

BOARD MEETINGS

MAY 28 - 29, 2015

Austin, Texas



TEXAS
JUVENILE ★ JUSTICE
DEPARTMENT

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Board Meeting

11209 Metric Boulevard, Building H, Ste. A – Lone Star Conference Room

Austin, TX 78758

Friday, May 29, 2015 – 9:00 a.m.

1. CALL TO ORDER
Chairman Fisher
2. PRAYER
Chaplain Roberto Cepeda
3. PLEDGE
Chairman Fisher
4. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING EXCUSED ABSENCES (ACTION)
Chairman Fisher
5. PUBLIC COMMENTS
Chairman Fisher
6. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE MARCH 27, 2015 BOARD MEETING MINUTES (ACTION)
Chairman Fisher | Page 13
7. REPORT FROM THE CHAIRMAN
Chairman Fisher
8. REPORT FROM THE EXECUTIVE DIRECTOR
David Reilly | Handout
9. BELL COUNTY JUVENILE PROBATION DEPARTMENT BOY SCOUT TROOP PROGRAM PRESENTATION
Chief Susan Humphrey
10. REPORT FROM THE ADVISORY COUNCIL
Estela Medina | Handout
11. NEW APPOINTMENTS TO THE TJJD ADVISORY COUNCIL AND POSSIBLE REQUEST FOR A RECOMMENDATION FROM THE ADVISORY COUNCIL REGARDING TERM LIMITS FOR ADVISORY COUNCIL MEMBERS (ACTION)
David Reilly | Page 27
12. LEGISLATIVE UPDATE
Carolyn Beck | Handout
13. REPORT FROM THE INSPECTOR GENERAL
Roland Luna | Page 33

14. REPORT FROM THE ADMINISTRATIVE INVESTIGATIONS DIVISION
Kevin DuBose | Page 35
15. REPORT FROM THE TRUST COMMITTEE
Commissioner Jimmy Smith
16. DISCUSSION AND POSSIBLE APPROVAL TO NEGOTIATE THE TERMS OF A MEMORANDUM OF AGREEMENT (MOA) WITH THE TEXAS PARKS AND WILDLIFE FOUNDATION (THE FOUNDATION) FOR THE PREPARATION AND IMPLEMENTATION OF A WILDLIFE MANAGEMENT PLAN FOR THE PARRIE HAYNES RANCH, UTILIZING FUNDS FROM TXU ENERGY/ONCOR ELECTRIC DELIVERY COMPANY, LLC HELD BY THE FOUNDATION AND TO DELEGATE AUTHORITY FOR FINAL APPROVAL TO THE BOARD CHAIRMAN IN HIS CAPACITY AS TRUSTEE OF THE PARRIE HAYNES TRUST (ACTION)
Kathryn Mattingly | Page 39
17. REPORT FROM THE FINANCE AND AUDIT COMMITTEE
Calvin Stephens
18. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE RESIDENTIAL CONTRACT CARE AUDIT (ACTION)
Eleazar Garcia | Page 43
19. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE STAFF DEVELOPMENT AND TRAINING AUDIT (ACTION)
Eleazar Garcia | Page 55
20. REPORT FROM THE SAFETY & SECURITY COMMITTEE
Judge Laura Parker
21. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW FOR 37 TAC §380.9703, RELATING TO WEAPONS AND CONCEALED HANDGUNS, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD (ACTION)
Royce Myers | Page 69
22. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC §§380.9711, RELATING TO CONTROL OF UNAUTHORIZED ITEMS SEIZED, 380.9713, RELATING TO USE OF CANINE (K-9) TEAMS, AND 380.9729, RELATING TO DIRECTIVES TO APPREHEND, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD (ACTION)
Roland Luna | Page 73
23. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC CHAPTER 358, RELATING TO IDENTIFYING, REPORTING, AND INVESTIGATING ABUSE, NEGLECT, EXPLOITATION, DEATH, AND SERIOUS INCIDENTS, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD (ACTION)
Lesly Jacobs | Page 83

24. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC §§380.9701, 380.9707-380.9710, 380.9715-380.9727, AND 380.9739-380.9747, RELATING TO SECURITY AND CONTROL, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD (ACTION)

***Teresa Stroud* | Page 109**

25. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §§380.9312–380.9317 AND 380.9337, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9501–380.9503 AND 380.9517–380.9535, RELATING TO BEHAVIOR MANAGEMENT (ACTION)

***Teresa Stroud* | Page 147**

26. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS FOR 37 TAC §380.9504, RELATING TO RULES AND CONSEQUENCES FOR YOUTH ON PAROLE (ACTION)

***James Williams* | Page 207**

27. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §380.9301, 380.9311, 380.9331–380.9333, AND 380.9353, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9550 – 380.9571, RELATING TO DUE PROCESS HEARINGS (ACTION)

***Kaci Singer* | Page 213**

28. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – DEFAULT ORDERS (ACTION)

***Kaci Singer* | Page 263**

- a. EBONY BECK; 15-23270-140300; 23270
- b. JUAN DE LA ROSA; 15-25095-150133; 25095
- c. DANIEL HAGEMAN; 15-28444-140310; 28444
- d. ELISABETH JOHNSON; 15-27834-140329; 27834
- e. AMBER MENDOZA; 15-27932; 27932
- f. DONALD MITCHELL; 15-28498-140329; 28498

29. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – AGREED ORDERS (ACTION)

***Kaci Singer* | Page 295**

- a. TIMOTHY MCCULLOUGH; 15-24410; 24410

30. CLOSED SESSION – EXECUTIVE SESSION

Chairman Fisher

- a. §551.071 consultation with attorney (see footnote)
- b. §551.072 deliberation regarding real property

31. RECONVENE IN OPEN SESSION, DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING MATTERS DELIBERATED IN CLOSED EXECUTIVE SESSION, IF APPLICABLE (ACTION)

Chairman Fisher

32. ADJOURN

Chairman Fisher

- The Texas Juvenile Justice Department Board reserves the right to limit the time and scope of public comments as deemed appropriate by the Board.
- The Board of the Texas Juvenile Justice Department reserves the right to take formal board action on any posted agenda item if necessary.
- Items may not necessarily be considered in the order in which they appear on the agenda.
- The Board of the Texas Juvenile Justice Department may go into closed session as authorized by the Texas Open Meetings Act as codified in Texas Government Code Section 551.071 with respect to any item.
- If ADA accommodations are needed, please contact Jeannette Cantu at 512.490.7004 or Jeannette.Cantu@tjd.texas.gov



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Trust Committee Meeting

11209 Metric Boulevard, Building H, Ste. A – Lone Star Conference Room
Austin, TX 78758
Thursday, May 28, 2015– 11:00 a.m.

1. CALL TO ORDER
Commissioner Jimmy Smith
2. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING EXCUSED ABSENCES (ACTION)
Commissioner Jimmy Smith
3. DISCUSSION, CONSIDERATION AND POSSIBLE APPROVAL REGARDING THE MARCH 26, 2015 MEETING MINUTES (ACTION)
Commissioner Jimmy Smith | Page 301
4. DISCUSSION AND POSSIBLE APPROVAL TO NEGOTIATE THE TERMS OF A MEMORANDUM OF AGREEMENT (MOA) WITH THE TEXAS PARKS AND WILDLIFE FOUNDATION (THE FOUNDATION) FOR THE PREPARATION AND IMPLEMENTATION OF A WILDLIFE MANAGEMENT PLAN FOR THE PARRIE HAYNES RANCH, UTILIZING FUNDS FROM TXU ENERGY/ONCOR ELECTRIC DELIVERY COMPANY, LLC HELD BY THE FOUNDATION AND TO DELEGATE AUTHORITY FOR FINAL APPROVAL TO THE BOARD CHAIRMAN IN HIS CAPACITY AS TRUSTEE OF THE PARRIE HAYNES TRUST (ACTION)
Kathryn Mattingly | Page 39
5. PRESENTATION ON THE BOYS AND GIRLS CLUB OF CENTRAL TEXAS AND DISCUSSION OF THEIR INTEREST IN A POSSIBLE LEASE OF THE PARRIE HAYNES RANCH
Jill Mata | Page 305
6. REPORT ON APPRAISAL OF WENDE TRUST PROPERTIES
Kathryn Mattingly
Mark McAnally, Chief Appraiser, General Land Office
7. ADJOURN

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Finance and Audit Committee Meeting

11209 Metric Boulevard, Building H, Ste. A – Lone Star Conference Room

Austin, TX 78758

Thursday, May 28, 2015 – 1:00 p.m.

1. CALL TO ORDER
Calvin Stephens
2. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING EXCUSED ABSENCES (ACTION)
Calvin Stephens
3. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE MARCH 26, 2015 MEETING MINUTES (ACTION)
Calvin Stephens | Page 327
4. UPDATES FROM THE CHIEF INFORMATION OFFICER
Elaine Mays | Page 335
5. UPDATES FROM THE CHIEF FINANCIAL OFFICER
Mike Meyers | Page 343
6. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE RESIDENTIAL CONTRACT CARE AUDIT (ACTION)
Eleazar Garcia | Page 43
7. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE STAFF DEVELOPMENT AND TRAINING AUDIT (ACTION)
Eleazar Garcia | Page 55
8. DISCUSSION REGARDING THE AUDIT FOLLOW-UP PROJECT
Eleazar Garcia | Page 391
9. DISCUSSION REGARDING THE SUMMARY OF AUDIT CONSULTING SERVICES TO DATE
Eleazar Garcia
10. ADJOURN
Calvin Stephens

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Safety and Security Committee Meeting

11209 Metric Boulevard, Building H, Ste. A – Lone Star Conference Room
Austin, TX 78758
Thursday, May 28, 2015– 2:30 p.m.

1. CALL TO ORDER
Judge Laura Parker
2. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE JANUARY 29, 2015 MEETING MINUTES (ACTION)
Judge Laura Parker | Page 411
3. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE MARCH 26, 2015 MEETING MINUTES (ACTION)
Judge Laura Parker | Page 419
4. REPORT FROM THE OFFICE OF THE INSPECTOR GENERAL
Roland Luna | Page 33
5. REPORT FROM THE ADMINISTRATIVE INVESTIGATIONS DIVISION
Kevin DuBose | Page 35
6. REPORT FROM THE STATE PROGRAMS AND FACILITIES DIVISION
Teresa Stroud | Page 425
7. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW FOR 37 TAC §380.9703, RELATING TO WEAPONS AND CONCEALED HANDGUNS, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD (ACTION)
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Teresa Stroud | Page 109

11. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §§380.9312–380.9317 AND 380.9337, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9501–380.9503 AND 380.9517–380.9535, RELATING TO BEHAVIOR MANAGEMENT (ACTION)

***Teresa Stroud* | Page 147**

12. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS FOR 37 TAC §380.9504, RELATING TO RULES AND CONSEQUENCES FOR YOUTH ON PAROLE (ACTION)

***James Williams* | Page 207**

13. DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §380.9301, 380.9311, 380.9331–380.9333, AND 380.9353, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9550 – 380.9571, RELATING TO DUE PROCESS HEARINGS (ACTION)

***Kaci Singer* | Page 213**

14. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – DEFAULT ORDERS (ACTION)

***Kaci Singer* | Page 263**

- a. EBONY BECK; 15-23270-140300; 23270
- b. JUAN DE LA ROSA; 15-25095-150133; 25095
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- d. ELISABETH JOHNSON; 15-27834-140329; 27834
- e. AMBER MENDOZA; 15-27932; 27932
- f. DONALD MITCHELL; 15-28498-140329; 28498

15. DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – AGREED ORDERS (ACTION)

***Kaci Singer* | Page 295**

- a. TIMOTHY MCCULLOUGH; 15-24410; 24410

16. ADJOURN

Judge Laura Parker

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Texas Juvenile Justice Department

Board Meeting

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

Austin, Texas 78757

Friday, March 27, 2015 – 9:00 a.m.

BOARD MEMBERS PRESENT:

Scott W. Fisher, Board Chairman
The Honorable John Brieden III
The Honorable Becky Gregory
The Honorable Jimmy Smith
The Honorable Laura Parker
MaryLou Mendoza
Scott Matthew
Jane Anderson King
Melissa Weiss
Calvin Stephens
Dr. Rene Olvera
Riley Shaw

BOARD MEMBERS ABSENT:

The Honorable Carol Bush

EXECUTIVE STAFF PRESENT:

Chelsea Buchholtz, Chief of Staff
Roland Luna, Chief Inspector General
Jeannette M. Cantu, Executive Assistant
Elaine Mays, Chief Information Officer
Lisa Capers, Senior Director of Administration & Training
Teresa Stroud, Senior Director of State Programs & Facilities
James Williams, Senior Director of Probation & Community Services
Carolyn Beck, Governmental Relations Specialist
Terri Dollar, Director of Monitoring & Inspections

Jill Mata, General Counsel
Royce Myers, Human Resource Director
Dr. Tushar Desai, Medical Director
Eleazar Garcia, Chief Auditor

OTHER GUESTS PRESENT:

Beverly Sumners, TJJJ
April Jameson, TJJJ
Tom Brooks, Harris Co.
Shirley Garcia, TJJJ
Luther Taliaferro, TJJJ
Kaci Singer, TJJJ
Jeannette Lepe, TJJJ
Vivian Cohn, TJJJ
Katheryn Mattingly, TJJJ
Kyle Dufour, TJJJ
Sheri Short, Navarro College
Billie Jean Bram, Wharton Co.
Vikki Reasor, TJJJ
Fred Meinke, TJJJ
Sarah McCleary, TJJJ
Sandy J. Pippin, Zapata Co.
Steve Roman, TJJJ
Kevin DuBose, TJJJ
Connie Simon, TJJJ
Jerome Williams, TJJJ
Ken Ming, TJJJ
Ashley Kintzer, TJJJ
Karol Davidson, TJJJ
Karen Kennedy, TJJJ
Pete Heller, TJJJ
Ben Bellomy, TJJJ
Angela Mitchell, TJJJ
Xavier Casares, TJJJ
Steven Vargas, TJJJ
Doug Vance, Brazos Co.
Rebecca Walters, TJJJ
Tyrene Green, G4S
Tracey Levins, TJJJ
Ton Quiroz, Guadalupe Co.
Valerie Jones, TJJJ
Jamyen Robinson-Hall, TJJJ
Kristy Almager, TJJJ
Nancy Slott, TJJJ
Jim Southwell, TJJJ
Kavita Gupta, TJJJ
Scott Friedman, TJJJ
Rod Venner, TJJJ
Lucy Rodriguez, TJJJ
Michael, Turner, TJJJ
John Gonzales, TJJJ

Call to Order

Chairman Fisher called the meeting to order at 9:02 a.m.

Prayer

Jerome Williams opened the meeting with a prayer.

Pledge

The Pledge of Allegiance was recited.

Discussion, consideration, and possible approval regarding excused absences

Ms. King moved to approve the absence of Judge Carol Bush. Ms. Mendoza seconded. The motion passed.

Public Comments

There were no public comments.

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

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

Recognition of staff by Navarro College

Sherri Short presented a certificate of appreciation to TJJJ employee Efrain Resendez for his dedicated and committed work behind the scenes to connect the youth through technology with college courses at Navarro College. She thanked him for his outstanding support for making this program work.

Report from the Safety and Security Committee

Mr. Shaw reported there was not a quorum present at the committee meeting.

Report from the Inspector General

Roland Luna, Inspector General, reviewed the investigative analysis through the 2nd quarter of FY 2015 reporting 6,370 Incident Reporting Center (IRC) Reports with 797 being retained by OIG for criminal investigation. He reported 215 TJJJ active directives to apprehend issued, 18 OIG apprehensions and 135 apprehensions by other state agencies. He reported 97% of all cases are completed within 60 days of being received. Inspector General Luna updated the Board on OIG's activities in partnering with State Programs and Facilities to continue to have various types of searches. 2,665 searches have been

completed in an effort to eliminate contraband at facilities. He also provided a brief update on the status of the Security Intelligence Officer Program.

Review, discussion, and possible action regarding the Brown County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.644 related to spatial requirements for single occupancy housing units

Scott Friedman, Standards and Performance Administrator, presented the applicant's variance. The applicant was seeking a responsive variance from the standard requiring that the facility's individual resident sleeping quarters shall have a minimum ceiling height of 7.5 feet. The requested variance was in response to a finding of non-compliance issued by TJJD's Monitoring and Inspections Division during a schedule visit of The Oaks Brownwood Post Adjudication Facility. The applicant has presented information indicating that they are unable to meet compliance with the standard due to the financial hardship and overall program disruption that would be required for the necessary reconstruction efforts. TJJD staff recommends granting the variance. Ms. King moved to grant the variance. Ms. Mendoza seconded. The motion passed.

Review, discussion, and possible action regarding the Brown County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.666 related to exercise and day room areas

Mr. Friedman presented the applicant's variance. The applicant was seeking a variance from the standard requiring that the facility's day room areas provide a minimum of 35 square feet of space for every resident using the day room at one time, excluding lavatories, showers, and toilets. The requested variance was in response to a finding of non-compliance issued by TJJD's Monitoring and Inspections Division during a scheduled visit of The Oaks Brownwood Post Adjudication Facility. TJJD observed 23 residents in one of the day rooms; thus not allowing for a minimum of 35 square feet per resident. Mr. Shaw elaborated based on discussion from the Safety and Security meeting the previous day, voicing his concerns for safety of the youth. Mr. Green, a representative from The Oaks Brownwood, offered additional information based on the layout and design of the facility and intent for use of the day room. Chairman Fisher asked Teresa Stroud, Senior Director of State Programs and Facilities, for her input. She confirmed that when the facility was owned by the former Texas Youth Commission (TYC), The American Correctional Association did grant TYC a waiver for this same spatial requirement. Discussion ensued with Board members inquiring what kind of activities occur in that day

room and also some Board members voicing their concerns regarding the safety and security of the youth. Judge Parker moved to grant the variance. Commissioner Smith seconded. The vote was taken, 7 voting yes, 5 voting no. The motion passed.

Review, discussion, and possible action regarding the Harris County Juvenile Board Application for Permanent Variance for Title 37 Texas Administrative Code Section 343.250 (related to external and perimeter security), Section 343.658 (relating to shower facilities), Section 343.660 (relating to toilet facilities), Section 343.662 (relating to washbasins), and Section 343.664 (related to drinking fountains)

Mr. Freidman presented the applicant's variance. The applicant was seeking multiple permanent variances to re-designate a pre-existing non-secure correctional facility for juvenile offenders to a juvenile post-adjudication secure correctional facility. The requested variances were specific to the Harris County Youth Village campus. Mr. Thomas Brooks, Harris County Chief Juvenile Probation Officer, stated the Youth Village has been in operation since 1973. It has always been registered as a non-secure facility and elaborated on the programming structure. He stated that to continue operating as they have since 1973, they would need to have these variance requests granted. Ms. King moved to grant the variance. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval to publish proposed revisions to 37 TAC §343.236 and §343.238, relating to Secure Storage Areas and Hazardous Materials, in the Texas Register for a 30-day public comment period

James Williams, Senior Director for Probation and Community Services, presented the proposed rules relating to secure storage areas and hazardous materials. He reviewed a summary of the revisions to the proposed rules. Staff requests approval to submit the proposed rules to the Texas Register for a 30-day public comment period. Ms. King moved to approve submittal of the proposed rule for public comment. Ms. Weiss seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of Certified Officers- Default Judgment Order for Charles Ford, Certification # 27432, Hays County

Kaci Singer, Staff Attorney, presented this default order, stating proper notice had been provided and no response was received. Mr. Matthew moved to accept the default order. Judge Brieden seconded. The motion passed.

Discussion, consideration, and possible approval to Set Aside the Default Order Revoking the Certification of Juvenile Supervision Officer Stanley Sneed, #12773, in Cause # DH665-11-8451, heard by the TJJ Board on January 20, 2012

Ms. Singer presented this request, stating on January 20, 2012 the TJJ Board signed an order revoking the certification of juvenile supervision officer Stanley Sneed. The order was based on the Proposal for Decision (PFD) of the State Office of Administrative Hearings (SOAH) Administrative Law Judge. According to the PFD, Mr. Sneed was given notice as required by law of the hearing, and he failed to appear. A default was granted and the order revoking his certification became effective February 2012.

In February 2015, Mr. Sneed contacted TJJ having just been informed of the revocation. He indicated he received no notice of the SOAH hearing. After reviewing agency records, it appeared that notice was provided to him at his place of employment address, of where he was no longer employed, rather than notice being sent to his place of residence on file. Because TJJ sent notice of the hearing to Mr. Sneed's former employer rather than to the address of record on file, TJJ did not comply with its own rules regarding service. As such, staff requests the Board set aside its previously issued order revoking the certification of Stanley Sneed. Judge Brieden moved to set aside the previously issued order. Mr. Shaw seconded. The motion passed.

New Appointments to the TJJ Advisory Council

Chelsea Buchholtz, Chief of Staff, reminded the Board this was an agenda item at the last Board meeting which was tabled to allow staff time to collect nominations for the vacating positions on the Council. Currently, the positions being vacated are Juvenile Court Judge and Chief Probation Officers from North Central Texas Chiefs Association, Panhandle Area Juvenile Probation officer's Association, South Texas Juvenile Chief's Association and Northeast Texas Juvenile Chief's Association. Additional nominations were received from the regional associations and those nominees' resume and/or bio has been provided in your board material. Discussion ensued among the Board members regarding an application and selection process in which they can use to choose from the nominees. Ms. Buchholtz offered that with additional time, staff could come back with a proposed process the board could then use to vote. Judge Brieden moved to table this agenda item. Mr. Stephens seconded. The vote was taken; 10 voting yes; 2 voting no. The motion passed.

Chairman Fisher called for a 10 minute recess. Mr. Shaw left the meeting at this time.

Report from the Programs Committee

Dr. Rene Olvera reported the Committee heard a wonderful presentation on the PAWS canine program which included a demonstration by a female offender and her canine. He reported three TJJJ principals were present to discuss their daily operations and leadership activities at the state and national level.

Discussion, consideration, and possible approval to publish proposed revisions and rule review within 37 TAC Chapter 347, relating to Title IV-E Federal Foster Care Programs, in the Texas Register for a 30-day public comment period

Mr. Williams stated as part of the agency's rule review process, the Probation and Community Services Division has proposed changes to this rule. The TJJJ Board has no discretion to change the requirements for participation in the federal Title IV-E reimbursement program, they are set by the federal Administration for Children and Families and the Texas Department of Family and Protective Services (DFPS). TJJJ serves as an intermediary between DFPS and juvenile probation departments. Many of the Title IV-E requirements for juvenile probation departments are currently found in the TJJJ Grant E document. TJJJ will still be able to enforce the requirements of Grant E because it is incorporated by reference into the State Financial Assistance Contract. Staff requests the Board's approval to publish the proposed revisions in the Texas Register for a 30-day public comment period. Ms. King moved to approve submittal of the proposed rule for public comment. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval to publish revisions within 37 TAC Chapter 343, relating to Standards for Secluding Residents from the General Facility Population, in the Texas Register for a 30-day public comment period

Mr. Williams together with Doug Vance, Vice-Chair of the Advisory Council presented the proposed rule revisions, the major changes being:

- Limit disciplinary seclusion to 48 hours.
- Prohibit disciplinary seclusion for residents with serious mental illnesses.
- Require consultation with a mental health provider *before* imposing disciplinary seclusion for a resident designated as high or moderate risk for suicide.
- Require a formal disciplinary review *before* disciplinary seclusion is imposed.

- For all other sanctions for major rule violations, reduce the deadline for formal disciplinary review to *five days* after a resident's request (rather than 10 days).
- Remove the requirement for appeals of formal disciplinary reviews to include an in-person hearing.
- Create a new category of seclusion called "Safety-Based Seclusion" that allows residents to be secluded for safety-and-security reasons based on current behavior. (This type of seclusion is currently documented as Disciplinary Seclusion)
- Create a new category of seclusion called "Resident-Initiated Separation" that allows facilities to accurately document situations when a resident's seclusion is voluntary.

The staff requested the Board's approval to publish the proposed changes in the *Texas Register* for a 30-day public comment period. Dr. Olvera commended the staff and the Standards Committee for their work and clarity on these rules. Ms. Mendoza moved to approve submittal of the proposed rule revisions for public comment. Ms. Weiss seconded. The motion passed.

Discussion, consideration, and possible final adoption of revisions to 37 TAC §380.8787, relating to Sex Offender Risk Assessment

Ms. Stroud reported the 30-day public comment period in the *Texas Register* has ended; TJJD did not receive any comments on the proposed rule revisions. The staff is not recommending any further revisions. Mr. Stephens moved to adopt the final rule as proposed. Mr. Matthew seconded. The motion passed.

Report from the Executive Director

Ms. Buchholtz provided this report on behalf of David Reilly, Executive Director. She reported that Mr. Reilly is in his fifth week of radiation treatment at MD Anderson. He stays very connected with agency staff through phone calls and emails every day. He plans to return to work mid- April.

TJJDs response to the Council of State Governments (CSG) Report has been provided in your materials. This response will be publicized next week. By providing a response it's given TJJD an opportunity to operationalize the report and implement plans for improvement. The agency has collaborated with county offices in providing this response.

There are 66 days left of the 140 day legislative session. Mr. Reilly presented our proposed plan of smaller state regionalization facilities to House Appropriations and Ms. Buchholtz later presented the same plan to Senate Finance. HB 1586 was filed by Representative McClendon to support this plan. SB 1630 shifted that plan to county regionalization. This includes a family code change that would limit the type of commitments that counties could make. It is staff's understanding that this would come with funding; in fact staff are currently working on a \$24.5 fiscal note that is tied to this bill. Discussion ensued regarding the House Appropriations and Senate Finance Hearings and the pending TJJJ Budget.

Bills regarding raising the age of jurisdiction will be heard next week. This also will come with a fiscal note tied to it. Ms. Buchholtz stated that staff have been holding a lot of meetings with legislative members and are seeing a lot of support for the agency. We are doing as much as we know how to do and are seeing results.

Mike Meyer, Chief Financial Officer, approached to address a question from Commissioner Smith as to whether \$24.5 million will be enough to fund SB 1630. The estimates are based on first biennium costs. The second biennium would be higher because we would be ramping up funding going to the counties. However, there is also the assumption that the ongoing costs would be offset to a greater degree by savings generated by the decreases in population from state programs.

Chairman Fisher commented that the interaction with staff and legislators seems to be much more cordial and less antagonistic this session, both in open meetings and in private meetings.

Ms. Buchholtz stated one thing the agency will be doing new is inviting a county to present their program at each board meeting. Because we are a merged agency, it only seems fitting to have our Board hear from the operations of our county partners as well as our state operations. Today, you will hear from Wharton County Juvenile Probation Department.

Ms. Buchholtz introduced Dr. Tushar Desai as the agencies new Medical Director. He is a child and adolescent psychiatrist.

She sadly announced the passing of Donald Brooks, Superintendent at Evins, who will be missed by all of us at TJJJ. Our warm wishes are sent to Mrs. Brooks who is also a TJJJ employee.

Agency facilities and parole offices are going to participate in Global Youth Service Day in April. For ten straight years, TJJJ has organized a statewide coalition of youth serving partners for engaging in thousands of youth service hours.

Wharton County Juvenile Probation Department Program Presentation

Chief Probation Officer, Billie Bram, provided an overview of the local program services provided in Wharton County from a small county perspective and how state funding is used to divert youth from state facilities.

Legislative Update

Carolyn Beck, Governmental Relations Specialist, provided an overview of the summary of high interest bills the agency is tracking this session. She said she would email an updated version of the summary document provided later today and would also include hearing notices for the coming week.

Report from the Advisory Council

Doug Vance, Vice-Chair of the Advisory Council, referred to the handout provided to the Board. The Council met twice during the month of March and received reports from Ms. Buchholtz and Mike Meyer regarding the agency's appropriations process. She informed the Council that the agency is introducing three components in discussions being held with legislators, and they include; empowering counties to keep more juveniles locally; expanding TJJJ residential treatment providers over the next biennium to as many as 200 juveniles; and to create regional concept that will involve the sharing of resources within counties in their respective regions. Mike Meyer informed the Council that House Appropriations has decreased funding in Grant A Basic Supervision, by approximately \$10 million; a potentially 5% reduction for counties. The Standards Sub-Committee has started work on the TAC standards Chapter 341. The standards to be reviewed are the probation and case management standards. Ms. Medina provided invited testimony at the Juvenile Justice and Family Issues Committee Hearing on February 18, 2015 regarding the role of the Advisory Council on Juvenile Services. The Advisory Council is scheduled to meet again on April 17, 2015.

Report from the Administrative Investigations Division

Kevin DuBose, Director of Administrative Investigations, referred to page 59 and 60 of the board materials, comparing FY 2015 to FY 2014 county and state summary comparisons of total reports received, total investigations completed and total dispositions. He highlighted that of the 275 state cases closed during FY 2015, 248 were closed within the 30 – 90 day window time frame.

Report from the Trust Committee

Commissioner Smith stated the Committee discussed the status of the C5 lease negotiations which should be complete by the next Board meeting. Staff will be seeking an Interagency Agreement with the General Land Office (GLO) to seek a Request for Qualifications (RFQ) for the appraisal process of the Parrie Haynes Ranch.

Discussion, consideration and possible approval regarding board authorization for the Executive

Director to appoint the Public Funds Investment Officer for the John C. Wende and Parrie Haynes Trust Funds

Mr. Meyer stated historically, the Board has designated a specific employee of TJJJ as the Public Funds Investment Officer (PFIO) to act on the Board's behalf in conducting these activities. TJJJ's previous PFIO retired; staff recommends the agency's Lead General Ledger Accountant be the new designee. By assigning the designation to a position rather than a named individual, the designation becomes transferrable in the event of a retirement or separation. Judge Parker moved to approve designating the Public Funds Investment Officer. Ms. Mendoza seconded. The motion passed.

Report from the Finance and Audit Committee

Ms. King reported there was not a quorum present at the committee meeting.

Discussion, consideration, and possible approval regarding the Ron Jackson State Juvenile Correctional Complex Audit

Eleazar Garcia, Chief Auditor, presented the draft audit report. The overall objective for this audit was to determine if controls related to youth rights, safety, and business operations are in place at the facility level. Controls in the following area were found functioning as intended. Managing the youth grievances process meets requirements. Staffing ratios were observed to comply with agency guidelines. Dorm Supervisors and Manager of Operations provided guidance to the case management

staff to meet case load responsibilities. Controls could be strengthened to ensure compliance with the agency's policies and procedures and provide more cost-effective practices. A periodic review of hearing manager training attendance documentation could ensure compliance with the Level II Due Process Hearing training requirement. A periodic reconciliation could ensure that documentation of gasoline distribution from the storage tanks is accurate and complete. Management concurred with the recommendations found in the audit. Mr. Stephens moved to approve the audit report. Ms. King seconded. The motion passed.

Discussion, consideration, and possible approval regarding the Fleet Management Audit

Mr. Garcia presented the draft audit report. The overall objective for this audit was to determine whether controls over Fleet Management are in place. The scope included vehicle maintenance and review of fleet expenditures paid through either purchase orders or Voyager cards. Two facilities were singled out for strengths and best practices: McLennan County State Juvenile Correctional Facility manages a detailed vehicle list that tracks vehicle information and reports vehicle status and McFadden Ranch Halfway House establishes a maintenance schedule for monitoring preventive maintenance. Controls could be strengthened to ensure compliance with laws, regulations and agency policies, and to provide more cost-effective practices. Establishing a monitoring process for Alternative Fuel program could ensure compliance with regulatory requirements. Improving the process for capturing all fleet related expenditures could ensure proper internal and external reporting of the expenditures. Requiring periodic review of Voyager card transactions could ensure amounts are supported. Establishing a periodic vehicle inspection process could ensure required maintenance, registrations, and safety inspections are completed in a timely manner. Establishing a process to track vehicle warranties could achieve maximum savings on maintenance and repair for the agency. A periodic review of personnel with user access rights to the Texas Fleet Management System (TxFS) could ensure only appropriate, authorized TJJJD staff have access to the system. Recommendations to strengthen controls and improve accountability were provided to management. Management concurs with the recommendations. Chairman Fisher stated there were some things in this report that were concerning and discussed in detail in the Finance and Audit Committee meeting. Direction was provided to staff and we expect to see some improvement. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed.

Closed Session – Executive Session

- a) **§551.071 consultation with attorney (see footnote)**
- b) **§551.072 deliberation regarding real property**

Chairman Fisher recessed the open meeting and the Board convened in closed session.

Reconvene in open session, discussion, consideration, and possible approval regarding matters deliberated in closed Executive Session, if applicable

Chairman Fisher reconvened the open meeting.

Discussion, consideration and possible approval of a resolution to approve the settlement agreement with Rodney Pegram

Judge Parker moved to approve to the delegation of authority to TJJJ Executive Director to approve the settle agreement with Rodney Pegram. Mr. Matthew seconded. The motion passed.

Adjourn

Chairman Fisher adjourned the meeting at 12:26 a.m

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Subject: NEW APPOINTMENTS TO THE TJJJ ADVISORY COUNCIL AND POSSIBLE REQUEST FOR A RECOMMENDATION FROM THE ADVISORY COUNCIL REGARDING TERM LIMITS FOR ADVISORY COUNCIL MEMBERS

Date: May 11, 2015

Texas Human Resources Code §203.0081 establishes the Advisory Council on Juvenile Services (the Advisory Council). That statute requires the Texas Juvenile Justice Board (the Board) to appoint certain members of the Advisory Council, including two juvenile court judges, one representative of the county commissioners courts, and seven chief juvenile probation officers.

In appointing the seven chief juvenile probation officers, the Board is required to select one chief juvenile probation officer from each of the regional chiefs associations, from a list of nominees submitted by the regional chiefs associations.

On February 1, 2015, the following Advisory Council members completed their terms:

- The Honorable Larry Thorne (317th Civil District Court, Jefferson County)
- Randy Turner, Chief Juvenile Probation Officer, Tarrant County, (North Central Texas Chiefs Association)
- Philip Hayes, Chief Juvenile Probation Officer, Cass County (Northeast Texas Chiefs Association)
- Carrie Barden, Chief Juvenile Probation Officer, Lamb County (Panhandle Area Juvenile Probation Officers Association)
- Homer Flores, Chief Juvenile Probation Officer, Nueces County (South Texas Juvenile Chiefs Association)

To assist the Board in making appointments to the Advisory Council, the board chair created the Advisory Council Nominations Committee. That committee reviewed the list of nominees and recommends the following individuals to fill the expired terms:

- The Honorable Larry Thorne (317th Civil District Court, Jefferson County)
- Brandon Caffee, Chief Juvenile Probation Officer, Fannin County (North Central Texas Chiefs Association)
- Philip Hayes, Chief Juvenile Probation Officer, Cass County (Northeast Texas Chiefs Association)
- Carrie Barden, Chief Juvenile Probation Officer, Lamb County (Panhandle Area Juvenile Probation Officers Association)
- Homer Flores, Chief Juvenile Probation Officer, Nueces County (South Texas Juvenile Chiefs Association)

The Advisory Council Nominations Committee also discussed the possibility of establishing term limits for Board-appointed members of the Advisory Council. The committee recommended that the Advisory Council should discuss the possibility of creating term limits and present their recommendations at a future Board meeting.

