



**Texas Juvenile Justice Department
Board Meeting**

11209 Metric Blvd., Building H – Lone Star Conference Room

Austin, Texas 78757

Friday, May 30, 2014 – 9:00 a.m.

BOARD MEMBERS PRESENT:

Scott W. Fisher, Board Chairman

The Honorable Jimmy Smith

Scott Matthew

Jane Anderson King

The Honorable John Brieden III

Melissa Weiss

The Honorable Becky Gregory

The Honorable Carol Bush

Calvin Stephens

Joseph Brown

MaryLou Mendoza

BOARD MEMBERS ABSENT:

Dr. Rene Olvera

EXECUTIVE STAFF PRESENT:

David Reilly, Interim Executive Director

Chelsea Buchholtz, General Counsel

Jim Hurley, Communications Manager

Elaine Mays, Chief Information & Technology Officer

Royce Myers, Human Resource Director

James Williams, Senior Director of Probation & Community Services

Teresa Stroud, Senior Director of State Programs & Facilities

Eleazar Garcia, Chief Internal Auditor

Roland Luna, Chief Inspector General

Jeannette Cantu, Executive Assistant

Mike Meyer, Chief Financial Officer

OTHER GUESTS PRESENT:

Estela P. Medina, Travis Co.
Lizet Hinojosa, TJJJ
Johnny Thomas, TJJJ
Kati Kieffer, TJJJ

Stephanie Melot, TJJJ
Kevin DuBose, TJJJ
John Isle, TJJJ
Katrena Plummer, TJJJ
Nydia D. Thomas, TJJJ
Ben Bellomy, TJJJ
Adam Racusin, KEYE
Linda Brooke, Tarrant Co.
Leonard Cucolo, TJJJ

Kaci Sohrt, Travis Co.
Luther Taliaferro, TJJJ
Vanessa Burgess, TJJJ
Chad Cantella, Texas Star
Alliance
Jeannette Lepe, TJJJ
Art Hinojosa, TJJJ
Jim Southwell, TJJJ
Mark Williams, Tom Green Co.
Steve Roman, TJJJ
Kenneth Ming, TJJJ
Riley Shaw, Tarrant Co.
Camilla Cannon, TJJJ

Susan Humphrey, Bell Co.
Pete Heller, TJJJ
Dorothy Roberts, TJJJ
Scott Friedman, TJJJ

Lisa Smith, TJJJ
Terri Dollar, TJJJ
Jacob Williams
William Carter, Lubbock Co.
Karol Davidson, TJJJ
Karen Kennedy, TJJJ
Steven Reaves, TJJJ
Kevin Niemeyer, LBB

Call to Order

Chairman Fisher called the meeting to order at 9:00 a.m.

Prayer

Camilla Cannon opened the meeting with a prayer.

Pledge

The Pledge of Allegiance was recited.

Discussion, consideration, and possible approval regarding excused absences

Chairman Fisher acknowledged the absences of Ms. Mendoza and Dr. Olvera. Ms. King moved to excuse the absences. Judge Bush seconded. The motion passed.

Public Comments

There were no public comments.

Discussion, consideration, and possible approval regarding the March 19, 2014 Board meeting minutes

Mr. Matthew moved to approve the minutes. Commissioner Smith seconded. The motion passed.

Discussion, consideration, and possible approval regarding the March 28, 2014 Board meeting minutes

Ms. King moved to approve the minutes. Mr. Stephens seconded. The motion passed.

Discussion, consideration, and possible approval regarding the April 24, 2014 Board meeting minutes

Judge Brieden moved to approve the minutes. Judge Gregory seconded. The motion passed.

Report from the Chairman

We welcome David Reilly as the Interim Executive Director. He is highly regarded from around the state and we are pleased that he comes to join us during this interim period for this agency.

Report from the Executive Director

In addition to what was provided to the Board in its written report, Mr. Reilly offered his observations for the last 3 weeks. He sees an agency that is under high scrutiny with little margin for error. What he's observed are an exceptionally hard working group of individuals who are emotionally vested in working with this department. The responsiveness they show the external stakeholders is remarkable and shows the commitment they have to having a transparent operation. There are a number of good things that go on in the agency every day, many of those are highlighted in the Executive Director's Report in your packet but those are sometimes overshadowed by other events. In the time that he will be with the agency, he intends to promote those good things. He told the Board that they have a lot to be proud of.

