



## **Texas Juvenile Justice Department**

### **Board Meeting**

Friday, June 22, 2012 - 9:00 a.m.  
Brown Heatly Building, Room 1410-1430  
4900 North Lamar Blvd.,  
Austin, Texas 78751

#### **BOARD MEMBERS PRESENT:**

Scott W. Fisher, Chairman  
The Honorable John Brieden III  
Jane Anderson King  
MaryLou Mendoza  
The Honorable Laura Parker

Rob Kyker, Vice-Chairman  
Joseph Brown  
Melissa Weiss  
The Honorable Jimmy Smith  
Calvin Stephens

#### **BOARD MEMBERS ABSENT:**

Michael Meade  
Dr. Rene Olvera  
Judge Carol Bush

#### **EXECUTIVE STAFF PRESENT:**

Cherie Townsend, Executive Director  
Robin McKeever, Deputy Executive Director  
Janie Ramirez Duarte, Financial Officer  
Dr. Rajendra Parikh, Medical Services Director  
Linda Brooke, Director of External Affairs  
and Communications  
Lisa Capers, Acting General Counsel

Karin Hill, Director of Internal Audit  
Debbie Unruh, Chief Ombudsman  
Cris Love, Chief Inspector General  
Jeannette Cantu, Executive Assistant  
James Smith, Associate Deputy Director  
Continuum of Youth Services  
Mary Wood, Director of Staff Services

#### **OTHER GUESTS PRESENT:**

Michelle Deitch, LBJ School UT  
Sherrie Barratt, Grimes Co.  
Deborah Fowler, Texas Appleseed  
Estella Medina, Travis Co./Advisory Council  
Ona Trubee, Friends of Parrie Haynes  
Bradley Ware, Friends of Parrie Haynes  
Kaci Sohrt, TJJD  
Bill Monroe, TJJD  
Katherine Crawford, TJJD  
Edward Maldonado, TJJD  
Chelsea Buckholtz, Office of the Governor  
Anna Lipton Galbraith, Texas Appleseed  
Randy Turner, Tarrant Co.

Eleazar Garcia, TJJD  
Susan Humphrey, Bell Co.  
Monika Arvelo, TJJD  
Judy Parker, Friends of Parrie Haynes Ranch  
Fred Morse, Friends of Parrie Haynes Ranch  
Tracy Levins, TJJD  
Lauren Rose, Texans Care for Children  
Amy Lopez, TJJD  
Luther Taliaferro, TJJD  
Laura Nicholes, Texas Assoc. of Counties  
Monica Kelly, Hardin Co.  
Marsha McLane, Rep. Madden  
Christina Courson, TJJD

Doug Vance, TJJJ Advisory Council  
Tom Brooks, Harris Co.  
Dr. Terry Smith, Dallas Co.  
Shelly Williams, Hays Co.  
Kathryn Lewis, Disability Rights TX  
Karol Davidson, TJJJ  
Allen Wallace, Eckerd  
Jennifer Carreon, TCJC  
Karen Kennedy, TJJJ  
Rebecca Thomas, TJJJ  
Yolanda Hall, TJJJ  
Jerrylin Schmidt, Investments in Human Potential  
Tim Cook, Granite Public Affairs  
Jim Southwell, TJJJ  
Edeska Barnes, Jasper Co.  
Riley Shaw, Tarrant Co. DA Office  
Daniel Bryant, public  
LaKesha Pope, Southwest Key

Art Hinojosa, TJJJ  
Aris Johnson, Gregg Co.  
Chaplain John D. Stutz, TJJJ  
Benet Magnuson, Crim. Justice Coalition (TCJC)  
Dallas Reed, Office of the Governor  
Jessica Patterson, Justice Benefits  
Mark Gorman, Angelina Co.  
Jeff North, C5 Youth Foundation  
Erica Knutsen, TJJJ  
Steve Roman, TJJJ  
Ron Quiros, Central TX Chiefs Assoc.  
Kathryn Freeman, Texas Appleseed  
David Repp, Legislative Budget Board (LBB)  
Larance Coleman, Senate Crim. Justice Comte.  
Ed Cockrell, Jefferson Co.  
Mitzi Stoute, Rep. Aycock  
Teri Avery, Texas House

### **Call to Order**

Chairman Scott Fisher called the meeting to order at 9:07 a.m. A quorum was present.

### **Prayer**

Chaplain John Stutz led the opening prayer.

### **Pledge**

All present recited the Pledge of Allegiance.

### **Excused Absences**

Chairman Scott W. Fisher acknowledged the absences of Mr. Michael Meade, Dr. Rene Olvera and Judge Carol Bush. Mr. Joe Brown moved to excuse the absences. Ms. Jane King seconded. The motion passed unanimously.

### **Public Comment**

Mr. Ron Quiros, Chief Probation Officer in Guadalupe County, and President of the Central Texas Chiefs Association (CTCA), appeared representing the CTCA. The CTCA wants to assure the Board they are communicating with TJJJD and there are resources at meetings and in communications to provide opportunities for TJJJD to reach out to CTCA.

Mr. Jeff North with the C5 Youth Foundation spoke about the relationship between C5 and Parrie Haynes Ranch. C5 is a private non-profit organization that works in youth development and has used Parrie Haynes Ranch as their central summer camp headquarters. C5 wanted to make sure the Board knew that they were open to talking about further opportunities to work with TJJJD in the future. Chairman Fisher asked Mr. North to make sure to connect with board member Jimmy Smith while he was here today. Chairman Fisher stated he will appoint a special committee for the Parrie Haynes Ranch, and Mr. Smith will be the chair of that committee.