We respectfully ask the Board to:

- make appointments for the five expired Advisory Council terms. The new appointments will be for a term to expire on February 1, 2017; and
- request the Advisory Council to discuss term limits for Board-appointed members and to report its recommendations to the Board at a future Board meeting.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPOINTMENT OF ADVISORY COUNCIL MEMBERS

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Human Resources Code §203.0081 establishes the Advisory Council on Juvenile Services (the Advisory Council); and

WHEREAS, the Texas Juvenile Justice Board (the Board) is responsible for appointing certain members of the Advisory Council, including two juvenile court judges and seven chief juvenile probation officers; and

WHEREAS, the Board is required to appoint one chief juvenile probation officer from each regional chiefs association from a list of nominees submitted to the Board by each regional chiefs association; and

WHEREAS, Advisory Council members, other than ex officio members, serve staggered two-year terms, with the terms of one-half of the members, as nearly as practicable, expiring on February 1 of each year; and

WHEREAS, the following Advisory Council members completed their terms on February 1, 2015: the Honorable Larry Thorne (juvenile court judge), Randy Turner (North Central Texas Chiefs Association), Philip Hayes (Northeast Texas Chiefs Association), Carrie Barden (Panhandle Area Juvenile Probation Officers Association), and Homer Flores (South Texas Juvenile Chiefs Association); and

WHEREAS, the Board’s Advisory Council Nominations Committee has considered the list of nominees and has recommended the following individuals to fill the expired terms:

- The Honorable Larry Thorne, 317th Civil District Court, Jefferson County
- Brandon Caffee, Chief Juvenile Probation Officer, Fannin County (North Central Texas Chiefs Association)
- Philip Hayes, Chief Juvenile Probation Officer, Cass County (Northeast Texas Chiefs Association)
- Carrie Barden, Chief Juvenile Probation Officer, Lamb County (Panhandle Area Juvenile Probation Officers Association)
- Homer Flores, Chief Juvenile Probation Officer, Nueces County (South Texas Juvenile Chiefs Association)

NOW, THEREFORE BE IT RESOLVED THAT the Board authorizes the appointment of the above-named individuals to the Advisory Council on Juvenile Services, with terms to expire on February 1, 2017.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman



**Texas Juvenile Justice Department
RESOLUTION**

**A RESOLUTION FOR APPROVAL TO REQUEST THE ADVISORY COUNCIL ON JUVENILE SERVICES TO MAKE
RECOMMENDATIONS CONCERNING TERM LIMITS FOR ITS MEMBERS**

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:			Second:		

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, the Texas Juvenile Justice Board (the Board) is responsible for appointing two juvenile court judges, one representative of the county commissioners courts, and seven chief juvenile probation officers to the Advisory Council on Juvenile Services (the Advisory Council); and

WHEREAS, the Board chair created the Advisory Council Nominations Committee to make recommendations to the Board regarding appointments to the Advisory Council; and

WHEREAS, the Advisory Council Nominations Committee has recommended that the Advisory Council should discuss the possibility of creating term limits for the Board-appointed positions on the Advisory Council;

NOW, THEREFORE BE IT RESOLVED THAT the Board requests the Advisory Council to develop recommendations regarding term limits for Board-appointed positions and to present its recommendations at a future Board meeting.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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**Office of Inspector General
Investigative Analysis**

Summary Indicators	FY14 Thru April	FY15 Thru April
Incident Reporting Center (IRC) Reports	8,623	8,375
Referred to Administrative-AID State	547	480
Referred to Probation-AID County	895	809
Referred to OIG Criminal	1,148	1,093
Referred to Youth Rights	3,967	3,615
Referred to State Programs	1,371	1,475
Closed	695	903
OIG Criminal Investigations Submitted to Prosecution	251	256
Submitted to Prosecution Assaultive Assaultive Category includes: Assault on Public Servant, Harassment by person in Correctional Facility, Retaliation, Assault, Official Oppression, Aggravated Assault, and Unlawful Restraint	222	230
Submitted to Prosecution Sexual Offense Sexual Category includes: Indecent Exposure and Indecency with a child	19	7
Submitted to Prosecution Property Damage Property Category includes: Criminal Mischief and Arson	1	2
Submitted to Prosecution Contraband Contraband Category includes: Prohibited Substance in Correctional Facility (Marijuana and Cocaine), Contraband, in a Correctional Facility, Deadly Weapon in Penal Institution, Possession of Marijuana, Child Pornography	5	13
Submitted to Prosecution Other Other Category includes: Terroristic Threat, Escape Offenses, False Reports, Misuse of Official Information, Tamper with Government Record, Theft, and Violation Civil Rights of Person in Custody	4	4
TJJD Active Directives to Apprehend Issued	331	313
OIG Apprehensions	33	26
Apprehensions Other Agencies	201	186

Office of Inspector General
Investigative Life Cycle
Contraband, Detection and Interception Division Activity

Investigative Life Cycle

Date Range	REA Receive, Evaluate, Assign	Average # of Investigative Days	Average # of days for Intake Decision	Average # of Days for Final Disposition	Total Days
FY 14 thru April	1	60	20	80	161
FY 15 thru April	1	39	22	80	142

Contraband, Detection and Interception Division

Date Range	Dorm Search	Open Search	Perimeter Search	Gate House Search	Rooms Searched
FY 15 thru April	629	47	31	2	3,650

**Texas Juvenile Justice Department
Administrative Investigations Division
Summary Comparisons
September 1, 2014 – May 1, 2015**

County Investigations Unit

Report Type	FY 2014	FY 2015
Abuse, Neglect & Exploitation Investigations	275	228
Complaints	33	39
Grievances	695	676
Non-Jurisdiction	54	32
Non-Reportable	338	319
Other Reports (<i>Duplicates, Standards Violation</i>)	51	43
Serious Incidents	495	459
Total Reports Received	1941	1796

Investigation Dispositions	**FY 2014	**FY 2015
Already Investigated by TJJD	2	1
Baseless Allegation	3	1
Concur With Internal Investigation Disp	10	24
Does Not Meet Abuse/Neglect Definition	25	21
Not Under TJJD Jurisdiction	1	1
Reason To Believe	23	14
Ruled Out	148	174
Unable To Determine	24	43
Unable to Investigate	0	4
Total Investigations Completed	236	283
Active Investigations by Fiscal Year To-Date	39	110

***Dispositions noted in this section are based on the fiscal year in which the disposition was reached, which is not necessarily the same fiscal year the investigation was initiated.*

Calendar Days to Disposition	**FY 2015
<30	16
30-90	53
90+	214
Total Dispositions	283

***Dispositions noted in this section are based on the fiscal year in which the disposition was reached, which is not necessarily the same fiscal year the investigation was initiated.*

**Texas Juvenile Justice Department
Administrative Investigations Division
Summary Comparisons
September 1, 2014 – May 1, 2015**

State Investigations Unit

Investigation Type	FY 2014	FY 2015
Abuse	242	129
Neglect	73	9
Exploitation	9	8
Policy Violation Investigations	537	547
Total Investigations Opened	861	693

Days to Closure for Completed Investigations	FY 2015
<30	35
30-90	389
90+	32
Total Investigations Closed Fiscal Year to Date	456
Total Active Investigations Fiscal Year to Date	237
Total Investigations Fiscal Year to Date	693

Disposition Type	FY 2014	FY 2015
Confirmed	430	120
Exonerated	17	7
Unfounded	380	348
Unable to Determine (Previously Not Confirmed)	217	104
Total Dispositions Assigned	1044	579

*More than one investigation can be opened in a single case; therefore, more than one disposition can be assigned to a single case. The **Total Investigations Opened** vs the **Total Dispositions Assigned** will not match.*

County Investigation Unit Definitions

Baseless - Clear and convincing evidence confirms that the allegation is spurious or patently without factual basis or that the conduct, which formed the basis of an allegation of abuse, neglect, or exploitation, did not occur.

Concur – A preponderance of evidence obtained during TJJJ’s investigation, which is in part supported by the internal investigation, determines that an incident occurred; however, the evidence is not necessarily definitive as to whether or not elements of the incident meet the statutory definition of abuse, neglect or exploitation.

Does Not Meet the Statutory Definition – A preponderance of evidence determines the conduct that formed the basis of the allegation does not meet the statutory definition of abuse, neglect or exploitation.

Non-Reportable – Incidents not statutorily required to be reported to the TJJJ, but which are received from the counties and documented by TJJJ.

Previously Investigated – The alleged incident was previously investigated by the TJJJ and therefore, further investigation by the TJJJ is unwarranted.

Reason to Believe – A preponderance of evidence substantiates that an incident that meets the statutory definitions of abuse, neglect or exploitation occurred.

Referred – The case is referred to the government entity with investigative jurisdiction when a preponderance of evidence confirms:

- The TJJJ does not have investigative jurisdiction;
- Law enforcement is conducting a criminal investigation; or
- Criminal prosecution is pending.

Ruled Out – A preponderance of evidence does not substantiate that an incident, which meets the statutory definition of abuse, neglect or exploitation, occurred.

Unable to Determine – A preponderance of evidence does not exist to substantiate that abuse, neglect or exploitation occurred; nor does a preponderance of evidence exist to rule out that abuse, neglect or exploitation did not occur.

Unable to Investigate – The TJJJ’s investigation cannot proceed because:

- The persons involved in the alleged incident cannot be identified or located;
- The persons involved in the alleged incident refuse to cooperate with the investigation;
- There is insufficient information to proceed with the investigation; or
- Evidence essential to the investigation is no longer obtainable.

State Investigation Unit Disposition Definitions:

Confirmed--an investigation established that the allegation did occur.

Exonerated--an investigation established that the alleged incident occurred but was lawful and proper or was justified under existing conditions.

Unable to Determine--an investigation resulted in insufficient evidence to prove or disprove the allegation(s).

Unfounded--an investigation established that the allegation is false, not factual.

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJD Board Members

From: David Reilly, Executive Director

Kathryn R. Mattingly, Staff Attorney

Subject: DISCUSSION AND POSSIBLE APPROVAL TO NEGOTIATE THE TERMS OF A MEMORANDUM OF AGREEMENT (MOA) WITH THE TEXAS PARKS AND WILDLIFE FOUNDATION (THE FOUNDATION) FOR THE PREPARATION AND IMPLEMENTATION OF A WILDLIFE MANAGEMENT PLAN FOR THE PARRIE HAYNES RANCH, UTILIZING FUNDS FROM TXU ENERGY/ONCOR ELECTRIC DELIVERY COMPANY, LLC HELD BY THE FOUNDATION AND TO DELEGATE AUTHORITY FOR FINAL APPROVAL TO THE BOARD CHAIRMAN IN HIS CAPACITY AS TRUSTEE OF THE PARRIE HAYNES TRUST

Date: May 12, 2015

In 2007, to obtain the required permits from the United States Fish and Wildlife Service to construct an electric transmission line through the Parrie Haynes Ranch (the Ranch), TXU Electric Delivery (now Oncor Electric Delivery Company, LLC) (TXU/Oncor) signed a required Environmental Assessment/Habitation Plan agreeing to pay roughly 1.5 million dollars in mitigation fees, which would then be used to implement a wildlife management plan and hire a biologist to manage the habitats of the golden-cheeked warbler and black-capped vireo populations at the Ranch. These funds were paid to Texas Parks and Wildlife Foundation (TPWF). TXU/Oncor obtained an easement from the Parrie Haynes Trust (the Trust) to construct the transmission line on the Ranch, and subsequently did so.

In order to coordinate with TPWF in the implementation of a wildlife management plan on the Ranch, it is necessary to enter into a Memorandum of Agreement between the Trust and TPWF to outline the duties and obligations of each party in this relationship. The Memorandum of Agreement will provide for TPWF to pay for the costs of the wildlife management plan with the money it received from TXU/Oncor, will indemnify the Trust against TPWF or TPWF designee action on the property, and will lay out TPWF's duties in reporting to the Board and seeking Board approval for actions related to the wildlife management plan. The projected area to be affected by the wildlife management plan is separate from the portion of the property that is utilized for the activities of the lessees.

After a Memorandum of Agreement is executed, TPWF can begin the process of hiring a biologist and constructing a wildlife management plan. Once a plan is created, it will be subject to Board approval, as trustees of the Parrie Haynes Trust.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO NEGOTIATE THE TERMS OF A MEMORANDUM OF AGREEMENT (MOA) WITH THE TEXAS PARKS AND WILDLIFE FOUNDATION (THE FOUNDATION) FOR THE PREPARATION AND IMPLEMENTATION OF A WILDLIFE MANAGEMENT PLAN FOR THE PARRIE HAYNES RANCH, UTILIZING FUNDS FROM TXU ENERGY/ONCOR ELECTRIC DELIVERY COMPANY, LLC HELD BY THE FOUNDATION AND TO DELEGATE AUTHORITY FOR FINAL APPROVAL TO THE BOARD CHAIRMAN IN HIS CAPACITY AS TRUSTEE OF THE PARRIE HAYNES TRUST

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, TJJD Board Members are trustees of the Parrie Haynes charitable trust fund for orphans bequeathed to the State in 1957; and

WHEREAS, the Parrie Haynes Trust contains the Parrie Haynes Ranch (the Ranch) in Bell County, Texas; and

WHEREAS, in 2007, the U.S. Fish and Wildlife Service granted a permit to TXU Electric Delivery (now Oncor Electric Delivery Company) (TXU/Oncor) to allow incidental damage to the black-capped vireo and golden-cheeked warbler populations on the Ranch as a result of constructing an electric transmission line there; and

WHEREAS, in 2007, TXU/Oncor placed \$1,532,500 with the Texas Parks and Wildlife Foundation (the Foundation) for the purpose of funding a wildlife management plan on the Ranch to mitigate said damages; and

WHEREAS, the Foundation has agreed, among other items, to prepare and implement a wildlife management plan on the Ranch, subject to the approval by the Trustees of the Parrie Haynes Trust, and to regularly report to the Trustees the activities related to the wildlife management plan.

NOW, THEREFORE BE IT RESOLVED THAT the Board authorizes the negotiation of the terms of a Memorandum of Agreement (MOA) with the Texas Parks and Wildlife Foundation (the Foundation) for the preparation and implementation of a Wildlife Management Plan for the Parrie Haynes Ranch, utilizing funds from TXU

Energy/Oncor Electric Delivery Company, LLC held by the Foundation and delegates authority for final approval to the Board chairman in his capacity as trustee of the Parrie Haynes Trust.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Royce Myers, Director of Human Resources

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW FOR 37 TAC §380.9703, RELATING TO WEAPONS AND CONCEALED HANDGUNS, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD

Date: May 6, 2015

As part of the agency's rule review process, the Human Resources Division has completed its review of the assigned rule from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter F (Security and Control). As a result of this review, the staff recommends several revisions to **§380.9703** (Weapons and Concealed Handguns).

Attached to this memo you will find:

- A table summarizing the contents and proposed changes for the rule assigned to the Human Resources Division.
- The text of the rule to be revised.
- A resolution for board action.

Staff requests the board's approval to publish these proposed rule revisions and a rule review notice in the *Texas Register* for a 30-day comment period.

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9703	Weapons and Concealed Handguns	Prohibits possession of weapons in TJJJ facilities and premises except under certain limited circumstances, which are listed in this rule.	Yes	<ul style="list-style-type: none"> Clarified that the rule applies only to facilities operated by TJJJ, and not to contract facilities. 	Ready for board review

RULE

(a) **Purpose.**

~~The purpose of this rule is to ensure~~ that with regard to weapons and concealed handguns, the Texas ~~Juvenile Justice Department (TJJD) Youth Commission (TYC)~~ provides for the safety and security of ~~its~~ staff, youth, and the public.

(b) **Possession of Weapons and Concealed Handguns.**

- (1) State law allows employees to transport or store lawfully possessed firearms or ammunition in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the agency provides for employees. In order for an employee to transport or store such firearms in an agency-provided parking area, the vehicle must be capable of being locked in a manner that prohibits unauthorized entry into the passenger compartment, the vehicle must be locked, and the firearm(s) must be stored unloaded in the locked trunk of the vehicle or in a locked compartment in the vehicle.
- (2) Other possession of weapons, as defined in §46.01, Texas Penal Code, is prohibited on the premises of buildings, offices, and ~~TJJD-operated~~ facilities ~~operated by or under contract with TYC~~ except:
 - (A) as specifically authorized by the executive director;
 - (B) when carried by a law enforcement officer who is responding to a call by ~~TYC-TJJD~~ in an emergency situation; or
 - (C) when an individual other than a ~~TYC-TJJD~~ employee, volunteer, or contractor carries a lawfully possessed concealed handgun on the premises of a building, office, or ~~TJJD-operated~~ facility ~~operated by or under contract with TYC~~ at which education is not provided to youth.

(c) **Posting of Signs at Residential Facilities.**

Signs ~~shall~~must be posted in English and Spanish at all ~~TJJD-operated~~ residential facilities ~~operated by or under contract with TYC~~ at which education is provided to youth. The signs ~~shall~~must contain written language ~~that complies with pursuant to~~ §30.06 of the Texas Penal Code.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO SUBMIT A RULE REVIEW NOTICE AND PROPOSED REVISIONS FOR 37 TAC §380.9703, RELATING TO WEAPONS AND CONCEALED HANDGUNS, IN THE TEXAS REGISTER FOR A 30-DAY PUBLIC COMMENT PERIOD

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the Human Resources Division staff has completed this review for §380.9703; and

WHEREAS, the staff recommends revisions to §380.9703; and

WHEREAS, Texas Government Code §2001.023 and §2001.029 require a state agency to give at least 30 days' notice of its intention to adopt a rule and to allow all interested persons a reasonable opportunity to submit data, views, or arguments orally or in writing;

NOW, THEREFORE BE IT RESOLVED THAT for §380.9703, the Board grants approval to publish the proposed revisions and a proposal to complete the rule review in the *Texas Register* for a 30-day comment period.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Roland Luna, Chief Inspector General

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC §§380.9711, RELATING TO CONTROL OF UNAUTHORIZED ITEMS SEIZED, 380.9713, RELATING TO USE OF CANINE (K-9) TEAMS, AND 380.9729, RELATING TO DIRECTIVES TO APPREHEND, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD

Date: May 11, 2015

As part of the agency's rule review process, the Office of Inspector General has completed its review of the assigned rules from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter F (Security and Control). As a result of this review, the staff recommends several revisions to:

- **§380.9711** (Control of Unauthorized Items Seized);
- **§380.9713** (Use of Canine (K-9) Teams); and
- **§380.9729** (Directives to Apprehend).

Attached to this memo you will find:

- A table summarizing the contents and proposed changes for the rules assigned to the Office of Inspector General.
- The text of the rules to be revised.
- A resolution for board action.

Staff requests the board's approval to publish these proposed rule revisions and a rule review notice in the *Texas Register* for a 30-day comment period.

Texas Administrative Code Rule Review
37 TAC Chapter 380, Subchapter F – Security and Control
 (Rules assigned to the Office of Inspector General)

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9711	Control of Unauthorized Items Seized	Establishes requirements for the preservation, control, and disposition of contraband and physical evidence obtained in connection with a violation of law or rule.	Yes	<ul style="list-style-type: none"> • Clarified that the facility’s evidence custodian is responsible for maintaining seized contraband that will be used in a TJJJ due process hearing, but not contraband that will be used in a criminal investigation. • Added a requirement for facility staff to submit contraband that may be used as evidence in a criminal investigation to the secure evidence submission box maintained by the Office of Inspector General (OIG). At that point, the evidence is accessible only to OIG staff. • Clarified that when all administrative and legal proceedings are concluded, firearms and drugs are destroyed in accordance with the Code of Criminal Procedure. • Clarified that staff who discover a potential crime scene must immediately notify the OIG Incident Reporting Center (in addition to the facility administrator). • Changed the title of rule to “Control of Seized Contraband or Potential Evidence” to more accurately reflect the content of the rule. 	Ready for board review
380.9713	Use of Canine (K-9) Teams	Provides guidelines for using K-9 teams at TJJJ.	Yes	<ul style="list-style-type: none"> • Clarified that the rule applies only to facilities operated by TJJJ, and not to contract facilities. • Clarified that K-9 teams are used for detecting and identifying drugs, currency, alcohol, tobacco products, prescription medication, and other prohibited items. • Deleted the need for local law enforcement to be notified if a K-9 alerts during an inspection of a TJJJ parking area. The handler of a K-9 team is a licensed peace officer which eliminates the need to contact local law enforcement. • Deleted the option to use K-9s to aid in tracking and apprehending youth who have escaped from a high restriction facility. • Clarified that parking areas that are subject to search by K-9 teams include any area used for parking that is owned, operated, or controlled by TJJJ (<i>rather than just parking lots within the fenced perimeter</i>). 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9729	Directives to Apprehend	Establishes criteria for issuing, entering, and cancelling a directive to apprehend a TJJJ youth.	Yes	<ul style="list-style-type: none"> • Clarified that directives to apprehend are entered into the Texas/National Crime information Center <i>by staff in the TJJJ Office of Inspector General</i>. • Added criteria for canceling a directive to apprehend. 	Ready for board review

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 11/8/05, T-75
Subchapter: Security and Control	
Rule: Control of Unauthorized Items Seized <u>Contraband or Potential Evidence</u>	Page: 1 of 2
ACA: 4-JCF-2A-21	Replaces: GAP.97.11, 4/26/04, T-65 <u>GAP.380.9711, 11/8/05</u>

4-29-15 Draft

I. **RULE**

(a) **Purpose.**

~~This rule established requirements [The purpose of this policy is to provide]~~ for the preservation, control, and/or disposition of all contraband, including physical evidence obtained in connection with a violation of law and/or rule violation ~~[violations]~~.

(b) **Applicability.**

This rule applies to TJJD-operated ~~[contraband items, as defined in (GAP) §91.7 of this title (relating to Youth Personal Property), related to youth in TYG]~~ residential facilities.

(c) Definitions.

Contraband--has the meaning assigned by §380.9107 of this title.

~~[(c) **Contraband.**]~~

~~[Seized contraband consisting of sexually explicit pictures, or items which advocate delinquent subculture values shall be either destroyed or forwarded to the youth's parents or managing conservator, at the youth's option unless an investigation is initiated. If an investigation is initiated, the evidence shall be retained by the evidence custodian until the completion of all investigations.]~~

(d) **Contraband ~~[**Potential!**]~~ Used as Evidence.**

(1) Contraband Used in a Due Process Hearing.

~~(A)[(4)]~~ Seized contraband that may be used as evidence in a TJJD due process hearing and not used in a criminal investigation, ~~must be [proceeding will be]~~ properly identified, documented, and submitted to the facility's evidence custodian~~[maintained until properly disposed of pursuant to policy]~~.

~~(B) — The facility administrator designates an evidence custodian to maintain contraband in a key-locked secure location and to ensure a chain of custody until the item is no longer needed. The key must be accessible only to the facility administrator and evidence custodian.~~

(2) Contraband Used in a Criminal Investigation.

Seized contraband that may be used as evidence in a criminal investigation is properly identified, documented, and submitted to the Office of Inspector General (OIG) evidence submission box. Criminal evidence is accessible only to the OIG staff. OIG maintains the chain of custody until proper case disposition.

~~[(2) — The facility administrator will designate an evidence custodian to maintain contraband in a key-locked secure location and to ensure a chain of custody until the item is no longer needed. The key shall be accessible only to the facility administrator and evidence custodian.]~~

(3) Contraband/Evidence Disposal.

~~(3) Any staff discovering or taking possession of contraband shall be responsible for its preservation until transferred to the appropriate authority.~~

~~(4) Depending on the nature of the investigation, the evidence may be given to law enforcement authorities.~~

~~(A)(5)~~ After all administrative/legal proceedings have been concluded, one of the following must occur:

~~(i)(A)~~ destroy firearms and drugs in accordance with the Code of Criminal Procedure [contraband item(s), other than contraband money, in the presence of at least two staff members]; or

~~(ii)(B)~~ send contraband item(s), other than contraband firearms and drugs [money], to the youth's home; or

~~(iii)(C)~~ return contraband item(s) to include contraband money (if applicable) to the owner; or

~~(iv)(D)~~ deposit contraband money possessed by a youth into the student benefit fund pursuant to §385.9971 and §380.9555 of this title [(GAP) §95.11 of this title (relating to Disciplinary Consequences)].

(B) After all OIG investigations, evidence will be disposed of as per court disposition.

(e) Contraband Not Used as Evidence.

Seized contraband that is not used as evidence in a TJJD due process hearing or in a criminal investigation is destroyed or sent to the youth's parent or guardian at the youth's discretion.

~~(f)(e)~~ Contraband/Evidence[Contraband/Evidence] in a [Potential] Crime Scene.

Staff discovering a potential crime scene must immediately notify the facility administrator and the Incident Reporting Center. A [potential] crime scene could be a[an-apparent] death, major injury, sexual assault, and/or major property damage. The area must[shall] be immediately secured and access prohibited into the potential crime scene or area containing potential evidence. Staff discovering a potential crime scene shall immediately notify the facility administrator. Staff must[shall] not enter the area to clean or disturb the potential evidence, clothing, and/or body fluids[, etc. until authorized by the facility administrator]. Only the OIG personnel or another investigating law enforcement agency will personnel should handle the evidence of a crime scene.

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 11/29/04, T-68 Page: 1 of 2 New Replaces: <u>GAP.380.9713,</u> <u>11/29/04</u>
Subchapter: Security and Control	
Rule: Use of Canine (K-9) Teams	
ACA: N/A	

5-1-15 Draft

I. **RULE**

(a) **Purpose.**

~~This rule provides [The purpose of this rule is to provide] guidelines for the management and deployment of K-9 [the canine (K-9)] teams at residential facilities operated by the Texas Juvenile Justice Department (TJJD)[Youth Commission (TYC)-operated institutions or residential contract care programs].~~

(b) **Applicability.**

~~This rule applies to residential facilities operated by TJJD.~~

~~[(1)—This rule applies to (GAP) §97.10 of this title (relating to Entry Searches).]~~

~~[(2)—This rule applies to (GAP) §97.11 of this title (relating to Control of Unauthorized Items Seized).]~~

~~[(3)—This rule applies to (GAP) §97.9 of this title (relating to Youth Search).]~~

~~[(4)—This rule applies to Personnel Policy and Procedure Manual (PRS) §01.04 (relating to Search of Employees, Personal Property and Vehicle, and Agency Property).]~~

(c) **Explanation of Terms Used.**

(1) ~~**[Contraband] K-9 Team** – [a contraband K-9 team consists of] a handler and canine trained to detect and identify illegal drugs, currency, [K-9 capable of detecting and identifying] alcohol, tobacco products, [gun solvents and] prescription medication, and other prohibited items.~~

~~[(2)—**Narcotic K-9 Team**—a narcotic K-9 team consists of a handler and K-9 capable of detecting and identifying marijuana, cocaine, methamphetamines, and heroin.]~~

~~[(3)—**Tracking K-9 Team**—a tracking K-9 team consists of a handler and K-9 capable of detecting and identifying articles and human scent.]~~

~~[(4)—**Alert**—a recognized signal from the K-9 to the handler.]~~

~~(2)[(5)] **Passive Indication** —the K-9 is trained to sit, stand, or lay at the point closest to the source of the odor such as, but not limited to, cocaine, heroin, alcohol, marijuana, prescription medication, [gun solvents,] methamphetamines, [and] tobacco, and other prohibited items.~~

~~(3)[(6)] **[Secure TYC] TJJD Parking Area [Lot]** – any area used for parking that is owned, operated, or controlled by TJJD [a parking lot within the perimeter fence of a high restriction TYC facility].~~

(d) **General Provision.**

~~(1)[(d)] All TJJD[TYC] K-9 teams must be[handlers are] certified annually and trained in passive indication.~~

~~[(e)—All K-9s used by TYC will be trained in passive indication and are certified annually.]~~

(2) TJJJ uses K-9 teams to detect and identify illegal drugs, currency, alcohol, tobacco products, prescription medication, and other prohibited items.

~~(3)(f) [K-9s are used to deter and detect contraband and illegal narcotics, and] A K-9 team~~ may be deployed at the discretion of the K-9 handler to conduct routine, random, or specifically requested searches or inspections to the following areas:

- ~~(A)(1)~~ any dorm, cell, or other area used [utilized] to house youth;
- ~~(B)(2)~~ any school or education building on TJJJ [TYC] property;
- ~~(C)(3)~~ any cafeteria, kitchen, canteen, or other food preparation area;
- ~~(D)(4)~~ any administrative area, staff office, storage building, and restroom;
- ~~(E)(5)~~ any other building or area located on TJJJ [TYC] grounds;
- ~~(F)(6)~~ any vehicle entering a perimeter fence at a facility operated by TJJJ [TYC secure area];
- ~~(G)(7)~~ any [unassigned] state vehicles; [and]
- ~~(H)(8)~~ any TJJJ [TYC] parking area; and [lot.]
- (I) any property under the care, custody, control, or ownership of TJJJ.

~~(g) Upon entry to a secure facility, all vehicles are subject to be searched by the K-9 team. See (GAP) §97.10 of this title.]~~

~~(h) Vehicles in a secure or non-secure TYC parking lot are subject to an inspection by the K-9 team. If a K-9 alerts while inspecting a parking lot, local law enforcement may be notified. If notified, any further action will be at the discretion of the local law enforcement. If the vehicle is in a secure parking lot and belongs to an employee, the employee may give consent to search the vehicle. See TYC's (PRS) §91.04.]~~

~~(i) When K-9 teams inspect areas, all persons will exit the inspected area and will remain out of the area until the inspection has been completed.]~~

~~(j) Upon a request by the K-9 team, a security staff may assist the K-9 team.]~~

(4)(k) All items[contraband and narcotics that are] seized by the K-9 team must[shall] be identified, documented, and submitted to the appropriate TJJJ staff member in accordance [and consistent] with §380.9711[(GAP) §97.11] of this title.

(5)(l) At the entrance of all TJJJ [TYC] parking areas[lots], signs must[shall] be posted in English and Spanish noting: "This property is subject to canine inspection and search by law enforcement."

~~(m) With the approval of the assistant deputy executive director of juvenile corrections, TYC K-9 teams will aid in tracking and apprehending youth who have escaped from a high restriction facility.]~~

~~(n) Persons are prohibited to harm or interfere in any manner with the K-9 or the K-9 team.]~~

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 12/18/03, T-63
Subchapter: Security and Control	
Rule: Directives to Apprehend	Page: 1 of 1
ACA: N/A	Replaces: GAP.97.29, 2/25/03, T-56 <u>GAP.380.9729, 12/18/03</u>
Statuses: Human Resources Code §243.051	

4/28/15 Draft

I. RULE

(a) Purpose.

~~This rule acknowledges [The purpose of this rule is to acknowledge] a relationship between the [with] Texas Juvenile Justice Department (TJJD) [Youth Commission (TYC)], law enforcement, and the Texas/National Crime Information Center (TCIC/NCIC) with regard to reporting and apprehending youth in TJJD jurisdiction [TYC custody] who escape or who have broken the conditions of release under supervision. This rule also establishes criteria for the issuance of a directive to apprehend.~~

(b) Applicability.

This rule applies to all youth under TJJD [in TYC] jurisdiction whether supervised by TJJD [TYC] staff or contract staff.

~~[(c) When a directive to apprehend has been issued, TYC staff will make concerted efforts to apprehend the youth with assistance of law enforcement officials, staff and other affected parties.]~~

[(c)](d) Issuance of a Directive to Apprehend.

(1) TJJD may issue a directive to apprehend pursuant to the authority granted under Texas Human Resources Code §243.051 if a youth in TJJD custody has:

(A) escaped, as defined by §380.9503 of this title; or

(B) failed to comply with the written conditions of release under supervision (i.e., conditions of parole).

(2)[(4)] Directives to apprehend must be entered by the Office of Inspector General Incident Reporting Center [Apprehend shall be issued by an agency staff] according to TCIC/NCIC [policy and] procedures and the Department of Public Safety/Federal Bureau of Investigation (DPS/FBI) guidelines.

(d) Cancellation of a Directive to Apprehend.

(1) A directive to apprehend is cancelled when:

(A) a youth is arrested or apprehended;

(B) a youth is discharged from commitment to TJJD; or

(C) TJJD staff determines the directive to apprehend is longer needed.

~~[(2) A Directive to Apprehend may be issued pursuant to the authority granted under Texas Human Resources Code §61.093 if a youth in TYC custody has:]~~

~~[(A) escaped, as defined by (GAP) §95.3 of this title (relating to Rules of Conduct); or]~~

~~[(B) failed to comply with the written conditions of release under supervision (parole).]~~



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO SUBMIT A RULE REVIEW NOTICE AND PROPOSED REVISIONS FOR 37 TAC §§380.9711, RELATING TO CONTROL OF UNAUTHORIZED ITEMS SEIZED, 380.9713, RELATING TO USE OF CANINE (K-9) TEAMS, AND 380.9729, RELATING TO DIRECTIVES TO APPREHEND, IN THE TEXAS REGISTER FOR A 30-DAY PUBLIC COMMENT PERIOD

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the Office of Inspector General staff has completed this review for §380.9711, §380.9713, and §380.9729; and

WHEREAS, the staff recommends revisions to §380.9711, §380.9713, and §380.9729; and

WHEREAS, Texas Government Code §2001.023 and §2001.029 require a state agency to give at least 30 days' notice of its intention to adopt a rule and to allow all interested persons a reasonable opportunity to submit data, views, or arguments orally or in writing;

NOW, THEREFORE BE IT RESOLVED THAT for §380.9711, §380.9713, and §380.9729, the Board grants approval to publish the proposed revisions and a proposal to complete the rule review in the *Texas Register* for a 30-day comment period.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJD Board Members

From: David Reilly, Executive Director

Lesly Jacobs, Deputy Director of Administrative Investigations

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC CHAPTER 358, RELATING TO IDENTIFYING, REPORTING, AND INVESTIGATING ABUSE, NEGLECT, EXPLOITATION, DEATH, AND SERIOUS INCIDENTS, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD

Date: May 13, 2015

As part of the agency's rule review process, Administrative Investigations staff has completed its review of 37 TAC Chapter 358 (Identifying, Reporting and Investigating Abuse, Neglect, Exploitation, Death and Serious Incidents).

As a result of this review, the staff recommends the following:

- Repeal several rules and consolidate information into other rules;
- Re-order several rules to improve information flow; and
- Revise all remaining rules.

Attached to this memo please find:

- A table summarizing the contents and proposed changes for Chapter 358.
- The text of the rules to be revised.
- A resolution for board action.

Staff requests the board's approval to publish these proposed rule revisions and a rule review notice in the *Texas Register* for a 30-day comment period.

