

Other factors which could have an effect on the ability of counties to fund their operations are:

1. 102 counties (40%) have over 20% or more of their population living in poverty
2. 47 counties (18.5%) had overall negative population growth from 1990 to 1999 and 36 counties had less than 3% growth.
3. 70 counties (27.5%) saw a decline in total appraised values since 1991.

While the above information is not conclusive, it does indicate that a significant number of counties have a limited ability to fund current and future operations. At least 5 counties are essentially “tapped out.”

Though many counties are running out of funding resources, the federal and state government continue to issue mandates for the counties to follow, often at a cost the counties simply cannot afford. Appendix A lists the federal mandates on state and local government enacted from 1994-1999 which gives an idea of how extensive, and often costly, the implementation is of these federal mandates.

## RECOMMENDATIONS

- i ***Recommend the 77th Legislature establish a County Financial Data Committee, funded by grants, consisting of county officials, with assistance and support of the Comptroller’s office, to study current county financial reporting requirements and systems and make recommendations as to ways in which the collection and use of county financial data can be improved without resulting in additional costs to the counties. At a minimum, the Financial Data Committee should address uniformity, duplicative reporting requirements, GASB34, electronic filing, and the cost of meeting these requirements. The County Affairs Committee further recommends that the Financial Committee utilize the resources of the Texas Association of Counties and the Conference of Urban Counties to act as conveners for the committee’s meetings.***

- i ***Recommend the state provide financial assistance to fund essential county government services in counties with insufficient tax bases which are reaching the constitutional cap of eighty cents per \$100 property valuation to help pay for mandatory services.***
  
- i ***Recommend the state expand the Unfunded Mandates Interagency Work Group to include a county and a city representative.***

***Background: This workgroup was established by the 75th legislature. This law amended the Government Code, Chapter 320. UNFUNDED MANDATES ON POLITICAL SUBDIVISIONS. Currently, the Unfunded Mandates Interagency Workgroup consists of:***

- (1) the state auditor;***
- (2) the director of the Legislative Budget Board;***
- (3) the comptroller;***
- (4) a senator appointed by the lieutenant governor; and***
- (5) a house member appointed by the speaker of the house of representatives.***

## **CHILD SUPPORT ENFORCEMENT MANDATES**

In 1989, the Texas Legislature authorized the Attorney General's Child Support Division to pass along to counties the 66% federal funding match for child support services provided by counties. It was expected that the Legislature would authorize the payment of the remaining 33% state share owed to counties, but that did not happen. County taxpayers are required to pay the remaining 33% of the state's costs for issuing and serving, collecting and distributing child support and providing customer services for child support cases brought by the Attorney General. This under-funded mandate cost Texas counties more than \$5 million last year.



Last session, Representative Toby Goodman and Representative Elliott Naishtat co-sponsored HB 2354 that would have eliminated this under-funded mandate. The legislation passed without opposition in both the house and senate, but was recalled from the governor's desk because funding had been taken from the Appropriations Bill.

Letters of support for the funding were presented to the Committee from the following state associations: Texas Association of Counties, Texas Association of County and District Clerks, Texas Association of Domestic Relations Offices, and the Justices of the Peace and Constables Association of Texas. Resolutions from the following Commissioners Courts were presented also: Bexar, Collin, Grimes, Guadalupe, Hays, Lubbock, Travis, Trinity, Wichita and Williamson. A letter of support from Attorney General Cornyn was presented as well.

## **RECOMMENDATION**

- i ***Recommend to the 77th legislature that the State of Texas reimburse all counties for the full costs of providing child support services for the State of Texas.***

## **COUNTY ROAD SYSTEM**

Counties' increased responsibility of paying for maintenance and upkeep of county roads was another issue discussed at the hearing. As the Texas Department of Transportation (TXDOT) has been compelled to increasingly concentrate its resources on existing roads, counties have been forced to expend greater resources to maintain the county road system. With TXDOT unable to accept county roads into the state system as the volume and weight of traffic increases, counties have become responsible for the construction and maintenance of all-weather, paved-surface roads. Traveled by school, commercial, industrial, agricultural, and residential traffic, these roads are exceedingly expensive to construct and maintain. The dedicated revenue sources for the county road transportation

system has not kept pace. The County Lateral Road Fund has remained at \$7.3 million

since 1954. Overweight truck permit fees do not recover any significant portion of the damages incurred by county roads and bridges.

## RECOMMENDATION

- i      Recommend to the 77th Legislature to increase state assistance to support the county road systems, particularly where county roads are affected by state-permitted overweight trucks.*

## **CHARGE #2**

**Examine areas in which the state might beneficially devolve authority and programs to county governments. Assess the interest and ability of county governments to accept more authority.**

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## COMMITTEE HEARING SUMMARY

### **Background**

Devolution is the decentralization of services from either the federal level to the state level or from the state level to the county level.

Originally, the founding fathers of Texas devolved most of state government to the county level. The purpose of county government was to deliver state services at the local level. To this day many important state services are devolved to the local level, including administration of the courts, adult pre-trial detention and misdemeanor incarceration, adult probation, juvenile detention and probation, real property records, road & bridge construction and maintenance, indigent health care, and public health.

Other examples of devolution include public schools through independent school districts, urban development management through cities, urban infrastructure development through Municipal Utility Districts, port development and operations through local port authorities, and water management through Water Control Districts.

The state's most recent devolution of a once-centralized service is workforce development. Previously within the Texas Employment Commission, in 1997, the state created local workforce boards to administer and provide workforce development services. These boards are independent governmental entities, subject to rules adopted by the Texas Workforce Commission, and appointed by County Judges and City Mayors under a highly complex scheme. Funds for various programs are passed down through the commission to the local board that manages the program. The goal of this devolution was to allow local communities to structure the specific and unique mix of programs and priorities that match the needs of local employers.

