

**TEXAS JUVENILE JUSTICE DEPARTMENT  
ADVISORY COUNCIL**

**July 24, 2012**

The Texas Juvenile Justice Department Advisory Council was held on July 24, 2012, at 10:00 a.m. in the Brown Heatly Building, Room 1430, 4900 North Lamar Blvd., Austin, Texas, 78751. In attendance: Scott Freedman, Karen Mills, Bill Monroe, James Smith, Janie Duarte, Doug Vance, Mary Wood, Linda Brooke

The meeting was called to order at 10:00 a.m.

**Review of Minutes June 13, 2012 Meeting**

There was a motion to approve the minutes. The motion was seconded and unanimously approved.

**TJJD Update: Jay Kimbrough, Interim Executive Director**

Mr. Kimbrough could not attend due to his continuing recovery from a car accident. Linda Brooke spoke on his behalf.

Cherie Townsend has stepped down from the position of Executive Director, and Mr. Kimbrough will be Interim Executive Director. The Board is meeting for a budget workshop on July 25, but they will also be meeting in a closed session to determine the process for selecting a permanent Executive Director.

The Agency has been working on a number of initiatives in safety and security. The first is the implementation of the Phoenix Program, which will be at the Mart facility; it will be a 24-bed program for highly aggressive youth. The program began at the end of June, with currently seven youth in the program and another one on the way. The program is doing well, with youth cooperating and working through the program. There have been no major incidents.

On other initiatives being addressed, Mr. Kimbrough released a directive regarding Level 2 hearings, which is the process used to deal with behavior and youth in the facilities. Research indicated that only 21% of the Level 2 hearings were being conducted on youth that had engaged in youth-on-youth or youth-on-staff assaults. There were differences between institutions in regard to how these hearings were being applied, so Mr. Kimbrough sent out a mandate stating that all Level 2 hearings will be held on major rule violations, and this will be monitored so that youth will be held accountable for their behavior.

In administrative changes, at three of the largest facilities will be new assistant superintendent positions, the primary job function of which will be safety and security. Interviews are in process for those positions, and all are expected to be filled by August 1. These positions were upgraded from Program Specialist of Operations positions so that there would be a higher level of accountability.

James Smith has created a safety and security team within his division. The primary responsibility of this team is to monitor how safety and security is being implemented in each facility; reviewing videos, watching cameras, providing training, et cetera.

Facility safety is also being looked at in terms of perimeter security. There was an escape from Mart this summer. Unannounced audits were conducted in every facility to ensure that there are no gaps in safety and security. All six facilities were audited simultaneously. Mr. Kimbrough has said that there should be periodic unannounced visits to each facility throughout the year. Monitoring visits have been implemented in the past by a quality assurance team, but with the recent incidents, Mr. Kimbrough wanted some extra attention brought to that issue.

Among other changes in the central office, Brett Bray is the new general counsel.

Part-time JCO positions are being established at five facilities: Mart, Giddings, Gainesville, Evans, and Corsicana. Many youth in the facilities have mental health issues requiring a lot of one-on-one attention, a need not previously built into the regular schedule. Many staff members have therefore been required to work 12-hour shifts and overtime. The hope is that these part-time positions will help relieve some of the regular staff, which will allow for a lower number of incidents due to overworked staff. This will also relieve some financial burdens in terms of overtime and workers' compensation. A question was asked regarding the 300 hours of training required for new staff and whether it was possible to train part-time employees in the basics and then put them on the floor. Though not yet finalized, a plan is being developed so that a part-time employee may eventually become a full-time employee who has already been trained. A recent meeting took place with legislative leadership where this issue was discussed. There will be planning in terms of establishing a core curriculum so that employees can begin work on the floor in some capacity until the rest of their training can be completed. This will require legislative support.

Additionally, the Agency will be working with local law enforcement in the area of each facility to come out and work in the facilities at the gatehouses and during visitation to provide some assistance and training.

The position for Director of Community Services has not yet been filled. Mr. Kimbrough is looking at the Agency organizationally and has asked that positions related to community services not be filled at this time so that possible changes to the organization can be considered. A question was asked regarding whether that position could appear somewhere else. Some consideration has been given to placing the position elsewhere on the chart; that request has been heard and is being considered, but nothing can be stated definitely at this time. The next step in the process once the Strategic Plan is finalized is the development of the LAR.