Texas Administrative Code Rule Review

37 TAC Chapter 358 – Identifying, Reporting and Investigating Abuse, Neglect, Exploitation, Death and Serious Incidents

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.100	Definitions	Defines terms used throughout the chapter.	Yes	<ul style="list-style-type: none"> • Revised the definitions of <i>Sexual Abuse by Contact</i> and <i>Sexual Abuse by Non-Contact</i> to more closely align with PREA definitions regarding sexual abuse. • Added definitions for the following terms: <i>Attempted Escape</i>, <i>Chief Administrative Officer</i>, and <i>TJJD</i>. • Deleted definitions for the following terms: <i>Administrator</i>, <i>Call Line</i>, and <i>Commission</i>. • In the definition of <i>Juvenile Justice Facility</i>, revised the description of a non-secure facility to align with the types of non-secure facilities that must be certified by the juvenile board under Family Code §51.126. • Clarified that <i>Youth Sexual Conduct</i> includes defined conduct between two or more juveniles, regardless of whether the juveniles consented to the conduct. 	Ready for board review
358.120	Interpretation	Addresses chapter headings and use of word “including.”	Yes	<ul style="list-style-type: none"> • Deleted the paragraph about use of headings. • Clarified that the words “include, includes, and including” mean that a non-exhaustive list will follow. 	Ready for board review
358.140	Applicability	Establishes what kind of allegations and incidents are addressed in this chapter.	Yes	<ul style="list-style-type: none"> • Clarified that the chapter applies to employees, volunteers, and “<i>other individuals working under the auspices</i>” of a juvenile justice facility or program (rather than all “contractors and services providers” in a department facility or program.) This new wording is consistent with the definition of abuse in Texas Family Code §261.401. • Added a provision explaining that working “under the auspices of a facility or program” means the person is providing a service to juveniles when that service is a condition imposed by a juvenile court or juvenile probation department. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.200	Policy and Procedure	Requires departments, programs, and facilities to have written policies and procedures for reporting serious incidents, deaths, and allegations of alleged abuse, neglect or exploitation.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. 	Ready for board review
358.220	Data Collection	Requires departments, programs, and facilities to submit certain types of data to TJJJ relating to serious incidents, deaths, and allegations of alleged abuse, neglect or exploitation.	Yes	<ul style="list-style-type: none"> Deleted “driver’s license number or state-issued identification number of subject(s) of investigation” from the list of data that must be submitted to TJJJ annually. Clarified that departments must submit any additional information not listed in this rule if specifically requested by TJJJ. Re-titled the rule as “Data Reconciliation.” 	Ready for board review
358.480 (current #) 358.240 (new #)	Signage	Requires programs and facilities to display signage provided by TJJJ regarding a zero-tolerance policy for abuse of juveniles.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.480 to §358.240. 	Ready for board review
358.400 (current #) 358.300 (new #)	Abuse, Neglect and Exploitation	Establishes the duty to report, time frame for reporting, and methods for reporting alleged abuse, neglect and exploitation to TJJJ and to law enforcement.	Yes	<ul style="list-style-type: none"> Consolidated information from other rules regarding reporting deaths, sexual abuse, and serious physical abuse into this rule. Re-titled the rule as “Identifying and Reporting Abuse, Neglect, Exploitation, and Death.” Changed the number of this rule from §358.400 to §358.300. 	Ready for board review
358.460 (current #) 358.320 (new #)	Parental Notification	Requires programs and facilities to notify the parent, guardian, or custodian of a juvenile who has died or is the victim of alleged abuse, neglect, or exploitation.	Yes	<ul style="list-style-type: none"> Clarified that the parental notice or the attempt to notify must be documented on the Incident Report Form <i>and</i> (rather than “<i>or</i>”) in the internal investigation report. Changed the number of this rule from §358.460 to §358.320. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.440 (current #) 358.340 (new #)	Reporting of Allegations by Juveniles	Establishes that juveniles have a right to report alleged abuse, neglect, and exploitation. Requires programs and facilities to have written policies and procedures that provide juveniles with confidential access to TJJD for reporting such allegations.	Yes	<ul style="list-style-type: none"> Clarified that during orientation in a <i>juvenile justice program</i> (in addition to orientation in a juvenile justice facility), juveniles must be advised in writing of their right to report allegations of abuse to TJJD. This clarification is consistent with the requirements in Texas Family Code §261.405. Changed the number of this rule from §358.440 to §358.340. 	Ready for board review
358.420 (current #) 358.360 (new #)	Allegations Occurring Outside the Juvenile System	Requires individuals to report alleged abuse, neglect, or exploitation of a juvenile to law enforcement or the appropriate governmental unit when it does not involve an employee, intern, volunteer, contractor, or service provider of a juvenile justice program, department, or facility	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.420 to §358.360. 	Ready for board review
358.500	Serious Physical Abuse and Sexual Abuse	Establishes the duty to report, time frame for reporting, and methods for reporting alleged serious physical abuse and sexual abuse to TJJD and to law enforcement.	No	<ul style="list-style-type: none"> Repealed. Consolidated information from this rule into the revised §358.300. 	Ready for board review
358.600	Death	Establishes the duty to report, time frame for reporting, and methods for reporting the death of a juvenile to TJJD and to law enforcement.	No	<ul style="list-style-type: none"> Repealed. Consolidated information from this rule into the revised §358.300. 	Ready for board review
358.620	Custodial Death Investigation in a Facility	Requires the facility administrator to investigate the death of a juvenile.	No	<ul style="list-style-type: none"> Repealed. The duty to investigate a death in a facility is addressed in the revised §358.400. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.640	Custodial Death Investigation Report	Requires the facility administrator to submit a custodial death report to the Office of Attorney General and to TJD, and to complete an internal investigation report.	No	<ul style="list-style-type: none"> Repealed. The duty to submit a custodial death report to the Office of the Attorney General has been moved to the revised §358.300. The duty to complete an internal investigation report is addressed in the revised §358.500. 	Ready for board review
358.660	Custodial Death Investigation in a Department or Program	Requires the administrator of a department or program to investigate the death of a juvenile who is in custody but not in a facility and complete an internal investigation report.	No	<ul style="list-style-type: none"> Repealed. The duty to investigate any death in a department or program is addressed in the revised §358.400. The duty to complete an internal investigation report is addressed in the revised §358.500. 	Ready for board review
358.680	Non-Custodial Death Investigation in a Department or Program	Requires the administrator of a department or program to investigate the death of a juvenile who is not in custody and complete an internal investigation report.	No	<ul style="list-style-type: none"> Repealed. The duty to investigate any death in a department or program is addressed in the revised §358.400. The duty to complete an internal investigation report is addressed in the revised §358.500. 	Ready for board review
358.700 (current #) 358.400 (new #)	Internal Investigation	Requires programs and facilities to complete an internal investigation for each allegation of abuse, neglect, exploitation, or death. Establishes time frames for completion and circumstances under which the investigation must be postponed.	Yes	<ul style="list-style-type: none"> Moved information to this rule from §358.760 concerning the juvenile board's responsibilities in cases where the chief administrative officer is the subject of the investigation. Moved information to this rule from §358.740 concerning efforts to obtain written or recorded statements from all persons with direct knowledge of the alleged incident. 	Ready for board review
358.720 (current #) 358.420 (new #)	Reassignment or Administrative Leave During the Internal Investigation	Requires the administrator to immediately place the subject of investigation on administrative leave or reassign the person to a no-contact position.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.720 to §358.420. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.900 (current #) 358.440 (new #)	Cooperation with Commission Investigation	Requires the juvenile board, administrator, or their designee to fully and promptly cooperate with a TJJJ investigation into alleged abuse, neglect, exploitation, or death.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.900 to §358.440. 	Ready for board review
358.780 (current #) 358.460 (new #)	Corrective Measures	Lists possible corrective actions that may be taken based on the results of the internal investigation.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.780 to §358.460. 	Ready for board review
358.800 (current #) 358.500 (new #)	Internal Investigation Report	Requires an investigation report to be completed at the conclusion of each internal investigation.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.800 to §358.500. 	Ready for board review
358.820 (current #) 358.520 (new #)	Internal Investigation Report Components	Lists the minimum required components of an internal investigation report.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.820 to §358.520. 	Ready for board review
358.840 (current #) 358.540 (new #)	Submission of Internal Investigation Report	Requires the internal investigation report and certain attachments to be submitted to TJJJ.	Yes	<ul style="list-style-type: none"> Deleted the phrase “if the release is allowed by law” from the requirement to submit relevant medical documentation to TJJJ along with the internal investigation report. Neither HIPAA nor the Texas Medical Privacy Rights Act prohibits departments, programs, and facilities from providing this information to TJJJ. Changed the number of this rule from §358.840 to §358.540. 	Ready for board review
358.300 (current #) 358.600 (new #)	Serious Incidents	Requires individuals to report serious incidents to TJJJ.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.300 to §358.600. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
358.320 (current #) 358.620 (new #)	Medical Documentation for Serious Incidents	Requires medical documentation that contains evidence of medical treatment relating to a serious incident to be submitted to TJJD.	Yes	<ul style="list-style-type: none"> Made minor, non-substantive wording clarifications only. Changed the number of this rule from §358.320 to §358.620. 	Ready for board review
358.740	Written and Electronically Recorded Statements	Requires internal investigators to make a diligent effort to obtain recorded oral statements from all persons with direct knowledge of the incident.	No	<ul style="list-style-type: none"> Repealed. The information in this rule has been consolidated into the revised §358.400. 	Ready for board review
358.760	Juvenile Board Responsibilities	Requires the juvenile board or its appointee to conduct the internal investigation if the administrator is the subject of the investigation.	No	<ul style="list-style-type: none"> Repealed. The information in this rule has been consolidated into the revised §358.400. 	Ready for board review
358.920	Redaction of Records	Allows the person who is the subject of investigation to request that his/her identifying information be redacted from TJJD's records if TJJD's disposition is "Ruled Out" and other criteria are met.	No	<ul style="list-style-type: none"> Repealed. Additional legal review has determined that TJJD does not have statutory authorization to permanently remove names from original TJJD records. 	Ready for board review

Texas Administrative Code

Title 37 Public Safety and Corrections
Part 11 Texas Juvenile Justice Department
Chapter 358 Identifying, Reporting and Investigating Abuse, Neglect, Exploitation, Death and Serious Incidents

<p>§358.100 Definitions</p> <p>§358.120 Interpretation</p> <p>§358.140 Applicability</p> <p>§358.200 Policy and Procedure</p> <p>§358.220 Data <u>Reconciliation</u> [<u>Collection</u>]</p> <p><u>§358.240 Signage</u></p> <p><u>§358.300 Identifying and Reporting Abuse, Neglect, Exploitation, and Death</u></p> <p><u>§358.320 Parental Notification</u></p> <p><u>§358.340 Reporting of Allegations by Juveniles</u></p> <p><u>§358.360 Allegations Occurring Outside the Juvenile Justice System</u></p> <p><u>§358.400 Internal Investigation</u></p> <p><u>§358.420 Reassignment or Administrative Leave During the Internal Investigation</u></p> <p><u>§358.440 Cooperation with TJJD Investigation</u></p> <p><u>§358.460 Corrective Measures</u></p> <p><u>§358.500 Internal Investigation Report</u></p>	<p><u>§358.520 Required Components of an Internal Investigation Report</u></p> <p><u>§358.540 Submission of Internal Investigation Report</u></p> <p><u>§358.600 Serious Incidents</u></p> <p><u>§358.620 Medical Documentation for Serious Incidents</u></p> <p>§358.300 Serious Incidents</p> <p>§358.320 Medical Documentation for Serious Incidents</p> <p>§358.400 Abuse, Neglect, and Exploitation</p> <p>§358.420 Allegations Occurring Outside the Juvenile System</p> <p>§358.440 Reporting of Allegations by Juveniles</p> <p>§358.460 Parental Notification</p> <p>§358.480 Signage</p> <p>§358.500 Serious Physical Abuse and Sexual Abuse</p> <p>§358.600 Death</p> <p>§358.620 Custodial Death Investigation in a Facility</p> <p>§358.640 Custodial Death Investigation Report</p>	<p>§358.660 Custodial Death Investigation in a Department or Program</p> <p>§358.680 Non-Custodial Death Investigation in a Department or Program</p> <p>§358.700 Internal Investigation</p> <p>§358.720 Reassignment or Administrative Leave During the Internal Investigation</p> <p>§358.740 Written and Electronically Recorded Statements</p> <p>§358.760 Juvenile Board Responsibilities</p> <p>§358.780 Corrective Measures</p> <p>§358.800 Internal Investigation Report</p> <p>§358.820 Internal Investigation Report Components</p> <p>§358.840 Submission of Internal Investigation Report</p> <p>§358.900 Cooperation with Commission Investigation</p> <p>§358.920 Redaction of Records</p>
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§358.100 Definitions

Terms used in this chapter ~~[shall]~~ have the following meanings unless otherwise expressly defined within the chapter.

- (1) **Abuse, Neglect, or Exploitation**--The terms [definitions of] "abuse," "neglect," "~~["neglect"]~~" and "exploitation" ~~[shall]~~ have the meanings given in [meaning ascribed under] Texas Family Code §261.001 and §261.401. For the purposes of this chapter, "abuse" includes sexual abuse and serious physical abuse ~~[and sexual]~~ as defined in this section.
- ~~[(2) **Administrator**--The chief administrative officer of a juvenile probation department, a public or private juvenile justice program or a public or private juvenile justice facility.]~~
- ~~[(2)][(3) **Alleged Victim**--A juvenile [under the jurisdiction of the juvenile court or participating in a program operated under the authority of the governing board or juvenile board] who is alleged to be a victim of abuse, neglect, or exploitation.~~
- ~~[(3) **Attempted Escape**--Committing an act that amounts to more than mere planning but that fails to effect an escape.~~
- (4) **Attempted Suicide**--Any voluntary and intentional action that could likely [reasonably] result in taking one's own life.

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- ~~[(5)]~~ **Call Line**--The toll-free number made available for reporting allegations of abuse, neglect, exploitation and serious incidents within the juvenile justice system.]
- ~~[(5)]~~ **Chief Administrative Officer**--Regardless of title, the person hired by a juvenile board who is responsible for oversight of the day-to-day operations of a juvenile probation department, including a juvenile probation department with multi-county jurisdiction.
- ~~[(6)]~~ **Commission**--The Texas Juvenile Probation Commission.]
- ~~[(6)]~~~~[(7)]~~ **Escape**--
- ~~[(A)]~~ The ~~[voluntary,]~~ unauthorized departure of a juvenile ~~[, or attempt to depart, by an individual]~~ who is in custody~~[;]~~ or
- ~~[(B)]~~ the failure of a juvenile ~~[Failure]~~ to return to custody following an authorized temporary leave ~~[for a specific purpose or limited period].~~
- ~~[(7)]~~~~[(8)]~~ **Founded**--The finding assigned to an internal investigation when the evidence indicates that the conduct~~[;]~~ which formed the basis of an allegation of abuse, neglect, or exploitation~~[;]~~ occurred.
- ~~[(8)]~~~~[(9)]~~ **Incident Report Form**--The ~~[required]~~ form used to report to TJJJD ~~[the Commission]~~ allegations of abuse, neglect, or exploitation, the death of a juvenile, and serious incidents.
- ~~[(9)]~~~~[(10)]~~ **Inconclusive**--The finding assigned to an internal investigation when the evidence does not clearly indicate whether or not the conduct that ~~[, which]~~ formed the basis of an allegation of abuse, neglect, or exploitation~~[;]~~ occurred.
- ~~[(10)]~~~~[(11)]~~ **Internal Investigation**--A formalized and systematic inquiry conducted ~~[by the administrator or designee of a juvenile probation department, juvenile justice program or juvenile justice facility]~~ in response to an allegation of abuse, neglect, or exploitation or the death of a juvenile.
- ~~[(11)]~~~~[(12)]~~ **Internal Investigation Report**--The written report submitted to TJJJD ~~[the Commission]~~ that summarizes the steps taken and the evidence collected during an internal investigation of alleged abuse, neglect, or exploitation or the death of a juvenile.
- ~~[(12)]~~~~[(13)]~~ **Juvenile**--A person who is under the jurisdiction of the juvenile court, confined in a juvenile justice facility, or participating in a juvenile justice program.
- ~~[(13)]~~~~[(14)]~~ **Juvenile Justice Facility ("facility")**--A facility that serves juveniles under juvenile court jurisdiction and that is ~~[, including its premises and all affiliated sites, whether contiguous or detached,]~~ operated wholly or partly by or under the authority of the governing board or ~~[,]~~ juvenile board or by a private vendor under a contract with the governing board, juvenile board, or governmental unit [that serves juveniles under juvenile court jurisdiction]. The term includes all premises and affiliated sites of the facility, whether contiguous or detached. The term includes, but is not limited to:
- (A) a ~~[A]~~ public or private juvenile pre-adjudication secure detention facility, including a short-term detention facility (i.e., holdover) required to be certified in accordance with Texas Family Code §51.12;
- (B) a ~~[A]~~ public or private juvenile post-adjudication secure correctional facility required to be certified in accordance with Texas Family Code §51.125 ~~[, except for a facility operated solely for children committed to the Texas Youth Commission];~~ and
- (C) a ~~[A]~~ public or private juvenile non-secure correctional ~~[juvenile post-adjudication residential treatment]~~ facility required to be certified in accordance with Texas Family Code §51.126. ~~[housing juveniles under juvenile court jurisdiction.]~~
- ~~[(14)]~~~~[(15)]~~ **Juvenile Justice Program ("program")**--A program or department that:
- (A) serves juveniles under juvenile court or juvenile board jurisdiction;
- (B) is operated wholly or partly by the governing board, juvenile board, or by a private vendor under a contract with the governing board~~[;]~~ or juvenile board ~~[that serves juveniles under juvenile court jurisdiction or juvenile board jurisdiction].~~ The term includes:
- (i) a juvenile justice alternative education program; ~~[and]~~

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- (ii) a non-residential program that serves juvenile offenders under the jurisdiction of the juvenile court or juvenile board; ~~jurisdiction~~ and
- (iii) a juvenile probation department.

~~(15)~~~~(46)~~ **Juvenile Probation Department ("department")**—~~A [All physical offices and premises utilized by a county or district level]~~ governmental unit established under the authority of a juvenile ~~board~~ ~~board(s)~~ to facilitate the execution of the responsibilities of a juvenile probation department enumerated in Title 3 of the Texas Family Code and Chapter ~~221~~ ~~[444]~~ of the Texas Human Resources Code.

~~(16)~~~~(47)~~ **Medical Treatment**--Medical care, processes, and procedures that are performed by a physician, physician assistant, licensed nurse practitioner, emergency medical technician (EMT), paramedic, or dentist. Diagnostic procedures are excluded ~~from this definition~~ unless ~~further~~ intervention beyond basic first aid is required.

~~(17)~~~~(48)~~ **Reasonable Belief**--A belief that would be held by an ordinary and prudent person in the same circumstances ~~as the reporter~~.

~~(18)~~~~(49)~~ **Report**--Formal notification to TJJJD ~~[the Commission]~~ of alleged abuse, neglect, ~~or~~ exploitation, ~~or~~ ~~the~~ death ~~of a juvenile~~, or ~~a~~ ~~of~~ serious incident.

~~(19)~~~~(20)~~ **Reportable Injury**--Any injury sustained ~~by a juvenile~~ accidentally, intentionally, recklessly, or otherwise that:

- (A) ~~does not result from a personal, mechanical, or chemical restraint and requires~~ ~~[Requires]~~ medical treatment ~~[as defined in this section]~~; or
- (B) ~~results~~ ~~[Results]~~ from a personal, mechanical, or chemical restraint and is a substantial injury ~~[as defined in this section]~~.

~~(20)~~~~(21)~~ **Serious Incident**--Attempted escape, attempted suicide, escape, reportable injury, youth-on-youth physical assault, or youth sexual conduct ~~[as defined in this section]~~.

~~(21)~~~~(22)~~ **Serious Physical Abuse**--Bodily harm or ~~a~~ condition that:

- (A) resulted directly or indirectly from the conduct that formed the basis of an allegation of abuse, neglect, or exploitation; ~~and~~ ~~[-]~~
- (B) ~~[if the bodily harm or condition]~~ requires medical treatment ~~[as defined in this section]~~.

~~(22)~~~~(23)~~ **Sexual Abuse**--Conduct committed by ~~an employee, volunteer, or other individual working under the auspices of a facility or program~~ ~~[any person]~~ against a juvenile that includes sexual abuse by contact or sexual abuse by non-contact. A juvenile, regardless of age, may not ~~[affirmatively or impliedly]~~ consent to the acts as defined in paragraphs ~~(23) and~~ (24) ~~[and (25)]~~ of this section under any circumstances.

~~(23)~~~~(24)~~ **Sexual Abuse by Contact**--Any physical contact with a juvenile that includes: ~~[intentional touching of the genitalia, anus, groin, breast, inner thigh or buttocks with the intent to abuse, intimidate, hurt, humiliate or harass, arouse or gratify sexual desire; deviate sexual intercourse; sexual contact; sexual intercourse; or sexual performance as those terms are defined in subparagraphs (A) --(D) of this paragraph.]~~

- (A) ~~contact between the penis and the vulva or the penis and the anus, including penetration, however slight;~~
- (B) ~~contact between the mouth and the penis, vulva, or anus;~~
- (C) ~~contact between the mouth and any body part with the intent to abuse, arouse, or gratify sexual desire;~~
- (D) ~~penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire;~~

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- (E) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the actor has the intent to abuse, arouse, or gratify sexual desire; and
- (F) any attempt to engage in the activities described in paragraphs (A) – (E) of this subsection.

~~[(A) —"Deviate sexual intercourse" means:]~~

~~[(i) —any contact between any part of the genitals of one person and the mouth or anus of another person; or]~~

~~[(ii) —the penetration of the genitals or the anus of another person with a hand, finger or other object.]~~

~~[(B) "Sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:]~~

~~[(i) —any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a person; or]~~

~~[(ii) —any touching of any part of the body of a person, including touching through clothing, with the anus, breast, or any part of the genitals of a person.]~~

~~[(C) —"Sexual intercourse" means any penetration of the female sex organ by the male sex organ.]~~

~~[(D) —"Sexual performance" means acts of a sexual or suggestive nature performed in front of one or more persons including simulated or actual sexual intercourse, deviate sexual intercourse, bestiality, masturbation, sado-masochistic abuse or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.]~~

~~(24)~~**(25) Sexual Abuse by Non-Contact**--Any sexual behavior, conduct, harassment, or actions other than those defined as [by] sexual abuse by contact, which are exhibited, performed, or simulated~~[:]~~

~~[(A)]~~ in the presence of a juvenile or with reckless disregard for the presence of a juvenile, including but not limited to: [:]

~~(A)~~ any threat or request for a juvenile to engage in the activities described in paragraph (23):

~~(B)~~ any display of uncovered genitalia, buttocks, or breasts in the presence of a juvenile;

~~(C)~~ voyeurism, which means an invasion of privacy of a juvenile for reasons unrelated to official duties, such as peering at a juvenile who is using a toilet to perform bodily functions; requiring a juvenile to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a juvenile's naked body or of a juvenile performing bodily functions; and

~~[(B) —with the intent to arouse or gratify the sexual desire of any person;]~~

~~[(C) —with the intent to intimidate, hurt, humiliate or harass any person;]~~

~~(D)~~ sexual harassment, which includes [including] repeated verbal [statement or] comments or gestures of a sexual nature, [; and]

~~[(E)]~~ including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or [profane or] obscene language or gestures.

~~[(F) —These behaviors, conduct and actions include indecent exposure, voyeurism, distribution or exhibition of pornographic or sexually explicit material or sexual performance as defined in paragraph (24)(D) of this section.]~~

~~(25)~~**(26) Subject of Investigation**--A person alleged as being responsible for the abuse, neglect, or exploitation of a juvenile through the person's own actions or failure to act.

~~(26)~~**(27) Substantial Injury**--An injury that is significant in size, degree, or severity.

~~(27)~~ TJJD--the Texas Juvenile Justice Department.

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- (28) **Unfounded**--The finding assigned to an internal investigation when the evidence indicates the conduct ~~that [,-which]~~ formed the basis of an allegation of abuse, neglect, or exploitation~~[,]~~ did not occur.
- (29) **Youth-on-Youth Physical Assault**--A physical altercation between two or more juveniles that results in any of the involved parties sustaining an injury that requires medical treatment ~~[as defined in this section].~~
- (30) **Youth Sexual Conduct**--~~Conduct between two [Two] or more juveniles, regardless of age, that is conduct described in paragraphs (23) and (24) of this section, regardless of whether the juveniles consented to the conduct. [who engage in deviate sexual intercourse, sexual contact, sexual intercourse, sexual performance as those terms are defined in paragraph (24) of this section or sexual behavior, conduct or actions which are exhibited, performed or simulated as those terms are defined in paragraph (25) of this section. A juvenile may not consent to the acts as defined in paragraphs (24) and (25) of this section under any circumstances. Consent may not be implied regardless of the age of the juvenile.]~~

§358.120 Interpretation

- (a) **Headings.** ~~The headings in this chapter are for convenience only and are not intended as a guide to the interpretation of the standards in this chapter.]~~
- (b) **Including.** ~~The word,] The words "include," "includes," and "including" when following a general statement or term are to be understood as introducing a non-exhaustive list, unless the context clearly indicates otherwise. [, is not to be construed as limiting the general statement or term to any specific item or manner set forth or to similar items or matters, but rather as permitting the general statement or term to refer also to all other items or matters that could reasonably fall within its broadest possible scope.]~~

§358.140 Applicability

- (a) Unless otherwise expressly stated, this chapter applies ~~[noted, these standards apply]~~ to:
- (1) [all] allegations of abuse, neglect, or [and] exploitation ~~[,- death and serious incidents]~~ involving a juvenile and an employee, ~~[intern,] volunteer, or other individual working under the auspices of a facility or program~~ ~~[contractor or service provider (hereafter referred to as "any person" or "all persons") in a juvenile probation department ("department"), juvenile justice program ("program") or juvenile justice facility ("facility"), regardless of the physical location of the alleged abuse, neglect, or exploitation; [, death or serious incident.]~~
 - (2) serious incidents involving a juvenile that:
 - (A) occur on the premises of a program or facility; or
 - (B) regardless of the physical location, occur while in the presence of an employee, volunteer, or other individual working under the auspices of a facility or program; and
 - (3) a death of a juvenile that:
 - (A) occurs on the premises of a program or facility;
 - (B) results from an illness, incident, or injury that occurred, was discovered, or was reported on the premises of a program or facility; or
 - (C) regardless of the physical location, occurs while in the presence of an employee, volunteer, or other individual working under the auspices of a facility or program.
- (b) For purposes of this chapter, "working under the auspices of a facility or program" includes providing a service to juveniles when that service is:
- (1) a condition of probation, deferred prosecution, or release; or
 - (2) a condition otherwise imposed by a juvenile court or juvenile probation department.

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§358.200 Policy and Procedure

Departments, programs, and facilities must [shall] have written policies and procedures that require, in accordance with this chapter: [for reporting serious incidents to the Commission and]

- (1) [for] reporting allegations of [deaths and alleged] abuse, neglect, or [and] exploitation or the death of a juvenile to local law enforcement, TJJD, [the Commission] and other appropriate governmental units; and [-]
- (2) reporting serious incidents to TJJD.

§358.220 Data Reconciliation [Collection]

- (a) The chief administrative officer or designee must [Departments, programs and facilities shall] fully and promptly provide to TJJD the data listed in this section for all allegations of [requested data pertinent to alleged] abuse, neglect, or exploitation, the death of a juvenile, and serious incidents occurring within the reporting period [to the Commission].
- (b) The data must [shall] be submitted in the electronic format requested or supplied by TJJD [the Commission].
- (c) The data must [shall] include:
 - (1) name and Personal Identification Number (PID) of each alleged victim [Alleged victim(s) name];
 - ~~(2)~~ Alleged victim(s) personal identification number (PID);
 - ~~(2)~~~~(3)~~ name and date of birth of each subject [Name of subject(s)] of investigation;
 - ~~(4)~~ Date of birth and driver's license or state issued identification number of subject(s) of investigation;
 - ~~(3)~~~~(5)~~ date and time [Date] of alleged incident;
 - ~~(6)~~ Time of alleged incident;
 - ~~(4)~~~~(7)~~ date [Date] the alleged incident was reported to TJJD [the Commission];
 - ~~(5)~~~~(8)~~ type [Type] of alleged incident (i.e., abuse, neglect, or exploitation [(ANE)], death, or serious incident [(SI)];
 - ~~(6)~~~~(9)~~ type [Type] of injury, if applicable;
 - ~~(7)~~~~(10)~~ whether the alleged incident was restraint-related and [Restraint-related], if so, what type of restraint was involved (i.e., personal, mechanical, or chemical);
 - ~~(8)~~~~(11)~~ disposition [Disposition] of internal investigation (i.e., founded, unfounded, or inconclusive [Founded, Unfounded, Inconclusive]); and
 - ~~(9)~~~~(12)~~ county-generated [County-generated] case identification number.
- (d) The data must [shall] be supplied at least annually or more frequently if [as] required by TJJD [Commission]. The data must include any additional information not listed in this section if specifically requested by TJJD.

§358.240 Signage

- (a) Departments, programs, and facilities must prominently display signage provided by TJJD regarding a zero-tolerance policy concerning abuse of juveniles. The signage must be displayed in each of the following places:
 - (1) lobby or visitation areas of the department, program, or facility to which the public has access;
 - (2) juvenile housing and common areas;
 - (3) common medical treatment areas;

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(4) common educational areas; and

(5) other common areas.

(b) Signage must be posted in English and Spanish.

§358.300 Identifying and Reporting Abuse, Neglect, Exploitation, and Death

(a) Duty to Report.

An employee, volunteer, or other individual working under the auspices of a facility or program must report the death of a juvenile or an allegation of abuse, neglect, or exploitation to TJJD and local law enforcement if he/she:

(1) witnesses, learns of, or receives an oral or written statement from an alleged victim or other person with knowledge of the death of a juvenile or an allegation of abuse, neglect, or exploitation; or

(2) has a reasonable belief that the death of a juvenile or abuse, neglect, or exploitation has occurred.

(b) Non-Delegation of Duty to Report.

In accordance with Texas Family Code §261.101, the duty to report cannot be delegated to another person.

(c) Other than Sexual Abuse or Serious Physical Abuse.

(1) Time Frames for Reporting.

A report of alleged abuse, neglect, or exploitation other than allegations involving sexual abuse or serious physical abuse must be made within 24 hours from the time a person gains knowledge of or has a reasonable belief that alleged abuse, neglect, or exploitation has occurred.

(2) Methods for Reporting.

(A) The report to TJJD may be made by phone or by faxing or e-mailing a completed Incident Report Form.

(B) If the report to TJJD is made by phone, a completed Incident Report Form must be submitted within 24 hours after the phone report.

(C) The report to law enforcement must be made by phone.

(d) Sexual Abuse or Serious Physical Abuse.

(1) Time Frames for Reporting.

(A) A report of alleged sexual abuse or serious physical abuse must be made to local law enforcement immediately, but no later than one hour after the time a person gains knowledge of or has a reasonable belief that alleged sexual abuse or serious physical abuse has occurred.

(B) A report of alleged sexual abuse or serious physical abuse must be made to TJJD immediately, but no later than four hours after the time a person gains knowledge of or has a reasonable belief that alleged sexual abuse or serious physical abuse has occurred.

(2) Methods for Reporting.

(A) The initial report to TJJD must be made by phone using the toll-free number as designated by TJJD.

(B) Within 24 hours after the initial phone report to TJJD, the completed Incident Report Form must be submitted to TJJD by fax or e-mail.

(C) The initial report to law enforcement must be made by phone.

(e) Death of a Juvenile.

(1) Time Frames for Reporting.

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- (A) A report of a death must be made to local law enforcement immediately, and no later than one hour after the discovery or notification of the death.
 - (B) A report of a death must be made to TJJD immediately, and no later than four hours after the discovery or notification of the death.
 - (C) The chief administrative officer or designee must:
 - (i) submit a written report of the cause of death to the state Attorney General no later than 30 days after the juvenile's death if required by Texas Code of Criminal Procedure Article 49.18(b); and
 - (ii) submit a copy of the death investigation report to TJJD within 10 calendar days after completion.
- (2) **Methods for Reporting.**
- (A) The initial report to TJJD must be made by phone using the toll-free number as designated by TJJD.
 - (B) Within 24 hours after the phone report to TJJD, the completed Incident Report Form must be submitted to TJJD by fax or e-mail.
 - (C) The initial report to law enforcement must be made by phone.

§358.320 Parental Notification

(a) **Requirement to Notify.**

Notification, or diligent efforts to notify, must be made to the parent(s), guardian(s), and custodian(s) of a juvenile who has died or who is the alleged victim of abuse, neglect, or exploitation.

(b) **Time of Notification.**

The notice or efforts to notify required by subsection (a) of this section must be made as soon as possible, but no later than 24 hours from the time a person gains knowledge of or has a reasonable belief that the allegation of abuse, neglect, or exploitation or the death of a juvenile occurred.

(c) **Method of Notification.**

The notice or efforts to notify required by subsection (a) of this section may be made by phone, in writing, or in person by the chief administrative officer or designee.

(d) **Documentation of Notification.**

The notice or efforts to notify required by subsection (a) of this section must be documented on TJJD's Incident Report Form and in the internal investigation report.

§358.340 Reporting of Allegations by Juveniles

(a) **Right to Report.**

Juveniles have the right to report to TJJD allegations of abuse, neglect, or exploitation and the death of a juvenile. During orientation to a facility or program, juveniles must be advised in writing of:

- (1) their right to report allegations under this subsection; and
- (2) TJJD's toll-free number available for reporting allegations under this subsection.

(b) **Policy and Procedure.**

Departments, programs, and facilities must have written policies and procedures that provide a juvenile with reasonable, free, and confidential access to TJJD for reporting allegations.

(c) **Access to TJJD.**

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Upon the request of a juvenile, staff must facilitate the juvenile's unimpeded access to TJJD to report allegations.

§358.360 Allegations Occurring Outside the Juvenile Justice System

Any person who witnesses, learns of, receives an oral or written statement from an alleged victim or other person with knowledge, or has a reasonable belief as to the occurrence of alleged abuse, neglect, or exploitation involving a juvenile that is not alleged to involve an employee, volunteer, or other individual working under the auspices of a facility or program must report the incident to law enforcement or to the appropriate governmental unit as required in Texas Family Code Chapter 261.

§358.400 Internal Investigation

(a) Investigation Requirement.

In every case in which an allegation of abuse, neglect, or exploitation or the death of a juvenile has occurred, an internal investigation must be conducted. The investigation must be conducted by a person qualified by experience or training to conduct a comprehensive investigation.

(b) Policy and Procedure.

Departments, programs, and facilities must have written policies and procedures for conducting internal investigations of allegations of abuse, neglect, or exploitation or the death of a juvenile. The internal investigation must be conducted in accordance with the policies and procedures of the department, program, or facility.

(c) Juvenile Board Responsibilities.

If the chief administrative officer is the person alleged to have abused, neglected, or exploited a juvenile and the chief administrative officer is the highest ranking department, program, or facility official, the juvenile board must:

(1) conduct the internal investigation; or

(2) appoint an individual to conduct the internal investigation who is not one of the following:

(A) the person alleged to have abused, neglected, or exploited the juvenile(s);

(B) a subordinate of the person alleged to have abused, neglected, or exploited the juvenile(s); or

(C) a law enforcement officer currently acting in the capacity as a criminal investigator for the alleged abuse, neglect, or exploitation or the death of a juvenile.

(d) Initiation of Investigation.

The internal investigation must be initiated immediately upon the chief administrative officer or designee gaining knowledge of an allegation of abuse, neglect, or exploitation or the death of a juvenile. However, the initiation of the internal investigation will be postponed if:

(1) directed by law enforcement;

(2) requested by TJJD; or

(3) the integrity of potential evidence could be compromised.

(e) Time Frame for Internal Investigation.

The internal investigation must be completed within 30 business days after the initial report to TJJD. TJJD may extend this time frame upon request. TJJD may require submission of all information compiled to date or a statement of the status of the investigation when determining whether or not to grant an extension or after granting an extension.

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(f) Written and Electronically Recorded Statements.

During the internal investigation, diligent efforts must be made to obtain written or electronically recorded oral statements from all persons with direct knowledge of the alleged incident.

§358.420 Reassignment or Administrative Leave During the Internal Investigation

- (a) Upon gaining knowledge of an allegation of abuse, neglect, or exploitation, and until the finding of the internal investigation is determined, the chief administrative officer or designee must immediately place any person alleged to have abused, neglected, or exploited a juvenile on administrative leave or reassign the person to a position having no contact with the alleged victim, relatives of the alleged victim, or other juveniles.
- (b) If, during the internal investigation, the subject of investigation resigns or is terminated from employment, TJJD must be notified no later than the second business day after the resignation or termination.
- (c) If a subject of investigation obtains employment in another jurisdiction before the disposition of the internal investigation has been finalized, the person may not be placed in a position having any contact with any juveniles until the disposition of the internal investigation is finalized in the county of previous employment.

§358.440 Cooperation with TJJD Investigation

- (a) The juvenile board, chief administrative officer, or designee must fully and promptly cooperate with a TJJD investigation of an allegation of abuse, neglect, or exploitation or the death of a juvenile by providing all evidence requested by TJJD in the format requested.
- (b) All persons must fully cooperate with any investigation of an allegation of abuse, neglect, or exploitation or the death of a juvenile.
- (c) The juvenile board, chief administrative officer, or designee must make a diligent effort to identify and make available for questioning all persons with knowledge of an allegation of abuse, neglect, or exploitation or the death of a juvenile which is the subject of a TJJD investigation.

§358.460 Corrective Measures

At the conclusion of the internal investigation, the governing board, juvenile board, chief administrative officer, or designee must take appropriate corrective measures, if warranted, that may include:

- (1) a review of the policies and procedures pertinent to the alleged incident;
- (2) revision of any policies or procedures as needed;
- (3) administrative disciplinary action or appropriate personnel actions against all persons found to have abused, neglected, or exploited a juvenile; and
- (4) the provision of additional training for all appropriate persons to ensure the safety of the juveniles, employees, and others.

§358.500 Internal Investigation Report

An internal investigation report must be completed at the conclusion of each internal investigation resulting from an allegation of abuse, neglect, or exploitation or the death of a juvenile.

