



**WRITTEN TESTIMONY**

**SUBMITTED BY ISELA GUTIÉRREZ ON BEHALF OF THE  
TEXAS CRIMINAL JUSTICE COALITION**

**REGARDING SENATE BILL 103**

**SENATE COMMITTEE ON CRIMINAL JUSTICE**

**FEBRUARY 27, 2007**

Dear Members of the Committee,

My name is Isela Gutiérrez, and I am testifying on behalf of the Texas Criminal Justice Coalition. Thank you for allowing me this opportunity to present testimony regarding Senate Bill 103.

S.B. 103 by Senate Jurisprudence Vice Chairman Juan Hinojosa aims to keep our youth safe, a task critical to protecting the future of the state.

Keeping our youth free from harm is one of the state's most important priorities, but youth in Texas Youth Commission (TYC) facilities are far from safe. The state of Texas would never allow a parent to retain custody after sexually molesting, physically abusing, or endangering a child. Yet, youth who have suffered such abuse at the hands of the state in TYC facilities remain incarcerated, "protected" by the same system whose negligence allowed their abuse to occur.

Through the TYC, the state has custody of almost 5,000 youth. Although it is intended to house and rehabilitate the most serious and chronic youth offenders in the state, the majority of youth in TYC facilities are non-violent offenders with a high need for mental health, chemical dependency, anger management, and other treatment.

Conditions in TYC facilities are far from rehabilitative: Youth complaints are ignored, parents' concerns are discounted, and the enforcement of rules designed to protect youth and ensure safety is arbitrary at best. Recent media reports have revealed sexual abuse by high-level administrators and an appalling lack of action by TYC's Central Office in Austin. Despite the fact that TYC's lack of internal accountability has led to high-profile scandal, facility staff continue to exhibit the same indifference to youth and parental concerns and defend the status quo.

TYC facilities are similar to adult institutions and have similar problems, but youth in TYC have fewer rights than adult prisoners, leaving them the most vulnerable population under supervision by the state. By implementing some of the protective mechanisms that are available to adult inmates and increasing guard training, S.B. 103 would create some parity between these systems by raising the level of oversight in TYC facilities to more closely mirror that used by the Texas Department of Criminal Justice (TDCJ).

Youthful offenders in the criminal justice system have the greatest potential for rehabilitation, but abusive practices and an absence of proper care are destroying our chance of molding these young offenders into anything other than liabilities to our society.

**STAFF ABUSE OF YOUTH IN TYC FACILITIES HAS EXPLODED INTO A HUGE PROBLEM.**

From 1999 to 2005, the rate of confirmed physical abuse of kids in TYC increased by over 750%. In 2005, the agency confirmed that employees were physically abusing 3 out of every 100 detainees. Most abusers were juvenile correctional officers, or JCOs, the unarmed, direct-care workers who watch over youth's daily lives. Records show that officers have punched, kicked, choked, slapped, bitten, and sexually molested young inmates. Staff members have also thrown youth against metal walls, cement floors, and tables as a means of restraint, often injuring themselves as well as the youth in the process.

**RAPE AND SEXUAL ASSAULT BY TYC STAFF AND ADMINISTRATORS IS GOING UNPUNISHED AND UNADDRESSED BY PREVENTIVE MEASURES.**

In total, 99.7% of all claims of abuse and neglect coming out of TYC facilities over the last 6 years were left unheeded and uninvestigated by law enforcement. The lack of action by TYC and local prosecutors around this and other sex abuse scandals in TYC facilities ensures that known sexual predators have unfettered access to Texas youth.

A criminal investigation into a sex scandal at TYC's West Texas State School is currently pending. High-level administrators were implicated in the sexual abuse but were allowed to quietly resign by TYC. One of the alleged molesters is still working with young people as the principal of a West Texas charter school.

Despite ongoing problems with sexual assault in its facilities, TYC required prompting from lawmakers before it sought additional funding from the federal government through the Prison Rape Elimination Act to improve video surveillance.

**PARENTS' CONCERNS ARE BEING IGNORED, AND OFFICIALS ARE FAILING TO NOTIFY THEM OF THEIR CHILDREN'S INJURIES IN VIOLATION OF TYC POLICY.**

According to parents of incarcerated youth, abuse goes on unchecked at TYC facilities without appropriate notification of family members. Parents report seeing mysterious bruises and scratches on their children during visits. Many parents report that phone calls and letters seeking information about their child's welfare are unanswered, and that the information they receive from TYC about their child is sporadic and inconsistent.

Despite agency policy, parents are rarely notified when a youth is ill, injured, or involved in an incident. Further, most parents of youth who have been diagnosed as mentally ill report an increase in their child's problematic behavior and medical conditions while at TYC, rather than the decrease that one would expect from an effective treatment program.

**WHAT DOES S.B. 103 DO?**

- Requires TYC to provide 300 hours of training to guards before they begin their duties at facilities and to maintain a ratio at least 1 guard for every 12 youth committed to the facility.
- Requires TYC to establish an Office of Inspector General for the purpose of investigating criminal acts among TYC youth, guards, and other TYC employees, and reporting the results of any investigation to the TYC Board.
- Prohibits TYC from assigning a child younger than 15 years of age to the same dormitory as a youth at least 17 years of age.
- Requires the Texas Rangers to make monthly unannounced visits to TYC facilities and to submit reports to the Texas Sunset Commission for inclusion in TYC's Sunset review evaluation.

**S.B. 103'S FISCAL NOTE SHOULD NOT PREVENT INVESTMENT IN TYC OVERSIGHT.**

Although increased investment in TYC is necessary to ensure adequate, safe conditions for youth and staff, hiring 800+ new JCOs to the tune of \$60 million is not the only way to achieve reduced staff-to-youth ratios. Rather than spending millions trying to hire and train additional staff, TYC

would have an increased chance of success if it approached lowering the JCO-to-youth ratio by reducing the number of non-violent youth incarcerated in TYC facilities. S.B. 845 by Sen. Hinojosa and House companion H.B. 1756 by Rep. Madden would help to reduce TYC's intake by limiting its jurisdiction to youth aged 10-19 adjudicated for felony-level offenses only. This change would reduce TYC's population by at least 20% and help lower high staff-to-youth ratios. Another way TYC can immediately "unplug the drain" in its facilities and reduce staff-to-youth ratios is by increasing its use of structured parole programs for non-violent youth. Costs to administer such programs are substantially lower than institutional costs.

**S.B. 103 IS A STEP IN THE RIGHT DIRECTION, BUT MANY MORE MEASURES MUST BE TAKEN.**

TYC's problems with abuse and mismanagement are widespread. A wholesale overhaul is needed to ensure the safety of youth. S.B. 103 and other bills filed are an excellent start, but the problems facing TYC are complex and deep-seated. Resolving them will require further investigation and corrective action by the State of Texas.

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State agencies in custody of Texas children must be accountable to Texas taxpayers, lawmakers, and parents. TYC has had decades to improve its standards of care and rehabilitation, yet severe problems remain. It's time for the state to demand the increased accountability and improved performance that are long overdue from TYC. S.B. 103 is a critical first step in the right direction. A vote for S.B. 103 is an investment in the future of Texas.