

Docket No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RYAN ANTONIO MATTHEWS,
PETITIONER,

-v-

BOBBY LUMPKIN, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,
RESPONDENT.

On petition for writ of certiorari from the
United States Court of Appeals for the Fifth Circuit

APPENDIX TO
PETITION FOR WRIT OF CERTIORARI
VOL. 2 OF 4

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Volume I

- Appendix A -- Fifth Circuit Court of Appeals Order Denying Petitioner's Application for Certificate of Appealability
- Appendix B -- U.S. District Court's Judgment and Memorandum Opinion and Order Denying Petitioner's Petition for Writ of Habeas Corpus

Volume II

- Appendix C -- Texas Court of Criminal Appeals' Order Denying Petitioner's State Application for Writ of Habeas Corpus and Adopting Trial Court Findings
- Appendix D -- Trial Court's Findings of Fact and Conclusions of Law Recommending Denial of Petitioner's State Writ of Habeas Corpus
- Appendix E -- U.S. Supreme Court's Order Denying Petitioner's Petition for Writ of Certiorari on Direct Appeal
- Appendix F -- Texas Court of Criminal Appeals' Order Denying Petitioner's Petition for Discretionary Review on Direct Appeal
- Appendix G -- 14th Court of Appeals Opinion Affirming Petitioner's Conviction and Sentence on Direct Appeal
- Appendix H -- Trial Court Judgments of Conviction
- Appendix I -- Texas Family Code § 54.02 -- Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

Volume III

- Appendix J -- Juvenile Court's Waiver of Jurisdiction and Order of Transfer to Criminal Court
- Appendix K -- Transcript of Petitioner's July 8, 2014 Juvenile Certification Hearing

Volume IV

- Appendix L -- May 15, 2014 Letter from Trial Counsel to Petitioner's Parents
- Appendix M -- June 19, 2014 Letter from Petitioner's Parents to Trial Counsel
- Appendix N -- July 8, 2014 Letter from Trial Counsel to Petitioner's Parents
- Appendix O -- Affidavit of Dr. Kristi Compton
- Appendix P -- July 23, 2014 Letter from Trial Counsel to Defense Investigator
- Appendix Q -- Witness Affidavits
- Appendix R -- Affidavit of Dr. Stephen Thorne
- Appendix S -- TJJD's Capital and Serious Violent Offender Treatment Program
and Annual Review of Treatment Effectiveness

APPENDIX C –

**Texas Court of Criminal Appeals' Order Denying Petitioner's State Application for
Writ of Habeas Corpus and Adopting Trial Court Findings**

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS FILE COPY
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

6/12/2019

MATTHEWS, RYAN ANTONIO Tr. Ct. No. 73841-A

WR-89,712-01

This is to advise that the Court has denied without written order the application for writ of habeas corpus on the findings of the trial court without a hearing.

Deana Williamson, Clerk

BRYAN WILLIAM GARRIS
LAW OFFICES OF BRYAN GARRIS
300 MAIN STREET, SUITE 300
HOUSTON, TX 77002
* DELIVERED VIA E-MAIL *

APPENDIX D –

**Trial Court's Findings of Fact and Conclusions of Law Recommending Denial of
Petitioner's State Writ of Habeas Corpus**

FILED
at 11:21 o'clock A.M.

MAR 25 2019

NO. 73841-A

Rene Burchett
Clerk of District Court Brazoria Co., Texas
BY DEPUTY

EX PARTE

§
§
§
§
§

IN THE DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

RYAN ANTONIO MATTHEWS

239TH JUDICIAL DISTRICT**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On November 7, 2018, the Court entered an Amended Order Designating Issues in the above cause. Pursuant to that order, the parties were given the opportunity to file affidavits and submit supporting memoranda. In the Amended Order Designating Issues, this Court determined that it must determine whether the performance of the applicant's defense counsel, Tommy Sticker, was deficient and whether the alleged deficient performance prejudiced the applicant's defense both at the juvenile certification hearing and during the subsequent district court trial. The Court was also asked to consider whether the State presented false and misleading evidence during the juvenile certification and in the course of the ensuing trial.

This Court takes judicial notice of the entire contents of the Court's file, as well as the record of the proceedings in this case. The Court reviewed the Court's file, as well as the affidavits and legal memoranda submitted by the parties, and finds that the parties have been allowed an adequate opportunity to develop a record concerning the applicant's claims. Based on the extensive record developed

in response to the 11.07 application, the Court makes the following findings of fact with respect to each of the disputed issues:

- 1) The Court finds that under the applicable rules of evidence and available legal authority, defense counsel was not ineffective for failing to raise an evidentiary objection to the following documentary evidence, which was admitted during the juvenile certification hearing: (A) a police offense report; (B) a search warrant and its corresponding affidavit, and (C) police narratives in a predisposition report, and (D) three laboratory reports.
- 2) The Court further finds that under the applicable rules of evidence and available legal authority, defense counsel did not provide ineffective assistance during the juvenile certification hearing by: (A) failing to object to allegedly inadmissible and harmful testimony through the Brazoria County Probation Officer Martha Mosshart regarding the availability (or lack thereof) of rehabilitation programs within the juvenile system, and (B) failing to object to allegedly hearsay testimony from Lt. Cecil Arnold regarding the results of forensic testing and threats that the applicant made to other students regarding the victim's pregnancy.
- 3) The Court further finds that the record does not establish defense counsel provided ineffective assistance during the juvenile certification hearing by failing to investigate and present mitigating evidence relevant to that hearing—specifically, by failing to call witnesses to testify regarding the applicant's potential for rehabilitation, his lack of maturity and sophistication, and with regard to the applicant's prior history. The record also fails to demonstrate that defense counsel was ineffective

for failing to investigate and present testimony from Dr. Thorne, and failing to present information regarding the Capital and Serious Violent Offender treatment program offered through the Texas Juvenile Justice Department.

- 4) The Court further finds that the record does not show defense counsel was ineffective during the juvenile certification hearing by failing to object to the court taking judicial notice of its prior findings and testimony regarding probable cause from prior detention hearings.
- 5) The Court further finds that the applicant fails to show that the State presented either false or misleading evidence during the juvenile certification hearing through Martha Mosshart regarding the availability and effectiveness of rehabilitative programs at the Texas Juvenile Justice Department, specifically with regard to the Capital and Serious Violent Offender Treatment Program.
- 6) The Court further finds that the applicant fails to show that state presented false and misleading evidence at the juvenile certification hearing through the testimony of Lt. Cecil Arnold regarding positive presumptive blood test results on the applicant's shoes, pants and backpack.
- 7) The Court further finds that the applicant fails to show that the state presented false and misleading evidence at the juvenile certification hearing through the testimony of Dr. Michael Fuller, specifically, with regard to whether his findings were inconsistent with the applicant's prior medical history.
- 8) The Court further finds that the applicant fails to show that defense counsel provided ineffective

assistance during the applicant's criminal trial by failing to challenge the admissibility of the presumptive blood tests results for the applicant's shoes, pants and backpack, specifically by not subjecting this evidence to a Daubert/Kelley challenge during the criminal trial, or raising an objection as to relevance or pursuant to Evidence Rule 403.

- 9) The Court further finds that the applicant fails to show that defense counsel provided ineffective assistance during the applicant's criminal trial by failing to object to evidence of allegedly extraneous bad acts committed by the applicant, specifically: (A) evidence that the applicant sent numerous text messages to the victim discussing ways to cause a miscarriage, procuring an abortion, punching the victim in the stomach, threatening other students and threatening the victim; (B) texting and pursuing other girls while the victim was pregnant with the applicant's children; (C) not being affectionate with the victim; (D) paying others to take him to the victim's home in order to have sex; (E) going to the victim's house without her parents' knowledge; (F) conducting Google searches about getting abortions and causing miscarriages; (G) lying to other girls; (H) talking about killing himself; (I) requesting others to convince the victim to have an abortion; (J) making threats to other students; and (K) the applicant yelling at his parents.
- 10) The Court further finds that the applicant fails to show that the state presented false and misleading evidence during the applicant's criminal trial regarding positive presumptive blood test results on the applicant's shoes, pants and backpack—specifically, whether the presentation and suggestion to the jury that there was blood on these

items in the face of confirmatory testing was false and misleading.

After reviewing the applicant's claims of ineffective assistance, the Court concludes that they are without merit, either as individual claims or cumulatively, and that the applicant has failed to prove by a preponderance of the evidence his trial counsel performed deficiently either during the juvenile certification proceeding or ensuing trial. This Court further concludes the applicant fails to demonstrate any allegedly deficient performance prejudiced his case. The Court finds there is no reasonable probability that, but for the conduct complained of, that the result of either the juvenile certification proceeding or district court trial would have been different.

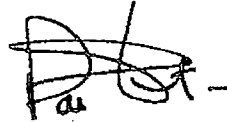
Additionally, in order to be entitled to post-conviction habeas relief on the basis of allegedly false evidence, an applicant must prove by a preponderance of evidence that: (1) false evidence was presented at his trial and (2) the false evidence was material to the jury's verdict of guilt. Here, the applicant fails to show that any of the State's evidence complained of in his application supporting memoranda, taken as a whole, was in fact false or otherwise created a false impression either during either the juvenile certification proceeding or subsequent district court trial. The Court further concludes that the applicant has failed to demonstrate that the introduction of any allegedly false evidence at his trial violated his due-process rights.

The Court further finds that the application does not otherwise contain sworn allegations of fact which if true, would render Applicant's confinement illegal, nor does it contain any other unresolved facts material to the applicant's confinement. Therefore, it is ORDERED, ADJUDGED and DECREED that a Writ of Habeas Corpus, returnable to the Court of Criminal Appeals, shall issue by operation of law, but that all relief requested by the applicant should be DENIED. The Clerk of the Court is ORDERED to prepare a record of all papers in the above cause and transmit the same to the Court of Criminal Appeals as provided by Article 11.07 of the Code of Criminal Procedure. The transcript shall include the following:

- 1) the Court's Order Designating Issues;
- 2) the Court's Findings of Fact;
- 3) the Application for Writ of Habeas Corpus;
- 4) the State's answer;
- 5) the indictment, judgment and sentence and docket sheets;
- 6) a copy of the reporter's record and clerk's record for the juvenile certification proceeding and the district court trial; and
- 7) all affidavits, memoranda, exhibits and other documents submitted by the parties.

The Clerk is FURTHER ORDERED to send a copy of this order to the Applicant.

SIGNED on March 25, 2019.

A handwritten signature in black ink, appearing to be "D. A. -", written over a horizontal line.

JUDGE PRESIDING

APPENDIX E—

**U.S. Supreme Court's Order Denying Petitioner's Petition for Writ of Certiorari on
Direct Appeal**



Search documents in this case:

Search

No. 17-5629

Title: **Ryan Antonio Matthews, Petitioner**
v.
Texas

Docketed: August 17, 2017

Lower Ct: Court of Appeals of Texas, Fourteenth District

Case Numbers: (14-15-00452-CR, 14-15-00577-CV, 14-15-00616-CV)

Decision Date: November 6, 2016

Rehearing Denied: December 20, 2016

Discretionary Court Decision Date: May 17, 2017

DATE	PROCEEDINGS AND ORDERS
Aug 12 2017	Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due September 18, 2017)
Aug 23 2017	Waiver of right of respondent Texas to respond filed.
Sep 07 2017	DISTRIBUTED for Conference of 9/25/2017.
Oct 02 2017	Petition DENIED.

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trey@brazoria-county.com

Party name: Texas

equally divided court". The Chief Justice, Justice Kennedy, Justice Thomas, Justice Ginsburg, Justice Breyer, Justice Alito, Justice Sotomayor, and Justice Kagan took no part in the consideration or decision of this petition.

17-5155 JOHNSON, ANDREW V. DISTRICT OF COLUMBIA

17-5244 ENGEL, JULIUS M. V. STATE BAR OF CA

17-5381 GRAY, WILLIAN L. V. VASQUEZ, WARDEN

17-5424 GOLDEN, DAVID A. V. WASHINGTON, ET AL.

17-5431 BARCLAY, PETER V. OREGON, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until October 23, 2017, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

16-668 MAGEE, EMMETT V. COCA-COLA REFRESHMENTS USA, INC.

16-768 SNYDER, GOV. OF MI, ET AL. V. JOHN DOES #1-5, ET AL.

16-790 BUTKA, KAP S. V. SESSIONS, ATT'Y GEN.

16-916 SMITH, MALCOLM A. V. UNITED STATES

16-1001 GOHL, LAUREN V. LIVONIA PUBLIC SCHOOLS, ET AL.

16-1009 AKSU, MURAT V. CALIFORNIA

16-1018 THOMAS, ERIN S. V. WEST VIRGINIA

16-1022 BELL, TIMOTHY V. McADORY, EUGENE, ET AL.

16-1044 ALASKA V. UNITED COOK INLET DRIFT, ET AL.

16-1045 NOWLIN, KEN V. UNITED STATES

16-1083 GOODWIN, GABRIELLE V. FL DEPT. OF CHILDREN

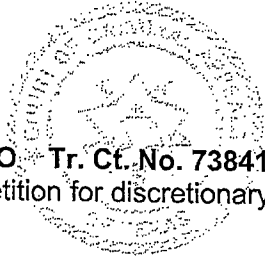
16-1087 CARVALHO, JOHN J. V. NORTH CAROLINA

16-1098 U.S., EX REL. JACKSON V. UNIV. OF NORTH TEXAS, ET AL.

17-5629 MATTHEWS, RYAN A. V. TEXAS
17-5630 LIZARRAGA, JESUS A. V. UNITED STATES
17-5631 McCOY, ROBERT C. V. UNITED STATES
17-5632 BUENO-BELTRAN, EDUARDO V. UNITED STATES
17-5641 WILLIAMS, MARCELLUS V. LARKINS, SUPT., POTOSI
17-5642 WILLIAMS, MARCELLUS S. V. GRIFFITH, WARDEN
17-5643 MARTINOVICH, JEFFREY A. V. UNITED STATES
17-5644 JACKSON, ANDREW C. V. UNITED STATES
17-5647 MAJANO-CHICA, ANDRES O. V. UNITED STATES
17-5655 PEREZ-CARRERA, ISAIAS V. UNITED STATES
17-5656 AGHO-ALLEN, ITOHAN V. UNITED STATES
17-5657 CHARLES, STEVEN V. UNITED STATES
17-5658 ENRIQUE-ASCENCIO, JESUS V. UNITED STATES
17-5673 BROWN, ALLAH V. UNITED STATES
17-5675 STEGAWSKI, CHRISTOPHER V. UNITED STATES
17-5685 BELL, WILLIAM V. UNITED STATES
17-5688 EDWARDS, JAMES V. UNITED STATES
17-5695 BERGMAN, ROGER V. UNITED STATES
17-5698 JEAN-CHARLES, JUDEL V. UNITED STATES
17-5699 CLARK, ERNEST F. V. UNITED STATES
17-5709 PATINO-MANCIA, MAURICIO A. V. UNITED STATES
17-5714 LEFFEBRE, ANDRE D. V. UNITED STATES
17-5715 JOCKISCH, FREEMAN E. V. UNITED STATES
17-5717 O'NEAL, RALPH T. V. UNITED STATES
17-5719 McDUFFIE, DEMETRIUS A. V. UNITED STATES
17-5729 BEASLEY, JEFFREY V. UNITED STATES
17-5730 HUNTER, ANN K. V. UNITED STATES
17-5731 COOPER, DIAMOND L. V. UNITED STATES

APPENDIX F –

**Texas Court of Criminal Appeals' Order Denying Petitioner's Petition for
Discretionary Review on Direct Appeal**



5/17/2017

MATTHEWS, RYAN ANTONIO Tr. Ct. No. 73841

COA No. 14-15-00452-CR

PD-0042-17

On this day, the Appellant's petition for discretionary review has been refused.

Abel Acosta, Clerk

14TH COURT OF APPEALS CLERK

CHRISTOPHER A. PRINE

301 FANNIN, SUITE 245

HOUSTON, TX 77002-7006

* DELIVERED VIA E-MAIL *

APPENDIX G –

**14th Court of Appeals Opinion Affirming Petitioner's Conviction and Sentence on
Direct Appeal**

Affirmed and Opinion filed November 6, 2016.



**In The
Fourteenth Court of Appeals**

NO. 14-15-00452-CR

RYAN ANTONIO MATTHEWS, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 239th District Court
Brazoria County, Texas
Trial Court Cause No. 73841**

NO. 14-15-00577-CV

IN THE MATTER OF R.A.M.

**On Appeal from the County Court at Law No. 2 & Probate Court
Brazoria County, Texas
Trial Court Cause No. JV19869**

NO. 14-15-00616-CV

IN THE MATTER OF R.A.M.

**On Appeal from the 300th District Court
Brazoria County, Texas
Trial Court Cause No. 73575**

O P I N I O N

Appellant Ryan Antonio Matthews was convicted of two counts of capital murder. In five issues, he challenges his conviction and the order of the juvenile court waiving jurisdiction and transferring his case to criminal district court.¹ First, he asserts that the transfer order lacks the requisite factual specificity, and therefore, when the evidence admitted at the transfer hearing is measured against those findings it is insufficient to support the trial court's stated reasons for transfer. In his second and third issues, he contends that the Texas punishment and parole scheme for juvenile capital offenders is both facially unconstitutional and unconstitutional as applied to him because it deprives a juvenile of any meaningful opportunity for release and the sentence is imposed without regard to mitigating factors. In issue four, appellant urges that the trial court erred by denying his motion to suppress his statements because no sixteen-year-old juvenile would have believed he was free to leave when he was separated from his parents and questioned by officers about the murders of his two unborn children and their mother. Fifth and finally, appellant complains that the evidence is legally insufficient to support the jury's finding of guilt. We affirm.

¹ We note that, on appellant's motion, we consolidated these three related appeals by our order dated August 11, 2015.

I. Background

Sixteen-year-old Amy² was pregnant with twin boys when she was strangled and stabbed to death at her home in Pearland, Texas. Appellant, about three weeks shy of his seventeenth birthday at the time of Amy's murder,³ was the father of Amy's unborn children. Both attended the same Pearland high school and had met in class. They were not dating but were involved in a sexual relationship. When Amy discovered she was pregnant, appellant was very upset. He encouraged her to take actions to induce a miscarriage, such as punching herself in the stomach several times a day. He also encouraged Amy to have an abortion. Appellant was very concerned about the impact having a child would have on his life; he even told Amy that he had considered killing himself because of the pregnancy. When Amy confessed to her parents she was pregnant, they quickly took her to a doctor. An ultrasound revealed that Amy was pregnant with twins; Amy thought this was good news. Appellant, on the other hand, was extremely upset to discover that Amy was having twins. When Amy told appellant that abortion was no longer an option, appellant was angry.

On the day of Amy's murder, appellant, Amy, and a friend of theirs skipped an afternoon class, and the friend drove them to Amy's home so that appellant and Amy could have sex. The friend had done this on several occasions in the past. The friend dropped them off, and appellant and Amy entered through the back door of Amy's home, as was their normal practice. The two went upstairs and had sex, although appellant claimed in an interview with detectives he did not "finish" because he was concerned he could hurt the babies. Appellant also claimed in that interview that he and Amy talked about their future and both became emotional.

² We replace the minor complainant's true name with a pseudonym.

³ Amy was killed on March 21, 2014; appellant turned seventeen on April 5, 2014.

He stated he left the house alone through the back door, while Amy was upstairs crying.

Appellant's friend picked him up in front of the house about an hour later. His friend noted that appellant appeared "normal," but did not come out of the front door of the home accompanied by Amy as had happened in the past. Appellant was also wearing different clothing than he had been wearing earlier in the day. About forty-five minutes after appellant left Amy's home, Amy's younger brother arrived. Amy's brother called her name and didn't hear a response. He went upstairs and saw several items broken and lying on the floor in his parents' room. Thinking the house had been burglarized, he ran to a neighbor's house and called his mother.

Amy's mother tried to contact Amy, but Amy didn't respond. Amy's mother drove home from work immediately and entered the house through the garage. She saw the master bedroom in disarray, left the house and returned to the garage, and called 911. She told the 911 operator that her home had been burglarized, and she couldn't find her daughter. Amy's mother also called her husband at work. Amy's father drove home from work and arrived while Amy's mother was still there. He went inside the house to look around; during his search, he found Amy's body in her bedroom lying in a pool of blood.

Amy's father ran back downstairs to his wife, took her outside, and told her that their daughter was dead. The two began to cry and remained outside the house until police arrived. When Pearland Police Department officers arrived on the scene, Amy's father told them that their daughter had been murdered. Pearland police officers entered the home and found Amy's body. Amy's father told responding officers that appellant had gotten her pregnant and that he believed

appellant had killed her. Officers determined that the home had been staged to appear as if it had been burglarized; Amy's parents found nothing missing.

Pearland Police Detectives Jennifer Page and Cecil Arnold interviewed appellant later that evening around 10:00 p.m., after obtaining his address from the high school. At the time of this interview, the detectives had not had a chance to thoroughly review any of the evidence obtained from the crime scene, nor had any security videos from Amy's and appellant's high school or the guard house at the entry to Amy's neighborhood been obtained. The initial interview occurred at the home of Mavani Thornhill, who was allowing appellant to use her address so that appellant could enroll in a particular Pearland high school. Appellant's parents maintained a home in another part of Pearland zoned for a different high school. When Thornhill discovered the detectives were looking for appellant, she contacted appellant's parents and asked them to come to her home with appellant.

Detectives Page and Arnold initially spoke with appellant alone in Thornhill's home, with the permission of appellant's parents and appellant. This interview lasted for about an hour until Detective Arnold determined that appellant was not being honest with the detectives. For example, appellant first said he last saw Amy the previous day before admitting that he had been with her earlier that day. He also said that he had some type of feature on his cell phone that automatically deleted texts before admitting that he deleted the texts himself when his phone's storage got full. Appellant accurately described the clothes Amy was wearing when her body was found. He also admitted having sex with Amy on the day of her murder, but claimed he stopped because he was afraid he would hurt the babies. Appellant told the detectives he left Amy alone, upstairs, crying, and that he left the home through the back door. He told the detectives that he was supportive of Amy and never angry with her about the pregnancy. Detective

Arnold told appellant that the detectives were hearing rumors from other students that appellant and Amy had gotten into an argument, but appellant denied that had happened. Appellant insisted that when he left, Amy was unharmed. When pressed, appellant had no idea who would have harmed Amy.

