, 6 months	24.1%	9 years, 10 months	19.2%	9 years, 10 months
Case Manager I	55.2%	1 year, 10 months	21.4%	2 years, 3 months	31.4%	2 years, 10 months
Case Manager II	27.1%	2 years, 11 months	41.0%	3 years, 8 months	19.6%	4 years, 3 months
Case Manager III	31.3%	5 years, 4 months	33.0%	5 years, 5 months	18.7%	5 years, 5 months
Case Manager IV	Not Applicable	Not Applicable	Not Applicable	Not Applicable	25.0%	5 years, 4 months
<b>TYC (All Positions)</b>	<b>36.9%</b>	<b>7 years, 4 months</b>	<b>40.7%</b>	<b>7 years</b>	<b>32.5%</b>	<b>6 years</b>
Statewide (Excludes Interagency Transfers)	15.8%	5 years, 11 months	17.4%	6 years, 3 months	17.3%	6 years, 4 months

<sup>a</sup> Unless otherwise noted, turnover rates include interagency transfers, which are considered a loss to the agency. Interagency transfers are employees transferring from one state agency to another.

<sup>b</sup> Juvenile correctional officers follow a career ladder that makes the average length of employment for some positions appear low. The career ladder allows employees to move to a higher position once they have met certain criteria related to performance and time in the position. For example, employees at the lowest levels (levels I and II) may stay in those positions for only 3-6 months before moving to a higher level.

Source: The Comptroller of Public Accounts' Uniform Statewide Payroll/Personnel System.

Table 18 lists the TYC headcount rates and average salaries for juvenile correctional officers and case managers for fiscal year 2006 to fiscal year 2008.

Table 18

Average Headcounts and Salaries for TYC Juvenile Correctional Officers and Case Managers Fiscal Years 2006 to 2008						
Job Classification	Fiscal Year 2006		Fiscal Year 2007		Fiscal Year 2008	
	Average Headcount	Average Salary	Average Headcount	Average Salary	Average Headcount	Average Salary
Juvenile Correctional Officer I	613.50	\$21,693	196.75	\$22,149	208.25	\$24,003
Juvenile Correctional Officer II	336.25	\$23,598	397.50	\$24,300	274.25	\$26,007
Juvenile Correctional Officer III	510.75	\$27,046	740.75	\$28,123	612.25	\$29,336
Juvenile Correctional Officer IV	1,007.50	\$31,390	1,005.50	\$32,384	997.50	\$33,032
Juvenile Correctional Officer V	321.75	\$32,442	314.25	\$33,488	266.00	\$34,383
Juvenile Correctional Officer VI	158.50	\$35,756	153.25	\$36,946	145.50	\$37,825
Case Manager I	14.50	\$26,332	14.00	\$27,250	12.75	\$31,196
Case Manager II	118.00	\$27,953	117.00	\$28,966	81.50	\$33,435
Case Manager III	217.00	\$32,371	199.75	\$33,202	171.50	\$39,289
Case Manager IV	Not Applicable	Not Applicable	Not Applicable	Not Applicable	28.00	\$44,366
Agency (All positions)	4,823	\$31,084	4,647	\$32,202	4,210	\$34,471

Source: The Comptroller of Public Accounts' Uniform Statewide Payroll/Personnel System.

Table 19 lists the number of youths who were released from and the number of youths who were committed to TYC from March 2007 through August 2008. The TYC youth population at the end of March 2007 was 4,604; the population at the end of August 2008 was 2,492. TYC released a total of 6,334 youths from March 1, 2007, to August 31, 2008.