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Areas of state government that could be considered for devolution to counties include highway construction and maintenance, many state health and human services programs, local Medicaid administration, child welfare programs, and alcohol and drug-abuse programs, and many others.

### **Arguments against devolution**

Past experiences with devolution have not always been successful. In the case of workforce development, the citizens previously had good service from the Texas Employment Commission, but they are not getting the same level of service today. There is also confusion created by having too many different offices for one service. A citizen with a complaint with a state agency knows where to go to complain, but with devolution there could be lots of finger pointing and a lack of accountability to the public.

Currently, the cost of state services is spread throughout the state, with the larger counties helping out the smaller ones. Devolution could require local tax increases to provide services if state funding is not adequate, is reduced, or does not keep pace with demand for services. Many rural counties are just barely able to pay for their current level of services; the possibility of having to fund new programs could bankrupt them.

### **Arguments for devolution**

County government is the government closest to the people, and most accountable to the citizens. County voters elect their neighbors to provide state services to them at the local level instead of having it done by a state agency in Austin, which allows for a greater customization of policy and better responsiveness to the needs of the community.

Therefore, devolution can be an important component of state policy that fulfills one of the state's three strategic principles: to provide effective, efficient, and accountable government.

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Texas has great geographic, economic, demographic, and cultural diversity. Devolution is a way to recognize that diversity and allow policies to be customized for counties based on

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their individual characteristics such as population size, tax bases, size of aging populations, or any other characteristic. By placing the authority and the resources at the local level, the people will have better access to government and to services, improving local government accountability.

### **Observations**

In order for devolution to improve accountability and responsiveness, counties need to have adequate independence from state agencies, allowing the county to find the best way to meet the policy objectives. Incomplete devolution will often cause as many problems as it solves. An example of incomplete devolution is the creation of local workforce development boards. Because the board is made up of local people, but is controlled from Austin, many people do not clearly understand what the workforce board is, whether it is a state agency, a county agency, or something else. Because the devolution is incomplete, government accountability has become blurred in this case, despite the fact that the central purpose of devolution is to increase accountability.

Another example of incomplete devolution concerns the regulation of septic tanks. In this case, the Texas Natural Resource Conservation Commission (TNRCC) adopts the regulations and the county acts as the local agent, but it does not have authority to establish septic tank regulations for their community. If the county needs to deviate from the regulations or rules in special cases, they must seek approval from the TNRCC. It is difficult for a county without local authority in an area such as this to meet the needs and expectations of their community. People do not understand that the county does not have authority to adjust the regulations even though it is the local agent.

A successful devolution program must have adequate funding either from the state, since it will be reducing its own direct costs, or from changes to current tax restrictions at the county level. In some counties, particularly rural ones, it is difficult to even meet the current duties of county government. In order to ensure the success of devolved programs, there

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needs to be a level of funding or a stream of funding that is dependable. It could be a block grant, where the money spent on a state program is divided up by the number of clients,

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following the client to the county level. It could also be at the permit level. If a permit fee is currently going to a state agency, it could instead go to the county. This will allow the state to shift the authority and the responsibility along with the revenue to fund the service.

### **Interest of counties to take more authority**

There is scattered and mixed interest on the part of counties in taking on authority currently exercised by state agencies due to fear of unfunded mandates. There is broad and strong interest by counties to take on more authority in unincorporated areas traditionally provided by municipal government in the area of urban-growth management.

There is some interest among counties in assuming more authority over certain state programs and services. However, county interest varies from county to county on different programs. Where one county might be willing to take on responsibilities now handled by the Texas Commission on Alcohol & Drug Abuse, other counties would shy away from those services but would like to consolidate service delivery of child welfare programs at the county level.

Consistent among counties is a concern that adequate and reliable funding always comes with any new authority or responsibility.

While interest in taking on current state authority is inconsistent among counties, counties consistently and earnestly desire to take on greater authority in the development of unincorporated areas outside of city jurisdiction. Counties are feeling tremendous pressure from current residents to protect their quality of life and property rights.

The present low level of regulatory authority that counties possess over development in unincorporated areas is resulting in unplanned, minimally regulated development that is often beneath the standard of the current residents.

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## **Ability of counties to take more authority**

Many counties are not currently managed in a manner, nor do they have the resources, to take on significant new authority currently vested in state agencies.

The state of Texas has successfully moved to a system of budgeting based upon performance measures. Counties are not currently structured, in their information systems, financial systems, or management structures, to provide the sort of data necessary to support performance-based management and budgeting. Counties will have to improve their business systems and practices before the state can devolve current state services to counties.

Counties, virtually reliant on property taxes for general revenue, do not have the fiscal capacity to take on significant new authority. Counties will resist any proposal to devolve a service currently provided by a state agency unless reliable and adequate funding is established. Likewise, new authority, like development management tools, could go unused unless adequate funding sources are identified.

## **COUNTY AUTHORITY**

As population growth continues to climb in unincorporated areas, the issue of county authority has intensified in the Texas Legislature. Historically, counties have been granted very limited and specific authority to regulate growth and development. However, recently, the Legislature has recognized the need for county authority to address local land-use issues by extending broad authority to a few special areas and more limited, specific authority for all counties to address certain problems.

General land-use authority has been granted to counties for areas near Padre Island, Amistad Recreation Area, Lake Tawakoni, Lake Ray Roberts, Lake Alan Henry, Lake Cooper, Post Lake, Lake Somerville, and El Paso Mission Trail Historical Area, the McDonald Observatory, and Hood County.