Detective Arnold stopped the interview and asked appellant's parents and Thornhill to come into the room to encourage appellant to be honest and forthcoming. Appellant's parents and Thornhill did exactly that, encouraging him to tell the detectives what had happened and warning him that the truth would come out through the evidence at the scene. Appellant continued to insist that he had not harmed Amy. During the second exchange, the detectives collected some of appellant's clothing, including appellant's athletic shorts, shirt, underwear, and athletic shoes, as well as a DNA swab for subsequent testing. Appellant told Detective Arnold that none of Amy's blood would be on any of the clothing he wore to Amy's house. During the interviews, he also agreed to turn over his cell phone to the detectives and provided them with the pass code to access it. He told the detectives that he texted Amy around 4:00 p.m., but that she didn't respond, so he texted her again about an hour later. Subsequent analysis showed, however, that appellant sent Amy three quick text messages at around 3:25 p.m., with no responses from her.

Appellant and his parents agreed to allow the detectives to accompany them to appellant's home, where appellant turned over additional items, including another shirt, socks, blue jeans (that had been washed and bleached), and the backpack appellant said he had taken to school on the day of the murder. However, some of the clothing and the back pack appellant provided were different from what Detective Page later saw appellant wearing in a school security video recorded on the day of the murder. A multicolored backpack, tan shoes, and a shirt

similar to what is seen on the video were later recovered during execution of a search warrant.

According to Amy's autopsy, she died from a combination of manual strangulation and stabbing. The unborn twins suffocated and died in the womb when Amy died. Fingernail clippings were taken from Amy during the autopsy; appellant's DNA was recovered from these clippings. The blue jeans, athletic shoes, tan shoes, and the multicolored backpack all tested positive for Amy's DNA. DNA testing also confirmed that appellant had sex with Amy on the day of her murder and that he was the father of the twin boys.

Appellant testified during his trial. He acknowledged that he encouraged Amy to have an abortion and that he looked for ways that a miscarriage might be induced. He admitted that it bothered him for Amy to discuss the pregnancy, that he had a short temper, and that he was upset when other students tried to speak with him about the pregnancy. He explained that Amy was bleeding while they were having sex, which may have caused her blood to be found on his belongings. He also acknowledged that he had lied to investigators during his interview because he did not want his parents to know that he had skipped school to have sex with Amy. He testified that when he left on the day Amy was murdered, she was collecting clothes to wash, not crying on the bed as he had told Detectives Arnold and Page. He further stated that he had lied to investigators about the clothes he was wearing on the day of the murder.

After hearing the evidence and argument of counsel, a jury convicted appellant of two counts of capital murder as charged in the indictment. He was sentenced to life in the Texas Department of Criminal Justice, Institutional Division. Appellant filed a motion for new trial, which was denied by the trial court after a hearing. This appeal timely followed.

II. Sufficiency of the Evidence to Support Conviction

In appellant's fifth issue, he challenges the sufficiency of the evidence to support his conviction. Because this issue would require rendition of a judgment of acquittal, we address it before the remainder of appellant's issues.

A. Standard of Review and Applicable Law

When determining whether evidence is legally sufficient to support the verdict, we view all of the evidence in the light most favorable to the verdict and determine, based on that evidence and any reasonable inferences therefrom, whether any rational fact finder could have found the elements of the offense beyond a reasonable doubt. *Gear v. State*, 340 S.W.3d 743, 746 (Tex. Crim. App. 2011) (citing *Jackson v. Virginia*, 443 U.S. 307, 318–19 (1979)). We may not substitute our judgment for that of the fact finder by re-evaluating the weight and credibility of the evidence. *Isassi v. State*, 330 S.W.3d 633, 638 (Tex. Crim. App. 2010). Rather, we defer to the responsibility of the fact finder to fairly resolve conflicts in testimony, weigh the evidence, and draw reasonable inferences from basic facts to ultimate facts. *Id.* If any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, we must affirm. *McCain v. State*, 22 S.W.3d 497, 503 (Tex. Crim. App. 2000). “[T]he State may prove the defendant’s identity and criminal culpability by either direct or circumstantial evidence, coupled with all reasonable inferences from that evidence.” *Gardener v. State*, 306 S.W.3d 274, 285 (Tex. Crim. App. 2009).

Finally, to prove capital murder as alleged in the indictment, the State had to prove appellant intentionally and knowingly caused the death of Amy by cutting or stabbing her with a knife or knife-like object or by manually strangling her and intentionally and knowingly caused the death of one of her unborn children. *See* Tex. Penal Code §§ 19.03(a)(7)(A) (making it a capital offense to intentionally or

knowingly murder more than one person during the same criminal transaction); 1.07(26) (defining an individual to include an unborn child).

B. Application

Much of the evidence supporting appellant's conviction is described above; we focus on some of the details here. Appellant was unhappy about Amy's pregnancy—he texted her numerous times suggesting that she “punch” herself in the stomach to cause a miscarriage, and once her pregnancy was confirmed, he texted her several times in an effort to convince her that having an abortion would be best for both of them. Amy, on the other hand, was not in favor of abortion and, when she discovered she was having twins, was happy. Appellant was, to say the least, not happy about the news that he would be the father of not one, but two, children. Additionally, Amy's murder occurred between 2:00 and 4:00 in the afternoon. During that time, appellant was alone with her for over an hour and was the last person known to see her alive; her younger brother arrived home roughly forty-five minutes after appellant had left. *See Torres v. State*, 141 S.W. 3d 645, 660–62 (Tex. App.—El Paso 2004, pet. ref'd) (considering, in sufficiency review, among other things, that the appellant was the last person seen with the murder victim alive). The evidence of appellant's animus towards Amy's pregnancy and the narrow timeline for Amy's murder to occur are incriminating circumstances that support the jury's finding of appellant's guilt.

“A defendant's conduct after the commission of a crime which indicates a ‘consciousness of guilt’ is admissible to prove that he committed the offense.” *Ross v. State*, 154 S.W.3d 804, 812 (Tex. App.—Houston [14th Dist.] 2004, pet. ref'd). Appellant claims that there was no evidence to show that he is the one who strangled and stabbed Amy, but his guilt is evidenced by his attempts to conceal incriminating evidence and his multiple contradictory statements to authorities.

See, e.g., Guevara v. State, 152 S.W.3d 45, 50 (Tex. Crim. App. 2004) (“Attempts to conceal incriminating evidence, inconsistent statements, and implausible explanations to the police are probative of wrongful conduct and are also circumstances of guilt.”); *see also Alexander v. State*, 229 S.W.3d 731, 740 (Tex. App.—San Antonio 2007, pet. ref’d). In this case, appellant lied to investigators about when he had last seen Amy and when he had last texted her, first claiming his text messages to Amy had been automatically deleted by his phone. He washed and bleached the jeans he wore on the day of the murder, although Amy’s blood was still found on the cuffs of these jeans. He tried to explain the presence of this blood by claiming it was the result of her bleeding during sex. Finally, appellant gave a different pair of shoes and backpack to the police than those he had actually worn on the day of the murder. Both of these items were later obtained through a search warrant and had Amy’s DNA on them. Additionally appellant’s DNA was recovered from Amy’s fingernail clippings.

Viewing this evidence in the light most favorable to the jury’s verdict, we conclude that a rational juror could have found that appellant intentionally or knowingly killed Amy and her unborn children by strangling or stabbing her. Thus, there is legally sufficient evidence to support his conviction.

We overrule appellant’s fifth issue and turn to his remaining issues.

III. Juvenile Court’s Waiver of Jurisdiction

In his first issue, appellant challenges the juvenile justice court’s waiver of jurisdiction. Specifically, he contends that (1) the transfer order did not state the factual underpinnings of the court’s conclusions and grounds for transfer; (2) the juvenile court misapplied the “sophistication and maturity factor”; and (3) the evidence from the transfer hearing is legally and factually insufficient to support the court’s decision to waive jurisdiction.

A. Applicable Law and Standard of Review

Section 54.02(a) of the Juvenile Justice Code provides that the juvenile court may waive its exclusive original jurisdiction and transfer a child to the criminal district court for criminal proceedings if the following is determined:

- (1) the child is alleged to have violated a penal law of the grade of felony;
- (2) the child was . . . 14 years of age or older at the time [of the alleged] offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree[;] . . . and
- (3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

Tex. Fam. Code § 54.02(a). When determining the seriousness of the offense alleged or the background of the child as found in the third requirement, section 52.04(f) requires the juvenile court to consider the following non-exclusive factors:

- (1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;
- (2) the sophistication and maturity of the child;
- (3) the record and previous history of the child; and
- (4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

Id. § 54.02(f).

As the petitioner seeking waiver and transfer, the State has the burden “to produce evidence to inform the juvenile court’s discretion as to whether waiving its otherwise-exclusive jurisdiction is appropriate in the particular case.” *Moon v. State*, 451 S.W.3d 28, 40 (Tex. Crim. App. 2014). The State must “persuade the

juvenile court, by a preponderance of the evidence, that the welfare of the community requires transfer of jurisdiction for criminal proceedings, either because of the seriousness of the offense or the background of the child (or both).” *Id.* at 40–41. When exercising its discretion to transfer, the juvenile court must consider all four of the factors listed in section 54.02(f). *Id.* at 41. Although it makes its final determination from the evidence concerning the section 54.02(f) factors, the juvenile court “need not find that each and every one of those factors favors transfer before it may exercise its discretion to waive jurisdiction.” *Id.*

The *Moon* court, however, emphasized that, as required by section 54.02(h), if the juvenile court waives jurisdiction, it must “state specifically” in its order its reasons for waiver:

Section 54.02(h) obviously contemplates that both the juvenile court’s reasons for waiving its jurisdiction and the findings of fact that undergird those reasons should appear in the transfer order. In this way the Legislature has required that, in order to justify the broad discretion invested in the juvenile court, that court should take pains to “show its work,” as it were, by spreading its deliberative process on the record, thereby providing a sure-footed and definite basis from which an appellate court can determine that its decision was in fact appropriately guided by the statutory criteria, principled, and reasonable

Id. at 49. Thus, we “should *not* be made to rummage through the record for facts that the juvenile court *might* have found, given the evidence developed at the transfer hearing, but did not include in its written transfer order.” *Id.* at 50.

The Court of Criminal Appeals also clarified the standard of review to be applied by an appellate court when a juvenile court waives its exclusive jurisdiction pursuant to section 54.02. The court held: “[I]n evaluating a juvenile court’s decision to waive its jurisdiction, an appellate court should first review the juvenile court’s specific findings of fact regarding the Section 54.02(f) factors

under ‘traditional sufficiency of the evidence review.’” *Id.* at 47. After conducting a “traditional sufficiency of the evidence review” of the juvenile court’s specific findings, the appellate court “should then review the juvenile court’s ultimate waiver decision under an abuse of discretion standard.” *Id.* at 47.

Regarding the abuse-of-discretion analysis, the *Moon* court explained,

[I]n deciding whether the juvenile court erred to conclude that the seriousness of the offense alleged and/or the background of the juvenile called for criminal proceedings for the welfare of the community, the appellate court should simply ask, in light of its own analysis of the sufficiency of the evidence to support the Section 54.02(f) factors and any other relevant evidence, whether the juvenile court acted without reference to guiding rules or principles. In other words, was its transfer decision essentially arbitrary, given the evidence upon which it was based, or did it represent a reasonably principled application of the legislative criteria?

Id. With this framework in mind, we turn first to the facts specified in the transfer order in this case.

B. Order Containing Case-specific Facts in Support of the Transfer

As noted above, appellant first urges that the transfer order did not state the factual underpinnings of the court’s conclusions and grounds for transfer. We disagree. In its transfer order, the juvenile court noted that it was considering the factors mandated by section 54.02(f) of the Juvenile Justice Code and then made the following findings and determinations:

- Appellant was alleged to have committed capital murder under Texas Penal Code section 19.03;
- Appellant was seventeen years old at the time of the hearing;
- Appellant was sixteen years old at the time of the offense;

- Appellant's father resides in Brazoria County and his mother resides in Harris County;
- No adjudication hearing had been conducted;
- The parties were properly notified of the hearing;
- Prior to the transfer hearing, a "complete diagnostic study" of appellant had been completed by Dr. Michael Fuller;
- There was probable cause to believe that appellant committed the felony offense of capital murder against a person;
- Appellant was of sufficient sophistication and maturity to be treated as an adult because he could aid an attorney in his defense;⁴

⁴ Appellant asserts that the juvenile court "misapplied the sophistication and maturity factor." The *Moon* court noted that "it is doubtful that the Legislature meant for the sophistication-and-maturity factor to embrace the juvenile's ability to waive his constitutional rights and assist in his defense." *Moon*, 451 S.W.3d at 50 n.87. The court explained,

No case has ever undertaken to explain, however, exactly *how* the juvenile's capacity (or lack thereof) to waive his constitutional rights and assist in his defense is relevant to whether the welfare of the community requires transfer, and we fail to see that it is. Other courts of appeals have rightly declared "the purpose of an inquiry into the mental ability and maturity of the juvenile [to be] to determine whether he appreciates the nature and effect of his voluntary actions and whether they were right or wrong."

Id. (quoting *In re E.D.N.*, 635 S.W.2d 798, 801 (Tex. App.—Corpus Christi 1982, no pet.)). Based on this guidance from the Court of Criminal Appeals, it may be that the juvenile court misapplied this factor by focusing on whether appellant was sufficiently sophisticated and mature *to aid in his defense*. However, as discussed *infra*, the juvenile court's other factual bases for transfer are supported by legally and factually sufficient evidence. And, as also explained *infra*, these facts provide "a sure-footed and definite basis" from which we may conclude that the juvenile court's transfer decision was "appropriately guided by the statutory criteria, principled, and reasonable." *See id.* at 49; *see also Gonzales v. State*, 467 S.W.3d 595, 602 (Tex. App.—San Antonio 2015, pet. ref'd).

- Appellant's records and previous history made the prospects of adequate protection for the public and the likelihood of reasonable rehabilitation by the use of the Juvenile Justice Court doubtful;
- Because of the extreme and severe nature of the offenses alleged, the prospects of adequate protection for the public and the likelihood of reasonable rehabilitation through the Juvenile Justice system were doubtful; and
- After considering all of the testimony, diagnostic study, social evaluation, and full investigation of appellant and the circumstances of the offenses alleged, and because of the seriousness of the alleged offenses and background of appellant, the welfare of the community required criminal proceedings.⁵

⁵ These findings are similar to those made in other juvenile-transfer cases in which our sister courts have determined that the transfer order was sufficiently specific. *See, e.g., Rodriguez v. State*, 478 S.W.3d 783, 788–89 (Tex. App.—San Antonio 2015, pet. ref'd) (“Here, after careful consideration of all the evidence presented, the juvenile court made the following findings: 1. Rodriguez was alleged to have committed murder under Section 19.02 of the Texas Penal Code. 2. Rodriguez was sixteen years old at the time of the transfer hearing. 3. Rodriguez was fourteen years or older but under seventeen years old at the time he is alleged to have committed the offense. 4. Rodriguez’s mother resides in Bexar County. 5. No adjudication hearing has been conducted to this point. 6. The notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 were satisfied. 7. Prior to the hearing, the Court ordered a psychological examination, complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense; although Rodriguez refused to cooperate in the psychological examination, all other studies were completed. 8. The Court considered whether the offense was against person or property and found the offense was against a person. 9. The Court considered Respondent’s sophistication and maturity and found him sophisticated and mature enough to be transferred into the criminal justice system; he understands the allegations, court proceedings, and possible consequences. 10. After considering the record and previous history of the child, the prospects of adequate protection of the public, and the likelihood of rehabilitation of the child by use of the procedures, services, and facilities currently available to the Juvenile Court, the Court found the Juvenile Court inadequate for the rehabilitation of the child while also protecting the public. 11. Following a full investigation and hearing, the Court found probable cause to believe the child committed the offense and that the seriousness of the offense, background of the child, and welfare of the community requires that

In contrast to these case-specific findings, in *Moon*, the only reason specifically stated in the juvenile court's order to justify the waiver of jurisdiction was that the offense alleged was a serious one, and the only fact specified in support of this reason was that the offense alleged was committed against the person of another. *Id.* at 50; *see also Guerrero v. State*, 471 S.W.3d 1, 4 (Tex. App.—Houston [14th Dist.] 2014, no pet.). Further, the Court of Criminal Appeals determined that other fact findings included in the juvenile court's written order were “superfluous” because they would have been relevant to support a transfer for the alternative reason that the appellant's background sufficed to render waiver of juvenile jurisdiction appropriate, but the court did not cite the appellant's background as a reason in the transfer order. *See Moon*, 451 S.W.3d at 50–52.

In this case, the transfer order specifically references, *inter alia*, appellant's record and previous history and the “extreme and severe nature” of the two counts of capital murder in support; it does not state barely that appellant committed a serious offense against a person as in *Moon*. *See id.* at 50; *cf. Gonzales v. State*, 467 S.W.3d 595, 601–02 (Tex. App.—San Antonio 2015, pet. ref'd) (noting that

the criminal proceedings move to Criminal District Court.”); *Gonzales v. State*, 457 S.W.3d 595, 602 (Tex. App.—San Antonio 2015, pet. ref'd) (“Here, the juvenile court made the following findings: 1) Gonzales was alleged to have committed murder under Texas Penal Code section 19.02; 2) Gonzales was sixteen at the time of the hearing; 3) Gonzales was fifteen at the time of the offense; 4) Gonzales's mother resides in Bexar County; 5) no adjudication hearing had yet been conducted; 6) the parties were properly notified of the hearing; 7) prior to the hearing, the trial court obtained a psychological assessment including a psychological examination, a complete diagnostic study, a social evaluation, full investigation of Gonzales, Gonzales's circumstances, and the circumstances of the alleged offense; 8) the offense was against a person; 9) Gonzales is sophisticated and mature enough to be transferred into the criminal justice system and he understands the allegations, the court proceedings, and their possible consequences; 10) the procedures, services, and facilities available to the Juvenile Court are inadequate for rehabilitation of Gonzales while also protecting the public; and 11) after a full investigation and hearing, Gonzales's circumstances, and the circumstances of the offense, there is probable cause to believe that Gonzales committed the offense and, because of the seriousness of the offense and the background of Gonzales, the welfare of the community required that criminal proceedings proceed in Criminal District Court.”).

the juvenile court's findings were specific as to the appellant and provided a sufficient basis for waiver of juvenile jurisdiction). As in *Gonzales*, the juvenile court made findings *as to appellant* that “provided a ‘sure-footed and definite basis from which an appellate court can determine that its decision was in fact appropriately guided by the statutory criteria, principled, and reasonable.’” See *Gonzales*, 467 S.W.3d at 602 (quoting *Moon*, 451 S.W.3d at 49).

Thus, this case is distinguishable from *Moon*, as well as *Guerrero*, and is in line with our sister courts of appeals's application of *Moon*. See, e.g., *In re S.G.R.*, —S.W.3d—, No. 01-16-00015-CV, 2016 WL 3223675, at *3–6 (Tex. App.—Houston [1st Dist.] Jun. 9, 2016, no pet. h.); *Rodriguez v. State*, 478 S.W.3d 783, 788–89 (Tex. App.—San Antonio 2015, pet. ref'd); *Gonzales*, 467 S.W.3d at 601–02. As such, we turn to whether the evidence in this case supports the trial court's factual findings.

B. Legally and Factually Sufficient Evidence Supports the Factual Recitations in the Transfer Order

Appellant also contends that the evidence admitted at the transfer hearing is legally and factually insufficient to support the juvenile court's decision to waive jurisdiction. We focus primarily on evidence supporting the trial court's findings concerning (1) appellant's records and history; (2) the “extreme and severe nature” of the offenses alleged; and (3) the likelihood of reasonable rehabilitation by the Juvenile Justice System for appellant.

In conducting a legal-sufficiency review, we credit evidence favorable to the challenged finding and disregard contrary evidence unless a reasonable fact finder could not reject the evidence. *Moon v. State*, 410 S.W.3d 366, 371 (Tex. App.—Houston [1st Dist.] 2013), *aff'd*, 451 S.W.3d at 52. If there is more than a scintilla of evidence to support the finding, the no-evidence challenge fails. *Id.* Under a

factual-sufficiency review, we consider all of the evidence presented to determine if the court's finding is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. *Id.* With these particular standards in mind, we consider the evidence from the transfer hearing relative to the above-listed findings.

First, concerning appellant's records and history, Dr. Michael Fuller examined appellant for the certification hearing. Fuller testified that appellant had no significant major psychiatric illness and that appellant could think clearly and understand age-appropriate concepts. Fuller concluded that appellant was intellectually and emotionally average for his age at the time of the testing—seventeen—and that appellant understood the charges against him and what it meant to be certified as an adult. Fuller testified that it would be “appropriate and reasonable” for the juvenile court to certify appellant as an adult.

The juvenile court was also presented evidence of appellant's prior juvenile record: one adjudication for assault in 2008 and another for credit card abuse in 2011. Further, appellant's juvenile justice predisposition report was entered into evidence at the hearing. This report notes that appellant “has had two referrals to the Brazoria County Juvenile Justice Department [for offenses] that were violent in nature.” Appellant's school disciplinary history showed one incident for a “classroom scuffle” and prior incidents such as conduct code violations, failure to attend detention hall or class, insubordination, dress code violations, stealing, and excessive tardiness. Further, Detective Arnold testified about the many inconsistencies in appellant's statements during interviews. Arnold stated appellant was able to lie without hesitation regarding appellant's whereabouts on the afternoon of the murder, as well as what he had been wearing. Arnold testified that appellant had threatened other students at his high school who had been

talking about Amy's pregnancy. Finally, Arnold testified that he believed appellant to be a flight risk, based on his opinion that appellant's "criminal history show[ed] escalating behavior from physical assault, thefts, credit card abuse, all the way to where we are now, [and] the fact that [appellant] was using a fake address so that he could attend a different school." These facts support the juvenile court's waiver of jurisdiction.