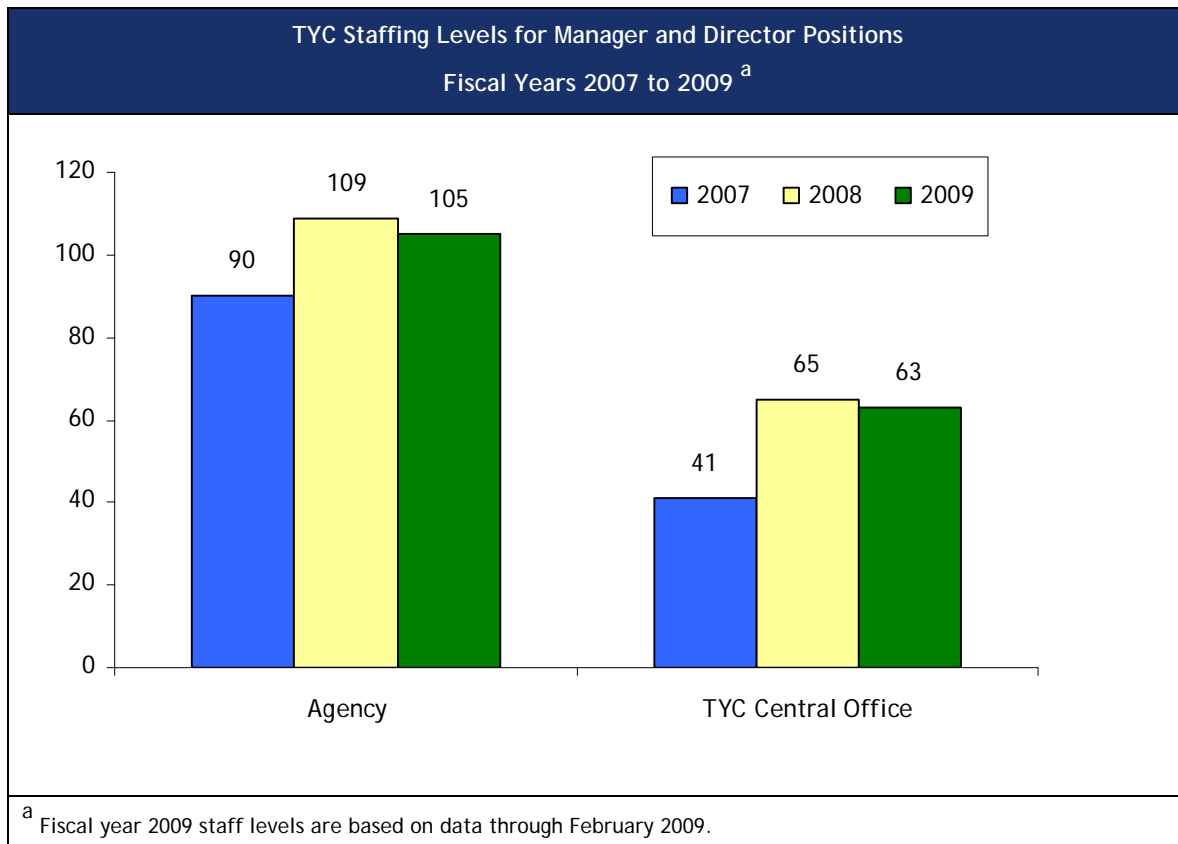
Table 19

TYC Youth Population March 2007 through August 2008				
Month/ Year	Beginning Population	Number of Youths Exiting TYC	Number of Youths Committed to TYC	Ending Population
March 2007	4,809	476	271	4,604
April 2007	4,604	777	219	4,046
May 2007	4,046	449	297	3,894
June 2007	3,894	606	257	3,545
July 2007	3,545	320	219	3,444
August 2007	3,444	197	263	3,510
September 2007	3,510	246	192	3,456
October 2007	3,456	355	249	3,350
November 2007	3,350	312	181	3,219
December 2007	3,219	334	191	3,076
January 2008	3,076	271	182	2,987
February 2008	2,987	265	208	2,930
March 2008	2,930	258	202	2,874
April 2008	2,874	251	221	2,844
May 2008	2,844	335	218	2,727
June 2008	2,727	279	222	2,670
July 2008	2,670	345	206	2,531
August 2008	2,531	258	219	2,492
<b>Total Youths Exiting from and Committed to TYC</b>		<b>6,334</b>	<b>4,017</b>	

Source: TYC.

TYC added several central office manager and director positions in fiscal year 2008. Figure 10 shows the total number of manager and director positions in fiscal years 2007 to 2009. TYC reported that in fiscal year 2008 it created (1) six new manager and director positions as a result of Senate Bill 103 (80th Legislature) mandates and (2) nine additional new manager and director positions.