§358.520 Required Components of an Internal Investigation Report

The internal investigation report must include:

- (1) the date the internal investigation was initiated;

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- (2) the date the internal investigation was completed;
- (3) the date the alleged victim's parent, guardian, or custodian was notified of the allegation, or documentation that diligent efforts to provide the notification were made;
- (4) a summary of the original allegation;
- (5) relevant policies and procedures related to the incident;
- (6) a summary or listing of the steps taken during the internal investigation;
- (7) a written summary of the content of all oral interviews conducted;
- (8) a listing of all evidence collected during the internal investigation, including all audio and/or video recordings, polygraph examinations, etc.;
- (9) relevant findings of the investigation that support the disposition;
- (10) One of the following dispositions:
 - (A) founded;
 - (B) unfounded; or
 - (C) inconclusive;
- (11) the administrative disciplinary action or corrective measures taken to date, if applicable (e.g., termination, suspension, retrained, returned to duty, or none);
- (12) the date the internal investigation report was completed;
- (13) the names of all persons who participated in conducting the internal investigation; and
- (14) the name and signature of the person who submitted the internal investigation report.

§358.540 Submission of Internal Investigation Report

- (a) A copy of the internal investigation report must be submitted to TJJD within five calendar days following its completion.
- (b) The following documentation collected during the internal investigation must be submitted to TJJD with the internal investigation report:
 - (1) written statements;
 - (2) relevant medical documentation;
 - (3) training records, if applicable; and
 - (4) any other documentation used to reach the disposition of the internal investigation.

§358.600 Serious Incidents

(a) Duty to Report.

An employee, volunteer, or other individual working under the auspices of a facility or program must report a serious incident to TJJD if he/she:

- (1) witnesses, learns of, or receives an oral or written statement from a juvenile or other person with knowledge of a serious incident; or
- (2) has a reasonable belief that a serious incident has occurred.

(b) Time Frame for Reporting.

A report of a serious incident must be made within 24 hours from the time a person gains knowledge of or has a reasonable belief that the serious incident occurred.

(c) Methods for Reporting Serious Incidents.

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- (1) The report may be made by phone or by faxing or e-mailing a completed Incident Report Form to TJJJ.
- (2) If the report is made by phone, a completed Incident Report Form must be submitted to TJJJ within 24 hours after the phone report.

§358.620 Medical Documentation for Serious Incidents

A treatment discharge form or other medical documentation that contains evidence of medical treatment pertinent to the reported incident must be submitted to TJJJ within 24 hours after receipt by the department, program, or facility.

§358.300 Serious Incidents

- ~~[(a) Duty to Report. Any person who witnesses, learns of, receives an oral or written statement from a juvenile or other person with knowledge of or who has a reasonable belief as to the occurrence of a serious incident involving a juvenile shall report to the Commission.]~~
- ~~[(b) Time to Report. A report of a serious incident under subsection (a) of this section shall be made within 24 hours from the time a person gains knowledge of or suspects the serious incident occurred.]~~
- ~~[(c) Methods of Reporting Serious Incidents.]~~
 - ~~[(1) The report shall be made by phone, or by faxing or e-mailing a completed Incident Report Form to the Commission.]~~
 - ~~[(2) If the report is made by phone, a completed Incident Report Form shall be subsequently submitted to the Commission within 24 hours of the phone report.]~~

§358.320 Medical Documentation for Serious Incidents

~~[A treatment discharge form or other medical documentation that contains evidence of medical treatment pertinent to the reported incident shall be submitted to the Commission within 24 hours of receipt.]~~

§358.400 Abuse, Neglect and Exploitation

- ~~[(a) Duty to Report. Any person who witnesses, learns of, receives an oral or written statement from an alleged victim or other person with knowledge of or who has a reasonable belief as to the occurrence of alleged abuse, neglect or exploitation involving a juvenile shall report to the Commission and local law enforcement.]~~
- ~~[(b) Non-Delegation of Duty to Report. In accordance with Texas Family Code §261.101, the duty to report cannot be delegated to another person.]~~
- ~~[(c) Time to Report. A report of alleged abuse, neglect or exploitation under subsection (a) of this section, other than death and allegations involving serious physical abuse or sexual abuse, shall be made within 24 hours from the time a person gains knowledge of or suspects the alleged abuse, neglect or exploitation.]~~
- ~~[(d) Methods for Reporting Abuse, Neglect and Exploitation.]~~
 - ~~[(1) The report shall be made by phone, or by faxing or e-mailing a completed Incident Report Form to the Commission.]~~
 - ~~[(2) If the report is made by phone, a completed Incident Report Form shall be subsequently submitted to the Commission within 24 hours of the phone report.]~~

§358.420 Allegations Occurring Outside the Juvenile System

~~[Any person who witnesses, learns of, receives an oral or written statement from an alleged victim or other person with knowledge or who has a reasonable belief as to the occurrence of alleged abuse, neglect or~~

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exploitation involving a juvenile, but that is not alleged to involve an employee, intern, volunteer, contractor or service provider of a department, program or facility, shall be reported to law enforcement or to the appropriate governmental unit as required in Texas Family Code Chapter 261.]

[§358.440 — Reporting of Allegations by Juveniles]

[(a) — Right to Report. Juveniles in a facility shall have the right to report to the Commission alleged abuse, neglect and exploitation, including death.]

[(1) — Juveniles shall be advised in writing during orientation into the facility of their right to report allegations under this subsection; and]

[(2) — Juveniles shall be advised in writing during orientation into the facility of the Commission's toll-free number available for reporting allegations under this subsection.]

[(b) — Policy and Procedure. Departments, programs and facilities shall have written policies and procedures that address a juvenile's reasonable, free and confidential access to the Commission for reporting allegations under subsection (a) of this section.]

[(c) — Access to the Commission. Upon the request of a juvenile, staff shall facilitate the juvenile's unimpeded access to the Commission to report allegations under subsection (a) of this section.]

[§358.460 — Parental Notification]

[(a) — **Notification.**]

[Notification, or diligent efforts to notify, shall be made to the parents, guardians and custodians of a juvenile who has died or who is the alleged victim of alleged abuse, neglect or exploitation.]

[(b) — **Time of Notification.**]

[The notification, or the diligent efforts to make the notification under subsection (a) of this section, shall be made as soon as possible, but no later than 24 hours from the time a person gains knowledge of or suspects the alleged abuse, neglect, exploitation or death occurred.]

[(c) — **Method of Notification.**]

[The notification under subsection (a) of this section shall be made by phone, in writing or in person by the administrator or designee.]

[(d) — **Documentation of Notification.**]

[The notification, or the diligent efforts to make the notification under subsection (a) of this section, shall be documented on the Commission's Incident Report Form or in the internal investigation report.]

[§358.480 — Signage]

[(a) — Departments, programs and facilities shall prominently display signage provided by the Commission regarding a zero-tolerance policy concerning abuse of juveniles.]

[(b) — Signage under subsection (a) of this section shall be posted in all of the following places:]

[(1) — Lobby or visitation areas of the department, program or facility to which the public has access;]

[(2) — Youth housing and common areas;]

[(3) — Common medical treatment areas;]

[(4) — Common educational areas; and]

[(5) — Other common areas.]

[(c) — Signage under subsection (a) of this section shall be posted in both English and Spanish.]

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~~§358.500—Serious Physical Abuse and Sexual Abuse~~

~~[(a)—Duty to Report.]~~

~~[Any person who witnesses, learns of, receives an oral or written statement from an alleged victim or other person with knowledge or who has a reasonable belief as to the occurrence of alleged serious physical abuse or sexual abuse involving a juvenile shall report to the Commission and local law enforcement.]~~

~~[(b)—Time to Report.]~~

~~[(1)—A report of alleged serious physical abuse or sexual abuse under subsection (a) of this section shall be made to local law enforcement immediately, but no later than one (1) hour from the time a person gains knowledge of or suspects the alleged serious physical abuse or sexual abuse; and]~~

~~[(2)—A report of alleged serious physical abuse or sexual abuse under subsection (a) of this section shall be made to the Commission immediately, but no later than four (4) hours from the time a person gains knowledge of or suspects the alleged serious physical abuse or sexual abuse.]~~

~~[(c)—Methods for Reporting Serious Physical Abuse and Sexual Abuse.]~~

~~[(1)—The initial report shall be made by phone to law enforcement;]~~

~~[(2)—The initial report shall be made by phone to the Commission using the toll-free number as designated by the Commission; and]~~

~~[(3)—Within 24 hours of the report by phone of alleged serious physical abuse or sexual abuse, the completed Incident Report Form shall be submitted to the Commission by fax or e-mail.]~~

~~§358.600—Death~~

~~[(a)—Duty to Report.]~~

~~[The administrator or designee shall report to the Commission and local law enforcement the death of a juvenile that:]~~

~~[(1)—Occurs on the premises of a department, program, facility; or]~~

~~[(2)—Emanates from an illness, incident or injury that occurred, was discovered or reported on the premises of a department, program or facility; or]~~

~~[(3)—Occurs while in the presence of a department, program or facility employee, intern, volunteer, contractor or service provider, regardless of the location.]~~

~~[(b)—Time to Report.]~~

~~[(1)—A report of a death shall be made to local law enforcement immediately, but no later than one (1) hour of the discovery or notification of the death; and]~~

~~[(2)—A report of a death shall be made to the Commission immediately, but no later than four (4) hours from the discovery or notification of the death.]~~

~~[(c)—Methods for Reporting Death.]~~

~~[(1)—The initial report shall be made by phone to law enforcement;]~~

~~[(2)—The initial report shall be made by phone to the Commission using the toll-free number as designated by the Commission; and]~~

~~[(3)—Within 24 hours of the report by phone of the death of a juvenile the completed Incident Report Form shall be submitted to the Commission by fax or e-mail.]~~

~~§358.620—Custodial Death Investigation in a Facility~~

~~[Upon the death of a juvenile residing in a facility, the administrator shall:]~~

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~~[(1) In accordance with Texas Code of Criminal Procedure Article 49.18(b) conduct an investigation of the death; and]~~

~~[(2) The investigation shall be conducted in accordance with §358.700 of this chapter.]~~

[§358.640—Custodial Death Investigation Report]

~~[Upon the conclusion of the internal investigation of the custodial death of a juvenile in a facility, the administrator shall:]~~

~~[(1) In accordance with Texas Code of Criminal Procedure Article 49.18(b), file a written report of the cause of death with the state Attorney General no later than 30 days after the juvenile's death;]~~

~~[(2) Submit a copy of the death investigation report in paragraph (1) of this section to the Commission within 10 calendar days of completion; and]~~

~~[(3) Complete an internal investigation report in accordance with §358.800 of this chapter.]~~

[§358.660—Custodial Death Investigation in a Department or Program]

~~[Upon the death of a juvenile in custody that occurs in a department or program as described under §358.600(a) of this chapter, the administrator or designee shall:]~~

~~[(1) Initiate an internal investigation in accordance with §358.700 of this chapter; and]~~

~~[(2) Upon the conclusion of the internal investigation, complete an internal investigation report in accordance with §358.800 of this chapter.]~~

[§358.680—Non-Custodial Death Investigation in a Department or Program]

~~[Upon the death of a juvenile not in custody that occurs in a department or Program as described under §358.600(a) of this chapter, the administrator or designee shall:]~~

~~[(1) Initiate an internal investigation in accordance with §358.700 of this chapter; and]~~

~~[(2) Upon the conclusion of the internal investigation, complete an internal investigation report in accordance with §358.800 of this chapter.]~~

[§358.700—Internal Investigation]

[(a) Investigation Requirement.]

~~[An internal investigation shall be conducted by a person qualified by experience or training to conduct a comprehensive investigation in cases in which abuse, neglect, exploitation or death is alleged to have occurred.]~~

[(b) Policy and Procedure.]

~~[Departments, programs and facilities shall have written policies and procedures for conducting internal investigations of alleged abuse, neglect, exploitation and death.]~~

[(c) Conducting the Investigation.]

~~[The internal investigation shall be conducted in accordance with the policies and procedures of the department, program or facility.]~~

[(d) Initiation of Investigation.]

~~[The internal investigation shall be initiated immediately upon the administrator or designee gaining knowledge of the alleged abuse, neglect, exploitation or death. However, the initiation of the internal investigation shall be postponed if:]~~

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~~[(1) Directed by law enforcement;]~~

~~[(2) Requested by the Commission; or]~~

~~[(3) Initiating the internal investigation compromises the integrity of a potential crime scene.]~~

~~[(e) Timeframe for Internal Investigation.]~~

~~[The internal investigation shall be completed within 30 business days of the initial report to the Commission. The Commission may extend this timeframe upon request. If an extension is granted, the Commission may request submission of all information compiled to date or a statement of the status of the investigation.]~~

~~§358.720 Reassignment or Administrative Leave During Internal Investigation~~

~~[(a) Upon gaining knowledge of alleged abuse, neglect or exploitation, and until the finding of the internal investigation is determined, the administrator or designee shall immediately place any person alleged to have abused, neglected or exploited a juvenile on administrative leave or reassign the person to a position having no contact with the alleged victim, relatives of the alleged victim, or other juveniles.]~~

~~[(b) If during the internal investigation the person(s) alleged to have abused, neglected or exploited a juvenile resigns or is terminated from employment, the Commission shall be notified no later than the second business day after the resignation or termination.]~~

~~[(c) If an individual under subsection (b) of this section obtains employment in another jurisdiction prior to the finding of the internal investigation being determined, the person(s) under investigation shall not be placed in a position having any contact with any juveniles until the disposition of the internal investigation is finalized in the county of previous employment.]~~

~~§358.740 Written and Electronically Recorded Statements~~

~~[During the internal investigation, diligent efforts shall be made to obtain written or electronically recorded oral statements from all persons with direct knowledge of the alleged incident.]~~

~~§358.760 Juvenile Board Responsibilities~~

~~[If the administrator is the person alleged to have abused, neglected or exploited a juvenile and the administrator is the highest ranking department, program or facility official, the juvenile board shall:]~~

~~[(1) Conduct the internal investigation in accordance with §358.700 of this chapter; or]~~

~~[(2) Appoint an individual to conduct the internal investigation in accordance with §358.700 of this chapter who is not one of the following:]~~

~~[(A) The person alleged to have abused, neglected or exploited a juvenile;]~~

~~[(B) A subordinate of the person alleged to have abused, neglected or exploited a juvenile; or]~~

~~[(C) A law enforcement officer currently acting in the capacity as a criminal investigator for the alleged abuse, neglect, exploitation or death of a juvenile.]~~

~~§358.780 Corrective Measures~~

~~[At the conclusion of the internal investigation, the governing board, the juvenile board, administrator or designee shall take appropriate corrective measures, if warranted, that may include, but are not limited to:]~~

~~[(1) A review of the policies and procedures pertinent to the alleged incident;]~~

~~[(2) Revision or modification of any policies or procedures as needed;]~~

~~[(3) Administrative disciplinary action or appropriate personnel actions against all persons found to have abused, neglected or exploited a juvenile; and]~~

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~~[(4) The provision of additional training for all appropriate persons to ensure the safety of the juveniles, employees, interns, volunteers, contractors and service providers.]~~

~~§358.800—Internal Investigation Report~~

~~[An internal investigation report shall be completed at the conclusion of all internal investigations resulting from alleged abuse, neglect, exploitation or death of a juvenile.]~~

~~§358.820—Internal Investigation Report Components~~

~~[The internal investigation report shall include:]~~

- ~~[(1) The date the internal investigation was initiated;]~~
- ~~[(2) The date the internal investigation was completed;]~~
- ~~[(3) The date the alleged victim's parent, guardian or custodian was notified of the allegation, or documentation that diligent efforts to provide the notification were made;]~~
- ~~[(4) A summary of the original allegation;]~~
- ~~[(5) Relevant policies and procedures related to the incident;]~~
- ~~[(6) A summary or listing of the steps taken during the internal investigation;]~~
- ~~[(7) A written summary of the content of all oral interviews conducted;]~~
- ~~[(8) A listing of all evidence collected during the internal investigation, including all audio and/or video recordings, polygraph examinations, etc.];]~~
- ~~[(9) Relevant findings of the investigation that support the disposition;]~~
- ~~[(10) The assigned disposition of the internal investigation:]~~
 - ~~[(A) Founded;]~~
 - ~~[(B) Unfounded; or]~~
 - ~~[(C) Inconclusive.]~~
- ~~[(11) The administrative disciplinary action or corrective measures taken to date, if applicable (e.g., termination, suspension, retrained, returned to duty or none, etc.);]~~
- ~~[(12) The date the internal investigation report was completed;]~~
- ~~[(13) The names of all persons who participated in conducting the internal investigation; and]~~
- ~~[(14) The name and signature of the person who submitted the internal investigation report.]~~

~~§358.840—Submission of Internal Investigation Report~~

- ~~[(a) A copy of the internal investigation report shall be submitted to the Commission within five calendar days following its completion.]~~
- ~~[(b) The following documentation collected during the internal investigation shall be submitted to the Commission with the internal investigation report:]~~
 - ~~[(1) Written statements;]~~
 - ~~[(2) Relevant medical documentation, if the release is authorized by law;]~~
 - ~~[(3) Training records, if applicable; and]~~

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~~[(4) Any other documentation used to reach the disposition of the internal investigation.]~~

[§358.900—Cooperation with Commission Investigation]

~~[(a) The juvenile board, administrator or designee shall fully and promptly cooperate with a Commission investigation of alleged abuse, neglect, exploitation or death of a juvenile by providing all evidence requested by the Commission in the format requested.]~~

~~[(b) All persons shall fully cooperate with any investigation of alleged abuse, neglect, exploitation or death of a juvenile.]~~

~~[(c) The juvenile board, administrator or designee shall make a diligent effort to identify and make available for questioning all persons with knowledge of alleged abuse, neglect, exploitation or death which is the subject of a Commission investigation.]~~

[§358.920—Redaction of Records]

~~[(a) **Request for Redaction.**]~~

~~[The subject of investigation may request that his or her identifying information be redacted from the Commission's records if:]~~

~~[(1) The Commission's final disposition of the case in which the subject of investigation was involved is "Ruled Out;"]~~

~~[(2) The subject of investigation submits the request for redaction in writing to the Commission's Legal Division;]~~

~~[(3) The subject of investigation submits the request for redaction within 30 calendar days of the last day of the corresponding limitation period described in subsection (b) of this section;]~~

~~[(4) The subject of investigation has been continuously employed within the Texas juvenile justice system for the time period as specified in subsection (b) of this section; and]~~

~~[(5) The subject of investigation has not been named as the subject of investigation in a subsequent case of abuse, neglect or exploitation.]~~

~~[(b) **Limitation Periods.**]~~

~~[A request for redaction may only be made if all requirements of subsection (a) of this section are met and if:]~~

~~[(1) Two years has expired from the date of the Commission's final disposition of "Ruled Out," and if, notwithstanding a violation of the Texas Administrative Code, the investigation of the alleged abuse, neglect or exploitation did not produce evidence of a violation of laws of this state or of the United States;]~~

~~[(2) Three years has expired from the date of the Commission's final disposition of "Ruled Out", if the allegation does not meet the elements of paragraph (1) or (3) of this subsection; or]~~

~~[(3) Five years has expired from the date of the Commission's final disposition of "Ruled Out," if the allegation involved serious physical abuse as defined in §358.100(22) of this chapter or sexual conduct as defined in §358.100(23)–(25) of this chapter.]~~



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO SUBMIT A RULE REVIEW NOTICE AND PROPOSED REVISIONS FOR 37 TAC CHAPTER 358, RELATING TO IDENTIFYING, REPORTING, AND INVESTIGATING ABUSE, NEGLECT, EXPLOITATION, DEATH, AND SERIOUS INCIDENTS, IN THE TEXAS REGISTER FOR A 30-DAY PUBLIC COMMENT PERIOD

On this 29th day of May 2015, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, Administrative Investigations staff has completed its review of 37 TAC Chapter 358; and

WHEREAS, the staff has recommended revisions and repeals to the existing rules and the adoption of new rules;

WHEREAS, Texas Government Code §2001.023 and §2001.029 require a state agency to give at least 30 days' notice of its intention to adopt a rule and to allow all interested persons a reasonable opportunity to submit data, views, or arguments orally or in writing;

NOW, THEREFORE BE IT RESOLVED THAT for 37 TAC Chapter 358, the Board grants approval to publish the proposed revisions and a proposal to complete the rule review in the *Texas Register* for a 30-day comment period.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJD Board Members

From: David Reilly, Executive Director

Teresa Stroud, Senior Director of State Programs and Facilities

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL TO PUBLISH PROPOSED REVISIONS AND RULE REVIEW WITHIN 37 TAC §§380.9701, 380.9707-380.9710, 380.9715-380.9727, AND 380.9739-380.9747, RELATING TO SECURITY AND CONTROL, IN THE *TEXAS REGISTER* FOR A 30-DAY PUBLIC COMMENT PERIOD

Date: May 13, 2015

As part of the agency's rule review process, the State Programs and Facilities Division has completed its review of the assigned rules from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter F (Security and Control).

As a result of this review, the staff recommends the following:

- The repeal of **§380.9701** (Facility Security) and **§380.9727** (Riot Control); and
- Revise all other assigned rules.

Attached to this memo please find:

- A table summarizing the contents and proposed changes for the rules assigned to the State Programs and Facilities Division.
- The text of the rules to be revised.
- A resolution for board action.

Staff requests the board's approval to publish these proposed rule revisions and a rule review notice in the *Texas Register* for a 30-day comment period.

Texas Administrative Code Rule Review
37 TAC Chapter 380, Subchapter F – Security and Control
(Rules assigned to State Programs and Facilities Division)

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9701	Facility Security	Establishes minimum safety and security requirements for residential TJJD facilities.	No	<ul style="list-style-type: none"> • Repealed. The information from this rule can be found in other TJJD rules and procedures. 	Ready for board review
380.9709	Youth Search	Establishes requirements for searching TJJD youth, their property, and their rooms to detect and deter possession of contraband.	Yes	<ul style="list-style-type: none"> • Expanded the rule to apply to all residential facilities operated by TJJD, not just secure facilities. • Added definitions for the terms <i>gender</i>, <i>intersex</i>, and <i>transgender</i>. • Added a requirement for pat-down searches and strip searches to be conducted by a staff member who is the same gender as the youth being searched, except in exigent circumstances. If the youth to be searched self-identifies as transgender or intersex, the youth is asked whether he or she prefers to be searched by a male or a female staff member. TJJD honors this choice whenever possible, limited only by consideration of facility and staff safety and security. • Deleted the step-by-step processes for conducting pat-down searches and strip searches. These processes will be addressed in TJJD’s internal procedures. 	Ready for board review
380.9710	Entry Search	Establishes requirements for conducting searches at the entry point of TJJD facilities to prevent the introduction of items that are prohibited.	Yes	<ul style="list-style-type: none"> • Expanded the rule to apply to all residential facilities operated by TJJD, not just secure facilities. • Added a requirement for pat-down entry searches to be conducted by a staff member who is the same gender as the person being searched, whenever possible. If the person to be searched self-identifies as transgender or intersex, the person is asked whether he or she prefers to be searched by a male or a female staff member. TJJD honors this choice whenever possible, limited only by consideration of facility and staff safety and security. • Clarified that the TJJD Office of Inspector General is the law enforcement agency to which TJJD will turn over seized items when appropriate. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
				<ul style="list-style-type: none"> Deleted the list of prohibited items. Clarified that a list of all prohibited items is posted at all security search points in secure facilities and halfway houses. Deleted the step-by-step process for conducting pat-down searches. This process will be addressed in TJJD's internal procedures. 	
380.9715	Testing for Alcohol and Other Drugs	Establishes a testing program designed to detect and deter the use of alcohol and other drugs by youth committed to TJJD.	Yes	<ul style="list-style-type: none"> Clarified that the rule applies only to facilities operated by TJJD, and not to contract facilities. 	Ready for board review
380.9723	Use of Force	Establishes the procedures for staff intervention when youth behavior threatens safety and order.	Yes	<ul style="list-style-type: none"> Added a provision stating that only the facility administrator, staff having authority to act as the facility administrator, or a higher-level authority in the facility administrator's chain of supervision may declare that a particular situation is a riot, consistent with the definition of a riot. Added definitions for the terms <i>barricade</i> and <i>riot</i>. Clarified that a planned team restraint may be used when a youth is in a security vehicle (in addition to when a youth is in a locked or barricaded room). 	Ready for board review
380.9727	Riot Control	Defines the term <i>riot</i> . Establishes measures that may be taken by staff as necessary to control a riot.	No	<ul style="list-style-type: none"> Repealed. Consolidated certain information from this rule into §380.9723. 	Ready for board review
380.9739	Isolation	Allows for short-term confinement in a locked room of a youth who meets criteria.	Yes	<ul style="list-style-type: none"> Clarified that that confinement addressed in this rule is not a disciplinary consequence. Expanded the rule to apply to all residential facilities operated by TJJD, not just secure facilities. Added a prohibition on placing a youth in isolation if he/she is on suicide alert. Removed all provisions concerning suicide alert. 	Ready for board review

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
				<ul style="list-style-type: none"> • Added a requirement that isolation must be in individual youth sleeping quarters or a room specifically designated for isolation. If the room is not individual sleeping quarters, the room must: <ul style="list-style-type: none"> ○ be heated, cooled, and ventilated; ○ have a minimum ceiling height of 7.5 feet when measured from the floor to the lowest point of the ceiling, and ○ be equipped with a viewing window that allows staff to observe the youth. • Deleted the requirement that addressed providing meals upon release from isolation. Meals are provided in the same manner as for any other youth. 	
380.9740	Security Program	Establishes criteria and requirements for temporarily removing youth from the general campus population when they engage in dangerous or disruptive behavior.		<ul style="list-style-type: none"> • Deleted the requirement to include at least four hours outside of the locked room as part of the daily schedule in the Security Program. The rule will now require the schedule to include time out of the locked room <i>as behavior permits</i>. • Deleted the requirement for staff to enter a youth’s room or remove a youth from his/her room to qualify as one of the required daily staff visits. Visits may now occur while the door remains locked. • Clarified that youth in the Security Program are offered an opportunity to discuss the problematic behavior with a case manager (rather than providing the youth with an intervention plan that addresses the problematic behavior). • Deleted “ability to earn privileges” from the list of required services provided to youth in the Security Program. • Clarified that youth in the Security Program are offered the amount of instructional minutes required by the campus master school schedule (rather than 5 ½ hours each instructional day). 	

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
				<ul style="list-style-type: none"> • Clarified that the education services provided to youth in the Security Program must include access to limited-English proficient services for English language learners. • Clarified that 15-minute checks are required <i>unless more frequent checks are required by the Suicide Alert rule</i>. • Clarified that the Security Program may be operated in a building other than the security unit, if specifically allowed by other TJJ rules (e.g., Phoenix Program unit). 	
380.9745	Protective Custody for Youth at Risk of Self-Harm	Establishes a protective custody program at high restriction facilities for the temporary placement of youth who are at risk of serious harm to themselves.	Yes	<ul style="list-style-type: none"> • Made non-substantive clean-ups and minor clarifications. 	Ready for board review
380.9747	Self-Referral to Security Units	Establishes a program at high restriction facilities for the temporary placement of youth who request to be placed in the security unit.		<ul style="list-style-type: none"> • Added “space limitations in the security unit” as a reason self-referrals may be temporarily disallowed by the facility administrator. • Deleted the requirement to develop a written supervision and reintegration plan within one workday for every youth who self-refers to the security unit. Instead, the rule will now require staff to develop the plan if any of the following apply: <ul style="list-style-type: none"> ○ the youth claims a need for protection from harm; ○ the staff reasonably suspects the youth feels a need to be protected from harm; or ○ the youth has remained in the security unit on self-referral for 120 hours. • Deleted the requirement for the security dorm supervisor to speak with each youth in the security unit on a self-referral each day. Instead, the security dorm supervisor must speak with each youth at least once every 72 hours. • Deleted “ability to earn privileges” from the list of required services provided to youth self-refer to the security unit. 	

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
				<ul style="list-style-type: none"> • Clarified that the daily visits with youth who self-refer to the security unit may be completed by a case manager <i>or other staff member designated by the facility administrator.</i> • Clarified that youth who self-refer to the security unit are offered the amount of instructional minutes required by the campus master school schedule (rather than 5 ½ hours each instructional day). • Clarified that the education services provided to youth who self-refer to the security unit must include access to limited-English proficient services for English language learners. • Clarified that access to shower and hygiene routine is provided every 24 hours, <i>as the youth's behavior permits.</i> • Clarified that one hour of large-muscle exercise will be provided in an enclosed outdoor recreation area <i>as the youth's behavior and weather permit.</i> 	

Chapter: Rules for State-Operated Programs and Facilities
Subchapter: Security and Control
Rule: Facility Security

Effective Date: 6/16/05, T-73
Page: 1 of 1
Replaces: GAP.97.1
Dated: 12/18/03, T-63

ACA Standard(s): 4-JCF-2A-01, 2A-28

~~[(a) Purpose.]~~

~~[The purpose of this rule is to establish minimum safety and security requirements for Texas Youth Commission (TYC) operated facilities where youth reside.]~~

~~[(b) Applicability.]~~

~~[This rule does not specify fire prevention or facility maintenance requirements. See the agency Risk Management manual.]~~

~~[(c) Weapons are not permitted in any TYC facility or on any facility grounds except as set forth in (GAP) §81.31 of this title (relating to Weapons and Concealed Handguns). Weapons are permitted in the personal residence of staff who live adjacent to the campus.]~~

~~[(d) Chemical agents may be used only to the extent necessary to ensure the safety and welfare of youth and staff in accordance with (GAP) §97.23 of this title (relating to Physical Restraint).]~~

~~[(e) Under no circumstances shall a stimulant, tranquilizer or psychotropic drug be administered for the purpose of program management and control, or for experimentation and research.]~~

~~[(f) Facilities shall ensure access to the necessary equipment to maintain essential light and a system of communication within the facility and between the facility and the community for use in an emergency.]~~

REPEALED

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: <u>9/4/10, T-105</u>
Subchapter: Security and Control	
Rule: Youth Search	Page: 1 of 4
ACA: 4-JCF-2A-20, 2A-22, 4C-63	Replaces: <u>GAP.380.9709,</u> <u>9/1/1011/29/04, T-68</u>

5-11-15 Draft

RULE

(a) **Purpose.**

This rule establishes [The purpose of this rule is to establish] requirements for searching Texas Juvenile Justice Department (TJJD) [Youth Commission (TYC)] youth, their property, and their [youth] rooms [in order] to detect and deter contraband and to promote safety.

(b) **Applicability.**

This rule applies to residential facilities operated by TJJD. [Requirements in this rule are consistent with §93.1 of this title (relating to Basic Youth Rights).]

(c) **Definitions.** [Explanation of Terms Used.]

(1) **Gender**--a socially constructed concept, classifying behavior as either "masculine" or "feminine," unrelated to one's external genitalia.

(2) **Intersex**--a condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and/or an endocrine system that does not fit typical definitions of male or female.

(3) **Probable Cause**--a determination based on facts and circumstances that would cause a reasonably prudent person to believe it is more likely than not that the person to be searched has a prohibited item.

(4)[(4)] **Reasonable Belief** --[-] a belief based on facts or circumstances sufficient to cause a reasonable person to believe that the person to be searched has prohibited items.

~~(2) **Probable Cause**—a determination based on facts and circumstances that would cause a reasonably prudent person to believe it is more likely than not that the person to be searched has a prohibited item.~~

(5) **Transgender**--a person whose gender identity differs from his/her birth sex.

(d) **General Provisions.**

(1) TJJD staff may conduct a search of a TJJD youth or a youth's room for the purpose of finding and seizing contraband.

(2) When contraband is seized from a youth, the search and disposition of items must be documented. See §380.9711 of this title.

(3) Areas where youth are housed or served may be subject to be searched by the use of the canine (K-9) teams. See §380.9713 of this title for more information on the use of K-9 teams.

(4) If a youth self-identifies as transgender or intersex, the youth is consulted on whether he or she prefers a male or female staff member to conduct pat-down searches and strip searches. TJJD honors this preference, limited only by consideration of facility and staff safety and security.

~~[(d) Designated staff may conduct a search of a TYC youth or a youth's room in a residential facility other than the youth's home, for the purpose of finding and seizing contraband.]~~

~~[(e) Areas where youth are housed or served may be subject to be searched by the use of the canine (K-9) teams. See §97.13 of this title (relating to Use of Canine (K-9) Teams).]~~

~~(e)[(f)]~~ **Room Searches and Pat-Down [Pat-Down] Searches.**

Room searches and pat-down [pat-down] searches ~~[to detect and deter possession of contraband or to protect persons]~~ may be conducted with or without probable cause ~~[so long as searches are conducted in a reasonable manner].~~

(1) Room and pat-down [pat-down] searches will be conducted in accordance with the following rules.

(A) Room and pat-down [pat-down] searches may be unannounced and irregularly timed.

(B) Room and pat-down [pat-down] searches ~~must [are to]~~ be conducted ~~routinely [at least twice a month, or as necessary]~~ to control possession by youth of contraband [unauthorized items] or to recover missing or stolen property.

(C) Two trained staff members must be in attendance for searches. ~~[For pat-down searches, the staff member conducting the search must be of the same sex as the youth.]~~

~~(D)~~ The staff conducting a pat-down search must be of the same gender as the youth being searched, except in exigent circumstances as defined in §380.9337 of this title.

~~(E)[(D)]~~ Room and pat-down [pat-down] searches ~~must [are to]~~ be conducted in a professional manner. Staff ~~must [shall]~~ not make jokes, conversation, or comments while conducting searches.