Second, concerning the "extreme and severe" nature of the offenses, the trial court's findings regarding this capital murder and the evidence supporting these findings do not suggest, as appellant implies, a mere category-of-the-offense transfer. *See Moon*, 451 S.W.3d at 48 (distinguishing between generic findings relating to the "category of the crime alleged" and "the specifics of the particular offense"). Instead, the evidence shows the particularly egregious character of this capital murder. Appellant murdered his sixteen-year-old paramour and unborn twins by strangling her and then stabbing her, shortly after having had sex with her. The unborn twins died by asphyxia when their mother died. Although capital murder is certainly a serious offense, the facts here—which are described in the "counts" included in the transfer order and may be gleaned from the offense report, the autopsy report, and the predisposition report that were all admitted as exhibits at the hearing—are undoubtedly "extreme and severe." Thus, both the court's finding regarding the extreme and severe nature of the offense and the finding that the offense alleged is capital murder against a person, not property, are amply supported in this record. *Cf. id.* (order was insufficient because the only reason stated was that "the offense alleged is a serious one").

Further, former caseworker for the Texas Youth Commission, now known as the Texas Department for Juvenile Justice (TDJJ), Martha Mosshart took the stand at the hearing. She testified that the TDJJ has had extremely few capital offenders.

In fact, from 2007 to 2012, only twelve capital offenders have been committed to the TDJJ out of a total of 7,496 commitments. All of those capital offenders were given determinate sentences; none were simply committed to TDJJ. She stated that these juveniles generally are transferred to the Texas Department of Criminal Justice (TDCJ) once they reach a certain age—usually proceedings to transfer them begin within a month of their nineteenth birthdays.⁶

Mosshart explained that the TDJJ has a program for violent offenders, but that there is generally a wait list to get into the program. She agreed that because of the nature of the alleged conduct, appellant would likely get priority status for the program, however. Mosshart suggested that a commitment to TDJJ alone would not be appropriate for the type of offense that appellant was alleged to have committed—i.e., that appellant should be given a determinate sentence even should the juvenile court not waive jurisdiction. She noted there was only a short window of time to get appellant into this treatment program, given his age and likely impending transfer to TDCJ when he turned nineteen. This evidence supports the juvenile court's conclusion concerning the likelihood of appellant's reasonable rehabilitation through the Juvenile Justice System.

In sum, based on this evidence, we cannot say the juvenile court abused its discretion in waiving its jurisdiction and transferring appellant for criminal proceedings. The State adequately established, “by a preponderance of the evidence, that the welfare of the community requires transfer of jurisdiction for criminal proceedings, either because of the seriousness of the offense or the background of the child (or both).” *Moon*, 451 S.W.3d at 40–41. The juvenile

⁶ We note that, at the time of appellant's transfer hearing in July 2015, he was 18 years old and would be turning 19 nine months later in April 2016.

court's decision was appropriately guided by the statutory criteria, principled, and reasonable. *See Gonzales*, 467 S.W.3d at 602.

We overrule appellant's first issue.

IV. Constitutionality of Texas's Juvenile Capital Offender's Punishment and Parole Scheme

In appellant's second and third issues, he challenges the constitutionality of Texas's "punishment scheme" for juvenile capital offenders who are tried as adults. In issue two, he asserts that Texas's punishment and parole scheme are facially unconstitutional. In his third issue, he asserts this same scheme is unconstitutional as applied to him. We address both issues together.

We review the constitutionality of a criminal statute *de novo*. *Ex parte Lo*, 424 S.W.3d 10, 14 (Tex. Crim. App. 2013). We generally begin with the presumption that the statute is valid and the legislature did not act arbitrarily or unreasonably in enacting it. *Ex parte Flores*, 483 S.W.3d 632, 639 (Tex. App.—Houston [14th Dist.] 2015, pet. ref'd) (citing *Rodriguez v. State*, 93 S.W.3d 60, 69 (Tex. Crim. App. 2002)). The party attacking the statute's constitutionality generally bears the burden of establishing the statute is unconstitutional.⁷ *See Flores*, 483 S.W.3d at 639.

Appellant asserts that section 12.31 of the Texas Penal Code, governing punishment for capital felonies, is unconstitutional both facially and as applied to him. This statute provides:

(a) An individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by

⁷ To be successful in a facial challenge to a statute, the party must establish that no set of circumstances exists under which that statute would be constitutionally valid. *State v. Rosseau*, 396 S.W.3d 550, 557 (Tex. Crim. App. 2013). Regarding an as-applied challenge to a statute, the party must establish that a statute is unconstitutional as applied to his particular set of facts and circumstances. *See London v. State*, 490 S.W.3d 503, 507–08 (Tex. Crim. App. 2016).

imprisonment in the Texas Department of Criminal Justice for life without parole or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the Texas Department of Criminal Justice for:

- (1) life, if the individual committed the offense when younger than 18 years of age; or
- (2) life without parole, if the individual committed the offense when 18 years of age or older.

Tex. Penal Code § 12.31.

Both the Texas Court of Criminal Appeals and this court have rejected claims that this statute is facially unconstitutional. *See Lewis v. State*, 428 S.W.3d 860, 863–64 (Tex. Crim. App. 2014); *Lewis v. State*, 448 S.W.3d 138, 146 (Tex. App.—Houston [14th Dist.] 2014, pet. ref’d). Further, “[j]uvenile offenders sentenced to life with the possibility of parole are not entitled to individualized sentencing under the Eighth Amendment.” *Turner v. State*, 443 S.W.3d 128, 129 (Tex. Crim. App. 2014) (reversing an as-applied constitutional challenge to Penal Code section 12.31(a)(1)). “When the Court of Criminal Appeals has deliberately and unequivocally interpreted the law in a criminal matter, we must adhere to its interpretation under the dictates of vertical stare decisis.” *Mason v. State*, 416 S.W.3d 720, 728 n.10 (Tex. App.—Houston [14th Dist.] 2013, pet. ref’d).

As the court of last resort in criminal matters in this State has unequivocally spoken on both of appellant’s constitutional issues and rejected them, we overrule appellant’s second and third issues.

V. Trial Court’s Denial of Motion to Suppress

In issue four, appellant urges that the trial court erred by denying his motion to suppress. Specifically, he complains that “[u]nder the objective circumstances, a sixteen year old would have believed that he was not free to leave when he was

separated from his parents and questioned about the murder of the mother of his children.” Thus, appellant is asserting that he was in custody at the time of his recorded interviews with police. It is undisputed that appellant was not provided with statutory warnings under either the Juvenile Justice Code or the Texas Code of Criminal Procedure before talking with police officers during these interviews. *See* Tex. Fam. Code § 51.095; Tex. Code Crim. Proc. art. 38.22, § 3.

A. Standard of Review and Governing Law

A trial court’s ruling on a motion to suppress is reviewed for an abuse of discretion. *State v. Story*, 445 S.W.3d 729, 732 (Tex. Crim. App. 2014). We give almost total deference to the trial court’s determination of historical facts and to the trial court’s application of law to fact questions that turn upon credibility and demeanor. *Alford v. State*, 358 S.W.3d 647, 652 (Tex. Crim. App. 2012). This deferential standard similarly applies when the trial court’s determinations are based on a recording admitted into evidence at a suppression hearing. *See Montanez v. State*, 195 S.W.3d 101, 109 (Tex. Crim. App. 2006) (video recording). However, mixed questions of law and fact that are not based on evaluations of credibility or demeanor, such as the question of whether an interrogation is custodial, are reviewed de novo. *Jeffrey v. State*, 38 S.W.3d 847, 853 (Tex. App.—Houston [14th Dist.] 2001, pet. ref’d).

If an individual is subjected to questioning while in custody without first being warned of his rights and without voluntarily waiving those rights, then any evidence obtained as part of that questioning may not be used against him at trial. *See Miranda v. Arizona*, 384 U.S. 436, 479 (1966). Section 51.095 of the Juvenile Justice Code incorporates the warnings required by *Miranda*, with additional safeguards in place to protect juveniles. *See* Tex. Fam. Code § 51.095. But, section 51.095 does not preclude admission of a juvenile’s statement if the

statement does not stem from custodial interrogation. *See id.* § 51.095(b), (d); *see also Laird v. State*, 933 S.W.2d 707, 713 (Tex. App.—Houston [14th Dist.] 1996, pet. ref’d) (discussing prior version of statute and explaining that it “allows an oral statement to be admitted if it is not in response to custodial interrogation”).

In turn, “[c]ustodial interrogation is questioning that is initiated by law enforcement after a person has been taken into custody or otherwise deprived of his freedom in any significant way.” *Delacerda v. State*, 425 S.W.3d 367, 386 (Tex. App.—Houston [1st Dist.] 2011, pet. ref’d). To determine whether an individual is in custody, we focus on the objective circumstances of the questioning, not on the subjective views of either the interrogating officers or the person being questioned. *See Stansbury v. California*, 511 U.S. 318, 322 (1994); *In re D.J.C.*, 312 S.W.3d 704, 712 (Tex. App.—Houston [1st Dist.] 2009, no pet.). We also consider whether, based upon the objective circumstances, a reasonable child of the same age would believe his freedom of movement was significantly restricted. *Jeffley*, 38 S.W.3d at 855. “Factors relevant to a determination of custody include (1) probable cause to arrest; (2) focus of the investigation; (3) subjective intent of the police; and (4) subjective belief of the defendant.” *Id.* (citing *Dowthitt v. State*, 931 S.W.2d 244, 254 (Tex. Crim. App. 1996)).

Finally, the Court of Criminal Appeals has also established four general situations which may constitute custody: (1) if the suspect is physically deprived of his freedom in any significant way; (2) if a law-enforcement officer tells the suspect not to leave; (3) if a law-enforcement officer creates a situation that would lead a reasonable person to believe that his freedom of movement has been significantly restricted; and (4) there is probable cause to arrest the suspect and the law-enforcement officer did not tell the suspect he is free to leave. *Gardner v. State*, 306 S.W.3d 274, 293–94 (Tex. Crim. App. 2009); *Dowthitt*, 931 S.W.2d at

255. In all four cases, there must be a restriction of freedom of movement that is tantamount to an arrest. *See Dowthitt*, 931 S.W.2d at 255. And we consider the totality of circumstances surrounding an interrogation to determine whether the suspect was in custody during the interrogation. *See id.* With these principles in mind, we turn to the circumstances surrounding the questioning of appellant.

B. Application

From both the hearing on the motion to suppress, where Detectives Page and Arnold testified, and the audio recording of the interviews, we glean the following. Detectives Page and Arnold went to Mavani Thornhill's home, believing it was where appellant lived;⁸ when they first arrived, no one was home, so they drove a few blocks away and attempted to determine where appellant was. They returned to Thornhill's home and spoke with her daughter; she contacted Thornhill who then contacted appellant's parents and requested that they bring appellant to her home. Thornhill arrived at her home while the detectives were there, as did appellant and his parents.

The detectives were armed, but their weapons were hidden under their jackets, and neither was in uniform. The detectives went inside the home with appellant and spoke with appellant in an unlocked room; appellant's parents did not seek to join him in the interview. Appellant was not searched, handcuffed, nor read his rights. Appellant was seated closest to the door of the room; neither of the detectives blocked his access to the door or sat close to him. Thornhill entered the

⁸ The detectives went to Thornhill's home directly from the scene of the offense and had not had a chance to review the evidence collected at the crime scene, view the security video from the guard house at the entrance to Amy's neighborhood that confirmed appellant's friend had driven him there on the day of the offense, or view the security video from appellant's school showing what clothes appellant had been wearing when he left school with Amy that day. In fact, as discussed below, Arnold and Page were not aware that appellant had been to Amy's house that day until appellant admitted during the interview that he had been, although Amy's father had stated to officers at the scene that he believed appellant had killed Amy.

room shortly after the interview began and was not told to leave, although she simply asked a question and then left. About twenty-five minutes into the interview, Arnold told appellant he was free to leave, stating: "I mean, you – you came here. I mean, you don't have to talk to me. I mean, you can get up and walk out of here; but I – and I appreciate you sitting here talking with me trying to get to the bottom of this stuff." Appellant never tried to leave the interview.

During the course of the interview with the detectives, appellant told the detectives that he lived at Thornhill's home a few days a week and lived at his father's house the rest of the time. Although appellant initially denied having been to Amy's home that day, he later acknowledged that he had gone there to have sex with her. He stated that he had been hesitant to have sex with her because he was worried it would "smush" the babies, so he stopped before he ejaculated. Appellant denied harming Amy and said she was fine when he left, although he left her in her bedroom crying because they had both been upset about the upcoming changes in their lives due to the unplanned pregnancy.

About an hour into the interview, Arnold told appellant that he believed appellant had been attempting to deceive him. Arnold took a break and asked appellant's parents and Thornhill to join the detectives and appellant in the den for the remainder of the interview. Appellant's parents and Thornhill encouraged appellant to tell the truth. Appellant continued to deny that he had harmed Amy. On the request of the detectives, appellant provided a DNA sample and the clothing he was wearing. The detectives followed appellant and his parents back to appellant's home to retrieve other clothing appellant said he had been wearing that day, as well as the backpack he told the detectives he'd been carrying. Appellant and his parents accompanied the detectives to appellant's room where appellant attempted to find the clothes he said he had been wearing; they found his

jeans, which had been washed, and his backpack. They found more of the clothes downstairs in the basement in the dirty clothes bin. The detectives took these items and left.⁹

At the hearing on the motion to suppress, Arnold and Page testified. Page testified that no threats were made against appellant during the interview and that appellant's freedom of movement was not restrained. Arnold stated that, although he did not believe appellant had been truthful during his interview, he also did not believe he had probable cause to arrest him at any time during the interview.¹⁰ As noted above, when the detectives began interviewing appellant, they had been informed that appellant was the father of Amy's children, that appellant had been in a relationship with her, and that Amy's father believed appellant was responsible for her death. In fact, until appellant acknowledged during the interview that he had been to Amy's house earlier that day, Page and Arnold were unaware that he had been with Amy shortly before her death. And although the detectives discovered that appellant had been with Amy earlier that day before Arnold told appellant he was free to leave at any point, none of the evidence linking appellant to Amy had been obtained or processed. In fact, appellant never admitted harming Amy and, according to Arnold, could have been lying about what happened because he was scared and had done something he knew his parents would be unhappy about—i.e., skipping class and going to Amy's house to have sex with

⁹ As discussed above, a security video from the school taken the afternoon of the murder and later viewed by Page showed that some of the clothes appellant provided at his home were not those he had actually been wearing, nor had he been carrying the backpack he provided to Arnold and Page. The actual items shown in the security video were later obtained through a search warrant.

¹⁰ "Probable cause exists where the police have reasonably trustworthy information sufficient to warrant a reasonable person to believe a particular person has committed or is committing an offense." *Chapnick v. State*, 25 S.W.3d 875, 878 (Tex. App.—Houston [14th Dist.] 2000, pet. ref'd).

her. Thus, Arnold's statement that he did not believe he had probable cause to arrest appellant is supported by the record and timeline of events.¹¹

The trial court found that appellant was not in custody at any time during the questioning. We agree. When the circumstances show, as here, that a person is acting upon the invitation, urging, or request of police officers without any threat or coercion by the officers, that person is acting voluntarily and is not in custody. *See, e.g., Nickerson v. State*, 312 S.W.3d 250, 256 (Tex. App.—Houston [14th Dist.] 2010, pet. ref'd); *Turner v. State*, 252 S.W.3d 571, 580 (Tex. App.—Houston [14th Dist.] 2008, pet. ref'd); *see also Delacerda*, 425 S.W.3d at 386–88 (noting that the appellant voluntarily went with officers into police station to homicide division office for questioning and merely being questioned at stationhouse, by itself, does not constitute custody); *cf. In re D.F.C.*, 312 S.W.3d at 714 (holding that “there was a restraint of movement to the degree associated with formal arrest” when juvenile went to stationhouse for interview but magistrate read defendant his *Miranda* warnings, defendant's grandmother was excluded from interview despite her request, and defendant was alone in locked interrogation

¹¹ Even had Arnold believed that he had probable cause to arrest appellant before or sometime during the interview, the circumstances of this case still do not establish that appellant was “in custody.” *See Dowthitt*, 931 S.W.2d at 255 (“The determination of custody must be made on an ad hoc basis, after considering all of the (objective) circumstances.”). First, we note that there is simply nothing in our record to indicate that either Arnold or Page “manifested” to appellant that there was probable cause to arrest him or that appellant himself believed that the detectives had probable cause to arrest him. *See id.* “[G]iven our emphasis on probable cause as a ‘factor’ in other cases, . . . custody is established if the manifestation of probable cause, combined with other circumstances, would lead a reasonable person to believe that he is under restraint to the degree associated with an arrest.” *Id.* That is because it is the “compulsive aspect of custodial interrogation, and not the strength or content of the government’s suspicions at the time the questioning [is] conducted” that determines whether a suspect is in custody. *See Stansbury v. California*, 511 U.S. 318, 323 (1994). Thus, even if the detectives had honed in on appellant as the primary suspect in their investigation, there is no indication that either Arnold or Page restrained appellant to the degree associated with an arrest or deprived him of his physical freedom in any way before, during, or after the questioning, as discussed further *infra*. *See Estrada v. State*, 313 S.W.3d 274, 294–95 (Tex. Crim. App. 2010).

room with armed officer). Our record reflects that appellant voluntarily spoke to the officers; he was acting on their invitation and there was no showing of coercion or threat by either Page or Arnold. Appellant was not in a locked room with armed police officers; his parents were not excluded from the room; he was explicitly told he could leave by Detective Arnold; and Detective Arnold did not have probable cause to arrest appellant at any time during the interview. *Cf. In re D.F.C.*, 312 S.W.3d at 714.

In short, appellant's freedom of movement was not restrained to the degree associated with a formal arrest. *See Delacerda*, 425 S.W.3d at 386–88; *Nickerson*, 312 S.W.3d at 256; *Turner*, 252 S.W.3d at 580. Thus, he was not in custody. Under these circumstances, the trial court did not err in denying appellant's motion to suppress. We overrule appellant's fourth issue.

VI. Conclusion

Having overruled each of appellant's issues, we affirm the trial court's judgment.

/s/ Sharon McCally
Justice

Panel consists of Chief Justice Frost and Justices McCally and Brown.
Publish — Tex. R. App. P. 47.2(b).

November 3, 2016



JUDGMENT

The Fourteenth Court of Appeals

RYAN ANTONIO MATTHEWS, Appellant

NO. 14-15-00452-CR

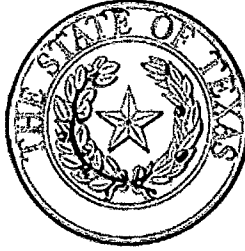
V.

THE STATE OF TEXAS, Appellee

This cause was heard on the transcript of the record of the court below. Having considered the record, this Court holds that there was no error in the judgment. The Court orders the judgment **AFFIRMED**.

We further order this decision certified below for observance.

November 3, 2016



JUDGMENT

The Fourteenth Court of Appeals

IN THE MATTER OF R.A.M.

NO. 14-15-00577-CV

This cause, an appeal from the order waiving juvenile jurisdiction and transferring appellant to criminal court, signed July 8, 2014, was heard on the transcript of the record. We have inspected the record and find no error in the order. The order is **AFFIRMED**.

We further order this decision certified below for observance.

APPENDIX H –

Trial Court Judgments of Conviction



Case No. 73841 Count One and Count Two
Incident No./TRN: 012031035X

The State of Texas

v.

Ryan Antonio Matthews

State ID No.: TX TX-08829417

§
§
§
§
§
§
§

In the 239th District Court

of

Brazoria County, Texas

at 9:23 a.m. MAY - 4 2015
Clerk of District Court Brazoria Co., Texas
DEPUTY

Judgment of Conviction by Jury

Judge Presiding:	Hon. Patrick Sebesta	Date Judgment Entered:	04/23/2015
Attorney for State:	Travis Townsend & Kurt Sistrunk	Attorney for Defendant:	Tom Stickler & Perry Stevens
<u>Offense for which Defendant Convicted:</u>			
Count One And Two - Capital Murder; Criminal Episode			
<u>Charging Instrument:</u>		<u>Statute for Offense:</u>	
Indictment		19.03 (a)(7)	
<u>Date of Offense:</u>			
03/21/2014			
<u>Degree of Offense:</u>		<u>Plea to Offense:</u>	
Capital Felony		Not Guilty	
<u>Verdict of Jury:</u>		<u>Findings on Deadly Weapon:</u>	
Guilty		N/A	
<u>Plea to 1st Enhancement Paragraph:</u>		<u>Plea to 2nd Enhancement/Habitual Paragraph:</u>	
N/A		N/A	
<u>Findings on 1st Enhancement Paragraph:</u>		<u>Findings on 2nd Enhancement/Habitual Paragraph:</u>	
N/A		N/A	
<u>Punished Assessed by:</u>	<u>Date Sentence Imposed:</u>	<u>Date Sentence to Commence:</u>	
Jury	04/23/2015	04/23/2015	
<u>Punishment and Place of Confinement:</u>			
Life - TDCJ-ID			

THIS SENTENCE SHALL RUN Concurrently

☐ Sentence OF CONFINEMENT Suspended, Defendant placed on community supervision for N/A

<u>Fine:</u>	<u>Attorney Fees:</u>	<u>Court Costs:</u>	<u>Restitution:</u>	<u>Restitution Payable to:</u>
\$0.00	Waived	\$728.00	\$0.00	<input type="checkbox"/> VICTIM (see below) <input type="checkbox"/> AGENCY/AGENT (see below)

☐ Attachment A, Order to Withdraw Funds, is incorporated into this judgment and made a part hereof.

Sex Offender Registration Requirements Does Not Apply to the Defendant. Tex. Code Crim. Proc. chapter 62.