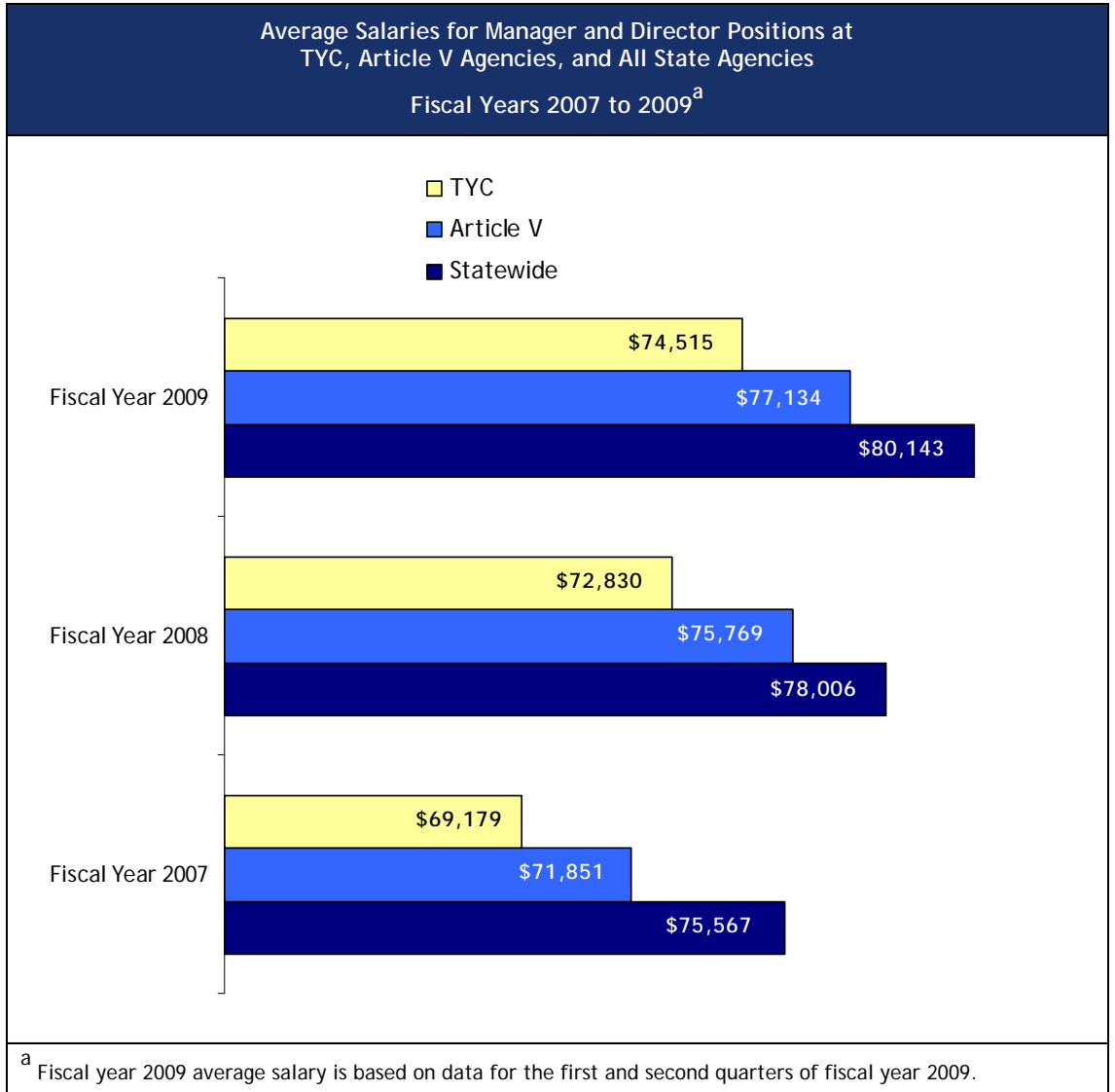
Figure 10



Source: TYC.

Figure 11 compares average salaries for TYC manager and director positions with the average salaries of manager and director positions at General Appropriations Act Article V agencies and at all state agencies.

Figure 11



Source: The Comptroller of Public Accounts' Uniform Statewide Payroll/Personnel System.

## TYC's Contract Care Providers for Fiscal Years 2008 and 2009

The Texas Youth Commission (TYC) paid \$11,926,042 in fiscal year 2008 to contract care providers. As of February 2009, it had paid \$7,675,825 to its contract care providers for fiscal year 2009. Table 20 lists the total payments that TYC made to each of its 12 contract care providers from September 2007 through February 2009 and the average monthly youth population at each of the providers.