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Other statutes have extended specific regulatory authority to counties to address certain common problems. Some examples of specific authority include:

- ' Rural subdivisions (including manufactured home rental communities)
- ' Subdivision platting in economically distressed counties (colonias)
- ' Building and setback lines
- ' Fire code (counties over 250,000)
- ' Explosives (counties over 1 million)
- ' Alarm systems
- ' "Visual Aesthetic Standards" of certain outdoor businesses (automobile wrecking and salvage yards, demolition businesses, flea markets, junkyards, outdoor resale businesses, recycling businesses)
- ' Keeping of wild animals
- ' Discharge of firearms (on lots 10 acres or smaller within subdivision)
- ' Use of bows and arrows (on lots 10 acres or smaller within subdivision)
- ' Slaughterers (counties containing 2 or more municipalities with populations of 250,000 or more or adjacent county)
- ' Certain fireworks (aerial fireworks during drought conditions)
- ' Airport hazard area zoning (authority may be jointly exercised with city)
- ' Sexually oriented businesses
- ' Correctional or rehabilitation facility location (limited authority to deny)
- ' Solid waste disposal (limited authority)
- ' Flood plain development
- ' Nuisance abatement
- ' On-site sewage facilities (authorized agent of Texas Natural Resource Conservation Commission)

Until 1995, all subdivisions in unincorporated areas were required to obtain commissioners court approval. The Elgin Bank v. Travis County court decision limited county authority to subdivisions which included streets, alleys, or other parts intended for public use. This led to problems with adequate drainage, emergency vehicle access and other protections. In 1999, the Legislature passed SB 710 which required developers of subdivisions (with exceptions) to obtain platting approval.

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However, counties have no authority to adopt and enforce minimum construction codes. The platting approval process only involves assuring adequate health and safety provisions for the property, not construction. Uniform building codes within municipalities do not apply in unincorporated areas. Homebuyers are unprotected from substandard construction materials and techniques.

The issue of land-use in unincorporated areas caused concern for county officials who testified at the hearing. With the increased populations in those areas, counties are receiving pressure from their constituents to protect the value of their residential properties. The issue of private property rights has historically been the driving force for maintaining a “hands-off” approach to county land-use authority. But, with the tremendous growth in population in these areas, the counties are faced with no authority to balance the rights of existing property owners and new commercial enterprises and developments.

## RECOMMENDATIONS

- i The Legislature should consider, on a case-by-case basis, as opportunities arise and benefits are identified, the devolution of state services to the local level. Any devolution legislation developed should be specific for a policy area or service that might be devolved.*
  
- i Devolution legislation should establish broad, quantifiable objectives for the devolved program or service and hold the counties accountable for the results, trusting the current county statutory framework to provide accountability. This will require the development of performance-measurement systems within the counties so that outcomes can be compared to another county or to a state agency. In a devolved policy area, rulemaking authority by state agencies should generally be limited to rules related to data needed for performance measures.*

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- i Devolution legislation should allow some counties, on a voluntary basis with state agency approval, to accept funding and authority from a state agency, while other counties do not. In those other counties, the state agency would continue to administer and provide the service or program.***
  
  - i Devolution legislation should ensure that counties have a necessary level of regulatory independence, as well as adequate resources with which to take on additional authority and responsibility for state programs.***
  
  - i Counties must improve and modernize county management practices so that counties can provide consistent, reliable information on a real-time basis that is comparable to that provided by state agencies.***
  
  - i The Texas Sunset Advisory Commission should consider, during all Sunset reviews of state agencies, whether all or part of the services provided by that agency could be devolved to the county level. This review would be in addition to the current review of whether to continue a program, service, or agency.***
  
  - i Legislation should be adopted to authorize counties to adopt limited land-use regulations after approval by local referendum. This will allow the county government to make sure that growth happens at a standard that protects the quality of life and property rights of all members of the community.***
  
  - i Recommend counties with a population of 1 million or more have authority to adopt minimum construction codes.***

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### **CHARGE #3**

**Examine ways that county governments, educational institutions, service organizations and local state agency offices may coordinate their efforts to address the problems of at-risk youth at the local level. Report on successful programs that might serve as models for others.**

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## COMMITTEE HEARING SUMMARY

The County Affairs Committee held a daylong hearing on the interim charge regarding coordination of services for at-risk youth. The committee heard testimony from over 20 witnesses including experts within state agencies, elected officials, and organizations whose interest is at-risk youth.

The committee addressed the question of the definition of “at-risk youth”. While there are several definitions of at-risk youth that are used by different state agencies, only Section 29.081 of the Education Code defines “at-risk” for those students who are at risk of dropping out of school. Of the 4 million children in school, 1.5 million meet the criteria of the definition in the Education Code. Several attempts have been made over the years by interested parties, but no one definition has been found that applies to all possible situations in a child’s life that may lead to an unhealthy life. What may be applicable to an at-risk child in a school atmosphere may not be applicable to a child in a home atmosphere. The committee members determined that no one definition can include all the potential situations that a child may face without it being too restrictive or too broad.

Funding for at-risk youth programs has increased as the legislature has become aware of the importance of early intervention to ensure that children receive the necessary tools to experience a positive, healthy lifestyle. The Department of Protective and Regulatory Services (DPRS) provides \$61 million in services for prevention and early intervention annually. Ninety-three percent of youth who have received early intervention through DPRS programs have not been referred to juvenile probation. Statistics have proven to show the cost savings to the state when early intervention is available to those children who are at risk of entering into the criminal justice system. While much of the testimony focused on programs currently operating, several areas of concern were repeated throughout the hearing.

