

# **Victoria Regional Juvenile Justice Center**

## **A Report to the Criminal District Attorney of Victoria County, Texas**

**Phases II and III**

**February 12, 2016**



**GRIFFITH MOSELEY JOHNSON & ASSOCIATES**

2901 Turtle Creek Drive, Suite 445, Port Arthur, Texas 77642  
409.722.5100 409.722.5101 (facsimile) [www.gmjinc.com](http://www.gmjinc.com)

**VICTORIA REGIONAL JUVENILE JUSTICE CENTER  
A REPORT TO THE CRIMINAL DISTRICT ATTORNEY OF VICTORIA COUNTY**

**EXECUTIVE SUMMARY**

Griffith Moseley Johnson and Associates, Inc., is a multi-faceted consulting firm based in Port Arthur, Texas. The firm's criminal justice consultants are career criminal justice, legal and financial professionals.

The Victoria County Criminal District Attorney engaged GMJ to evaluate certain aspects of the operation of the Victoria Regional Juvenile Justice Center (VRJJC), and to develop conclusions, findings and recommendations. The project was structured in three phases, corresponding with three broad areas of consideration, including financial, offender and family, and facility.

GMJ's team for this project included a former chief juvenile probation officer, two attorneys and a certified public accountant. The team received and reviewed data from VRJJC management and the county auditor's office. They then conducted a two-day site visit during which they toured the facility and met with VRJJC management. They also met during the site visit with the county judge, members of the county auditor's staff and a district court judge member of the juvenile board. In addition, the team attended a juvenile board meeting. We particularly appreciate the high level of cooperation we received from the chief and assistant chief juvenile probation officers, as well as members of the county auditor's staff.

The combined Phase II and III report, which follows, addresses offender, family and facility considerations. The issues were put to us in the form of a series of questions. This report retains a question and response format.

The key points of this report are summarized as follows:

- Comprehensive juvenile crime statistics are not maintained by Victoria County.
- Juvenile crime, by and large, has declined in Texas and the nation since 1994.
- Population growth in Victoria County is estimated to be 11 to 15 percent between 2015 and 2035.
- Juvenile recidivism is not tracked by any agency in Victoria County
- Visitation rates for out-of-county juveniles housed at the VRJJC is about half of that for Victoria County juveniles.
- The VRJJC has put into place the best practices for education and rehabilitation, which are used extensively across Texas.
- The one-year rearrest rate for juveniles in Victoria County is 40 percent.
- Juveniles are not tracked once they leave the VRJJC for recidivism, educational attainment, or job acquisition.
- The average length of stay for juveniles at the VRJJC since 1995 has ranged from 56 to 231 days for Victoria County juveniles, and from 36 to 154 days for out-of-county juveniles.
- There are many programs that can be used to modify juvenile behavior other than confinement.
- It is highly likely that Texas will raise the age of criminal culpability in the near future from 17 to 18.
- The change in the age of criminal culpability will impact the VRJJC and could raise the ADP by 48 percent.
- There is no state funding available to operate the VRJJC and the state would not assume ownership or lease the facility.
- The VRJJC has been subject to inspections and monitoring by the state since opening in 1995, and in every instance made the necessary adjustments to resolve any findings of non-compliance.
- The projections made in 1995 to justify the building of the VRJJC did not come to full fruition, particularly with regard to the juvenile crime rate.
- Operating a boot camp in Victoria County could pose additional taxpayer costs; therefore, additional studies should be ordered before making the decision to open a boot camp or add it to the existing programming. Success rates and opinions on the effectiveness of these programs on recidivism vary widely.
- There are a number of possible courses of action Victoria County could pursue to serve the needs of Victoria and the surrounding counties, some of which reduce costs and some of which increase costs; however, only one or two of the proposed courses of action we considered would result in full cost recovery for the county.

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**PHASE 2. OFFENDER AND FAMILY**

**15. What is the estimated percentage of Victoria County crime committed by juveniles by type of offense?**

- a. As a percentage of total crime.**
- b. Per capita juvenile crime rate.**
- c. Total numbers of juvenile crimes, as reported to the Office of Court Administration or DPS crime database.**

Comprehensive statistics on juvenile crime in Victoria County are not kept in the regular course of business by law enforcement. The statistics that are recorded vary greatly between the local police department and the sheriff’s department. The fact that a juvenile is “arrested” or “detained” does not always mean that a crime has been committed, or that a case against that juvenile will be filed, so the numbers are skewed and not an accurate reflection of juvenile crime in the county.

Juvenile crimes are not reported to the Office of Court Administration, per se. Cases filed in the court system are reported, which are broken down by the type of case (CINS, or delinquent conduct with a narrow break down of offenses which is not comprehensive); however, again, the number and type of cases filed does not accurately reflect crimes that are committed by juveniles, as not all crimes are reported, solved, or result in a case being filed against a juvenile.

Because of the lack of reliable data, GMJ cannot estimate or determine the percentage of total crime in Victoria County committed by juveniles, or the per capita juvenile crime rate as compared to the population of Victoria County. However, there does exist other available data by which we are able to give an overview of juvenile criminal activity (but keeping in mind that the numbers are skewed), including the arrest reports from law enforcement, the detention/placement rates at the VRJJC, and the number of cases filed against juveniles in the Victoria County court system, as discussed below.

The two charts that follow show the “arrests” of juveniles by the Victoria County Sheriff’s Department and the Victoria Police Department, respectively.

**Juvenile Arrests by Year by VPD<sup>1</sup>**

<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
1,594	1,296	1,257	895	700	446	266	147

<sup>1</sup> Data provided by Victoria Police Department. Only arrest numbers are recorded by VPD.

## Juvenile Arrests by Offense and Year by VCSO<sup>2</sup>

Offense	2012	2013	2014	2015+
Aggravated Assault	1	3	2	5
Arson	0	0	1	0
Assault	7	17	9	13
Assault Public Servant	2	1	0	4
Burglary	2	1	2	0
Criminal Mischief	1	1	1	0
Criminal Trespass	1	0	0	0
Delivery Marijuana <1/4 oz.	0	4	2	0
Delivery/Offer to Deliver Dangerous Drug	0	0	1	0
DWI	1	0	0	0
Engaging in Organized Crime	0	0	1	0
Evading Arrest	4	0	2	5
Failure to ID	0	1	0	1
Fraud Use/Possession of Identifying info	0	1	0	0
Graffiti Worship/Burial/Monument/School	0	0	1	0
Harboring Runaway	0	2	0	0
Injury to a child/elderly/disabled	0	1	0	1
Interfere w/ Public Duties	0	1	0	0
Interfere w/Railroad Property	1	0	0	1
Man/Del CS	2	0	1	0
MIP – Alcohol	1	0	0	0
MIP – Tobacco	0	1	1	0
Place Weapons Prohibited	0	1	1	2
Possession of Controlled Substance	5	7	14	4
Possession of Drug Paraphernalia	1	4	5	6
Possession of Marijuana	5	23	39	17
Prohibited Sexual Contact	0	0	0	1
Reckless Damage or Destruction	0	0	0	1
Resist Arrest, Search or Transport	1	1	2	4
Runaway	2	0	0	0
Terroristic Threat	3	0	1	6
Theft	1	1	2	1
Theft of Motor Vehicle	2	0	0	0
Unauthorized Use of Vehicle	1	0	1	0
Unlawful Delivery of Simulated Controlled Substance	1	1	1	0
Unlawfully Carrying a Weapon	0	0	0	1
Unlawful Restraint	1	0	0	0
Violation of Probation	0	0	1	2
Warrant Service	1	1	6	0
<b>TOTAL</b>	<b>47</b>	<b>73</b>	<b>97</b>	<b>75</b>

+Through 10/1/2015

<sup>2</sup> Data provided by Victoria County Sheriff's Office.

The reported numbers are different by a large margin because of what each agency considers to be an “arrest” of a juvenile. According to Victoria Police Department, an “arrest” of a juvenile includes all instances where a police officer takes a juvenile into police custody. This would include transport to the station temporarily for holding, or transport to the VRJJC (either of which could end in the juvenile being released to parents with no charges being filed). VPD’s arrest numbers are trending down, while the number of cases reported by VCSO are trending up.

It appears that the VCSO reports actual charges filed against juveniles (unknown if a court disposition results), as reflected in the chart above, which explains the great variance in numbers from the reported arrests by VPD.<sup>3</sup>

“Arrests” may also include some instances where the juvenile was released to a parent or guardian after the officer used discretion in the field.<sup>4</sup> Only a percentage of “arrests” of a juvenile actually turn into a referral to VRJJC, and a smaller percentage of those referrals materialize into a filed case, as many other options are available to probation in dealing with a juvenile who has been “arrested.”

Depending upon a number of factors, a juvenile who is in police custody or who has been referred to the VRJJC can be released in lieu of detention.<sup>5</sup> If law enforcement has detained the juvenile, a probation officer may inform the officer to release the juvenile to a parent, guardian, or other responsible adult; have the officer contact MHMR if the juvenile is suicidal or suffering from a mental health issue; or have the officer bring the juvenile to the VRJJC to be released on Conditions of Release. If the juvenile is not in custody but law enforcement makes a later referral to VRJJC, the juvenile can be given a Supervisory Caution, released on Conditions of Release, be referred for counseling, placed on Deferred Prosecution, or placed into the Diversionary Program. If a juvenile has violated probation, in lieu of detention the juvenile can be referred to counseling, be assigned community service hours, lose some privileges (such as earlier curfew), be placed on GPS monitoring or home confinement, or be assigned an essay or book report regarding the violation. All of these choices in lieu of detention may not result in a case being filed (and thereafter a court disposition), which again skews the statistics on juvenile crime in the county.

Total referrals, detention, and placement of juveniles in Victoria County are depicted in the chart below. These numbers reflect juveniles from both Victoria County and other counties who were detained and/or placed at the VRJJC for the years depicted. The placement numbers do not accurately reflect juvenile criminal activity in Victoria County, as some juveniles placed at VRJJC were adjudicated elsewhere for a crime

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<sup>3</sup>GMJ reached out to the Victoria County Sheriff to get a further understanding of the agency’s way of handling juvenile cases; however, as of the date of this report he has not responded to the inquiry.

<sup>4</sup> Information provided by Victoria Chief of Police, Jeff Craig.

<sup>5</sup> Mandatory detention cases include all firearm related offenses. In Victoria County it has been the practice that all juveniles who commit felonies and all who are accused of possession of drugs on a school campus are detained.

committed in another county, but the VRJJC was the appropriate placement for the juvenile based on his or her needs.

**REFERRAL, DETENTION  
AND PLACEMENT ACTIVITY<sup>6</sup>**

YEAR	TOTAL REFERRALS* TO VRJJC	DETAINED	PLACED
2010	481	301	37
2011	501	329	44
2012	329	271	39
2013	294	205	30
2014	415	291	25
2015	476	318	29

\*\*\*Referral” means that the juvenile was sent to the VRJJC by law enforcement, a school, another probation department, or another source.

Lastly, the number of cases filed against juveniles who committed offenses in Victoria County is depicted in the chart below. These numbers reflect both Victoria County and out-of-county juveniles who engaged in CINS or delinquent conduct in Victoria County, resulting in a case being filed and making its way through the juvenile court system.

**CASES FILED<sup>7</sup>**

YEAR	TOTAL FILED	DISPOSITIONS
2011	98	65
2012	67	79*
2013	104	69**
2014	86	109***

\*Includes 27 cases from 2011  
 \*\* Includes 2 cases from 2011 and 11 cases from 2012  
 \*\*\* Includes 4 cases from 2011, 4 cases from 2012, and 47 cases from 2013

**16. What are estimated numbers responsive to question 15 projected to be with the expected demographic growth of Victoria County in 10 years?**

Given a 20-year decline in juvenile crime nationwide, which is explored in greater detail below, it is impossible to develop reliable projections on future juvenile crime in Victoria

<sup>6</sup> Documentation provided by TJJD.

<sup>7</sup> Information provided by the Victoria County District Clerk and Victoria County Clerk. Both offices point out that the number of cases may not be totally accurate, give or take a very small number of cases that could have been miscoded. In addition, these numbers reflect calendar year filings (as opposed to fiscal year filings) as reported to the Office of Court Administration. Cases filed in a given year may not be disposed in that calendar year (and cases disposed of in a given year may have been filed in a prior year). Data on cases filed and disposed for 2015 are not yet available; however, based on the trend shown, filings will likely be down and dispositions will likely be up for the year.

County. We can, however, report generally on juvenile crime trends, as well as population forecasts for Victoria County.

According to the U.S. Census Bureau’s 2014 estimates, about 23 percent of the population nationwide is under 18 years of age. In Victoria County and the State of Texas, the numbers trend slightly higher, at 25.8 and 26.4 percent, respectively.

AGE DISTRIBUTION UNDER 18 AS A PERCENTAGE OF POPULATION		
	AGE	
	UNDER 18	10 TO 17
U.S.	23.1	9.1
Texas	26.4	10.4
Victoria Co	25.8	10.8

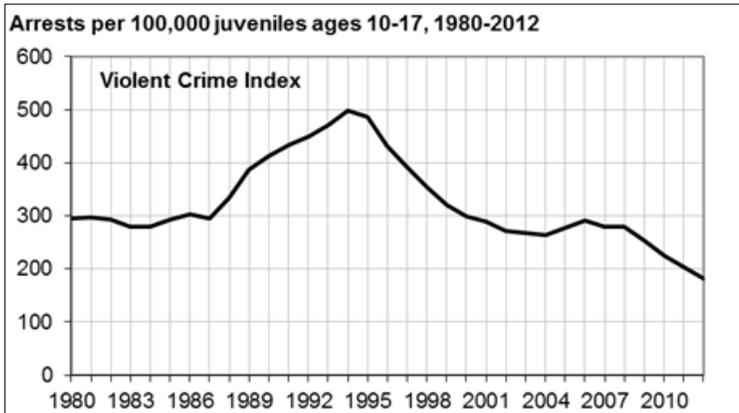
The Texas State Demographer develops population growth projections for cities, counties and the state as a whole. While the Census Bureau projects the percentage of the population under 18 will decline to about 21 percent by 2050, the state demographer forecasts the juvenile population of Victoria County will remain constant at about 26-27 percent of the population.