Table 20

Payments to and Average Monthly Youth Population of TYC's Contract Care Providers September 2007 Through February 2009						
Provider Name	Region	Daily Rate <sup>a</sup>	Fiscal Year 2008 Total Payments	Fiscal Year 2008 Average Monthly Youth Population	Fiscal Year 2009 Total Payments (as of February 2009)	Fiscal Year 2009 Average Monthly Youth Population (as of February 2009)
Alliance Children's Services, Inc. <sup>b</sup>	Various	\$93.54	\$ 285,145	9	\$ 104,477	6
Associated Marine Institutes, Inc.	Southern	Various <sup>c</sup>	1,230,720	39	1,781,299	37
Brookhaven Youth Ranch, Inc.	Southern	\$123.00	657,830	19	313,674	14
Byrd's Foster Group Home, Inc.	Eastern	\$100.00	304,996	10	202,446	10
Cornell Corrections of Texas, Inc.	Southern	\$215.00	36,560	0	866,445	20
Gulf Coast Trades Center, Inc.	Eastern	\$107.00	2,712,780	46	1,323,604	32
Garza County Juvenile Detention Center	Northern	\$125.00	2,038,225	59	922,373	39
Mel Matthews Boys Ranch and the Mel Matthews Vocational Center	Northern	Various <sup>d</sup>	1,486,742	42	874,667	30
Specialized Alternative for Families and Youth of Texas, Inc.	Northern	Various <sup>e</sup>	445,465	15	151,240	12
Southwest Key Supervised Apartment Living	Eastern	\$76.00	909,972	12	436,536	4
The Geo Group, Inc. <sup>f</sup>	Northern	\$104.00	1,253,846	52	0	0
Youth Services International	Southern	Various <sup>g</sup>	563,763 <sup>h</sup>	0	699,066 <sup>h</sup>	2 <sup>i</sup>
<b>Total Payments</b>			<b>\$11,926,042</b>		<b>\$7,675,825</b>	

<sup>a</sup> The daily rate shown is as of February 2009 unless otherwise noted.

<sup>b</sup> Alliance Children Services, Inc. has two contracts with TYC to provide contract care services in the Eastern and Southern regions.



**Payments to and Average Monthly Youth Population of TYC's Contract Care Providers  
September 2007 Through February 2009**

Provider Name	Region	Daily Rate <sup>a</sup>	Fiscal Year 2008 Total Payments	Fiscal Year 2008 Average Monthly Youth Population	Fiscal Year 2009 Total Payments (as of February 2009)	Fiscal Year 2009 Average Monthly Youth Population (as of February 2009)
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<sup>c</sup> Associated Marine Institutes, Inc. has two contracts with TYC to provide contract care services in the Southern region. One contract—referred to as the Rio Grande Marine Institute—has a current rate of \$101.96 per youth per day. The second contract—referred to as W.I.N.G.S. for Life, Inc.—has a flat rate of \$3,021 per day. The W.I.N.G.S. program provides infant care and parenting programs for teen mothers committed to TYC.

<sup>d</sup> TYC had two contracts with this organization: one with the Mel Matthews Boys Ranch and another with the Mel Matthews Vocational Center. The Mel Matthews Boys Ranch contract received a daily rate of \$87.13 per youth; this contract ended in April 2008. The Mel Matthews Vocational Center contract receives a daily rate \$155.00 per youth; this contract was still in effect as of February 2009.

<sup>e</sup> Specialized Alternatives for Families and Youth of Texas, Inc. receives a daily rate of \$115.00 per youth who are registered sex offenders and a daily rate of \$90.00 per youth in all other categories.

<sup>f</sup> The Geo Group Inc. contract was terminated by the TYC Acting Executive Director in October 2007; however, TYC reported that youth were with this provider through August 2008.

<sup>g</sup> Youth Services International received a daily rate of \$189.50 per youth. If bed capacity increased to 168 beds, the rate would decrease to \$177.95 per youth. TYC and Youth Services International mutually agreed to terminate this contract in October 2008.

<sup>h</sup> Payments shown are start-up funds that TYC agreed to pay Youth Services International for the first 90 days of the contract. See Chapter 4-A, page 30, for additional information on the start-up agreement between TYC and Youth Services International.

<sup>i</sup> The average monthly population is through October 2008.

Source: TYC.

## State of Texas Contract Management Guide *Essential Contract Provisions*

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Table 21 lists the 21 contract provisions identified in the *State of Texas Contract Management Guide* as essential provisions that must be included in all state contracts.