The age of the victim at the time of the offense was N/A.

Jail Time Credit: 346 Days

Cost Covered by Time Served: Yes (Court Cost)

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Brazoria County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

☒ Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

Judgment Conviction-Jury

000345

20-40799.1008

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and **ORDERED** it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☒ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

☐ **Court.** Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court **FINDS** Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court **FINDS** the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court **ORDERS** Defendant punished as indicated above. The Court **ORDERS** Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

☒ **Confinement in State Jail or Institutional Division.** The Court **ORDERS** the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ**. The Court **ORDERS** Defendant to be confined for the period and in the manner indicated above. The Court **ORDERS** Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court **ORDERS** that upon release from confinement, Defendant proceed immediately to the Brazoria County Collections Department. Once there, the Court **ORDERS** Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court **ORDERS** Defendant immediately committed to the custody of the Sheriff of Brazoria County, Texas on the date the sentence is to commence. Defendant shall be confined in the Brazoria County Jail for the period indicated above. The Court **ORDERS** that upon release from confinement, Defendant shall proceed immediately to the Brazoria County Collections Department. Once there, the Court **ORDERS** Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a **FINE ONLY**. The Court **ORDERS** Defendant to proceed immediately to the Office of the Brazoria County Collections Department. Once there, the Court **ORDERS** Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☒ The Court **ORDERS** Defendant's sentence **EXECUTED**.

☐ The Court **ORDERS** Defendant's sentence of confinement **SUSPENDED**. The Court **ORDERS** Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

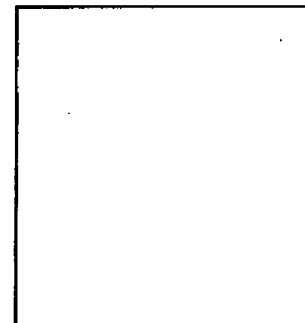
The Court **ORDERS** that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Furthermore, the following special findings or orders apply:

N/A

Signed and entered this the 4 day of May, 2015.

X Patrick Sebesta
Patrick Sebesta, Judge Presiding



Judgment Conviction-Jury
Right Thumbprint

000346

20-40799.1009

APPENDIX I –

Texas Family Code § 54.02 --

Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

Vernon's Texas Statutes and Codes Annotated
Family Code (Refs & Annos)
Title 3. Juvenile Justice Code (Refs & Annos)
Chapter 54. Judicial Proceedings (Refs & Annos)

V.T.C.A., Family Code § 54.02

§ 54.02. Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

Effective: September 1, 2021

Currentness

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal district court for criminal proceedings if:

(1) the child is alleged to have violated a penal law of the grade of felony;

(2) the child was:

(A) 14 years of age or older at the time he is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; or

(B) 15 years of age or older at the time the child is alleged to have committed the offense, if the offense is a felony of the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

(b) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering discretionary transfer to criminal court.

(c) The juvenile court shall conduct a hearing without a jury to consider transfer of the child for criminal proceedings.

(d) Prior to the hearing, the juvenile court shall order and obtain a complete diagnostic study, social evaluation, and full investigation of the child, his circumstances, and the circumstances of the alleged offense.

(e) At the transfer hearing the court may consider written reports from probation officers, professional court employees, guardians ad litem appointed under Section 51.11(d), or professional consultants in addition to the testimony of witnesses. At

least five days prior to the transfer hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in making the transfer decision. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(f) In making the determination required by Subsection (a) of this section, the court shall consider, among other matters:

(1) whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;

(2) the sophistication and maturity of the child;

(3) the record and previous history of the child; and

(4) the prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.

(g) If the petition alleges multiple offenses that constitute more than one criminal transaction, the juvenile court shall either retain or transfer all offenses relating to a single transaction. Except as provided by Subsection (g-1), a child is not subject to criminal prosecution at any time for any offense arising out of a criminal transaction for which the juvenile court retains jurisdiction.

(g-1) A child may be subject to criminal prosecution for an offense committed under Chapter 19 or Section 49.08, Penal Code, if:

(1) the offense arises out of a criminal transaction for which the juvenile court retained jurisdiction over other offenses relating to the criminal transaction; and

(2) on or before the date the juvenile court retained jurisdiction, one or more of the elements of the offense under Chapter 19 or Section 49.08, Penal Code, had not occurred.

(h) If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person to the appropriate court for criminal proceedings and cause the results of the diagnostic study of the person ordered under Subsection (d), including psychological information, to be transferred to the appropriate criminal prosecutor. On transfer of the person for criminal proceedings, the person shall be dealt with as an adult and in accordance with the Code of Criminal Procedure, except that if detention in a certified juvenile detention facility is authorized under Section 152.0015, Human Resources Code, the juvenile court may order the person to be detained in the facility pending trial or until the criminal court enters an order under Article 4.19, Code of Criminal Procedure. A transfer of custody made under this subsection is an arrest.

(h-1) If the juvenile court orders a person detained in a certified juvenile detention facility under Subsection (h), the juvenile court shall set or deny bond for the person as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(i) A waiver under this section is a waiver of jurisdiction over the child and the criminal court may not remand the child to the jurisdiction of the juvenile court.

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was:

(A) 10 years of age or older and under 17 years of age at the time the person is alleged to have committed a capital felony or an offense under Section 19.02, Penal Code;

(B) 14 years of age or older and under 17 years of age at the time the person is alleged to have committed an aggravated controlled substance felony or a felony of the first degree other than an offense under Section 19.02, Penal Code; or

(C) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony of the second or third degree or a state jail felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4) the juvenile court finds from a preponderance of the evidence that:

(A) for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B) after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i) the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person;

(ii) the person could not be found; or

(iii) a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5) the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j). The person's parent, custodian, guardian, or guardian ad litem is not considered a party to a proceeding under Subsection (j) and it is not necessary to provide the parent, custodian, guardian, or guardian ad litem with notice.

(l) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j). Except as otherwise provided by this subsection, a waiver of jurisdiction under Subsection (j) may be made without the necessity of conducting the diagnostic study or complying with the requirements of discretionary transfer proceedings under Subsection (d). If requested by the attorney for the person at least 10 days before the transfer hearing, the court shall order that the person be examined pursuant to Section 51.20(a) and that the results of the examination be provided to the attorney for the person and the attorney for the state at least five days before the transfer hearing.

(m) Notwithstanding any other provision of this section, the juvenile court shall waive its exclusive original jurisdiction and transfer a child to the appropriate district court or criminal court for criminal proceedings if:

(1) the child has previously been transferred to a district court or criminal district court for criminal proceedings under this section, unless:

(A) the child was not indicted in the matter transferred by the grand jury;

(B) the child was found not guilty in the matter transferred;

(C) the matter transferred was dismissed with prejudice; or

(D) the child was convicted in the matter transferred, the conviction was reversed on appeal, and the appeal is final; and

(2) the child is alleged to have violated a penal law of the grade of felony.

(n) A mandatory transfer under Subsection (m) may be made without conducting the study required in discretionary transfer proceedings by Subsection (d). The requirements of Subsection (b) that the summons state that the purpose of the hearing is to consider discretionary transfer to criminal court does not apply to a transfer proceeding under Subsection (m). In a proceeding under Subsection (m), it is sufficient that the summons provide fair notice that the purpose of the hearing is to consider mandatory transfer to criminal court.

(o) If a respondent is taken into custody for possible discretionary transfer proceedings under Subsection (j), the juvenile court shall hold a detention hearing in the same manner as provided by Section 54.01, except that the court shall order the respondent released unless it finds that the respondent:

(1) is likely to abscond or be removed from the jurisdiction of the court;

(2) may be dangerous to himself or herself or may threaten the safety of the public if released; or

(3) has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term of jail or prison and is likely to commit an offense if released.

(p) If the juvenile court does not order a respondent released under Subsection (o), the court shall, pending the conclusion of the discretionary transfer hearing, order that the respondent be detained in:

(1) a certified juvenile detention facility as provided by Subsection (q); or

(2) an appropriate county facility for the detention of adults accused of criminal offenses.

(q) The detention of a respondent in a certified juvenile detention facility must comply with the detention requirements under this title, except that, to the extent practicable, the person shall be kept separate from children detained in the same facility.

(r) If the juvenile court orders a respondent detained in a county facility under Subsection (p), the county sheriff shall take custody of the respondent under the juvenile court's order. The juvenile court shall set or deny bond for the respondent as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(s) If a child is transferred to criminal court under this section, only the petition for discretionary transfer, the order of transfer, and the order of commitment, if any, are a part of the district clerk's public record.

Credits

Acts 1973, 63rd Leg., p. 1460, ch. 544, § 1, eff. Sept. 1, 1973. Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, § 16, eff. Sept. 1, 1975; Acts 1987, 70th Leg., ch. 140, §§ 1 to 3, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 262, § 34, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1477, § 8, eff. Sept. 1, 1999; Acts 2009, 81st Leg., ch. 1354, § 1, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 1087 (S.B. 1209), § 4, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., ch. 1103 (S.B. 1617), § 1, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 16, eff. Sept. 1, 2013; Acts 2021, 87th Leg., ch. 971 (S.B. 2049), § 3, eff. Sept. 1, 2021.

V. T. C. A., Family Code § 54.02, TX FAMILY § 54.02

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

APPENDIX S –

**TJJJD's Capital and Serious Violent Offender Treatment Program and
Annual Review of Treatment Effectiveness**

[HOME](#)[ABOUT](#)[PROGRAMS & FACILITIES](#)[PROBATION & COMMUNITY SERVICES](#)[TRAINING ACADEMY](#)[RESOURCES](#)

Specialized Correctional Treatment

Introduction

Many young people with identified needs require more intensive and specialized treatment.

Specialized residential treatment includes programs designed specifically for the treatment of serious violent offenders, sex offenders, chemically dependent offenders, offenders with mental health impairments, and offenders with mental retardation.

Youth receive a comprehensive clinical assessment when first entering the TJJD system. From this assessment youth are matched their specialized treatment needs and each need is given a ranking and priority for addressing these needs. TJJD's assessment and placement process is designed to ensure youths with the most severe need and/or high risk for violent reoffending are assigned to specialized residential treatment programs.

Capital and Serious Violent Offenders

The Giddings State School operates a Capital and Serious Violent Offender Treatment Program for youths that are committed for murder, capital murder, and if the offense involved the use of a weapon or deadly force. The program helps these young people connect feelings associated with their violent behavior and to identify alternative ways to respond when faced with risky situations in the future. Participants in this program are required to reenact their crimes and to play the role of both perpetrator and victim.

The Giddings Capital and Serious Violent Offender Program has gained worldwide attention and been featured on several national news programs. It is one of TJJD's most promising specialized treatment programs. Research shows that participation in this program reduced the likelihood of being re-incarcerated for any offense by 55 percent, and for a felony offense, by 43 percent.

Sex Offenders

Specialized treatment for sex offenders is provided at three TJJD institutions. (Prior to FY 2004, this treatment also was provided by specialized contract providers.) The sex offender treatment program (SOTP) builds on the agency's treatment program using cognitive-behavioral strategies and a relapse prevention component.

Youths in the program receive additional individual and group counseling interventions that focus on the youth's deviant sexuality, in particular, and on deviant arousal patterns and deviant sexual fantasies, which contribute to the youth's sexual abusiveness.

Additional program components include psychosexual education and, for those with histories of abuse, trauma resolution therapies. The latest research shows that participation in this program reduced the likelihood of being re-incarcerated for a felony offense by 50 percent, re-arrested for a violent offense by 46 percent, re-arrested for a felony sex offense by 37 percent, re-arrested for a felony offense by 29 percent, and re-arrested for any offense by 28 percent.

Chemically Dependent Offenders

Program & Facilities

Brochures & Publications

[CoNEXTions](#)[Educational Programs](#)[Facilities Address List](#)[Family Support Services](#)[Parole Program Services](#)[PAWS](#)[Prison Rape Elimination Act \(PREA\)](#)[Residential Contract Care](#)[Specialized Correctional Treatment](#)[Victim Services](#)[Volunteer Services](#)[Workforce Development Program](#)

Alcohol or Other Drug Abuse treatment programs are located at all the institutional facilities and several half-way houses. Youth are placed in treatment based on their treatment need. Residential programs are offered at Giddings, Gainesville, McLennan County Ron Jackson, Evins Regional and McFadden Ranch.

Program components include evidence-based treatment curriculum and substance abuse education, social skills training, group and individual counseling, and relapse prevention. The criminal behavior is addressed through linking the use of drugs to the youth's life story and offense; participants examine their life stories, offense histories, and relapse cycles.

Offenders With Mental Health Impairment

The number of youths committed to TJJD with severe mental health problems has increased greatly in recent years. The severity of these problems also has increased.

All the institutional facilities are staffed with Mental Health professionals providing services to meet the youth's treatment needs. Youth diagnosed with severe mental health problems and/or illnesses may be placed at the Corsicana Residential Treatment Program to address these treatment needs. Those with unstable mental illnesses who are also dangerous to themselves or others receive care at the Corsicana Stabilization Unit.

The immediate goal for this group is treating the basic mental health problem or illness and allowing the youths to regain control over their behavior. Once this is accomplished, the young person is better prepared to benefit from treatment that focuses on changing the delinquent and criminal patterns of behavior. The final goal concerns reintegrating the young person with his or her family and community in a program that addresses his or her mental health and correctional therapy needs.

Youth with mental health problems pose a particularly difficult problem for TJJD, yet the specialized treatment is showing promise. Research showed that specialized treatment in a secure restriction program reduced the likelihood of being re-arrested and of being re-incarcerated for a felony offense by 13 percent.

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2014

The Annual Review of
TREATMENT EFFECTIVENESS

PUBLISHED DECEMBER 2014



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TREATMENT EFFECTIVENESS

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TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	1
INTRODUCTION.....	3
SCOPE OF 2014 REPORT	3
YOUTH CHARACTERISTICS	5
GENERAL TREATMENT DESCRIPTION	8
ASSESSMENT OF SPECIALIZED TREATMENT NEED.....	10
SPECIALIZED TREATMENT PROGRAM DESCRIPTIONS.....	12
METHODOLOGY.....	16
SPECIALIZED TREATMENT PROGRAM OUTCOMES.....	18
SPECIALIZED TREATMENT ENROLLMENT AND COMPLETION:.....	18
RECIDIVISM PREDICTORS	25
RECIDIVISM BY SPECIALIZED TREATMENT PROGRAM COMPLETION.....	26
RELATED PROGRAMS AND SERVICES	30
EDUCATIONAL PROGRAM.....	30
Educational Program Outcomes	31
MENTORING AND VOLUNTEER SERVICES.....	35
Mentoring Program Outcomes:	35
MEDICAL SERVICES	36
FAMILY INVOLVEMENT	37
Family Satisfaction Survey Results:.....	37
POSITIVE BEHAVIOR INTERVENTION AND SUPPORTS (PBIS).....	38
Initial Evidence of Impact of PBIS	40
HOGG FOUNDATION INTERNSHIP GRANT	41
RE-ENTRY	41
CONDITIONAL PLACEMENT	42
YOUTHFUL OFFENDER PROGRAM	42
MCFADDEN RANCH	43
CONCLUSION	45

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EXECUTIVE SUMMARY

The Texas Juvenile Justice Department (TJJD), since its creation in 2011 has provided the Treatment Effectiveness Report annually to the Texas Legislature. This report serves to examine the effectiveness of the TJJD treatment and rehabilitative programs. There are five programs that the report must address: gender-specific programming for female offenders, sexual behavior treatment, capital and serious violent offender treatment, alcohol and other drug treatment, and the mental health treatment programs. While the law requires TJJD to examine the five specific areas of programming, the success of youth who leave TJJD is influenced by more than their participation in any one program. Therefore, in addition to traditional recidivism measures, the 2014 report includes outcomes related to other programming youth received under the agency's general rehabilitative strategy.

YOUTH CHARACTERISTICS:

Although the number of new admissions to TJJD has declined steadily from 960 in FY 2011 to 860 in FY 2012, to 818 in FY 2013 to 782 in 2014, these newly admitted youth show an increase in committing more violent offenses, have a higher percentage of the population needing mental health treatment, and more youth have multiple treatment needs. In fact, 99% of youth admitted in FY 2014 had at least one specialized treatment need, as compared to 96% in FY 2012. In a review of admissions, TJJD found that 72% had a treatment need for violent behavior treatment and 82% had a need for alcohol and other drug treatment. Of the new admissions in 2014, there were 54% who presented with at least one psychiatric diagnosis, indicating a need for mental health care.

In 2014, TJJD again saw a rise in the number of youth who had a history of having been placed outside their homes. TJJD witnessed an increase to 41% of the youth admitted had a documented history of abuse or neglect. Of new admissions, 49% had families with criminal histories.

To address the continuing changes in the characteristics of its population, TJJD created new programs and modified existing programs for youth with serious aggressive and assaultive behaviors. These programs were designed to promote safety and security and optimize campus culture while providing effective treatment for youth.

OUTCOMES:

Outcome data is provided for youth who received specialized treatment programs, educational services, and general rehabilitation programming. The primary recidivism outcome measured in this report is re-arrest within one year for a felony or misdemeanor offense.

The report analyzes a sample of 10,141 youth who entered TJJD facilities starting fiscal 2006, and exited these facilities on or before August 31, 2013. Youth in the analysis were tracked for one year after release to determine if they were rearrested for a felony or misdemeanor offense, rearrested for a violent offense, or reincarcerated. Recidivism outcomes are reported in terms of predicted vs. actual one-year rearrest rates.

Major findings from last year's report include:

- The percentage of youth enrolled in and completing treatment with a high or moderate need for mental health treatment or alcohol and other drug treatment increased. Completion and/or enrollment doubled in some of these treatment programs from 2010 to 2012.
- For youth completing treatment for a high or moderate capital and serious violent offender treatment need, the rate of rearrest for a felony or misdemeanor decreased from 64.8% in 2011 to

57.9% in 2012. More impressively, the rate of rearrest for a violent offense decreased from 21.0% in 2011 to 13.3% in 2012.

- For youth completing treatment for a high or moderate alcohol and other drug treatment need, the rate of rearrest for a felony or misdemeanor decreased from 62.7% in 2011 to 57.0% in 2012. The rate of rearrest for a violent offense decreased from 17.6% in 2011 to 10.7% in 2012.
- Youth who completed treatment for a high or moderate sexual behavior treatment need were rearrested for a violent offense at a rate of only 3% in both 2011 and 2012.

CONCLUSION:

The results of the 2014 treatment effectiveness review show that the agency's rehabilitation programs and services are effective in reducing recidivism and enhancing positive youth outcomes upon initial release to the community. The dramatic increase in the frequency of service provision reflects the agency's growing awareness that specialized treatment programs contribute substantially to the success of the youth involved. The agency's confidence that youth with combined mental health history and alcohol and drug use disorders respond to integrated treatment approaches is guiding decisions about future programming aimed at further reduction of recidivism in the juvenile population. The results of last year's report suggested that re-arrest for violent offenses and felony offenses dropped dramatically during the period measured. For community stakeholders, TJJD staff, families of TJJD youth, and the safety of the community at large, the positive down-trend of violent juvenile recidivism over the last four years suggests that efforts of the TJJD treatment programs contribute to creating safer communities in Texas.

INTRODUCTION

The Texas Juvenile Justice Department (TJJD) is required by state law to issue an annual report on the effectiveness of its programs in rehabilitating and re-establishing in society the youth committed to its care. In compliance with Texas Human Resources Code §242.002, this annual review must address the effectiveness of programming for five specific groups: youth with sexual behavior treatment needs, youth with capital or serious violent offenses, youth who have alcohol or other drug treatment needs, youth with mental health treatment needs, and female youth. The 2014 Annual Review of Treatment Effectiveness is issued to meet this statutory requirement.

SCOPE OF 2014 REPORT

Although the law requires TJJD to examine five specific areas of programming, the success of youth who leave TJJD to return to the community is influenced by more than their participation in any one program. Successful youth outcomes are also influenced by educational and vocational services, life skills training, family involvement, and transition planning. To reflect this understanding, the 2014 Annual Review of Treatment Effectiveness includes outcomes related to other types of programming provided under the agency's current general rehabilitative strategy, known as CoNEXTions. Additionally, since many youth have multiple, co-occurring treatment needs, this report examines treatment enrollment and completion for youth who received more than one type of specialized treatment.

To determine the effectiveness of agency programs, two kinds of measures are used in this report. The first and most traditional measure is recidivism. As used in this report, recidivism measures whether a youth has been rearrested or re-incarcerated after release from a residential facility. One limitation of this measure is that it reflects agency programs and culture as they existed some time ago. To allow for a sufficient sample size, this report uses recidivism data for the first year youth are back in their communities, which means the data reflects agency programming received up to one year prior. However, this report also highlights several current initiatives in the areas of safety and security and programming that show promise for improving future outcomes.

The second type of measure used in this report focuses on positive youth outcomes. This type of outcome--attainment of a GED or high school diploma, receipt of college credits, vocational certifications, and gains in reading or math achievement --reflects more than whether or not a person re-entered the juvenile or criminal justice system. It measures whether the youth has attained skills and tools that will contribute to a successful future as a productive member of society.

The 10,141 youth comprising the analysis cohort for this report are new admissions who entered TJJD facilities beginning in fiscal year 2006, and were released from TJJD facilities on or before August 31, 2013. The analysis does not include youth who were transferred directly from a TJJD facility to an adult prison or jail, as they were not released to their home communities. The primary limitation of the analysis is the lack of a control group. A control group allows for comparison of results against a similar, untreated group. However, all youth are exposed to the treatment environment and the majority of the population was identified to have at least one treatment need. Further limitations in analysis are evident when considering the overlap between the general rehabilitation strategy and specialized treatment.