Ms. Ona Trubee, with Friends of Parrie Haynes Ranch, represented the volunteers and caretakers on the equestrian side of Parrie Haynes Ranch who believe there are ways to bring money in if they were allowed to charge camping fees. There is potential to raise over \$25,000 per year. There are additional

ideas raising revenue in order to make the Ranch a zero cost to the state. Chairman Fisher encouraged Ms. Trubee to contact Mr. Jimmy Smith regarding the Parrie Haynes Ranch committee.

Mr. Bradley Ware, with Friends of Parrie Haynes Ranch, stated his land is located within Parrie Haynes Ranch, and his family has lived there since 1874. He appreciates C5 spending \$2.5 million to put in facilities that bring money to the area, and he encouraged seizing the opportunity to do something with it.

Mr. Fred Morse, President of Friends of Parrie Haynes Ranch, stated that the Friends group has done a lot of volunteer work at the Parrie Haynes Ranch to support the youth as well as the maintenance and preservation of the ranch. He gave examples demonstrating the importance of Parrie Haynes Ranch to the community. The Fort Hood TAPS (Tragedy Assistance Program for Survivors) organization that supports children who have lost a family member in Iraq or Afghanistan, have utilized the resources at Parrie Haynes Ranch. A teacher from the Killeen Independent School District (KISD) has taught land-based education there, and KISD wants to expand this program. Mr. Morse also mentioned other schools in Texas coming for history-based education opportunities, as well as other groups supported over the years by Parrie Haynes Ranch such as orphanages, boys and girls clubs, boy scouts and other groups. He also mentioned the potential for Texas A&M University to utilize the facilities for bioenvironmental education, as Texas A&M is only five miles from Parrie Haynes Ranch.

Mr. Morse stated that the Friends of Parrie Haynes Ranch group has done a lot of work on finding ways to make Parrie Haynes Ranch sustainable without a lot of cost to the state, and they have plans developed that include both the equestrian side and the facilities side of the ranch. They want to partner with TJJJD to make Parrie Haynes Ranch one of the premier places in Texas for the development of youth programs, while being conscious of costs. Chairman Fisher mentioned to Mr. Morse also that he should contact Mr. Jimmy Smith regarding the committee.

Ms. Lauren Rose, with Texans Care for Children addressed concerns regarding the proposed Phoenix Program to be considered by the board. She stated that advocates met multiple times with Mr. Jay Kimbrough, Special Assistant for Safety and Security, regarding their concerns in moving forward with safety and security, and she thanked him for that opportunity. Texas Care for Children has a few additional concerns moving forward, specifically with the Phoenix Program. The Executive Director of Texans Care for Children sent a letter to the Board requesting a hearing regarding the program. Ms.

Rose asked that the Board accept their request for a hearing, as well as for the Board not to adopt the emergency rule until after the hearing, when public input can be given.

Ms. Debra Fowler, Deputy Director for Texas Appleseed thanked Mr. Kimbrough for the opportunity to meet with him, and explained that Texas Appleseed did not have specifics at the time they met with Mr. Kimbrough. She said they did not see the proposed rule until late Monday evening, which is why their request to delay the process seemed last minute. Texas Appleseed is equally concerned about the crisis in the secure facilities.

Ms. Fowler stated that the previous Aggression Management Program (AMP) and Behavior Management Program (BMP) rules included many of the same elements that the Phoenix proposed rule includes, such as individual counseling, educational programming, and visits with mental health staff, and that the AMP and BMP rules devolved because of the culture in the facilities as well as an inadequate number of staff to run the programs. She walked the Board through photos of youth in these programs provided by Will Harrell, the Independent Ombudsman in the previous TYC. The photos detailed predominantly instances where youth performed schoolwork and other programs from their cells, and the final photo was an image of a youth who engaged in self-harm. Ms. Fowler stated these were common features of youth in these programs.

She expressed concerns that there are still staffing issues at the Mart facility (McLennan). Ms. Fowler added that in site visits performed by Debbie Unruh at Mart over the last year, Ms. Unruh repeatedly raised issues related to inadequate staffing leading to a lack of 16-hour programming for the youth who are in the facility now. Appleseed is asking that consideration be given to bringing in independent experts to help find effective and lasting long-term solutions, rather than choosing the solution immediately before the Board. Chairman Fisher asked Ms. Fowler and Ms. Rose to stay for the meeting to answer questions the Board may have when we address this item on the agenda.

Ms. Catherine Lewis, a supervising attorney for Disability Rights of Texas, spoke next. Ms. Lewis also thanked Mr. Kimbrough for the time he has devoted to fielding these concerns, but reiterated that there are still concerns, specifically with the Phoenix Program. Disability Rights sent a letter to the Board outlining specific concerns. Ms. Lewis stated they believe it is appropriate that youth with serious mental health issues and intellectual disabilities be considered for exclusion from the program, but that the criteria needs to be fleshed out in order to determine whether it's contraindicated. In addition, there are concerns whether the proposed length of school day would comply with current state law. Disability

Rights was involved in the development of the Redirect Program to address concerns about the AMP and BMP, and they acknowledged that TJJD staff and legal counsel has worked to ensure that the rule complies with special education protections for youth in custody; however, they are concerned about the elimination of the time limit on the program. The concern is that youth with significant disabilities may have trouble working their way out of the program, and prolonged time in the program could serve to exacerbate existing mental health issues.