VICTORIA CO. POP. GROWTH 2015-2035 TEXAS STATE DEMOGRAPHER PROJECTIONS		
YEAR	TOTAL POP.	<18
ZERO MIGRATION		
2015	90,353	23,371
2025	97,533	24,989
2035	103,597	26,845
.5 MIGRATION		
2015	90,224	23,447
2025	97,214	25,033
2035	103,243	26,886
1.0 MIGRATION		
2015	89,831	23,457
2025	95,370	24,770
2035	99,721	26,322

The U.S. Census Bureau’s 2014 population estimate for Victoria County, 91,081,<sup>8</sup> is slightly higher than the state demographer’s most aggressive population projection for 2015 of 90,353, but the difference is statistically insignificant.

The state demographer forecasts a total population growth in Victoria County of 11-15 percent between 2015 and 2035 (and 7-8 percent between 2015 and 2025), with the under-18 population growing at similar rates.

Of greater significance for forecasting future juvenile crime (or the inability of experts to make such forecasts) is the dramatic decline in crime, generally, and the decline in juvenile crime, specifically, that has taken place in the U.S. since the early to mid-1990’s.



Between 1980 and 1987, the juvenile Violent Crime Index arrest rate (the number of arrests per 100,000 juveniles) was essentially constant. After these years of stability, the rate grew by nearly 70% in the 7-year period between 1987 and 1994. This rapid growth led to speculation about changes in the nature of

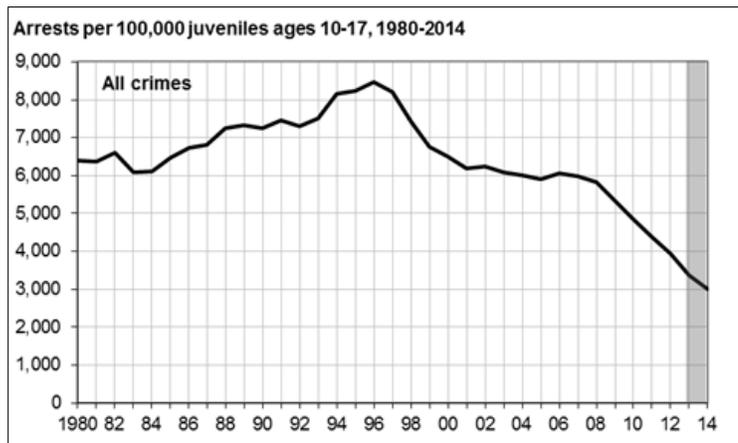
<sup>8</sup> U.S. Census Bureau, State and County QuickFacts for Victoria County, [www.quickfacts.census.gov/qfd/states/48/48469.html](http://www.quickfacts.census.gov/qfd/states/48/48469.html).

juvenile offenders—concerns that spurred state legislators to pass laws that facilitated an increase in the flow of youth into the adult justice system.

Victoria County leaders in the early 1990's anticipated that increases in juvenile crime in Victoria would be consistent with trends at the national level, as planning for VRJJC coincided with the dramatic increase in the youth crime index seen in the late 1980's and early 1990's.

After 1994, however, the violent crime arrest rate began to fall. Between 1994 and 2010, the rate fell 63%, to its lowest level since at least 1980.<sup>9</sup>

The dramatic decline in juvenile arrests was not limited to violent crime. The arrest rate for all offenses reached its highest level in the last two decades in 1996, and then declined 65% by 2014.<sup>10</sup> This is important, since arrests for non-violent crime represent more than 90% of all juvenile arrests.



No one could have forecasted this dramatic decrease. In fact, as late as 1995, national policymakers were sounding the alarm about an unprecedented increase in juvenile criminality. The New York Times that year reported that, according to what the U.S. Justice Department described as the most comprehensive report ever assembled on crimes committed by young people, “If current trends continue, the number of arrests of juveniles for violent crimes will double by the year 2010.”<sup>11</sup> That did not happen and, because no one has been able to definitively identify the factors that contributed to the decline, no one is able to forecast when it will end.

Based on Victoria County’s 10-17 population of approximately 9,758 and the national average of 3,000 arrests per 100,000 10-17-year-olds, we found that juvenile arrests in Victoria County were well below the national average, with only 222 arrests reported (by VPD and VCSO) in 2014, (as opposed to 292, which one might have expected if Victoria County’s juvenile arrest rate were 3,000 arrests per 100,000 population).

<sup>9</sup> Juvenile Offenders and Victims, 2014 National Report. National Center for Juvenile Justice [www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf](http://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf). p. 125.

<sup>10</sup> Juvenile Arrest Rate Trends, Statistical Briefing Book, Office of Juvenile Justice Delinquency and Prevention. [http://www.ojjdp.gov/ojstatbb/crime/JAR\\_Display.asp?ID=qa05200](http://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05200).

<sup>11</sup> Grim Forecast is Offered on Juvenile Crime, New York Times, September 8, 1995 <http://www.nytimes.com/1995/09/08/us/grim-forecast-is-offered-on-rising-juvenile-crime.html>.

There is a potential inconsistency in the reporting, as VRJJC reported 415 juvenile referrals in 2014, with 291 juvenile detained. This suggests either underreporting of arrests or a very high number of status offense referrals (including direct referrals by the school district).

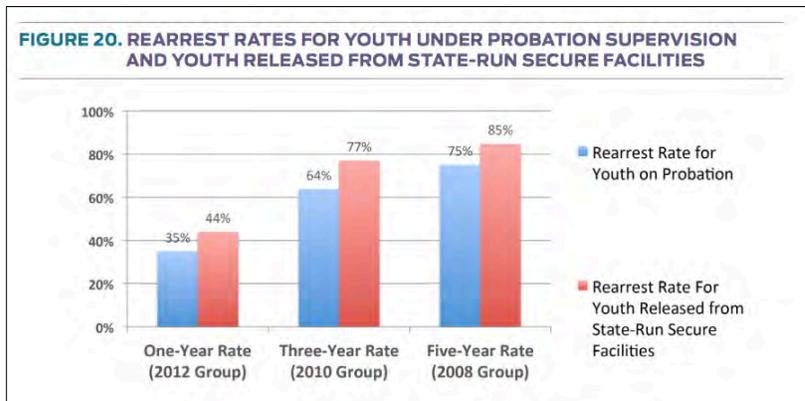
**17. Since 2000 what percentage of the VRJJC juvenile alumni have been arrested as adults and convicted of misdemeanors and felonies?**

According to VRJJC management and TJJD, there is no comprehensive system that tracks the transition from juvenile to adult offender.

Data going back to the year 2000 is not available, but some data specific to Victoria County is available. The Council of State Governments Justice Center and the Public Policy Research Institute at Texas A&M University (CSG/PPRI) evaluated the impact of a series of juvenile justice reforms implemented in Texas between 2007 and 2011.<sup>12</sup> The research tracked movement through the juvenile justice system and the transition into the adult system.

We explore that research in greater detail in the response to Question 21, below. For purposes of this question, Victoria County was one of eight counties selected for more in-depth quantitative and qualitative analysis, and we recommend county leaders review the findings of the research.

The research found that Victoria County's one-year rearrest rate was 40 percent, which was slightly higher than the statewide average of 35 percent.



Again, this research followed offenders as they aged out of the juvenile system and moved into the adult system during the study period. As the bar chart from the study indicates, the three-year rearrest rate for youth on probation was 64 percent, while the five year rate was 75 percent.

<sup>12</sup> "Closer to Home; an Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms," Council of State Governments Justice Center and the Public Policy Research Institute at Texas A&M University, January 2015. <https://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf>. The report was funded by the Annie E. Casey Foundation, the Pew Charitable Trusts, and the U.S. Department of Justice Bureau of Justice Statistics.

**18. Is there a reporting system to track this recidivism?**

See response to question 17, above.

There is not a tracking or reporting mechanism in place in Victoria County to track juveniles into the adult system. The Juvenile Case Management System (JCMS) does not track or cross reference juveniles with the adult system. The only tracking available is for juveniles who reoffend while still a juvenile, as it would register in the JCMS that the juvenile had been handled by Victoria County previously or by another county.

It would benefit law enforcement and the criminal courts system for a method to be put into place to track juveniles as they age out of the system and possibly reoffend as adults. This would, inversely, also show some measure of successful outcomes of the rehabilitation programs at the VRJJC. In order to gain a true perspective on juvenile crime and adult recidivism, a tracking system needs to be developed to monitor every instance where a juvenile has contact with the adult system (regardless of what the crime is or what the potential sentence may be).

Currently, the only measure of recidivism by a juvenile as an adult is if that person, as an adult, commits a serious felony offense such that at sentencing his or her juvenile record could be used as a potential sentencing enhancement. Data is not currently compiled on this statistic in Victoria County; therefore, it is recommended that metrics be developed to track this data. Tracking all subsequent contacts with law enforcement, and also when juvenile records are used as sentence enhancements, would present a clearer picture of overall recidivism, and inversely give some indication of the success rates of various rehabilitation programs at the VRJJC.

**19. What is the rate of visitation by families for out of county juveniles? Is there a potential impact, financial or otherwise, for the families when juveniles are not located in their home county?**

Juveniles who are classified as pre-adjudication (in detention) or post-adjudication (in placement) at VRJJC have the right to receive visitors according to Policy 18.1 of the VRJJC Policy and Procedure Manual. This policy is related to TJJD Standards 343.352, 343.354, and 343.356. Parents, guardians, grandparents who are over the age of 18 and are the primary caregiver to the juvenile, along with the juvenile's child(ren), attorney, clergy, or anyone who has prior approval to visit are allowed.

The visitation rules are provided to the juveniles and their families upon admission to the VRJJC. Juveniles who are in short-term detention are allowed visits on Tuesday, Thursday, and Sunday from 6-7:30 p.m., limited to 15 minutes for Victoria County juveniles and 1 hour for out-of-county juveniles. Juveniles who are in post adjudication placement are allowed one-hour visits on Saturdays and holidays from 3-6 p.m. and Sundays from 9 a.m.-noon.

The rate of visitation by families for out-of-county juveniles is about half of the rate for visitation by families of Victoria County juveniles, as reflected in the chart above. Juveniles who are from contiguous counties or those that are in close proximity receive more frequent visits, while those from more remote counties do not receive as many visits.

The VRJJC does have the capability to use Skype for visits; however, attorneys and probation officers are the primary users, so that they do not have to travel long distances to see the juvenile. VRJJC does not currently allow family to visit via Skype or other electronic means (other than telephone calls, which are allowed according to policy).

It is difficult to determine the financial impact on families when a juvenile is not located in their home county, for many reasons. Obviously there will be additional costs for travel, which can be further increased by whether there is an overnight stay, depending upon how far a family has traveled for a visit.

COUNTY*	2012 visits**	2013 visits	2014 visits	2015 visits***	COUNTY*	2012 visits**	2013 visits	2014 visits	2015 visits***
ATASCOSA	0	0	0	2	HOUSTON	0	0	0	5
BASTROP	1	0	0	0	JACKSON	27	35	3	4
BELL	0	17	0	0	JEFFERSON	7	11	7	0
BEXAR	41	97	1	7	JIM WELLS	20	0	0	11
BLANCO	0	0	0	5	KARNES	21	16	0	21
BRAZOS	0	0	17	2	LAMPASSAS	0	0	0	5
BROOKS	14	12	0	3	LAVACA	41	30	20	16
CALDWELL	17	0	0	0	MATAGORDA	80	70	65	40
CALHOUN	156	158	132	152	MONTGOMERY	4	0	0	0
CAMERON	0	1	0	0	NACOGDOCHES	1	2	11	0
COLLIN	1	1	0	0	REFUGIO	9	8	16	1
COMAL	1	1	0	0	TRAVIS	25	0	1	0
DALLAS	9	7	0	0	WEBB	1	7	8	0
DEWITT	83	20	11	26	WHARTON	49	60	51	28
ELLIS	0	2	1	0	WILLIAMSON	17	30	0	0
FAYETTE	23	40	3	21	WILSON	0	0	0	10
GALVESTON	2	0	0	0	YOKUM	0	0	0	7
GOLIAD	18	14	11	0	ZAPATA	0	0	5	0
GONZALES	0	6	0	0	OUT OF COUNTY VISITS BY FAMILY	671	750	430	423
GUADALUPE	0	5	21	0	VICTORIA COUNTY VISITS BY FAMILY	813	472	757	718
HARRIS	3	56	32	9	NON FAMILY VISITS****	100	234	217	227
HAYS	0	1	0	0					
HILDALGO	0	31	14	48					
HOOD	0	12	0	0					

\*Only counties with juveniles who received a visit are represented. There were a small number of juveniles from some counties detained for a short time who received no visits.  
 \*\*There is no distinction in the visitation logs between pre- or post-adjudication, so no distinction is made in this chart. The number of visits recorded is the total for the year depicted, regardless of how many juveniles were in pre- or post-adjudication housing for each county represented.  
 \*\*\*Includes visits through 9/27/2015.  
 \*\*\*\* Non-family visits include attorneys, counselors, clerav, etc.

The data suggests that families who must travel a greater distance are less likely to visit their child while they are detained in VRJJC.

**20. Are the educational, spiritual, and rehabilitation programs like those offered at our facility available at other facilities?**

Victoria County provides services to juveniles according to the requirements of TJJD, along with a number of other programs to supplement the required curriculum. Detention and residential facilities across the state are required to provide for the educational needs of the juveniles housed there, whether they are in temporary detention or residential placement. Each facility has its own programming according to what the particular county is able to provide in their budget for rehabilitative programs. We reviewed (and summarize here) the types of programs VRJJC offers to confirm that its programming is comparable to that offered by other facilities.