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YOUTH CHARACTERISTICS

TJJD's new admissions declined from 818 in FY 2013 to 782 in FY 2014. Of the FY 2014 new admissions, approximately 62% were between 15 and 16 years of age, 83% have below-average IQ scores, 73% were on probation at the time of commitment, and 69% had a prior out-of-home placement. Median math levels remain 5.0 years behind. However, the median reading achievement levels were at 5.2 in 2013 and decreased to only 3.8 years behind the average expected reading level of students in the community. Thirty two percent of TJJD youth require special education services; this is close to triple that of public schools, which typically have 8-10% of youth requiring special education services. Fifty four percent of new admissions had a need for mental health treatment. Ninety nine percent had a need for at least one area of specialized treatment and 82% had a need for two or more areas of specialized treatment.

TABLE A.1 shows an overview of the characteristics of youth admitted to TJJD in FY 2014.

This report focuses on outcomes of youth who entered TJJD facilities starting fiscal year 2006 and who were released from TJJD facilities on or before August 31, 2013. Newly admitted youth in FY14 described in **TABLE A.1** are not included in this sample. However, the 782 youth in the sample share some of the same characteristics. The majority had multiple co-existing risk factors, or characteristics, that often required specialized treatment interventions.

YOUTH CHARACTERISTICS: NEW ADMISSIONS FYS 2013 AND 2014
TABLE A.1

		FISCAL YEAR OF COMMITMENT	
		2013	2014
NUMBER OF NEW ADMISSIONS		818	782
OFFENSE HISTORY ³			
COMMITTED FOR FELONY OFFENSE	%	100	100
THREE OR MORE FELONY OR MISD REFERRALS	%	76	69
TWO OR MORE FELONY OR MISD ADJUDICATIONS	%	67	65
TJJD RISK ASSESSMENT SCORE ³			
HIGH	%	5	4
MEDIUM	%	62	56
LOW	%	33	39
SEVERITY OF COMMITTING OFFENSE ³			
HIGH	%	22	25
MODERATE	%	39	38
LOW	%	39	37
SEX			
FEMALE	%	8	9
MALE	%	92	91
IQ OF LESS THAN 100 ¹	%	84	83
PARENTS UNMARRIED, DIVORCED, SEPARATED, OR AT LEAST ONE DECEASED ¹	%	88	85
ON PROBATION AT COMMITMENT	%	76	73
PRIOR OUT OF HOME PLACEMENT	%	64	69
KNOWN FAMILY HISTORY OF CRIMINAL INVOLVEMENT	%	37	49
NEED FOR TRT BY A LIC OR SPEC TRAINED PROVIDER ^{2,3}			
CAPITAL SERIOUS VIOLENT TRT	%	62	72
SEXUAL BEHAVIOR TRT	%	14	14
ALCOHOL OR OTHER DRUG TRT	%	82	82
MENTAL HEALTH TRT (HI/MOD/LOW NEED)	%	48	54
ANY SPECIALIZED TRT NEED	%	98	99
MULTIPLE (2 OR MORE) SPECIALIZED TRT NEEDS	%	75	82
KNOWN HISTORY OF ABUSE OR NEGLECT ¹	%	36	41
SPECIAL EDUCATION ELIGIBLE	%	31	32
MEDIAN YEARS BEHIND READING ACHIEVEMENT ³		5.2 yrs	3.8 yrs
MEDIAN YEARS BEHIND MATH ACHIEVEMENT ³		5.5 yrs	5.0 yrs

¹ Data missing for 4-5% of youth. Percentages exclude missing data.

² 060s missing for 3 youth. Percentages exclude missing data.

³ Measures taken at intake.

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GENERAL TREATMENT DESCRIPTION

The fundamental philosophy behind the juvenile justice system in Texas, as in most of the United States, is to provide juvenile offenders with treatment. In fact, the roots of the juvenile justice system in Texas go back to the middle of the 19th century. In the 1850's the Texas Legislature passed laws to exempt children under age 13 from criminal prosecution in certain situations and authorized a separate facility to house children. The idea that motivated the nineteenth century reformers was that we should rescue children who are in danger of maturing into adult criminals. We should do it not by imposing on them the disabilities that result from a criminal conviction, but by placing them in protective environments and teaching them about discipline, morality, values and productive work. The fundamental idea that adjudication for delinquent conduct is not conviction of a crime is preserved today in the current Juvenile Justice Code.

A key piece of the 2007 effort to reform the Texas juvenile justice system called for the creation of a sound treatment system capable of providing individual youth the assistance and tools they need to leave behind their delinquent ways in order to become productive adults. Specifically, the reform requirements called for the new treatment program to be:

- Youth-centered;
- Evidence based;
- “Flexible” to account for individual youth needs and strengths;
- Implemented by appropriately experienced, trained and licensed staff;
- Accountable for program effectiveness; and
- Fully integrative with other Texas juvenile justice and community services.

Programming is delivered in classes, groups and individual formats addressing the identified individual risk and protective factors. Youth attend school, where they focus on increasing their academic and vocational skills for improved opportunities. Positive Behavior Interventions and Supports (PBIS) are used to support positive behaviors in the classroom and to address rule violations. After school, youth participate in skills building groups, behavior groups, psycho-educational and Skills Application Groups. Youth with identified risks in violent behaviors, sexual behavior, alcohol and other drugs (chemical abuse/dependency), and mental health are required to participate in groups specifically designed to address those risks (see the specialized treatment strategies for program descriptions). Youth attend additional supplemental therapeutic activities, recreational activities and leisure skills-building groups. The youth are assessed on their participation, progress, and completion of skills groups, supplemental groups, and daily practice of skills learned in those groups. Youth are expected to address relevant personal issues in the skills application groups and in individual meetings with the assigned case manager. Youth process behavioral issues and rule infractions with staff members, and sometimes with their peers under staff supervision, using “Thinking Reports” and “Check-Ins.” This process is designed to allow youth to become aware of the thinking, feeling, attitudes, values and beliefs which support their behavior, and to actively intervene when negative thinking, feeling and beliefs appear to get better behavioral outcomes. The majority of practices, interventions and assessments are Evidenced-Based Practices (EBP) such as the PACT, “Thinking for Change” and other treatment interventions.

Youth are evaluated at least once every 90 days by a multi-disciplinary team (MDT), which consists of their case manager, an assigned educator, and juvenile correctional officers who work with the youth on a regular basis. Psychology staff is also present in MDT meetings to provide input and assistance in the case planning process. Parents are invited to participate in the multi-disciplinary team meeting. The MDT

re-assesses a youth's treatment progress, changing treatment objectives as needed to meet the individual youth's needs and target building specific skills. The individual case plan (ICP) provides youth, family and staff with an assessment of the youth's progress in all areas of the general rehabilitation strategy and provides goals and action steps to build upon the skills learned. Every 90 days, following a re-assessment of the youth's risk and protective factors, a quarterly summary report is provided to the youth's parent/guardian. In this way, families are consistently engaged and connected to the youth's progress and better prepared to help the youth adjust to the community upon reentry.

Youth with identified needs for specialized treatment are enrolled in programs specifically designed to address the youth's presenting issues. As shown in the Youth Characteristics section, the overwhelming majority (99%) of youth committed in FY 2014 had at least one specialized treatment need. Table 2.3 shows that the average daily population (ADP) of state-operated programs has decreased by 49% since FY 2009. However, despite the reduced population, TJJD has increased the provision of specialized treatment services by 81% over FY 2009 levels. .

ASSESSMENT OF SPECIALIZED TREATMENT NEED

The assessment process is structured to ensure the youth's individualized needs are identified by looking at multiple areas including mental health issues, educational requirements, vocational preferences, medical and dental needs, and specialized treatment needs, some of which may have been ordered by the committing court. The vast majority of youth committed to TJJD require specialized treatment. TJJD's assessment and placement process is designed to identify each youth's specialized treatment needs and ensure that youth are placed in programs that can best meet their needs.

In accordance with TJJD policy and best practice, youth committed to TJJD are assessed for specialized treatment needs, which drive the youth's overall programming. Specialized treatment at TJJD includes programs designed specifically for the treatment of youth committed for serious violent offenses, sex offenses, youth with alcohol and other drug dependencies, youth with mental health impairments, and youth with intellectual and developmental disabilities.

Psychologists use the following screening and assessment tools to identify specialized treatment needs:

- Massachusetts Youth Screening and Inventory (MAYSI) to screen for all areas of treatment need
- Adolescent Self-Assessment Profile (ASAP-II) for alcohol and other drug treatment
- Juvenile Sex Offender Assessment Profile (JSOAP-II)
- Beck Anger Inventory
- Beck Depression and Anxiety Inventories
- Wide Range Achievement Test (WRAT)
- Wechsler Adult Intelligence Scale (WAIS)
- Brain Injury Screening Questionnaire (BISQ)

The agency's assessment and placement process strives to adhere to national best practices by utilizing the risk, need, responsivity model¹. Classification and placement of each youth are therefore monitored not just at intake but at each MDT meeting where the youth's progress is considered and determinations are made about the suitability of the current placement, safe-housing assessment, eligibility for entry/discharge from specialized treatment program(s), transition or release to a less restrictive setting and/or return to a more restrictive setting. During the youth's intake process (which lasts approximately four weeks), youth participate in a series of assessments structured to identify the youth's risk to reoffend and criminogenic needs. The youth's risk level is determined based on static factors that have a demonstrated link to recidivism rates, such as age at first offense, number and severity of prior criminal referrals, and prior residential placements. The severity of the youth's committing offense and assessed level of risk determine the youth's minimum length of stay for services in the agency. Criminogenic needs are also identified through a battery of actuarial risk assessments that help determine each youth's risk and protective factors. These risk factors are used in conjunction with each youth's severity rating to determine placement for all youth. Factors identified include the youth's age, location of family,

¹ In 1990, Andrews, Zinger, Hoge, Bonta, Gendreau, and Cullen published what many believe is the state of the art model for the assessment and rehabilitation of offender populations, called the *Risk-Needs-Responsivity (RNR) Model*. The clinical literature supports the belief that treatment can work with offenders, but that some programs are better than others, and that certain basic tenets of treatment should be followed. The literature indicates successful interventions focus on high risk offenders target specific criminogenic needs, utilize cognitive and behavioral models for treatment intervention demonstrate faithful implementation of program design, and maintain program integrity (Lowenkam and Latessa, 2005).

specialized treatment needs, least restrictive environment, gang affiliation, danger to others, and vulnerability to assault or predation. Results of these assessments also inform recommendations for supervision and treatment in areas such as mental health, education, medical and dental services, safe housing vulnerability, vocational training, and specialized treatment. Placement specialists use the results generated from each youth's assessment information to choose the most appropriate program to respond to a youth's individual needs. Following the intake process and based upon assessment outcomes, youth with commitment offenses of low or moderate severity may be placed in a non-secure setting dependent upon their identified risk assessment factors. In fiscal year 2014, out of the 781 youth committed to TJJD, 100 youth were initially placed from intake into a non-secure setting including 38 youth initially placed at McFadden Ranch for residential substance abuse treatment. As a youth's risk and protective factors change over time, program placement assignment may also change. TJJD has policies that allow youth the flexibility to move through a continuum of programs according to their demonstrated skills and abilities -- to the least restrictive program setting able to meet the youth's individual treatment needs while protecting public safety. One of the primary tools used in this process is the Executive Multi-Disciplinary Team Meeting (EMDT). EMDT is a higher level staffing conducted on selected youth who are lingering in treatment beyond their original length of stay or for youth whose individual circumstances and treatment needs warrant a higher level of monitoring and support during their commitment period. Individuals involved in this treatment meeting include TJJD personnel from the institutional and halfway house settings as well as TJJD parole staff. Areas covered during each youth's staffing include an update on the youth's treatment progress and the development and implementation of alternative treatment strategies in an effort to stimulate each youth's motivation to progress in treatment ultimately preparing them for transition to a less restrictive facility or parole. Suitability of each youth's current placement is also discussed in an effort to move youth who qualify to less restrictive settings.

SPECIALIZED TREATMENT PROGRAM DESCRIPTIONS

Many youth have multiple specialized treatment needs identified during the assessment period. TJJD matches services and modalities to individual youth characteristics to ensure the best delivery of services. Some specialized treatments may be provided concurrently and others successively. Youth may have specialized needs addressed while in a high or medium restriction facility or on parole based on assessment results and treatment team recommendations. The types of specialized treatment are:

SEXUAL BEHAVIOR TREATMENT SERVICES

The agency offers a full complement of sexual behavior treatment services. The services provided to the youth are designed to target their specific treatment needs. These services include: assessment, supplemental psychosexual education classes, short-term treatment, pre- and post-treatment services, intensive residential treatment, and sex offender aftercare and outpatient treatment. Secure facilities provide all services except sex offender aftercare. Medium restriction facilities and parole offices provide only aftercare services or psychosexual educational classes. Programs are developed to be responsive to the unique issues of females, young offenders, or male adolescents with sexual behavior problems. Through a comprehensive assessment process, youth are matched with the appropriate treatment service. The treatment of youth with sexual behavior problems involves a multidisciplinary, collaborative approach utilizing techniques such as motivational interviewing, relapse prevention, impulse control, and self-regulation strategies. This model utilizes the communication, cooperation, and coordination between TJJD personnel and outside invested partners to enhance community protection. The sexual behavior treatment program (SBTP) uses evidence-based case management and treatment strategies that seek to hold the youth accountable. Public safety, victim protection, and reparation for victims are paramount and are integrated into the expectations, policies, procedures, and practices of the program.

CAPITAL AND SERIOUS VIOLENT OFFENDER TREATMENT PROGRAM

The Capital and Serious Violent Offender Treatment Program (CSVOTP) treats youth who are committed to TJJD for crimes such as capital murder, murder and other offenses involving the use of a weapon or deadly force. Staff includes case managers and mental health specialists who work within the high need CSVOTP at the Giddings State School and case managers who work at the Ron Jackson (female) CSVOTP. The program is designed to impact emotional, social, behavioral and cognitive developmental processes by integrating psychodynamic techniques, social learning and cognitive-behavioral therapy to create an intense therapeutic approach that aims to reduce individual risk factors and to enhance and build upon unique strengths of the youth. The program helps these young people connect feelings and thoughts associated with their violent behavior and to identify alternative ways to respond when faced with risky situations in the future. Capital Offender staff must have the necessary levels of education, experience in the delivery of treatment to juvenile offenders, and supervised training necessary to ensure the delivery of treatment services. The residential program promotes a coordination of treatment services and the continuity of care between capital offender therapists, caseworkers, and dorm staff.

AGGRESSION REPLACEMENT THERAPY

The Aggression Replacement Therapy (ART) program is offered to youth with a moderate need for treatment to address violent and aggressive behavior. Treatment is offered by trained Case Managers and Dorm Supervisors in 30 group sessions provided over a ten week period. The program is based on cognitive-behavioral concepts and moral reasoning strategies aimed at helping youth make more conscious decisions about their emotional expressions and at developing pro-social values that help them function more safely in their relationships. Youth are expected to demonstrate a reduction in risk factors

for anti-social thinking and aggressive behavior by the end of treatment in order to successfully complete the program.

STRATEGIES FOR ANGER MANAGEMENT

The Strategies for Anger Management curriculum is used by TJJD youth who present with a low need for violent offender treatment. This 12-session program is based on cognitive behavioral therapy concepts that assist the youth in identifying the triggers of their anger, the distorted thoughts that lead to their anger outbursts and substitute strategies to help them prevent further acts of aggression.

ALCOHOL AND OTHER DRUG TREATMENT PROGRAMS

The Alcohol and Other Drug Treatment Programs (AODTP) are designed to target the specific level of care based on the youth's treatment needs. The high intensity AODTP is designed for youth who have the most significant need. The moderate intensity AODTP is designed to address the needs of youth in a condensed programming schedule; many of these youth have co-occurring needs for other specialized treatment services.

For youth with identifiable substance abuse problems, TJJD provides several levels of alcohol and other drug treatment programs, including psycho-educational classes, short-term treatment, supportive residential programs, and a relapse prevention program. All programs are based on the philosophy that dependence on alcohol and other drugs is a primary, chronic disease that is progressive and influenced by genetic, environmental, and psychosocial factors. The approach to treatment is holistic and views chemical dependency as a family disease that affects everyone in contact with the addicted youth. Family and social supports are recognized as critical protective factors that will promote and sustain treatment gains during specialized treatment and community transition. Youth are encouraged to view chemical dependency as a lifelong process of recovery and to renew a daily commitment to their sobriety and interruption of self-destructive behaviors, including substance use and criminal conduct. All programs use evidence-based strategies and curriculum and are provided by appropriately licensed clinicians.

MENTAL HEALTH TREATMENT PROGRAM

The Mental Health Treatment Program (MHTP) provides specialized mental health treatment, moderate intensity specialized treatments and general rehabilitative interventions at single program locations (McLennan Residential Treatment Center for boys and Ron Jackson for girls). MHTP provides enhanced psychiatric and psychological assistance, and smaller case manager-to-youth ratios (1:8). Programming within the MHTP may include trauma groups, Trauma-Focused Cognitive Behavioral Therapy, Seeking Safety curriculum, psychosexual groups, modified and moderate intensity sexual behavior treatment and Alcohol and Other Drug treatment, Aggression Replacement Training® (ART), Boys' Council, and Girls' Circle. All youth also receive appropriate educational services and behavioral health interventions by juvenile correctional officers. Having psychiatric and psychological staff focus on managing the symptoms associated with the youth's mental health issues allows the case managers to focus on risk reduction and protective enhancement strategies to reduce the risk of re-offending. This collaboration allows for holistic and individualized treatment for the youth in need of these services. Youth with unstable mental illnesses who are also dangerous to themselves or others receive care at the Crisis Stabilization Unit, a self-contained unit located within each of the MRTC and RJ facilities. Some youth require medication management only. This is considered a low need and it can be provided at any facility. Ongoing assessments and reevaluation of the youth's mental health needs ensure youth receive the most appropriate services. While mental health treatment may not be "completed," the goal of the program is to stabilize any acute mental health issues and teach youth techniques to manage their mental health issues as they reintegrate into the community.

FEMALE OFFENDER PROGRAM

All general and specialized treatment services have been modified, as necessary, to ensure gender responsiveness. Female offenders have access to all needed specialized treatments, to include: Alcohol or Other Drug, Sexual Behavior Treatment, Capital and Serious Violent Offender Treatment, Trauma Focused-Cognitive Behavioral Therapy, Aggression Replacement Training®, Trauma Resolution groups, Pairing Achievement with Service (PAWS), and Girls' Circle. All programs are provided by appropriately licensed clinicians or trained staff. The Girls' Circle, an evidence-based program, is a structured support group that focuses discussion on gender-specific topics designed to promote resiliency and self-esteem. The PAWS program uses canines from the local animal shelter to teach empathy and responsibility and supports the community by providing a well-trained dog to a new owner.

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METHODOLOGY

To determine the effectiveness of each specialized treatment program, the first analysis examined the extent to which youth with identified needs were enrolled and completed the appropriate programs prior to release from residential programs. Next, youth in the analysis were tracked for one year after release from a residential program to determine if they were rearrested for misdemeanor B or higher offense, rearrested for a violent offense, or reincarcerated. These actual rates are then compared to predicted rates. The method used to determine the predicted rates is similar to actuarial tables used by the health care industry to identify a person's probability of developing heart disease based on characteristics such as blood pressure, smoking, age, and gender; or by the auto insurance industry to identify a driver's probability of being involved in an accident based on age, prior accidents, marital status, and distance from work. Youth assessed with a need for each specialized treatment program were empirically given a predicted probability of recidivating based on identified characteristics or other variables within that group that correlate with recidivism. This predicted rate was then compared to the actual rate of recidivism for youth completing the treatment after statistically controlling for differences.

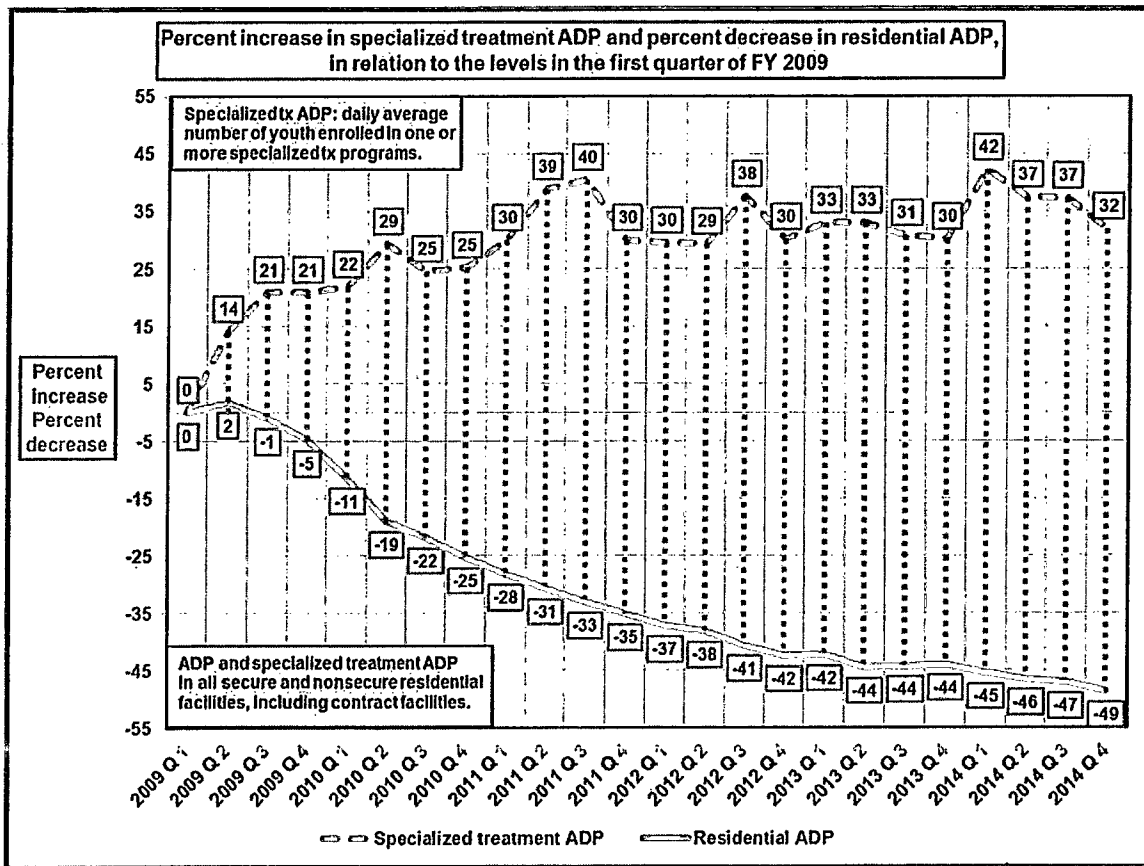
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SPECIALIZED TREATMENT PROGRAM OUTCOMES

SPECIALIZED TREATMENT ENROLLMENT AND COMPLETION:

TABLE A.1 shows that the average daily population (ADP) of state-operated programs has decreased by 49% since FY 2009. However, despite the reduced population, the average daily number of youth enrolled in at least one specialized treatment program has increased 30-40% in FY 2014.

