

1 Commission staff who added this panel to the program  
2 on very short notice, and everyone attending today's  
3 hearing. Thank you very much.

4 CHAIRMAN WALTON: Thank you for your  
5 presence. We thank all of you for your testimony.

6 Any questions?

7 COMMISSIONER SMITH: Yes.

8 Let me ask -- I just want to ask a sort  
9 of a broad question. It sounds like there was a lot  
10 of knowledge -- I'm talking in the youth situation --  
11 a lot of knowledge about -- from various sources.  
12 Does Texas have a mandatory reporting statute?

13 MS. ISELA GUTIERREZ: Yes, it does.

14 COMMISSIONER SMITH: So notwithstanding  
15 whether it was substantiated or not, staff had an  
16 independent responsibility to report -- could have  
17 reported out of the system, a complaint of child  
18 sexual abuse or maltreatment?

19 MS. ISELA GUTIERREZ: Yes. They could  
20 have reported it out, although it would have been  
21 investigated internally.

22 COMMISSIONER SMITH: Right. Are you  
23 aware if any of those staff reported it outside of the  
24 system?

25 MS. ISELA GUTIERREZ: None of the staff

1 involved in the specific cases that we have looked at  
2 reported outside of the system. They all reported up  
3 the direct chain of supervision.

4 COMMISSIONER SMITH: Do you think they  
5 were aware that they could have reported it outside of  
6 the system?

7 MS. ISELA GUTIERREZ: I think that they  
8 certainly were aware of the mandatory reporting law.

9 COMMISSIONER FELLNER: Your coalition  
10 has been doing some terrific work in putting together  
11 some very valuable data and, as you know, we're having  
12 people come later to talk also about the TYC  
13 situation. But one of the things that strikes me is,  
14 no matter what kind of systems and oversight and  
15 better staffing you try and put in, there is this  
16 basic problem that too many kids are being put into a  
17 system, a secure confinement system, when it would  
18 seem from the data that you've put forward that there  
19 would be many other ways of responding to them,  
20 including, Texas could adopt a model such as in  
21 Missouri, which has many other ways of dealing with  
22 youth. Especially since many of these youth, from the  
23 reported histories, did not need this kind of  
24 confinement, even if it was not a violent confinement.  
25 Do you have any sense whether there is

1 support -- political support in Texas for not just  
2 trying to eliminate violence within the youth  
3 facilities, but using this as a wake-up call that  
4 maybe the entire way the state deals with youth needs  
5 to be thoroughly re-examined?

6 MS. ISELA GUTIERREZ: I would like --  
7 let's see. Prior to the scandal breaking, my  
8 coalition brought in Mark Steward and Judge Dennis  
9 Kehm from Missouri to speak about the Missouri model.  
10 There seemed to be more political interest in shifting  
11 the paradigm at that particular moment than, I see  
12 right now, that the -- now that the scandal has  
13 broken, now that many constituents are wondering what  
14 is going on; they want to see immediate action; there  
15 is increased emphasis on immediately securing the  
16 safety of the facilities. And -- and the consultant  
17 that has been brought in by the state, Tom -- I  
18 believe, Stickrath from Ohio's Division of Youth  
19 Services, has significant experience cleaning up the  
20 correctional aspects of his system, but has not made a  
21 move toward a new paradigm of rehabilitation.

22 So I believe that the -- there is  
23 incentive to create increased diversion programs  
24 similar to Ohio's Reclaim at the County Level. There  
25 are also issues of oversight at the county -- in

1 detention facilities -- and input adjudication  
2 facilities at the county level that are not -- that  
3 have not yet come to the table and been fully vetted  
4 by the political system.

5                   In terms of the restructuring of the  
6 facilities, the restructuring of the rehabilitation  
7 program, these are things that have been alluded to in  
8 the rehabilitation plan constructed by the Acting  
9 Executive Director, Ed Owens. But I'm -- I don't --  
10 my concern is that we're going to get stalled in -- in  
11 an attempt to reduce youth -- or increase youth safety  
12 and reduce youth violence, and that we will not get  
13 all the way to the paradigm shift that's badly needed.  
14 So I hope that answers your question.