### **TJJD Legislative Appropriations Request**

The LAR is approximately 227 pages. It is on the web site and will be sent to each of the Advisory Board in a link for their review. The Advisory Council had been asked to take the information presented in the LAR documents back to their regional associations to get feedback and bring it back to this meeting for discussion. Additionally, a webinar was presented last

week, and many had an opportunity to listen to that, but in the event someone did not get the chance to review these, there was a brief summary of the document during the meeting.

The LAR documents begins with some proposed reductions that the Agency may have to take, followed by a list of exceptional items; i.e., new requests or potential items to be added back in to the budget. Once the Advisory Council discussion has concluded, there will be some work to prepare for the TJJD Board meeting on August 24, when the Board will take action on the budget.

Janie Duarte and Bill Monroe presented a summary of the LAR, and these documents were shared with the attendees of the July webinar, to share preliminary materials that the staff is using to prepare the LAR for the 2014/2015 biennium. The first document presented was a 10% reduction schedule. It was noted that these are being presented as options, not recommendations. The options are calculated based on the appropriations of the Agency between 2012 and 2013. For TJJD that amount is \$604 million. The official general revenue (GR) reduction target has not yet been received from the Legislative Budget Board (LBB), but the estimate is that it will be about 60.3 million. Agencies are encouraged to present options in 5% increments; 5% of the \$604 million is approximately \$30 million for the biennium. There are eight options listed. Options include closure of one to two residential facilities, elimination of partial grants, elimination of the entire Prevention and Early Intervention Grant, reduction of specialized treatment, elimination of the Pearl Strategy, and closure of three halfway houses and one institution. Impacts of each of these options were presented in the material, as well as the biennial amounts that would be saved by implementation.

Mr. Monroe discussed items related to probations appropriations. Any of the options can impact both the state level institutions as well as probations. The focus is on Goal A appropriation, which has several line items that are directly related to the county probation departments. Items two and three relate to prevention and intervention, and there are two options given; a partial elimination of the program, or the elimination of the program in its entirety. The choice would be for one or the other, but not both. At this point, 1250 at-risk youth are being served by this program; it is anticipated that next year there will be more, as the program has just started. The nomenclature for the program is Grant S. Quite a few counties applied, and 24 counties were selected based on the amount of money available to the program.

There is an option that considers a reduction in Grant C, the Diversion Program, placed in two increments. Increment one would take \$10,333,000 out from a two-year period; roughly \$5 million a year. If that increment occurred, it would reduce the program by 27% overall. The second increment would be \$14,833,000; roughly \$7 million a year. An amount between these two can also be proposed. The math is set up so that half of the GR is in Goal A and roughly the other half is in Goal B, which is where the state institutions operate. If both increments are taken, which is roughly 5% of the GR for the Agency, that would reduce the commitment reduction program by 65%, and based on the preliminary analysis of the research department, that could most likely turn into 406 more commitments to state institutions. Some individuals are more expensive to place than others, but if you look at it on an aggregate basis, \$24 million is funding the rough equivalent of 406 commitments. Item six lists the SNDP program, a Grant A item, as an option for elimination or reduction.

Ms. Duarte added that this is a required schedule of all agencies as addressed in a policy letter that the LBB and the Governor's Office submitted with the LAR instructions. There are some agencies that are exempted, such as Medicaid or school foundations, but TJJD is not exempt. There are no items listed that proposed an arbitrary 10% reduction across the board. This is highly discouraged by leadership as it is not realistic to apply a percentage across all strategies; therefore it is not listed as an option.

A question was asked regarding combining the elimination of facilities with a reduction of Grant C, and where youth would go should that combination be implemented. This could be a large gap in the system, to reduce both of these at the same time without thinking through all the potential implications of that decision. Ms. Duarte responded that the impact of each option is something that the Agency will include in the comments, as it will impact both sides. A question was asked regarding whether the numbers support the potential closure of facilities; i.e., population projections, commitment levels and projections for the future as well as other variables. Ms. Duarte responded that the population projections that the LBB published in June show the numbers going down. In January the LBB will have another opportunity to present population projections, and that will be folded into the bill, so that bill could have significant reductions based on those numbers. In the last session, the \$170 million reduction that the Agency incurred called for multiple closures, so there could be additional closures depending on funding that the Agency receives in January. The numbers from June do show a decrease.