Mr. Bennet Magnuson, with Texas Criminal Justice Coalition (TCJC) stated TCJC fully supports and agrees with the concerns and recommendations of Texas Appleseed, Disability Rights and Texans Care for Children, specifically regarding staffing and programming concerns. TCJC conducted a survey at Giddings earlier this year, and there were significant concerns around staffing. Although youth that were receiving programming expressed how helpful programs such as the aggression replacement training and therapy are, there are significant barriers still in place around that programming. TCJC sent a letter to the Board, reminding them that emergency rule making is a very narrow exception to the Texas Procedures Act, and the reason it is so narrow is because particularly when it comes to populations like juveniles and secure facilities, stability is important. A rule that is adopted on an emergency basis does not allow for full public input and often has to be changed. Therefore, Mr. Magnuson stated that youth under this emergency rule would face disruption caused by defects in the rule, and then when the rule is amended they will again face disruptions.

Mr. Magnuson stated that TCJC appreciates the magnitude of the challenge, and believes there is already in place significant authority to intervene for any imminent danger youth face, but that for the longer term causes of disruption in secure facilities public input is critical. Mr. Magnuson urged the Board not to adopt any emergency rules but instead to follow traditional procedures and processes, and allow full public comment on these rules. Mr. Magnuson also thanked Mr. Kimbrough for his time with the advocates.

#### **May 4, 2012 Meeting Minutes**

Judge John Brieden moved to approve the May 4, 2012 board meeting minutes. Mr. Rob Kyker seconded. The motion passed unanimously.

#### **Report from the Chairman**

Chairman Fisher expressed the Board's sadness at the retirement of Executive Director Cherie Townsend. The Board will now be in the process of selecting an interim executive director as well as

beginning the search for a permanent executive director. Chairman Fisher thanked Ms. Townsend for her service to this Board and to the State of Texas.

### **Report from the Executive Director**

Ms. Cherie Townsend, Executive Director, stated that it was important to note since the last board meeting the problems that need to be solved are being addressed. Population has been stable. The budget has also been stable. Money that is projected to be unexpended at the end of this year is being rolled out to counties for placement so that process is ongoing and that youth are able to enjoy alternatives within their community. Border counties are also being looked at; costs have been an issue in these counties in terms of Mexican nationals, so TJJD is looking to move some money to them at year end to cover costs incurred at the expense of resident youth having access.

In the educational program in the spring and summer, there have been 134 graduations for high school and GED. In terms of specialized treatment, TJJD is still 7% above target. In any given day, 930 youth in the system are engaged in at least one or more specialized treatment programs. There are a total of almost 1800 specialized treatments ongoing. Corsicana celebrated an alumni weekend this last month, and Corsicana is the last facility going through the American Correctional Association Accreditation process; they have just completed their mock audit and are scheduled for the visiting accreditation committee in September. This is an important milestone for the agency to meet best practices.

TJJD has continued to roll out the Juvenile Case Management System (JCMS), which is an important support system to the counties. The Prison Rape Elimination Act standards were released by the Department of Justice since last meeting, and the agency grant for a comprehensive program is being implemented. A reassessment has been completed of the Ron Jackson facility in terms of gender-specific programs for females.

The juvenile justice summit is being held next week and people from across the state and country will be participating in that training opportunity. Shay Bilchik, Director of the Center for Juvenile Justice Reform, will be involved in that training; Bexar County is selected for that expansion.

Ms. Townsend has also been focusing on transition, to make sure there is a positive transition and continuity for the new interim executive director and permanent executive director. Ms. Townsend stated it was an honor to serve as the Executive Director and to know and work with the Board.

**Parrie Haynes Trust Fund: FY 2013 Budget and Ranch Property Management**

Chairman Fisher noted in conjunction with this item, he will be appointing a special committee that will be responsible for reporting on the management, operations, and plans for Parrie Haynes Ranch. Mr. Jimmy Smith will chair that committee, and Judge John Brieden and Chairman Fisher will also serve on the committee.

Chairman Fisher called upon Ms. Robin McKeever, Deputy Executive Director for TJJJ, for her report. Ms. McKeever stated this item includes three requests for board action. First, the agency is requesting approval of the interim annual budget and investment policy and strategy for fiscal year 2012. An interim operating budget is needed beginning on September 1, 2012 for the upcoming fiscal year, because it is anticipated that at least one budget amendment will be needed relating to the Parrie Haynes property management. Staff recommends approval of the investment policy and strategy and those cost items that will be needed under any potential scenario.

The second request is for approval of a short-term transitional plan for managing the property beginning on September 1, 2012, following the termination of the Texas Department of Wildlife (TPWD) lease on August 31, 2012. The Ranch is comprised of approximately 4,200 acres west of Killeen with an appraised value in 2010 of over \$16 million. The main feature of the short-term plan would be to try to hire the maintenance staff that is on site currently as a temporary employee of the Texas Parks and Wildlife Department (TPWD). If this transition occurs, this will be the only employee paid directly by the trust fund for a period of several months until a long-term plan is developed. Another issue involves the public water system that must comply with Texas Commission on Environmental Quality Regulations. These require a certified technician to be on site. There is no solution for this yet. The Finance and Audit Committee has requested additional information regarding the liability insurance coverage policy that is currently in effect at the ranch. The coverage allows for property damage only; there is no personal injury coverage currently. For the short term period, staff recommends approval of expenses to retain the on-site employee currently employed by the TPWD.

The third request is identification of a strategy to develop the long term plan for sustainable management of the ranch property. This need would be addressed by the special committee appointment by Chairman Fisher.

Mr. Calvin Stephens moved to approve the interim plan for managing the Parrie Haynes Trust Ranch Property. Mr. Rob Kyker seconded. The motion passed unanimously.