15                   COMMISSIONER FELLNER: Thank you. I  
16 would like to pursue that later.

17                   Mr. Doe, can you tell us whether Jane  
18 has filed formal grievances concerning her  
19 mistreatment and what the history of those formal  
20 grievances has been?

21                   MR. JOHN DOE: Yes, ma'am. I'm sorry.  
22 Yes, ma'am, she has. She is basically utilizing the  
23 chain of command there. She is following policy.  
24 It's just that everything is like at a dead standstill  
25 because OIG is involved. And it's the Office of the

1 Inspector General.

2                   COMMISSIONER FELLNER: No, no. So as  
3 I -- because I was reading the regulations, and we can  
4 ask the Texas people when they come, but as I  
5 understand it, there is a grievance policy which is --  
6 does not -- which can be followed separate from  
7 whether OIG is involved or not. And that she has so  
8 many days in which she has to file a response, and  
9 then the system has to respond in so many days, and  
10 she is at step two, and then could bring a civil --  
11 she could go to court if she wanted.

12                   So it your -- can you -- do you have  
13 any more detail on where she stands in the grievance  
14 process?

15                   MR. JOHN DOE: Well, I'm not too sure  
16 where she stands in the grievance process, but I do --  
17 and I am fully aware that there is two cases that the  
18 OIG has opened for these four different incident --  
19 situations, allegations. There are --

20                   COMMISSIONER FELLNER: This is  
21 separate. Maybe you could help -- it would be very  
22 helpful to us to find out, and maybe you could find  
23 out and then get back to us whether she has actually  
24 filed grievances that are going through the formal  
25 grievance procedure at TYC.

1                   MR. JOHN DOE: Yes, she has. Well, I'm  
2 sorry. I misunderstood you. She did use the  
3 grievance process.

4                   COMMISSIONER FELLNER: Okay.

5                   MR. JOHN DOE: Because she reported to  
6 the lieutenant and she reported it to the warden. So  
7 she basically used the chain of command that was  
8 established -- that is established there on the unit.  
9 Okay. So she basically -- she is working internal and  
10 she is work outernal.

11                   COMMISSIONER FELLNER: But given the  
12 length of time, she should have heard back. Were her  
13 grievances denied?

14                   MR. JOHN DOE: Well, they -- from an  
15 internal aspect --

16                   COMMISSIONER FELLNER: From the  
17 internal.

18                   MR. JOHN DOE: -- they placed her in  
19 transit. They moved her away from everyone else. And  
20 they also opened external investigations through the  
21 Office of Inspector General. So they basically moved  
22 her out of population and they placed in her transit.

23                   COMMISSIONER FELLNER: But that is, to  
24 my understanding, would not be considered a -- within  
25 the Texas grievance policy system. It's a good thing

1 maybe if they've tried to protect her, which I -- but  
2 it would be helpful to know and to find out just --  
3 because I'm very curious on how the grievance systems  
4 work and here would seem to be a clear case. And I  
5 would like to see how the grievance system has worked  
6 in this case.

7 MR. JOHN DOE: Okay.

8 COMMISSIONER FELLNER: If that's  
9 possible. And, again, we would not mind, if she has  
10 copies of the grievance, we would not mind seeing them  
11 with her name deleted, or we could hold them in  
12 confidence and promise confidentiality. Just -- it  
13 would be useful to see the internal response on the  
14 grievance forms that the system has provided in her  
15 case.

16 MR. JOHN DOE: Okay. Well...

17 CHAIRMAN WALTON: Commissioner Nolan.

18 COMMISSIONER NOLAN: Mr. Doe and  
19 Ms. Galloway, I can't imagine the pain you've gone  
20 through, and I think the whole Commission appreciates  
21 your courage in coming forward, especially because  
22 your loved ones are still at risk of retaliation and  
23 still in custody.

24 And I -- I just can't express the pain  
25 that we all feel, hearing you, and these stories of

1 what your fiancée and what your son has endured. No  
2 matter what got them into custody, no sentence  
3 involves the horrors that they've gone through. And  
4 we're sorry that -- that they have had to go through  
5 this.

6                   It's interesting that this -- I'm from  
7 Virginia, and I've only been able to follow this  
8 through the Internet and reporting of your local  
9 papers, which I'm very grateful for, but it seems like  
10 this has simmered for a long time with nothing  
11 happening.