The major concern expressed throughout the hearing was lack of coordination between state and local entities. There are a minimum of 17 state agencies that provide funding for at least 34 at-risk youth programs. In 1999, the state legislature created the Prevention

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and Early Intervention (PEI) Division of the Texas Department of Regulatory Services for the purpose of consolidating prevention and early intervention programs within the jurisdiction of one state agency. As PEI consolidates programs into its jurisdiction, it will eliminate some of the duplication of services for at-risk children. The challenge to the agency is to better coordinate with local entities to provide individualized services to meet the needs of the child.

The buzzwords for this interim in regards to programs for at-risk youth seem to be “coordination and cooperation”. No one state agency or program can possibly address the multiple challenges that youth face today. Every county has a social services agency, justices of the peace courts, an education system and law enforcement agencies. Coordination between these agencies, private and public entities and local communities are necessary to ensure that all the services are provided to help prevent a child from entering the criminal justice system.

## **THE COURT SYSTEM**

Another area of concern expressed was the lack of authority by Justices of the Peace (JPs) to hold juveniles accountable for their actions. According to testimony, once a court ruling is entered, the Judge has no resources or staff to ensure that the ruling is carried out. If the juvenile fails to carry out the ruling, no one is available to hold the youth accountable. The judge has no alternative but to send the offender further into the court system.

Under current law, a district judge may seal juvenile records, but a JP cannot. If a JP has the time, they can utilize the Family Code to seal their motions, but it is complicated and time consuming. Although adults are protected from a potential employer discovering an earlier conviction during their youth while in juvenile court, that same employer may still access records from the JP’s court because the JP cannot order juvenile records sealed. Similarly, only a district judge may order a juvenile’s record expunged through the Code of Criminal Procedure, Chapter 55. JPs may seal a juvenile’s record under Family Code Section 58.003, but that is not the same as expunction. Other statutes in the Alcoholic

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Beverage Code, the Education Code, and the Health and Safety Code authorize the Defendant to file a request for expunction with the court in which the conviction was entered. However, there are currently no procedures or filing fees established for this procedure in JP courts. Currently, district courts charge fees and initiate a civil suit in these matters.

## RECOMMENDATION

- i     Establish two pilot Class C Misdemeanor Justice Juvenile Courts, one in a rural county and one in an urban county (Harris). Place the court in a building surrounded with social service agencies serving youth, especially at-risk youth. The pilot should implement a “TRIAD-like” structure to ensure a team approach to working with youth entering the courts. The focus of the triad is to identify the underlying causes of the offense for which they are before the court and to plug in services to help the youth with those problems. Provide two years of funding for the pilots, measuring the outcomes during that time.***
  
- i     Encourage the 77th Legislature to consider giving Justices of the Peace the authority to seal juvenile records and to expunge records.***

Section 54.022 of the Family Code requires the mandatory transfer of a juvenile case from JP court to the juvenile court if the juvenile has two or more prior convictions for Class C misdemeanors. In the past six years a number of new Class C offenses able to be filed against minors have been created. This results in more referrals to the juvenile court for minor offenses. Consideration needs to be given to the resources used at the various court levels. It is better to deal with the juvenile than to have no action. With the creation of sanctions for the juvenile and parents under Family Code, Section 54.022, the JP or municipal courts now have the ability to intervene in minor issues. The discretion to transfer a case still remains should the judge find the case to be of a serious nature and requiring the resources of the juvenile system.

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- i ***Change the number of times a juvenile may have a conviction in a Justice of the Peace court prior to the transfer of a case from two to four or five.***

The creation of a teen court program is established in the Code of Criminal Procedure, Section 45.052. However, the current statutes make provisions for a transfer from one county to another if the receiving court approves. The statute also allows for fees to be collected on these cases. The statute does not provide for allowing a defendant to complete a municipal teen court program for a JP court case. If the minor is a resident of the municipality but the case is filed in the JP court, the minor is currently being deprived of benefits due them as a citizen of the municipality. There is no need to duplicate costs in order to deal with the minor in this situation. Even if this is changed, the minor who resides in a county without a teen court program and is outside the municipality is still restricted from access to the teen court program. If additional fees could be ordered by the court to be paid by the defendant in these instances to help pay for the program, there would be benefit to the minor and the teen court program. Once the fees were authorized by statute, then interlocal agreements between the city and county could be used.

- i ***Amend the Code of Criminal Procedure, Section 45.052 so Justices of the Peace may refer a minor to a municipal court teen court program if the minor is a resident of that municipality, without the approval of the municipal court.***

## **STATE GRANT PROGRAMS**

Testimony from several witnesses at the hearing revealed the challenge with obtaining grants from the state. Some of the comments heard were concerning short time frames to turn in proposals, with several different deadlines. One witness who is employed by a school district suggested that moving the application process to the summer would help. During the school year, it is difficult to focus on grant writing. In addition, some grants tend to be so specific that it is difficult to find one that meets the needs of the community. But, the overall consensus expressed by witnesses was the difficulty in knowing what grant resources are available. Smaller communities with limited staff and resources find it

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difficult to learn the grant process and stated it would be helpful to have one source to contact for support.

**The Community Grant Support Initiative (CGSI)** at the Texas A&M University Engineering Experimental Station and Public Policy Research Institute is an innovative community-university partnership which provides grant-writing assistance to Texas communities at no cost. Their services include identifying funding sources, documenting community need through several databases, assisting in developing community coalitions necessary for a successful proposal, and follow-through. CGSI allows the communities to identify the problem and then proceeds to help them solve the problem, rather than steering them to one or two funding sources.

Since 1991, CGSI has operated on a budget of \$100,000 per year, increased recently to \$200,000 a year. Each state dollar has produced \$13.45 in new federal and foundation dollars for Texas communities secured from competitive grants nationally that otherwise could have gone to other states. Since its inception, the Center has brought in over \$16 million new dollars for Texas communities. It is estimated that with the limited budget, the Center is serving only 10% of the statewide need.