**Discussion and possible approval of three proposed Emergency Rules in Texas Administrative Code Title 37, Sections 380.9503, 380.9535, and 380.9517, concerning the Phoenix Program and the Redirect Program**

Ms. Townsend introduced the Emergency Rule items. Proposed changes include placement in the Phoenix Program as a major disciplinary consequence and changes to the Redirect Program. In addition to the request for publication in the Texas Register for a 30-day public comment period, emergency adoption was requested based on the recent increase in aggression and assault incidents within secure facilities and the inability of the current range of consequences to deter them. Ms. Townsend acknowledged the concerns of the advocacy groups and the request for public hearing, and the staff recommended that a hearing occur as soon as possible but are still requesting emergency adoption.

Ms. Rebecca Thomas, Director of Integrated State Operated Programs and Services, offered to answer any questions regarding the three proposed Emergency Rules. Mr. Joseph Brown stated the Safety and Security committee had reviewed and discussed the basics of the proposals at their meeting.

Ms. Townsend reported staffing needs had already been identified for the Phoenix Program. The JCOs are at a ratio of 1:8 as a minimum; there are three case managers assigned to the program; it is led by an associate psychologist who is a recreation specialist; two teachers and one special education teacher are also designated. The program would not rely on already existing staff at Mart. Some adjustments in population have been looked at in order to increase staffing and identify key people who can implement the program. Monitoring has been built in to the policy.

Ms. Thomas outlined programmatic and policy overview of the Phoenix Program. The purpose is to provide a self-contained unit for youth identified as highly or chronically aggressive and where other restrictive interventions have proven unsuccessful. The program at the Mart unit will comprise a 24-bed unit with three wings, with eight rooms in each wing. There will be two staff assigned to each wing for a total of six staff on the floor and one in the picket, so the ratio is actually closer to 1:4. The focus in training is on learning anger control cycle skill building, helping emotional regulation, and educational achievement. Programming will be outside rooms during a 16-hour schedule. Discussion ensued regarding the Phoenix Program. Ms. Townsend stated a regular report at each Board meeting would be implemented.

Chairman Fisher noted significant commentary opposing adopting an emergency rule and that the Board had determined, according to legal counsel, they are within the law to adopt the emergency rule. He asked Ms. Thomas to clarify reasons for adopting an emergency rule versus going through the normal rule-making process. Ms. Thomas stated that adopting the emergency rules gives an opportunity as an agency to improve immediately the safety of the facilities for staff and youth by targeting the most aggressive youth and moving them to a self-contained unit.

Chairman Fisher asked for a timeline of the progress of the program at this time, and what the impact to the process would be should the emergency rule not be adopted. Ms. Thomas responded that the program began to be developed over the last month and that over the last several months the agency has been adding incremental changes to policies and programming, but in light of the level of aggression in the facilities, it seemed more immediate action needed to occur. If the emergency rule is not adopted, the normal publication process would take at least 90 days for implementation.

Chairman Fisher asked Lisa Capers, Acting General Counsel, to comment on the process. Ms. Capers stated that the law allows the Board to adopt an emergency rule if there is imminent peril to public health, safety or welfare. Ms. Capers believes these rules fall within this justification, and that the level of aggression within the facilities does present imminent danger to youth, staff, volunteers, providers, and officers. An emergency rule is valid for up to 120 days and can be extended for a period of 60 days. The rule is valid upon filing with the Secretary of State.

Discussion was held regarding details of the program and its purpose, placement and the goals of the program, as well as the question of adopting an emergency rule versus the regular process. Chairman Fisher noted the implementation of this program would not be retroactive for disciplinary issues prior

to notifications that the rule had been adopted. Mr. Stephens asked a question regarding the next plan, should the Phoenix Program not work. He wanted the question stated for the record and for staff to begin thinking ahead.

Chairman Fisher called for motions to approve each emergency rule for consideration by the board individually.

Re: Emergency Rule in Texas Administrative Code Title 37, Section 380.9503 relating to Rules and Consequences for Residential Facilities for immediate adoption and for the publication of an identical rule for initial publication in the Texas Register for an initial 30 day public comment period. Mr. Joseph Brown moved to approve. Judge Laura Parker seconded. The motion passed unanimously.

Re: Emergency Rule in Texas Administrative Code Title 37, Section 380.9535 relating to the creation and operation of the Phoenix Program for immediate adoption and for the publication of an identical rule for initial publication in the Texas Register for an initial 30 day public comment period. There Judge John Brieden moved to approve. Mr. Rob Kyker seconded. The motion passed unanimously.

Re: Emergency Rule in Texas Administrative Code Title 37, Section 380.9517 relating to amendments to the Redirect Program for immediate adoption and for the publication of an identical rule for initial publication in the Texas Register for an initial 30 day comment period.

Ms. Jane King moved to approve. Mr. Jimmy Smith seconded. The motion passed unanimously.

Chairman Fisher stated that this represents the adoption of the three proposed emergency rules as presented, and the process for permanent rule making will go forward. It has been requested by the advocacy groups that there would be a public hearing scheduled.

### **Report from the Inspector General (OIG)**

Inspector General Cris Love provided a report on OIG activity for the first nine months of Fiscal Year 2012, as of May 31, 2012. In these nine months there have been 8079 reports to the incident reporting center (IRC). The projection for FY 2012 is approximately 10,770. In FY 2011, there were 970 criminal investigations opened, in FY 2012 there have been 809 opened to date. The projections for the remainder of FY 2012 are 1079 criminal investigations opened, a 10% increase. Projections for the number of cases closed are 859 as opposed to 1168 in FY 2011. At the end of FY 2011 there were 100 active directives to apprehend, primarily for parole violations. At the end of May 31, 2012, there were

78 active directives to apprehend, 72 of them being for parole violations. To date, there have been 94 apprehensions by OIG apprehension specialists. This number does not include apprehensions conducted by other Texas peace officers.