TABLE A.1



The following tables and graphs show the percentage of youth enrolled and percentage of youth successfully completing each specialized treatment type.

TABLE A.2

SBTP	FISCAL YEAR RELEASED							
	2006	2007	2008	2009	2010	2011	2012	2013
PERCENTAGE OF YOUTH WITH NEED ENROLLED IN TREATMENT		47.4 %	68.5 %	78.4 %	88.8 %	98.7 %	99.2 %	100.0 %
PERCENTAGE OF YOUTH WITH NEED SUCCESSFULLY COMPLETING TREATMENT		21.1 %	32.9 %	45.6 %	56.9 %	83.3 %	86.7 %	84.6%

TABLE A.3

CSVOTP	FISCAL YEAR RELEASED							
	2006	2007	2008	2009	2010	2011	2012	2013
PERCENTAGE OF YOUTH WITH NEED ENROLLED IN TREATMENT		11.1%	6.1%	12.8%	33.3%	78.0%	95.9%	98.1%
PERCENTAGE OF YOUTH WITH NEED SUCCESSFULLY COMPLETING TREATMENT		0.0%	2.0%	6.4%	16.0%	68.4%	87.6%	91.8%

TABLE A.4

AOD TREATMENT PROGRAM	FISCAL YEAR RELEASED							
	2006	2007	2008	2009	2010	2011	2012	2013
PERCENTAGE OF YOUTH WITH NEED ENROLLED IN TREATMENT	9.4 %	27.0 %	23.1 %	35.0 %	48.1 %	83.4 %	97.3 %	98.9 %
PERCENTAGE OF YOUTH WITH NEED SUCCESSFULLY COMPLETING TREATMENT	9.4 %	18.4 %	14.2 %	23.3 %	35.3 %	74.6 %	90.7 %	93.5 %

TABLE A.5

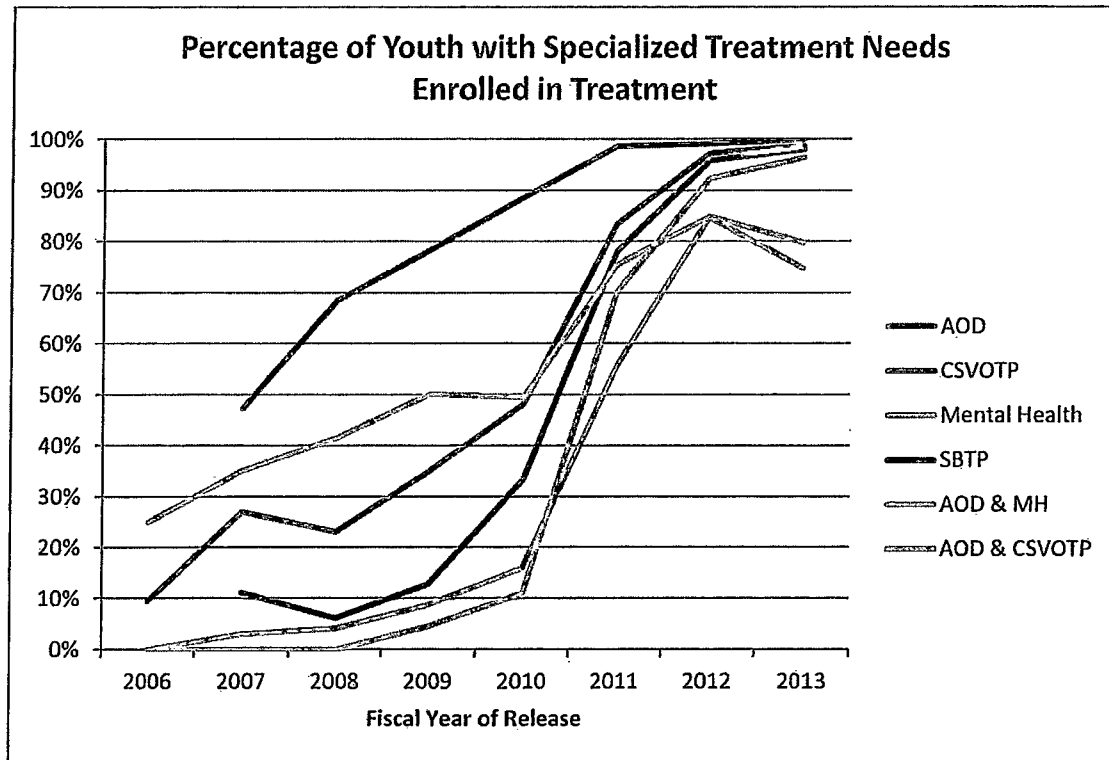
	FISCAL YEAR RELEASED							
MENTAL HEALTH TREATMENT PROGRAM	2006	2007	2008	2009	2010	2011	2012	2013
PERCENTAGE OF YOUTH WITH NEED ENROLLED IN TREATMENT	25.0%	35.1%	41.5%	50.1%	49.5%	75.4%	84.9%	79.9%
PERCENTAGE OF YOUTH WITH NEED SUCCESSFULLY COMPLETING TREATMENT	25.0%	11.2%	10.6%	15.8%	18.7%	37.5%	56.0%	59.1%

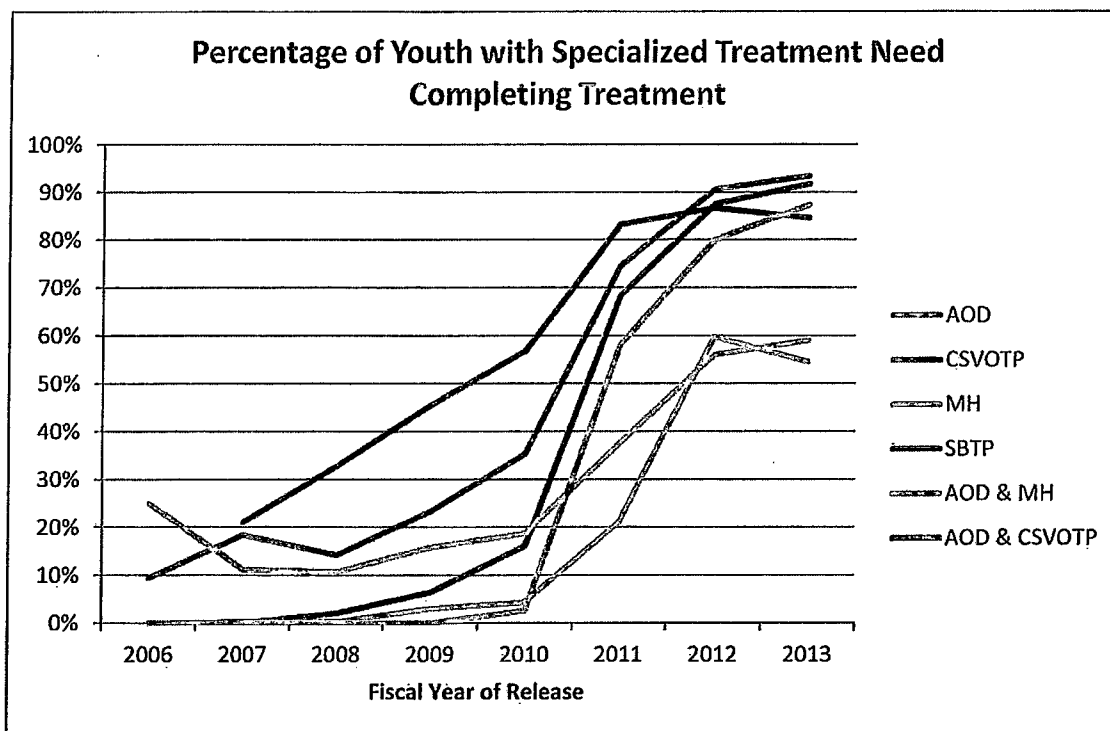
TABLE A.6

YOUTH WITH HIGH/MOD NEED FOR BOTH MH & AOD TREATMENT	#	22	462	488	296	306	123	92	99
YOUTH ENROLLED IN BOTH TREATMENTS	#	0	14	20	26	49	68	78	74
	%	0	3.0%	4.1%	8.8%	16.0%	55.3%	84.8%	74.7%
YOUTH WITH BOTH NEEDS COMPLETING AOD TRT	#	5	71	69	58	98	72	80	88
	%	22.7%	15.4%	14.1%	19.6%	32.0%	58.5%	87.0%	88.9%
YOUTH WITH BOTH NEEDS COMPLETING MH TREATMENT	#	6	45	49	53	64	46	59	56
	%	27.3%	9.7%	10.0%	17.9%	20.9%	37.4%	64.1%	56.6%
YOUTH COMPLETING BOTH TREATMENTS	#	0	1	1	9	13	26	55	54
	%	0.0%	0.2%	0.2%	3.0%	4.2%	21.1%	59.8%	54.5%

TABLE A.7

		FISCAL YEAR RELEASED							
		2006	2007	2008	2009	2010	2011	2012	2013
YOUTH WITH HIGH/MOD NEED FOR BOTH CSVOTP & AOD TREATMENT	#	0	7	32	66	118	287	222	254
YOUTH ENROLLED IN BOTH TREATMENTS	#	0	0	0	3	13	201	205	245
	%	0.0%	0.0%	0.0%	4.5%	11.0%	70.0%	92.3%	96.5%
YOUTH WITH BOTH NEEDS COMPLETING AOD TRT	#	0	1	4	14	41	241	196	237
	%	0.0%	14.3%	12.5%	21.2%	34.8%	84.0%	88.3%	93.3%
YOUTH WITH BOTH NEEDS COMPLETING CSVOTP TREATMENT	#	0	0	1	4	16	191	194	232
	%	0.0%	0.0%	3.1%	6.1%	13.6%	66.6%	87.4%	91.3%
YOUTH COMPLETING BOTH TREATMENTS	#	0	0	0	0	3	167	178	222
	%	0.0%	0.0%	0.0%	0.0%	2.5%	58.2%	80.2%	87.4%





As shown in the tables and charts above, the percentage of youth enrolled in the appropriate specialized treatment program prior to release increased dramatically from 2006 to 2013. By fiscal year 2011, over 75% of youth requiring treatment in each area were enrolled prior to release. The percentage of youth with a high or moderate need enrolled in sexual behavior treatment was over 98 % for youth released 2011-2013, with 100 percent of 2013 releases enrolled. The percentage successfully completing increased to at least 80% starting 2011. The percentage of youth with a high or moderate need for CSVOTP enrolled in and completing treatment increased to over 90% in 2013. The percentage enrolled and completing AOD treatment increased to over 90% by 2012. The percentage of youth with mental health needs enrolled in treatment increased to 80% in 2013, with 59% completing. The percentages of youth with co-occurring specialized treatment needs enrolling in and completing more than one type of specialized treatment have also increased substantially from 2006 to 2013.

As discussed in the Youth Characteristics section of this report, youth enter TJJD with static risk factors that cannot be changed. Many of those risk factors are closely associated with recidivism. Table A.8 shows the characteristics and recidivism rates of youth included in the analysis for this report. For youth released from 2006 to 2013, there has been an overall decline in recidivism on all three measures, despite increases over the same period in some of the risk factors associated with recidivism. The percentage of youth with high risk assessment scores increased every year from 2006 to 2012. In 2013, there was a slight decrease in the percentage of released youth assessed as high risk and a corresponding increase in the percentage assessed as moderate risk. There has also been a noteworthy increase in the severity of committing offenses among TJJD releases. Fewer than 5% of 2006-2007 releases had a high severity committing offense, as compared to over 20% in recent years. This indicates that, overall, youth entering TJJD institutions in recent years have committed more serious and violent offenses.

In addition to increases in risk assessment scores and committing offense severity, there has also been a notable increase in the percentage of TJJD youth with specialized treatment needs (Table A.9). The percentage of releases with at least one specialized treatment need has increased from 82% in 2006-2007 to 95% in 2013, while the percentage with two or more specialized treatment needs has increased from 22% to 47%. This suggests a trend toward a TJJD population with greater and more complicated specialized treatment needs. Despite serving youth with more complex and challenging treatment needs, the agency's recidivism rates have continued to decline steadily in recent years.

YOUTH CHARACTERISTICS BY FISCAL YEAR OF RELEASE
NEW ADMISSIONS ON OR AFTER 9/1/2005, RELEASED BY 9/1/2013
TABLE A.8

		FISCAL YEAR RELEASED							
		2006-2007 ¹	2008	2009	2010	2011	2012	2013	Total
NUMBER OF RELEASES		2275	2234	1540	1386	1071	862	773	10141
RECIDIVISM									
1-YR REARREST RATE	%	50	53	49	47	49	47	44	49
1-YR REARREST RATE (VIOLENT OFFENSE)	%	10	12	11	11	12	10	8	11
1-YR REINCARCERATION RATE	%	13	19	18	16	15	16	15	16
OFFENSE HISTORY³									
THREE OR MORE FELONY OR MISD REFERRALS	%	71	69	67	68	69	70	70	69
TWO OR MORE FELONY OR MISD ADJUDICATIONS	%	68	67	61	64	64	65	67	65
TJJD RISK ASSESSMENT SCORE³									
HIGH	%	1	2	2	3	3	4	3	3
MODERATE	%	56	57	54	57	56	57	58	56
LOW	%	43	41	44	40	40	39	39	41
SEVERITY OF COMMITTING OFFENSE³									
HIGH	%	4	9	16	19	22	22	21	14
MODERATE	%	30	40	35	38	34	39	38	36
LOW	%	67	52	49	43	44	39	41	51
SEX									
FEMALE	%	11	11	7	9	8	9	8	9
MALE	%	89	89	93	91	92	91	93	91
IQ OF LESS THAN 100	%	83	84	83	84	83	85	84	83
PARENTS UNMARRIED, DIVORCED, SEPARATED, OR AT LEAST ONE DECEASED		81	83	83	83	83	83	86	83
ON PROBATION AT COMMITMENT	%	79	76	73	72	72	74	75	75
KNOWN FAMILY HISTORY OF	%	53	51	53	53	46	44	44	50

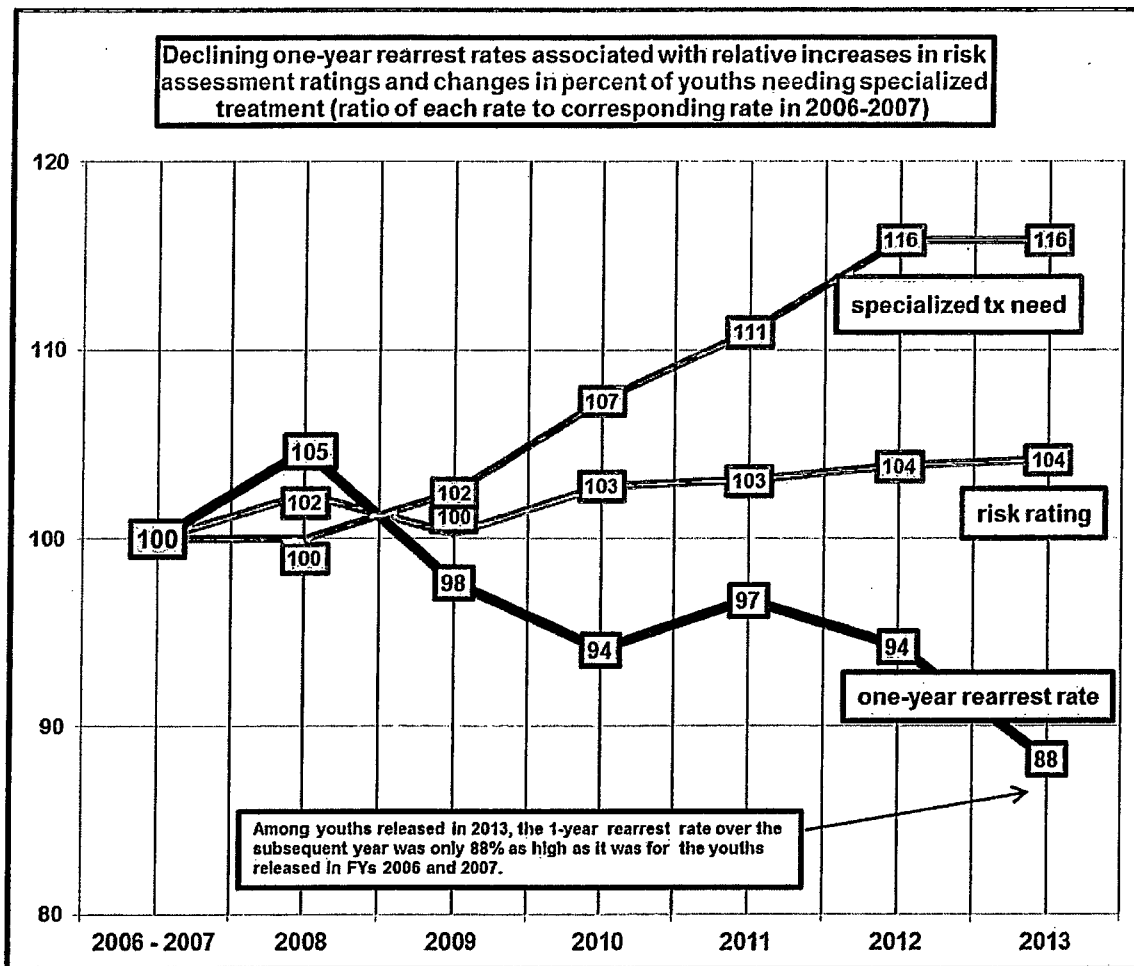
CRIMINAL INVOLVEMENT									
PRIOR OUT OF HOME PLACEMENTS									
AT LEAST ONE PRIOR OUT OF HOME PLACEMENT	%	61	65	60	60	62	65	64	62
THREE OR MORE PRIOR OUT OF HOME PLACEMENTS	%	7	8	6	8	8	11	8	8
NEED FOR TRT BY A LIC OR SPEC TRAINED PROVIDER²									
CAPITAL SERIOUS VIOLENT TRT	%	0	2	7	12	35	34	41	13
SEXUAL BEHAVIOR TRT	%	1	3	8	8	14	15	15	7
ALCOHOL OR OTHER DRUG TRT	%	72	65	66	67	69	72	74	69
MENTAL HEALTH TRT (HI/MOD/LO NEED)	%	31	37	33	41	44	43	45	37
ANY SPECIALIZED TRT NEED	%	82	82	84	88	91	95	95	86
MULTIPLE (2 OR MORE) SPECIALIZED TREATMENT NEEDS	%	22	24	27	32	44	42	47	31
SUSPECTED GANG MEMBER	%	40	48	45	50	52	54	58	48
KNOWN HISTORY OF ABUSE OR NEGLECT	%	33	37	33	39	38	39	39	36
SPECIAL EDUCATION ELIGIBLE	%	39	39	36	36	35	32	30	36
MEDIAN READING ACHIEVEMENT BEHIND ³		4.5 yrs	4.7 yrs	4.9 yrs	4.5 yrs	4.3 yrs	4.3 yrs	4.9 yrs	4.6 yrs
MEDIAN MATH ACHIEVEMENT BEHIND ³		4.7 yrs	5.0 yrs	5.1 yrs	4.9 yrs	4.8 yrs	4.9 yrs	4.9 yrs	4.9 yrs

Note: Percentages exclude missing data.

¹ FY2006-2007 data includes 132 releases in FY2006 and 2143 in FY2007

² Highest level of need identified during commitment.

³ Measures taken at intake.



RECIDIVISM PREDICTORS

For the purposes of this report, recidivism within one year of release is measured in three ways: re-arrest for any offense (felony or misdemeanor A or B), re-arrest for a violent offense, and re-incarceration.

As described in the previous section, youth arrive at TJJD facilities with certain characteristics that cannot be changed (e.g. age at first contact with the juvenile justice system). These characteristics are known as “static risk factors.” Many of these static risk factors have been identified, by TJJD research and prior research, as strong predictors of recidivism. For new admissions fiscal years 2006-2013, released by the end of fiscal year 2013, the following characteristics were identified as strong predictors of re-arrest:

- ▣ Age at First Referral
- ▣ Number of Felony or Misdemeanor Referrals
- ▣ Race
- ▣ Gender
- ▣ Prior Placements
- ▣ Suspected Gang Membership
- ▣ Specialized Treatment Need

For re-incarceration, special education eligibility was also a significant predictor, while gender and specialized treatment need were not. These static risk factors were used to predict the probability of recidivism among releases in fiscal years 2006-2013, and to isolate the effect of TJJD's specialized treatment programs on recidivism.

RECIDIVISM BY SPECIALIZED TREATMENT PROGRAM COMPLETION

As described in the following sections, the specialized treatment provided to youth in TJJD residential facilities mitigates the risk of recidivism. Statistically significant² reductions in the likelihood of re-offense were evident for treated youth in all four specialized treatment areas, as well as for youth who participated in mentoring programs, attained a GED or high school diploma, or earned a vocational certification. The positive effects of specialized treatment persist even when controlling for specialized treatment need and the static risk factors described above.

As shown in **TABLE A.9** below, successful completers of any high or moderate intensity specialized treatment program recidivated at a lower rate than expected. Within the sample of 3,956 treated youth, the predicted rate of re-arrest (felony or misdemeanor A or B) within one year was 52.2%, whereas the actual rate of re-arrest was only 48.8%. There was also a statistically significant decrease in one-year incarceration rates for youth completing any specialized treatment program. Though the expected one-year re-incarceration rate was 17.8%, only 15.5% of youth completing a specialized treatment program were re-incarcerated within one year of release.