12                   I think I read in the Dallas News,  
13 Ms. Galloway, that you were having dinner with the  
14 assistant to a State Senator and said, what happened  
15 to the Texas Rangers report or something? Is that --

16                   MS. GINGER GALLOWAY: I'm sorry?

17                   COMMISSIONER NOLAN: Maybe it was  
18 someone else.

19                   Oh, it was you? Okay. Thank you,  
20 Isela. You -- I think it's important to us to hear  
21 the informal ways that this has broken out, because  
22 the formal process clearly broke down. The -- well,  
23 the process just was ineffective and, in fact,  
24 sabotaged, from what I can see, in a lot of ways. So  
25 how you broke through.

1 MS. ISELA GUTIERREZ: It's not that --  
2 I'm sorry to say, it's not that impressive, but I'm  
3 happy to share it with the Commission.

4 Essentially -- I came down from Seattle  
5 to Texas to become the coordinator of this group in  
6 February 2006. Shortly after my arrival, as I was  
7 meeting with my coalition members, one of them  
8 mentioned to me that there had been an FBI and Ranger  
9 investigation of sex abuse at a West Texas school. At  
10 that time, new to the region, I wasn't -- I wasn't  
11 sure if that just meant the region of west Texas, I  
12 didn't have a time frame. He told me it had been in  
13 the newspapers. I searched online, looked through  
14 archives of a few newspapers -- major newspapers, was  
15 unable to find anything with that information in it.

16 A few months later, I formed a  
17 connection with an insider at TYC who -- who -- I'm  
18 not -- I don't remember if I referenced it or how it  
19 came up, but she confirmed for me that, in fact, there  
20 had been a Texas Ranger investigation -- which I was  
21 beginning to doubt at this point -- and that the TYC  
22 had turned over a lot of evidence, computers, carpet  
23 samples, wall samples, to the FBI and the Texas  
24 Rangers, and that headlines had been -- you know, that  
25 stories had been written about them investigating, but

1 no follow-up story had been written about the lack of  
2 follow-up and the lack of follow-through. And that  
3 she and TYC were wondering what had happened to this  
4 investigation.

5                   And at that point I knew that it had  
6 really occurred, and I followed up with Allison Brock,  
7 an aide to Representative Turner, and asked her if she  
8 could please look into this for me.

9                   COMMISSIONER NOLAN: Well, I'm -- thank  
10 you for -- for persistence in that. Oftentimes, you  
11 know, just the rumors of something floating around,  
12 there may be substance there.

13                   My experience is that oftentimes at an  
14 institution, there may be statewide policies, but the  
15 character and leadership of whoever is in charge, the  
16 warden, superintendent, whatever their charge -- or  
17 their title is, really makes a difference. Are you  
18 aware of any TYC facilities, by reputation of the  
19 other youth, that are well-run? Where they do they  
20 feel safe or they do feel protected?

21                   MS. GINGER GALLOWAY: No. I might add  
22 that -- I hooked up with Isela -- someone gave me her  
23 name, and Isela pointed me in the right directions and  
24 I made a few phone calls. I did not share with you  
25 the abuse my son suffered at the Evans Regional

1 Juvenile Detention Center because I didn't want to  
2 throw off from just the sexual. But his jaw was  
3 broken in two places. He was assaulted, his mouth was  
4 wired shut, he went to the emergency room via  
5 ambulance. 24 hours later, I had it in the front page  
6 of the media. From that moment, 24 hours after that,  
7 they transferred him up to Crockett. And I received a  
8 phone call saying -- asking me if I was then happy  
9 because he was close to me. I was on fire. I was not  
10 happy; I was on fire.

11                   And when I hooked up with Isela, she  
12 gave me good contacts and I began to get it in the  
13 media. And then my home became a hotline, a  
14 clearinghouse, if you will, where my phone rings 24/7.  
15 I literally have numerous phones because the batteries  
16 run dead. And where not only parents are calling me,  
17 employees are calling me, to this day, because even  
18 though they've established a 1-800 hotline, the  
19 employees still do not feel safe enough to report what  
20 they know.