Table 21

<i>State of Texas Contract Management Guide</i> Essential Contract Provisions
<b>Abandonment or Default</b> - Specifies that the contractor will be held accountable for breach of contract or substandard performance without unfairly limiting competition in accordance with Texas Government Code, Section 2261.101.
<b>Affirmation</b> - Requires the contractor to affirm that all statements and information prepared and submitted in response to a solicitation are current, complete, and accurate.
<b>Antitrust</b> - Requires that the contractor represent and warrant that neither the contractor nor any firm, corporation, partnership, or institution represented by the contractor, or anyone acting for such firm, corporation or institution has (1) violated the antitrust laws of the State of Texas under Texas Business and Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business during the procurement process for the contract.
<b>Buy Texas</b> - Requires the following provision: "Contractor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials."
<b>Consideration (contract price)</b> - Describes a definite amount at a certain rate with a total maximum cost.
<b>Contract Specifications</b> - Describes the services to be performed, and may specify that the agency will determine the answers to all questions that may arise as to the interpretation of the specifications, the quality or acceptability of work performed, the rate of progress of the work, and the conditions for determining the acceptable fulfillment of the service on the part of the contractor.
<b>Contractor's Responsibilities</b> - Describes details of the contractor's responsibilities.
<b>Dispute Resolution</b> - Describes a dispute resolution process in accordance with Texas Government Code, Chapter 2260.
<b>Force Majeure</b> - Specifies that an agency may grant relief from performance of the contract if the vendor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the contractor. The burden of proof for the need of such relief shall rest upon the contractor. To obtain release based on force majeure, the contractor shall file a written request with the agency.
<b>Funding Out</b> - Describes conditions if the contract term extends into the next biennium. For example, "This contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature."
<b>Indemnification/Damage</b> - Specifies that the contractor shall defend, indemnify, and hold harmless the state of Texas, its officers, and employees, and the agency, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract. Contractor shall coordinate its defense with the Texas attorney general as requested by the agency. This paragraph is not intended to and shall not be construed to require contractor to indemnify or hold harmless the state or the agency for any claims or liabilities resulting from the negligent acts or omissions of the agency or its employees.
<b>Independent Contractor</b> - Requires the following provision: "Both parties hereto, in the performance of this contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. The contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the contractor's employees."
<b>Intellectual Property Indemnification</b> - Requires that the contractor will indemnify, defend, and hold harmless the State of Texas and the system against any action or claim brought against the State of Texas/system that is based on a claim that software infringes any patent rights, copyright rights, or incorporated misappropriated trade secrets.
<b>Introduction</b> - Describes all parties involved in the contract that may include a contractor's complete name, any assumed names, and all addresses for the contractors.

## State of Texas Contract Management Guide Essential Contract Provisions

**Payment** - Describes conditions such as the frequency of payment, time frame to submit payment, invoice specifications and compliance with the Texas prompt payment law (Texas Government Code, Chapter 2251).

**Right to Audit** - Describes the State Auditor' Office's, the agency's, or any successor's right to conduct an audit or investigation and obtain all records requested.

**Rights to Data, Documents, and Computer Software (State Ownership)** - Specifies that any research, reports, studies, data, or other documents prepared by the contractor in the performance of its obligations under the contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the contractor upon completion, termination, or cancellation of the contract. In addition, conditions may describe instances in which the State does not wish the work products of the contractor to be made available to any other entity, public or private, but the contractor also is not entitled to any additional profit or benefit when payment for the said products was by public funds, unless the state agency has given its prior approval of the use of the materials.

**Scope of Work** - Defines the scope of work from the solicitation document and may include the contractor's response outlining the proposed scope of work.

**Technology Access** - Specifies that:

(1) Effective September 1, 2006, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility Requirements for Electronic and Information Resources specified in Title 1, Texas Administrative Code, Chapter 213, when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

(2) Vendor shall provide the Department of Information Resources with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the U.S. Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide the Department of Information Resources with a report that addresses the same accessibility criteria in substantively the same format.

**Term of Contract** - Describes the duration of the contract including the beginning date and ending date of the contract, and may include conditions for renewal and conditions for price increases.

**Terminate** - Specifies that, upon full performance of all requirements contained in the contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions, the contract will terminate.