The **State Grants Team** in the Governor's Office is another grant writing information source to alert entities in Texas about funding opportunities. The funding resources include public and private funding. The Team, which includes an executive director, three grants analysts and an administrative technician, offers training and grant writing workshops on a cost-recovery basis. The service is available to state legislators, state agencies, all subdivisions of government, non-profit organizations and individuals. However, due to budget limitations and limited staff, the Team is not well known around the state.

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## RECOMMENDATION

- i Increase the funding for the Community Grant Support Initiative to \$450,000 per year to provide statewide assistance to all Texas communities in need of grant funding. Furthermore, the committee encourages close collaboration between the State Grants Team of the Governor's Office, CGSI and relevant state agencies to ensure all communities receive timely and helpful information regarding availability of grant funding.*
  
- i To help increase awareness of grant availability for youth programs, the committee encourages all health and human services state agencies and regional councils of government to create a link to the State Grants Team and to the Community Grant Support Initiative on their websites.*

## MODEL PROGRAMS

A model program established in Harris County is the **TRIAD Prevention Program**. The TRIAD program is a consortium of three county agencies serving children and families working together to coordinate their resources to serve at-risk youth. The three agencies are Harris County Children's Protective Services, Harris County Juvenile Probation Department and the Mental Health/Mental Retardation Authority of Harris County. TRIAD serves the individual and family needs of the identified youth (ages 7 - 17) by coordinating and consolidating county services and resources. These resources and services include, but are not limited to the TRIAD agencies, state and federal agencies and other community agencies. TRIAD places a high priority on networking with other prevention programs, public and non-profit community agencies, Justice of the Peace and City Municipal Courts, and law enforcement agencies to coordinate service delivery methods and available resources. TRIAD has been very successful in catching problems with youth in the early stages and sharply reducing the odds of their getting into trouble again.

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The TRIAD Prevention Program includes the **TRIAD Court Liaison Program** located in 8 Justice of the Peace Courts in Harris County. The liaisons perform intensive case management and crisis intervention services to youth on the truancy and Juvenile Class “C” Ticket dockets. A case manager is actually present during the court trial along with the JP. The JP and the liaison then develop a plan of service that will assist the youth in making positive changes in the youth’s behavior. A 1998 telephone survey of all the participants in the program in a two year period revealed that 76% of the participants successfully completed or continued with a high school education.<sup>1</sup>

One sure indicator of a juvenile headed for future trouble is truancy. Chronic absenteeism leads to dropping out of school, and likely, to crime. According to a 1992 publication by Tony Fabelo, PhD, Executive Director of the Criminal Justice Policy Council, 68% of the prison population does not have a high school diploma or G.E.D.

In light of this statistic, the **Absent Students Assistance Project (A.S.A.P.)** was implemented in Harris County by Constable Victor Treviño in the early 1990s to address the problem of truancy. The purpose of the program is to immediately get to the cause of the juvenile’s absenteeism from school by making a home visit. The participating schools provide a daily list of absences to the constable’s office and deputies are assigned to visit the homes of the absent students. If possible, the student is returned to school, or if it is determined the child needs special services, the proper agency is notified. The success is in the numbers. Student attendance is up in the schools participating and, as a result, the school districts are recouping state dollars. Since the implementation of the program, other counties have followed suit with much success.

**The Georgetown Project** (herein referred to as the Project) is a 501(c) 3 non-profit organization founded in 1997 by a partnership of business, government, education, health, and religious communities. Its mission is “to mobilize resources and services, and to work in partnership to address the needs of all Georgetown’s children and youth”.<sup>2</sup> The Project is funded through community donations from individuals and businesses, a contract with the City of Georgetown, and project grants from state and federal agencies as well as private foundations. The Project gathers and monitors data on the health and well being

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of children and youth, identifies gaps, and through collaboration with existing agencies and organizations works to develop new services and programs for children, youth, and families. It applies the Developmental Asset model created in 1997 by the Search Institute as a framework and philosophy. Some projects in progress are the Family Resource Center, an After School Action Program, and Healthy Neighborhoods. The staff of the Georgetown Project is looking at a new method of evaluation called “results mapping” that documents individual stories to measure results and impacts. They are also collecting data such as drug and alcohol use, juvenile crime, child abuse and neglect, success in school, dropout rate, and the percentage of students eligible for free and reduced school lunches.

In 1991, The University of Texas at Austin formed the **Neighborhood Longhorns Program**. The goal is to encourage elementary and middle school students in Austin to embrace the life-long value of education and to help provide the foundation for higher education. The program provides support mechanisms for youth in grades three through eight that encourage, value and inspire their desire to pursue higher learning through exposure to the college experience. The program utilizes university students to serve as tutors, mentors and role models to help develop leadership skills. This program coordinates their efforts with parents and Austin Independent School District (AISD) school administrators to encourage their children to set high goals. The children are recognized for their academic achievements through an awards program. Students who meet or surpass all the requirements for the entire school year are provided a savings account in their name to help with their college education. Since its inception, the Neighborhood Longhorns Program has served over 11,000 students in 19 AISD elementary and middle schools.