Inspector General Love discussed a closed case analysis of criminal investigations. Of 644 closed cases, approximately 46% were closed within 30 days or less and 76% were closed within 90 days or less. Inspector General Love presented a pending prosecution analysis chart demonstrating 215 cases currently pending prosecution. Discussion ensued regarding the process of closing cases and how those numbers are presented. Ms. Jane King asked if there needs to be a process change to decrease the percentage pending over 120 days. Inspector General Love stated there has been an increase in the number of cases as well as the complex nature of various cases. Chairman Fisher noted it is unfair to hold him accountable for those cases remaining open, pending prosecution, since they are out of his control. Ms. Townsend answered questions about how the Phoenix Program will affect the prosecution process, stating the Phoenix Program is for younger youth and the prosecution process is for older youth, so the two would not be happening simultaneously for any youth. Discussion ensued regarding the prosecution process and the costs of detainees in county facilities.

#### **Report from the Advisory Council**

Ms. Estela Medina, Chief Juvenile Probation Officer in Travis County and Chair of the Advisory Council on Juvenile Services, reported the Advisory Council met on June 13, 2012 with four staff of the Legislative Budget Board (LBB). The council and LBB discussed the upcoming Legislative Appropriations Request (LAR) that will be made by TJJJ in August 2012. In January 2013 the appropriations bill will be filed. The council was also advised that for the immediate future there would be no major changes to any of the funding areas, though the LBB did state this could change.

She reported some of the Advisory Council's items of interest included allowing the budget structure to continue to support the consolidation of the various grants that were implemented in the current biennium, and to allow some flexibility with those grants. There may also be some discussion in the future regarding proposed funding reductions.

It was noted by Board Member Brown that the preliminary LAR materials include a decrease in the number of projected new commitments; he expressed his concern and emphasized that this should be discussed. Discussion ensued regarding the impact of decreased funding in this area.

The Council also proposed that should the opportunity for exceptional items be addressed, they would like to support areas such as the continuum of services at the local level, the continued support of community based programs, and the continued support of mental health services. Ms. Medina stated the LBB invited the Council to provide them with written recommendations, feedback, and suggestions about language and strategies for some of these requests, and the Council requested approval from the Board to continue with those discussions. Chairman Fisher advised Ms. Medina to work with members of the TJJD executive team for the continued discussions with the LBB and to keep the Board informed of any feedback.

Ms. Medina reported the Advisory Council has communicated with TJJD on strategic planning. Regarding Certified Officer Rules for Professional Responsibilities, the Council has provided those rules to each of the respective regional associations and will contact Mary Wood by July 15, 2012 with feedback.

The subcommittee on standards met in Austin on June 14 and 15, 2012, and will meet again on July 15, 2012. The Advisory Council will meet again on July 24, 2012 in Austin.

### **Finance and Audit Committee Report**

Mr. Calvin Stephens reported the Committee met on July 21, 2012. Individual items addressed by the Finance and Audit Committee are individually listed on the Board meeting agenda, including the Agency Strategic Plan and the process for developing the agency appropriations request.

### **Agency Strategic Plan**

Ms. Robin McKeever, Deputy Executive Director, presented a summary of the Agency Strategic Plan. Executive Staff have been providing regular progress updates to the Board since February. The final draft is posted on the TJJD web site. Ms. McKeever pointed to various pieces of the draft provided to the Board in their materials.

The customer service report was submitted on June 1, 2012 as required and has been finalized. The workforce development plan is also a stand-alone report that will be submitted to the state auditor's office after submission of the strategic plan. It is anticipated some performance measures in the plan will change when the LBB finalizes their performance measure review. The LBB has approved the new budget structure, but they have not completed their review of the performance measures.

There are six proposed strategic priorities listed in the plan. These priority statements should demonstrate to the public the impetus behind the agency's funding requests. Each initiative has several detail strategies identified. Ms. McKeever gave brief outlines of each strategic priority.

Mr. Calvin Stephens moved to approve the resolution for strategic plan as presented. Mr. John Brieden seconded. The motion passed unanimously.

### **Process for Developing Agency Appropriations Request**

Ms. Janie Duarte, Chief Financial Officer, provided an overview of the process for preparing the LAR. The plan will be due to the governor's office by August 30, 2012. The starting point for an agency's general revenue is to not exceed the sum of the amounts expended in fiscal year FY 2012 and budgeted in FY 2013. She directed the Board to materials provided in their notebooks that discussed drafts of exceptional and capital budget items, options for the 10% general revenue reduction, and rider revisions. She reported each schedule was discussed in detail at the Finance and Audit committee meeting.

Members of the Finance and Audit Committee requested a future Board budget workshop. Chairman Fisher noted this workshop will occur on Wednesday, July 25, 2012, in Austin and is open to any Board member to attend. The workshop will include drafts of several significant LAR documents. There are two pieces of information still needed: the LBB's approval of performance measures, and the LBB general revenue number to be used as a base for the 2014 and 2015 request.

Chairman Fisher asked Joseph Brown to discuss the target commitment portion of the LAR and why it was of concern. Mr. Brown said there is a current target of 1,111 new commitments from the counties to the secure facilities. The LBB's current projection, however, would reduce that to 840, and there is concern that this low number will remove flexibility for the courts. Discussion ensued regarding the need to keep the commitment target at 1,111. Judge Laura Parker noted that judges should not feel pressured in their decisions by any artificial limitations; therefore, there ought to be sufficient capacity so that judges can make decisions based on appropriateness and not on budget and financial concerns. There will be added pressure on counties already struggling. Chairman Fisher affirmed the need for further discussion of this topic and to present those opinions to the LBB.