Through a Memorandum of Understanding between Victoria County and the Victoria Independent School District, the VISD provides educational programs that meet the needs of children detained temporarily or in residence and placed at VRJJC. The school year is 220 days long, and there are also summer classes offered. The only cost to Victoria County is the 2<sup>nd</sup> summer session of each year; VISD pays for the rest of the school year. VISD supplies 5 teachers and 2 teachers' aides. Both regular and special education services (including development of an Individual Education Plan [IEP], review by an Admission, Review and Dismissal [ARD] committee, and placement in a least restrictive environment), as well as accelerated classes and tutorials, are provided during the traditional academic school year, and are conducted for the maximum hours of instructional time allowed during the traditional school day.

Summer school classes are also offered for students who are in need of additional instruction to receive credit for that school year. Class size is to be no more than fifteen students to one teacher. The programs are open-entry and individually paced for each student.

VISD ensures that all students are enrolled in TEA approved courses that will enable students to receive the grades and credits necessary to master required skills, such that those credits will transfer when a child is released from VRJJC and returns to his or her regular school. Students who are at least 16 are enrolled in a program to obtain a high school equivalency diploma. The school district also assists the VRJJC in documenting classroom behavior and academic progress of each student.

Performance of the program and outcomes for students enrolled through VISD at the VRJJC are measured according to the following criteria:

1. Maintain an average daily attendance in school of not less than 95% of the average daily population for the period;
2. Grant diplomas or high school equivalency diplomas at a rate of 45% or greater<sup>13</sup> of the average daily population for the period;
3. Ensure that 25% or greater of the youth released from VRJJC read at grade level;
4. Ensure that 65% of the youth who are enrolled for at least one semester improve in reading and math as measured by state determined assessment programs.

The VRJJC also supports an active Volunteer Program that includes several local churches, a life and job skills group, and the Girl Scouts. Religious groups provide services at the VRJJC each Saturday, with life and job skills meeting every Tuesday and Girl Scouts meeting each Monday.

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<sup>13</sup> The current rate of diplomas being granted is 65 percent, well above this minimum requirement under the agreement.

A number of other programs for self-help, recovery, parenting, substance abuse prevention, and other intervention-type programs are offered by the VRJJC and contract providers, as follows:

**Provided by VRJJC**

Substance Abuse Prevention/Intervention	Parenting
Electronic/GPS Monitoring	Female Offender Classes
Community Service/Restitution	Life Skills
Intensive Case Management	Intensive Supervision
Anger Management/Conflict Resolution	Cognitive Behavioral Therapy/Treatment
Early Intervention/First Referral	

**Provided by Contracted Providers**

Substance Abuse Prevention/Intervention	Life Skills
Anger Management/Conflict Resolution	Sex Offender Treatment
Mentoring	Cognitive Behavioral Therapy/Treatment

GMJ conducted a survey of other juvenile detention facilities, some of which had only pre-adjudication services and others with both pre- and post-adjudication services.<sup>14</sup> All of the facilities surveyed have educational programs, usually in cooperation with their local school districts.

Each facility surveyed offered Special Education programs and participated in Admission, Review, and Dismissal (ARD) procedures. Each facility provided the maximum education hours similar to a normal school day and all of their school programs are individually paced. All facility education programs have the ability to transfer a student's credit earned in detention to their home school or to the next education program they may attend. The majority of the facilities provide a tutoring program.

All facilities have volunteers from the community including churches that provide religious services during weekends or on weekdays to meet the spiritual needs of the residents. The majority of the facilities provide life skills and job skills development as well as anger management services through classes or through individual counseling. The majority of the facilities use electronic monitoring with juveniles in the community.

Some departments use electronic monitoring as an alternative to detention. Community Service Restitution programs are available in other facilities, mostly in post-adjudication programs and through probation services. Community Service Restitution is not offered in most pre-adjudication programs. Other facilities have substance abuse prevention

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<sup>14</sup> Counties surveyed: Webb, Kerr, Guadalupe, Montgomery, Jefferson, Brazos, Nueces, San Patricio, and Galveston.

programs contracted through a mental health center or individual contract provider. Case management and Intensive Supervision are common juvenile probation services throughout the state.

VRJJC has adopted and put into place “best practices” rehabilitation programs and strategies utilized extensively in the Juvenile Justice System in Texas. These programs afford the greatest opportunities for successful intervention in young lives. The one program VRJJC has implemented, which is not common in other facilities, is the post-adjudication pregnant teen program.

There are pregnant teens on juvenile probation caseloads in counties all over Texas; however, teens who are pregnant and commit habitual acts of delinquency or act out to the degree that their behavior is not tolerated by the community or the juvenile courts need a higher level of structure and supervision. Traditionally, the only option would be for the courts to commit these juveniles to the state institution operated by TJJD. VRJJC’s post-adjudication program for pregnant teens offers an alternative to a commitment to TJJD. Departments throughout the state turn to VRJJC as a model program since this service is not available elsewhere.

The VRJJC provides robust educational, spiritual, and rehabilitative programming for its juveniles and strives to place Victoria County juveniles at VRJJC if at all possible. If a decision were made to place a juvenile outside of Victoria County, the needs of the juvenile would be compared to the programming available in order to make a decision that would be in the juvenile’s best interests, and a recommendation to the Court would be made accordingly.

## **21. What is the national and statewide rate of recidivism? How does Victoria County Juvenile Justice Center compare to these rates?**

According to *Juvenile Offenders and Victims: 2014 National Report*,<sup>15</sup> funded by the U.S. Justice Department’s Office of Juvenile Justice and Delinquency Prevention:

“There is no national recidivism rate for juveniles. Each state’s juvenile justice system differs in organization, administration, and data capacity. These differences influence how states define, measure, and report recidivism rates. This also makes it challenging to compare recidivism rates across states.”

In Texas, The Legislative Budget Board’s “Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates,”<sup>16</sup> issued in February 2015, reported on recidivism among juvenile offenders. Texas defines recidivism as the rearrest or reincarceration in a state-run juvenile facility for commission of a felony or misdemeanor over a one, two and

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<sup>15</sup> <http://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf>

<sup>16</sup> [www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/1450\\_CJ\\_Statewide\\_Recidivism.pdf](http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/1450_CJ_Statewide_Recidivism.pdf)

three year period, or in an adult facility if the offender has aged out of the juvenile system.<sup>17</sup>

The study looked at rearrests and reincarcerations over a three-year period among juveniles who had been released from custody (for those who spent time in a residential facility) or started supervision (for those on either deferred or adjudicated supervision) in the years 2009-2011.<sup>18</sup>

During that period, the likelihood of rearrest increased as the level of sanction increased. About 42 percent of juveniles receiving deferred prosecution supervision were rearrested, while 62 percent of those receiving adjudicated probation supervision were rearrested. Juveniles who had been confined to a local secure residential facility had a rearrest rate of nearly 70 percent, while those confined to a state facility had a 73 percent likelihood of being rearrested.

<b>REARREST FOR JUSTICE-INVOLVED YOUTH IN TEXAS 2009-2011</b>	
	REARRESTED WITHIN 3 YEARS
DEFERRED PROSECUTION SUPERVISION	42%
ADJUDICATED PROBATION SUPERVISION	62%
LOCAL SECURE RESIDENTIAL FACILITY	70%
STATE RESIDENTIAL FACILITY	73%

The CSG/PPRI research introduced in the response to Question 17, above, evaluated the impact of a series of juvenile justice reforms implemented in Texas between 2007 and 2011.<sup>19</sup> The reforms were intended in part to reduce recidivism by reducing the number of juveniles confined in state-run facilities in favor of a system focused at the community level. It tracked movement through the juvenile justice system and the transition into the adult system.

NOTE: The CSG/PPRI study was requested by Sen. John Whitmire, chair of the Texas Senate Criminal Justice Committee, and funded in part by the U.S. Department of Justice Bureau of Justice Assistance. Researchers were given special access to data that enabled them to associate juvenile records with adult records and were then required to anonymize the records to ensure privacy. The level of access necessary to follow juveniles into the adult system in such a comprehensive way, according to TJJJ, is not currently available to Victoria County.

The researchers reviewed 1.3 million records over an eight-year period to evaluate the reforms’ impacts. The findings were generally consistent with the findings by the LBB; that is, the three-year statewide average recidivism rate is high whether confinement was in a state-run facility (77 percent) or a local facility (64 percent). The CSG/PPRI researchers found a similar disparity in one-year recidivism, with the rate for those

<sup>17</sup> Texas Criminal Justice Policy Council, “Uniform Recidivism and Revocation Rate Calculation: Recommended Methodologies for State Criminal Justice Agencies” (Austin, 1991) [www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/Reports/UniRecid.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Reports/UniRecid.pdf)

<sup>18</sup> “Rearrest” is defined as an arrest as a juvenile or adult for a Class B misdemeanor or greater offenses after being placed on supervision, beginning a program, or leaving a secure facility. “Reincarceration” is incarceration in a state-run secure juvenile facility or an adult state jail or prison after being placed on supervision, beginning a program or leaving a secure facility.

<sup>19</sup> “Closer to Home; an Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms,” Council of State Governments Justice Center and the Public Policy Research Institute at Texas A&M University, January 2015. <https://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf>.

confined in state-run facilities at 44 percent and those confined in local facilities at 35 percent.

The study also found that the one-year recidivism rate was essentially the same for juveniles placed in secure residential facilities (34 percent) as it was for those who were placed on probation supervision (32 percent), concluding that, “the most striking data presented here is that, in general, no program or intervention, including placement in a county-based secure or a non-secure residential facility, generated consistently better results than providing the youth with no intervention at all” (which is how the study characterized probation supervision).

Victoria County was one of eight counties selected for more in-depth quantitative and qualitative analysis. The counties and their one-year rearrest rates of youth under probation supervision (not necessarily youth who had been incarcerated) were:

Tarrant	46%	Lubbock	33%
Travis	44%	Cameron	28%
Victoria	40%	El Paso	28%
Harris	39%	Dallas	27%

**22. Is there a system in place to track our juveniles’ subsequent contacts with the justice system?**

See responses to Questions 17 and 18, above.

The only tracking of subsequent contacts with the justice system is only as it relates to re-offending as a juvenile, whether in Victoria County or in another Texas county through the JCMS. Once a juvenile turns 17, there is no way for Victoria County to track subsequent contacts with the justice system as an adult on an ongoing basis, as the two systems do not currently cross reference with each other. When an adult is sentenced in criminal court, depending upon the offense for which he or she is being sentenced, the juvenile record could be used to enhance punishment in certain instances. There could be a way to track this through the criminal courts or the District Attorney’s Office; however, there is not presently a way to track a juvenile’s subsequent adult contacts with the justice system in Victoria County.

**23. What metrics are in place under the current system to track positive outcomes for juveniles completing programs funded by Victoria County, i.e., educational attainment, behavioral improvements, skill development and employment?**

Performance outcomes are measured and recorded in the JCMS upon completion of a program for juveniles while they are in detention, in residential placement, or on probation. These records are in the form of case management chronological files. There is not a system in the facility to track out-of-county juveniles other than the sharing of case management files and reports to the contracting county. Educational goals are measured

through the joint efforts of VRJJC and VISD while the juvenile is at the VRJJC (see response to question 20, above). There is not a tracking system regarding educational attainment, behavioral improvements, skill development and employment once a juvenile leaves VRJJC.

**24. Does the current system help juveniles to transition to crime-free and productive adulthood? If so, is there a tracking method or outcome measure beyond future delinquent acts?**

Currently there is not a system in place in Victoria County to track any outcome other than repeated delinquent acts as a juvenile. It is unclear, since there is no data maintained on juveniles beyond their release as to recidivism or positive outcomes, whether juveniles coming out of VRJJC are transitioning to a crime-free and productive adulthood.

The “Closer to Home” report cited in the response to Question 21, above, reports that there are high levels of recidivism in the juvenile justice system, as well as within the criminal justice system, for justice-involved youth once they age out of the juvenile justice system. While there is no systematic tracking method or outcome measure, the “Closer to Home” report illustrates that such tracking is technically feasible.

**25. What are the community risk levels of Victoria County juveniles housed at the center, i.e., violent offenders versus substance abuser or truants using the reporting criteria utilized by the Office of Court Administration?**

The reporting criteria used by the Office of Court Administration (OCA) tracks the types of cases filed per month by each county in the State of Texas, from misdemeanor offenses to capital offenses, both for adults and juveniles. This is strictly a statistical vehicle, which tracks the filing and disposition of cases through the county and district court systems in place throughout the state. This statistical reporting does not provide any substantive information as to the “community risk levels” associated with various types of offenders in Victoria County; therefore, GMJ looked at other sources of information to determine what, if any, are the risks to the community based upon the types of offenders housed at the VRJJC.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) identifies two main purposes for holding a juvenile upon arrest in a juvenile detention facility: to ensure the youth appears for all court hearings; and to protect the community from future offending. OJJDP takes the position that “detaining youth in facilities prior to adjudication should be an option of last resort only for serious, violent, and chronic offenders and for those who repeatedly fail to appear for scheduled court dates.” This premise would indicate that violent offenders are a high risk to the community, and that chronic offenders constitute an equally high risk.

Truants, referred to as “status offenders,” do not require secure detention to ensure court order compliance or to protect public safety. Runaways, also classified as “status

offenders,” are in fact covered by a federal mandate that they not be detained in secure detention facilities longer than 24 hours. Runaways are to be returned to a parent or responsible adult with all haste, and runaway shelters are to be utilized in lieu of incarceration as per the 1974 U.S. Juvenile Justice and Delinquency Prevention Act (OJJDP). OJJDP also takes the position that the very young, vulnerable first time offenders, those charged with non-serious offenses, and those with active involved parents or have strong community based support systems should not be detained pending adjudicatory hearings.<sup>20</sup>

Low level and low risk substance abuse offenders do not generally pose an immediate community risk. However, substance abuse offenders who have committed serious, violent or chronic offenses would qualify as a high risk to Victoria County. Juvenile offenders should be assessed to determine the severity and frequency of substance use, the level to which substance use interferes with the youth’s daily life and ability to engage in normal activities such as school, and the extent to which the youth has developed a physical dependency upon or tolerance to their drug of choice. It is important for counties to establish a standardized set of procedures that identifies youth who meet a clinical definition of substance use disorder early in the juvenile justice process, so that appropriate youth can be diverted from the juvenile justice system altogether and be placed in treatment facilities.