A comment was made that it would be helpful to look at the history in regard to the 10% schedule. The TJCP had the same dilemma. It was also not exempt, and at that time it had to deliver the same information, including the impact of such decisions, and similar reductions were proposed. Another comment was made that from a judicial perspective there is no control over the approximately 500 judges that may be handling juvenile cases, and it is difficult to consider taking away the incentive for keeping numbers down. There has to be a place for the youth to go.

A comment was made in response that these are options, and it isn't likely that a combination of items one and four could be implemented without overloading the system. Some facilities do have larger capacities, and therefore it may be possible to close one facility, but what this does is balloon the population on fewer campuses, and part of the work ahead is to make sure that decision makers know there are serious consequences to these decisions.

A comment was made that if Grant C is reduced and there is still a commitment cap, it sets the counties up for failure. Additionally, the LBB may want to reduce the existing cap. A comment was made that if the Board chooses to reduce Grant C, they may want to also make some notation that the cap would need to be altered, because that's why Grant C was established.

A question was asked whether other options have been considered, such as delaying technology purchases, extending the usability of vehicles, renegotiating vendor contracts, et cetera. Ms. Duarte responded that it has been found that these do not generate much savings. The fleet has already been reduced and the budget is already pretty lean in those areas. It is something that can continue to be looked at, however. A comment was made that even if a couple million dollars is saved, this may help. Typically in the private sector and other areas of government these are the

areas commonly reviewed, such as administrative positions that can be eliminated, the possibility of executives sharing fewer secretaries, consolidation of printers and shared technology, elimination of technology purchases, renegotiation of contracts, et cetera. If these options haven't been fully vetted, it may be useful to look at them. Ms. Duarte commented that contracts are on a fiscal year cycle, so when contracts are renegotiated, those savings are reviewed.

A comment was made that it is not just Grant C but also Grant A that would be reduced, and any the loss of funds, even if the numbers go down, would be detrimental. Juvenile probation already lost approximately \$50 million a couple of years ago; any reduction will be detrimental.

Additional comment was made that referrals may have decreased, but the severity of the referrals has increased. There may be fewer youth, but the crimes they are committing are more severe. Another comment was made that the Agency needs to build a case to show that the cases are more complex and have more complex needs, in order for the legislature to see the need for mental health treatment and consequences if the services are not available. This has been done in the past by providing information packets on the profile of youth in various stages in the system and can be done again.

A question was asked regarding whether the facilities and halfway houses that would be closed have been identified. They have not been identified. Another comment was made that there has been some consideration of whether or not it's a good idea to identify those closures ahead of time. In the past the experience with closures has been that when a facility is identified, it will close itself.

Discussion moved to exceptional items. A summary was given of exceptional items listed, including a request for more JCO positions for safety and security, reentry skills development, a request from the Office of the Ombudsman for the continuation of grants, capital repairs to existing repairs, a timekeeping system, a JCMS item, a capital request for data center consolidation, a request for the replacement of dental equipment in the facilities, and a placeholder for a central office relocation.

A question was asked regarding items one and two, and whether the amounts are enough. The number is on top of the \$3 million that will be in place for the year that begins in September, so if the item is funded there will be \$5 million dedicated to the program. The program as it is devised here is a demonstration to see how this particular type of focus is appropriate to grow in the new Agency. The topic needs to be fully developed in the legislature. Studies are being worked on at the Capitol about the entire topic of prevention and how that should be dealt with at both the state and county level. The LBB is doing a review. The understanding is that the question of whether all prevention should be consolidated into one location is being reviewed, and whether to pull money from various places, et cetera. It's a political question, where money is pulled from and where it goes. The LBB is working on another paper related to this.

One commenter stated his concern about whether the amount being requested would be enough to implement the program, and if the amount needed is known, why not ask for it. It was responded that in the next session it will be discovered where the legislature will want to go with it. The Advisory Council could make a recommendation to the Board to increase that line item.