In 1991, the **Texas Information and Referral Network (TIRN)** was established within the Texas Health and Human Services Commission. TIRN has community information centers in 100 communities throughout the state which provide “first points of contact” where people can find information on health and human services. In 1998, the **National 211 Partnership**, of which TIRN is a partner, filed a petition with the Federal Communications Commission (FCC) requesting that 211 be set aside as the universal number for

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accessing information about community resources including food banks, job and education programs,

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assistance for seniors, volunteer opportunities, and other social services. The petition was approved by the FCC and rulemaking authority was just recently granted by the Public Utility Commission. The next step is to fund the 211 Network. The United Way has agreed to raise a substantial amount of money to help with start-up costs. In addition, the Health and Human Services Commission will make a Legislative Appropriation Request (LAR) to the Appropriations Committee next legislative session for approximately \$7 million to implement the statewide operation plan, including marketing, for the next biennium.

The **Jeffersonian Model**<sup>3</sup> (herein referred to as the Model) is an innovative model developed in Jefferson, Texas, that focuses on at-risk families and youth. The model promotes the cooperation and collaboration of economic development, education, health, human services and juvenile justice to benefit the family and the community. The key to the success of the program begins with a simple edict: partnering, alignment, and leveraging.

The Model aligned the educational process with industry standards, social services, and community resources. Once the local education systems were aligned with industry, education became an economic development tool that created new jobs and allowed students to continue their education and go from school to career. Once the systems were aligned, resources were leveraged to produce a greater yield. In the case of the Jeffersonian Model, dollars, equipment, facilities, expertise, and student effort were leveraged to produce a highly skilled rural workforce. Participating students were able to reduce their college costs by being allowed to earn college credits in high school.

The Model developed communication networks that involved peers at each level in communicating new cultural values and norms. Educators, community leaders, industry leaders and state agency personnel collaborated and problem-solved in a focused effort. By sharing the Jeffersonian vision, educators learned what skills industry wanted and then provided them.

The Model has resulted in many improvements to the community of Jefferson. Immunization rates have increased from 25% to 99%; referrals to the juvenile justice system have been reduced by over 50% since adopting a “Zero Tolerance” program in 1995; and TAAS test scores have increased by over 25%. A multi-institutional education

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complex was developed on neutral ground involving public schools, two community colleges, and six universities. The complex has supported on-site classes, distance education, and coordination of collaborative projects that are impacting communities in rural Northeast Texas. Since locating off-campus centers in Jefferson, Panola College and Texas A&M-Textarkana have realized increased enrollments. In an effort to address teacher shortages in the region, the **Teacher Bound Program** was established to recruit teacher aides to become teachers and to receive tuition assistance. A **Texas Peer Network** was established of Panola college students who have made hundreds of presentations to youth over the last few years. The Model has been instrumental in creating new jobs in a community of 2,500.

The 76th Legislature created the **Texas Institute for Educational Partnerships** (TIEP) through an appropriation of \$1.7 million to Texas A&M University-Textarkana to expand the scope of the Jeffersonian Model across the state. TIEP was directed by the Legislature to identify barriers to partnering among entities and promote identifying goals to improve the quality of life for all Texans. Currently over 80 agencies, institutions, non-profit groups, foundations, and other entities are involved in partnering activities through the Model.

The **Education Based Housing** program is a collective effort of TIEP along with more than 20 other entities who are examining ways that county governments, educational institutions, service organizations and local state agency offices may coordinate their efforts to address the problem of the at-risk population at an individual/family level. The design is to provide residents with on-line access to distance learning opportunities and support services directly in their home. The model is to develop a desktop campus that provides integrated support services and academic training individually tailored to the needs of at-risk families living in affordable housing units.

Another program in the developmental stage is the **School-to-Career Academies**. This program involves a partnership model that aligns curriculum between secondary schools, community colleges, universities and industry. It specifically focuses on redirecting at-risk individuals into a college-bound career track. This project is also being aligned with the

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Texas Youth Commission (TYC) facilities to address the needs of students who are incarcerated to promote success and to decrease the recidivism rate of students once they leave TYC.

## RECOMMENDATIONS

- i Encourage the House Appropriations Committee to approve the Legislative Appropriation Request of \$7 million for the implementation of the new 211 Network for the next biennium.*
  
- i Encourage the applicable divisions within the Health and Human Services Commission who have a need for a student's confidential school records to discuss with the Texas Education Agency the development of a permission form to allow parental consent to share a child's education record for the purpose of determining the child's eligibility for a specific assistance program.*
  
- i Recommend the Department of Protective and Regulatory Services write and publish a guidebook similar to the Governor's Criminal Justice Division newly published "Guide to Grants" booklet. The purpose of the booklet is to explain the grant process and programs available through the agency in easy-to-understand language. The booklet would be made available to local community agencies and councils of government interested in at-risk youth programs.*
  
- i Recommend the Criminal Justice Division of the Governor's Office implement a pilot project to provide funding for case managers in 4 justices of the peace and municipal courts in the state of Texas. The case managers' duties should include: community service inventory; case planning; assistance in accessing services; service tracking; and reporting back to the court. The case manager will provide supervision in regard to the court's order and will be responsible for tracking the youth's activities, family*

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***contacts, and school contacts. At least 2 of the pilot projects should be in counties with populations under 150,000.***

***Furthermore, the judge should have additional qualifications in order to assess suitable court orders or sanctions. These minimum qualifications could be set up by the Supreme Court Education Committee and additional continuing education classes would be made available to the judges.***

***The case manager will be responsible for collecting data and statistics for the purpose of measuring the success of the pilot program and will report back to the Criminal Justice Division of the Governor's Office two years after the program has been implemented.***

