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

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

Any questions?

COMMISSIONER SMITH: Yes.

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

MS. ISELA GUTIERREZ: Yes, it does.

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

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

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

MS. ISELA GUTIERREZ: None of the staff
involved in the specific cases that we have looked at
reported outside of the system. They all reported up
the direct chain of supervision.

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

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

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

Do you have any sense whether there is
support -- political support in Texas for not just
trying to eliminate violence within the youth
facilities, but using this as a wake-up call that
maybe the entire way the state deals with youth needs
to be thoroughly re-examined?

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

So I believe that the -- there is
incentive to create increased diversion programs
similar to Ohio's Reclaim at the County Level. There
are also issues of oversight at the county -- in
detention facilities -- and input adjudication facilities at the county level that are not -- that have not yet come to the table and been fully vetted by the political system.

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

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

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

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

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

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

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

COMMISSIONER FELLNER: This is separate. Maybe you could help -- it would be very helpful to us to find out, and maybe you could find out and then get back to us whether she has actually filed grievances that are going through the formal grievance procedure at TYC.
MR. JOHN DOE: Yes, she has. Well, I'm sorry. I misunderstood you. She did use the grievance process.

COMMISSIONER FELLNER: Okay.

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

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

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

COMMISSIONER FELLNER: From the internal.

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

COMMISSIONER FELLNER: But that is, to my understanding, would not be considered a -- within the Texas grievance policy system. It's a good thing
maybe if they've tried to protect her, which I -- but
it would be helpful to know and to find out just --
because I'm very curious on how the grievance systems
work and here would seem to be a clear case. And I
would like to see how the grievance system has worked
in this case.

MR. JOHN DOE: Okay.

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

MR. JOHN DOE: Okay. Well...

CHAIRMAN WALTON: Commissioner Nolan.

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

And I -- I just can't express the pain
that we all feel, hearing you, and these stories of
what your fiancée and what your son has endured. No matter what got them into custody, no sentence involves the horrors that they've gone through. And we're sorry that -- that they have had to go through this.

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

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

MS. GENDER GALLOWAY: I'm sorry?

COMMISSIONER NOLAN: Maybe it was someone else.

Oh, it was you? Okay. Thank you, Isela. You -- I think it's important to us to hear the informal ways that this has broken out, because the formal process clearly broke down. The -- well, the process just was ineffective and, in fact, sabotaged, from what I can see, in a lot of ways. So how you broke through.
MS. ISELA GUTIERREZ: It's not that --
I'm sorry to say, it's not that impressive, but I'm
happy to share it with the Commission.

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

A few months later, I formed a
connection with an insider at TYC who -- who -- I'm
not -- I don't remember if I referenced it or how it
came up, but she confirmed for me that, in fact, there
had been a Texas Ranger investigation -- which I was
beginning to doubt at this point -- and that the TYC
had turned over a lot of evidence, computers, carpet
samples, wall samples, to the FBI and the Texas
Rangers, and that headlines had been -- you know, that
stories had been written about them investigating, but
no follow-up story had been written about the lack of follow-up and the lack of follow-through. And that she and TYC were wondering what had happened to this investigation.

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

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

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

MS. GENGER GALLOWAY: No. I might add that -- I hooked up with Isela -- someone gave me her name, and Isela pointed me in the right directions and I made a few phone calls. I did not share with you the abuse my son suffered at the Evans Regional
Juvenile Detention Center because I didn't want to throw off from just the sexual. But his jaw was broken in two places. He was assaulted, his mouth was wired shut, he went to the emergency room via ambulance. 24 hours later, I had it in the front page of the media. From that moment, 24 hours after that, they transferred him up to Crockett. And I received a phone call saying -- asking me if I was then happy because he was close to me. I was on fire. I was not happy; I was on fire.

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

I was receiving phone calls up until the minute I walked into the courtroom saying, if you will give my number directly to Jay Kimbrough and Owens and they will contact me, I will give them my testimony. But they are so threatened.
And I will tell you this, that when you ask about the wardens or the superintendents, I have been in contact with employees from all over the state. I have uncovered rocks that would scare you, the dirt underneath them. The people that are in charge of the Texas Youth Commission, in the administrative positions, are the most evil people I have ever known in her my life or heard of. It's like a Mafia movie. They have a group, they call themselves The Untouchables. They have a motto, "to hell with everyone." They cover -- they rule by fear and intimidation and they teach their cronies, if you will, to take the kids down and hurt them in whatever way you need to, and then we'll cover you later.

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

COMMISSIONER NOLAN: Yeah. I -- just by observation, in some cases around the country, sexual assault occurs, and just the regular assault by officers, it's a rogue person. My observation is, looking at this, there were so many instances where
the system not only failed to act but covered its
tracks, this is far more than just one or two bad
apples, but --

MS. GENDER GALLOWAY: It's statewide.

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

MS. GENDER GALLOWAY: No.

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

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

CHAIRMAN WALTON: Mr. Puryear.

COMMISSIONER PURYEAR: I just have one
quick question. Ms. Galloway, you mentioned
Mr. Kimbrough, I think is testifying before us on the
next panel, and I was curious if you or Ms. Gutierrez
had had any discussions with Mr. Kimbrough, what your
feeling about the Special Masters process is and if
there is anything that we should be asking him when he
is before us.

MS. GENDER GALLOWAY: I have not spoken
with him directly. I have his cell phone number, but
I have hesitated to use it because I did not want to
cross any lines. I was really disgusted at the last
House committee meeting, when -- that I attended on
Monday of last week when they began to argue and
decide -- think of whether or not he was legally put
into the position he was by the Governor, and if he
was not, was all of the investigations, the evidence,
was it useless? Was it going to be useless and not
even be useful in incriminating these people? And in
a -- I was very disheartened at that. I was really
disgusted. And -- because I feel like he -- I feel
like he has done a great job. I think that he and
Mr. Owens have distributed out these people. I had
Texas -- I mean, from the moment my son reported this
and I reported it and it started coming out, in my
kitchen at my table I had a Texas Ranger and an OIG.
I had my door open and employees and ex-employees were
walking through it giving their reports. They were
there for hours listening. I think that they are
doing a wonderful job, and I think he has taken a
large hit for what he has done.  
But on the other hand, I think that
more can be done. I think that the political game,
you know, the nya-nya, back and forth, needs to
just -- they just need to put the kids first and stop
arguing and stop trying to get in the spotlight of
whose name is going to be on what bill.

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

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

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

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

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

MS. ISELA GUTIERREZ: No. And so the question of services has just been breached by -- or broached by Jay Kimbrough in his -- we had him -- sort
of to answer both your questions at once.

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

The Acting Executive Director, Ed Owens, essentially has all the power in the system. He came over from the Texas Department of Criminal Justice. A lot of the reforms that are being
suggested are akin to those in place at TDCJ, establishing an Office of Inspector General, allowing the Special Prosecution Unit jurisdiction. We're creating an ombudsman, but we're trying to ensure that our version of the ombudsman allows youth inmates to contact them directly.

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

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

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