The state doesn't have a handle on how many at-risk youth are not receiving services. There are other moneys, so there needs to be a comprehensive look at how many youth are and are not receiving services. The Advisory Council is not equipped to do that study. It will depend on the LBB's paper and the recommendations based on its research, and then it will be the legislature's responsibility to decide that probation or TJJD will do this, or if it will keep being implemented in pieces. Discussion ensued regarding the plan for these moneys and the development of the prevention program.

Focus groups relayed that there is a division in the departments on whether they want to implement prevention programs. There was also some feedback from the webinar regarding whether there would be an opportunity to increase mental health services and whether more money should be asked for. Everyone agrees that assigning mental health professionals is a good idea, but the question is whether the counties could do something else, or what the money would be spent on. Many counties offer programs but want to expand, and questions have been asked about how realistic it would be to include other funding in the exceptional item list if it could be justified.

There was a question regarding whether the \$15 million for facilities maintenance would need to be requested if facilities are closed. Of that \$15 million, 63% of it is identified as safety requests, and the other 37% is to keep up with wear and tear on aging facilities. If funds are approved and then a facility closes, the money may be used for other repairs, or the LBB could take it back.

A question was asked in regard to whether some kind of aftercare program would need to be implemented in the facilities should parole be eliminated. There would be an opportunity to request funding for that. This is subject to some discussion.

It will not be known what is in the appropriations bill until it is filed. Some notification may be given ahead of time, but this is not always the case. If there are reductions in the bill, the Board will want to make it a priority item to get those funds back first, before any other exceptional item is requested. An item like this is not included on the exceptional item list at this time, but once the bill is filed, the Agency will know if this will be necessary or not. Feedback was requested regarding these items, and whether the Advisory Council would like to request additional items, remove an item, or change a request or the amount of a request.

A question was asked regarding prevention and whether these were new programs. The response was that these are expanded programs. The exceptional item would be for an expansion of current programs. Approximately \$2.6 million per year has been allocated for these programs so far, and 24 counties received funding for this program. The request was for twice this amount. Many other counties applied and would like to apply. The next stage is going to the legislature in January and showing the results of these programs, issues that came up, areas that need expansion, et cetera, and to recommend that the legislature take it to the next level. The next level is to discuss what's going on in other agencies, and the roughly \$35 million per year being distributed in the prevention area among different areas of state funded money, not county or federal money. There is a need for these demonstrations so the conversation can be taken to the next level.

A comment was made that if the commitment cap keeps going down, more funds will be needed to help offset that. It was suggested that the Advisory Council suggest an exceptional item that would speak to this need should the cap be reduced. A comment was made that there may not be a way to account for that in an exceptional item request. It can be placed in the explanation information or the executive statement, but there's no way to write an exceptional item that states, "if this, then this." It would need to be introduced either as new dollars or an extension of an existing fund.

Another comment was made in regard to the commitment cap. There is a possibility that the cap will go from 1111 to 814, a difference of 297. The average cost being approximately \$400 per youth per day, the total cost over a year for this difference is \$45 million. It was suggested that this money could be used by the state. A comment in response was that the state doesn't have that money due to a shortfall in revenue. Whether or not there are youth in the facilities, the facilities themselves still have operation costs and overhead that has to be considered. Another comment was made that not all youth are in the facilities for a full 365 days, so it's not an all-or-nothing conversation. TJJJ has to take on the responsibility of educating the legislature about these kinds of figures so they can make the most informed decision possible, being aware of the impact of their decisions.

Regarding further feedback on parole, a comment was made that instead of a complete elimination of parole, perhaps a partial reduction could be considered that would include at least staffing some parole services in the counties that need it the most. It may not be the same savings, but it was suggested that looking at where the numbers are in order to make a partial reduction may offset some of those costs that the counties will have to absorb.

Mr. Monroe stated that to sum up there seemed to be interest in looking more broadly at the prevention strategy, looking more broadly at mental health strategies, looking more broadly at parole, and that the whole interrelated issue needs more research so that the decision makers can move forward. Another comment was made to suggest adding commentary regarding the need for additional funding should the commitment cap be lowered.