TABLE A.9

One-Year Recidivism Rates		
Completion of ANY High/Moderate Intensity Specialized Treatment Program		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Treatment	3956	52.2%
Actual	3956	48.8%

Improved outcomes for youth are also apparent when each of the specialized treatment programs is examined individually. The sections to follow describe the reductions in recidivism attributable to TJJD's

² All results described as statistically significant have a p value of .05 or less.

mental health, sexual behavior, capital and serious violent offender, and alcohol and other drug treatment programs.

MENTAL HEALTH TREATMENT PROGRAM

Successful completion of TJJD's mental health treatment program significantly reduces the likelihood of re-arrest within one year. The actual re-arrest rate for youth successfully completing high or moderate intensity mental health treatment is nearly four percent lower than the predicted rate for these youth had they not been treated (TABLE A.10).

TABLE A.10

One-Year Recidivism Rates Completion of High/Moderate Intensity Mental Health Treatment		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Treatment	961	49.3%
Actual	961	45.4%

SEXUAL BEHAVIOR TREATMENT PROGRAM

The actual re-arrest rates for completers of TJJD's sexual behavior treatment program are significantly lower than predicted. As shown below in TABLE A.11, the actual rate of re-arrest within one year is 25.2%, as compared to a predicted rate of 36.2%. In addition, the actual rate of re-arrest for a violent offense (4.3%) is only half of the rate predicted if these youth had not received treatment (8.6%).

TABLE A.11

One-Year Recidivism Rates Completion of High/Moderate Intensity Sexual Behavior Treatment Program		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Treatment	576	36.2%
Actual	576	25.2%

CAPITAL & SERIOUS VIOLENT OFFENDER TREATMENT PROGRAM (CSVOTP)

Recidivism rates were drastically lower than predicted for youth completing high-intensity C&SVOTP. Whereas the predicted re-arrest rate was nearly 40%, less than 20% were actually re-arrest within one year (TABLE A.12). Though the sample size is small (62 youth), these results are statistically significant.

TABLE A.12

One-Year Recidivism Rates Completion of High Intensity Capital/Serious Violent Offender Treatment		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Treatment	62	39.7%
Actual	62	19.4%

ALCOHOL AND OTHER DRUG TREATMENT PROGRAMS (AOD)

Of the 1,292 youth in the study sample who completed a moderate intensity AOD treatment program, 51.3% were re-arrested within one year. The difference between this rate and the predicated rate of 54.4% (shown in TABLE A.13), is statistically significant.

TABLE A.13

One-Year Recidivism Rates Completion of Moderate Intensity Alcohol/Other Drug Treatment		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Treatment	1292	54.4%
Actual	1292	51.3%

FEMALE OFFENDER PROGRAM

All general and specialized treatment services have been modified, as necessary, to provide gender responsivity in all programming for the female youth. Female offenders have access to all needed specialized treatments, to include: Alcohol or Other Drug, Sexual Behavior Treatment, Capital and Serious Violent Offender Treatment, Trauma Focused-Cognitive Behavioral Therapy, Aggression Replacement Training®, Trauma Resolution groups, Pairing Achievement with Service (PAWS), and Girls Circle. All programs are provided by appropriately licensed clinicians or trained staff. The Girls Circle, an evidence-based program, is a structured support group that focuses discussion on gender-specific topics designed to promote resiliency and self-esteem. The PAWS program uses canines from the local animal shelter to teach empathy and responsibility and supports the community by providing a well-trained dog to a new owner.

The table below reveals that, on the whole, female youth re-offend at lower rates overall than males, at a statistically significant level. This data indicates that the overall re-arrest rate for girls is 31.3%, with the re-arrest rate for violent offenses being extremely low at 4.28%.

TABLE A.14

NEW ADMISSIONS 2/1/09, RELEASED BY 9/1/13

RECIDIVISM BY GENDER

	Female	Male
Number of Releases	259	2811
1-Year Rearrest (Misd B or Higher)	31.13%	50.27%***
1-Year Rearrest for Violent Offense	4.28%	11.01%***
1-Year Reincarceration	16.22%	15.90%

***Statistically significant difference $p < .001$

As shown in the table below, recidivism rates vary widely among females with different treatment needs. Nearly 40% of females receiving only AOD treatment were rearrested within one year, as compared to 23% of females receiving only mental health treatment. One-year reincarceration rates were also lowest among females receiving only mental health treatment – less than 10% were re-incarcerated, as compared

to 22% of females receiving both mental health and AOD treatment. Violent rearrest rates, low for females overall, were lowest among those receiving both AOD and mental health treatment and highest among those receiving mental health treatment alone (1.5% vs 11.5%).

TABLE A.15

NEW ADMISSIONS 2/1/09, RELEASED BY 9/1/13

RECIDIVISM BY IN AOD/MENTAL HEALTH TREATMENT

IN HI/MOD AOD TRT	IN HI/MOD MH TRT	Count		Percent
NO	NO	62	1-YR REARREST	29
			1-YR REARREST VIOLENT OFF	3.2
			1-YR REINCARCERATION	21
	YES	52	1-YR REARREST	23.1
			1-YR REARREST VIOLENT OFF	11.5
			1-YR REINCARCERATION	9.6
	Subtotal	114	1-YR REARREST	26.3
			1-YR REARREST VIOLENT OFF	7
			1-YR REINCARCERATION	15.8
YES	NO	78	1-YR REARREST	39.5
			1-YR REARREST VIOLENT OFF	2.6
			1-YR REINCARCERATION	11.8
	YES	67	1-YR REARREST	29.9
			1-YR REARREST VIOLENT OFF	1.5
			1-YR REINCARCERATION	22.4
	Subtotal	145	1-YR REARREST	35
			1-YR REARREST VIOLENT OFF	2.1
			1-YR REINCARCERATION	16.8

Note - Recidivism Information missing for 2 youth. Percentages are of non-missing data.

RELATED PROGRAMS AND SERVICES

TJJD focuses on an integrated approach to treatment and intervention. When reviewing the characteristics of youth committed to TJJD, one can see they present with many different but interrelated needs. These include education, transition and re-entry services, and family involvement and support. Although this report focuses primarily on rehabilitation and treatment services, it is important to remember that treatment outcomes are influenced by factors greater than any one program alone. For example, a youth may perform well in the sexual behavior treatment program, but his successful outcome will depend not just on what he learned in a specialized treatment program, but also on variables such as his ability to obtain a high school diploma or GED and find employment. Thoughtful reintegration into the community is also essential and relevant. If youth transition into community environments that do not support treatment gains, the likelihood of maintaining and using treatment skills is diminished. Information on related programs and services is provided below.

EDUCATIONAL PROGRAM

During FY2014, the TJJD Education division focused on numerous interventions that align with core principles for reducing recidivism and improving youth outcomes. The division sustained its use of Positive Behavioral Interventions and Supports (PBIS), a proven framework that uses behavioral data for individual and targeted group student interventions, as well as system-wide improvements. The division also sustained its investment in building relational capacity through the Capturing Kids' Hearts program. A significant focus involved the use of the Facility-wide Evaluation Tool (FET) and Quick Visit Tool (QVT) to monitor fidelity of PBIS and Capturing Kids' Hearts program implementation, respectively. New hires were trained in each program as part of their on-boarding process. The agency also used an in-house database to capture "minor" behavioral incident data in a manner that local Professional Learning Communities (PLCs) comprised of teachers and administrators could use to design effective interventions. Additionally, Central Office support personnel researched additional secondary and tertiary interventions for youth who fail to respond appropriately to Universal interventions, and developed new processes for Educators to begin using them.

During the current school year, master schedules have included Aggression Replacement Therapy (ART), a proven targeted group, secondary intervention for youth with behavioral problems in schools. Coordination between treatment and school personnel to address student needs increases useful collaboration that better addresses an integrated, holistic view of each youth.

Multi-tiered intervention systems inherently monitor youth progress in response to interventions provided, and offer more intensive, individualized supports for youth who fail to respond well to previous interventions. TJJD Education uses multi-tiered intervention systems not only in the PBIS system, but also in its Response to Intervention program that monitors academic progress and its specialized Reading program for struggling readers. The concept of increasingly intensive and individualized supports parallels to some degree the important treatment concept of the Risk-Needs-Responsivity Principle. In both approaches, the intensity of supports provided matches the risks and needs presented by the individual youth.

Career Academies mark a new developmentally appropriate vocational opportunity implemented to further enrich the vocational skill development of youth who have earned their high school diploma or GED while in our secure facilities. Career Academies offer a unique opportunity for students to concentrate on vocational/employment skills development and to earn industry certifications. Accepted students can spend up to 6 hours in the Academy, time which is spent working in their designated shop area, preparing for certification exams, engaging in academic supports, attending college class, or learning and modeling employability and independent living skills. In addition, Saturday Career

Enhancement programs are available twice each month at every institution for students who qualify to participate.

FUTURE FOCUS

The coming school year will see increased focus on development of monitoring instruments to ensure fidelity within Career Academies, as well as a greater focus on data integrity and development of internal controls that support data-based driven decision making for system improvements. TJJD is also exploring ways to create more dual credit opportunities and possible articulation agreements with vocational entities in Texas.

Educational Program Outcomes

POSITIVE YOUTH DEVELOPMENT

Education measures below reflect performance for FY 2014. Included are four agency performance measures with 5 year trends, a school attendance measure, industrial certification measures, and a measure for post- secondary success rates in college courses. Data reflect the performance of all students enrolled during the period.

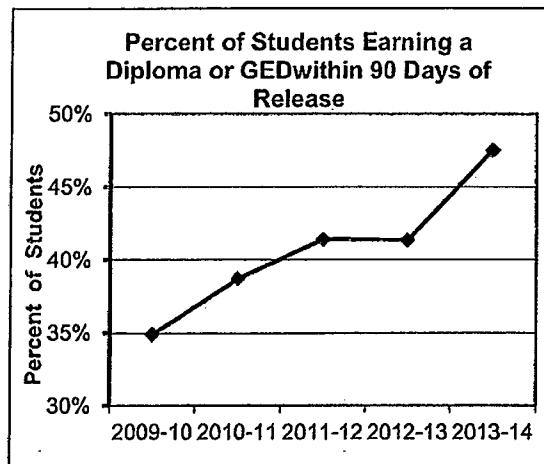
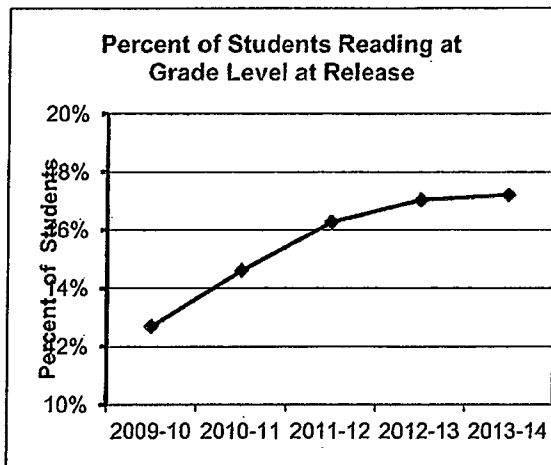
DIPLOMA OR GED RATE

47.51% of youth age 16 or older earned a high school diploma or GED within 90 days of release from a TJJD institution. The percentage increased from 34.9% in FY 2010.

	2009-10	2010-11	2011-12	2012-13	2013-14
Percent of Students Age 16+ Earning a Diploma or GED within 90 Days of Release	34.90%	38.72%	41.43%	41.37%	47.51%
Percent of Students Reading at Grade Level at Release	12.70%	14.61%	16.27%	17.04%	17.21%

READING AT GRADE LEVEL AT RELEASE

17.21% of youth were reading at grade level at the time of their release. The percentage increased from 12.7% in FY 2010.



CAREER ACADEMIES

Career Academies are aligned with national and state career clusters made up of courses that create a clear pathway to industry certification and/or a college degree. TJJD currently operates five Career Academy tracks within its schools. Career Academy opportunities are available for both male and female students.

Current career academy tracks, their associated career clusters and industry certifications are:

CAREER ACADEMY TRACK	CAREER CLUSTER	INDUSTRY CERTIFICATION
Technology	Business Management & Administration	MOS – Microsoft Office Specialist
	Arts, A/V Technology & Communications	ADOBE - Photoshop, InDesign, Dreamweaver, and Illustrator
	Arts, A/V Technology & Communications	NA
	Information Technology	A+ - CompTIA
	Information Technology	C-Tech – Network Cabling
Construction	Architecture & Construction	NCCER - National Center for Construction Education Research
Culinary Arts	Hospitality & Tourism	ServSafe - The ServSafe Food Handler Program
Transportation	Transportation, Distribution & Logistics	ASE – Automotive Service Excellence I-CAR – Collision & Repair

AVERAGE DAILY ATTENDANCE RATE

98.7% of enrolled youth attended school daily as measured by protocols approved by the Texas Education Agency for student attendance accounting. The attendance rate has been highly consistent over time, and was 98.6% in FY 2010.

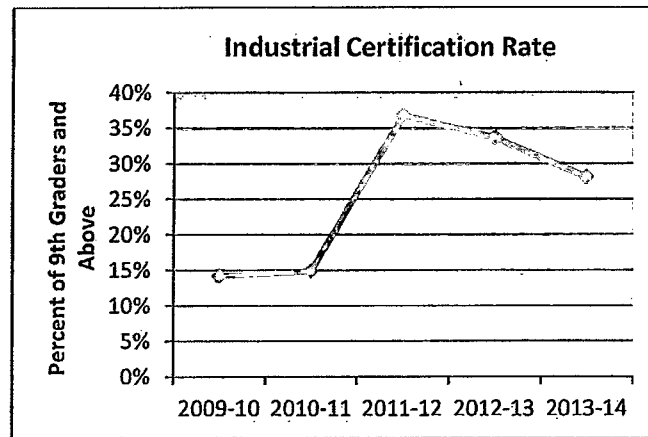
INDUSTRIAL CERTIFICATIONS

During FY 2014, 314 industrial certifications were earned by 1331 youth enrolled in career technology courses. This compares to 578 industrial certifications earned by 2107 youth enrolled in career technology courses during FY 2010.

INDUSTRIAL CERTIFICATION RATE

During FY 2014, the percent of students enrolled in 9th grade or above who earned an industry certificate was 28.08%. The certification rate increased from 14.21% during FY2010 and peaked in FY2012 at 36.85%, helped by full staffing. Paradoxically, the recent creation of Career Academies will decrease the industrial certification rate. Career Academies offer post-graduation opportunities for older students to develop expertise along a career path, thereby improving their chances for successful re-entry to the community. Available CTE instructional hours are capped by the number of CTE teachers available. Since post-graduate youth spend more time and use a relatively higher share of available CTE instructional hours in Career Academies, the total number of post-graduate and non-graduate students enrolled in CTE courses will decrease. If additional CTE teachers were available, CTE instructional time for students who have not yet earned their diploma or GED would increase, as would the industrial certification rate.

	2009-10	2010-11	2011-12	2012-13	2013-14
Industrial Certification Rate	14.21%	14.89%	36.85%	33.64%	28.08%



COLLEGE COURSE ENROLLMENTS AND COURSE COMPLETIONS (PASSED)

During the 2013-14 school year, 103 students completed 612 college courses for dual high school credit or straight college credit. This compares to the 2010-11 school year when 89 students completed 133 college courses for dual high school credit or straight college credit.

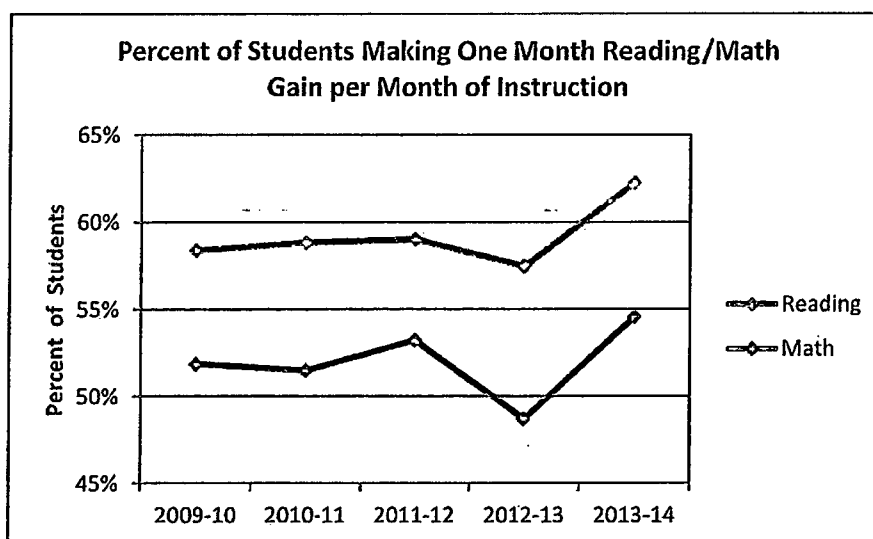
READING GAIN PER MONTH OF INSTRUCTION

62.29% of youth gained at least one month's reading skills per month of instruction. The percentage increased from 58.39% in FY 2010.

MATH GAIN PER MONTH OF INSTRUCTION

54.60% of youth gained at least an average of one month's math skills per month of instruction. The percentage increased from 51.88% in FY 2010.

	2009-10	2010-11	2011-12	2012-13	2013-14
Percent of Students Making One Month Reading Gain per Month of Instruction	58.39%	58.85%	59.04%	57.47%	62.29%
Percent of Students Making One Month Math Gain per Month of Instruction	51.88%	51.51%	53.26%	48.71%	54.60%



IMPACT ON RECIDIVISM

Results are consistent with national studies that show the positive impact of educational achievement on incarceration and recidivism. TJJD's recidivism analysis indicates a significant reduction (3.9 percentage point) in the likelihood of re-arrest for students who had earned a diploma or GED. In addition, students who had earned vocational certification were found to be significantly less likely (5.6 percentage points) to be re-arrested within one year. Finally, students who qualified for special education services were significantly more likely to be re-incarcerated than were students ineligible for special education. The finding calls into question the effectiveness of supports available to youth who qualify for special education after re-entry to their home community.

One-Year Recidivism Rates		
GED or High School Diploma Attained Within 90 Days of Release		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No GED/HS Diploma	4085	49.4%
Actual	4085	45.5%

One-Year Recidivism Rates		
Vocational Certification Attainment		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Certification	841	48.9%
Actual	841	43.3%

Note - TJJD records for vocational certifications began in 2010.

MENTORING AND VOLUNTEER SERVICES

The agency engages community volunteers as mentors to work with our youth who are in secure facilities, halfway houses, and on parole. The goal of mentoring is for an older, mature adult to establish a trusting relationship with a carefully matched youth, and to visit that youth consistently for a minimum of four hours monthly and a minimum duration of six months. The agency has invested dedicated personnel to the tasks of recruiting, screening, supervising, and supporting quality mentors. Mentors are provided continuing education to equip them to address the most challenging youth. Since 1997, over 3300 TJJD youth have been matched with mentors. In 2014 alone, 316 youth were matched with a mentor in TJJD residential facilities and on parole.

Mentoring Program Outcomes:

The tables below illustrate the relationship between mentoring and improved outcomes for our youth. As shown in table A.16, youth with mentoring relationships in TJJD facilities earn GEDs or high school diplomas at higher rates than youth without mentoring relationships. In addition, a higher proportion of youth with mentoring relationships are reading at grade level upon release from a TJJD facility (TABLE A.16).

TABLE A.16
NEW ADMISSIONS AFTER 2/1/2009, RELEASED BY 9/1/2013
AT LEAST 16 YEARS OLD AT RELEASE
HIGH SCHOOL DIPLOMA OR GED WITHIN 90 DAYS OF RELEASE

			FISCAL YEAR OF RELEASE			
			2010	2011	2012	2013
MENTORING	GED/HS DIPLOMA					
NO	YES	%	38.4	47.4	48.8	48.8
YES	YES	%	43.3	48.8	48.3	56.8

TABLE A.17
NEW ADMISSIONS AFTER 2/1/2009, RELEASED BY 9/1/2013
AT LEAST 16 YEARS OLD AT RELEASE
READING AT GRADE LVL AT RELEASE

			FISCAL YEAR OF RELEASE			
			2010	2011	2012	2013
MENTORING	READING AT GRADE LVL					
NO	YES	%	7.7	10.7	15.7	16
YES	YES	%	11.7	11.4	18.4	18.8

Youth who participated in mentoring programs also showed improved recidivism outcomes. The one-year rearrest rate among youth matched with a mentor since 2009 was 39.9%, significantly below the predicted rate of 44.4% for these youth had they not participated in a mentoring program.

TABLE A.1

One-Year Recidivism Rates		
Participation in Mentoring Program		
	Sample Size	Rearrest - Felony or Misdemeanor
Predicted if No Mentor	579	44.4%
Actual	579	39.9%

Note - Includes youth matched with a mentor in fy 2009 or later.

MEDICAL SERVICES

TJJD implements an integrated, holistic, and evidence-based treatment approach with youth to promote health and well-being. The University of Texas Medical Branch – Correctional Managed Care (UTMB-CMC) provides comprehensive medical, dental, psychiatric, and pharmacy services for youth at all agency-operated secure facilities and halfway houses; emergency and specialty services are provided via subcontracts with hospitals, urgent care centers, and health care specialists. UTMB-CMC provides primary health care and psychiatric care for youth on-site at each secure facility; onsite services are provided through face-to-face encounters or through the effective use of telemedicine and tele-psychiatry at institutions and halfway houses to promote timely, efficient, and cost effective access to health care.

The agency's medical division, under the leadership of the medical and nursing directors, collaborates with UTMB-CMC and other TJJD departments in planning for comprehensive health care delivery, quality improvement initiatives, and health care oversight. Efforts in FY 2014 to improve program outcomes include the establishment of facility profiles which provide pertinent outcome information via a quarterly report submitted to secure facility and agency leadership.