The best practice guidelines from several agencies including the National Institute on Drug Abuse (NIDA) and the American Academy of Child and Adolescent Psychiatry (AACAP) recommend diverting youth who meet criteria for substance use disorder, who do not represent a direct threat to themselves or society, to treatment venues outside the justice system. While having a substance disorder should not represent a “get out of jail free” card for youth, because substance abuse and offending are closely linked, effectively treating substance abuse may greatly reduce risk.<sup>21</sup>

The Annie E. Casey Foundation through its Juvenile Detention Alternatives Initiative (JDAI) recommends a risk assessment to be considered for detention. An example of some of the criteria includes:

- Number and severity of current charges;
- Earlier arrest and juvenile court records;
- History of success or failure while under community supervision (e.g. pre adjudication, probation, parole); and
- Other “stability” factors associated with court appearances and reoffending.

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<sup>20</sup> Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, September 2005.

<sup>21</sup> Greenwood, Peter: “The Future of Children,” Juvenile Justice, Volume 18, Number 2, Fall 2008.

**26. What are the placement types and average length of Victoria County juveniles at the facility vs. out of County juveniles?**

Placement types vary according to the needs of the juvenile being placed. If the juvenile has mental health issues, this would be a factor in determining where he or she is placed in residential care. If the juvenile is a sex offender or needs drug treatment, placement will be outside of the VRJJC as those programs are not offered at VRJJC.

The chart below illustrates the number of residential placements of both Victoria and out-of-county juveniles at VRJJC and average length of stay in number of days since VRJJC opened in 1995.

During calendar year 2015 there were a total of 29 juveniles placed in residential care, either at the VRJJC or in another placement program (both from Victoria and other counties). The average length of stay for the 2015 placements was 68.48 days.

<b>TOTAL RESIDENTIAL PLACEMENTS AT VRJJC<sup>22</sup></b>				
<b>YEAR</b>	<b>VICTORIA CO. JUVENILES</b>	<b>AVERAGE LENGTH OF STAY</b>	<b>OTHER COUNTY JUVENILES</b>	<b>AVERAGE LENGTH OF STAY</b>
1995	16	68.87	5	36
1996	36	124.14	52	95.61
1997	24	66.2	64	115.16
1998	21	147.86	62	136.16
1999	16	137.75	51	154.54
2000	17	60.59	50	103.86
2001	10	231.3	51	128.39
2002	11	71.45	47	89.55
2003	4	72.5	47	138.3
2004	0	0	52	119.48
2005	2	97.5	70	101.59
2006	3	56	67	87.79
2007	3	68	66	47.51
2008	6	104.16	114	67.46
2009	7	122.86	80	91.7
2010	11	94.36	57	101.18
2011	7	78.57	59	103.03
2012	9	166.67	73	75.56
2013	6	65.33	73	98.37
2014	6	76	81	94.71

<sup>22</sup> Data compiled from TJPC, TJJD, and VRJJC records.

**27. Are there other programs for consideration to reduce dependence on confinement?**

To decrease reliance on secure custody, there are a number of alternative programs that feature varying levels of supervision and types of services. The Office of Juvenile Justice and Delinquency Prevention outlines several alternatives to secure detention under a broad category of “Supervised Release” and are as follows:

*Home Detention:* Requires offenders to remain at home during specified time periods: (1) at all times, (2) at all times except when in school or working, or (3) at night. Additional conditions such as drug testing may be imposed. Youth who violate these conditions risk being placed in secure detention. Contacts between youth and supervisors are more frequent and could be even daily. Home detention could use paraprofessional outreach workers to both mentor and supervise youth.

Descriptive studies report high levels of success, with only a small percentage returned to detention for new offenses. A study of seven different home detention programs, six of which provide counseling or other services in addition to supervision, found that most youth (71-89 percent) completed this program without incident and appeared in court as required. GMJ is aware that VRJJC’s Juvenile Court has on occasion released juveniles from detention on “Conditions of Release” as provided by the family code; however, it is the level of supervision and services offered which insure the greater level of success. This could also be a budget issue for consideration to employ paraprofessionals or other personnel.

*Electronic Monitoring:* Often used in conjunction with home detention. The unit monitors an offender’s whereabouts via an electronic device attached to the wrist or ankle and by random phone calls to his or her residence. Electronic monitoring is intended to reduce the costs of supervision, reduce institutional populations, allow the offender to remain in school while under supervision, and enhance the potential for rehabilitation by keeping offenders at home and in close contact with family members. Failure rates in this program range from 4.5 percent to 30 percent, most of which are from technical violations rather than new offenses. GMJ is aware that VRJJC has an electronic monitoring component; however, it may be hampered by the small amount of funding it receives and is used more in conjunction with probation supervision.

*Intensive Supervision:* These programs (ISPs) are widely used in Texas and are often funded by TJJD as an alternative to incarceration in state institutions. VRJJC has used the ISP model in probation supervision for some time. ISP is also a recognized model as an alternative to secure detention for juvenile arrestees. Youth identified as likely to be detained prior to adjudication can have a designed release plan that includes a list of community services and specific objectives presented to the court. Juveniles can live at home or at a suitable alternative site in the community, and meet with a case manager three times each week. Offenders’ families are also provided with needed services. This

model has shown success in larger jurisdictions, but the concept could be applied almost anywhere.

*Day and Evening Reporting Centers:* This is a nonresidential program that requires the offender to report daily activities to case managers. It is a mechanism for enhanced supervision of offenders but differs from ISP in that they provide services such as drug treatment, job training referrals, life skills services, and counseling. An evening reporting center operates from 4 pm to 9 pm daily and participants are involved with the program for up to 21 days. Youth participate in educational and vocational programs, counseling, recreational activities and life development workshops (e.g. lectures on delinquency, local government, alcohol and drugs, and health issues; workshops on conflict resolution, employment, and parenting skills). Dinner is provided as an incentive for participation. Youth are deemed successful if they are not rearrested while participating in the program. Again, large jurisdictions have experienced success with this model. There are some related costs; however, certain elements of such a program could be identified and used by any jurisdiction.

*Skills Training Programs:* This is another nonresidential program, established to provide hands-on training for delinquent youth starting at age 16 who are adjudicated for non-violent crimes, and who typically come from low income/high crime neighborhoods. The program is designed to help youth learn practical skills, such as carpentry and boat repair, and integrates education and employment experience. This program can partner with local colleges so that program graduates can attend college level courses at a reduced cost. Adding a Workforce Development Counselor can help a youth navigate through common workplace challenges.<sup>23</sup>

*Needs Assessment:* A useful second component in the classification of youth that relates to alternatives to the use of detention.<sup>24</sup> The assessment focuses on each youth's needs for services and treatment in a more in depth manner than during initial screening. The data gained is to be used to assign youth to a program or facility that provides the most appropriate and most needed service. Staff with expertise in mental health, education, vocational training and medical care should conduct the needs assessment process and divert the juvenile from detention to the identified service.

*Juvenile Drug Court:* A final program for consideration is not actually designed for the purpose of reducing dependence on confinement, but by the nature of its focus could impact the dependence on the use of detention. The National Council of Juvenile and Family Court Judges (NCJFC) has established a model for juvenile drug courts. This is a highly structured and demanding program, and is designed to help participants who have drug problems who have been referred to the Juvenile Court for delinquent conduct. The program has a system of graduated sanctions over a 180-day period. There are three phases that a juvenile, age 13-17, must complete. To qualify the juvenile must be post-adjudicated, have a documented substance abuse disorder, have a stable home location,

<sup>23</sup> Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, September 2005.

<sup>24</sup> Developed by The Annie E. Casey Foundation, cited in response to question 25.

and the parents must be involved. A court appearance is required every week during the first 60 days of phase 1 and thereafter a court appearance every other week. The drug court judge may need to use detention on occasion but, because the emphasis is on treatment, the program regularly uses sanctions other than detention when violations occur. A Drug Court program could therefore reduce the use of detention and the length of stay that occurs when a juvenile violates probation conditions.

## **28. What is the probability of Texas raising the age of criminal culpability from 17 to 18 years of age.**

According to the Texas Criminal Justice Coalition, a public policy advocacy group that supports the raising the age of criminal responsibility from 17 to 18 years of age, Texas is only one of nine states that have not moved 17-year-old defendants to the juvenile system.<sup>25</sup>

The effort to raise the age to 18 has a long and apparently growing list of supporters.<sup>26</sup> In an interim report to the 84<sup>th</sup> Legislature, the House Committee on Criminal Jurisprudence recommended moving 17-year-olds to the juvenile system.<sup>27</sup> A number of Texas sheriffs support the measure, largely due to the challenges and cost of complying with the mandates of the Prison Rape Elimination Act (PREA).<sup>28</sup>

The interim report from the House Committee on Criminal Justice found that it costs \$366.88 per day to house a youth in a juvenile facility and \$50.04 to house an adult prisoner. That cost is remarkably close to Victoria County's cost to house youth at VRJJC from 2010-2014, and is perhaps even closer to the projected cost in some of the possible courses of action explored in the responses to Question 36, below.

The report also argued that 17-year-olds in the juvenile system would be more likely to receive probation, as well as programming that have a greater likelihood of reducing

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<sup>25</sup> <http://publicpolicycenter.texasjc.org/return-children-under-the-age-of-18-to-the-states-juvenile-justice-system-and-limit-the-use-of-secure-confinement-for-children-under-the-age-of-13>

<sup>26</sup> At a committee hearing on HB1205, one of three "raise the age" bills introduced in the 84<sup>th</sup> Texas Legislature, witnesses testifying in favor of the bill included representatives from Bexar County Probation Departments; Texans Care for Children; Texas Appleseed; Texas Criminal Defense Lawyers Association; Texas Criminal Justice Coalition; Texas PTA; Texas Public Policy Foundation; ACLU of Texas; Children's Defense Fund - Texas; Disability Rights Texas; Goodwill Central Texas; Harris/Ft. Bend County Criminal Lawyers Association; MALDEF; Mental Health America of Texas; National Association of Social Workers - Texas Chapter; One Voice Texas; Texas Catholic Conference of Bishops; Texas Association Against Sexual Assault; Texas Association of Goodwills; Texas CASA; Texas Defender Service; Texas Fair Defense Project; Texas Family Law Foundation; Texas NAACP, and Texas Network of Youth Services.

<sup>27</sup> Interim Report to the 84<sup>th</sup> Legislature, House Committee on Criminal Jurisprudence, January 2015. [http://www.house.state.tx.us/\\_media/pdf/committees/reports/83interim/House-Committee-on-Criminal-Jurisprudence-interim-report.pdf](http://www.house.state.tx.us/_media/pdf/committees/reports/83interim/House-Committee-on-Criminal-Jurisprudence-interim-report.pdf)

<sup>28</sup> Adrian Garcia, Christopher Kirk, and Guadalupe Valdez, "Raise Age of Juvenile Jurisdiction," Houston Chronicle, May 30, 2014, <http://www.chron.com/opinion/outlook/article/Raise-age-of-juvenile-jurisdiction-5517953.php>.

future criminality and, therefore, reduce future criminal justice costs. The report estimates that “each youth who is rehabilitated can save taxpayers between \$1.7 million and \$2.3 million in future criminal justice costs” while also becoming productive citizens.

According to the website Texas Juvenile Justice Exchange, State Sen. John Whitmire, the chairman of the Senate Criminal Justice Committee and main opponent of the raise-the-age measure in the last Legislature, told supporters of the measure that he would conduct a new study of the proposed bill before the Legislature convenes again in 2017.<sup>29</sup>

Advocates of the measure have vowed to bring it up in the next legislative session. While we cannot predict when Texas will raise the age of criminal responsibility, it does appear that forces are being aligned to effect the change. It may not happen in the next legislative session but, given the fact that Texas is only one of nine states that has not raised the age, together with the cost of PREA compliance and Sen. Whitmire’s commitment to study the issue, it could well happen in the relatively near future.

**29. What would be the expected change in numbers of juveniles detained and juveniles supervised by the VRJJC, with an estimated cost of each such change, resulting from such a change in age of criminal culpability?**

Commenting on legislation that was then pending in the 84<sup>th</sup> Texas Legislature (2015), juvenile justice officials in McLennan County estimated that increasing the age of criminal responsibility from 17 to 18 would likely cause intakes to double, requiring a need for more staff and funding.<sup>30</sup> GMJ does not concur that reducing the age of criminal responsibility will double intakes (at least not in Victoria County), but it will certainly have an impact.

According to the Census Bureau (2000), the one-year 17-year-old cohort in Victoria County is approximately 1,225,<sup>31</sup> or approximately 13 percent of the 10 to 17-year-old cohort. Nationwide, 17-year-olds are approximately 10.3 percent of the 10 to 17-year-old cohort.