### **John C. Wende Trust Fund: FY 2013 Budget**

Mr. James Smith, Associate Deputy Director Continuum of Youth Services, and Ms. Christina Courson presented. Chairman Fisher noted TJJD serves as the trustee of both of this trust. The Wende trust is comprised of a primary real estate asset in the Austin area, and income derives from lease income from a McDonald's restaurant. The proceeds are used to provide educational assistance to youth with a direct tie to the Corsicana facility.

Mr. Smith requested the Board's approval for the annual budget and investment policy and strategy for the John C. Wende trust fund for FY 2013. The proposed budget is a total of \$196,500 related to art projects, educational assistance, young parents' assistance, and trust management fees. This is consistent with the budget of previous years. There was a discussion at the last Finance and Audit Committee meeting regarding the amount allocated for educational assistance. Mr. Smith referred the Board to the materials provided in their board notebooks.

Mr. Calvin Stephens discussed issues related to the request. The request is for \$196,500; the total amount allocated each year is not typically used. Right now there is about \$86,000 in revenue, and to complete the current budget, it will be necessary to get approximately \$50,000 to \$60,000 out of the fund. Looking forward, the number of requests will be assessed in light of the budget so that we are operating as much as possible out of revenue generated.

Ms. Jane King moved to approve the proposed budget and investment policy as stated. Ms. Melissa Weiss seconded. The motion passed unanimously.

#### **Juvenile Justice Alternative Education Program (JJAEP) Discretionary Grant Funding**

Chairman Fisher stated this item was also presented to the Finance and Audit Committee and comes forward with a recommendation from that committee. Mr. Bill Monroe presented the request for the Board to approve next school year's funding for the Juvenile Justice Alternative Education Program (JJAEP). This is a discretionary item. Six counties would receive \$50,000 each. These six counties operate a JJAEP, and that funding is merged with and matched at the county level where they use both county funds and local school district funds for the program. The request is for the same \$50,000 these counties have received in the last school year. This request comes outside the normal budget cycle due to the desire to get the school year going in August with funding in place.

Mr. Rob Kyker moved to approve the funding request for JJAEP. Ms. Janie King seconded. The motion passes unanimously.

### **Workforce Management and Timekeeping Initiative – Kronos**

Ms. Mary Wood, Director of Staff Services, presented the staff's proposal to address a critical agency need for a workforce management and timekeeping initiative for TJJJ. This item was discussed at length at the Finance and Audit Committee meeting. The agency is currently operating without a fully automated timekeeping system. An employee is currently designated at each facility to perform scheduling duties, so any reassignment of staffing has to be addressed manually. Kronos, Inc., provide options, including a lease option with a total cost of \$1.6 million, which would be offset by savings due to a reduction of overtime, leave inflation, and other savings. The agency's overtime budget for this year is \$2 million, and through April 137% of the budget had been expended.

The system will be monitored through central office via reports to make sure that it is used as intended. Discussion ensued regarding which office would be responsible and accountable for monitoring this system.

Ms. Wood expects a three-month timeline for initial stage implementation and emphasized the need for training in order for the program to be most effective. Chairman Fisher asked Ms. Wood and Ms. McKeever to provide an update at the November board meeting. Ms. McKeever stated that it will be put on the November agenda, and clarified that the request before the Board at this time is for approval to take the request to the LBB and Comptroller's Office for the approval of those offices. Mr. Calvin Stephens would like to see an option after the first year of the three year lease to renegotiate if the desired results are not seen. Ms. Wood agreed that it would require close scrutiny, and stated that the other option available is to go through the Comptroller for a CAPPs program, which is affiliated with PeopleSoft, which she believes will be the system all agencies will eventually use and that the Kronos timekeeping and workforce management system would be compatible to that.

Ms. Wood stated the resolution itself is asking the board to authorize the staff to request authority, but not funding, from the LBB for an additional capital budget project not present in the agency's bill pattern. The resolution further states that in the event that an alternative solution is identified that does not require authority for an additional capital budget item, the board would approve the execution of a three year lease agreement with a total direct cost not to exceed \$1.6 million. This initiative is also identified as a potential LAR exceptional item in the event that the requests to the LBB and Comptroller's Office are not approved.

In terms of additional research and concerns, Ms. Wood referred to the fact that Kronos had stated in an email that the lease will work towards TJJJ HUB goals, but Kronos does not meet the HUB requirements. Mr. Stephens expressed concerns that they presented themselves that way when it is not the case. This is still being researched by the Comptroller's Office and by TJJJ staff for clarification.

Mr. Stephens moved to approve the resolution as presented. Ms. King seconded. The motion passed unanimously. Chairman Fisher asked Ms. Wood to convey to Kronos Mr. Stephen's concerns.

### **Safety and Security Committee Report**

Mr. Joseph Brown, Chairman of the Safety and Security Committee, presented. The committee met with two members but did not have a quorum. The committee received a report from the OIG noting the increase in youth on staff assaults, and the increase in security measures at some of the facilities, including fence sensors and lighting.

The committee also received a report regarding progress at Giddings. Giddings has increased searches and drug testing, and has met with the Special Prosecution Unit to discuss additional ways that prosecution may help deter incidents. Uniforms are being implemented to increase professionalism with the staff. There has been increased training in order to fill unfilled vacancies to increase staff levels at Giddings, as well as in other facilities. Other items discussed in committee are on the Board agenda regarding policy changes and disciplinary appeals.