Chairman Fisher asked to let the record reflect that Ms. Mendoza arrived. (9:12 a.m.)

Report from the Advisory Council

Estela Medina, Advisory Council on Juvenile Services Chair, reported on recent initiatives and detailed homework activities of the Council and Sub Committees including Standards Sub Committee, SB 1769 Fingerprint Advisory Committee, Legislative Updates and concerns regarding the raising of the juvenile age of jurisdiction, and Performance Measures Committee. She reported the Council last met on May 16, 2014 and is scheduled to meet again July 11, 2014. Chief Medina provided a written report to the Board.

Discussion, consideration, and possible approval of the S.B. 1769 Report of the Fingerprint Advisory Committee and continuing authority to meet through January, 2015

Mark Williams, Chief Juvenile Probation Officer of seven counties including Tom Green County, reported a series of meetings were held to consider the implications of ending the current practice of fingerprinting juvenile misdemeanants. After careful review, the committee has determined the practice should continue and is vital to the public safety of the juvenile justice system. The Executive Summary of the report outlines the committee's findings and recommendations and provides an overview of current law, statistical data and practitioner finding. In addition, a proposed amendment to Section 58.106 of the Family Code has been prepared that would limit dissemination of misdemeanor history at certain procedural stages to criminal justice agencies, the Texas Juvenile Justice Department and the Department of Family and Protective Services.

Mr. Williams further noted although the Committee has fulfilled its responsibilities and the authority to meet expires on January 1, 2015, the Committee is seeking authority to continue to convene for the remainder of the year to identify other statutory issues pertaining to juvenile records and Chapter 58 of the Texas Family Code.

Mr. Matthew moved to approve the S.B. 1769 Report. Ms. King seconded. The motion passed.

Ms. Weiss moved to approve the continuing authority to convene the committee. Commissioner Smith seconded. The motion passed.

Report from the Inspector General

Roland D. Luna, Chief Inspector General, provided his report, highlighting many continued improvements, on OIGs summary indicators for Investigative Analysis and Investigative Life Cycle for FY 2014. Of note, there is a 7 percent decrease in the number of cases submitted to prosecution for contraband from FY 2013 to FY 2014. A detailed report was presented in the Board materials.

Chief Luna also provided an update on his divisions ongoing activities, new initiatives and agency involvement including continued participation in the Streamlined Incident Reporting and Consolidated Incident Application Workgroups, OIG In-service training, Visitation Improvement (Secure & Non-secure), Texas Violent Gang Task Force Coordination, CJD Grant Progress, Assistance to Internal Audit, Status Checks (Secure & Non-secure), IT Application Evaluation & Development, PREA Coordination and Process Improvements.

In response to a question by Ms. Weiss regarding the increase in incident reports, Chief Luna attributed this increase to the change in policy and increased training. He further clarified it wasn't necessarily associated with an increase in inappropriate physical restraints but rather an increase in allegations being reported. This is why he emphasized the importance in the decrease in the percentage of cases being referred for prosecution. While more reports are being received, there are still less cases being referred for prosecution.

Chairman Fisher further addressed the significant decrease in the investigative lifecycle from 500 days to 177 days as a remarkable improvement.

Report from the Administrative Investigations Division

Kevin DuBose, Director of the Administrative Investigations Division (AID), provided his report, referring to the summary comparisons for FY 2014 through April 30th on page 105 of the Board materials. Mr. DuBose discussed the increase in the number of total allegations assigned for investigation in both county operated facilities and state operated facilities. Regarding Community Based Programs and Facilities, there was an increase in the total number of complaints processed

by the County Investigations Unit (1911). There were 275 investigations opened out of the 1911 total complaints. He explained that of the 1911 total complaints, 880 originated from the Incident Reporting Center (IRC). Of the 275 allegations, 149 originated from secure detention facility. In addition, 118 of the 275 total allegations assigned for investigation were classified as restraint related allegations of abuse.

In response to a question by Chairman Fisher, Mr. DuBose confirmed that AID Investigators are on location at the state facilities. They handle a high volume of policy violations.

Mr. DuBose advised that he was aware that the numbers on page 97 regarding Phoenix and the rest of the Mart components were inaccurate as listed in the report. The 122 should actually be 28. He explained that he was told that the problem is a “coding” issue and that AID will be working with the IT staff to resolve the problem.