The National Center for Juvenile Justice Census of Juveniles in Residential Placement 2007-2013<sup>32</sup> indicates a slight upward trend in the number of 17-year-olds as a percentage of juveniles in residential placement. From 2010-2013, 17-year-olds averaged more than 28 percent of the population, almost three times their percentage of the 10 to 17-year-old population. We note that the survey included 18 year-olds and older, which group averaged 14.4 percent of the population. When the 18 and older group is taken out

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<sup>29</sup>Texas Juvenile Justice Reformers: ‘Raise the Age’ Will Rise Again, Texas Juvenile Justice Exchange. June 1, 2015. <http://jjie.org/texas-juvenile-justice-reformers-raise-the-age-will-rise-again/>

<sup>30</sup>“Raise the Age” Crime Bills Could Cost McLennan County. Waco Tribune, April 5, 2015. [http://www.wacotrib.com/news/courts\\_and\\_trials/raise-the-age-crime-bills-could-cost-mclennan-county/article\\_3363e449-0a67-5944-9eba-e1b61a57b2de.html](http://www.wacotrib.com/news/courts_and_trials/raise-the-age-crime-bills-could-cost-mclennan-county/article_3363e449-0a67-5944-9eba-e1b61a57b2de.html)

<sup>31</sup> <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

<sup>32</sup> <http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/selection.asp#sthash.hBvWfOTv.dpuf>

PROJECTED IMPACT ON VRJJC ADP IF 17 YR. OLDS ARE MOVED TO THE JUVENILE SYSTEM BASED ON VRJJC'S ADP 2010-2014									
	PRE-ADJUDICATION			POST-ADJUDICATION			TOTALS		
	HISTORIC	WITH 17 YR OLDS	INCREASE	HISTORIC	WITH 17 YR OLDS	INCREASE	HISTORIC	WITH 17 YR OLDS	INCREASE
VICTORIA COUNTY	8.41	12.45	4.04	2.92	4.32	1.40	11.33	16.77	5.44
CONTIG. COUNTIES	4.57	6.76	2.19	0.41	0.61	0.20	4.98	7.37	2.39
OTHER COUNTIES	3.99	5.91	1.92	21.59	31.95	10.36	25.58	37.86	12.28
TOTAL	16.97	25.12	8.15	24.92	36.88	11.96	41.89	62.00	20.11

of the equation, 17-year-olds represent an average of 32.8 percent of the population in residential placement.

If these averages hold true in Victoria County, moving 17-year-olds into the juvenile system could represent an increase of approximately 48 percent in VRJJC's ADP. This would mean an average of as many as five to six additional residents in a Victoria-only scenario, and 20 or more additional residents in a scenario in which VRJJC takes placements from counties around the state.

The impacts of the increase on operating costs are difficult to calculate. It is likely that a significant percentage of the increase could have been absorbed in a pre-PREA environment without a significant increase in operating costs.

We explore several possible courses of action in our responses to Question 36, below; however, that would cap the population of VRJJC at various levels. This is largely to avoid staffing cost increases as a result of PREA compliance. Those caps would reduce the number of placements the facility could accept from other counties but, based on historic ADPs, VRJJC would still be able to accommodate the vast majority of placements from other counties.

If (when) 17-year-olds are moved to the juvenile system, the projected increased demand by Victoria (and the contiguous counties) could result in VRJJC having to decline placements from other counties. Of course, it is also possible that the change will increase demand and enhance VRJJC's ability to market its beds to other counties at a rate that approaches or achieves full cost recovery.

**30. What is the optimum number of detention officers and probation officers if the VRJJC served only Victoria County delinquents?**

This question is answered in some detail in the response to Question 36, the five courses of action, below. In short, given the staffing requirements, we conclude any scenario that serves only Victoria County juveniles would be prohibitively expensive.

### **PHASE 3. FACILITY**

**31. Do Texas building codes or jail standards require an “evac” or other ventilation system?**

- a. Does the VRJJC have such a system?**
- b. Was the present ventilation system adequate when automated if so how long was it disabled, who disabled the ventilation system and who knew the ventilation system was disabled?**
- c. What are the liabilities of not having such a system?**
- d. What is the estimated cost of installing such a system?**
- e. When constructed, did the VRJJC meet the “Development Agreement” criteria, namely; “standards of the American Corrections Associations, the Texas Juvenile Probation Commission, applicable fire and safety codes and all other applicable state and local laws, codes, regulations and standards[?]” Vol. 151 pp. 422 Records of Victoria Cnty. Comm’rs. Ct. (June 16, 1994)**

Due to the ongoing examination of the VRJJC building and its structural, ventilation, and existing smoke evacuation systems by the Victoria County Engineer and other professionals, GMJ has chosen to table the discussion of this question until such time as this work has been completed by the County. GMJ stands ready to perform a smoke evacuation test according to industry standards and report on our findings, when directed, along with a detailed answer to the above inquiry. GMJ will be glad to work with any other professionals or County agencies in this regard.

**32. Is there state funding available to keep our facility operational or would the state buy or lease these facilities?**

No. There are no such funding sources in existence to accomplish this. Please also see the response to Question 36, below, with regard to the possibility of TJJD acquiring or taking over the VRJJC (proposed Course of Action #2).

**33. Is the facility compliant with all laws and regulations? Has it been compliant since opening?**

#### **Legal Standards**

Texas Human Resource Code, Chapter 141.042, requires the Texas Juvenile Probation Commission (TJPC) to annually inspect all public and private juvenile pre-adjudication and post-adjudication secure detention facilities. The standards for detention facilities are codified in the Texas Administrative Code, Title 37, Chapter 343 and the standards for correctional facilities in Title 37, Chapter 344.

Review of Contract and Monitoring Reports

GMJ reviewed the state monitoring reports beginning in 1997 prepared by TJPC. In 2011, the legislature merged TJPC with the Texas Youth Commission to form the Texas Juvenile Justice Department (TJJD), which continued the monitoring responsibilities.

The TJPC State Financial Assistance Contract with the Juvenile Board includes numerous provisions under Article IV entitled “General Duties and Responsibilities of Recipient” and stipulates:

“Recipient agrees to comply with all procedural and substantive requirements of Title 3 of the Texas Family Code. Recipient further agrees to comply with all requirements of federal law related to Juveniles including, but not limited to the Juvenile Justice and Delinquency Act of 1974 and all subsequent amendments thereto (see public law 93-415, 42 U.S.C. 5601 et seq.)”

An element in the contract titled “Corrective Action” states:

“A monitoring Summary may contain specific citations of non-compliance(s) with the Texas Juvenile Probation Commission’s mandatory standards, Family Code Statutes and Texas Human Resource Code statutes.”

The juvenile board chair and the department’s chief administrative officer can take three prescribed options when addressing non-compliances:

1. Within thirty (30) days of the receipt of the Monitoring Summary, the chair of the juvenile board and the chief administrative officer may submit a written response, which addresses each specific noncompliance cited. The response should include a description of the corrective action taken to bring the standard(s) and/or statutes into compliance and any applicable documentation that supports the corrective action.
2. If the department is unable to achieve standards compliance within (30) days of the receipt of the Monitoring Summary, the juvenile board may submit a TJPC Application for Temporary Waiver of Standards for each applicable standard; however, the Family Code and Human Resources Code non-compliances are not subject to the waiver process.
3. If the department disagrees with the findings, the chair of the juvenile board and the chief administrative officer may contest the finding by submitting in writing the disagreement of the non-compliance and reasons there in.

This question is therefore answered by a review of the monitoring reports by the respective state agency going back to the first year the VRJJC was subject to monitoring.

VRJJC and TJJD contributed the necessary reports for review with the exception of the years 2000 and 2002.<sup>33</sup>

### 1997 – 2003 Monitoring Reports

VRJJC opened in the latter part of 1995 and concluded its first full year of operation in 1996. The first monitor was conducted January 21, 1997, and there were no exceptions to the detention standards. Detention monitors conducted on January 22, 1998, May 7, 1999, February 27, 2001, and March 18, 2003 all found no exceptions to the Texas Juvenile Probation Commission Standards as needing to be addressed.

### 2004, Pre-Adjudication Monitoring Report

The December 6, 2004 monitoring report revealed the following standards in non-compliance in the Pre-Adjudication standards:

343.10 Health Care. Non-compliance due to the monitor being unable to verify the exact minute increment of the actual visual observation (in the resident's room) or to verify the general written description of the resident's physical and emotional behavior.

343.10 Health Care. Non-compliance due to the monitor finding the visual observation of a suicidal youth exceeded the 10-minute requirement by 1 minute, 2 minutes, and 4 minutes.

343.15 Employment. Non-compliance due to the monitor finding one employee file had the Residency Verification form that was completed late.

343.30 Intake. Non-compliance due to the monitor finding two juvenile admissions that did not receive the required orientation in the first 12 hours.

343.30 Intake. Non-compliance due to the monitor being unable to determine if a mental health screen was completed during the first hour of admission on three youth.

343.32 Supervision. Non-compliance due to the monitor determining that staff had completed a unit log for residents instead of individual room observation checks recorded therefore unable to verify exact minute increments.

343.5 Physical Plant. Non-compliance due to monitor finding only two documented fire drills.

343.7 Rules and Discipline. Non-compliance due to monitor finding a portion of the observation log missing and therefore unable to determine if the 15 minute room observation of a juvenile had been completed.

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<sup>33</sup> TJJD does not maintain monitoring reports prior to the year 2003. TJJD Management reported that the Executive Director had suspended monitoring to allow monitors and the field probation departments to develop new standards and monitoring processes around 2002, which would account for the absence of a monitoring report in 2002. The only other explanation for the absence of a report in 2000 was an informal arrangement by the Texas Juvenile Probation Commission that allowed a year to be skipped if a county had done well on a previous years monitor. Nevertheless, GMJ was able to review reports starting in 1997 through 2015 with only one other interruption by statute addressed in this report.

### 2004, Post-Adjudication Monitoring Report

A monitor of December 7, 2004 of the Post-Adjudication standards found the following non-compliances:

343.10 Health Care. Non-compliance due to the monitor being unable to locate documentation of room observation checks and no authorization for medical confinements on 28 files reviewed.

343.10 Health Care. Non-compliance due to the monitor finding a 33 minute gap on the supervision of a high risk suicidal youth.

343.45 Intake. Non-compliance due to the monitor finding two youth with late orientations.

343.47 Supervision. Non-compliance due to the monitor finding non staggered youth room observation checks.

343.5 Physical Plant. Non-compliance due to monitor finding only two recorded fire drills.

343.62 Prohibitions. Non-compliance due to the monitor finding an incident report that indicated a restraint occurred but the report had no narration. Therefore the monitor was unable to determine if the prohibitions enumerated in the standard did or did not occur.

343.63 Documentation. Non-compliance due to the monitor being unable to determine the behavior that prompted the restraint due to incomplete narration (same incident as 343.62).

343.7 Rules and Discipline. Non-compliance due to the monitor finding non-staggered room observation checks at ten minute intervals.

It is noted in each of the non-compliances in 2004 that VRJJC prepared a “Program Improvement Plan.” This plan outlined how the non-compliance items would be corrected. The Monitoring Report then reflected the acceptance of the plan by TJPC and recorded the documentation prepared by VRJJC that the plan was implemented and completed.

### 2005 - 2006 Monitoring Reports

GMJ obtained a letter from TJJD that reported a legal change in the monitoring process. It states, “In 2003, the Human Resources Code Section 141.042(d)[221.022] was amended to permit inspections to be made every two years (i.e., biennially). In 2007 Subsection (d) was repealed and the legislature added the requirement that TJPC annually inspect all public and private secure pre-adjudication detention and post-adjudication correctional facilities”. Therefore there is no monitoring report in 2005 and the next monitor was conducted February 2007, on operations in 2006.

### 2007, Pre-Adjudication Monitoring Report

A monitor was conducted on February 7, 2007 of the Pre-Adjudication Standards with the following non-compliance findings:

343.10 Health Care. Non-compliance due to the monitor finding that two youth observations were not staggered and twelve youths observations exceeded 15 minutes.

343.10 Health Care. Non-compliance due to the monitor not finding authorization from a mental health professional or facility administrator removing the youth from high-risk designation.

343.15 Employment. Non-compliance due to the monitor finding one out of fifteen files that the fingerprint check was initiated on the day of employment.

340.30 Intake. Non-compliance due to the monitor finding two youth's orientations could not be verified and two late orientations by 29 minutes and 49 minutes.

340.30 Intake. Non-compliance due to the monitor finding one youth's file out of fourteen whose health screen indicated the resident was taking prescribed medication however information about the medication and doctor were not addressed.

343.32 Supervision. Non-compliance due to the monitor finding thirteen youth room observations exceeded 15 minutes one of which was not staggered.

343.63 Documentation. Non-compliance due to the monitor finding seven of twelve incident reports, all of which involved one resident over a period of 5 days with missing information including:

1. Type of physical restraint was not included; no documentation of de-escalation
2. No documentation of events leading to restraint
3. Titles of staff not included

343.7 Rules and Discipline. Non-compliance due to the monitor finding two of five youth files with no authorization of room confinement and exceeding the 15 minute observation interval.

### 2007, Post-Adjudication Monitoring Report

A monitor was conducted on February 7, 2007 of the Post-Adjudication Standards noted the following non-compliances:

343.10 Health Care. Non-compliance due to the monitor finding thirteen resident files with room observation checks that exceeded 15 minutes.

343.10 Health Care. Non-compliance due to the monitor finding one youth on suicide moderate risk placed on constant supervision and the log lacked documentation for 2 hours and 9 minutes.

343.45 Intake. Non-compliance due to the monitor finding four of nineteen youth files not having a medical examination 30 days prior to admission and two youth files whose psychological examination was not within one year prior to admission.

343.45 Intake. Non-compliance due to the monitor finding three of fifteen resident files in which the psychological screening (MAYSI-2) was not completed within one hour of admission.

343.45 Intake. Non-compliance due the monitor finding two of fifteen resident files lacking an orientation form.

343.47 Supervision. Non-compliance due to the monitor finding seven residents that had one room observation check that exceeded 15 minutes and one resident whose observation check was not staggered and did not have an observation log for one evening.

It is noted that in each of the above non-compliances the VRJJC prepared a “Program Improvement Plan.” This plan outlined how the non-compliance items would be corrected. In each case the monitoring report reflected the acceptance of the plan by TJPC and recorded the documentation prepared by VRJJC that the plan was implemented and completed. It is also noted that 79 standards were reviewed in this audit and found to be in full compliance.

2008, Pre-Adjudication Monitoring Report

The April 9, 2008 monitor of the Pre-Adjudication standards found the following non-compliances:

343.10 Health Care. Non-compliance due to the monitor finding nine residents whose room observation checks exceeded the 15 minute requirement, one resident did not have staggered room checks, and two resident files did not have documentation.

343.30 Intake. Non-compliance due to the monitor finding one of thirteen resident files that had the orientation document signed one day after admission.

343.63 Documentation. Non-compliance due to the monitor being unable to locate a descriptive narrative to determine what behavior prompted the restraint and the location of the incident.