~~(F)[(E)]~~ Room and pat-down [routine pat-down] searches ~~are [will be]~~ documented ~~[on the Search Log form].~~

~~[(F) The presence of the youth whose property is being searched is preferable for all room searches.]~~

~~[(2) Pat Down Searches.]~~

~~[(A) Pat down searches are conducted over youth's clothes.]~~

~~[(B) Designated staff must inform youth a pat-down search will be conducted on him/her.]~~

~~[(C) Staff shall conduct pat-down searches according to the following method:]~~

~~[(i) staff instructs youth to pull pockets out and remove all objects from pockets;]~~

~~[(ii) staff instructs youth to remove coat and any other heavy clothing;]~~

~~[(iii) staff stands behind the youth and has youth stand with feet apart and arms extended;]~~

~~[(iv) staff instructs youth to spread fingers and rotate hands;]~~

~~[(v) staff instructs youth to slightly tilt head backward and open mouth to visually check youth's mouth, under tongue and cheeks;]~~

~~[(vi) staff checks youth's shirt/sweater by squeezing along collar, shoulders, along arms to wrists, under arms (unroll sleeves); feel all seams;]~~

- ~~[(vii) — staff pats down upper body such as neck, upper chest, stomach to belt; sides along ribs; back and neck to belt;]~~
- ~~[(viii) — staff instructs female youth to unhook bra (or for sports bra, to pull front of bra away from chest), without removing shirt or bra; staff shakes bra by lifting bra straps (over clothes), checks straps and bands (over clothes);]~~
- ~~[(ix) — staff pats down lower torso and rear pocket area; lower abdomen (stomach), front pockets and in-seam area;]~~
- ~~[(x) — staff pats down pant legs (one leg at a time), cuffs and tops of shoes;]~~
- ~~[(xi) — staff instructs youth to remove shoes and socks. Staff checks shoes and heels;]~~
- ~~[(xii) — staff inspects all objects from pockets, coats or any heavy clothing before returning to youth.]~~

~~(f)(g)~~ **Strip Searches.**

- (1) Strip searches must [will] be based on a reasonable belief that the youth has custody or control of contraband ~~[or other prohibited material]~~. However, reasonable [Reasonable] belief is not required when a youth returns from contact with the general public or from outside the facility or from visitation.
- (2) Strip searches must [shall]:
 - (A) be conducted in a private setting ~~[that aids in the avoidance of unnecessary force, embarrassment, or indignity to the youth];~~
 - (B) be conducted by two trained ~~[security]~~ staff members and who are [must be of] the same gender [sex] as the youth except in exigent circumstance as defined in §380.9337 of this title; ~~Law enforcement officers, detention workers, and duly designated agents of the court may assist TYC staff in such a search if necessary;~~
 - (C) be conducted in a professional manner. Staff must [shall] not make jokes, conversation, or comments while conducting the strip search; and[.]
 - (D) be documented ~~[on the Search Log form for routine strip search and non-routine strip searches will be documented on the Incident Report form].~~
- ~~[(3) — Trained staff shall conduct strip searches according to the following method:]~~
 - ~~[(A) — staff must inform youth a strip search will be conducted on him/her;]~~
 - ~~[(B) — staff shall not touch the youth during strip searches;]~~
 - ~~[(C) — staff instructs youth to pull pockets out and remove all objects from pockets;]~~
 - ~~[(D) — staff instructs youth to remove coat or any other heavy clothing;]~~
 - ~~[(E) — staff instructs youth to spread fingers and rotate hands;]~~
 - ~~[(F) — staff instructs youth to remove all clothing except underwear (one piece at a time), and the youth hands the clothing item (one piece at a time) to staff for search;]~~
 - ~~[(G) — staff checks collars, cuffs, waistbands, belt loops, pockets, seams, and linings by squeezing the items. Staff must check for rips or stitching and unroll socks, turn inside out if necessary;]~~
 - ~~[(H) — staff checks the shoes, heels, toes, and soles;]~~

- ~~[(I) — staff instructs youth to remove bands, clips, nets, etc. from hair;]~~
- ~~[(J) — staff instructs youth to run fingers through his/her hair, going downward, then backwards;]~~
- ~~[(K) — staff instructs youth to slightly tilt head backward and open mouth to visually check youth's mouth, under tongue and cheeks. Staff instructs youth to run a finger through the youth's mouth, around gums, cheeks, etc.;]~~
- ~~[(L) — staff checks behind and in the youth's ears;]~~
- ~~[(M) — staff instructs youth to tilt head back and looks into nose;]~~
- ~~[(N) — staff instructs the youth to spread arms and open hands — looks for punctures, other marks; checks under fingernails and between fingers; looks at all sides of hands and arms;]~~
- ~~[(O) — staff instructs female youth to remove bra/undershirt;]~~
- ~~[(P) — staff instructs youth to raise arms — looks at armpits and sides of upper body;]~~
- ~~[(Q) — staff instructs youth to remove underpants;]~~
- ~~[(R) — staff checks the lower stomach;]~~
- ~~[(S) — staff instructs male youth to lift penis and testicles for examination;]~~
- ~~[(T) — staff instructs youth to spread legs, squat, and cough;]~~
- ~~[(U) — staff checks seams/bands of underpants and returns to the youth;]~~
- ~~[(V) — staff checks each leg one at a time;]~~
- ~~[(W) — staff looks at soles of feet and has the youth shake his/her toes;]~~
- ~~[(X) — if the youth has a bandage, staff must check under the bandage; and]~~
- ~~[(Y) — staff must return the youth's undergarments as soon as possible.]~~

~~(g)~~~~(h)~~ **Physical Body Cavity Searches.**

- ~~(1) Physical body cavity searches may ~~[will]~~ only occur on **probable cause** that the youth possesses contraband ~~[or other prohibited material]~~ and with the authorization of the facility administrator ~~[superintendent].~~~~
- ~~(2) Physical body cavity searches must be ~~[are]~~ conducted by off-site medical personnel who are not part of the facility's health care staff.~~
- ~~(3) Physical body cavity searches refer to manual or instrument inspection of body cavities including the vagina or rectum. ~~[Physical body cavity searches shall take place in a private setting that aids in the avoidance of unnecessary force, embarrassment, or indignity to the youth.]~~~~
- ~~(4) Physical body cavity searches must ~~[shall]~~ be documented ~~[on the Incident Report form and the Daily Shift Log form].~~~~

~~[(i) — Searches of rooms, searches of youth being admitted to facilities, and searches of youth after visitation may be conducted routinely. At all times when unauthorized items are seized from a youth, the search and disposition of items shall be documented. Also see §97.11 of this title (relating to Control of Unauthorized Items Seized).]~~

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 11/8/05, T-75
Subchapter: Security and Control	
Rule: Entry Searches	Page: 1 of 3
ACA: 4-JCF-3A-19	Replaces: <u>GAP.380.9710, 11/8/05</u> <u>GAP.97.10, 5/16/05</u>

5-8-15 Draft

RULE

(a) **Purpose.**

~~This rule establishes requirements [The purpose of this rule is to establish rules] for conducting searches at the entry point of Texas Juvenile Justice Department (TJJD) [Youth Commission (TYC)] facilities to prevent the introduction of items that are prohibited [items].~~

(b) Applicability.

This rule applies to residential facilities operated by TJJD.

~~(c)[(b)] Each[Any] person entering a [secure] facility operated by TJJD is subject [may be asked to submit] to a search of his/her person, [er] vehicle, and [ef] any property he/she is bringing into the facility.~~

(d) Definitions.

~~[(c)—Explanation of Terms Used.]~~

~~[(1) **Reasonable Belief**—a belief based on facts or circumstances sufficient to cause a reasonable person to believe that the person to be searched has prohibited items.]~~

~~[(2) **Routine Search**—a search conducted at a scheduled time during which every person is searched at the entry point of TYC.]~~

~~(1)[(3)] **Random Search**--a search conducted at an unannounced time during which every person will be searched at the entry point of a TJJD facility [TYC].~~

~~(2) **Routine Search**--a search conducted at a scheduled time during which every person is searched at the entry point of a TJJD facility.~~

~~(3) For definitions of gender, intersex, reasonable belief, and transgender, see §380.9709 of this title.~~

(e)[(d)] Entry Searches.

(1) TJJD conducts [TYC will conduct] routine searches, random searches, or a search anytime there is a reasonable belief a person possesses an item that is prohibited [items].

(2) Entry searches may involve one or more of the following:

- (A) use of metal detectors (walk-through or wand);
- (B) use of trained detection dogs;
- (C) visual or touch inspection of property;
- (D) requiring pockets to be emptied;
- (E) removal and inspection of shoes; or
- (F) pat-down body search (outside the person's clothing).

(3) Entry searches must ~~[be conducted in a reasonable manner and]~~ use the least intrusive method possible as determined by the circumstances.

- (4) Whenever possible, considering facility and staff safety and security, pat-down searches conducted at the entry point are conducted by a staff member who is the same gender as the person being searched. If the person to be searched self-identifies as transgender or intersex, the person is asked whether he or she prefers to be searched by a male or a female staff member. TJJJD honors this choice whenever possible, limited only by consideration of facility and staff safety and security.
- (5)(e) Any person who refuses to be searched may be prohibited from entering the facility and may be subject to other administrative [administration] action, as appropriate.
- (6)(f) Any person who refuses to have his/her personal property searched will [may] be prohibited from taking the [such] property into the facility and may be subject to other administrative action, as appropriate.
- (7)(g) Any item that is_; or appears to be, a prohibited item and/or contraband as defined in §380.9107 of this title will not be allowed in a residential facility and may be seized.
- (8)(h) Seized items may be turned over to the TJJJD Office of Inspector General (OIG) [a-law enforcement agency] for identification or disposition.
- (9)(i) If personal property is seized, TJJJD determines [the agency will determine] within 24 hours (or the next business day if on a weekend or holiday), whether the item [item(s)] will be:
- (A) retained as evidence for an administrative investigation; _;
- (B) turned over to OIG [a-law enforcement agency] for disposition; _; or
- (C) returned to the person from whom the property was seized. [and will so notify such person.]
- (j) **Prohibited Items.** [The following items are prohibited in secure facilities except with specific permission from the facility administrator:]
- ~~[(1) Weapons (as defined in Section 46.01 of the Texas Penal Code) and personal defense items such as pepper spray. See (GAP) § 81.31 of this title (relating to Weapons and Concealed Handguns);]~~
- ~~[(2) Pornographic materials in any form;]~~
- ~~[(3) Tobacco products;]~~
- ~~[(4) Lighters or matches;]~~
- ~~[(5) Alcohol or illegal drugs (employees taking prescription or non-prescription medication(s) may bring in the amount needed during the work day and are responsible for its safekeeping);]~~
- ~~[(6) Metal nail files or nail clippers;]~~
- ~~[(7) Glass containers;]~~
- ~~[(8) Metal containers;]~~
- ~~[(9) Personal tools;]~~
- ~~[(10) Personal cellular phones;]~~
- ~~[(11) Cameras or video equipment;]~~
- ~~[(12) Contraband as defined in (GAP) §91.7 of this title (relating to Youth Personal Property); or]~~
- ~~[(13) Any other item perceived by searching staff to be dangerous. The item will be referred to the superintendent or designee for consideration.]~~
- (1)(k) A [The above] list of prohibited items and contraband is [will be] prominently posted at each security search point in secure facilities and halfway houses [entrance to a secure facility].
- (2)(l) Items on the prohibited list may be seized during entry searches.
- (3)(m) Individual facilities may not add items to the prohibited list. Requests to include additional items on the list must be made in writing to the division director over residential facilities [deputy executive director and include a justification for designating an item as prohibited. Any additions to the list will be applicable to all agency residential facilities].
- ~~[(n) Detection dogs will be used in a manner that preserves personal dignity.]~~

- ~~[(e) Pat down searches will be conducted in the following manner:]~~
- ~~[(1) Designated staff must inform the person a pat down will be conducted on him/her.]~~
 - ~~[(2) Two (2) designated staff must be in attendance for pat down searches. The staff that is conducting the pat down search must be of the same sex as the person being searched.]~~
 - ~~[(3) Pat down searches should be conducted in the entry area.]~~
 - ~~[(4) Staff instructs the person to pull his/her pockets out and remove all objects from pockets.]~~
 - ~~[(5) Staff instructs the person to remove his/her coat and any other heavy clothing.]~~
 - ~~[(6) Staff stands behind the person and has the person stand with feet apart and arms extended.]~~
 - ~~[(7) Staff instructs the person to spread fingers and rotate hands.]~~
 - ~~[(8) Staff checks the person's shirt/sweater by squeezing along collar, shoulders, along arms to wrists, under arms, and feel all seams.]~~
 - ~~[(9) Staff pats down upper body such as neck, upper chest, stomach to belt; sides along ribs; back and neck to belt.]~~
 - ~~[(10) Staff pats down lower torso — buttocks, rear and front pockets.]~~
 - ~~[(11) Staff pats down pant legs (one leg at a time), cuffs and tops of shoes.]~~
 - ~~[(12) Staff instructs the person to remove his/her shoes. Staff checks shoes and heels.]~~
 - ~~[(13) Staff inspects all objects from pockets, coats, or any heavy clothing before returning to the person.]~~
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Chapter: Rules for State-Operated Programs and Facilities Subchapter: Security and Control Rule: Testing for Alcohol and Other Drugs ACA: N/A	Effective Date: 9/16/12 Page: 1 of 2 Replaces: GAP.380.9715, 4/26/04 GAP.380.9715, 9/16/12
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4-13-15 Draft

(a) **Purpose.**

~~This rule establishes [The purpose of this rule is to establish]~~ a testing program designed to detect and deter the unauthorized or illegal use of alcohol or other drugs by youth committed to the Texas Juvenile Justice Department (TJJD).

(b) **Applicability.**

This rule applies to all youth:

- (1) assigned to residential facilities operated by TJJD ~~[or under contract with the Texas Juvenile Justice Department (TJJD)]~~; and
- (2) assigned to parole supervision under the jurisdiction of TJJD.

(c) **Definitions.**

- (1) **For-Cause Testing**--testing that is conducted due to evidence that reasonably suggests a youth or group of youth is using alcohol or drugs.
- (2) **Random Testing**--testing of youth identified through a random selection process without regard to any indicators of past or current use of drugs or alcohol.
- (3) **Routine Testing**--testing that is conducted:
 - (A) at regular intervals for youth who have a documented history of drug or alcohol use; or
 - (B) after a youth's participation in events or situations ~~that [which]~~ include access to or contact with the public or otherwise present an increased risk for drug/alcohol use.

(d) **General Provisions.**

- (1) Any youth may be tested for drug and/or alcohol use at any time.
- (2) Testing may be conducted for cause or on a random or routine basis.
- (3) Testing may be conducted:
 - (A) ~~as part of a substance abuse treatment program;~~
 - (B) ~~as part of an investigation regarding the presence of illegal drugs in a facility;~~ and
 - (C) ~~to assist in the daily management of youth in the rehabilitative process.~~
- (4) During orientation to TJJD, each youth ~~is [shall be]~~ given notice that:
 - (A) he/she is subject to random, routine, and for-cause alcohol and drug testing; and
 - (B) ~~the following are rule violations that will result in appropriate consequences as stated in §380.9503 and §380.9504 of this title;~~

- (i) ___ a positive result on an alcohol or drug test;[.]
 - (ii) ___ refusal to submit to an alcohol or drug test;[.]
 - (iii) ___ failure to provide a urine specimen;[.] and
 - (iv) ___ tampering with a urine sample [~~are serious rule violations that will result in appropriate consequences as specified in §380.9503 and §380.9504 of this title.~~]
- (5) Tests [~~All tests~~] for alcohol or other drugs are [~~will be~~] conducted, scored, and interpreted according to the instrument manufacturer's instructions.

For implementation procedures, see CMS.08.85.

DRAFT

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Security and Control Rule: Use of Force ACA: 4-JCF- 2A-16, 2A-17, 2A-27(M), 2A-29(M) Statute(s): Texas Hum. Res. Code §244.0075N/A	Effective Date: 4/1/14 Page: 1 of 7 Replaces: GAP.380.9723, 4/1/1411/1/11
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4-14-15 Draft

RULE

(a) Purpose.

This rule establishes the procedures for staff intervention when youth behavior threatens safety and order.

(b) Applicability.

- (1) This rule applies to all facilities, offices, and programs operated by the Texas Juvenile Justice Department (TJJD), unless specifically stated otherwise in this rule.
- (2) This rule does not apply to peace officers employed and commissioned by TJJD or by the TJJD Office of Inspector General.
- (3) This rule does not apply to the use of four-point mechanical restraints for medical or mental health purposes. See §380.9198 of this title.

(c) General Provisions.

- (1) Non-physical interventions are preferred and must be used to the extent practical to manage youth behavior.
- (2) TJJD authorizes its staff to use reasonable force as a last resort to maintain safety and order. Only staff who are trained in agency-approved techniques are authorized to use force.
- (3) The use of force as punishment or for convenience of staff is strictly prohibited.
- (4) Approved use of force techniques are those determined by TJJD to minimize risk of harm to youth and staff.
- (5) Staff must release youth from manual or mechanical restraint as soon as the purpose for the restraint has been achieved.
- (6) If a staff member observes a use of force in violation of policy, he/she must take action, as practical, to protect the youth from harm.
- (7) Staff must report any violations of this policy as soon as possible, but no later than the end of the current shift.
- (8) Violations of this policy may result in disciplinary action up to and including termination of employment.
- (9) After any manual restraint or use of oleoresin capsicum (OC) spray in a high restriction facility, a youth must be assessed by medical staff as soon as reasonably possible under the totality of the circumstances. After any manual restraint in a medium restriction facility, medical staff must be consulted as soon as reasonably possible. Any injuries must be documented in the medical record along with an explanation from the youth describing how the injuries occurred. Photographs must be taken of all injuries.

(10) Only restraint equipment approved by the executive director or his/her designee may be used in TJJD facilities. All restraint equipment must be used in a manner consistent with its design and intended purpose.

(11) Only the facility administrator, staff having authority to act as the facility administrator, or a higher-level authority in the facility administrator's chain of supervision may declare that a particular situation is a riot, consistent with the definition of a riot.

(d) **References.**

~~(1)~~ For riot control procedures, see §380.9727 of this title.]

~~(1)~~~~(2)~~ For procedures and programs designed to allow youth time to regain self-control, see §§380.9520, 380.9739, and 380.9740 of this title.

~~(2)~~~~(3)~~ For criteria and procedures on administering a psychotropic drug in a psychiatric emergency when a youth will not give consent for the administration, see §380.9192 of this title.

~~(3)~~~~(4)~~ For procedures relating to youth searches, see §380.9709 of this title.

(e) **Definitions.**

~~(1)~~ **Barricade**--any of the following, if used by a youth to prevent and/or obstruct staff from gaining access to the youth: a locked, jammed, or blocked door, dorm furniture, boxes, desks, chairs, computers, folding tables, stacked mattresses, or any other similar item that obstructs passage.

~~(2)~~~~(4)~~ **Handle With Care**[®]--an agency-trained physical intervention system.

~~(3)~~~~(2)~~ **Imminent Harm**--a reasonable belief that harm to persons or property is about to occur, unless immediate action is taken.

~~(4)~~~~(3)~~ **Medical Provider**--has the meaning assigned by §380.9175~~§380.9498~~ of this title.

~~(5)~~~~(4)~~ **Positional Asphyxia**--the reduction in oxygen in the bloodstream and tissues due to an impairment of a person's respiratory system caused by body positioning or the application of external weight/pressure.

~~(6)~~~~(5)~~ **Practical**--a reasonable belief that something is capable of being done.

~~(7)~~~~(6)~~ **Reasonable Belief**--a belief that would be held by a similarly trained staff considering the totality of the circumstances.

~~(8)~~~~(7)~~ **Reasonable Force**--the least amount of force ~~that~~~~which~~ a trained staff, in like circumstances, would reasonably believe to be necessary to maintain order and safety as authorized under this rule.

~~(9)~~~~(8)~~ **Serious Bodily Injury**--an injury that creates a substantial risk of death, serious permanent disfigurement, or extended loss or impairment of the function of any bodily member or organ.

~~(10)~~~~(9)~~ **Substantial Property Damage**--at least \$500 in damage to state property or another's personal property.

~~(11)~~~~(10)~~ **Totality of the Circumstances**--facts and circumstances known by the actor at the time of the incident.

~~(12)~~~~(11)~~ **Use of Force**--physical measures used to direct, compel, or restrain bodily movement of a non-compliant youth.

~~(13)~~ **Riot**--a situation in which three or more youths intentionally participate in conduct that threatens imminent harm to persons or property and that substantially obstructs the performance of facility operations or a program therein.

(f) Non-Physical Interventions.

Alternatives to force must be used whenever practical to assist a youth in maintaining or regaining self-control. Staff are prohibited from using humiliating punishment, including verbal harassment [profanity or slang based on race, gender, sexual orientation, or ethnicity] to manage youth behavior. Staff are[will be] trained in the use of the following non-physical intervention techniques:

- (1) Staff presence--this includes mere presence of staff to include non-verbal gestures made with eyes, hands, head, or body utilizing proximity, standing, eye contact and/or facial expressions; and/or involving additional staff to intervene.
- (2) Verbal de-escalation--this includes verbal prompting, directive statements, and redirecting youth attention and/or behavior.
- (3) Use of problem-solving groups.

(g) Physical Interventions.

When reasonable force is necessary, staff are authorized to use the following methods:

- (1) Physical Escort--touching of the arm, elbow, shoulder, or back for the purpose of directing the youth from one location to another.
- (2) Mechanical Restraint--use of a mechanical device applied to a youth as a means of restricting a youth's freedom of action.
- (3) Manual Restraint--use of hands-on techniques as a means of restricting a youth's freedom of action.
- (4) Planned Team Restraint--restraint of a youth who is in a locked or barricaded room or security vehicle by a pre-assembled team.
- (5) OC Spray--oleoresin capsicum spray, also known as pepper spray. Oleoresin capsicum is a mixture of essential oil and resin found in nature and derived from any plant of the genus capsicum, such as jalapeño, cayenne, or habanero.

(h) Criteria for Use of Force.

Except as otherwise indicated in this rule, reasonable force is authorized under the following circumstances:

- (1) protection of youth from imminent self-harm;
- (2) protection of self from imminent harm;
- (3) protection of other youth or third parties from imminent harm;
- (4) protection of property from imminent, substantial damage;
- (5) prevention of escape or fleeing apprehension;
- (6) movement of a youth referred to the security unit, other temporary isolation room, or alternative classroom;
- (7) movement of a resistant youth within the security unit when the youth's behavior is substantially disruptive and the youth refuses to stop the behavior;
- (8) movement of a resistant youth from a dangerous situation;

- (9) to conduct a search of a resistant youth reasonably believed to be in possession of a weapon, an item that can be adapted for use as a weapon, a controlled substance, or other item(s) that breach the security of the facility;
- (10) to conduct a search of a resistant youth entering the security unit; or
- (11) ~~to administer~~~~[a medical provider orders a restraint for the purpose of administering]~~ medical treatment to a resistant youth when failure to do so could have serious health implications and a medical provider has ordered a restraint.

(i) **Determining the Intervention or the Reasonable Force to be Used.**

In determining the type of intervention or the reasonable force to be used, staff must consider whether action needs to be taken immediately or can be delayed until additional staff can organize a team response. However, only a medical provider may determine the type of intervention or the reasonable force to be used in administering medical treatment to a resistant youth.

(j) **Approved Use of Force Techniques.**

Use of force techniques that may be used are limited to:

- (1) agency-trained:
 - (A) physical escort;
 - (B) Handle With Care[®] methods of manual restraint;
 - (C) mechanical restraints;
 - (D) OC spray, under certain limited circumstances; and
- (2) other non-prohibited methods of manual restraint that under the totality of circumstances existing at the time:
 - (A) are more practical than the agency-trained Handle With Care[®] methods of restraint, taking into account the youth's and staff's particular vulnerability to harm;
 - (B) involve a use of force that is measured and progressive to a degree no greater than that reasonably believed necessary to achieve the objective; and
 - (C) do not unduly risk serious harm or needless pain to the youth or staff.

(k) **Prohibited Restraint Techniques.**

- (1) Prohibited restraint techniques include the following:
 - (A) restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia;
 - (B) using any method that is capable of causing loss of consciousness or harm to the neck;
 - (C) pinning down with knees to the torso, head, and/or neck;
 - (D) slapping, punching, kicking, or hitting;
 - (E) using ~~pressure-point, pain-compliance, and joint-manipulation~~~~[pressure point, pain compliance, and joint manipulation]~~ techniques~~;~~ other than an approved Handle With Care[®] method for release of a chokehold, bite, or hair pull;
 - (F) modifying restraint equipment; ~~[e]~~
 - ~~(G)~~ (G) applying any cuffing technique that connects handcuffs behind the back to ankle restraints;
 - ~~(H)~~~~(G)~~ dragging or lifting of the youth by the hair or ear or by any type of mechanical restraints;

~~(I)(H)~~ lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder;

~~(J)(H)~~ using other youth or untrained staff to assist with the restraint;

~~(K)(J)~~ securing a youth to another youth or to a fixed object, other than to an agency-approved full-body restraint device; or

~~(L)(K)~~ administering a drug for controlling acute episodic behavior as a means of physical restraint, except when the youth's behavior is attributable to mental illness and the drug is authorized by a licensed psychiatric provider or physician and administered by a licensed medical professional.

(2) A physical contact that would otherwise be prohibited by subsection (k)(1) of this section, [under the above paragraph] does not include one that is only accidental and momentary.

(l) **Requirements for Planned Team Restraint Situations.**

(1) **Criteria for Use.**

Planned team restraint is authorized only to:

- (A) stop the youth from engaging in self-harm;
- (B) prevent substantial property damage; or
- (C) recover a weapon or item that has been adapted for use as a weapon and is capable of causing death or serious bodily injury.

(2) **Requirements for Use.**

- (A) Prior to approval of planned team restraint, the facility administrator or administrative duty officer must personally observe the situation. Only the facility administrator or administrative duty officer may authorize a planned team restraint.
- (B) All planned team restraints must be videotaped when practical, including a recording of a verbal description of the youth's conduct and all warnings provided the youth according to the agency-approved script.
- (C) Only staff trained in planned team restraint may participate in the team that is assembled for the room entry.
- (D) The youth must be warned to discontinue the misconduct at least two times after the team is assembled and before the room entry. The team must provide continuous opportunities for compliance during the room entry.
- (E) Use of the riot shield during a planned team restraint is limited to cases in which a youth has a weapon or a youth's behavior indicates there is a significant risk of harm to the staff members involved in the restraint.

(m) **Requirements for Use of Mechanical Restraints.**

(1) **Guidelines for Use.**

- (A) Mechanical restraint equipment must not be secured so tightly as to interfere with circulation or so loosely as to permit chafing of the skin.
- (B) When mechanical restraints are employed on a youth in a prone position, the youth is placed on his/her side as soon as practical in order to help ensure adequate respiration and circulation. The youth must be allowed to sit up as soon as his/her behavior is under control.
- (C) A mechanical restraint for other than transportation, riot control, or medical purposes must be terminated as soon as the purpose for which the youth was restrained under subsection (h) of this section has been achieved, but in any event within 30 minutes, unless an extension is

granted. Extensions may be granted by the facility administrator or designee for up to two-hour intervals[;] until termination of restraint.

- (D) A mechanical restraint for medical purposes must be terminated as soon as the purpose for which the youth was restrained has been achieved or upon expiration of the medical provider's order, whichever occurs first.
- (E) When mechanical restraints are applied, staff must:
 - (i) check the youth for adequate respiration and circulation every 15 minutes;
 - (ii) provide regularly scheduled meals and drinks;
 - (iii) provide opportunity for elimination of bodily waste at least once every two hours; and
 - (iv) provide continuous visual supervision and appropriate assistance until the mechanical restraint is terminated.
- (F) Mechanical ankle and wrist restraints attached to a waist belt by a lead chain may be used when transporting a youth to a security unit, within a security unit, and from a security unit in order to prevent harm to the youth or others. These restraints may not be attached in a manner that prevents the youth from being able to stand upright. Mechanical restraints may remain on the youth for the duration of the activity[;] if circumstances warrant such restraints.

(2) **Restrictions on Use During or After Childbirth.**

- (A) TJJJD staff may not use mechanical restraints to control the movement of a youth who is in labor, during delivery, or during recovery from delivery unless the executive director or designee determines that the use of restraints is necessary to:
 - (i) ensure the safety and security of the youth, the infant, a staff member, or a member of the public; or
 - (ii) prevent a substantial risk that the youth will attempt to escape.
- (B) If restraint is approved by the executive director or designee, staff must use the least restrictive type and method of restraint necessary to achieve the purpose of the restraint.

(3) **Mechanical Restraint Use by TJJJD Transportation Staff.**

Mechanical ankle and wrist restraints attached to a waist belt by a lead chain must be used during secure transportation by designated TJJJD transportation staff. Exceptions may be made for youth being transported following release on parole from a residential [facility\[program\]](#) or when medically necessary.

(4) **Mechanical Restraint Use by Other Transporters.**

- (A) Mechanical ankle and wrist restraints attached to a waist belt by a lead chain must be used during transportation when a youth is being transported to a high restriction [facility\[program\]](#).
- (B) Mechanical ankle and wrist restraints attached to a waist belt by a lead chain may be used when transporting a youth off-campus.

(n) **Requirements for Use of OC Spray.**

(1) **Authorization and Training for Use of OC Spray.**

- (A) OC spray is permitted only in TJJJD-operated high restriction [facilities\[institutions\]](#).
- (B) Unless reasonably believed necessary to prevent loss of life or serious bodily injury, authorization to use OC spray must be obtained from the facility administrator, assistant superintendent, or administrative duty officer prior to each use.

- (C) The only staff authorized to routinely carry OC spray on-person are the facility administrator, assistant superintendent, administrative duty officer, juvenile correctional officer shift supervisor (one per shift), ~~dorm~~[program] supervisor, and security personnel whose primary responsibility is to patrol the campus and respond to security-related incidents. Any staff positions in addition to those listed must be authorized in writing by the executive director or his/her designee.
- (D) Only staff who have been trained by TJJD in the use of OC spray are authorized to use it. TJJD's OC spray training curriculum must include a requirement that each staff member be sprayed with OC if:
- (i) the staff member is receiving his/her first OC spray training as a TJJD employee; and
 - (ii) exposure to OC is not medically contraindicated.
- (2) **Criteria for Use.**
- (A) Except as provided in subparagraph (B) of this paragraph, OC spray is authorized for use only when non-physical interventions and other physical interventions have failed or are not practical, and it is reasonably believed necessary to:
- (i) quell a riot or major campus disruption;
 - (ii) resolve a hostage situation;
 - (iii) remove youth from behind a barricade in a riot or self-harm situation;
 - (iv) secure an object that is being used as a weapon and that is capable of causing serious bodily injury;
 - (v) protect youth, staff, or others from imminent serious bodily injury; or
 - (vi) prevent escape.
- (B) Unless reasonably believed necessary to prevent loss of life or serious bodily injury, OC spray is not authorized for use on a youth when a medical provider has diagnosed the youth with a chronic, serious respiratory problem or other serious health condition identified by TJJD (e.g., significant eye problems, known history of severe allergic reaction to OC, or severe dermatological problems).
- (3) **Guidelines for Use.**
- (A) OC spray canisters must be carefully controlled at all times.
- (B) Any youth affected by OC spray ~~must~~[will] be decontaminated with cool water as soon as the purpose of the restraint has been achieved.
- (C) Immediately following decontamination from OC spray, medical staff ~~must~~[will] be contacted to examine and, if necessary, treat and monitor all youth and staff affected by OC spray.
- (D) Each individually assigned canister of OC must be weighed at the time it is assigned and after each use.

For implementation procedures, see GAP.07.23.

Chapter: Rules for State-Operated Programs and Facilities
Subchapter: Security and Control
Rule: Riot Control

Effective Date: 6/16/05, T-73
Page: 1 of 2
Replaces: GAP.97.27
Dated: 9/25/00, T-46

ACA Standard(s): N/A

~~[(a) — Purpose.]~~

~~[The purpose of this rule is to establish response rules and guidelines, which may be taken by staff as necessary in order to control a riot condition at a Texas Youth Commission (TYC) operated or contracted facility.]~~

~~[(b) — Applicability.]~~

~~[(1) — This policy shall apply only in the event that the facility administrator of a TYC operated or a contract facility declares that a riot exists.]~~

~~[(2) — See (GAP) §97.23 of this title (relating to Physical Restraint).]~~

~~[(c) — Explanation of Terms Used.]~~

~~[Riot — a situation in which three or more persons at a contract program or TYC operated facility intentionally participate in conduct that threatens imminent harm to persons or property and substantially obstructs the performance of facility operations or a program therein.]~~

~~[(d) — Only the facility administrator or staff having authority to act as the facility administrator may declare that a particular situation is a riot, consistent with the definition of a riot. Staff action beyond actions described in other official rules may be taken only following the facility administrator's or acting facility administrator's declaration that a riot condition exists.]~~

~~[(e) — The staff will take the steps reasonably necessary to regain control and terminate a riot occurring on a facility campus with as few injuries as possible.]~~

~~[(f) — Physical Restraint.]~~

~~[(1) — Physical restraint may be used in accordance with (GAP) §97.23 of this title.]~~

~~[(2) — Oleoresin Capsicum (OC), also known as pepper spray, may be used in a riot and other situations consistent with (GAP) §97.23 of this title.]~~

~~[(3) — Plastic restraints may be used at any TYC institution if necessary to control youth during a riot when a sufficient number of metal cuffs are not readily available.]~~

~~[(4) — The Special Tactics and Response (STAR) team may be deployed to respond to emergencies at the discretion of the facility administrator and/or his/her designee. The STAR team is composed of 20-25 staff who are trained and highly specialized to respond to various emergencies including riots and disturbances, and who may also provide additional support during facility escapes.]~~

~~[(g) — Response to Riots.]~~

~~[The status of the emergency shall be described in terms of the following categories and continually upgraded or downgraded as appropriate.]~~

~~[(1) — Category 1. The incident can be controlled and contained by on-duty personnel.]~~

~~[(2) — Category 2. The incident cannot be controlled and contained by on-duty personnel, requiring the assistance of off-duty personnel.]~~

~~[(3) Category 3. The incident cannot be controlled and contained by institutional staff, requiring the assistance of intra-agency personnel, local law enforcement, and/or fire fighting units.]~~

~~[(4) Category 4. The incident cannot be controlled and contained by institutional, intra-agency and local mutual aid personnel and requires the assistance of state law enforcement and/or military units.]~~

~~[(h) **Approved Riot Equipment and Gear.**]~~

~~[Staff may act using only equipment approved for use during a riot and only following training in the appropriate procedures and use of such equipment. Approved for use during a riot:]~~

~~[(1) Chemical agent forms are:]~~

~~[(A) canisters of chemical agent OC~~

~~[(B) cartridges of chemical agent OC~~

~~[(C) pepper fog formulation for the pepper fogger (OC)~~

~~[(2) Delivery systems are:]~~

~~[(A) 37 mm gas gun]~~

~~[(B) Pepper Fogger]~~

~~[(3) Protective equipment including, but not limited to:]~~

~~[(A) protective helmet]~~

~~[(B) protective vest]~~

~~[(C) protective Plexiglas shield]~~

~~[(D) protective elbow pads]~~

~~[(E) protective knee pads]~~

<p>Chapter: Rules for State-Operated Programs and Facilities Subchapter: Security and Control Rule: Isolation ACA: N/A <u>References: <i>Morales v. Turman</i> Settlement Agreement, Section (V)(B)</u></p>	<p>Effective Date: 1/31/01, T-47 Page: 1 of 2 Replaces: <u>GAP.380.9739,</u> <u>1/31/01GAP.97.39,</u> <u>12/31/96, T-40</u></p>
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5-8-15 Draft

I. RULE

(a) Purpose.

~~This rule allows~~~~The purpose of this rule is to allow~~ for short-term confinement in a locked room of a youth who meets criteria. Confinement addressed in this rule is not a disciplinary consequence.

(b) Applicability.

(a) This rule applies to residential facilities operated by the Texas Juvenile Justice Department.

(b) This rule does not apply to:

- (1) ~~once~~ a youth ~~being~~ ~~has been~~ admitted to the Security Program ~~[security intake]~~. See §380.9740 of this title ~~[(GAP) §97.37 of this title, (relating to Security Intake)]; or~~
- (2) ~~segregation~~ ~~[to restriction as a consequence]~~ in which doors are not locked. See §380.9520 of this title ~~[(GAP) §95.13 of this title (relating to On-Site Disciplinary Consequences)]~~.

(c) Definitions~~[Explanation of Terms Used].~~

Isolation~~--[means]~~ the condition of confinement of a youth in a locked room ~~[or cubicle]~~. If the door is not locked, the confinement is not considered to be isolation. Isolation does not include when ~~[Rules regarding isolation do not apply when]~~ doors are routinely ~~[normally]~~ locked ~~(e.g., during sleeping hours)~~ [during normal sleeping hours] and isolation has not otherwise been imposed.

~~[(d)—Isolation may be used by TYC institutions.]~~

(d)~~[(e)]~~ **Criteria.**

(1) A youth may be confined in isolation in cases when ~~less restrictive interventions have failed and~~ the youth is:

- (A)~~[(1)]~~ out of control; and
 - (B)~~[(2)]~~ is a serious and immediate physical danger to ~~[himself or herself or]~~ others; and
 - (C) not on suicide alert.
- ~~[(3) only after less restrictive methods of restraint have failed.]~~

(2) Isolation must be in individual youth sleeping quarters or a room specifically designated for isolation. If the room is not individual sleeping quarters, the room must:

- (A) be heated, cooled, and ventilated;
- (B) have a minimum ceiling height of 7.5 feet when measured from the floor to the lowest point of the ceiling; and
- (C) be equipped with a viewing window that allows staff to observe the youth.

(e)~~[(f)]~~ **Release.**

- (1) A youth placed in isolation must [shall] be released within three hours or be referred to the security program [intake].
- (2) Isolation must be terminated [As] soon as a youth is sufficiently under control so as to no longer pose a serious and immediate danger to himself/herself [himself] or others [, isolation will be terminated].