In response to a question by Ms. Mendoza, Mr. DuBose explained that serious incidents are not classified as allegations of abuse but are reportable injuries that are not related to an abuse allegation. An example would be an attempted suicide. A detailed report was presented in the Board materials.

Discussion, consideration, and possible approval regarding the 2015-2019 Agency Strategic Plan

Chairman Fisher did not bring this item before the Board and stated it would be heard at the next Board meeting.

Report from the Finance and Audit Committee

Mr. Stephens, Chairman of the Finance and Audit Committee, reported the Committee met yesterday and reviewed agenda items in detail that are also going to be presented before the Board today.

He and Chairman Fisher reported that Gartner Consulting Group presented TJJDs risk management, findings and recommendations report for IT security.

Discussion, consideration, and possible approval regarding the request for unexpended balance authority

Mike Meyer, Chief Financial Officer, recommended the Board request authority to transfer approximately \$2.8 million from FY 2014 into FY 2015. This action has been discussed with the Board at several of the previous meetings. Upon Board approval, the draft letter in your Board packet will be forwarded to the Legislative Budget Board for approval. Mr. Stephens moved to approve the request for unexpended balance authority. Judge Parker seconded. The motion passed.

Discussion, consideration, and possible approval regarding contract items requiring Board approval: amounts exceeding \$500,000.00, material changes, and/or other matters deemed appropriate for Board review and action (Action)

- a. **Tamayo Halfway House lease renewal**
- b. **Houston District Office lease renewal**
- c. **Non-secure residential program services for youth with specialized treatment needs**

Kenneth Ming, Director of Business Operations and Contracts, requested approval to authorize the Interim Executive Director to enter an agreement for a five year lease renewal option that will carry the agency through 2019, at a cost of approximately \$350,000. Ms. Mendoza moved to approve the Tamayo Halfway House lease renewal. Judge Parker seconded. The motion passed.

Mr. Ming requested approval to authorize the Interim Executive Director to enter an agreement for a ten-year extension to the HDO lease. We are requesting an extension of the lease. We have requested a space reduction which will reduce the cost by fifty percent for the next ten years, a savings of \$600,000. This lease is administered and negotiated by the Texas Facilities Commission. The agency requests approval for an additional ten years; for an amount not to exceed \$650,000 for the extended ten year period. Judge Parker moved to approve the Houston District Office lease renewal. Mr. Stephens seconded. The motion passed.

Mr. Ming requested approval to authorize the Interim Executive Director to execute a contract with Pegasus Schools, Inc., for youth with specialized treatment needs. This will be at a cost not to exceed \$350,000.

In response to a question by Mr. Matthew, Teresa Stroud, Senior Director for State Facilities and Programs addressed the Board and stated that Pegasus does not have Juvenile Supervision Officers but they are licensed by the Texas Department of Family and Protection Services.

In response to a question by Ms. Mendoza, Mr. Ming clarified the \$350,000 is for the term of the contract which is through the end of FY 2015. Ms. Weiss moved to approve the Non-secure residential program services for youth with specialized treatment needs. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible final adoption of proposed revisions and rule review for 37 TAC Chapter 359, relating to Memorandums of Understanding

Mr. Ming reported the Board previously approved posting the revisions for a 30-day public comment period. The comment period has ended and TJJD did not receive any public comments on the proposed rules. The staff requests the Board's approval to adopt the final rules as proposed. Mr. Stephens moved to adopt the final rules. Ms. King seconded. The motion passed.

Discussion, consideration, and possible final adoption of proposed revisions and rule review for 37 TAC Chapter 385, Subchapter A, relating to Contracts

Mr. Ming reported the Board previously approved posting the revisions for a 30-day public comment period. The comment period has ended and TJJD has made minor grammatical changes on the proposed rules. The staff requests the Board's approval to adopt the final rules as proposed. Mr. Stephens moved to adopt the final rules. Ms. King seconded. The motion passed.

Mr. Ming took the opportunity to report that recently a group from TJJD's Procurement and Contracts Department attended the "Doing Business Texas Style" Spot Bid Fair in Irving, Texas, May 12th and 13th. The event was sponsored by various state agencies to provide businesses opportunities and outreach to Historically Underutilized Businesses (HUB) in Texas. This is an annual event, sponsored by Senator Royce West. To kick off this year's event Senator West recognized the top ten performing agencies from last year's event. TJJD received recognition for awarding the 3rd highest total dollars of \$140,000.00 to HUB vendors. Mr. Ming accepted the Certificate of Appreciation from Senator West on behalf of the agency. He recognized the other staff in attendance at this year's event, Art Hinojosa, Donna Miller, Sheree Case, Jackie Schmaltz,

Elizabeth Alamo, and Erica Tristan. These individuals took time away from families to make this year's event a success. He also recognized the rest of the purchasing staff, without whom TJJJ's outstanding performance in providing opportunities to minority businesses would not be possible.