2008, Post-Adjudication Monitoring Report

The April 8, 2008 monitor of the Post-Adjudication standards found the following non-compliances:

343.10 Health Care. Non-compliance due to the monitor finding six of fifteen youth files contained room observation checks that exceeded the 15 minute requirement.

343.45 Intake. Non-compliance due to the monitor finding two resident files in which the TB test was not completed within 30 days prior to admission, as well as one resident file in which the medical examination was not completed within 30 days prior to admission. VRJJC contested the finding of the TB test issue due to juveniles from other counties having to wait in detention until a bed becomes available at VRJJC. Management at VRJJC stated that only juveniles with current TB tests are accepted. TJPC subsequently granted a waiver to this standard on May 28, 2008.

It is noted that VRJJC prepared a “Program Improvement Plan” once again, outlining how the non-compliance items would be corrected. The monitor reflected the acceptance of the plan by TJPC.

2009, Pre- and Post-Adjudication Monitoring Report

The June 16, 2009 monitor of the Pre-Adjudication Standards and the Post-Adjudication Standards found all the standards in full compliance with no exceptions.

2010, Pre-Adjudication Monitoring Report

The July 1, 2010 monitor of the Pre-Adjudication Standards found the following non-compliances:

343.274 Resident Discipline Plan. Non-compliance due to the monitor finding that the minor rule infractions and corresponding sanctions were not included in the discipline plan or in the resident handbook.

343.280 Formal Disciplinary Review Process. Non-compliance due to the monitor finding that the resident discipline plan did not contain all the minor rule infractions and corresponding sanctions.

343.338 Medical Isolation. Non-compliance due to the monitor finding one of eight resident files in which a youth was not evaluated by a health care professional within 12 hours of initial placement on medical isolation.

343.406 Health. Non-compliance due to the monitor finding that eleven resident files (1) "physical or developmental disabilities" and (2) "a determination of the need for medical detoxification from alcohol or other substances or mental health services" were not addressed on the health screening.

343.412 Orientation. Non-compliance due to the monitor finding eleven resident files "orientation" failed to address information required by the Prison Rape Elimination Act (A) prevention and intervention, (B) methods of minimizing risk of sexual abuse, (C) reporting sexual abuse and assault and (D) treatment and counseling.

343.414 Behavioral Screening. Non-compliance due to the monitor finding eleven youth files did not contain a behavioral screening.

343.418 Admission Records. Non-compliance due to the monitor finding two of eleven resident files did not address the primary language of the resident's parent or legal guardian in the admission records.

343.426 Release Procedures. Non-compliance due to the monitor finding two resident files that were unable to verify pending medical, dental, and mental health appointments for the resident as well as any current concerns.

2010, Post-Adjudication Monitoring Report

The July 1, 2010 monitor of the Post-Adjudication standards found the following non-compliances:

343.288 Disciplinary Seclusion. Non-compliance due to the monitor finding two youth files had youth room observation checks that exceeded the 15 minute requirement. In this instance a staff member who was assigned to conduct room observations had to respond to a call for assistance by another staff. This exception was added to the policy manual for a major riot or violent incident.

343.600 Required Pre-Admission Records. Non-compliance due to the monitor finding two of eleven resident files medical exams being conducted in excess of thirty days of admission.

343.604 Health Screening. Non-compliance due to the monitor finding nine resident files in which the health screening form did not address “developmental disabilities” or “need for medical detoxification from alcohol or other substances” or “mental health intervention”.

343.606 Orientation. Non-compliance due to the monitor finding 11 resident files in which the “orientation” did not address the elements of PREA (prevention and intervention, methods of minimizing risk of sexual abuse, reporting sexual abuse and assaults, and treatment and counseling).

346.632 Level of Supervision. Non-compliance due to the monitor finding one of 23 logs in which the room observation check was in excess of the 15 minute requirement.

343.688 Residential Case Plan. Non-compliance due to the monitor finding one resident’s case plan did not contain a signature of the Juvenile Probation Officer.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflected the acceptance of the plan by TJPC.

#### 2011, Pre-Adjudication Monitoring Report

The February 14, 2011 monitor of the Pre-Adjudication Standards found the following non-compliances:

343.274 Resident Discipline Plan. Non-compliance due to the monitor finding the Resident Discipline Plan did not have a provision for an informal process for residents to resolve conflict with rule infractions.

343.338 Medical Isolation. Non-compliance due to the monitor finding two of nine youth resident files in which room observation checks exceeded random intervals of 15 minutes.

343.368 Illegal Discrimination. Non-compliance due to the monitor finding that the policy did not contain all the elements required by the standard; sexual orientation and gender identity were not addressed.

343.406 Health Screening. Non-compliance due to the monitor finding one of eleven youth files in which the health screening did not address current use of medication, including type, dosage, and prescribing physician.

314.414 Behavioral Screening. Non-compliance due to the monitor finding the “other” category was left blank and therefore not addressed.

341.438 Level of Supervision. Non-compliance due to the monitor finding one room observation check exceeded the 15 minute requirement.

There was no record of a “Program Improvement Plan” in this monitoring report.

2011, Post-Adjudication Monitoring Report

The February 14, 2011 monitor of Post-Adjudication Standards found the following non-compliances:

343.274 Resident Discipline Plan. Non-compliance due to the monitor finding one element of the Resident Discipline Plan was not addressed;(5) In no case shall a resident be sanctioned or retaliated against for electing to forego the informal disciplinary review process when they are eligible for formal disciplinary reviews.

343.288 Disciplinary Seclusion. Non-compliance due to the monitor finding two of seven resident files in which room observation checks exceeded 15 minutes.

343.338 Medical Isolation. Non-compliance due to the monitor finding two out of five resident files room observation checks exceeding 15 minutes.

343.368 Illegal Discrimination. Non-compliance due to the monitor finding one element in the Policy and Procedure Manual that was not addressed; discrimination based on sexual orientation and gender identity.

343.378 Grievance Appeals. Non-compliance due to the monitor finding that it was unable to be verified that two residents were notified of appeal resolution in writing.

There was no record of a “Program Improvement Plan” in this monitor report.

2012, Pre-Adjudication Monitoring Report

The December 5, 2012 monitor of Pre-Adjudication Standards found the following non-compliances:

343.286(b) Room Restriction. Non-compliance due to the monitor finding one room observation check was in excess of the required 15 minutes.

343.386 Volunteers and Interns. Non-compliance due to the monitor finding that the log did not document the ending time for services provided.

343.414 Behavioral Screening. Non-compliance due to the monitor finding one of eleven resident files had the “emotional and cognitive development” portion of the Intake Behavioral Screening was left blank.

It is noted that VRJJC prepared a “Program Improvement Plan” once again, outlining how the non-compliances would be corrected. The monitoring report reflected the acceptance of the plan by TJJD.

2012, Post-Adjudication Monitoring Report

The December 5, 2012 monitor of the Post-Adjudication Standards found the following non-compliances:

343.386 Volunteers and Interns. Non-compliance due to the monitor finding the Volunteer/Intern log sheet did not document the ending time for services.

343.690 Residential Case Plan Review. Non-compliance due to the monitor finding the case plan review exceeded 90 calendar days from the date of the original case plan.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflects the acceptance of the plan by TJJD.

2013, Pre-Adjudication Monitoring Report

The November 14, 2013 monitor of Pre-Adjudication standards found the following non-compliances:

343.236 Secure Storage Areas. Non-compliance due to the monitor finding a cleaning solution not currently in use being stored near a workstation in the Dayroom of A Unit. Standards require cleaning supplies be locked when not in use.

343.266 Bedding. Non-compliance due to the monitor finding that one resident was not being provided with a pillow or a mattress with an integrated pillow.

343.274 Resident Discipline Plan. Non-compliance due to the monitor finding that the Discipline Plan did not include the corresponding sanctions available to staff for major rule violations as required by the standard.

343.386 Volunteers and Interns. Non-compliance due to the monitor finding the volunteer/intern “sign in” log did not address the purpose of the visit and one “date” element was not addressed.

343.802 Requirements. Non-compliance due to the monitor finding a restraint was performed by a non-certified Juvenile Supervision Officer who had not been trained in “Handle With Care.” TJJD did note that the restraint was a result of a serious and violent attack on a staff member and that the officer acted reasonably and instinctively in coming to the defense of a severely injured co-worker.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflected the acceptance of the plan by TJJD.

2013, Post-Adjudication Monitoring Report

The November 14, 2013 monitor of the Post-Adjudication Standards found the following non-compliances:

343.274 Resident Discipline Plan. Non-compliance due to the monitor finding the Resident Discipline Plan did not include the corresponding sanctions available to staff for major rule violations as required by the standard.

343.386 Volunteers and Interns. Non-compliance due to the monitor finding the Volunteer/Intern log did not address the purpose of the visit, date of the activity, and the “time in” of the activity.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflected the acceptance of the plan by TJJD.

2014, Pre-Adjudication Monitoring Report

The November 3, 2014 monitor report of the Pre-Adjudication Standards found the following non-compliances:

343.236 Secure Storage Areas. Non-compliance due to the monitor finding two cans of Off insect repellent and Rid Home Lice Control spray in a locked cabinet in A unit. This is a hazardous material and prohibited from being in a housing unit.

343.238 Hazardous Materials. Non-compliance due to the monitor finding the facility did not have a Material Safety Data Sheet (MSDS) on Rid Home Lice control product as required by standard.

343.266 Bedding. Non-compliance due to the monitor finding a resident not being provided a pillow and pillowcase or a mattress with an integrated pillow as required by standard.

343.288 Disciplinary Seclusion. The monitor found a resident observation check in excess of the 15 minute requirement. However because the resident observations were below the 2% error rate, the facility was found to be in substantial compliance with the standard requirement.

343.412 Orientation. Non-compliance due to the monitor finding a staff member did not address the right of “confidentiality” and “not facing reprisal for participating in PREA” grievance procedures.

There was no “Program Improvement Plan” reflected in this report.

2014, Post-Adjudication Monitoring Report

The November 3, 2014 monitor of the Post-Adjudication standards reveals the following non-compliances:

343.288 Disciplinary Seclusion. The monitor found 2 resident observation checks in excess of 15 minutes. However, because they were below the 2% error rate the facility was found to be in substantial compliance with the standard.

343.290 Protective Isolation. Non-compliance due to the monitor finding a resident was placed on protective isolation for imminent harm of others. The standard only permits the use of protective isolation in the event that a resident is physically threatened by a resident or group of residents.

343.338 Medical Isolation. The monitor reviewed 1,378 resident observation checks and found 11 checks in excess of 15 minutes. The monitor also found an observation sheet lacking the Juvenile Supervision Officer’s name or initials. However this was below the 2% error rate and was therefore found to be in substantial compliance.

343.350 Supervision of Moderate Risk Suicidal Youth. The monitor reviewed 300 resident observation checks and found two checks that exceeded the 10 minute observation requirement. This was below the 2% error rate and was found to be in substantial compliance.

There was no “Program Improvement Plan” reflected in this report.

2015, Pre-Adjudication Monitoring Report

The October 8, 2015 monitor of the Pre-Adjudication Standards found the following non-compliances:

343.238 Hazardous Materials. Non-compliance due to the monitor finding Febreze Fabric Refresher and Proclaim Super Bond Remover Oil stored in the facility. These products were not included on the list of hazardous materials stored in the facility and did not have the corresponding Material Safety Data Sheet (MSDS) for the materials.

343.288 Disciplinary Seclusion. Non-compliance due to the monitor finding numerous “disciplinary seclusions” beyond a 24-hour period that had not been approved by the Facility Administrator.

343.402 Assessment Isolation. Non-compliance due to the monitor finding a resident was placed on “assessment isolation” for longer than 24 hours. The Standards designates this period to be only 24 hours.

343.406 Health Screening. Non-compliance due to the monitor finding one resident file had the “dosage medication” left blank.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflects the acceptance of the plan by TJJD.

2015, Post-Adjudication Monitoring Report

The October 8, 2015 monitor of the Post-Adjudication Standards revealed the following non-compliances:

343.238 Hazardous Materials. Non-compliance due to the monitor finding Febreze Fabric Refresher and Proclaim Super Bond Remover Oil stored in the facility but were not listed in the facility’s list of hazardous materials nor did the facility have a corresponding Material Safety Data Sheet (MSDS).

343.288 Disciplinary Seclusion. Non-compliance due to the monitor finding one resident had been placed in seclusion however the extension seclusions were not approved by the Facility Administrator as required by standard.

It is noted that VRJJC prepared a “Program Improvement Plan” outlining how the non-compliances would be corrected. The monitoring report reflects the acceptance of the plan by TJJD.

## Conclusion

GMJ, through this review, has determined that VRJJC has been under the scrutiny of a state agency charged with oversight of operations with regards to standards developed specifically for Pre and Post Juvenile Detention and correctional facilities. Currently these facilities operate under 148 standards. In the first 5 years of monitoring, VRJJC was in full compliance with the standards. As standards were strengthened and monitoring became more intense, several non-compliances were noted which required VRJJC to make corrections and improvement plans each year to satisfy the Texas Juvenile Probation Commission and the Texas Juvenile Justice Department. This scenario is very common with Juvenile Probation Departments across the state.

### **34. What were the projections in 1995 that were used to justify the building of this facility and were those projections correct?**

In April 1994 RECOR prepared another feasibility study<sup>34</sup> for the construction of the VRJJC (a prior study had been done in 1984). During this 10 year time frame, there had been an increase in juvenile crime statewide and nationwide; however, in 1994 the juvenile crime rate began to decline.