Procedures designed to elicit feedback from case management and education staff have further promoted mental health treatment integration and individualized care.

Other initiatives include the development and implementation of procedures to promote effective communication and continuity of care for youth committed to a state-operated facility from a county

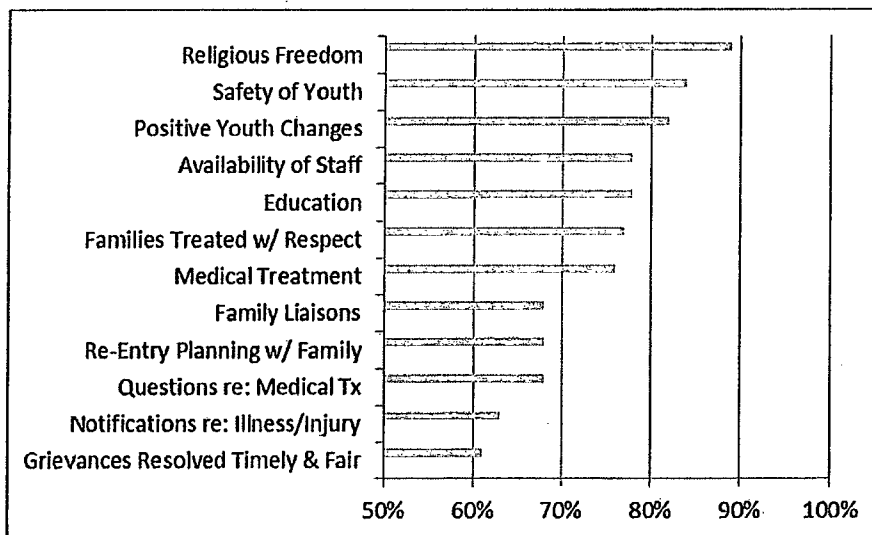
detention facility. Coordination with TDCJ and TCOOMMI prior to youth release has also resulted in improved continuity of care and transition planning for youth.

FAMILY INVOLVEMENT

Family Satisfaction Survey Results:

Youth placed in the juvenile justice system can increase their chances of a successful re-entry to their homes, schools and communities by having their families involved in their treatment and education plans. TJJD encourages families to get involved in their child's rehabilitation by inviting them to participate in regularly scheduled campus activities such as Family Days, multi-disciplinary team meetings, family seminars, week-end visitations, web-based family reunification, and the on-line Family Satisfaction Survey.

Results from the 2014 satisfaction survey give the agency feedback on how it's doing in providing services in various areas such as education, case management, medical treatment, and safety. The following bar graph summarizes the overall satisfaction ratings of the 12 evaluative questions:



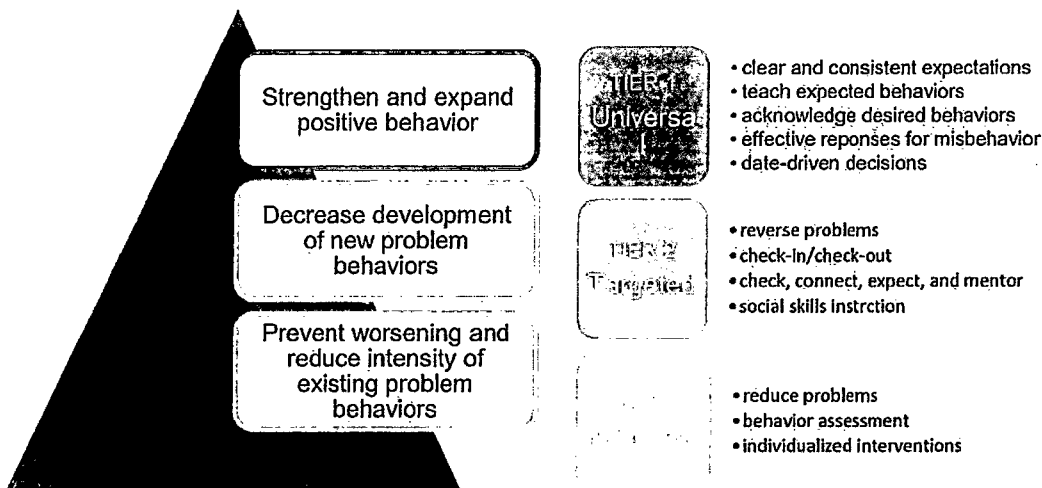
The most favorable responses were regarding religious freedom, safety of youth and positive youth changes. Seven questions showed a marked improvement in overall satisfaction from the 2012 survey results. The question showing the greatest improvement regarded notifications when a youth is sick or injured. The two questions that showed a decrease in overall satisfaction related to families feeling respected and youth receiving proper medical treatment.

In early 2015 the agency plans to begin an analysis of the impact of family involvement on recidivism, with a specific emphasis on family visitation. Agency staff has begun talks of a research partnership with experts at Sam Houston University.

POSITIVE BEHAVIOR INTERVENTION AND SUPPORTS (PBIS)

Positive Behavior Intervention and Supports (PBIS) is a conceptual framework for developing positive, proactive systems of support for desired youth behavior. The goal of PBIS systems is to minimize behavioral difficulties while teaching and enhancing prosocial, adaptive behavior through preventive systems change, rapid response to early signs of behavioral needs, and intense, long-term supports for high need individuals. PBIS is conceptualized around a 3-tier model of prevention/intervention originally based on a logic model from the public health/disease prevention and control sector. The method applies tiers of interventions to target populations and monitors responses to these interventions to measure effectiveness.

POSITIVE BEHAVIORAL INTERVENTION & SUPPORTS (PBIS) MODEL
FIGURE 2



- Texas State University is currently providing consultation to the State Programs and Facilities Division of TJJD in the form of a research project to evaluate the efficacy of extending the Positive Behavior Intervention and Support (PBIS) model facility-wide. This research project will be piloted in two secure facilities and evaluated before being implemented agency-wide. PBIS has already been implemented in the Education programs in TJJD's secure facilities since 2010. TJJD will also be pursuing a contractual agreement with Texas State University to provide onsite training of TJJD's PBIS Coordinator and the secure facility dorm-based management teams to ensure implementation fidelity of the behavior management model.
- To further support the Division of Education's on-going implementation of the PBIS initiative, and to assist in PBIS implementation to facility dorm life, TJJD utilizes services provided by staff and graduate students from Texas State University. Resources include evidence based research on best practices, implementation action plans, a Facility-wide Evaluation Tool (FET) and specialized training for TJJD Staff.
- Dr. Michael Nelson provides additional program design and implementation technical assistance for the agency's PBIS initiative, which is designed to complement the mandated reading program above.

- The agency's rehabilitative strategy includes a behavior component based upon the Positive Behavioral Interventions & Supports (PBIS) model and addresses treating the "whole child." The rehabilitative strategy includes not only treatment programs, but also education, vocational training, medical care, skills building programs, case management with service continuity, family involvement, community re-entry planning, and re-integration assistance. Services are matched to individual youth assessed needs in a way that increases staff responsiveness to the youth's characteristics. Treatment resources focus on the youth who are at the highest risk to reoffend, providing them with the appropriate length and intensity of treatment using proven interventions. The strategy emphasizes general rehabilitative and specialized treatment programs, leisure skill building groups, greater family involvement, education and vocational training, a multidisciplinary and case planning team, and a progressive system from entry to parole. A multidisciplinary team comprised of the youth's case manager, an assigned educator, and JCOs who work with the youth on a regular basis, the youth, and the youth's parent/guardian meet regularly to assess the youth's progress, determine next steps, and develop a re-entry plan. As youth near completion of their minimum lengths of stay, case managers, parole officers, youth, and their parents or guardians formalize individualized Community Re-entry Plans for transition. These plans include the elements required for the youth to be successful upon return to the community. Medical input is also provided to ensure any medical issues are properly addressed in daily living and in case planning.

PBIS PILOT AND IMPLEMENTATION AT RON JACKSON STATE JUVENILE CORRECTIONAL COMPLEX

The Ron Jackson State Juvenile Correctional Complex was selected as the first implementation site. A facility PBIS team has been formed, and meets regularly. Implementation began June 9, 2014 on the Success dorm, across all three shifts. Implementation on Hope, Pride, and Challenge dorms began September 8, 2014.

UNIVERSAL PBIS COMPONENTS BEING IMPLEMENTED

To date, implementation is fully aligned with the PBIS model as conceptualized by the National PBIS Technical Assistance Center (National PBIS Technical Assistance Center, 2010). The components being implemented include:

- Facility PBIS leadership team
- Youth rules matrix
- Staff expectations matrix
- Structured lessons for teaching rules
- Environmental enhancement activities
- Positive verbal acknowledgements and Cougar Cash system for acknowledging correct youth behavior
- Consequence hierarchy for responding to minor rule violations

Initial Evidence of Impact of PBIS

Evaluating PBIS typically involves monitoring of at least two areas: fidelity of implementation, and changes in youth behavior.

To evaluate implementation, Texas State University consultant Dr. Scheuermann and one additional PBIS coach make regular visits to the Ron Jackson facility to observe, provide feedback, and make recommendations. Structured observation tools are used to record evidence of correct implementation of PBIS activities. Dr. Scheuermann shares results of those observations with dorm supervisors and the PBIS Coordinator, and makes recommendations for strengthening fidelity of PBIS implementation. At the end of the first month of implementation, Success dorm data indicate the following:

REDUCTIONS IN DISCIPLINARY INCIDENTS:

- 34% reduction in total number of disciplinary incidents (major and minor)
- 67% reduction in assault with bodily injury against staff
- 67% reduction in assault with no bodily injury against staff

REDUCTION IN DISCIPLINARY ACTIONS:

- 53% reduction in incidents involving use of force
- 100% reduction in use of mechanical restraints
- Each of the following categories had 0 incidents pre- and during PBIS: use of chemical agent, fighting with bodily injury, fighting with no bodily injury

CHANGES IN INCIDENTS ACROSS TIME PERIODS:

- Decreases in incidents during time periods: 12:01 am – 2:00; 2:01 pm – 4:00; 6:01 pm – 8:00; 8:01 pm – 10:00; 10:01 pm – 12:00
- No change in incidents during time periods: 2:01 am – 4:00; 8:01 am – 10:00
- Increases in incidents during time periods: 4:01 am – 6:00; 6:01 am – 8:00; 10:01 am – 12:00; 12:00 pm – 2:00

INDIVIDUAL YOUTH DATA:

- 53% of youth on Success dorm (10/19) had fewer disciplinary incidents after PBIS was initiated (all of those reflected reductions of 25% or higher).

Informal data indicate a high level of staff acceptance of and responsiveness to PBIS. In fact, because of positive comments about PBIS made by staff in dorms where PBIS is being implemented, other dorm staff have asked to begin PBIS. Staff response during trainings has been largely very positive, with staff acknowledging the need for practical, positive, and effective tools for dealing with youth behavior. The vast majority of staff who have been trained in PBIS have provided constructive input, and good ideas for applying PBIS in their work environments and activities.

Of course, these are very preliminary data only, and represent only a limited exposure to PBIS. Caution against over-generalizing results is recommended. However, these preliminary data indicate the potential for positive effects on youth behavior. TJJD will continue to monitor impact of PBIS across multiple variables, including:

IMPACT ON YOUTH:

- Disciplinary incidents
- Disciplinary actions

- Impact on individual youth, particularly high-needs youth
- Youth self-injury
- Youth grievances

IMPACT ON STAFF/CLIMATE:

- Staff absences
- Staff injuries caused by youth
- Staff turnover

FIDELITY OF IMPLEMENTATION

SOCIAL VALIDITY (STAFF ACCEPTANCE)

HOGG FOUNDATION INTERNSHIP GRANT

In 2011, the Department was awarded a large grant from the Hogg Foundation for Mental Health in order to establish and seek accreditation for a pre-doctoral psychology internship. The Internship provides an opportunity for doctoral students to gain professional practice experience within the correctional and forensic environment while also providing the agency access to well-trained early career psychological staff who may choose to continue employment with the agency after graduation.

In the three years since its inception, the grant assisted the agency in filling eleven hard to fill positions. Nine interns remained to complete a postdoctoral residency and were hired into full-time employment, remaining in their post for between one and three years. Four current interns will be in TJJD funded positions the rest of the fiscal year, and four more will be identified by February, 2015.

The internship program is required to provide weekly didactic training sessions for the interns, but these sessions also provide for enhanced, high quality professional education for psychology and other treatment staff.

The Hogg grant allowed TJJD to apply for accreditation with the American Psychological Association. The initial self-study for this project was submitted to the APA in June of 2014. Requested revisions were made on the document, and it was resubmitted in December, 2014. Once the document is accepted by the APA, TJJD will undergo a site visit which will finalize approval for accreditation. It is believed that accreditation by APA provides the agency greater access to top level applicants for the internship.

RE-ENTRY

The primary focus of reentry is to transition youth to the community from a secure facility with the skills needed to be a successful contributing member of society. Utilizing the halfway house as a step-down program in the transition process has proven very successful. Since 2009, youth who transitioned from secure facilities to halfway houses had a lower 1-year re-arrest rate than those who were released from a secure facility directly to a parole location. In 2012, the 1-year re-arrest rate for youth who transitioned to a halfway house was 44.7%, while the rate for youth released directly to a parole location was 58.6%. The step-down program provides youth in a halfway house the opportunity to field test the skills they have acquired prior to placement at home on parole.

TJJD provides a continuum of care for all youth that begins at the Orientation and Assessment Unit and continues through their residential placements and on to parole. Specialized treatment is available in secure facilities and halfway houses with aftercare service available in halfway houses and parole locations. TJJD operates eight halfway houses. Several of the halfway houses operate specialized programs. Willoughby House serves as the Mental Health transition program, Brownwood House serves the female population and York House serves youth who have had their parole revoked and youth with multiple release extensions. All halfway houses with the exception of York House may serve youth initially placed from the Orientation and Assessment Unit, youth transitioning prior to the completion of their MLOS, and youth transitioning as a result of the release review panel decision to release to parole.

TJJD's continuum-of-care serves three primary customers: the youth, his or her family, and the community. TJJD provides ongoing activities to youth in residential settings and upon returning to their communities. Services are provided by volunteers and faith-based programs. Victim impact panels are offered to share with youth the impact of their crime on victims and the community. Parole Services administers and directs programming and activities related to parole supervision and surveillance, family preservation and re-unification, encourages and promotes youths' involvement in constructive activities, and provides liaison activities related to sex offender registration. TJJD develops innovative initiatives and programs along with policies, programming, and operations designed to improve outcomes for youth as they re-enter their communities.

CONDITIONAL PLACEMENT

In April 2014, the agency made a revision to current policy to facilitate increased flexibility in moving youth out of high restriction facilities. The policy revision, which supports the Risk-Need-Responsivity model, allows for making conditional placements on a trial basis at lesser restrictive placements for some youth who have not met program completion requirements to go home and who are not eligible to go to medium restriction facilities by traditional policy avenues. The targeted audience for this policy change is twofold: (1) youth who, by policy, required placement in high restriction but have done so well since placement that the agency staff support movement to a home or home substitute prior to the typical time allowed for that movement; and (2) youth who have completed their original minimum length of stay assigned by policy and who have such complex treatment and re-integration issues that a more slow and creative re-integration plan is warranted. These youth might require placement out-of-home in a nontraditional placement setting. Youth who are moved out of high restriction under this Conditional Placement policy are tracked using a specific code for their movement. This will enable the agency to determine the effectiveness of this policy and the implications for its use in the future.

YOUTHFUL OFFENDER PROGRAM

A growing need was identified within the agency and from external stakeholders in 2014 to provide a program specific to youthful offenders (ages 10-13/14) within TJJD. The agency is required to accept any youth age 10 to 18 that is lawfully committed. On October 17, 2014, TJJD began the Youthful Offender Program for male youth ages 10-13/14 housed on a single housing unit, at the Ron Jackson State Juvenile Correctional Complex, in Brownwood, Texas. The program provides an evidence-based best practice curriculum for approximately 20 youth, and allows young boys to interact and socialize in a lighter, more therapeutic environment. It also provides the same specialized treatment services available to all youth including: mental health, sexual behavior, anger management, and alcohol or other drugs.

The Ron Jackson facility currently has certified teachers to meet the needs of the additional Youth Offender males. Teachers provide education materials and subjects that are both age and developmentally appropriate. Depending upon the educational needs of youth in the program, the boys in the youthful offender program attend classes with girls in their same grade level during school hours. Doing so provides a developmentally appropriate educational setting while maximizing educational staffing resources. Enhanced juvenile correctional officer presence in the classroom is provided when co-educational classes are held.

Ron Jackson selected a dorm setting for all the youthful population. The youthful offenders are assigned to Courage dorm. This dorm is configured with 2 "wings" which have 20 individual youth rooms on each wing. The dorm can have up to 12 orientation youthful offenders on one "wing" and up to 18 long-term youthful offenders assigned to the other "wing." The youthful offender dorm maintains a staffing pattern of one staff for every eight youth assigned to the dorm (1:8 ratio) during waking hours. Courage dorm will also have a dog living on the dorm through the Pairing Achievement with Service (PAWS) program. The TJJD therapeutic approach involves connecting youth with positive social forces and assets, drawing on community resources to engage youth, and engaging youth in pro-social activities and opportunities. PAWS is a natural fit to facilitate this approach with young males.

Two case managers are assigned to the youthful offender program. These case managers are responsible to orchestrate fully integrated rehabilitation services for their youth. Mental health services and specialized treatment services are provided by ancillary staff who currently provide treatment in other areas of the Ron Jackson complex. General and specialized treatment programs and services are reviewed and modified, as necessary, to ensure youth offenders receive appropriate treatment delivery based on each youth's assessed risk and needs. Youthful Offenders have access to all needed specialized treatments, which include: Alcohol or Other Drug, Sexual Behavior Treatment, Trauma Focused-Cognitive Behavioral Therapy, Aggression Replacement Training®, Trauma Resolution groups, Pairing Achievement with Service (PAWS), and Psycho-educational and Social Skill Development groups (Boys Council, Strategies for Anger Management, Social Skill Development Groups, etc). All programs are provided by appropriately licensed clinicians or trained staff. Boys Council, an evidence-based program, is a structured support group that focuses discussion on gender-specific topics designed to promote resiliency and self-esteem.

MCFADDEN RANCH

McFadden Ranch is a community based residential program that provides Alcohol and Other Drug (AOD) treatment services to TJJD youth. This programmatic setting allows youth to give back to the community in a variety of ways. For instance, McFadden youth participate in the Red Ribbon Campaign annually. This campaign allows youths the opportunity to share the pitfalls of Drugs & Alcohol with other youth. This year the youth at McFadden Ranch visited two Schools within the Keller ISD and shared their stories with approximately 650 youth. Other community functions and collaborations include participation with the Southlake Carroll High School Coaches and football Team for a Football Clinic & Scrimmage, off-campus Equine Psychotherapy for students to facilitate emotional growth and learning and attendance at the Men's Conference at Northwood. The McFadden Ranch students shared their stories with fathers to assist them in learning "How Teenagers Think". The long standing McFadden Ranch Speaker Team makes regular presentations for the Denton County Sheriff's Department and Lena Pope Homes to assist youth in understanding the costs of irresponsible behavior and how incarceration impacts them personally and their families. Similar presentations have been made for Allen High School, Tarrant County Community College and the University of North Texas.

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CONCLUSION

The youth TJJD serves have become a higher risk population over the last several years. It is the mission of TJJD to provide evidence based rehabilitative programs that help each youth in its care improve his or her chances of living safely in the community. The rehabilitative strategy, the specialized treatment programs, the vocational and educational services and the transition planning efforts must result in improved outcomes for the youth and community, particularly in the area of reduced recidivism rates. This report has focused on the strengths of TJJD's treatment programs and has highlighted, at the Texas Legislature's direction, the effectiveness of programming for youth with sexual behavior treatment needs, youth with capital or serious violent offenses, youth who have alcohol or other drug treatment needs, youth with mental health treatment needs, and female youth. A brief summary of the one year recidivism results are as follows:

MENTAL HEALTH TREATMENT PROGRAM (MHTP):

Youth who completed either the high or moderate intensity MHTP were rearrested at a rate 4% below the predicted rate. There is a statistically significant positive impact on youth completing the MHTP.

SEXUAL BEHAVIOR TREATMENT PROGRAM (SBTP):

Youth who completed the high or moderate intensity SBTP had rearrest and violent rearrest rates significantly below the predicted rates. Though the predicted one-year rearrest rate for youth who completed SBTP was 36%, the actual rate was 25%.

CAPITAL AND SERIOUS VIOLENT OFFENDER TREATMENT PROGRAM (C&SVOTP):

Youth enrolled in high-intensity C&SVOTP showed a rate for rearrest that was half the predicted rate. While it was predicted for these youth to reoffend at the rate of 39.7%, the actual rate was only 19.4%.

ALCOHOL AND OTHER DRUG TREATMENT PROGRAM (AODTP):

Of the youth with an identified need for AOD treatment, 98.9% were admitted to a program. Of those youth admitted, 93.5% completed the program successfully. The youth who participated in moderate-intensity AOD treatment were predicted to reoffend at the rate of 54.4%, but actually, only 51.3% of the youth were re-arrested.

FEMALE OFFENDER PROGRAM:

Female offenders recidivate at significantly lower levels than males on all three measures of recidivism. Those male youth considered in this study overall were re-arrested at a rate of 50.2% after one year, while the female youth re-offended at a rate of 31.1%. Only 4.2% of females were rearrested for a violent offense; whereas, males recidivated with violent offenses at a rate of 11%.

In summary, the evidence provided in this report points to the success of the TJJD treatment programming as having a measurable effect on the rate at which youth in the agency's care are re-arrested or re-incarcerated. The data establish that despite the increasing complexity of the needs of the youth, recidivism rates for committed youth continue to decline. Service delivery to all youth is affected with intention through a combined rehabilitation strategy and provision of specialized treatment modalities that clearly have a positive impact on multiple youth outcomes.