Chairman Fisher and Mr. Stephens thanked Mr. Ming and the staff for their efforts and for the agency's participation. Chairman Fisher called for a 15 minute recess.

Discussion, consideration, and possible approval of the Schaeffer Halfway House Audit

Eleazar Garcia, Chief Internal Auditor, presented the draft report. This audit was conducted as part of the facility audits required by Senate Bill 653. Details of the audit were discussed during yesterday's Finance and Audit Committee meeting. Overall, controls could be enhanced to ensure more consistent and effective practices and compliance. The audit including findings related to student grievances, student trust funds, case management reports and proper completion of the conference requests process. Management concurs with the findings. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed.

Discussion, consideration, and possible approval of the Garza County Regional Juvenile Center Audit

Mr. Garcia presented the draft report. This audit was conducted as part of the facility audits required by Senate Bill 653. Details of the audit were discussed during yesterday's Finance and Audit Committee meeting. The overall objective of the audit was to determine compliance with the required operations and protection of youth rights. This audit included findings related to the following; screenings and referrals for Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) should be completed timely to ensure continuity of care; documentation should be maintained to support supervision is provided to youth in segregation; controls should be implemented to ensure youth behavior is reported accurately and consistently; and processes should improve to ensure youth in security are provided access to required education services while in security. Management concurs with the findings. Mr. Stephens moved to approve the audit. Commissioner Smith seconded. The motion passed.

Discussion, consideration, and possible approval of the proposal to amend the FY 2014 Audit Plan

Mr. Garcia presented his proposal to amend the FY 2014 Audit Plan for the purpose of refocusing the audit department's efforts based on available resources. These changes are necessitated in part due to being short two internal auditors during FY 2014 as well as changes in processes and operations related to Human Resources and the Staff Development and Training divisions. Changes to the annual plan include: removal of the Staff Development and Training Audit, removal of the Human Resources Audit, Increase of 100 budgeted hours for the Risk Management Audit, decrease of 200 budgeted hours for the Community Relations Audit, increase of 100 budgeted hours for the Annual Risk Assessment and Audit Plan for FY 2015, and increase of 200 budget hours for the Follow Up/Verification of Prior Audit Recommendations. Chairman Fisher reported these changes were discussed in detail with him and Mr. Stephens and he would recommend approval of the amended plan. Mr. Stephens moved to approve the amended audit plan. Ms. King seconded. The motion passed.

Report from the Programs Committee

Melissa Weiss chaired the Programs Committee in Dr. Olvera's absence. There was not a quorum. Ms. Weiss reported there was a wealth of information presented that has been included in the Board's materials as handouts. The discussion included the state facilities performance tracking, Sexual Behavior Treatment Programs, proposed rule revisions and adoptions, the TJJD Reading Program and psychiatric services. The resounding message is that the number of children at the facilities on psychiatric medication is on the decline but still exists.

Discussion, consideration, and possible approval to publish proposed revisions to 37 TAC §380.9331, relating to the Youth Grievance System, in the Texas Register for a 30-day public comment period

Chelsea Buchholtz, General Counsel, invited Karen Kennedy, Deputy General Counsel, and Jeannette Burke, Youth Rights Manager, to the table for introductions. Ms. Buchholtz outlined a summary of the proposed revisions relating to the Youth Grievance System.

In response to a question by Chairman Fisher, Ms. Burke clarified that the 10-day response time includes review and response. Judge Bush moved to approve the proposed revisions and publish as noted. Judge Parker seconded. The motion passed.

Discussion, consideration, and possible final adoption of proposed revisions to 37 TAC §380.9121, relating to Moral Values, Worship, and Religious Education, and 37 TAC §380.9317, relating to Visitation with Personal Clergy

Teresa Stroud, Senior Director of State Programs and Facilities, outlined a summary of the proposed revisions relating to these rules for final adoption. In response to a question by Judge Gregory, Ms. Stroud confirmed that Chaplains are on site at each facility to assist youth who have not identified a religious preference. Discussion ensued regarding the parent involvement, respecting religious beliefs and recognized religions. Mr. Matthew moved to adopt the proposed revisions. Judge Brieden seconded. The motion passed.