A comment was made that one option may be to look at whether counties would be willing to take on the role of probation on a contract level, which would be a savings to the state. There was additional discussion surrounding this suggestion. A comment was made that a bigger issue will be that the youth will need quality aftercare and services of some kind. There are 767 youth on parole at this time. A question was asked if item seven included contracts. It does.

The due date for submitting written recommendations to the Board is August 6. The LAR is due August 30. August 24 is when the Board meets to approve the LAR, but prior to that there will be an opportunity for the Board to review drafts of the LAR and put priorities on the items.

It was decided that there would be further conversation and some numbers would be put together to support recommendations. Between this meeting and August 6 will be used to discuss the options with individual regional associations to gather input and prepare recommendations for the Board. An additional meeting will be scheduled to discuss recommendations before August 6.

The LBB has not yet provided performance measures. There was some discussion clarifying these numbers in the materials.

The Advisory Council thanked the staff for their work on the LAR. Mr. Monroe introduced Janet Andrews, who will be visiting jurisdictions and helping to review financial information, contracts and accounting.

### **Proposed Rules for Certified Officers (Responsibilities & Guide to Disciplinary Process)**

Suggestions have been incorporated into the document. Some suggestions cannot be implemented due to a lack of statutory authority. For example, in regard to a suggestion not to implement double disciplinary actions, this process involves discipline on the officer's certification and is not a complete discipline. Senate Bill 653 mandates that the Agency do this, which would result in continuing statutes from the state audit in 2002.

This proposal will be presented to the Board in August. Since comments have been recently received, they are still being incorporated into the document, and there are still questions that need to be reviewed. The intent is to have a document that reflects what the Agency is trying to accomplish in terms of discipline and certifications to be presented to the Board in August.

In regard to the standards of subcommittee recommendations, the suggestion is that TJJD disregard this proposal and use the current process that is already in place but to do so more effectively using the following suggestions:

To notify the employee and the chief in a timely manner involving every step of the process. Conduct investigations in an expedient manner in order to provide timely decisions. Avoid giving the employee a double disciplinary action, for instance if the department suspends the employee, TJJD does not need to do another suspension, they can just concur with the action taken. TJJD should discuss with the employee and the chief before making a final ruling on disciplinary action to ensure mitigating circumstances are accounted for, such as tenure, past performance, previous disciplinary action, et cetera, as the chief should be afforded the ability to provide input to TJJD staff to assist in the decision making process; ensure that TJJD officers and TJJD executive staff are held to the same standards to which probation staff is held.

A comment was made that the subcommittee did not spend a ton of time on this, but they did review it and the consensus was that the system that is already in place works and should be carried out effectively. Several disciplinary actions were presented under the old process to the Board in June.

The ideal is a process where investigations can be completed in a timely manner. A large delay in the process was the result of the investigation. Once that happened, then it went to a committee of tenured staff who reviewed the investigation, and a decision was then based on that investigation. Part of the feedback received stated that employees should have an expectation of what will happen as the result of a certain infraction, which is why the grid was developed. The

Agency does not have the authority in regard to the employer/employee relationship at the county level. This is a process regarding certification.

A comment was made regarding the concern that in times where TJJD does concur with the actions of the employer, the process for certification suspension happens after the employer's disciplinary action; for example, the county may suspend the employee, and then months down the line TJJD may suspend their certification for a week. The suggestion was to say that the time has already been served. The response was that the suspension of certification is somewhere between 18 months and two years, not typically a week or a short duration. The suspension of a certification is the result of an action that warrants a long-term suspension. The hope is that the county action has addressed the employee's behavior to improve performance, but going forward sometimes the employee has already been fired, and then TJJD will revoke the certifications. The suspension is not usually less than six months. In terms of TJJD correctional officers, the Agency certifies for sole supervision and the benefit of this certification is that an employee can go from county to county and there can be a reasonable expectation of skill and expertise.