### **Programs Committee Report**

In the absence of Committee Chair Rene Olvera, Ms. Melissa Weiss presented regarding the mission statement for the committee. Dr. Olvera asked Ms. Weiss to convey to the Board that the Programs Committee has formulated its mission statement and is ready to move forward.

### **Board Governance Manual**

Chairman Fisher state that the Manual was presented in draft form to the Board in November, and it has been discussed and is now being presented for adoption. Mr. Mike Meade moved to adopt the manual as presented. Mr. Rob Kyker seconded. The motion passed unanimously.

### **Update on Administrative Investigations in State Facilities and Community Based Programs and Facilities for Fiscal Year 2012**

Mr. Kevin DuBose, Director of the Administrative Investigations Division (AID), referred to data related to locally operated departments, programs and facilities, data from state operated institutions, and an overall year to date total number of reports received through April 2012.

Regarding county investigations report, to date the AID has received 1,668 total reports, 276 classified as allegations of abuse, neglect, and exploitations and are being investigated. The AID investigates every one of these 276 allegations, and the counties also conduct an internal investigation. Of those 1,668 reports, 511 were classified as grievances and 441 were classified as serious incidents, 629 originated from the TJJD Incident Reporting Center (IRC) of the Office of the Inspector General (OIG). Of those 629 reports from the IRC, 469 were classified as grievances, and 61 as allegations of abuse, neglect, and exploitation.

Mr. DuBose described the breakdown by program type; the majority of those 276 allegations originated from secure detention facilities. Compared to this same time last year, FY 2011, there was an 8% decrease in the total number of allegations received, and a 21% decrease in serious incidents.

Regarding the state investigations report, Mr. DuBose provided a breakdown by secure facility, halfway house and contract care facility in terms of the total number of cases opened. There were 752 cases opened in secure facilities, 36 in halfway houses, and 14 in contract care facilities, as well as five in the parole regions. Investigators closed 1,037 cases during FY 2012. A significant number of the closed cases were carried over from FY 2011, so there was a reduction in the backlog.

Chairman Fisher inquired about the transition of taking over the administrative investigations for state facilities from the OIG. Mr. DuBose said it has gone well, but there was a learning curve. In terms of staffing, Mr. DuBose has requested two additional FTEs. With the increase in responsibility and administration, Mr. DuBose and his deputy are not able to take on caseloads themselves, as they did previously. Ms. Robin McKeever confirmed that this request is under review, and a resolution is expected soon. Chairman Fisher asked for details regarding the number of backlog cases, and Mr. DuBose stated he would get those numbers to the Board.

**Discussion and possible approval of amendments to Texas Administrative Code Title 37, Section 380.9715 relating to Testing for Alcohol and Other Drugs for initial publication in the Texas Register for an initial 30 day public comment period**

Ms. Rebecca Thomas, Director of Integrated State Operated Programs and Services, presented regarding the proposed rule changes. Chairman Fisher noted that all of these proposed rule changes were discussed at the last Safety and Security Committee meeting. This change relates to testing for alcohol and other drugs. This is a routine review and policy update. The update reflects the Agency's increased emphasis on random testing in order to improve safety and youth accountability. It provides definitions of types of drug testing, and describes the reason for testing as part of the Agency's rehabilitation strategy. It applies to secure facilities, halfway houses, and parole.

Mr. John Brieden moved to approve the resolution as presented. Mr. Rob Kyker seconded. The motion passed unanimously.

**Discussion and possible approval of amendments to Texas Administrative Code Title 37, Section 380.8701 relating to Case Planning for initial publication in the Texas Register for an initial 30 day public comment period**

Ms. Thomas reported this item is a routine policy update that changes the requirement for a case manager to update a youth's individualized case plan at intervals of 90 days, rather than every 30 days. This is following a comprehensive assessment and review. Every 30 days the case manager will continue to review the case plan for sufficiency with the multidisciplinary team. In response to a question from Chairman Fisher, Ms. Thomas stated that one of the findings of the case management and treatment audit was that case managers spend a lot of time doing paperwork, and this change will allow them to spend more time with youth.

Mr. John Brieden moved to approve the resolution as presented. Mr. Rob Kyker seconded. The motion passed unanimously.

**Discussion and possible approval of amendments to the Texas Administrative Code Title 37, Section 380.8702 relating to Rehabilitation Program Overview for initial publication in the Texas Register for an initial 30 day public comment period (Action)**

Ms. Thomas reported this policy provides the overview of the Agency's rehabilitation program. This is a routine policy update that supports a change allowing the case plan to be reviewed monthly.

Mr. Mike Meade moved to approve the resolution as presented. Mr. Joseph Brown seconded. The motion passed unanimously.

**Discussion and possible approval of amendments to the Texas Administrative Code Title 37, Section 380.8703 relating to Rehabilitation Program Stage Requirements and Assessment for initial publication in the Texas Register for an initial 30 day public comment period (Action)**

Ms. Thomas reported this is a routine policy update discussed at both committees, relating to stage promotion requirements and assessments within the agency's rehabilitative strategy. This change is necessary in order to support the other policy changes noted above. Under this rule the multidisciplinary team will continue to conduct face to face meetings with a youth, but will do so every 90 days rather than 30 days, or whenever the youth meets eligibility requirements for stage promotion.

Mr. Joseph Brown moved to approve the resolution as presented. Mr. Jimmy Smith seconded. The motion passed unanimously.