21                   I was receiving phone calls up until  
22 the minute I walked into the courtroom saying, if you  
23 will give my number directly to Jay Kimbrough and  
24 Owens and they will contact me, I will give them my  
25 testimony. But they are so threatened.

1                   And I will tell you this, that when you  
2 ask about the wardens or the superintendents, I have  
3 been in contact with employees from all over the  
4 state. I have uncovered rocks that would scare you,  
5 the dirt underneath them. The people that are in  
6 charge of the Texas Youth Commission, in the  
7 administrative positions, are the most evil people I  
8 have ever known in her my life or heard of. It's like  
9 a Mafia movie. They have a group, they call  
10 themselves The Untouchables. They have a motto, "to  
11 hell with everyone." They cover -- they rule by fear  
12 and intimidation and they teach their cronies, if you  
13 will, to take the kids down and hurt them in whatever  
14 way you need to, and then we'll cover you later.

15                   And if one of the employees who are --  
16 there are so many wonderful employees and there are so  
17 many ex-employees that would love to have their jobs  
18 back because they were set up after reporting abuse.  
19 If they report it, then they're wrote up numerous  
20 times and then they get rid of them.

21                   COMMISSIONER NOLAN: Yeah. I -- just  
22 by observation, in some cases around the country,  
23 sexual assault occurs, and just the regular assault by  
24 officers, it's a rogue person. My observation is,  
25 looking at this, there were so many instances where

1 the system not only failed to act but covered its  
2 tracks, this is far more than just one or two bad  
3 apples, but --

4 MS. GINGER GALLOWAY: It's statewide.

5 COMMISSIONER NOLAN: -- but there is  
6 something there. But Texas is not the only state.

7 MS. GINGER GALLOWAY: No.

8 COMMISSIONER NOLAN: And I just -- in  
9 California, there is the Green Gang within the prison  
10 corrections system where -- with tattoos, these are  
11 officers who regularly threaten and intimidate other  
12 officers who do come forward and talk. So this is a  
13 culture. And I'm glad you brought up that it's --  
14 some violence was treated as just violence, meaning --  
15 involving sexual activity, but it's just treated as  
16 just a regular violence.

17 This has been very helpful to us, and I  
18 know it's very, very painful to you and, again, your  
19 government failed you and your loved ones, and we're  
20 very, very sorry.

21 CHAIRMAN WALTON: Mr. Puryear.

22 COMMISSIONER PURYEAR: I just have one  
23 quick question. Ms. Galloway, you mentioned  
24 Mr. Kimbrough, I think is testifying before us on the  
25 next panel, and I was curious if you or Ms. Gutierrez

1 had had any discussions with Mr. Kimbrough, what your  
2 feeling about the Special Masters process is and if  
3 there is anything that we should be asking him when he  
4 is before us.

5 MS. GENGER GALLOWAY: I have not spoken  
6 with him directly. I have his cell phone number, but  
7 I have hesitated to use it because I did not want to  
8 cross any lines. I was really disgusted at the last  
9 House committee meeting, when -- that I attended on  
10 Monday of last week when they began to argue and  
11 decide -- think of whether or not he was legally put  
12 into the position he was by the Governor, and if he  
13 was not, was all of the investigations, the evidence,  
14 was it useless? Was it going to be useless and not  
15 even be useful in incriminating these people? And in  
16 a -- I was very disheartened at that. I was really  
17 disgusted. And -- because I feel like he -- I feel  
18 like he has done a great job. I think that he and  
19 Mr. Owens have distributed out these people. I had  
20 Texas -- I mean, from the moment my son reported this  
21 and I reported it and it started coming out, in my  
22 kitchen at my table I had a Texas Ranger and an OIG.  
23 I had my door open and employees and ex-employees were  
24 walking through it giving their reports. They were  
25 there for hours listening. I think that they are

1 doing a wonderful job, and I think he has taken a  
2 large hit for what he has done.

3                   But on the other hand, I think that  
4 more can be done. I think that the political game,  
5 you know, the nya-nya, back and forth, needs to  
6 just -- they just need to put the kids first and stop  
7 arguing and stop trying to get in the spotlight of  
8 whose name is going to be on what bill.