There needs to be some consistency with how counties deal with employee disciplinary issues. For example, a minor infraction in one county is considered a major infraction in another. The grid defines these types of infractions and ensures that there some consistency in how they are addressed. It seems that the chiefs were being notified of disciplinary actions, but there are many factors that may lead to the chiefs not seeing the notification. Therefore there is a need for greater communication with the chiefs. Right now the notification to the employee comes via a letter written in legal language, along with all legal documents, and some have said that this is a lot for the employees to understand when they think they've already completed the disciplinary action for their infraction. The Agency will be looking at whether this needs to be a petition, and if it does, whether it can be accompanied by a letter in clearer language that explains what is happening. These changes will make the process smoother.

A comment was made that it is important to be careful when dealing with a grid like this one, as infractions are not always black and white, and when grids are introduced like this people will begin to view it that way. The response was that one can go outside the grid in mitigating circumstances, and all disciplinary actions should be considered in light of past performance, past disciplinary actions, and tenure; if the infraction is low level, and the county determines that it doesn't rise to the level of disciplinary action, then TJJD is not going to suspend certification. Changes can be made based on suggestions should the consensus be that the language is insufficient, unclear, or the discipline for the infraction is too high. This is to make sure that the employee is acting appropriately for the certification they hold.

One change that has been made is an addition that says that disciplinary action is based on a second through fifth offense if the action is a rule violation in the same subject group as the prior violation for which the disciplinary action was imposed within a preceding two year period.

There is also expanded language for what to do if an employee witnesses or has been given information that a youth has been mistreated. The expanded language states that departments, programs and facilities are required to have written policies and procedures for reporting serious incidents to TJJD and to report incidents of neglect and abuse to law enforcement, and that TJJD

and other appropriate governmental units must become familiar with and follow the appropriate procedures. The intent is to make it understandable for chiefs and everyone who is certified, and there are approximately 6000 certifications across counties. The definitions for sexual abuse have been changed to the definitions in the TACK [phonetic] definitions for sexual abuse by contact and by non-contact. There shouldn't be a lot of changes to what counties already know and understand to be the rules.

In response to a question regarding some specific language changes, it was stated that some language will be taken out, such as language regarding engaging in intimate verbal communication with a juvenile, because someone stated that the definition of "intimate" is unclear. The language will now read, engaging in personal written communication with a juvenile, since whether it is intimate or not, it is not appropriate. Discussion ensued regarding the language. It is not a finished document, and further suggestions can be considered. For example, it was commented that verbal communication needed to be considered as well, and should be included in this definition. These are tied to standards already in existence, and some of it is based on circumstances that have happened in various cases.

Another comment was made regarding the grid, and the potential for an employee to complain if a disciplinary action is deemed appropriate but is higher than what is stated on the grid. The response was that the grid does not lock the counties into anything, and the grid is probably stronger in terms of consequences. An infraction that warrants the revocation of certification is significant and the revocation of a certification is for a long period of time. This grid only pertains to certification, and not disciplinary actions from the county as employer. TJJD wants to have open communication with county chiefs and to receive input regarding these disciplinary actions. The desire is for consistency, and to provide parameters.

A comment was made regarding the fact that not all TJJD staff are certified, so it may be useful for the Agency to consider the certification of all staff, including detention officers. The response was that correction officers used to be Youth Activity Supervisors, and TDCJ has correctional officers, and then the Agency moved from YAS to Juvenile Correctional Officers (JCO), which was a counteraction to the adult system, and the Agency was able to incorporate TDCJ's career ladder for JCOs under the assumption that these two were providing similar services within state facilities. Now the Agency has correctional staff on a career ladder based on how long they work in the position, a ladder only offered in state government to correctional officers in TDCJ and correctional officers in TJJD. In adult probation, they would also have detention officers and that system doesn't require certification for them. To get to sole supervision requires much more than working in juvenile detention. There is a plus for employees in TJJD to be on that career ladder. Discussion ensued regarding the issue of certification across agencies.

There was further commentary that TJJD's rules of conduct are similar to TDCJ's. The proposed rules do not copy all of TDCJ's, but is comprised of just four sections that include ethics, A&E, criminal, and firearms. The idea is for consistency with some latitude for mitigating circumstances in order to improve communication, and implement a faster response back to the employee. The length of time it has taken for employees to receive an action has been very long. There has been a lot of work done to get caught up on backlog cases, and when the subject was

presented at the Board meetings in February the topic was tabled until a new process could be put in place. Last month the topic came up again because disciplinary action cases needed to be brought before the Board due to the development of a backlog. These rules do not change what is already in place. The proposal is attempting to create expectations in facility and county staff of what they can expect and for the Agency to act expeditiously and with the employee in mind.