- i Recommend the Department of Protective and Regulatory Services in conjunction with the United Ways of Texas develop a multi-agency and local effort to convene community groups in five non-urban areas interested in at-risk youth to assess the communities' needs and to build a plan for the community to assure a continuum of service for youth at risk of entering the criminal justice system. The five areas will be determined by the members of the House County Affairs Committee. Additional participants should be Texas Municipal League, Texas Association of Counties, Texas A&M Agriculture Extension offices, Texas Youth Commission, Councils of Governments, Criminal Justice Division and the Texas Commission on Volunteerism and Community Service (both of the Governor's Office), Justices of the Peace and Constables Association, and faith-based groups in the local communities as well as local youth. The United Ways of Texas with the applicable local United Ways will coordinate with the Department of Protective and Regulatory Services to follow up with the local communities and report back to the Governor's Office and the Texas Legislature prior to the 78th Session with the outcomes of the community plans.***

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- i ***Recommend the replication of the Jeffersonian Model, administered through the Texas Institute for Educational Partnerships, throughout the state of Texas. Provide funding for the TIEP to host ongoing conferences to address issues relating to at-risk youth, grant development, education-based housing, alignment of public schools, community colleges, universities, and industry, school-to-career academies, sustainable economic development issues and community development.***

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#### **CHARGE #4**

**Examine the extent to which city and county governments have voluntarily consolidated and streamlined operations through interlocal agreements. Determine the impediments to greater use of such agreements, and assess whether voluntary consolidation of operations should be a first-step before any further consolidation is permitted.**

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## COMMITTEE HEARING SUMMARY

### **BACKGROUND**

The Interlocal Cooperation Act (herein referred to as the Act), codified as Chapter 791 of the Government Code, was adopted in 1971. The purpose of the Act is “to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest extent, with one another and with agencies of the state.” Local governments authorized to enter into contracts with one another include counties, municipalities, special districts, or other political subdivisions of this state or a state that borders this state, or a combination of two or more of those entities (Tex. Gov. Code §791.003 (4)).

The Act authorizes contracts for many specific services of administrative and governmental functions. Administrative services are defined under the Act as being those “functions normally associated with the routine operation of government, including tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing” (Tex. Gov. Code §791.003). Governmental services is defined under the Act to include: police protection and detention services; fire protection, streets, roads, and drainage; public health and welfare; parks and recreation; library and museum services; records center services; waste disposal; planning; engineering; administrative function; public funds investment; comprehensive health care and hospital services; or other governmental functions in which the contracting parties are mutually interested”(Tex. Gov. Code §791.003(3)).

An interlocal contract must: (1) be authorized by the governing body of each party to the contract; (2) state the purpose, terms, rights, and duties of the contracting parties; and (3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party (Tex. Gov. Code §791.011).

An agreement must be approved by each of the participating governing bodies. This section of the Act is sometimes overlooked in agreements of a more informal nature. For example, the Act would render a mutual aid agreement between a sheriff and police

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department ineffective unless approved by the governing bodies of the city and county participating in the agreement. Even when duties are statutorily prescribed to a particular officer or employee by statute, order or ordinance, it should be remembered that the governing body must approve all interlocal agreements.<sup>4</sup>

As another example, a recent Attorney General's Opinion (AGO No. JC-0071) held that counties may not enter into an interlocal agreement concerning autopsy expenses because the Code of Criminal Procedure requires that an autopsy be paid by and the inquest be ordered in the county where death occurred.

### **Impediments to the Use of Interlocal Agreements**

Texas Government Code Subsection 791.011(d)(3) specifies that each party paying for the service must make the payments from current revenues available. Long-term financial obligations are generally prohibited as unconstitutional debts or gifts under the Texas Constitution. This restriction has inhibited interlocal agreements that require substantial capital financing since an entity may only commit its current revenue. As a consequence, the interlocal agreements focus on short-term budget considerations.

Another concern expressed by several witnesses was the issue of double-taxing by city residents. In some interlocal agreements, the city taxpayer often ends up paying twice for the service: once as a city taxpayer and, again as a county taxpayer. The question of fairness arises.

Often not found in interlocal agreements is an effective means for dispute resolution. Mediation and arbitration are two methods for dispute resolution that may be considered as an alternative to litigation, which can be very costly to the participating entities.

### **CONCLUSION**

The quest to provide more efficient services in government is ongoing. Past interim studies have given much attention to consolidation of city and county services. Consolidation is

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the restructuring of city and county government offices and duties into a single, unified entity as opposed to interlocal contracts, which consolidate specific functions within a county. Consolidation has been a contentious issue that has yet to gain much political support in the Texas Legislature.

Interlocal agreements are widely used throughout the state of Texas. The general consensus of the participating witnesses at the County Affairs hearing was that interlocal agreements are a valuable tool for governmental entities that allows participating entities flexibility to adopt agreements to meet the specific needs of the constituents without creating duplicate bureaucracies. Bexar County currently has seven major interlocal agreements with the City of San Antonio and has entered into more than 80 different agreements with other local governments including cities and school districts. Tarrant County enacts between 40 and 60 interlocal agreements every year, the bulk being for road construction or related activities. Harris County drafted 238 interlocal agreements between January 1999 and December 1999 and Travis County reported over 50 agreements between the county, city and other local government entities.

## RECOMMENDATIONS

- i ***Recommend that the 77th Legislature amend Chapter 791 of the Texas Government Code to add a section relating to alternative dispute resolution procedures.***
  
- i ***Encourage the 77th Legislature to give serious consideration to provide incentives for interlocal cooperation. The state may prioritize interlocal agreements for grant funding, support interlocal demonstration projects and provide a clearinghouse where interlocal agreements could be shared.***
  
- i ***Encourage the 77th Legislature to consider allowing interlocal agreements to exceed one year, subsequent to public notice and hearings, and voter approval by referendum, similar for issuances of certificates of obligation.***

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**CHARGE #5**

**Conduct active oversight of the agencies under the committee's jurisdiction.**

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## COMMITTEE HEARING SUMMARY

The County Affairs Committee met for a public hearing on March 21, 2000, to hear testimony on the interim charge regarding the Texas Commission on Jail Standards. The committee has oversight jurisdiction of the Commission. The following is a summary of the public testimony.