(f)[(g)] **Isolation Requirements.**

- (1) Staff must [shall] visually check youth in isolation [placed in the security unit, in any program,] at least once every 15 minutes [unless placed under provisions in (GAP) §91.89 of this title (relating to Suicide Alert)].
 - ~~[(2) — If youth is placed under provisions in (GAP) §91.89 of this title (relating to Suicide Alert), one-on-one observation is required prior to assessment by a mental health professional. After the youth is assessed, staff shall visually check youth as determined by the mental health professional in accordance with (GAP) §91.89 of this title (relating to Suicide Alert).]~~
 - (2)[(3)] Youth in isolation must [shall] receive appropriate psychological and medical services.
 - ~~[(4) — On release, youth in isolation shall receive the same food including snacks prepared in the same manner as for other youth except as special diets may be prescribed on an individual basis by medical personnel.]~~
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Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 9/1/09, T-99
Subchapter: Security and Control	
Rule Security Program	Page: 1 of 4
ACA: 4-JCF-3B-10, 3C-03, 3C-04, 5G-03	Replaces: GAP.97.36, 12/15/08 GAP.97.37, 4/1/05 GAP.97.40, 4/1/05 GAP.97.43, 4/1/05 GAP.380.9740, 9/1/09
References: <i>Morales v. Turman</i> Settlement Agreement, Section (V)(B)	

Draft 4/27/15

RULE

(a) **Purpose.**

The Texas ~~Juvenile Justice Department (TJJD)~~ ~~Youth Commission (TYC)~~ operates ~~Security Programs~~ ~~[security programs]~~ at its ~~high-restriction~~ ~~[high-restriction]~~ facilities ~~[in-order]~~ to temporarily remove youth who engage in certain dangerous or disruptive behaviors from the general campus population. This rule establishes admission criteria, service delivery requirements, ~~[and]~~ security provisions, and requirements for due process and administrative review for youth admitted to the ~~Security Program~~ ~~[security program]~~.

(b) **Applicability.**

This rule applies to ~~TJJD-operated high-restriction~~ ~~[TYC-operated high-restriction]~~ facilities that operate security units.

(c) **Definitions.**

Security Unit--a ~~designated~~ ~~[secure]~~ building on the campus of a ~~high-restriction TJJD facility that~~ ~~[high restriction TYC facility which]~~ contains individual rooms and a central control station. Entry to and exit from the building are controlled exclusively by staff.

(d) **General Provisions.**

- (1) Confinement in the ~~Security Program~~ ~~may~~ ~~[security program shall]~~ not be used as punishment or as a convenience for staff.
- (2) Youth ~~are~~ ~~[shall be]~~ afforded all basic youth rights~~[, as]~~ established in ~~§380.9301~~ ~~[\$93.4]~~ of this title, while confined in the ~~Security Program~~ ~~[security program]~~.
- (3) Except as otherwise authorized by the division director over residential services or designee on a case-by-case basis, confinement in the ~~Security Program~~ ~~may~~ ~~[security program shall]~~ not exceed five calendar days or a maximum of 120 hours.
- (4) The ~~Security Program~~ ~~is~~ ~~[security program shall be]~~ operated within the security unit, ~~except as provided or permitted by other TJJD administrative rules.~~

(e) **Admission Criteria.**

A youth may be admitted to the ~~Security Program~~ ~~[security program]~~ when there is a reasonable belief the youth has committed a ~~minor rule violation that warrants referral to the security unit or a~~ major rule violation ~~[or a minor rule violation requiring referral to the security unit,]~~ and:

- (1) the youth is a serious and continuing escape risk;
- (2) the youth is a serious and immediate physical danger to others and staff cannot protect them except by admitting the youth to ~~the Security Program~~ ~~[security program]~~;
- (3) confinement is necessary to prevent imminent and substantial damage to property;

- (4) confinement is necessary to control behavior that disrupts programming to the extent that the current program cannot continue except by admitting the youth to the Security Program [security program]; or
- (5) the youth is likely to interfere with a pending or ongoing investigation or a requested or scheduled due process hearing.

(f) **Admission Process.**

- (1) Within one hour after a youth's arrival at the security unit (or up two hours if an extension is approved by the facility administrator or designee), a staff member must:
 - (A) return the youth to the general population; or
 - (B) [will] hold a Level III hearing in accordance with §380.9557 [§95.57] of this title to determine whether admission criteria have been met. The staff member who conducts [appointed to conduct] the review must not have been involved in the referral to the Security Program [security program].
- (2) If admission criteria are not met, the youth must be returned to the general population immediately.
- (3) If admission criteria are met, the youth may [will] be admitted to the Security Program [security program] for up to 24 hours.

(g) **Extension Process.**

(1) **Extension Criteria.**

- (A) A 24-hour extension may be authorized if the following criteria are met, as established through a Level III hearing conducted in accordance with §380.9557 [§95.57] of this title:
 - (i) based on current behavior, one or more of the admission criteria listed in subsection (e)(1)-(5) of this section continue to be present; or
 - (ii) there is documented evidence that the youth is not complying with the Security Program [security program] rules of conduct.
- (B) No more than four [(4)] extensions may be authorized by facility staff.

(2) **Extensions Beyond Five Days.**

- (A) The division director over residential services or designee may approve extensions after the fifth [5th] day of confinement only when no less-restrictive [less-restrictive] placement is suitable for managing the youth's behavior and:
 - (i) the youth continues to present an immediate physical danger to others; or
 - (ii) the youth continues to be likely to interfere with a pending or ongoing investigation or a scheduled hearing.
- (B) Each extension is valid for up to 72 hours.

(h) **Release to the General Population.**

- (1) A youth must [shall] be released to the general population upon:
 - (A) a determination that the youth's behavior no longer warrants confinement in the security unit; or

~~(B)(A)~~ the expiration of the most recently approved period ~~of [is]~~ confinement ~~[-or]~~

~~[(B) — prior to the expiration of the most recently approved period upon a determination that the youth's behavior no longer warrants confinement in the security unit.]~~

- (2) A youth may be released from the Security Program [security program] only by the security dorm supervisor [director of security] or a staff member authorized to conduct an admission hearing.

(i) **Administrative Reviews and Appeals.**

- (1) The security dorm supervisor [director of security] or designee must [will] review all admission and local extension decisions within one workday. The person reviewing the decision must not have been involved in the decision. If it is determined that admission or extension criteria were not met or appropriate due process was not provided:
- (A) the youth must [will] be returned to the general population immediately; and
 (B) the youth's record must [will] be corrected to reflect the overturned [security] admission or extension decision.
- (2) The youth must [will] be notified in writing of his/her right to appeal a Security Program [security program] admission or extension to the facility administrator or designee. Appeals of decisions made by the facility administrator must [will] be decided by the division director over residential services or designee. The youth must be [is] notified in writing of the outcome of the appeal.

(j) **Security Program Requirements.**

- (1) Staff must [shall] visually check each youth at least once every 15 minutes and [shall] document youth activity and location during the check unless more frequent checks are required under §380.9188 of this title.
- (2) Individual doors must be [are] locked.
- (3) The Security Program must [security program will] adhere to a standard schedule approximating that of the general population, including time out of the locked room as behavior permits. ~~[The schedule must include at least four hours outside of the locked room for each youth if the youth's behavior permits.]~~
- (4) The standard schedule and Security Program [security program] rules of conduct must [will] be posted and reviewed with youth.
- (5) ~~The following staff must visit the Security Program at least once each calendar day and speak with each youth present in the program: [Staff from the administrative, clinical, and/or religious departments shall visit each youth at least once each day. A nurse and case manager shall visit each youth at least once each day. Actual entry into the room or removal of the youth from the room for the purpose of discussion or counseling constitutes a visit, unless a youth's behavior prohibits direct contact for safety reasons.]~~
- ~~(A) a nurse;~~
~~(B) a case manager; and~~
~~(C) a staff member from the administrative, psychology, and/or chaplaincy departments.~~
- (6) Youth must [shall] be provided:
- (A) appropriate psychological and medical services;

- (B) ~~an opportunity to discuss with a case manager [an intervention plan that addresses]~~ the behavior that resulted in the ~~admission [referral]~~ or extension;
- (C) adequate access to restroom facilities and drinking water;
- (D) access to shower and hygiene routine at least once every 24 hours, as behavior permits;
- (E) the same food, including snacks, prepared in the same manner as for other youth except for special diets that are prescribed on an individual basis by a physician, dentist, or mental health professional~~[,]~~ or special diets approved by a chaplain;
- ~~[(F) — ability to earn privileges;]~~
- ~~[(G)]~~ access to education services during each scheduled instructional day for the duration of instructional minutes required by the campus master schedule; [at least five and one-half hours of education services each scheduled instructional day;]
- ~~[(H)]~~ education [educational] services that will enable the youth to meet the goals of the youth's individualized education program [plan], if the youth is currently receiving special education services; ~~[and]~~
- ~~[(H)]~~ access to limited-English-proficient services for English language learners; and
- (I) one hour ~~[each day]~~ of large-muscle [large-muscle] exercise out of the room or in an enclosed outdoor recreation area at least once every 24 hours, as the youth's behavior and weather permit.

References: See INS.75.05 for implementation procedures.

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 12/1/09, T-101 Page: 1 of 3 Replaces: <u>GAP.380.9745, 12/1/09</u> <u>GAP.97.45, 8/3/09, T-100</u>
Subchapter: Security and Control	
Rule: Protective Custody for Youth at Risk of Self-Harm	
ACA: 4-JCF-3C-01, 3C-03	

4-13-15 Draft

I. **RULE**

(a) **Purpose.**

~~This rule provides [The purpose of this rule is to provide]~~ for a protective custody program for the temporary placement of youth who are determined to be at risk of serious harm to themselves.

(b) **Applicability.**

This rule ~~[only]~~ applies only to high-restriction [high-restriction] facilities operated by the Texas Juvenile Justice Department [TYJ].

(c) **Definitions.**

Definitions pertaining to this rule are under §380.9187 [§91.87] of this title.

(d) **General Provisions.**

- (1) The protective custody program is administered in the security unit. Unless otherwise noted in this rule, all [All] standard [security-unit] service delivery and programming requirements [as set forth] in §380.9740 followed [§ 97.40 of this title, unless otherwise noted herein, will be observed] while the youth is in the security unit.
- (2) Placement of youth in protective custody is [will be] used only as a last resort when a mental health professional (MHP) determines that the youth cannot be safely managed in his/her assigned living unit and no appropriate less-restrictive [less restrictive] placements are immediately available. Protective custody is [will be] used only as a temporary placement until the youth can be safely returned to his/her assigned living unit or until another appropriate housing or facility assignment can be arranged.
- (3) Unless otherwise noted in this rule, youth [Youth] in protective custody are [will be] monitored, assessed, and treated in accordance with requirements [procedures set forth] in §380.9188 [§91.88] of this title [for youth on suicide alert, unless otherwise noted herein].

(e) **Referral for Placement in Protective Custody.**

- (1) Only an MHP may authorize the referral of a youth to the security unit for possible placement in protective custody. The referral may be made only:
 - (A) after a trained designated staff member completes a suicide risk screening, as described in §380.9188 [§91.88] of this title and[;] [(B) after] the MHP has consulted with the staff member concerning the results of the screening; and
(B)[(C)] if the MHP determines that the youth is in imminent risk of serious self-injury and cannot be safely managed in his/her assigned living unit.
- (2) The youth may be held in the security unit on referral for up to four hours, pending the completion of a face-to-face suicide risk assessment by an MHP. [(3) — Once referred to the security unit, the] The youth is [will be] placed on at least constant [one-to-one] observation until he/she is assessed by the MHP. Doors must [will] not be locked while the youth is awaiting the suicide risk

assessment~~(7)~~ unless the youth presents an imminent danger to staff due to aggressive behavior. In such cases, doors may be locked in accordance with subsection (g)(2) of this section.

~~(3)(4)~~ When a youth is referred to a security unit, the ~~The~~ youth's suicide observation folder ~~is~~ ~~will be~~ transferred to the security staff, who ~~continues~~ ~~will continue~~ documenting the youth's status at the required interval.

(f) **Admission Criteria.**

Only an MHP, in consultation with the facility's designated mental health professional (DMHP), may admit a youth to protective custody due to suicide risk. A youth may be placed in protective custody only if the MHP has conducted a face-to-face suicide risk assessment as described in ~~§380.9188~~ ~~§91-88~~ of this title, and the MHP has determined that:

- (1) based on the youth's actions, statements, or mental status, the youth is a serious and immediate physical danger to himself/herself; and
- (2) confinement in the security unit is necessary to protect the youth from self-harm, and there is no less restrictive setting that provides the necessary level of security and staff supervision.

(g) **Program Requirements.**

- (1) Youth ~~are~~ ~~will be~~ placed in ~~suicide-resistant~~ ~~suicide resistant~~ rooms. Except for youth assigned to one-to-one observation, individual room doors ~~will~~ remain locked.
- (2) For youth assigned to one-to-one observation, individual room doors ~~must~~ ~~will~~ remain unlocked, except when a youth presents an imminent danger to staff due to aggressive behavior. In such cases, the youth's room door may be locked provided that the MHP determines (in consultation with the DMHP) that locking the door is necessary to manage the youth's aggressive behavior and still allows adequate supervision to ensure the youth's safety.
- (3) In accordance with requirements established under ~~§380.9188~~ ~~§91-88~~ of this title, the MHP ~~develops~~ ~~will develop~~ an individualized treatment plan that identifies crisis stabilization issues to be addressed and includes a plan of action to address the issues.
- (4) The MHP ~~conducts~~ ~~will conduct~~ a face-to-face assessment of the youth at least once every 24 hours while the youth is admitted to the protective custody program. As part of the assessment, the MHP ~~must~~ ~~will~~ determine if the youth continues to be a serious and immediate physical danger to himself/herself and if continued confinement is necessary to prevent self-harm.
- (5) At least once every 48 hours following the youth's admission into protective custody, the DMHP ~~reviews~~ ~~will review~~ the documentation relating to protective custody, including the youth's treatment plan and any other documentation relating to the youth's stay in protective custody.
- (6) A youth may not remain in the protective custody program for more than five calendar days without written approval from the division director over ~~residential facilities~~ ~~treatment programming~~ or ~~his/her~~ designee. ~~This~~ ~~Such~~ approval must be obtained for every 24-hour period thereafter.

(h) **Review of Admission and Extensions.**

The ~~director of~~ security ~~dorm supervisor~~ or ~~his/her~~ designee ~~reviews~~ ~~will review~~ each admission and 24-hour extension decision within one workday to determine if ~~policies and procedures~~ ~~policy and procedure~~ were followed. If it is determined that a youth is being held in violation of policy, the ~~security dorm supervisor~~ ~~director of security~~ or designee ~~will~~:

- (1) immediately ~~notifies~~ ~~notify~~ the facility administrator or duty officer;
- (2) unless otherwise instructed by the facility administrator or duty officer, ~~returns~~ ~~return~~ the youth to the general population; and

- (3) ~~ensures [ensure]~~ the youth remains on one-to-one observation until an MHP conducts a face-to-face suicide risk assessment.

(i) **Release Criteria.**

The youth ~~must [will]~~ be released from protective custody when:

- (1) an MHP, in consultation with the DMHP, determines the youth may return to the general population with appropriate supervision and monitoring;
- (2) an MHP, in consultation with the DMHP, determines that the youth meets criteria for transfer to a facility providing specialized mental health treatment, ~~a TJJJ-operated crisis stabilization unit [the Corsicana Stabilization Unit]~~, or a psychiatric hospital;
- (3) the division director over ~~residential facilities or his/her [treatment programming or]~~ designee disapproves an extension request; or
- (4) a review of the admission or extension in protective custody reveals that the youth is being held in violation of policy.

(j) **Appeals.**

The youth may appeal his/her placement in protective custody to the ~~director of treatment or his/her [facility administrator or]~~ designee. The ~~director of treatment or his/her [facility administrator or]~~ designee ~~must [will]~~ consult with the DMHP when reviewing the appeal.

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 5/1/11
Subchapter: Security and Control	
Rule: Self-Referral to Security Unit	Page: 1 of 3
ACA: 4-JCF-3C-02	<u>Replaces: GAP.380.9747,</u>
References: <i>Morales v. Turman</i> Settlement Agreement, Section (V)(B)	<u>5/1/11</u> New

Draft 4/28/15

RULE

(a) Purpose.

~~This rule provides [The purpose of this rule is to provide]~~ for the temporary placement of youth who request ~~to be placed [placement]~~ in a security unit.

(b) Applicability.

This rule applies only to ~~high-restriction [high-restriction]~~ facilities operated by the Texas ~~Juvenile Justice Department (TJJD) [Youth Commission]~~.

(c) Definitions.

Security Unit--has the meaning assigned under §380.9740 of this title.

(d)[(e)] General Provisions.

- (1) The security unit may be used as a temporary placement ~~for youth who self-refer~~ until the youth can be safely returned to his/her assigned living unit or another appropriate housing or facility assignment can be arranged.
- (2) While placed in the security unit on a self-referral, ~~a youth must be provided [will participate in]~~ scheduled programming in accordance with ~~his/her [the]~~ individual case plan and, if applicable, ~~his/her [the]~~ individualized education ~~program [plan]~~.
- (3) If a youth claims a need for protection from harm, ~~staff must complete a threat assessment. Based on the results of the threat assessment,~~ all reasonable actions ~~must [will]~~ be taken to ensure the safety of the youth, ~~which may include any or all of [including]~~ the following ~~[actions as indicated by a threat assessment]~~:
 - (A) immediate implementation of enhanced supervision strategies;
 - (B) immediate separation of the youth from the source of the threat;
 - (C) referral to the TJJD Office of Inspector General [General's Incident Reporting Center] for investigation;
 - (D) notification of the chief local administrator; and/or
 - (E) dorm or facility transfer.

(e)[(d)] Referral Process.

- (1) ~~Any [A]~~ youth may request a self-referral to the security unit. Requests may be verbal or written and may be made to any staff member.
- (2) Case management and/or supervisory staff ~~must [will]~~ meet with the youth to discuss the circumstances regarding the request and, if appropriate, recommend alternatives to self-referral.
- (3) Staff may not deny the youth's request for a self-referral to the security unit, unless self-referrals have been temporarily disallowed by the facility administrator due to an ongoing facility disruption ~~or space limitations in the security unit.~~

(f)[(e)] Service Delivery and Programming Requirements.

- (1) While in the security unit on self-referral, youth shall be provided:
- (A) psychological and medical services as appropriate;
 - (B) adequate access to restroom facilities and drinking water;
 - (C) access to shower and hygiene routine at least once every 24 hours, as behavior permits;
 - (D) the same food, including snacks, prepared in the same manner as for other youth, except for special diets that are prescribed on an individual basis by a physician, dentist, or mental health professional~~;~~ or special diets approved by a chaplain;
 - ~~(E) — the ability to earn privileges;~~
 - ~~(E)(F)~~ access to education [educational] services during each scheduled instructional day for the duration of instructional minutes required by the campus master schedule; [in accordance with the youth's enrolled courses and, if applicable,]
 - ~~(F)~~ education services that will enable the youth to meet the goals of the youth's individualized education program, if the youth is currently receiving special education services; [plan; and]
 - ~~(G)~~ access to limited-English-proficient services for English language learners; and
 - ~~(H)(G)~~ one hour [each day] of large-muscle [large muscle] exercise out of the room or in an enclosed outdoor recreation area at least once every 24 hours, as the youth's behavior and weather permit.
- (2) A case manager or staff member designated by the facility administrator must [caseworker will] meet with the youth daily to:
- (A) assess the youth's status and make referrals to a mental health professional as appropriate;
 - (B) discuss strategies and offer opportunities for returning to the general population; and
 - (C) ensure that all required services and programming are being delivered.
- (3) A case manager must, [Within one workday after admission to the security unit on self-referral, a caseworker will,] in consultation with members of the youth's multi-disciplinary team and a mental health professional, develop a written supervision and reintegration plan for the youth if any of the following apply: [-]
- ~~(A)~~ the youth claims a need for protection from harm;
 - ~~(B)~~ the staff reasonably suspects the youth feels a need to be protected from harm; or
 - ~~(C)~~ the youth has remained in the security unit on self-referral for 120 hours.
- ~~(4)~~ The supervision and reintegration plan must [will] include:
- (A) strategies for addressing the threat of harm or coping with the circumstances that resulted in [giving rise to the request for] the self-referral;
 - (B) requirements for enhanced supervision, if appropriate;
 - (C) a schedule for reintegrating with the general campus population; and
 - (D) a safe housing reassessment [re-assessment], as described in §380.8524 [§85-24] of this title.

~~(g)(f)~~ **Release from the Security Unit.**

- (1) Upon a youth's request or agreement to be released from the security unit, the youth must [shall] be granted release as soon as reasonably possible.
- (2) If a supervision and reintegration plan is required, the youth may not be released [Release] from the security unit before [prior to] the plan is completed unless the release is approved by [development of the supervision and reintegration plan requires approval from] the facility administrator or [his/her] designee. If the facility administrator or designee denies [disapproves] a youth's request for release from the security unit before a required [prior to the completion of the] supervision and reintegration

plan is completed, the facility administrator or designee must ensure that the [a supervision and reintegration] plan is completed and the youth is released within 24 hours after the youth's request.

- (3) Upon a youth's release from the security unit, the youth's case manager [caseworker] or other designated staff member must [will] determine which components of the youth's supervision and reintegration plan will be continued after the youth's return to the general campus population. The youth must [will] receive follow-up psychological services if directed by a mental health professional.

(h)(g) **Review and Oversight.**

- (1) At least once every 72 hours, the security dorm supervisor or designee must speak with [The director of security or his/her designee will counsel] each youth admitted to the security unit on a self-referral [each day].
- (2) If a youth has not requested or agreed to a release with 72 hours after admission to the security unit on self-referral, the security dorm supervisor must consult with [Youth may not remain in the security unit on self-referral beyond 72 hours after admission without the authorization of] the facility administrator or designee to discuss reintegration strategies, service delivery and counseling activities, youth behavior, and possible dorm or facility transfer. This consultation [Such authorization] is required every 24 hours thereafter.
- (3) If a youth has not requested or agreed to a release within five calendar days after admission to the security unit on self-referral, the facility administrator must consult with the [Central Office] division director over residential [youth] services or [his/her] designee to discuss reintegration strategies, service delivery and counseling activities, youth behavior, and possible dorm or facility transfer. This [Such] consultation is required at least once every 72 hours thereafter until the youth is released from the security unit.
- (4) The youth's multi-disciplinary [treatment] team must [will] monitor each youth's pattern of self-referrals to the security unit for indications of ongoing or unresolved issues. The multi-disciplinary [treatment] team must [will] address these [any such] issues through case plan objectives, clinical referrals, reports [report] to facility management, or other appropriate interventions.

See INS.75.21 for implementation procedures.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO SUBMIT A RULE REVIEW NOTICE AND PROPOSED REVISIONS FOR 37 TAC §§380.9701, 380.9707-380.9710, 380.9715-380.9727, AND 380.9739-380.9747, RELATING TO SECURITY AND CONTROL, IN THE TEXAS REGISTER FOR A 30-DAY PUBLIC COMMENT PERIOD

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the State Programs and Facilities staff has completed this review for §§380.9701, 380.9707-380.9710, 380.9715-380.9727, and 380.9739-380.9747; and

WHEREAS, the staff recommends the repeal of §380.9701 and §380.9727; and

WHEREAS, the staff recommends revisions to all other assigned rules; and

WHEREAS, Texas Government Code §2001.023 and §2001.029 require a state agency to give at least 30 days' notice of its intention to adopt a rule and to allow all interested persons a reasonable opportunity to submit data, views, or arguments orally or in writing;

NOW, THEREFORE BE IT RESOLVED THAT for §§380.9701, 380.9707-380.9710, 380.9715-380.9727, and 380.9739-380.9747, the Board grants approval to publish the proposed revisions and repeals and a proposal to complete the rule review in the *Texas Register* for a 30-day comment period.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Teresa Stroud, Senior Director of State Programs and Facilities

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §§380.9312–380.9317 AND 380.9337, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9501–380.9503 AND 380.9517–380.9535, RELATING TO BEHAVIOR MANAGEMENT

Date: May 12, 2015

As part of TJJJ's rule review process, the State Programs and Facilities Division proposed changes to assigned rules from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter D (Youth Rights and Remedies) and Subchapter E (Behavior Management and Youth Discipline), at the January 2015 Board meeting. The Board approved posting the revisions and a rule review notice in the *Texas Register* for a 30-day public comment period.

The comment period has ended. TJJJ did not receive any public comments. However, the agency staff has recommended the following additional changes to the drafts that were published in the *Texas Register*:

- In **§380.9312** (Visitation), deleted a reference to §380.9710, which contains a list of items that cannot be brought into TJJJ facilities. That list has been marked for deletion in the revised draft of §380.9710, which will be presented for approval at this Board meeting under a separate agenda item.
- In **§380.9313** (Use of Telephone), made minor typographical corrections.
- In **§380.9315** (Youth Mail), clarified that youth mail is not distributed on days when state agencies are closed or when skeleton crews are required. Also clarified that all unauthorized written material (rather than just mail) that is possessed by a youth in an area other than the youth's living unit may be read to determine if it is contraband.
- In **§380.9501** (Behavior Management System Overview), made typographical corrections to two rule numbers.

- In **§380.9502** (Positive Reinforcement and Privilege System), clarified that youth interests are considered when developing the privilege system and that not all privileges are gender-specific.
- In **§380.9503** (Rules and Consequences for Residential Facilities), made minor grammatical corrections.
- In **§380.9535** (Phoenix Program), made minor grammatical and typographical corrections.

The staff now requests the Board's approval to adopt the rule review and the final rules, with the changes described above.

Attached to this memo, please find the following documents:

- A table summarizing the changes to the rules.
- A copy of the final rules, with markups to show the additional changes described above.
- A resolution for board action.

Texas Administrative Code Rule Review
37 TAC Chapter 380, Subchapter D – Youth Rights and Remedies
37 TAC Chapter 380, Subchapter E – Behavior Management and Youth Discipline

(Rules assigned to State Programs and Facilities Division)

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9312	Visitation	Establishes the right of TJJD youth to receive visitors. Explains who is eligible to visit TJJD youth and when TJJD may deny visitation.	Yes	<ul style="list-style-type: none"> • Added a provision that allows the executive director to make exceptions to visitation rules <i>in emergency situations</i> (in addition to a case-by-case basis). 	Ready for board adoption
380.9313	Use of Telephone	Establishes the right of TJJD youth to use facility telephones to contact family members. Explains when calls are made using pre-paid minutes or staff phones.	Yes	<ul style="list-style-type: none"> • Expanded the scope of the rule to include phone calls to the TJJD Office of Inspector General (OIG) and Office of Independent Ombudsman (OIO). • Added a provision that requires TJJD to grant each youth a specific number of pre-paid minutes each month. • Deleted information about youth making collect phone calls. • Clarified that phone calls in cases of family emergency are made using TJJD staff phones and are not charged against a youth's pre-paid minutes. • Clarified that phone calls to the OIG or OIO are not charged against a youth's pre-paid minutes. • Clarified that the list of people youth may call includes "<u>immediate</u> family members," as defined in §380.9312, rather than "family members." • Added a requirement that for phone calls to the OIG or OIO, TJJD must allow youth to access a phone whenever possible, limited only by consideration for facility order and safety of staff and youth. • Added a provision stating that all phone calls to the OIG toll-free number are recorded, and no other calls by youth are recorded. • Deleted the provision that allows TJJD to restrict a youth's use of the phone when an investigation finds that the youth has abused telephone privileges. 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9315	Youth Mail	Establishes the right of TJJD youth to send and receive mail. Explains when and how mail may be restricted and searched for contraband.	Yes	<ul style="list-style-type: none"> Clarified that employees of the TJJD Office of Inspector General and investigators in other TJJD departments are included in the list of special correspondents. (Note: Mail to special correspondents may not be opened and searched for contraband by staff before it is sealed. Additionally, parents may not restrict their child's mail to or from a special correspondent.) Clarified that mail addressed to or from a minor outside of TJJD will not be delivered if the parent/guardian of the minor objects to his/her child corresponding with the TJJD youth. Clarified that for youth who have already been discharged, letters and packages will be forwarded to the youth's address on file. Clarified that youth mail is not distributed on days when state agencies are closed or when skeleton crews are required. Clarified that <i>all unauthorized written material</i> (rather than just mail) that is possessed by a youth in an area other than the youth's living unit may be read to determine if it is contraband. 	Ready for board adoption
380.9317	Visitation with Personal Clergy	Provides TJJD youth with privileged access to their personal clergy.	Yes	<ul style="list-style-type: none"> No changes needed. This rule was recently revised and approved by the board. The revised rule took effect on July 15, 2014. 	No changes recommended
380.9337	Zero Tolerance for Sexual Abuse, Sexual Activity, and Sexual Harassment	Requires TJJD to comply with federal Prison Rape Elimination Act (PREA) standards.	Yes	<ul style="list-style-type: none"> No changes needed. This rule was recently revised and approved by the board. The revised rule took effect on April 21, 2014. 	No changes recommended

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9501	Behavior Management System Overview	Establishes the basic principles on which the TJJD behavior management system is based.	Yes	<ul style="list-style-type: none"> Clarified that a dorm activity restriction, which is used when deteriorating dorm culture threatens youth and staff safety, is not considered group discipline. It is a safety/security measure. Clarified that disciplinary consequences must not deny a youth access to mental health services, educational services, or religious services. Removed the reference to the use of force policy. Use of force is not considered a behavior management intervention. 	Ready for board adoption
380.9502	Youth Privilege System	Explains the system of rewards and positive reinforcement used in TJJD facilities.	Yes	<ul style="list-style-type: none"> Removed the requirement for a youth to receive a daily behavior rating and for those ratings to be averaged for an overall weekly rating. Youth will receive daily feedback, but not a numerical daily behavior rating. Removed the requirement for a youth's privilege status to be determined by a weekly review conducted by the youth's multi-disciplinary team. Clarified that youth interests are considered when developing a facility's privilege system and that not all privileges are gender-specific. Re-titled the rule as "Positive Reinforcement and Privilege System." 	Ready for board adoption
380.9503	Rules and Consequences for Residential Facilities	Establishes the actions that constitute rule violations for TJJD youth in residential facilities. Also establishes the potential consequences for those rule violations.	Yes	<ul style="list-style-type: none"> Removed the reference to youth being able to accrue daily privileges for later use while the youth is serving a privilege suspension. There is no longer a daily behavior rating (see changes in 380.9502 above), so there are no daily incentives to accrue. Expanded the use of "Loss of Transition Eligibility" to be a disciplinary option for any major rule violation. Currently it is an option only for assault with bodily injury and serious sexual misconduct. (Note: Loss of Transition Eligibility means a youth will have to wait an additional month before he/she is eligible to move to a medium restriction facility). 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
				<ul style="list-style-type: none"> Removed the requirement for the facility administrator or designee to review all minor consequences issued by the youth's multi-disciplinary team for policy compliance and consistency. Required the facility administrator to review any minor consequence that will <i>last at least 14 days</i> (instead of 24 hours). This review must occur within <i>three workdays</i> (instead of 24 hours) after the consequence was issued. Added that the youth grievance system is the mechanism for youth to challenge minor disciplinary consequences. 	
380.9517	Redirect Program	Establishes the Redirect Program within TJJD facilities. Explains the eligibility criteria, approval process, and basic program components.	Yes	<ul style="list-style-type: none"> Added a criterion that allows a youth to be placed in the Redirect Program when the youth commits any major rule violation (not just the seven violations already listed) if the executive director or designee determines the totality of the circumstances justifies placement in the program. Clarified that when youth who are already in the Redirect Program get placed in the Security Program, the youth may not actually move to a different location. The Redirect Program Unit may be used as the Security Program location for these youth. Clarified that mental health services provided to youth in the Redirect Program are provided by a <i>mental health specialist</i>, not a psychologist. 	Ready for board adoption
380.9520	Cooling-Off Period for Youth Out of Control	Allows TJJD to temporarily separate a youth from the group when he/she temporarily loses control of his/her behavior. The separation is to an unlocked location near the current group activity.	Yes	<ul style="list-style-type: none"> Made non-substantive clean-ups and minor clarifications. 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed?	Summary of Key Revisions	Status of Revisions
380.9535	Phoenix Program	Establishes the Phoenix Program within TJJJ. Explains the eligibility criteria, approval process, and basic program components.	Yes	<ul style="list-style-type: none"> • Added a requirement for the division director over residential facilities or designee to make the final decision on whether a youth is admitted to the Phoenix Program. • Clarified that mental health services provided to youth in the Phoenix Program are provided by a <i>mental health specialist</i>, not a psychologist. • Made other minor updates to position titles and facility documentation. 	Ready for board adoption

Draft 4/29/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Visitation ACA: 4-JCF-1C-08, 3A-18, 3A-19, 3A-20 Statutes: N/A References: International Minimum Standard for the Treatment of Prisoners, 1977	Effective Date: Page: 1 of 6 Replaces: GAP.380.9312, 7/15/14
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Staff-recommended change on page 6

RULE

(a) Purpose.

The purpose of this rule is to promote and foster communication and contact between Texas Juvenile Justice Department (TJJD) youth and their parents/guardians, immediate family members, and other positive individuals in their lives.

(b) Applicability.

- (1) This rule applies to all residential facilities operated by TJJD.
- (2) This rule does not apply to visits from:
 - (A) attorneys or their staff (see §380.9311 of this title);
 - (B) personal clergy (see §380.9317 of this title); or
 - (C) registered volunteers who are visiting a youth as part of their specific volunteer assignment (see §385.8145 and §385.8181 of this title).

(c) Definitions.

As used in this rule, the following terms have the following meanings, unless the context clearly indicates otherwise.

- (1) **Immediate Family Member**--parent, step-parent, legal guardian, sibling, step-sibling, child, spouse, aunt, uncle, or grandparent of a youth in TJJD custody.
- (2) **Non-Eligible Visitor**--includes only the following individuals:
 - (A) a former or current TJJD youth, except if a former TJJD youth is an immediate family member;
 - (B) a parent whose parental rights have been terminated by a court, but only if the youth the parent is seeking to visit is under age 18;
 - (C) any person who is restricted from contact with a TJJD youth by a valid court order;
 - (D) any former or current TJJD employee, unless the former or current TJJD employee is an immediate family member of the youth, is otherwise authorized to visit the youth, or is approved by the chief local administrator (CLA);
 - (E) any person who is not an immediate family member and who is under age 18, unless approved by the CLA;
 - (F) any person with an outstanding warrant for a felony or misdemeanor offense; and
 - (G) any person who is not an immediate family member and who is required to register as a sex offender, unless authorization for the visitation is obtained from the executive director or his/her designee.

(d) **General Provisions.**

- (1) All TJJD youth, regardless of program placement, are allowed to receive visitors.
- (2) Except for parents and guardians who wish to visit a youth during the youth's initial placement at the orientation and assessment facility, only persons whose names are on a youth's approved visitor list are permitted to visit that youth.
- (3) A person wishing to be placed on a youth's approved visitor list must submit a completed visitor application and obtain prior approval to visit with the youth.
- (4) TJJD conducts background and criminal history checks prior to placing a person on the youth's approved visitor list.
 - (A) TJJD does not release or disclose confidential criminal history record information except on court order or with the consent of the person who is the subject of the criminal history record information.
 - (B) Criminal records obtained under this rule are destroyed after completion of the visitation approval decision. However, if visitation is denied or limited based in part on a review of criminal history, TJJD retains the criminal history record information of the person for whom access is denied or limited until the youth the person is seeking to visit is released from TJJD.
- (5) An approved visitor under the age of 18 must be accompanied by:
 - (A) his/her parent or guardian; or
 - (B) if the visitor is the child of a TJJD youth, an approved visitor who is age 18 or older.

(e) **Denial of Visitation.**

- (1) TJJD may deny placing a person's name on a youth's approved visitor list only if:
 - (A) the person is a non-eligible visitor; or
 - (B) TJJD has denied visitation for any of the reasons listed in paragraph (2) of this subsection.
- (2) TJJD may deny visitation if:
 - (A) evidence exists that the person has:
 - (i) passed contraband to a youth or staff member that constitutes a violation of law or creates a safety or security risk;
 - (ii) aided a youth in an escape or attempted escape;
 - (iii) provided false information or failed to provide accurate information to staff with regard to visitation;
 - (iv) engaged in disruption of visitation similar to examples listed in subsection (h) of this section. The severity of the incident is a factor in determining the length of time visitation may be denied;
 - (B) the person was victimized by the youth and the manager of clinical services has determined that visitation would be harmful to the person;
 - (C) there is reasonable cause to believe the person would pose a risk to the safety or security of the facility or interfere with a youth's treatment, rehabilitation, or successful reestablishment in the community;
 - (D) the person is required to register as a sex offender under Chapter 62 of the Texas Code of Criminal Procedure; or

- (E) the person has the following criminal history:
 - (i) a conviction, deferred adjudication, or juvenile adjudication for a felony within the past ten years;
 - (ii) current probation or parole; or
 - (iii) a conviction, deferred adjudication, or juvenile adjudication for a jailable misdemeanor within the past five years.