9                   COMMISSIONER SMITH: Can I also ask  
10 another question, sort of in that line? Because it's  
11 very difficult to wrap your head around the magnitude  
12 of this problem, not only in the TYC, but also,  
13 Mr. Doe, what you're describing as well.

14                   And so one of the things that I  
15 understood was that TYC had said that they didn't want  
16 to participate, sort of, in the PREA activities.  
17 Given this and sort of in this aftermath, with all of  
18 this stuff that is going on, what is happening with  
19 the kids? I mean, how are the kids being debriefed,  
20 staffed, sort of how do they understand this? Are  
21 there services? You know, because this is sort of a  
22 major incident, so are there mental health services  
23 that are being brought to bear for the kids in the  
24 system?

25                   MS. ISELA GUTIERREZ: In terms of how

1 the kids' real life -- real lives have changed as a  
2 result of this, I would say that some facility --  
3 well, at all the facilities, commissioned law  
4 enforcement officers were deployed. So at least all  
5 of the children saw officers come in, and then they  
6 saw them leave. And phone numbers were painted -- a  
7 toll-free number was established, phone numbers were  
8 painted up, but there is a great deal of confusion  
9 over whether or not kids can use their calling cards  
10 to access that phone, if they have to dial one, do  
11 they to dial zero first, and it seems to vary from  
12 facility to facility.

13                   Superintendents are doing their best to  
14 notify -- to let their staff know that this hotline is  
15 not for them, not for staff use, that nothing will  
16 really change in the internal investigation system --

17                   COMMISSIONER SMITH: Yeah, but have the  
18 kids been trained or oriented or discussed with that  
19 this is a problem. We're trying to remedy it. These  
20 are the services that you might avail yourself of if  
21 you need to report or if you need some help to deal  
22 with any past or present trauma.

23                   MS. ISELA GUTIERREZ: No. And so the  
24 question of services has just been breached by -- or  
25 broached by Jay Kimbrough in his -- we had him -- sort

1 of to answer both your questions at once.

2                   I was -- I met with Jay Kimbrough on  
3 Friday of last week, along with a representative of  
4 the ACLU of Texas, and he told us that in addition to  
5 wanting to create a panel to review the extended  
6 sentences of the youth, that he also wanted to make  
7 counseling available to young people who requested it.  
8 I suggested that, one, youth on parole also be  
9 included in that group of youth who could receive  
10 counseling; and, two, that there be -- I asked about  
11 the window of time. I encouraged them to think about  
12 as long as six months that these service would be  
13 available to youth. He said that he thought one month  
14 would be appropriate for kids to come forward. And --  
15 but, again, in terms of who Jay Kimbrough is -- I  
16 mean, what his role is, so he made -- it's unclear.  
17 It's unclear what statutory authority he has,  
18 essentially. And he's not an employee of TYC. He is  
19 not an employee of the Governor's. He is an employee  
20 of Texas A&M University. And so we know, with no  
21 board in place that he reports to at all.

22                   The Acting Executive Director, Ed  
23 Owens, essentially has all the power in the system.  
24 He came over from the Texas Department of Criminal  
25 Justice. A lot of the reforms that are being

1 suggested are akin to those in place at TDCJ,  
2 establishing an Office of Inspector General, allowing  
3 the Special Prosecution Unit jurisdiction. We're  
4 creating an ombudsman, but we're trying to ensure that  
5 our version of the ombudsman allows youth inmates to  
6 contact them directly.

7                   So in terms of what has -- and for  
8 youth who have -- whose parents or others have  
9 contacted the hotline on their behalf, they are being  
10 interviewed by law enforcement officers, sometimes --  
11 Genger would know a little more about the individual  
12 cases. And -- and that then the State Auditor did  
13 conduct a survey of 300 -- or around 3,000 youth, and  
14 from that, from those surveys, 205 allegations of  
15 abuse and neglect were turned over to law enforcement  
16 officials.

17                   So the short answer to your question  
18 is, no, none of those things have been put into place  
19 yet for youth. There is some discussion, but there is  
20 still quite a bit of concern about youth manipulating  
21 the system.

22                   CHAIRMAN WALTON: We thank you. We  
23 really have to break so we can stay on schedule, and  
24 we are scheduled to hear from Mr. Kimbrough and also  
25 Representative Madden at 1:00 o'clock, so we'll need