**Discipline of Certified Officers – Agreed Orders**

Ms. Mary Wood, Director of Staff Services, and Kaci Sohrt, Staff Attorney, presented. During the February Board meeting, it was decided that a new process for these orders should be put in place. However, to prevent a backlog, the decision was made to bring these forward under the current process while a new process is developed. A new process will be brought before the board in August.

Ms. Wood outlined the previous process involving discipline of certified officers. When a notice was sent from the former Texas Juvenile Probation Commission (TJPC) to the certified officer advising him or her of the recommended discipline, the certified officer had the choice to agree and accept the discipline through an agreed order, or to challenge the recommended discipline, which meant there would be a hearing at the State Office of Administrative Hearings. If the certified officer failed to respond, the agency could enter a default judgment order imposing the recommended discipline.

The agreed orders for the Board's consideration have been agreed to and accepted by the certified officer. There are six certified officers listed. Two of these six no longer work in the juvenile probation or supervision field. The officer agreeing to revocation on his certificate is no longer employed. The others are suspensions.

Ms. Jane King moved to approve the agreed orders of discipline for the listed certified officers proposed in Midland County. Mr. Smith recused himself from this vote. Mr. John Brieden second. The motion passed unanimously.

Ms. Jane King moved to approve the agreed orders of discipline for certified officers from Hood County and Dallas County. Mr. Joseph Brown seconded. The motion passed unanimously.

#### **Discipline of Certified Officers – Default Judgment Orders**

Ms. Wood stated there are 25 cases that affect 24 certified officers, as one officer is the subject of two cases. None of the officers listed are currently employed with county probation offices.

Ms. Wood noted Christopher Thomas is being removed from the list and will not be voted on as part of the default order. The agency notified Mr. Thomas appropriately, but he did not receive the notification through no fault of his own, and therefore this order will be reviewed and may be brought back to the Board at a later date.

Ms. Jane King moved to approve the default judgment orders for the certified officers listed, with the exception of Jermaine Jones, Michael Stallworth, and Christopher Thomas. Mr. Joseph Brown seconded. The motion passed unanimously.

Ms. Jane King moved to approve the default judgment orders for Jermaine Jones in Midland County. Mr. Jimmy Smith recused himself from the vote. Mr. Joseph Brown seconded. The motion passed unanimously.

Ms. Jane King moved to approve the default judgment orders for Michael Stallworth in Bexar County. Judge Laura Parker recused herself from the vote. Mr. Joseph Brown seconded. The motion passed unanimously.

#### **Discipline of Certified Officer – Final Decision and Order**

Ms. Wood presented. This item addresses a disciplinary action for certified officer Courtland Harris. This item was previously brought before the Board in February 2012, received a tie vote, and was tabled at that time. TJPC sought to revoke certification based on the Bexar County investigative finding that Mr. Harris struck a detained juvenile in the jaw and pushed the juvenile's head into a wall unnecessarily during a restraint in a classroom. Mr. Harris was terminated from employment in September 2008.

A hearing was held on November 21, 2011, to consider the Agency's recommendation to revoke the certification. The decision was issued on January 19, 2012. The administrative law judge determined

that none of Mr. Harris's actions violated the Texas Code of Ethics for a Certified Juvenile Supervision Officer, and felt the Agency should consider that Mr. Harris was under attack when determining if discipline was warranted.

Attorneys for TJJD reviewed the decision and applicable laws and determined that the judge did not find a violation upon which a disciplinary action could be based. If the Board wishes to impose discipline, it will be necessary for the Board to change the judge's finding of facts and conclusions of law. The Board is not permitted by law to consider evidence outside of the hearing record, which is summarized in the proposal for decision. The Board's ability to make changes to the findings of facts and conclusions of law is controlled by Texas Government Code Section 2001.058. Ms. Wood referred to materials given to the Board delineating the Board's authority to change this under Subsection (e).

At the February Board meeting, staff advised the Board of a potential option to impose discipline of a probated suspension of Mr. Harris's certification. Upon further analysis, the staff does not advise this approach for the Board's action due to the fact that the administrative law judge did not find Mr. Harris violated a rule of the Juvenile Justice Professional Code of Ethics.

Staff requests that the Board issue a final order regarding Mr. Harris' certification. If the proposed final order is adopted as presented, no action will be taken in regard to Mr. Harris' certification.

Although the certification will not be revoked, a thorough background check from a hiring county should include employment verification from Bexar County, at which time his eligibility for rehire could be released.

Mr. John Brieden moved to approve the recommendation of staff. Judge Laura Parker recused herself from this vote. Ms. Melissa Weiss seconded. The motion passed unanimously.

#### **Closed Session – Executive Session**

Chairman Fisher adjourned the open meeting at 12:30 p.m. and met in closed Executive Session pursuant to Section 551 of the Texas Government Code. The closed Executive Session adjourned at 2:50 p.m.

#### **Reconvene in Open Session**

Chairman Fisher reconvened the open meeting at 2:50 p.m.

**Selection of an Interim Executive Director**

Mr. Jimmy Smith moved to approve the selection of Jay Kimbrough as Interim Executive Director. Mr. Calvin Stephens seconded. The motion passed; Judge Laura Parker voted no.

Chairman Fisher adjourned the meeting at 2:55 p.m.

**Texas Juvenile Justice Department  
Board Meeting  
August 24, 2012**

**Recommended Motion**

**Approval of the June 22, 2012 Board Meeting Minutes**

I move that the Texas Juvenile Justice Department Board approve the June 22, 2012 Board Meeting Minutes as presented.

Motion Made By: \_\_\_\_\_

Seconded By: \_\_\_\_\_