## Overall Management Response from the Texas Youth Commission



### TEXAS YOUTH COMMISSION

CHERYLN K. TOWNSEND  
Executive Commissioner

April 29, 2009

John Keel, CPA  
State Auditor  
P. O. Box 12067  
Austin, Texas 78711-2067

Dear Mr. Keel:

In response to the follow-up audit report, we appreciate the report's acknowledgement of TYC's many achievements since March 2007. We understand the main purpose of the report is to focus on tasks not yet completed by the agency. The follow up audit was an intensive effort by your staff over a five-month period, including an expansion of the scope during the final weeks with new team members. We sincerely appreciate the professionalism of all of your staff in conducting these reviews.

Overall, the agency agrees with most of the conclusions and recommendations in this report. Agency activities have been driven by the priorities established by Senate Bill 103 and other reform mandates. TYC's management and staff are dedicated to providing safe and secure facilities, for both youth and staff, where youth can receive evidence-based treatment and prepare for successful re-entry into the community through efficient use of resources and in compliance with state and federal law and regulations.

The report summary identifies Key Points that are addressed by the agency with detailed responses within the report. Several points warrant mention here:

- **Contracts.** TYC supports strong contracting and procurement processes. The audit focused on agreements completed by individual conservators through September 2008. All three conservators relied on the text of the conservatorship statute, understood the urgency of their priorities, and exercised their judgment to avoid time lags related to competitive processes for taking the actions necessary to accomplish their objectives.
- **Sex Offender Counselors.** Following my appointment as Executive Commissioner in October 2008, I immediately recognized the need to increase certified sex offender counselors and took actions to recruit applicants for these hard-to-fill positions. Those actions are documented within the report. Despite concerted efforts, these positions remain vacant and special efforts to fill these positions are continuing. TYC will be in full compliance with the Occupations Code, Chapter 110, Subchapter G, by October 2010.

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- **Document retention for new JCOs.** The agency does not agree that it did not retain necessary documentation to support staffing projections. TYC gave several documents to the SAO describing exactly how many JCOs were assigned to each facility prior to the request during the 80<sup>th</sup> legislative session. These documents are prepared every year as a part of the TYC budgeting process. Detailed position assignment information is maintained for every TYC position by both location and funding strategy.
- **Victory Field and West Texas.** Continuing the operations at these facilities was a strategic decision in February 2008 based on several factors: population management and service needs resulting from Senate Bill 103 impacts; the emphasis on keeping youth in close proximity to their homes; and the ability to provide services to reduced populations using existing resources. The populations of both of these facilities have been significantly reduced and specialized treatment programming has been added at both locations. When the Legislature removed funding but did not specify closure of these facilities as it did for other facilities, the agency chose to down-size the facilities and seek legislative guidance on the continuation of operations at West Texas and Victory Field. TYC continues to analyze the best use of resources and downsizing for efficient staffing.
- **Office of Inspector General.** Six additional investigators were requested for new appropriations due to large and growing investigator caseloads, with an average of 21 cases per month added to each investigator's caseload. Since June 2008, when responsibility for administrative investigations was transferred to the Inspector General, processes have been implemented to reduce the time to close cases and management actively monitors caseload size and redirects resources as needed. Without the additional positions, the 30 day timeframe will be difficult to meet at the current rate cases are assigned.

TYC encourages and supports critical reviews of its operations as important opportunities in striving for excellence. Our responsiveness to the SAO's detailed requests demonstrates that support. Your team's insights, questions, and documentation requests throughout this audit, along with their recommendations, have already resulted in further review of agency processes and policies and the identification of areas for additional improvement. You will find our response to each recommendation, including a projected timeline for completion, in the attached document.

Thank you, again, for sending TYC a strong team. As TYC continues its journey of reform, we look forward to working with you in the future.

Sincerely,



Cheryl K. Townsend  
Executive Commissioner

Enclosure

Copies of this report have been distributed to the following:

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The Honorable David Dewhurst, Lieutenant Governor, Joint Chair  
The Honorable Joe Straus III, Speaker of the House, Joint Chair  
The Honorable Steve Ogden, Senate Finance Committee  
The Honorable Thomas “Tommy” Williams, Member, Texas Senate  
The Honorable Jim Pitts, House Appropriations Committee  
The Honorable Rene Oliveira, House Ways and Means Committee

### **Office of the Governor**

The Honorable Rick Perry, Governor

### **Texas Youth Commission**

Ms. Cheryl K. Townsend, Executive Commissioner



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