- (3) To determine whether to approve or deny visitation based on criminal history, TJJD takes into consideration the nature and extent of the criminal record and the time elapsed since the criminal activity.
- (4) TJJD may not deny visitation for an immediate family member based solely on a review of criminal history record information.
- (5) Only the division director over residential services or his/her designee may deny visitation.
- (6) If TJJD denies placing a person's name on a youth's approved visitor list, TJJD must provide written notice to the person and the youth. The notice must include the reason for the denial and an explanation of the right to file a grievance to appeal the decision.

(f) **Visitation Scheduling.**

(1) **Visitation Days.**

Visitation days are, at a minimum, each Saturday and Sunday and major holidays.

(2) **Visitation Hours.**

The facility must provide two eight-hour visitation days per week. The facility may provide extended visitation hours, as designated by the CLA or designee.

(3) **Length of Visitation.**

(A) **Youth Not Assigned to the Security Unit.**

Visitation for youth not assigned to the security unit is at least two hours per each visitation, if behavior permits.

(B) **Youth Assigned to the Security Unit.**

Visitation for youth assigned to the security unit is at least one hour per each visitation, if behavior permits.

(4) **Number of Visitors.**

There is no limit to the number of visitors per visitation. However, a youth is allowed only two face-to-face contact visitors at any one time during each visitation, unless the CLA or designee grants an increase in the number of face-to-face contact visitors for the visitation period.

(g) **Conditions of Visitation.**

(1) **Location.**

- (A) Adequate space is provided for visitation. Outdoor visitation may be allowed if safety and weather permit.

- (B) Visitation for youth housed in a security unit occurs in the security unit. For visitation in a security unit, the CLA or designee may limit approved visitors to parents/guardians and grandparents.

(2) **Private Parental Visitation.**

Parents have the right to private, in-person communication with their child for reasonable periods of time. The time, place, and conditions of the private, in-person communication may be regulated only to prevent disruption of scheduled activities and to maintain the safety and security of the facility.

- (A) Private, in-person communication means communication between a parent and his/her child in a location where conversation cannot be overheard by staff.
- (B) Parents desiring to have private, in-person communication with their child are expected to make the request at least 24 hours before the visitation. Requests not made within 24 hours are accommodated if possible.

(3) **Special Visitation.**

Special visitation is provided at times that may vary from the regular visitation schedule to accommodate visitors with special circumstances including, but not limited to:

- (A) long-distance travel requirements;
- (B) parent work schedules that preclude visiting during normal hours; or
- (C) bereavement.

(4) **Contact Visitation.**

Visitors are allowed to hug the youth at the beginning and end of the visit.

(5) **Dress Code.**

Visitors must abide by the following dress code:

- (A) no shorts (an exception is made for visitors under age 13);
- (B) no open-toed shoes;
- (C) no miniskirts, see-through or sleeveless clothing, tops that expose the midriff, or any other clothing for visitors age 13 or older that is determined by staff to be too revealing, too short, or otherwise inappropriate;
- (D) suggestive, offensive, or derogatory body art must be covered (to the extent practical); and
- (E) no clothing depicting drugs, sex, gang culture, obscene language, or disrespect to other persons or ethnicities.

(h) **Removal From Visitation.**

- (1) TJJD will require the visitor to leave the facility and TJJD may notify local law enforcement if:

- (A) the visitor appears to be under the influence of drugs or alcohol;
- (B) the visitor refuses to cooperate;
- (C) the visitor creates a disturbance;
- (D) the visitor is hostile to the point of disruption; or
- (E) evidence exists that the visitor has passed contraband to a youth or staff member or aided a youth in an escape or attempted escape.

- (2) If local law enforcement is notified, any further action will be at the discretion of the local law enforcement.

(i) **Denial of Visitation for TJJD Youth.**

Youth may be denied a scheduled visit if there is a compelling risk to the safety of other youth or visitors or the security of the facility, including circumstances in which the youth is:

- (1) out of control and it is unsafe to allow visitation;
- (2) assaultive or threatens to engage in assaultive conduct during visitation; or
- (3) engaging in misconduct during visitation.

(j) **Denial of Visitation for TJJD Facility or Housing Unit.**

- (1) If a dorm is on a temporary schedule restriction, youth are allowed visitation unless youth individually meet criteria for denial of visitation.
- (2) Denial of visitation for an entire housing unit or facility due to unrest or any other extraordinary situation must be approved by the division director over residential facilities or his/her designee.

(k) **Refusal of Visitation.**

Youth may refuse to receive visitors.

(l) **Staff Availability During Visitation.**

Staff members must be available to answer visitors' questions and address concerns during visitation hours.

(m) **Publication of Visitation Rules.**

The facility must post the visitation rules in English and Spanish on a central bulletin board and assist other non-English speaking individuals to understand posted rules, as needed. The visitation rules must:

- (1) address all pertinent issues including, but not limited to, visitation days and hours, required identification, visitor dress code, prohibited contraband, items authorized in visitation area, and expected demeanor of visitors; and
- (2) be sent with the admission letter to each youth's parents or legal guardian.

(n) **Grievance and Complaint Process.**

(1) **Visitation Grievances.**

Grievances by immediate family members or youth with regard to visitation are filed under §380.9331 of this title.

(2) **Public Complaints.**

Complaints by members of the public with regard to visitation are filed under §385.8111 of this title.

(o) **Check-In Process.**

(1) **Registration.**

All visitors must register upon entry to a facility.

(2) **Identification.**

(A) Adult visitors must produce valid picture identification for themselves and accompanying visitors age 13 or older. Acceptable picture identification includes:

- (i) valid state driver's license;
- (ii) state-issued identification card;
- (iii) current military identification;

- (iv) school-issued identification card;
- (v) other official picture identification; or
- (vi) a TJJD volunteer identification badge.

(B) Visitors age 13 or older are issued a temporary identification badge.

(3) **Prohibited Items.**

Items brought onto agency property may be limited and regulated by TJJD. ~~For a list of prohibited items, see §380.9710 of this title.~~ Visitors are allowed to bring in only the items listed in this paragraph unless the control center posts a list of additional items allowed. The additional items must be approved by the CLA. Visitors are allowed to bring:

- (A) identification;
- (B) a bottle and diaper-changing items (for visitors with infants); and
- (C) up to ten dollars in coins, if vending machines are available. TJJD youth are not permitted to handle the money.

(4) **Searches.**

- (A) All individuals, vehicles, and items entering the facility are subject to search. For more information regarding entry searches, see §380.9710 of this title.
- (B) Parking lots are subject to inspection by TJJD's canine (K-9) teams. Law enforcement may be notified when necessary. See §380.9713 of this title for more information regarding inspections of parking lots.
- (C) In facilities equipped with metal detectors, visitors must declare at the control center all metal items on their person and must successfully pass through the metal detector. Visitors refusing or failing to pass successfully through a metal detector are denied access.
- (D) Visitors' refusal to submit to a search of their person or personal property may be considered legitimate grounds for denying access to the facility.

(p) **Individual Exceptions.**

The executive director may make exceptions to the provisions of this rule on a case-by-case basis or in emergency situations.

See INS.57.05 for implementation procedures.

Draft 5/6/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Use of Telephone ACA: 4-JCF-3A-16 Statutes: HR Code §203.014	Effective Date: Page: 1 of 1 Replaces: GAP.380.9313, 12/31/96
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Staff-recommended changes on page 1

RULE

(a) **Purpose.**

This rule provides Texas Juvenile Justice Department (TJJD) youth with reasonable access and equal opportunity within a facility to use the telephone for purposes of contacting:

- (1) their families;
- (2) the Incident Reporting Center maintained by the TJJD Office of Inspector General for purposes of reporting information concerning abuse, neglect, and exploitation; and
- (3) the Office of the Independent Ombudsman for TJJD.

(b) **Applicability.**

This rule does not apply to calls to attorneys. For additional information on telephone calls to attorneys and courts, see §380.9311 of this title.

(c) **General Provisions.**

Use of the phone is a basic right of youth in the TJJD system. For additional information on basic rights of youth in the TJJD system, see §380.9301 of this title.

(d) **Non-Emergency Calls.**

TJJD provides a specific number of prepaid minutes for youth to make a reasonable number of calls each month. Calls are restricted to the youth's parents, guardian, immediate family members as defined in §380.9312 of this title, and approved volunteers. Times are scheduled throughout each week and weekend to provide youth with access to telephones for this purpose.

(e) **Emergency Calls.**

(1) **Family Emergencies.**

TJJD is responsible for calls by or on behalf of the youth in cases of family emergencies as approved by the case manager. Family emergency calls are not made using prepaid minutes. All family emergency calls are to be placed on a TJJD staff member's telephone.

(2) **Calls to the Incident Reporting Center for the Office of the Independent Ombudsman.**

- (A) Calls placed to the Incident Reporting Center or the Office of the Independent Ombudsman do not count against a youth's prepaid minutes.
- (B) For calls to the Incident Reporting Center or the Office of the Independent Ombudsman, TJJD allows access to the telephone whenever possible, limited only by consideration for facility order and the safety of youth and staff. TJJD staff may require youth to wait until the end of the currently scheduled activity before placing a telephone call.

(f) **Recorded Phone Calls.**

Calls placed by youth to the Incident Reporting Center are recorded. During the initial orientation to TJJD and during all subsequent placement orientations, youth are informed that calls to the Incident Reporting Center are recorded. No other calls made by the youth are recorded by TJJD.

Draft 4/2/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Youth Mail ACA: 4-JCF-3A-08, 3A-09, 3A-10, 3A-11, 3A-12, 3A-14 3-JCRF-3D-02, 5G-01, 5G-03, 5G-04 References: <i>Morales v. Turman</i> Settlement Agreement, Section (V)(D)	Effective Date: Page: 1 of 3 Replaces: GAP.380.9315, 11/15/11
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Staff-recommended changes on pages 2 and 3

RULE

(a) Purpose.

The purpose of this policy is to establish rules for promoting open mail communication for youth in residential facilities and to establish limitations on youth mail only as necessary for safety and security and for the protection of youth from improper influences.

(b) Applicability.

This rule applies only to youth in residential facilities operated by the Texas Juvenile Justice Department (TJJD).

(c) Definitions.

As used in this rule, the following terms have the following meanings, unless the context clearly indicates otherwise.

- (1) **Contraband**--has the meaning assigned by §380.9107 of this title.
- (2) **Family Member**--father, mother, sibling, step-relationship to any of the preceding, grandparent, or spouse. Family member may also include other relatives as approved by the chief local administrator on a case-by-case basis.
- (3) **Mail**--all written correspondence to or from a youth that is deposited for delivery in a regular postal service and any other item contained in the envelope or package.
- (4) **Special Correspondent**--includes only the following persons:
 - (A) TJJD board members, TJJD administrators, employees of the TJJD Office of Inspector General, or other TJJD investigators;
 - (B) employees of the Office of the Independent Ombudsman for TJJD;
 - (C) government officials, including elected officials, court officials, and law enforcement officials;
 - (D) an attorney for the youth;
 - (E) a member of an advocacy or support group, as defined in §385.8183 of this title;
 - (F) a member of the editorial or reporting staff of any newspaper, magazine, or radio or television station listed in a major media directory.

(d) General Provisions.

- (1) Youth have the right to communicate or correspond through the mail with persons or organizations subject only to the limitations necessary to maintain facility order and security and to protect youth from improper influences.
- (2) Money sent by mail to a youth is handled in accordance with §380.9931 of this title.
- (3) No incoming or outgoing youth mail will be read or censored, but mail may be inspected for the purposes provided in subsection (e) of this section.

- (4) Unless a youth requests it, a youth's mail will not be read for any purpose as long as the mail remains in the youth's possession in his/her assigned living unit.
- (5) Mail or other written material that is abandoned following a youth's unauthorized departure may be read to aid in the youth's apprehension.
- (6) Unauthorized written material, which may include mail, that is found in a youth's possession in an area other than his/her living unit, may be read only to the extent needed to determine whether the item constitutes contraband.

(e) **Contraband in Incoming and Outgoing Mail.**

- (1) All incoming mail may be opened and inspected for contraband in the youth's presence.
- (2) All outgoing mail may be inspected for contraband prior to sealing, except for outgoing mail to special correspondents.
- (3) Youth may receive magazines or other publications that are not otherwise considered contraband.
- (4) All contraband that is discovered will be seized and disposed of in accordance with §380.9711 of this title.

(f) **Stopped Delivery of Incoming and Outgoing Mail.**

- (1) Incoming mail will not be delivered and outgoing mail will not be deposited for delivery if:
 - (A) it contains contraband; or
 - (B) it is addressed to or from:
 - (i) a person who objects to receiving mail from the youth;
 - (ii) a minor whose parent or guardian has objected to his/her child receiving mail from the youth;
 - (iii) a person, other than a special correspondent or family member, who has been identified by the youth's parent or guardian as someone who should not correspond with the youth (this provision applies only to TJJD youth under age 18);
 - (iv) an inmate of a jail or prison, other than a family member;
 - (v) a youth under TJJD jurisdiction, other than a family member; or
 - (vi) a youth under TJJD jurisdiction who is a family member when it is found that either youth has at any time used the mail to facilitate, plan, or engage in the violation of a law or rule of conduct.
- (2) The executive director or his/her designee may make exceptions on a case-by-case basis regarding individuals permitted to correspond with youth, based on whether it is in the youth's best interest to correspond with the individual.
- (3) Incoming mail that is not delivered will be returned to the sender if a return address is noted on the parcel. If no return address is noted, the mail will be returned to the post office as undeliverable.
- (4) Mail from a youth will not be deposited for delivery without a return address printed on the envelope.
- (5) The executive director or his/her designee may issue a notice of stopped mail when a person who is otherwise eligible to correspond with a youth attempts to send contraband to a youth that would be a

violation of law or that creates a safety or security risk. When such a notice has been issued, all future mail from the sender will be returned, regardless of content. The notice of stopped mail will include a time period up to six months after which the person may submit a request to resume correspondence with the youth.

(g) **Notice of Returned Mail and Opportunity for Review.**

- (1) Youth will receive notice of incoming mail that is returned to the sender and outgoing mail that is not deposited for delivery. The notice to youth will describe the mail and the reasons for its return in sufficient detail to permit effective use of the youth grievance process.
- (2) Senders of incoming mail that is returned may request the reasons for the mail's return. TJJD stamps the returned mail envelope with the reason for its return or the telephone number to contact for this information.

(h) **Returned and Stopped Mail Review Procedure.**

A youth or a person corresponding with a youth who has had his/her mail returned or received notice of stopped mail may request a review of the action by filing a grievance under §380.9331 of this title.

(i) **Postage and Time of Delivery.**

- (1) There is no limit on the number or length of incoming or outgoing letters. Postage and stationery is furnished to all youth for at least three one-ounce domestic letters per week. Additional postage and stationery are provided for letters to attorneys or courts, as needed.
- (2) Excluding weekends, and national and state holidays, and other days on which agencies are closed or skeleton crews are required:
 - (A) incoming letters are distributed to the youth within 24 hours and packages are distributed within 48 hours; and
 - (B) outgoing letters are deposited for delivery within 24 hours after a staff member receives the letter from the youth.
- (3) First-class letters and packages are forwarded to:
 - (A) a youth's assigned placement following transfer or release; or
 - (B) a youth's address on file following discharge.

See INS.55.05 for implementation procedures.

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Title: Visitation with Personal Clergy ACA: 4-JCF-5F-02, 5F-04 Statutes: N/A	Effective Date: 7/15/14 Page: 1 of 1 Replaces: GAP.380.9317, 9/25/00
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RULE

(a) **Purpose.**

The purpose of this rule is to provide youth with privileged access to their personal clergy.

(b) **Visitation.**

- (1) A personal clergy member is someone from a recognized faith group who has an established, professional relationship with a youth and/or the youth's family prior to the youth's admission to the Texas Juvenile Justice Department (TJJD).
 - (2) TJJD approves the clergy member's registration to visit after his/her religious affiliation and relationship to the youth are verified.
 - (3) Youth may receive visits from their personal clergy member any day of the week after reasonable arrangements have been made.
 - (4) TJJD provides adequate space and supervision for the visit. TJJD ensures the space allows the youth to have confidential conversation with his/her personal clergy, but correctional staff maintain line-of-sight supervision.
 - (5) The personal clergy member is only allowed to visit the youth with whom he/she has an established professional relationship.
 - (6) A youth may decline a visit with a personal clergy member. The parent/guardian of a youth under age 18 may prohibit a visit between his/her child and a personal clergy member.
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Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Zero Tolerance for Sexual Abuse, Sexual Activity, and Sexual Harassment ACA: 4-JCF-3A-02, 3D-02, 3D-03, 3D-04, 3D-05, 3D-06, 3D-07, 3D-08, 3D-09, 4C-50 Statute(s): Prison Rape Elimination Act of 2003 (42 USC 15601 et seq.) 28 CFR Part 115 Texas Hum. Res. Code §242.101	Effective Date: 4/21/14 Page: 1 of 16 Replaces: GAP.380.9337, 12/15/08
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RULE

(a) **Purpose.**

The purpose of this rule is to establish the Texas Juvenile Justice Department's (TJJD's) zero-tolerance policy for any form of sexual abuse, sexual harassment, or sexual activity involving youth in the agency's care. This rule also addresses TJJD's obligations under federal Prison Rape Elimination Act (PREA) standards for preventing, detecting, and responding to sexual abuse and sexual harassment.

(b) **Applicability.**

Unless stated otherwise, this rule applies to all residential facilities operated by TJJD or under contract with TJJD.

(c) **Definitions.**

- (1) **Exigent Circumstances**--any set of temporary and unforeseen circumstances that require immediate action to combat a threat to the security or institutional order of a facility.
- (2) **Residential Facilities**--high restriction facilities and medium restriction facilities as defined in §380.8527 of this title.
- (3) **Sexual Abuse**--includes sexual abuse of a youth by another youth or sexual abuse of a youth by a staff member, contractor, or volunteer.
- (4) **Sexual Abuse of a Youth by Another Youth**--includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
 - (A) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) contact between the mouth and the penis, vulva, or anus;
 - (C) penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
 - (D) any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- (5) **Sexual Abuse of a Youth by a Staff Member, Contractor, or Volunteer**--includes any of the following acts, with or without consent of the youth:
 - (A) contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
 - (B) contact between the mouth and the penis, vulva, or anus;

- (C) contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (D) penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (E) any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
 - (F) any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in subparagraphs (A) - (E) of this paragraph;
 - (G) any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a youth; and
 - (H) voyeurism by a staff member, contractor, or volunteer.
- (6) **Sexual Activity**--includes any form of sexual misconduct, as defined in §380.9503 of this title, that does not meet the definition of sexual abuse.
- (7) **Sexual Harassment**--includes:
- (A) repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another; and
 - (B) repeated verbal comments or gestures of a sexual nature to a youth by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- (8) **Voyeurism**--an invasion of a youth's privacy by a staff member, contractor, or volunteer for reasons unrelated to official duties, such as:
- (A) peering at a youth who is using a toilet in his or her cell to perform bodily functions;
 - (B) requiring a youth to expose his or her buttocks, genitals, or breasts; or
 - (C) taking images of all or part of a youth's naked body or of a youth performing bodily functions.
- (d) **General Provisions.**
- (1) It is the policy of TJJJ to ensure that any form of conduct that meets the definition of sexual abuse, sexual activity, or sexual harassment, regardless of consensual status, is strictly prohibited. Such conduct, if confirmed, will result in administrative disciplinary action and may result in criminal prosecution.
 - (2) It is the policy of TJJJ to comply with all applicable PREA-related standards adopted by the U.S. Department of Justice.
- (e) **Prevention Planning.**
- (1) **PREA Coordinator and PREA Compliance Managers.**
 - (A) TJJJ designates an upper-level staff member as the agency-wide PREA coordinator. This staff member's duties must be structured to allow sufficient time and authority to develop, implement, and oversee agency efforts to comply with PREA standards in all TJJJ-operated residential facilities.

- (B) TJJJ designates a PREA compliance manager at each TJJJ-operated residential facility. This staff member's duties must be structured to allow sufficient time and authority to coordinate the facility's efforts to comply with PREA standards.

(2) **Contracting with Other Entities for Confinement of Youth.**

In all new or renewed contracts for residential placement of TJJJ youth, TJJJ includes a clause requiring the contractor to adopt and comply with applicable PREA standards.

(3) **Youth Supervision and Monitoring.**

(A) **Staffing Plans.**

- (i) Each TJJJ-operated residential facility develops and implements a written staffing plan to provide adequate levels of staffing and video monitoring to protect youth against sexual abuse.
- (ii) Deviations from the staffing plan are permitted only during limited and discrete exigent circumstances. The facility documents each deviation and the reason for the deviation.
- (iii) At least once each year, the division director over residential services, in consultation with the TJJJ PREA coordinator, reviews and documents whether any adjustments are needed to each TJJJ-operated facility's:
 - (I) staffing plan;
 - (II) prevailing staffing patterns;
 - (III) deployment of video monitoring systems and other monitoring technologies; and
 - (IV) resources available to ensure adherence to the staffing plan.

(B) **Staff Ratios.**

Each TJJJ-operated high restriction facility maintains staff ratios in accordance with §380.9955 of this title.

(C) **Unannounced Rounds.**

- (i) At each TJJJ-operated high restriction facility, a staff member with management responsibilities conducts and documents unannounced rounds to identify and deter sexual abuse and sexual harassment. The unannounced rounds must be conducted at least twice per month on each shift.
- (ii) At each TJJJ-operated medium restriction facility, a staff member with management responsibilities conducts and documents unannounced rounds to identify and deter sexual abuse and sexual harassment. The unannounced rounds must be conducted at least once per month on each shift.
- (iii) Staff members are prohibited from notifying other staff members that unannounced rounds are occurring, unless such notification is related to the legitimate operational functions of the facility.

(4) **Limits to Cross-Gender Viewing and Searches.**

- (A) TJJJ maintains restrictions and limitations on cross-gender searches in accordance with §380.9709 of this title.
- (B) TJJJ does not search or physically examine a transgender or intersex youth for the sole purpose of determining the youth's genital status. The status may be determined during

conversations with the youth, by reviewing medical records, or as part of a broader medical examination conducted in private by a medical practitioner.

- (C) In TJJD-operated residential facilities, staffing patterns and physical barriers are implemented to enable youth to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks.
 - (D) In TJJD-operated residential facilities, staff who are not the same gender as the youth must announce their presence when entering:
 - (i) a dormitory pod or wing at a high restriction facility, but only if there are no other staff of the opposite gender already in the pod or wing; or
 - (ii) a sleeping room at a medium restriction facility.
- (5) **Youth with Disabilities and Youth who are Limited English Proficient.**
- (A) TJJD takes appropriate steps to ensure that youth with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps include providing access to:
 - (i) interpreters; and
 - (ii) written materials provided in formats or through methods that ensure effective communication.
 - (B) TJJD takes reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment for youth who are limited English proficient, including the use of interpreters.
 - (C) When using interpreters to meet requirements of this paragraph:
 - (i) TJJD attempts to select interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary; and
 - (ii) TJJD does not use other youth to interpret, read, or otherwise assist except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise safety, the performance of first-response duties, or an investigation.
- (6) **Hiring and Promotion Decisions.**
- (A) TJJD does not hire or promote anyone who may have contact with youth and does not use the services of any contractor who may have contact with youth if the person:
 - (i) has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution, as defined in 42 U.S.C. 1997; or
 - (ii) has been convicted or civilly or administratively adjudicated of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
 - (B) For any person who may have contact with juveniles, TJJD considers any incidents of sexual harassment in determining whether to hire, promote, or contract for services.
 - (C) Before hiring new employees who may have contact with youth, TJJD:
 - (i) performs a criminal background records check;

- (ii) consults the child abuse registry maintained by Texas Department of Family and Protective Services (DFPS); and
 - (iii) makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.
 - (D) Before enlisting the services of a contractor who may have contact with youth, TJJD:
 - (i) performs a criminal background records check; and
 - (ii) consults the DFPS child abuse registry.
 - (E) TJJD conducts periodic criminal background records checks on current employees and contractors in accordance with §385.8181 of this title.
 - (F) TJJD asks applicants and employees who may have contact with youth directly about previous misconduct described in subparagraph (A) of this paragraph in written applications or interviews for hiring or promotion and in any interviews or written self-evaluations conducted as part of reviews of current employees. TJJD employees have a continuing affirmative duty to disclose any such misconduct. Material omissions regarding such misconduct or the provision of materially false information is grounds for termination of employment.
 - (G) Unless prohibited by law, TJJD provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom the former employee has applied to work.
- (7) **Upgrades to Facilities and Technologies.**
 - (A) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, TJJD considers the effect of the design, acquisition, expansion, or modification on the agency's ability to protect youth from sexual abuse.
 - (B) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, TJJD considers how such technology may enhance the agency's ability to protect youth from sexual abuse.
- (f) **Responsive Planning.**
 - (1) **Evidence Protocol and Forensic Medical Examinations.**
 - (A) TJJD follows a uniform evidence protocol when responding to allegations of sexual abuse. The evidence protocol must be developmentally appropriate for youth.
 - (B) When evidentially or medically appropriate, TJJD transports youth who experience sexual abuse to a hospital, clinic, or emergency room that can provide for medical examination by a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or other qualified medical practitioners. All such medical examinations are provided at no financial cost to the youth.
 - (C) If requested by a youth who experiences sexual abuse, a victim advocate will accompany and support the youth through the forensic medical examination and investigatory interviews. The victim advocate provides emotional support, crisis intervention, information, and referrals.
 - (D) TJJD seeks to secure victim advocacy services from local rape crisis centers. If a rape crisis center is not available, TJJD makes these services available through a qualified staff member from a community-based organization or from a qualified TJJD staff member who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues.

(2) Policies to Ensure Referrals of Allegations for Investigations.

- (A) The TJJJ Office of Inspector General (OIG) reviews all allegations of sexual abuse and sexual harassment and assigns each allegation to the appropriate TJJJ department to complete a criminal investigation, administrative investigation, or both.
- (B) Under Texas Human Resources Code §242.102, the OIG is authorized to conduct criminal investigations.

(g) Training and Education.**(1) Employee Training.**

- (A) TJJJ provides PREA-related training to all employees who may have contact with youth. The training is tailored to the unique needs and attributes of youth in juvenile facilities and to the specific gender(s) represented at the facility. The training addresses:
 - (i) the zero-tolerance policy for sexual abuse, sexual harassment, and sexual activity;
 - (ii) how to fulfill employees' responsibilities to prevent, detect, report, and respond to sexual abuse and sexual harassment;
 - (iii) youths' right to be free from sexual abuse and sexual harassment;
 - (iv) the right of youth and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
 - (v) the dynamics of sexual abuse and sexual harassment in juvenile facilities;
 - (vi) the common reactions of juvenile victims of sexual abuse and sexual harassment;
 - (vii) how to detect and respond to signs of threatened and actual sexual abuse and how to distinguish between consensual sexual contact and sexual abuse between youth;
 - (viii) how to avoid inappropriate relationships with youth;
 - (ix) how to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming youth;
 - (x) how to comply with relevant laws related to mandatory reporting of sexual abuse; and
 - (xi) relevant laws and rules regarding consent.
- (B) TJJJ requires all employees to receive the PREA-related training annually. An employee must receive additional training if he/she is reassigned from a male-only facility to a female-only facility or vice versa.
- (C) TJJJ documents employees' written verification that they understand the training they have received.

(2) Volunteer and Contractor Training.

TJJJ ensures and documents that all volunteers and contractors who have direct access to youth have been trained on and understand their responsibilities under this rule and any other related TJJJ policies and procedures.

(3) Youth Education.

- (A) During the admission process, TJJD provides youth with age-appropriate information about the agency's zero-tolerance policy and how to report incidents or suspicions of sexual abuse, sexual harassment, or sexual activity.
- (B) Within 10 calendar days after admission, TJJD provides comprehensive, age-appropriate education to youth about:
 - (i) their rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents; and
 - (ii) agency policies and procedures for responding to such incidents.
- (C) When a youth is transferred to a different TJJD-operated facility, TJJD provides the information in subparagraphs (A) and (B) of this paragraph to youth.
- (D) TJJD provides the information in formats accessible to all youth, including those who:
 - (i) are limited English proficient;
 - (ii) are deaf, visually impaired, or otherwise disabled; and
 - (iii) have limited reading skills.

(4) Specialized Training: Investigations.

- (A) TJJD staff members who investigate allegations of sexual abuse receive specialized training that includes:
 - (i) techniques for interviewing juvenile sexual abuse victims;
 - (ii) proper use of *Miranda* and *Garrity* warnings;
 - (iii) sexual abuse evidence collection in confinement settings; and
 - (iv) criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- (B) TJJD maintains documentation that such training has been completed.

(5) Specialized Training: Medical and Mental Health Care.

TJJD ensures and maintains documentation that all full and part-time medical and mental health practitioners who work in TJJD-operated facilities have been trained in how to:

- (A) detect and assess signs of sexual abuse and sexual harassment;
- (B) preserve physical evidence of sexual abuse;
- (C) respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
- (D) report allegations or suspicions of sexual abuse and sexual harassment and to whom such reports must be made.

(h) Screening for Risk of Sexual Victimization and Abusiveness.**(1) Obtaining Information from Youth.**

- (A) Within 72 hours after a youth's admission to TJJD, TJJD uses an objective screening instrument to obtain information about the youth's personal history and behavior to reduce the risk of sexual abuse by or upon another youth. Periodically throughout the youth's stay, information from the screening instrument is used to reassess housing and supervision assignments.

- (B) TJJJ establishes appropriate controls to prevent sensitive information obtained from these screenings from being exploited to the youth's detriment by staff or other youth.

(2) **Placement of Youth in Housing, Bed, Program, Education, and Work Assignments.**

- (A) TJJJ uses all information obtained under paragraph (1) of this subsection to make housing, bed, program, education, and work assignments for youth.
- (B) Except under limited situations involving self-injury set forth in §380.9745 of this title, TJJJ does not place youth in isolation as a means of protection.
- (C) Lesbian, gay, bisexual, transgender, or intersex youth are not placed in particular housing, bed, or other assignments solely on the basis of such identification or status. TJJJ does not consider such identification or status as an indicator of likelihood of being sexually abusive.
- (D) For each transgender or intersex youth, TJJJ:
 - (i) makes a case-by-case determination when assigning the youth to a male or female facility and when making other housing and programming assignments, considering the youth's health and safety and any management or security concerns;
 - (ii) gives serious consideration to the youth's own views concerning his/her own safety when making placement and programming assignments;
 - (iii) reassesses the placement and programming assignments at least twice each year to review any threats to safety experienced by the youth; and
 - (iv) provides the opportunity to shower separately from other youth.

(i) **Reporting.**

(1) **Reports from Youth and Third Parties.**

- (A) Youth may report sexual abuse, sexual harassment, retaliation by others for reporting sexual abuse or harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents by:
 - (i) filing a written grievance in accordance with §380.9331 of this title;
 - (ii) calling the 24-hour, toll-free hotline maintained by the OIG without being heard by staff or other youth;
 - (iii) telling any staff member, volunteer, or contract employee, who must then call the OIG hotline; or
 - (iv) calling the toll-free number maintained by the Office of Independent Ombudsman (OIO), which is a separate state agency, without being heard by staff or other youth.
- (B) TJJJ accepts verbal and written reports made anonymously or by third parties and promptly documents verbal reports. Anonymous and third-party reports may be submitted to TJJJ by calling the toll-free hotline maintained by the OIG. TJJJ publicly distributes information on how to report alleged abuse or sexual harassment on behalf of a youth by posting this information on the agency's website.
- (C) TJJJ provides youth with access to grievance forms in accordance with §380.9331 of this title. TJJJ provides all staff with access to telephones to privately call the OIG hotline immediately if the staff member has reason to believe a youth has been a victim of sexual abuse or harassment.

(2) Administrative Remedies.

- (A) TJJD investigates all allegations of sexual abuse regardless of how much time has passed since the alleged incident.
- (B) As established by §380.9331 of this title, youth are not required to use the youth grievance system or the informal conference request system to report an allegation of sexual abuse. Youth are not required to attempt to resolve the allegation with staff.
- (C) If a youth uses the grievance system or the conference request system to report an allegation of sexual abuse, the allegation is immediately forwarded to the OIG for assignment and investigation.
- (D) TJJD does not refer allegations of sexual abuse to staff members who are the subject of the allegation.

(3) Youth Access to Outside Support Services and Legal Representation.

- (A) TJJD provides youth with access to outside victim advocates for emotional support services related to sexual abuse by making available mailing addresses and telephone numbers, including toll-free numbers of any local, state, or national victim advocacy or rape crisis organizations. TJJD also provides youth with on-site access to representatives of such advocacy organizations in accordance with §385.8183 of this title. TJJD enables reasonable communication between youth and these organizations and agencies in as confidential a manner as possible. TJJD informs youth, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
- (B) TJJD maintains or seeks to enter into agreements with community service providers that are able to provide youth with confidential emotional support services related to sexual abuse. TJJD maintains documentation of such agreements or attempts to enter into such agreements.
- (C) TJJD provides youth with reasonable and confidential access to their:
 - (i) attorneys or other legal representatives, in accordance with §380.9311 of this title; and
 - (ii) parents or legal guardians, in accordance with §§380.9312, 380.9313, and 380.9315 of this title.

(j) Official Response Following a Report of Alleged Sexual Abuse or Sexual Harassment.**(1) Staff and Agency Reporting Duties.**

- (A) All TJJD staff members must immediately report to OIG, in accordance with agency policy, any knowledge, suspicion, or information they receive regarding:
 - (i) an incident of sexual abuse;
 - (ii) an incident of sexual harassment;
 - (iii) retaliation against youth or staff who reported such an incident; and
 - (iv) any staff neglect or violation of responsibilities that may have contributed to such an incident or retaliation.
- (B) The requirement to report applies to incidents occurring in any residential facility, whether or not it is operated by TJJD.
- (C) The requirement to report includes staff members whose personal communications may otherwise be privileged, such as an attorney, member of the clergy, medical practitioner, social

worker, or mental health practitioner. Upon the initiation of services, these staff members must inform the youth of the staff member's duty to report abuse and the limits of confidentiality.

- (D) In addition to the reporting requirement in subparagraph (A) of this paragraph, TJJD staff must comply with mandatory child abuse reporting laws in Texas Family Code Chapter 261 and with applicable professional licensure requirements.
- (E) Any TJJD staff who receives a report of alleged sexual abuse is prohibited from revealing any information to anyone other than to the extent necessary, as specified in §380.9333 of this title, to make treatment, investigation, and other security and management decisions.
- (F) Upon receiving an allegation of sexual abuse, the facility administrator or his/her designee must promptly report the allegation to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified. If the alleged victim is under the conservatorship of DFPS, the report is made to DFPS.
- (G) OIG assigns all reports of alleged sexual abuse and sexual harassment, including third-party and anonymous reports, to the appropriate investigator.

(2) **Agency Protection Duties.**

Upon receipt of a report that alleges a youth is subject to a substantial risk or imminent sexual abuse, TJJD takes immediate action to protect the youth.

(3) **Reporting to Other Confinement Facilities.**

- (A) Any staff member must immediately notify the OIG if he/she receives an allegation that a youth was sexually abused while confined at a juvenile facility not operated by TJJD and not operated under contract with TJJD.
- (B) The OIG must notify the head of the facility or the appropriate office of the agency where the abuse is alleged to have occurred and the appropriate investigative agency as soon as possible, but within 72 hours after receiving the allegation.

(4) **Staff First Responder Duties.**

Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report must:

- (A) separate the alleged victim and alleged abuser;
- (B) preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; and
- (C) if the alleged abuse occurs within a time period that still allows for the collection of physical evidence:
 - (i) request that the alleged victim not take any actions that could destroy physical evidence, including as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - (ii) ensure that the alleged abuser does not take any actions that could destroy physical evidence.