A comment was made that in terms of the certification process, as work moves forward on issues of consistency, there should be an opportunity to look at the certification process. Certification brings with it some expectations with regard to performance, and these expectations relate to disciplinary expectations. What the Agency is seeing is that for anyone working with youth in Texas, these are the expectations and requirements, and they are consistent with anyone who works with youth. TJJD staff may not be moving from county to county, but at some point they may consider employment with the county, and the county will want to know of any disciplinary actions or problems in the facilities. Therefore it was suggested that it might be beneficial to look at these guidelines as potential guidelines for any TJJD correctional staff on various levels, as this will create some consistency in terms of expectations.

A question was asked regarding House Bill 3689, which refers to disciplinary hearings for state officers. A question was asked how this process relates to that bill. The response was that what happens is the Agency receives investigation results from the administrative investigation, and then a letter goes out to an employee, explaining the disciplinary action. If the employee answers the letter and accepts the action, this is an agreed order. If the employee does not answer the letter at all, it becomes a default judgment order. If the employee objects, then it gets routed as a hearing that would go before SOLA.

Under the current process, the proposal is that if it was going to go to SOLA, then the legal department would represent the Agency with the proposed discipline. A comment was made that when the bill became effective on June 19<sup>th</sup>, 2009, it was supposed to be the case that all hearings where the commissioner was seeking to suspend or revoke an officer's certification would go to SOLA. The response was that if the order was agreed upon and became an agreed order, it did not have to go to SOLA, because the process that was in place was to take over the contested cases from SOLA. There was a recent situation where a judge did not agree with the county's action, and that required the case to go back to the Board to be approved, and the follow-up to that discussion prompted a lot of this work. There was continued discussion regarding the house bill. A comment was made that everyone has the right to go to SOLA if they want to in order to contest the order. Each SOLA hearing has to be paid by the Agency, so there is incentive to send only contested cases to SOLA.

Right now there is a backlog waiting on a decision regarding this issue. It was suggested that those waiting might be processed according to the old system so that more time can be given to reviewing these changes. The response was that the Board had said not to come back to them with this until there was a new process in place. There is little flexibility at this point, and the topic is already on the Board agenda for August.

A concern was raised again in terms of the possible problematic results of black and white language, the codifying of the grid, and the use of a progressive discipline system. This may be

misinterpreted as all disciplinary actions beginning at level one. Even if that is not what is meant, it creates an opportunity for misuse and misinterpretation. The response was that levels can certainly be added. There are different levels in some of these rules already.

The Advisory Council was asked to choose whether to recommend additions to the rule, including all that was mentioned in this meeting, to decline to make a recommendation, or to recommend proceeding with the document as it has been presented.

The deadline for presentation to the Board is August 6 in preparation for the August 24 Board meeting. The suggestion was to email the proposal back out to the Advisory Council, so they could review the latest version, and feedback could be given at that point. The Advisory Council will then make its recommendations at the Council meeting that will be scheduled between this meeting and August 6.

### **Sub-Committee Report(s)**

Doug Vance presented this item. The May 1 meeting of the Standards Subcommittee reached out to all associations to help work on the standards. Various members were recognized and thanked for their help. The committee addressed two main tasks; a short-term and a long-term plan.

The short-term plan dealt with issues relating to what can be done in time for the upcoming audit cycle which commences September 1. There couldn't be any changes to the standards, as new standards require public comment and along timeframe. The committee focused instead on the CRM, which is an addendum to the standards which can be amended by executive order. There has been a lot of concern over the past few years that the 619 pages of the CRM is too much, and that the level of complexity it entails isn't needed and is sometimes counterproductive in some cases. The committee also looked at the facility auditing process to come up with suggestions to make it more efficient and reliable. The focus was on suggestions that could be implemented by September 1.