The committee heard testimony from Jack Crump, Executive Director of the Texas Commission on Jail Standards. He informed the committee that county jails are operating at 83% capacity, with a population of approximately 60,000. As of March 2000, about 8,000 of the inmates are federal prisoners, 3,000 are state prisoners housed through contract with the Texas Department of Criminal Justice, and 600 are out-of-state prisoners from Wisconsin and Massachusetts. The Wisconsin inmates will probably be removed by the summer of 2000. He anticipated a greater need of housing space for federal inmates as the Immigration and Naturalization Service and the Marshall Service continue their work, particularly along the border.

### **Blue Warrants**

Mr. Crump discussed the issue of blue warrants. While the Jail Commission has no regulatory authority over blue warrants, it does maintain monthly figures on the number of blue warrant inmates in the county jails. A blue warrant is issued when an individual is picked up and held in county jail pending a parole revocation hearing who has been previously convicted of a state crime. He stated that in the past year, the number of blue warrant inmates has increased from 2,363 to 3,306, reflecting a 40% growth. He emphasized that these numbers reflect only those paroled individuals who commit a technical violation, not a new charge. He indicated that all costs for the care of the prisoners, including medical costs, are paid by the counties. A blue warrant inmate can potentially remain in a county jail up to 105 days before being released or transferred to prison. This can cause a great financial burden on counties. He suggested that the inmates be held in state jails rather than county jails since they are state prisoners.

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Mr. Craig Pardue, on behalf of the Dallas County Commissioners Court, testified that housing blue warrant inmates is a contentious issue between the Sheriffs, Commissioners Courts of Texas and the Texas Department of Criminal Justice. Currently, the Dallas County Sheriff's department is holding over 690 state blue warrant prisoners which is approximately 21% of the state total. Dallas County budgets \$10 million per year to house blue warrant inmates.

### **Mentally Ill Inmates**

Another concern expressed by Mr. Crump was the housing of mentally ill inmates. The lack of resources available in counties is a great concern, as well as the liability factor. The Commission is currently working with the Council on Offenders with Mental Impairments (TACOMI) and the Criminal Justice Policy Council (CJPC) to examine strategies for reducing the use of county jails to provide mental health treatment and the feasibility of establishing a pilot regional mental health detention facility. This study is the result of S.B. 365 passed during the 76th legislative session.

Ms. Debbie Fillmore, Deputy Director for the Texas Commission on Jail Standards, further testified that obtaining information on mentally ill inmates from counties is very difficult as counties do not maintain records on such inmates. The joint study currently being conducted with TACOMI and CJPC is limited to the counties of Tarrant, Fayette and Harris. The study examines how many inmates are identified as mentally ill at booking, how many of those were previously a client of the Texas Department of Mental Health and Mental Retardation or were screened by a psychiatrist and determined to be mentally ill, and the inmate's previous criminal record.

Ms. Fillmore also stated that Texas statutes concerning the incarceration of mentally ill inmates are ambiguous and clarification in the different statutes would be helpful.

Ms. Fillmore explained that the incarceration of such inmates is very costly to jails. She suggested that the state consider the creation of a pilot regional mental health jail to provide better services to inmates. The jails could also help counties with liability issues.

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## **Staffing and Staff Needs**

Other concerns expressed by Mr. Crump included staffing at the Commission. Due to the healthy economy, low unemployment, restrictions placed on merit raises, and salary caps, the Commission is experiencing a large turnover. The Commission began with a staff of 14 in 1975 overseeing the care and custody of approximately 10,000 prisoners. Today, the staff of 20 is administering the care of over 60,000 inmates. Furthermore, restrictions built into the budget has created a strain on the ability of staff inspectors to travel as needed. (The travel budget is 90% of the travel budget in the previous two years.) Mr. Crump expressed the need for two additional higher level corrections professionals and indicated that he would make that request next session.

Technology is slow in reaching the rural counties resulting in delays in receiving reports from the counties. Some reports are still received by mail which makes it difficult for state staff to complete reports by deadline. Mr. Crump said that if the Commission had the ability to receive data electronically from counties, they could be more responsive to county needs and hopefully save the counties time and money. He suggested that the state provide a personal computer to each jail. Each county would be responsible for the on-line connection cost which is minimal and the Commission could purchase and develop software for reporting purposes.

Retaining county jail staff has become a challenge and has had an impact on the orderly operation of jails. As the number of incarcerated individuals has increased, so have escapes and assaults. In addition, suicides in jails result in high litigation costs to the counties.

The administration and construction costs for county jails are placing an ever-growing burden on the budget of counties, particularly smaller populated counties. Mr. Crump suggested that a study was warranted to research a regional approach to county jails.

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## RECOMMENDATIONS

- i The committee recommends the legislature call for a study to research the feasibility of constructing regional county jails in Texas to help smaller counties defray high administrative costs.*
  
- i The committee recommends the legislature consider the creation of a pilot regional mental health jail to provide necessary services to mentally ill inmates that may not otherwise be available to county inmates.*

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## **APPENDIX A**

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## ENDNOTES

1. Renee Traweek, LMSW, TRIAD of Harris County, 2000
2. “A Snapshot of Georgetown Children and Youth”, The Georgetown Project
3. “Texas Institute for Educational Partnerships, an Institute Within Texas A&M University-Texarkana”, Jeffersonian Model Executive Summary
4. “Contracting Through Interlocal Agreements and With Private Vendors: Some Practical Tips”.  
J. Greg Hudson, 1997