Nevertheless, the subject of juvenile crime was receiving the attention of the public due to the governor's race between George W. Bush and Ann Richards, as each candidate had made fighting juvenile crime part of their platform such that there was momentum behind the reform of the juvenile justice system. At the same time, the Texas Juvenile Probation Commission (now TJJD) was seeking over 800 additional short term beds statewide (which need was projected to rise to over 1,000 by 1997), and over 800 residential treatment beds statewide, in an effort to keep kids out of TYC and house them locally in residential facilities maintained by counties rather than by the state.<sup>35</sup>

With all of the above in mind, the projections for the new VRJJC were made, and the final caveat was: "Like the adult criminal justice system, the need for additional juvenile detention beds will continue to rise as the public demands a tougher approach to juvenile crime."<sup>36</sup> While this was true at the time, the truth of the trend in juvenile crime since 1994 has been a precipitous decline.<sup>37</sup>

As part of the 1994 feasibility study, contact was made with 48 juvenile probation departments across the state to ascertain their interest in sending their juveniles to a proposed facility located in Victoria County. Of the 48 contacted, 26 responded positively that they would consider sending juveniles to such a facility if it were

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<sup>34</sup> Volume 146 page 844, Victoria County Commissioners' Court Records.

<sup>35</sup> *Id.* at 850 – 853.

<sup>36</sup> *Id.* at 853.

<sup>37</sup> For additional detail on the juvenile crime rate, see response to Question 16.

constructed. The Texas Juvenile Probation Commission also expressed an interest in using 6-12 beds if the facility was licensed by the Department of Human Services.<sup>38</sup>

After surveying other counties regarding their juvenile detention bed days and costs, projections for bed days per year at a new VRJJC placed the total occupancy at 45 residents; however, it was also projected that “it would be normal for Victoria County to utilize an average occupancy rate of 90 percent (65 residents) for projection purposes. The remaining 20 residents needed to reach the 90 percent occupancy rate should be relatively easy to obtain when considering the population potential of Nueces County, Bexar County, and the Texas Youth Commission.”<sup>39</sup> While that projection may have been true based on juvenile crime rates at the time, that projection did not come to fruition as the juvenile crime rate began to decline. The former projection of 45 residents is a more accurate reflection of the current occupancy at the VRJJC; however, the latter projection of 90 percent occupancy has not come to pass.

In Phase 1 of this study, GMJ reported that from 2012 to 2014, the actual daily population fluctuated between a low of 21 and a high of 42. The five year ADP for all counties using the VRJJC was 16.8 pre-adjudication and 19.8 post-adjudication, while the five year ADP for just Victoria and the contiguous counties was 12.9 pre-adjudication and 3.4 post-adjudication.<sup>40</sup>

The estimated per diem rate in 1994 was projected to be \$85 per day for long-term detention, and \$75 per day for short-term detention. It was also estimated in 1994 that the average daily population needed to be at least 18 in residence to meet the monthly lease payments projected at the time.<sup>41</sup> As reflected in the Phase 1 Report, these numbers do not reflect what the VRJJC should be charging to meet full cost recovery.<sup>42</sup>

Because the juvenile crime rate dropped significantly after the construction and opening of the VRJJC, the original projections as to occupancy and cost were not accurate.

### **35. Conduct a cost comparison and review success rates for juvenile boot camp programs in Texas.**

Costs for juvenile boot camps vary widely across Texas and the nation, as programs range from day camps (alternative education programs linked to local school districts) to residential facilities. Overall, it is less costly to operate a boot camp than a residential facility such as the VRJJC, as the stays are typically shorter for the juvenile than in a residential facility; however, in states where boot camps have been used as an alternative to probation, costs have actually escalated due to increased staff, equipment, and supplies needed to operate a residential boot camp program. In addition, if recidivism in the

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<sup>38</sup> 1994 Feasibility study at 856.

<sup>39</sup> *Id.* at 859.

<sup>40</sup> For more detail, see response to Question 5, Phase 1 Report.

<sup>41</sup> 1994 Feasibility Study at 862.

<sup>42</sup> See responses to Questions 2, 3, and 4, Phase 1 Report.

participants is not curtailed, the savings on the front end are lost when the juvenile reoffends as an adult and is incarcerated once again, at taxpayer expense.<sup>43</sup> GMJ's research into juvenile crime, punishment, deterrence, and rehabilitation shows overwhelmingly that locking a juvenile offender up does not prevent further criminal activity.<sup>44</sup> The military boot camp model likewise has not proven to be an effective deterrent to continued criminal behavior.<sup>45</sup>

The majority of juvenile boot camp programs are correctional in nature, seeking to modify problem behaviors in an attempt to prevent reoffending. Nationwide there is no standard boot camp model, so programs vary in terms of cost, size, style, staff to juvenile ratio, and availability of treatment services. There are essentially three types: military type (focusing on strict discipline), rehabilitative, and educational/vocational. Each type may include elements of the others, but all are primarily focused on preventing recidivism; however, the overwhelming research on the efficiency of these programs on reducing recidivism is not positive.

If a boot camp program works, it is largely due to rehabilitative programming and supportive aftercare included in the curriculum.<sup>46</sup> Opponents to the traditional military style boot camp program argue that the programs are merely making bigger and stronger criminals out of the juveniles and returning them to their home counties to continue committing more serious offenses.<sup>47</sup> The former TYC, now TJJD, realized this fact in the mid 2000's and stated that "resocialization" is what juvenile offenders really need in order to curtail criminal behavior, in its literature on boot camp programs operating in Texas at that time.

Many facilities across Texas changed direction and began scaling back programming when the state standards for juvenile boot camps changed in the mid 2000's. During this time frame, the OJJDP also published a review wherein it stated that boot camp programs were not successful in reducing recidivism.<sup>48</sup> Most of the programs still operating in Texas no longer follow a military type protocol, but do offer educational, vocational, and rehabilitative programming. Several states have now abolished boot camps altogether and have moved toward programs designed to provide alternatives to detention.

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<sup>43</sup> Wilson, MacKenzie and Ngo: Effects of Correctional Boot-camps on Offending. Crime Prevention Review No. 5, Washington, D.C., U.S. Department of Justice, 2010.

<sup>44</sup> See, e.g., Parent, Dale: Correctional Boot-camps: Lessons from a Decade of Research. Washington, D.C., Department of Justice, 2003.

<sup>45</sup> National Institute of Justice: Juvenile Boot Camps, 2010.

<sup>46</sup> Trulson, Triplett, and Snell: Social Control in a School Setting: Evaluating a School-Based Boot Camp. Crime and Delinquency 47, 2001.

<sup>47</sup> Muscar: Advocating the End of Juvenile Boot Camps: Why the Military Model Does Not Belong in the Juvenile Justice System. Vanderbilt Law, 2007.

<sup>48</sup> Austin, Johnson and Weitzer: Alternatives to the Secure Detention and Confinement of Juvenile Offenders, Juvenile Justice Bulletin, September 2005, found at <http://www.ncjrs.gov/pdffiles1/ojjdp/208804.pdf>

A non-TJJD program that started in Galveston, Texas is showing great promise in reducing recidivism and providing juveniles with alternatives leading to positive life outcomes. The Texas ChalleNGe Academy (“TCA”), formerly the Seaborne Conservation Corps, was based in Galveston until after Hurricane Ike, and is an education program sponsored by the United States Navy, Texas National Guard, and Texas A & M Galveston. This program is similar to the National Guard ChalleNGe Academy, which operates several programs around the county under different names and program structures. The Sunburst Youth Academy in California is one such program, which was recognized by national news sources in 2014.<sup>49</sup>

The TCA is now operated solely by the Texas Military Department with funding through the Department of Defense with matching funds from Texas and private foundations/donations (therefore it is free to participants). The program is strictly voluntary for 16- to 18-year-old males and females who are at risk of dropping out of high school. This program is an accredited high school operated in partnership with the Iraan/Sheffield ISD and now is located in Sheffield, Texas at a facility in which a boot camp program was formerly operated by the Texas Youth Commission (now TJJD). Cadets work toward high school credit recovery to obtain a G.E.D. or a high school diploma. The program is 17.5 months long, with the first 22 weeks being a residential phase followed by a 12 month post-residential phase.

TCA is not a boot camp or a detention center, it is not a drug or alcohol treatment center, and it is not affiliated with TJJD. Participants must not be on probation or parole for offenses other than status offenses, and cannot be awaiting sentencing or under indictment, charged, or convicted of a crime that would be considered an adult felony. The program is a highly structured quasi-military based format emphasizing self-discipline, personal responsibility, and positive motivation. Cadets are expected to meet military grooming, wear military type uniforms, and observe standard military customs. The program includes physical training, community service, and sports, along with the academic program.

Cost efficiency and juvenile crime deterrence are important to Victoria County; therefore, further studies would need to be conducted to determine if a boot camp program or a program such as the TCA would be a feasible alternative or addition to programs currently offered at the VRJJC.

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<sup>49</sup> See [www.texaschallengeacademy.com](http://www.texaschallengeacademy.com) for more details. For information on other national programs such as TCA, see [www.sunburstyouthacademy.com](http://www.sunburstyouthacademy.com).

**36. Score the following for annual cost to Victoria County as averaged for the next ten (10) fiscal years.**

Study and score the follow possible Courses of Actions (CoA) across the spectrum of likely solutions.

I. CoA #1: Maintain the current arrangement.

1. Modify current facilities to meet all current and anticipated code requirements having a HVAC system engineer approved,
2. Increase detention staffing as required to meet all anticipated PREA requirements within the 2016 FY.
3. Maintain current capacity, fee structure, etc. making only those changes mandated by law...i.e. keep the status quo.

II. CoA #2: Transfer Detention Center to the State.

1. Transfer the detention center to TJJD to run as a regional facility in exchange for preferential placement and detention.

III. CoA #3: Modify services to meet County, Regional and Statewide needs while recovering costs.

1. Retain responsibility & staff for juvenile services and detention within current facilities, mothballing a portion but retaining sufficient space for historical average number of inmates.
2. Modify current facilities to meet all current and anticipated code requirements having a HVAC system engineer approved,
3. Increase detention staffing as required to meet all anticipated PREA requirements within the 2016 FY,
4. Fill any excess capacity but charge for services set based upon a recurring Market Driven Pricing Model (at least 90-95% of the bed-day cost for such a detainee at the nearest facility to the detainee's county of residence), and
5. Market the excess capacity toward less resource intensive detainees with least expense, typically pre-adjudication, with a large surcharge for more resource intensive detainees.

IV. CoA #4: Downsize – Serve only Victoria Needs.

1. Retain responsibility & staff for juvenile services and detention
  - a) Within current facilities by moth-balling most (75%) of the facility and modify occupied facilities to meet all current and anticipated code requirements having a HVAC system engineer approved OR
  - b) Relocating to a safe facility (HVAC engineer approved) that is better sized and suited to meet only Victoria County needs,
2. Increase detention staffing if required to meet all anticipated PREA requirements within the 2016 FY,

3. Fill any excess capacity but charge for services set based upon a recurring Market Driven Pricing Model (at least 90-95% of the bed-day cost for such a detainee at the nearest facility to the detainee's county of residence), and
4. Market the excess capacity toward less resource intensive detainees with least expense, typically pre-adjudication, with a large surcharge for more resource intensive detainees.

V. CoA #5. Restart as a Regional Entity.

1. Create a truly regional Juvenile Justice Center with a regional Juvenile Board with proportional financial contribution from all participating counties and capacity based on Regional needs,
2. Retain responsibility & staff for juvenile services and detention
  - a) Within current facilities by moth-balling about half of the facility and modify occupied facilities to meet all current and anticipated code requirements having a HVAC system engineer approved OR
  - b) Relocating to a safe facility (HVAC engineer approved) that is better sized and suited to meet only Victoria County needs,
3. Increase detention staffing if required to meet all anticipated PREA requirements within the 2016 FY,
4. Fill any excess capacity but charge for services set based upon a recurring Market Driven Pricing Model (at least 90-95% of the bed-day cost for such a detainee at the nearest facility to the detainee's county of residence), and
5. Market the excess capacity toward less resource intensive detainees with least expense, typically pre-adjudication, with a large surcharge for more resource intensive detainees.

Presently there is an ongoing examination/study of the VRJJC building, including the architectural and structural design, existing HVAC system, and the smoke evacuation systems. The Victoria County Engineer and other professionals are conducting this task. It is unknown at this time what the results of this examination are and to what extent, if any, the facility needs corrective action in these areas; therefore, GMJ makes no recommendation as to this issue in the courses of action as presented.

Course of Action #1

The first proposed course of action would be to continue operating VRJJC under the current arrangement, with current capacity and fee structure, addressing any facility systems issues (HVAC) and increasing staff as necessary to comply with the requirements of PREA.

VRJJC has a capacity of up to 72 residents in six housing units, each of which has a capacity of up to 12 residents. Those units can be adapted to house any category of resident, depending on the needs of the facility. Broadly speaking, VRJJC currently has four categories of residents, including:

1. pre-adjudication males
2. pre-adjudication females
3. post-adjudication males
4. post-adjudication females

Standards currently require that the occupants of each housing unit be under the direct supervision of a juvenile detention officer on a continuous basis in a ratio not to exceed one staff member to every 12 residents, with the additional requirement during program hours of one staff member to every eight residents facility-wide. During non-program hours, the facility-wide ratio is reduced to one staff member to every 18 residents.

The Prison Rape Elimination Act (PREA) will impose new staff-to-resident ratio requirement of 1:8 during program hours. There will no longer be a facility-wide staff-to-resident ratio of 1:12. The staff-to-resident ratio during non-program hours will be 1:16.

As was reported in the Phase 1 Report, the ADP for the five-year period from 2010-2014 was 41.89. With an average annual operating cost of \$2,685,315, the average cost per bed day was \$176. Because VRJJC was utilizing the TJJD's reimbursement rate schedule, the average rate of \$113 per bed day was \$63 less than it cost to provide the service. This represented an unreimbursed cost to Victoria County of just over \$800,000 per year.

To maintain the current arrangement (that is, staffing to accommodate 72 residents) would require the addition of 24 JSO's for PREA compliance. This would increase the staff to 79.1 FTEs, representing an additional cost of nearly \$950,000. With no change to the fee structure or ADP, this would increase Victoria County's unreimbursed cost to \$1.75 million per year.

#### Course of Action #2

A second course of action we were asked to consider was to transfer the detention center to TJJD to run as a regional facility in exchange for preferential placement and detention.