The committee felt that most of the CRM could probably be done away with as far as being audited on. It is good information, and it is a beneficial reference, but the more salient information could be taken out and sifted and choices could be made as to what could and could not be audited. There were some important exemptions that the committee felt shouldn't be lost, and some commentary that the committee felt should probably be part of the standards. There are 21 exemptions and 22 definitions and 49 rules that the committee feels could be extracted to come up with a much smaller companion document to accompany the standards. A long-term goal then for next year is to do away with the companion manual entirely, leaving only the updated and thoroughly written standards.

The second task was to look at the auditing process. There are a couple of recommendations that the committee came up with. One is something that TJJD may already do, and that is if there has been no new construction since the last annual measuring and audit, it may not be necessary to do it again. Another recommendation is in regard to policy and procedure, and if the policy and procedure has been looked at the year before and there has been no new policy written and there are no new standards requiring new policy, then it may not be necessary to review it again. It

may be preferable to put an internal committee together to look at it to make sure nothing has been missed, but this would speed up the audit process.

Another concept presented was substantial compliance. This deals with room checks. Any time a youth is in their room, they have to be checked at random intervals not to be exceed 15 minutes, or 10 minutes if they are a suicide risk. This results in a lot of checks overall in the facilities. The recommendation is not to lower the standard, but that there ought to be a more reasonable way to score these. A 2% margin of error may be a reasonable expectation. Additionally, random checks sometimes resulted in a pattern, and a recommendation for next time is to review that. Some questions were asked regarding whether this 2% margin of error would be a significant change or not. There was additional discussion in regard to this issue.

The goal was to come back to the Advisory Council with these suggestions for review and discussion, and the next step is then to possibly make an executive order, or go to the Board for approval. These changes could become effective September 1 or soon after.

A comment was made that while the subcommittee was working on pulling out what they felt was important in the CRM, the staff did the same, and those materials were presented as well. There needs to be a medium between the two, whether this entails sending the documents back to the subcommittee to compare them and then come back with further recommendations, or whether the whole Advisory Council wants to compare the two documents and make recommendations based on these two existing documents. There are some differences between the two. There is a lot of agreement as well. Some analysis is needed regarding the next step.

Mr. Vance stated a concern in regard to the fact that the staff and the subcommittee did not work together to come up with one document, which would have saved time and effort. Mr. Vance further recommended that the staff document not be examined at this time, and that the subcommittee document is thorough. A comment was made in response that there is some flexibility on the September 1 deadline. Monitoring is supposed to being in October. It was further stated that some of the lack of communication was due to the transition that the Agency has been through, and an apology was offered for this.

A motion was made to recommend the report the subcommittee put together and go forward with it, with the understanding that the staff's report will be considered during the next phase of the process. The motion was seconded and unanimously approved. The process now is to submit the subcommittee's findings to Mr. Kimbrough.

### **Facilities Updates**

James Smith extended the opportunity to any chiefs who wanted to visit the facilities. They are welcome to just visit or to coordinate the visit with Mr. Smith.

A question was asked regarding whether the situations at Giddings and Evans had settled down now that the Phoenix Program has been implemented. Mr. Smith responded that there are still issues at Evans and there have been some issues at Giddings. He will spend time at both

facilities. New management is being put in place. Interviews are being finished in regard to the Assistant Superintendent positions, and these will be in place by August 1.

### **Request to modify TJJD Residential Service Provider Contracts**

TJPC had put together a residential services contract monitoring evaluation form that was there for people to use if they wanted to, and one issue has been that if there are, for example, 60 youth from different counties in a facility, it's repetitive to fill out so many of these forms. A suggestion is being made to include language so that the county doesn't have to ask the same questions each time, and to simplify the form. The Advisory Council was asked for its permission to pursue these revisions. The Advisory Council approved working on these recommendations and asked for the document to be brought back with changes for review.

### **Public Input**

There was no public comment.

### **Schedule next meeting/Adjourn**

A go-to meeting will be scheduled prior to August 6. The agenda for the go-to meeting will be to work on the LAR and the proposal for certified officer actions. A Standards Subcommittee meeting will be August 15 & 16 in Fort Worth. The next Board meeting is on August 24. The next convened Advisory Council meeting will be scheduled for September.

The meeting was adjourned.