Discussion, consideration, and possible final adoption of proposed revisions to 37 TAC §380.9312, relating to Visitation

Karol Davidson, Staff Attorney, reported the Board previously approved posting the revisions for a 30-day public comment period. The comment period has ended and TJJJD did not receive any comments on the proposed rule. However, the staff has recommended an additional change to correct a grammatical error in subsection (h). The staff requests the Board's approval to adopt the final rules as proposed. Ms. Weiss moved to adopt the proposed revisions. Ms. Mendoza seconded. The motion passed.

Report from the Safety & Security Committee

Joe Brown, Safety & Security Committee Chairman, reported the committee heard reports from the OIG and AID divisions. Both divisions continue to show improvements in response times to incident reported. The committee also reviewed proposed rule revisions that are next on the agenda to be considered. That completed his report.

Discussion, consideration, and possible final adoption of proposed revisions to 37 TAC §380.9333, relating to Investigation of Alleged Abuse, Neglect, and Exploitation

Ms. Davidson reported the Board previously approved posting the revisions for a 30-day public comment period. The comment period has ended and TJJD did not receive any comments on the proposed rule. However, the staff has recommended an additional change to correct grammatical errors in subsections (a) and (d). The staff requests the Board's approval to adopt the final rules as proposed. Mr. Matthew moved to adopt the proposed revisions. Ms. Mendoza seconded. The motion passed.

Discussion, consideration, and possible final adoption of proposed revisions and rule review for 37 TAC Chapter 345, relating to Juvenile Justice Professional Code of Ethics for Certified Officers

Ms. Davidson reported the Board previously approved posting the revisions for a 30-day public comment period. The comment period has ended and TJJD did not receive any comments on the proposed rule. However, the staff has recommended additional changes to correct grammatical errors in sections 345.100 and 345.310. The staff requests the Board's approval to adopt the final rules as proposed. Mr. Brown moved to adopt the proposed revisions. Judge Parker seconded. The motion passed.

Discussion, consideration, and possible approval to publish the proposed rule review and proposed revisions for 37 TAC Chapter 343, relating to Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities, in the *Texas Register* for a 30-day public comment period

James Williams, Senior Director of Probation and Community Services, reported TJJD staff and the Advisory Council's Standards Committee jointly completed a review of this chapter. He provided a summary of the recommended changes. The staff requests the Board's approval to publish the proposed revisions and a proposal to complete the rule review for Chapter 343 in the *Texas Register* for a 30-day comment period. Mr. Brown moved to approve the proposed revisions and publish as noted. Judge Parker seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers - agreed order

- a. **Frederick Gistarb, 14-27868-140020, 27868**

Ms. Buchholtz presented the proposed agreed order for consideration for Certified Officer Frederick Gistarb. Notice was sent to Mr. Gistarb. After negotiations with all parties, an agreed order was entered. TJJJ staff recommends approval of the agreed order. Mr. Brown moved to approve the agreed order. Judge Parker seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers - default judgment orders

- d. **Pedro Castro, 14-12956-130170, 12956**
- e. **Jerrod Roland, 14-27328-130247, 130236, 27328**
- f. **Howard Watson, 13-17322-130197, 17322**

Ms. Buchholtz presented the proposed default judgment order for consideration for Certified Officers Castro, Roland and Watson. Proper notice was sent to all parties as required. No responses were received by the officers. Staff recommends approval of the default judgment order. Mr. Brown moved to approve the default order. Mr. Stephens seconded. The motion passed.

Chairman Fisher announced a change to the next scheduled Board meeting. It will be held June 26 and 27, 2014, followed by the August 21 and 22, 2014 Board meeting. He recessed the open meeting to convene in closed session.

Closed Session - Executive Session

- a) **§551.071 consultation with legal counsel**
- b) **§551.074 discussion of personnel matters relating to:**
 - **selection of an Interim Executive Director**
 - **hiring process for the selection of an Executive Director**

Reconvene in open session, discussion and possible action regarding matters deliberated in closed Executive Session

Chairman Fisher reconvened in open session and advised no action was taken in Executive Session.

Adjourn

There being no further business before the Board, Chairman Fisher adjourned the meeting.