Commencing in 2010, the Texas Youth Commission (TYC) began closing some of its facilities. The first to be closed that year was a West Texas Juvenile Correctional facility in Pyote, Texas. In 2011, TYC embarked on an aggressive downsizing of its institutions due to declining population and budget reductions, and closed the following sites that year: the Crockett State School in Crockett, the Ron Jackson State School-Unit 2 in Brownwood, and the Al Price State Juvenile Correctional Facility in Beaumont. These closures eliminated approximately 400 correctional beds for juveniles. The TYC population had decreased from 4,750 juveniles in 2006 to 1,977 juveniles in 2010. GMJ

discussed the scenario presented in Course of Action 2 with Senior Management at TJJJ and learned that TJJJ’s mission has been to shrink bed space in state juvenile correctional facilities, and that the Legislature has appropriated funds to pass on to counties to utilize more community based programs. GMJ was also informed that TJJJ received no funding to take on any additional institutions; therefore, taking on a facility like VRJJC is not a likely scenario.

Course of Action #3

The third course of action, to make beds open to counties around the state with a daily rate that achieves full cost recovery, aligns closely with the findings in the Phase 1 Report.

The facility is currently staffed for 72 residents. The historic ADP is 41.89. Our Phase 1 finding was to cap the population at 48 in four housing units. Because of the PREA staffing ratio of 1:8, we modify that finding to operate six housing units, capping the population of each unit at eight, with a surge capacity of 12. If this emerges as the County’s preferred course of action, we would recommend retaining the current staffing levels until the new plan were put into practice in the PREA compliant context. We would then recommend an annual review to refine the staffing plan.

Part-time staff could be utilized to provide for a second JSO to provide surge capacity, as needed, with the expectation that the surge would be short-term and would never be due to accepting a juvenile from another county.

At a capacity of 48, it would be possible to fully support historic demand. Based on five-year average total operating costs of \$2,685,315, with occupancy of 48, a daily rate of \$153 would achieve full cost recovery.

As reported in the Phase I report, at the historic ADP of 41.89, full cost recovery would require a rate of \$176. Again, however, assuming the contiguous counties entered into inter-local agreements to form a consortium to jointly fund the operation of VRJJC, it would be possible to establish a two-tier fee structure.

In this scenario, based on historic utilization and costs, VRJJC could achieve full cost

HYPOTHETICAL PRICING FOR COURSE OF ACTION NO. 3									
	Pre-Adj.	Post-Adj.	Tot. ADP	Rate Per Day	Total Revenue	Rate Per Day	Total Revenue	Rate Per Day	Total Revenue
Victoria County	8.41	2.92	11.33	\$122	\$504,525	\$108	\$446,629	\$93	\$384,597
Contiguous Counties	4.57	0.41	4.98	\$122	\$221,759	\$108	\$196,312	\$93	\$169,046
Other Counties	3.99	21.59	25.58	\$210	\$1,960,707	\$220	\$2,054,074	\$230	\$2,147,441
Total	16.97	24.92	41.89		\$2,686,991		\$2,697,014		\$2,701,084

recovery with a rate of \$122 per bed day for signatory counties (assuming all contiguous counties were signatories) and \$210 per bed day for other counties. For every additional \$10 per bed day VRJJC could charge non-signatory counties, the rate for signatory counties could be reduced by approximately \$10-\$12.

We recommend this course of action as the course of action that would provide the greatest cost recovery and the greatest flexibility to Victoria County.

*Course of Action #4*

A fourth course of action would be to downsize the facility to serve only Victoria County's needs, marketing excess capacity and establishing a market-driven cost structure.

As reported in the Phase 1 report, in the five-year period from 2011-2014, Victoria County averaged 11.3 residents per day at VRJJC, or 27.1 percent of the facility's 41.89 total ADP. During this time, Victoria juveniles accounted for 49.5 percent of pre-adjudication bed days and 11.9 percent of post-adjudication bed days, or an average of 8.4 pre-adjudication beds per day and 2.9 post-adjudication beds per day. On average during that period, all females made up 17.2 percent of pre-adjudication bed days and 55.8 percent of post-adjudication bed days.

Victoria County's ADP from 2011-2014 was:

1.6 post-adjudication female  
1.4 pre-adjudication female  
7.0 pre-adjudication male  
1.3 post-adjudication male  
11.3 TOTAL VICTORIA ADP

The primary challenge with this population profile is that Victoria County has a very low ADP in both pre- and post-adjudication females, as well as post-adjudication male. As discussed in the Phase 1 Report, operating a facility to accommodate only Victoria County, including both pre- and post-adjudication male and female units, would result in a very high per bed day cost due to staffing costs.<sup>50</sup>

For purposes of this course of action, we assume four operational housing units, one for each profile, with a maximum normal operating capacity of eight residents per unit. This would require either the addition of a second JSO or the activation of a second housing unit for any profile that exceeded a population of eight. Based on Victoria's historic utilization, this would likely be pre-adjudication males (an ADP of 7) and would be a

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<sup>50</sup> We were not asked to consider (and did not consider) the potential costs and/or benefits of limiting the operation of VRJJC to, for example, only pre-adjudication beds or operating it as a single sex facility and outsourcing the relatively low ADP profiles.

short-term surge situation. This would cap the facility population at 32 under normal operating conditions, while preserving surge capacity of up to 12 in each category.

Under these operating parameters, we believe it would be possible to eliminate eight full-time JSOs, four part-time JSOs (2.68 FTEs), one kitchen worker, one nurse and one maintenance worker, for a total reduction of 13.68 FTEs. This would reduce staffing costs by approximately \$543,957 (based on the average cost per position of \$39,763), for a total operating cost (based on the five-year average between 2010 and 2014) of approximately \$2.14 million. Based on the five-year ADP of 11.3 for Victoria County juveniles, this would result in a per bed day cost of approximately \$519.

The operating cost per bed day could be reduced to as low as \$183 by making the 20 additional beds available to other counties. This would require no additional staff. We note that the \$183 figure is based on full occupancy, which is operationally impossible to maintain. It is also unadvisable, because it would put the facility in the position of having to add staff to accommodate the next Victoria County juvenile. We assume the facility would not accept an out-of-county juvenile if it required additional staff.

A more realistic operating posture would be to assume functional full occupancy at 80 percent occupancy and to set fees based on those numbers. Based on 80 percent occupancy, or 25.6 beds per day, full cost recovery would require a rate of \$229 per bed day. Any occupancy over 80 percent would further offset Victoria County's costs.

We note that with an ADP of 7 for pre-adjudication males, there would be no additional capacity to accommodate other counties without incurring additional staff costs and driving up the per bed day cost. Contiguous counties have averaged 4.57 ADP for pre-adjudication males. This represents over 75 percent of the utilization by contiguous counties.

The parameters for this course of action asked us to consider the impacts of marketing excess capacity based on a market-driven pricing model (at least 90-95 percent of the per bed day cost at the facility nearest the detainee's county of residence). In addition, we were asked to consider the impacts of marketing the excess capacity toward less resource intensive detainees with least expense, typically pre-adjudication, with a large surcharge for more resource intensive detainees. There are two challenges that make these scenarios difficult to project.

First, as we explored in the Phase 1 Report, there are no market-driven prices. The "market" price has been artificially constrained by use of the TJJD reimbursement rates, which are set without regard for actual costs.

If VRJJC opted to make the excess beds available to other counties and received the average reimbursement based on the TJJD rates (assuming VRJJC implemented the rates recently approved by the juvenile board), that would be an average reimbursement rate of \$129 per bed day, or as much as \$941,700 annually. This would represent a gap of as

little as \$54 per bed day between the cost of delivering the service and the reimbursement rate. This could reduce the cost per bed day for Victoria County juveniles from \$519 to as low as \$291. Again, however, these figures are based on hypothetical full occupancy, which is impossible to maintain.

Secondly, the suggestion to market the beds to less resource intensive detainees (typically pre-adjudication beds), is also problematic in that VRJJC's market is essentially post-adjudication pregnant females (females make up 55.8 percent of the post-adjudication population). The five-year average utilization of pre-adjudication bed days by counties other than Victoria and the contiguous counties is 3.9 per day (less than 24 percent of pre-adjudication bed days), while the average post-adjudication utilization by those counties is 21.6 (over 86 percent of post-adjudication bed days).

In this course of action we were also asked to consider relocating to a new facility, better sized and suited to meet Victoria County's needs. For purposes of this scenario, we assume a newly-constructed facility would continue to house pre- and post-adjudication males and females, which would require four housing units, presumably each with a capacity of eight.

Because construction costs are subject to many variables, per bed costs can vary greatly. This makes it difficult to estimate what costs may be for a new facility in Victoria. This is complicated by the fact that there are not many juvenile detention facilities being built in Texas (or elsewhere) at this time. However, we were able to identify a new project in Terrebonne Parish, Louisiana, which was scheduled to commence construction in summer 2014.

This facility is designed as a 32-bed facility with four eight-person housing units, with single occupancy sleeping rooms, and is proposed at \$10.3 million, or just over \$321,000 per bed.<sup>51</sup> We do not suggest that a new facility in Victoria would cost \$10.3 million, as one could be built for significantly less; however, a new facility would represent a significant expense to the taxpayers of Victoria County.

#### Course of Action #5

The next course of action the County could pursue is creation of a truly regional Juvenile Justice Center with a regional Juvenile Board, with a capacity based on regional needs and proportional financial contribution from all participating counties.

As we discussed in the Phase 1 Report, a regional facility with a regional board and proportional financial support would require a series of inter-local agreements or memoranda of understanding. We note that this was the structure for a regional juvenile facility proposed in the 1984 feasibility report, which concluded,

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<sup>51</sup> <http://gracehebert.com/news/terrebonne-parish-juvenile-detention-center-starts-construction-soon>

“[W]e believe that it would be logical for Victoria to design and construct for a regional facility, and attempt to get the surrounding counties to contribute to the initial construction cost; thereafter establishing a pro rata per detainee day cost which would be one amount for those who had contributed to the construction cost and a higher amount for those who did not originally contribute. These counties will soon be forced to provide for separate facilities, and the regional concept is obviously far less expensive to all concerned than separate facilities in each county.”

We were not provided with any records indicating that this regional concept was ever implemented. The counties and juvenile boards are all authorized to enter into inter-local agreements and participate in a regional juvenile justice facility, as explored in our responses to this question as posed in Phase 1.

All of the staffing and capacity assumptions included in the course of action above (downsizing the facility to serve only Victoria County’s needs and marketing excess capacity) would hold true for this course of action. This includes four eight-person housing units to accommodate pre- and post-adjudication males and females, as well as the discussion regarding a new facility, market pricing and operating costs of approximately \$2.14 million based on staff reductions.

Victoria and the contiguous counties averaged 5,953.8 bed days annually during the five-year period from 2010-2014. This includes 4,136.4 Victoria County bed days and a total of 1,817.4 bed days for the contiguous counties.

There are several ways the proportional cost sharing of a regional facility could be structured. It could be based on population or bed days or a combination of the two. Without other users, though, allocating the full cost of the facility’s operation would represent significant cost increase to the contiguous counties.

This is based on the fact that, first, the TJJD reimbursement rates do not fully cover costs, and second, that Victoria and the contiguous counties represent an ADP of 16.3 in a facility that would be staffed to accommodate up to 32. Without opening those additional beds to other counties, the rate for full cost recovery for Victoria and the contiguous counties would average \$360 per bed day (based on 16.3 bed days and an operating cost of \$2.14 mil.).

It would be possible to create a two-tiered cost structure that credited participating counties based on revenue from other users of the facility. The full cost recovery rate if the facility were at full capacity (at 32) would be \$183. Again, however, it is more appropriate to treat 80 percent occupancy, or 25.6 beds, as functional full occupancy. Based on this assumption, full cost recovery would require a rate of \$229 per bed day. It would likely be possible to charge a premium rate for other counties of perhaps as high as \$250. This is considerably higher than the TJJD reimbursement rate, but we note again that VRJJC’s post-adjudication female beds are in high demand, particularly for pregnant

girls. A rate of \$250 is likely at or below the operating cost (for their own beds) of at least five of the six the largest users of VRJJC's post-adjudication beds.

The three counties with the highest utilization between 2010 and 2014 together averaged 5,364 bed days per year, or 14.7 beds per day. While these are primarily for pregnant girls, it may be possible to incentivize use of other beds by offering a rate that is higher than VRJJC's cost but lower than the cost of those counties (all of which, by the way, have juvenile detention operations that are substantially larger than Victoria County's).

With Victoria and the contiguous counties averaging 16.3 ADP, that leaves at least 15.7 beds available for other counties. If VRJJC could fill 10 beds per day at \$250 per day, the additional revenue could reduce the effective rate for Victoria and its contiguous counties to a rate \$208 per bed day. That is still somewhat higher than the rate the contiguous counties have been paying, but it is far lower than it would cost those counties to provide the service, either on their own or as a group.

### Course of Action Conclusion

We score the courses of action as follows.

**1<sup>st</sup>.** CoA #3: Modify services to meet County, Regional and Statewide needs while recovering costs. *Meets Victoria and regional needs. Meets current demand from other counties. Closest to full cost recovery while preserving jobs.*

**2<sup>nd</sup>.** CoA #5. Restart as a Regional Entity. *Meets Victoria and regional needs. More costly. Some job reductions.*

**3<sup>rd</sup>.** CoA #1: Maintain the current arrangement. *Meets Victoria and regional needs. Meets current demand from other counties. Could require additional jobs depending on staffing posture. Continues to be very costly to Victoria County.*

**4<sup>th</sup>.** CoA #4: Downsize – *Serve only Victoria needs. Meets Victoria needs. May not meet regional needs. Extremely costly to Victoria County.*

**5<sup>th</sup>.** CoA #2: Transfer Detention Center to the State. *This is not a viable option.*

Course of Action #3, our recommended course of action, is the only course of action that offers the possibility of preserving VRJJC's staffing levels while also minimizing Victoria County's costs.