(5) **Coordinated Response.**

TJJD maintains a written plan to coordinate the actions taken among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

(6) **Preservation of Ability to Protect Youth from Contact with Abusers.**

TJJD will not enter into any agreement that limits its ability to remove alleged staff sexual abusers from contact with youth pending the outcome of an investigation or a determination of whether and to what extent discipline is warranted.

(7) **Agency Protection against Retaliation.**

Retaliation by a youth or staff member against a youth or staff member who reports sexual abuse or sexual harassment or who cooperates with an investigation is strictly prohibited. To help prevent retaliation, TJJD:

- (A) designates certain staff members to monitor the person who reported the allegation and the alleged victim to determine whether retaliation is occurring;
- (B) uses multiple measures to protect youth and staff from retaliation, such as housing transfers, removal of the alleged abuser from contact with the alleged victim, and emotional support services for youth or staff who fear retaliation;
- (C) for at least 90 days (except when the allegation is determined to be unfounded):
 - (i) monitors the reporter and the alleged victim for signs of retaliation including items such as disciplinary reports, housing or program changes, staff reassignments, and negative performance reviews; and
 - (ii) conducts periodic status checks on the alleged victim;
- (D) acts promptly to remedy any retaliation; and
- (E) takes appropriate measures to protect any other individual who cooperates with the investigation who expresses a fear of retaliation.

(8) **Post-Allegation Protective Custody.**

TJJD does not use segregated housing to protect a youth who is alleged to have suffered sexual abuse.

(k) **Investigations.**

(1) **Criminal and Administrative Agency Investigations.**

- (A) TJJD conducts prompt, thorough, and objective investigations for all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports.
- (B) For investigations of alleged sexual abuse, TJJD uses investigators who have received special training in sexual abuse investigations involving juvenile victims.
- (C) TJJD investigators must:
 - (i) gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;

- (ii) interview alleged victims, suspected perpetrators, and witnesses; and
 - (iii) review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- (D) TJJD will not terminate an investigation solely because the source of the allegation recants the allegation.
- (E) When the quality of evidence appears to support criminal prosecution, TJJD may conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (F) TJJD investigators must assess the credibility of an alleged victim, suspect, or witness on an individual basis and must not determine credibility by the person's status as a youth or staff.
- (G) TJJD does not require youth who allege sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation.
- (H) In addition to meeting requirements set forth in §380.9333 of this title, administrative investigations of sexual abuse must:
- (i) include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - (ii) be documented in a written report that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- (I) Criminal investigations conducted by the OIG must be documented in a written report that includes:
- (i) a thorough description of physical, testimonial, and documentary evidence; and
 - (ii) copies of all documentary evidence, when feasible.
- (J) Substantiated allegations of conduct that appear to be criminal are referred for prosecution.
- (K) TJJD maintains all criminal and administrative investigation reports for as long as the alleged abuser is incarcerated by TJJD or employed by TJJD, plus at least five years.
- (L) TJJD does not terminate investigations solely on the basis that the alleged abuser or victim is no longer in the custody of TJJD or employed by TJJD.
- (M) If an outside agency conducts an investigation into an allegation of sexual abuse, TJJD staff must cooperate with the outside investigators. TJJD management will attempt to remain informed about the progress of the investigation.

(2) **Evidentiary Standard for Administrative Investigations.**

In administrative investigations into allegations of sexual abuse or sexual harassment, the investigator's findings must be based on a preponderance of the evidence.

(3) **Reporting to Youth.**

The notification requirements in this paragraph apply until the youth is discharged from TJJD. TJJD documents all notifications and attempted notifications.

- (A) Following an investigation into a youth's allegation of sexual abuse suffered in a TJJD facility, TJJD informs the youth whether the allegation is substantiated, unsubstantiated, or unfounded. If TJJD did not conduct the investigation, TJJD management will request the information from the investigating agency so that the youth may be informed.

- (B) Following a youth's allegation that a staff member has committed sexual abuse against the youth, TJJD informs the youth whenever the following events occur, except when the allegation is determined to be unfounded:
 - (i) the staff member is no longer posted within the youth's housing unit;
 - (ii) the staff member is no longer employed at the facility;
 - (iii) TJJD learns that the staff member has been indicted on a charge related to the sexual abuse; or
 - (iv) TJJD learns that the staff member has been convicted on a charge related to the sexual abuse.

- (C) Following a youth's allegation that he/she has been sexually abused by another youth, TJJD informs the alleged victim whenever the following events occur:
 - (i) TJJD learns that the alleged abuser has been indicted on a charge related to the sexual abuse; or
 - (ii) TJJD learns that the alleged abuser has been convicted on a charge related to the sexual abuse.

(I) **Discipline.**

(1) **Disciplinary Sanctions for Staff.**

- (A) Staff members are subject to disciplinary sanctions up to and including termination of employment for violating TJJD sexual abuse or sexual harassment policies.
- (B) Termination of employment is the presumptive disciplinary sanction for staff members who have engaged in sexual abuse.
- (C) Disciplinary sanctions for violations of TJJD policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
- (D) TJJD reports the following actions to any relevant licensing bodies:
 - (i) terminations of employment for violations of agency sexual abuse or sexual harassment policies; and
 - (ii) resignations by staff members who would have been terminated if they had not resigned.

(2) **Corrective Action for Contractors and Volunteers.**

- (A) If a contractor or volunteer engages in sexual abuse, TJJD:
 - (i) prohibits the contractor or volunteer from having any contact with TJJD youth; and
 - (ii) reports the finding of abuse to any relevant licensing bodies.
- (B) If a volunteer or contractor violates TJJD sexual abuse or sexual harassment policies but does not actually engage in sexual abuse, TJJD takes appropriate remedial measures and considers whether to prohibit further contact with TJJD youth.

(3) **Interventions and Disciplinary Sanctions for Youth.**

- (A) A youth may be subject to disciplinary sanctions for engaging in sexual abuse only when:
 - (i) there is a criminal finding of guilt or an administrative finding that the youth engaged in youth-on-youth sexual abuse; and

- (ii) the discipline is determined through a Level II due process hearing held in accordance with §380.9555 of this title.
 - (B) Any disciplinary sanctions must be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by other youth with similar histories.
 - (C) The disciplinary process must consider whether a youth's mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, should be imposed.
 - (D) TJJD does not impose isolation as a disciplinary sanction.
 - (E) TJJD offers youth abusers counseling and other interventions designed to address and correct underlying reasons or motivations for the abuse. TJJD may require participation in such counseling and interventions as a condition of access to behavior-based incentives, but not as a condition to access general programming or education.
 - (F) A youth may be disciplined for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
 - (G) TJJD may not discipline a youth if the youth made a report of sexual abuse in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.
 - (H) In accordance with §380.9503 of this title, TJJD may also discipline a youth for engaging in prohibited sexual activity that does not meet the definition of abuse.
- (m) **Medical and Mental Care.**
- (1) **Medical and Mental Health Screenings; History of Sexual Abuse.**
 - (A) Regardless of the results of the screening in subsection (h)(1) of this section, TJJD offers all youth an appointment with a medical and mental health practitioner within 14 days after the intake screening.
 - (B) Any information obtained related to sexual victimization or abusiveness that occurred in an institutional setting must be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by law.
 - (C) Medical and mental health practitioners must obtain informed consent from youth before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the youth is under the age of 18.
 - (2) **Access to Emergency Medical and Mental Health Services.**
 - (A) TJJD ensures that youth victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
 - (B) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders must take preliminary steps to protect the victim and must immediately notify the appropriate medical and mental health practitioners.

- (C) TJJD ensures that youth victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- (D) TJJD provides treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.

(3) **Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers.**

- (A) TJJD offers medical and mental health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
 - (i) The evaluation and treatment of such victims includes, as appropriate:
 - (I) follow-up services;
 - (II) treatment plans; and
 - (III) referrals for continued care following their transfer to other facilities or their release from custody.
 - (ii) TJJD provides such victims with medical and mental health services consistent with the community level of care.
- (B) TJJD offers pregnancy tests to youth victims of sexually abusive vaginal penetration while incarcerated. If pregnancy results, TJJD ensures the youth is provided timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. See §380.9195 of this title for additional information about services for pregnant youth.
- (C) TJJD ensures that tests for sexually transmitted infections are offered, as medically appropriate, to youth victims of sexual abuse while incarcerated.
- (D) TJJD provides treatment services to a victim of sexual abuse while incarcerated without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising from the incident.
- (E) TJJD attempts to conduct a mental health evaluation of all known youth-on-youth abusers within 60 days after learning of such abuse history and offers treatment when deemed appropriate by mental health practitioners.

(n) **Sexual Abuse Incident Reviews.**

- (1) TJJD conducts an incident review at the conclusion of every sexual abuse investigation unless the allegation is determined to be unfounded.
- (2) Managers, supervisors, investigators, and medical or mental health practitioners participate in the review.
- (3) The review team:
 - (A) considers whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - (B) considers whether the incident or allegation was motivated by race; ethnicity; gender identity; status or perceived status as lesbian, gay, bisexual, transgender, or intersex; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

- (C) examines the area where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - (D) assesses the adequacy of staffing levels in that area during different shifts;
 - (E) assesses whether monitoring technology should be used or enhanced to supplement supervision by staff; and
 - (F) submits a report of its findings and recommendations to the facility administrator, the local PREA compliance manager, and other appropriate staff members.
- (4) The facility where the incident allegedly occurred must implement the review team's recommendations or document its reasons for not doing so.

(o) **Data Collection and Storage.**

- (1) TJJJ collects data for every allegation of sexual abuse at TJJJ-operated facilities using a standardized instrument and set of definitions and aggregates the data at least once each year. TJJJ also maintains, reviews, and collects data as needed from all available incident-based documents, such as reports, investigation files, and sexual abuse incident reviews.
- (2) TJJJ develops its data collection instrument to include the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the U.S. Department of Justice.
- (3) TJJJ obtains incident-based and aggregate data from each residential facility operating under a contract with TJJJ.
- (4) TJJJ securely retains all sexual abuse data it collects.

(p) **Publication of Sexual Abuse Data.**

- (1) TJJJ reviews aggregate sexual abuse data to assess and improve the effectiveness of its policies, practices, and training. Following this review, TJJJ prepares an annual report of its findings and corrective actions for each facility and the agency as a whole. The report will be posted on the agency's website.
- (2) Annually, TJJJ posts on its website all aggregated sexual abuse data from TJJJ-operated and contracted facilities.

(q) **Audits of PREA Standards.**

TJJJ conducts audits pursuant to 28 CFR §§115.401 - 115.405.

Draft 4/22/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Behavior Management System Overview ACA: 4-JCF-2A-09, 3B-02, 3B-03, 3B-05 3-JCRF-3D-04 Statutes: N/A	Effective Date: Page: 1 of 3 Replaces: GAP.380.9501, 9/1/09
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Staff-recommended changes on pages 1-2

RULE

(a) Purpose.

This rule establishes the basic principles on which the Texas Juvenile Justice Department (TJJD) operates its behavior management system.

(b) General Provisions.

TJJD's behavior management system addresses incentives for adhering to rules and consequences for breaking them. The system fosters accountability for behavior and compliance with rules and expectations. The system is designed to:

- (1) maintain order and security;
- (2) promote safety, respect for self and others, fairness, and protection of rights;
- (3) provide constructive discipline and a system of incentives and consequences to encourage youth to meet expectations for behavior;
- (4) provide opportunities for positive reinforcement and recognition for accomplishments and positive behaviors;
- (5) promote pro-social means for youth to meet their needs;
- (6) promote constructive dialogue and peaceful conflict resolution;
- (7) minimize separation of youth from the general population; and
- (8) limit the need to use force when responding to youth behavior.

(c) Rules and Privileges.

- (1) Purposeful rules are less likely to be broken; therefore, behavioral expectations and rules of conduct are developed in a manner that allows youth and staff to clearly understand each expectation or rule and its intended purpose.
- (2) Youth conduct is evaluated daily on a set of basic expectations. Youth may earn or lose privileges based on following the basic expectations. See §380.9502 of this title for more information on the youth privilege system.
- (3) Youth who violate specific rules of conduct are subject to disciplinary consequences. See §380.9503~~2~~ and §380.9504 of this title for more information on rules and consequences.

(d) Intervention Strategies.

- (1) Staff members are trained to address misconduct by progressively applying the most appropriate behavioral intervention strategies. Behavioral interventions are designed to address the youth's

misconduct, encourage the youth to recognize negative thoughts and feelings, and promote thinking skills that reduce risk of misconduct and contribute to positive decisions.

- (2) Staff members determine which interventions are employed based on their knowledge of the current situation and the youth involved. Behavioral interventions include, but are not limited to, the following:
 - (A) verbal prompts;
 - (B) discussion away from the group;
 - (C) check-in with peer group;
 - (D) time-out;
 - (E) cooling-off period, in accordance with §380.9520 of this title;
 - (F) completion of an assignment designed to assist youth in processing behaviors and promote prosocial means for youth to meet their needs;
 - (G) movement to a designated area within the educational setting to refocus behavior and discuss strategies for success in the classroom;
 - (H) unscheduled or scheduled behavior group;
 - (I) security referral, in accordance with §380.97409517 of this title; and
 - (J) Redirect program, in accordance with §380.9517 of this title.
- (3) In cases where a youth is displaying an ongoing behavioral problem, an individualized plan with alternative interventions may be created by the youth's multi-disciplinary team.

(e) **Disciplinary Consequences.**

- (1) Discipline is administered with the goal of imposing only the least restrictive consequences that are effective in correcting the misbehavior and ensuring safety and order. Where feasible and appropriate, the consequences are directly related to the nature and seriousness of the violation. Extenuating circumstances of the violation are considered. See §380.9503 and §380.9504 of this title for procedures relating to issuing disciplinary consequences.
- (2) Youth are made aware of rules and disciplinary consequences through verbal instruction and written documents.
- (3) No disciplinary consequences may be imposed except in accordance with the provisions of this subchapter.
- (4) The following are prohibited as consequences for rule violations:
 - (A) corporal or unusual punishment;
 - (B) subjecting youth to humiliation, harassment, or physical or mental abuse;
 - (C) personal injury;
 - (D) subjecting youth to property damage or disease;
 - (E) punitive interference with the daily functions of living, such as eating or sleeping; and
 - (F) purposeless or degrading work, including group exercise as a consequence.
- (5) Youth are not permitted to impose disciplinary consequences against other youth. Youth or groups of youth are not given control or authority over other youth.
- (6) Consequences are applied on an individual basis and only for a youth's own actions or failure to act when responsible for doing so. Group discipline is prohibited. Actions taken for the purpose of maintaining safety and security (e.g., temporary lockdown to locate a missing tool, dorm activity restriction to address deteriorating dorm culture) are not considered group discipline.
- (7) Disciplinary consequences must not deny youth the following:
 - (A) regular meals (from the established menu) or snacks;
 - (B) sufficient sleep;

- (C) physical exercise;
 - (D) mail;
 - (E) contact through visitation or telephone with parents, attorneys, or personal clergy;
 - (F) legal assistance;
 - (G) medical attention;
 - (H) mental health services;
 - (I) educational services; or
 - (J) religious services.
- (8) More than one disciplinary consequence may be imposed for the same rule violation if:
- (A) the criteria and conditions for the imposition of each disciplinary consequence are met; and
 - (B) the appropriate level of due process is provided based on the most severe of the disciplinary consequences imposed.
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DRAFT

Draft 4/22/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Positive Reinforcement and Privilege System ACA: 4-JCF-3B-04, 3B-07, 4E-06 Statutes: N/A	Effective Date: Page: 1 of 1 Replaces: GAP.380.9502, 9/1/09
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Staff-recommended changes on page 1

RULE

(a) **Purpose.**

This rule establishes a system of rewards, incentives, and positive reinforcement designed to strengthen and expand positive behavior.

(b) **Applicability.**

This rule applies to residential facilities operated by the Texas Juvenile Justice Department (TJJD).

(c) **Definitions.**

The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

- (1) **Privilege**--an activity or possession that a youth earns by complying with behavioral expectations and progressing in the rehabilitation program.
- (2) **Stage**--has the meaning assigned under §380.8501 of this title.
- (3) **Multi-disciplinary team**--has the meaning assigned under §380.8501 of this title.

(d) **General Provisions.**

- (1) Each facility must establish a system for assigning privileges based on the youth's stage. In addition to the stage-based privileges, the system must allow youth to earn additional privileges based on positive behavior.
- (2) The specific privileges offered may vary between facilities due to local opportunities or limitations. The positive reinforcement and privilege system must be developed in a manner that considers youth interests and includes age-appropriate, gender-responsive, and gender-neutral options. ~~Privileges must be developmentally appropriate for the youth and be gender-specific.~~
- (3) Youth are provided daily feedback using a system that rates youth performance in following the five basic performance expectations:
 - (A) show respect for others;
 - (B) follow directions;
 - (C) participate in activities;
 - (D) be in the right place at the right time; and
 - (E) accept consequences.
- (4) The daily feedback is recorded on the appropriate activity log.
- (5) Youth with a performance rating below expectations or who engage in specific rule violations are subject to a loss of privileges, as described in §380.9503 of this title.
- (6) Provisions in this rule may be restated or otherwise adapted to accommodate a particular program. All adapted or restated provisions must remain consistent with the general provisions in this rule.

Draft 4/22/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Rules and Consequences for Residential Facilities ACA: 4-JCF-3B-02, 3B-07, 3B-08, 3B-09, 3B-10, 3C-05, 3C-06 3-JCRF-3C-01, 3C-02, 3C-03, 3C-04 Statutes: N/A	Effective Date: Page: 1 of 7 Replaces: GAP.380.9503, 5/31/13
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Staff-recommended changes on pages 2, 4, and 6

(a) **Purpose.**

This rule establishes the actions that constitute violations of the rules of conduct for residential facilities. Violations of the rules may result in disciplinary consequences that are proportional to the severity and extent of the violation. Appropriate due process, including a consideration of extenuating circumstances, must be followed before imposing consequences.

(b) **Applicability.**

This rule applies to youth assigned to residential facilities operated by the Texas Juvenile Justice Department.

(c) **Definitions.**

The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

- (1) **Bodily Injury**--physical pain, illness, or impairment of physical condition. Fleeting pain or minor discomfort does not constitute bodily injury.
- (2) **Multi-Disciplinary Team**--has the meaning assigned by §380.8501 of this title.
- (3) **Residential Facility**--includes high and medium restriction residential facilities.
- (4) **Attempting to Commit**--engaging in conduct that amounts to more than mere planning, but failing to commit the intended rule violation.
- (5) **Serious Bodily Injury**--bodily injury that involves:
 - (A) a substantial risk of death;
 - (B) extreme physical pain;
 - (C) protracted and obvious disfigurement; or
 - (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(d) **General Provisions.**

- (1) Rules in this policy may be restated or otherwise adapted to accommodate a particular program to help clarify expected behavior in that program. All adapted or restated rules must remain consistent with the general rules of conduct.
- (2) The rules of conduct must be posted in a visible area that is accessible to youth in each facility and program.
- (3) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.
- (4) Youth may be issued more than one disciplinary consequence for a rule violation proven in a Level II or Level III due process hearing held in accordance with §380.9555 or §380.9557 of this title, respectively.

- (5) Major rule violations require the completion of a formal incident report.
 - (6) A youth's disciplinary record consists only of rule violations that are proven through a Level I or Level II due process hearing in accordance with §380.9551 or §380.9555 of this title, respectively.
 - (7) An appropriate investigation must be started within 24 hours after a report of a major rule violation or a minor rule violation resulting in a referral to the security unit. Based on available evidence, the facility administrator or designee must determine whether to hold a Level II due process hearing in order to pursue major consequences and/or placement of the violation on the youth's disciplinary record.
 - (8) When a youth is found to be in possession of prohibited money as defined in this rule, a Level II due process hearing is required to seize the money. Seized money must be placed in the student benefit fund in accordance with §380.9555 of this title.
 - (9) Except as noted in paragraph (10) of this subsection, minor rule violations must be documented on the appropriate activity log. A formal incident report is not required.
 - (10) A minor rule violation that escalates to the point that the current program/activity cannot continue due to the disruption or that poses a substantial risk to personal safety or facility security must be documented on a formal incident report. In high restriction facilities, this type of minor rule violation also includes a referral to the security unit.
 - (11) Any time a formal incident report is prepared for an alleged rule violation, a copy of the incident report must be given to the youth within 24 hours after the alleged violation.
 - (12) Although certain rule violations may not result in immediate disciplinary consequences, a rule violation proven through a Level II due process hearing may be considered upon expiration of the youth's minimum length of stay in determining whether a youth is in need of additional rehabilitation.
 - (13) For youth who receive privilege suspensions, the multi-disciplinary team may:
 - (A) lessen the duration of the suspension; or
 - (B) extend (one time only) or modify an on-site privilege suspension issued by direct care staff if warranted by the youth's behavior.
- (e) **Consequences for High Restriction Facilities.**
- (1) **Major Disciplinary Consequences.**
 - (A) **Placement in the Phoenix Program**--in accordance with §380.9535 of this title, a youth may be placed in the Phoenix program when it is found that the youth engaged in certain aggressive behavior.
 - (B) **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for minor rule violations resulting in a referral to the security unit or major rule violations, and only if the rule violation is proven through a Level II due process hearing in accordance with §380.9555 of this title.
 - (C) **Loss of Transition Eligibility**--a youth who has not completed the minimum length of stay serves an additional month in high restriction facilities before becoming eligible for transition to a medium restriction facility under §380.8545 of this title. This consequence may **only** be issued **only** if it is proven through a Level II due process hearing that the youth committed a major rule violation.

- (D) **Stage Demotion**--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed a major rule violation.

(2) **Minor Disciplinary Consequences.**

- (A) **Suspension of Privileges by Multi-Disciplinary Team**--a youth has one or more privileges removed for up to 14 calendar days from the date of the multi-disciplinary team meeting. This consequence may be issued for major or minor rule violations. In order to issue this consequence, the multi-disciplinary team must:
- (i) meet with the youth to discuss the youth's behavior and potential consequences;
 - (ii) consider any on-site suspension of privileges already imposed for the behavior; and
 - (iii) document the discussion of the youth's conduct and consequence imposed.
- (B) **On-Site Suspension of Privileges**--a youth has one specific privilege removed for up to seven calendar days from the date of the violation or all privileges removed for up to three calendar days. This consequence may be issued by a staff member with direct supervisory responsibility for the youth after witnessing a major or minor rule violation. This consequence should be issued only after non-disciplinary interventions have been attempted. The staff member must document the conduct and consequence and discuss the consequence and the reasons for it with the youth.

(f) **Consequences for Medium Restriction Facilities.**

(1) **Major Consequences.**

- (A) **Disciplinary Transfer**--a youth assigned to a medium restriction facility is transferred to a high restriction facility. Disciplinary transfer may be issued only for major rule violations that are proven through a Level II due process hearing in accordance with §380.9555 of this title. This consequence does not apply to youth who are on parole status in a medium restriction facility.
- (B) **Placement in the Phoenix Program**--in accordance with §380.9535 of this title, a youth on institutional status may be transferred to a high restriction facility and placed in the Phoenix program when the youth has been found to have engaged in certain aggressive behavior.
- (C) **Major Suspension of Privileges**--a youth has all privileges suspended for 30 calendar days from the date of the hearing. This consequence may be issued only for major rule violations that are proven through a Level II due process hearing.
- (D) **Stage Demotion**--a youth's assigned stage in the agency's rehabilitation program is lowered by one or more stages. This consequence may be issued only if it is proven through a Level II due process hearing that the youth committed a major rule violation.

(2) **Minor Consequences.**

Minor disciplinary consequences include but are not limited to consequences described in this paragraph. Minor consequences may be imposed only after a Level III due process hearing held in accordance with §380.9557 of this title.

- (A) **Privilege Suspension**--a suspension of one or more privileges for no more than 14 calendar days.
- (B) **Community Service Hours**--disciplinary assignment of up to 40 hours in an approved community service assignment.

- (C) **Trust Fund Restriction**--youth is restricted from accessing his/her accrued personal funds for up to seven calendar days.
- (D) **Facility Restriction**--youth is restricted for up to 48 hours from participating in any activity outside the assigned placement other than approved constructive activities.

(g) **Review and Appeal of Consequences.**

- (1) All minor disciplinary consequences issued by staff other than the youth's multi-disciplinary team must be reviewed for policy compliance by the youth's assigned case manager, dorm supervisor, facility administrator, or other designee, within one workday after issuance.
- (2) The facility administrator or designee:
 - (A) must review any minor consequence issued for longer than 14 days within three workdays after issuance of the consequence; and
 - (B) may overturn or modify any privilege suspension determined to be excessive or not validly related to the nature or seriousness of the conduct.
- (3) Youth may appeal major disciplinary consequences by filing an appeal in accordance with §380.9555 of this title. Youth may grieve minor disciplinary consequences by filing a grievance in accordance with §380.9331 of this title.

(h) **Placement Disposition Options.**

In accordance with §380.9517 of this title, youth in high restriction facilities may be placed in the Redirect program when the youth is found to have engaged in certain major rule violations. Placement in the Redirect program is not a disciplinary consequence.

(i) **Major Rule Violations.**

It is a violation to knowingly commit, attempt to commit, or help someone else commit any of the following:

- (1) **Assault - Unauthorized Physical Contact with Another Youth (No Injury)**--intentionally making unauthorized physical contact with another youth that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
- (2) **Assault - Unauthorized Physical Contact with Staff (No Injury)**--intentionally making unauthorized physical contact with a staff member, contract employee, or volunteer that does not result in bodily injury, such as, but not limited to, pushing, poking, and grabbing.
- (3) **Assault Causing Bodily Injury to Another Youth**--intentionally and knowingly or recklessly engaging in conduct that causes another youth to suffer bodily injury.
- (4) **Assault Causing Bodily Injury to Staff**--intentionally and knowingly or recklessly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury.
- (5) **Attempted Escape**--committing an act that amounts to more than mere planning but that fails to effect an escape.
- (6) **Chunking Bodily Fluids**--causing a person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, and/or feces of another with the intent to harass, alarm, or annoy another person.
- (7) **Distribution of Prohibited Substances**--distributing or selling any prohibited substances or items.
- (8) **Escape**--leaving a high or medium restriction residential placement without permission or failing to return from an authorized leave.

- (9) **Extortion or Blackmail**--demanding or receiving favors, money, actions, or anything of value from another in return for protection against others, to avoid bodily harm, or in exchange for not reporting a violation.
- (10) **Fighting Not Resulting in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that does not result in bodily injury.
- (11) **Fighting that Results in Bodily Injury**--engaging in a mutually instigated physical altercation with another person or persons that results in bodily injury.
- (12) **Fleeing Apprehension**--running from or refusing to come to staff when called and such act results in disruption of facility operations.
- (13) **Two or More Failures to Comply with Written, Reasonable Request (for Youth in Medium Restriction Residential Placement)**--failing on two or more occasions to comply with a written, reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 90-day period.
- (14) **Misuse of Medication**--using medication provided to the juvenile by authorized personnel in a manner inconsistent with specific instructions for use, including removing the medication from the dispensing area.
- (15) **Participating in a Major Disruption of Facility Operations**--intentionally participating with two (2) or more persons in conduct that poses a threat to persons or property and substantially disrupts the performance of facility operations or programs.
- (16) **Possession of Prohibited Items**--possessing the following prohibited items:
 - (A) cellular telephone;
 - (B) matches or lighters;
 - (C) jewelry, unless allowed by facility rules;
 - (D) money in excess of the amount or in a form not permitted by facility rules (see §380.9555 of this title for procedures concerning seizure of such money);
 - (E) pornography;
 - (F) items which have been fashioned to produce tattoos or body piercing;
 - (G) cleaning products when the youth is not using them for a legitimate purpose; or
 - (H) other items that are being used inappropriately in a way that poses a danger to persons or property or threatens facility security.
- (17) **Possession of a Weapon**--possessing a weapon or item(s) that has been made or adapted for use as a weapon.
- (18) **Possession or Use of Prohibited Substances and Paraphernalia**--possessing or using any unauthorized substance, including controlled substances or intoxicants (including alcohol and tobacco), medications not prescribed for the juvenile by authorized medical or dental staff, tobacco products, similar intoxicants, or related paraphernalia such as that used to deliver or make any prohibited substance.
- (19) **Refusing a Drug Screen**--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen. (Note: If the youth says he/she cannot provide a sample, the youth must be given water to drink and two hours to provide the sample.)
- (20) **Refusing a Search**--refusing to submit to an authorized search of person or area.

- (21) **Sexual Misconduct**--intentionally and knowingly engaging in any of the following:
- (A) causing contact, including penetration (however slight), between the penis and the vagina or anus; between the mouth and penis, vagina or anus; or penetration (however slight) of the anal or genital opening of another person by hand, finger, or other object;
 - (B) touching or fondling, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person;
 - (C) kissing for sexual stimulation;
 - (D) exposing the anus, buttocks, breasts, or genitals to another or exposing oneself knowing the act is likely to be observed by another person; or
 - (E) masturbating in an open and obvious way, whether or not the genitals are exposed.
- (22) **Stealing**--intentionally taking property with an estimated value of \$100 or more from another without permission.
- (23) **Tampering with Safety Equipment**--intentionally tampering with, damaging, or blocking any device used for safety or security of the facility. This includes, but is not limited to, any locking device or item that provides security access or clearance, any fire alarm or fire suppression system or device, video camera, radio, telephone (when the tampering prevents it from being used as necessary for safety and/or security), handcuffs, or shackles.
- (24) **Tattooing/Body Piercing**--engaging in tattooing or body piercing of self or others. Tattooing is defined as making a mark on the body by inserting pigment into the skin.
- (25) **Threatening Another with a Weapon**--intentionally and knowingly threatening another with a weapon. A weapon is something that is capable of inflicting bodily injury in the manner in which it is being used.
- (26) **Vandalism**--intentionally causing \$100 or more in damage to state property or personal property of another.
- (27) **Violation of a Any Law**--violating a Texas or federal law that is not already defined as a major or minor rule violation.

(j) **Minor Rule Violations.**

It is a violation to knowingly commit, attempt to commit, or help someone else commit any of the following:

- (1) **Breaching Group Confidentiality**--disclosing or discussing information provided in a group session to another person not present in that group session.
- (2) **Disruption of Program**--engaging in behavior that requires intervention to the extent that the current program of the youth and/or others is disrupted. This includes, but is not limited to:
 - (A) disrupting a scheduled activity;
 - (B) being loud or disruptive without staff permission;
 - (C) using profanity or engaging in disrespectful behavior toward staff or peers; or
 - (D) refusing to participate in a scheduled activity or abide by program rules.
- (3) **Failure to Abide by Dress Code**--failing to follow the rules of dress and appearance as provided by facility rules.
- (4) **Failure to do Proper Housekeeping**--failing to complete the daily chores of cleaning the living environment to the expected standard.
- (5) **Gang Activity**--participating in an activity or behavior that promotes the interests of a gang or possessing or exhibiting anything related to or signifying a gang, such as, but not limited to, gang-related literature, symbols, or signs.

- (6) **Gambling or Possession of Gambling Paraphernalia**--engaging in a bet or wager with another person or possessing paraphernalia that may be used for gambling.
 - (7) **Horseplay**--engaging in wrestling, roughhousing, or playful interaction with another person or persons that does not rise to the level of an assault. Horseplay does not result in any party getting upset or causing injury to another.
 - (8) **Improper Use of Telephone/Mail/Computer**--using the mail, a computer, or the telephone system for communication that is prohibited by facility rules, at a time prohibited by facility rules, or to inappropriately access information.
 - (9) **Lending/Borrowing/Trading Items**--lending or giving to another youth, borrowing from another youth, or trading with another youth possessions, including food items, without permission from staff.
 - (10) **Lying/Falsifying Documentation/Cheating**--lying or withholding information from staff, falsifying a document, and/or cheating on an assignment or test.
 - (11) **Possession of an Unauthorized Item**--possessing an item the youth is not authorized to have (possession of which is not a major rule violation), including items not listed on the youth's personal property inventory. This does not include personal letters or photographs.
 - (12) **Refusal to Follow Staff Verbal Instructions**--deliberately failing to comply with a specific reasonable verbal instruction made by a staff member.
 - (13) **Stealing**--intentionally taking property with an estimated value under \$100 from another without permission.
 - (14) **Threatening Others**--making verbal or physical threats toward another person or persons.
 - (15) **Undesignated Area**--being in any area without the appropriate permission to be in that area.
 - (16) **Vandalism**--intentionally causing less than \$100 in damage to state or personal property.
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Draft 4/23/15

Chapter: Rules for State-Operated Programs and Facilities	Effective Date:
Subchapter: Behavior Management and Youth Discipline	
Division: Behavior Management	Page: 1 of 4
Rule: Redirect Program	Replaces: GAP.380.9517, 9/16/12
ACA: 4-JCF-3C-01, 3C-17	
Statutes: 20 USC §1400 et al., 34 CFR §300.530	

(a) **Purpose.**

The Redirect program delivers intensive interventions in a structured environment for youth who have engaged in certain serious rule violations. The program is designed to promote violence reduction and skill building to increase safety on Texas Juvenile Justice Department (TJJD) campuses. This rule sets forth eligibility criteria, program completion requirements, and services to be provided to youth in the program.

(b) **Applicability.**

This rule applies only to high restriction facilities operated by TJJD.

(c) **Definitions.**

- (1) **Admission, Review, and Dismissal (ARD) Committee**--a committee that makes decisions on educational matters relating to special-education-eligible youth.
- (2) **Behavior Intervention Plan**--a written plan developed as a result of a functional behavioral assessment to address specific behavioral concerns that are impeding a youth's learning or the learning of others. The plan is part of a youth's individualized education program and includes positive behavioral interventions and supports and other strategies to address the behavior.
- (3) **Functional Behavioral Assessment**--a process for observing and collecting data on specific behaviors that are impeding a youth's progress and determining the function the behavior plays for a youth (e.g., seeking attention, peer acceptance, avoidance, etc.).
- (4) **Individualized Education Program (IEP)**--the program of special education and related services developed by a youth's ARD committee.
- (5) **Manifestation Determination Review**--a review conducted by a youth's ARD committee when a decision has been made to change a special-education-eligible youth's school placement due to a violation of the code of conduct. The committee determines whether a youth's conduct is a manifestation of the youth's disability and whether the youth's IEP was fully implemented.
- (6) **Multi-Disciplinary Team (MDT)**--a team that assesses youth progress through the Redirect program. At a minimum, the team must include representatives from the following departments: psychology, case management, education, and dorm supervision.

(d) **Program Eligibility.**

A youth who is referred to the Phoenix program pursuant to §380.9535 of this title or who engages in one or more of the following rule violations as defined in §380.9503 of this title meets criteria for placement in the Redirect program:

- (1) assault or fighting;
- (2) escape or attempted escape;
- (3) vandalism (major rule violation only);
- (4) sexual misconduct (excluding kissing);
- (5) possessing or threatening others with a weapon or item that could be used as a weapon;
- (6) chunking bodily fluids;
- (7) tampering with safety equipment; or
- (8) any other major rule violation when the totality of circumstances justifies the placement in the program and the placement is directed by the executive director or designee.

(e) Request to Pursue Placement in Redirect Program.

The facility administrator or designee may approve a request to pursue placement of a youth in the Redirect program only when it is determined that:

- (1) the youth poses a continuing risk for the admitting behavior(s);
- (2) less restrictive methods of documented intervention have been attempted when appropriate; and
- (3) the mental status of the youth has been assessed by a mental health specialist and there are no therapeutic contraindications for admission to the Redirect program.

(f) Additional Considerations for Youth Receiving Special Education Services.

When a youth who is receiving special education services engages in a rule violation during school-related activities and is recommended for placement in the Redirect program, the recommendation must include a determination of whether to request removal from the regular educational setting as part of the youth's placement in the Redirect program. The recommendation must take into consideration the youth's educational plan, behavior in school, safety issues, and any other relevant information. If a removal from the regular educational setting is recommended, the youth's ARD committee determines the youth's educational placement.

- (1) If a removal is not recommended, the youth may be placed in the Redirect program but will receive educational services in the youth's regular educational setting.
- (2) If a removal is recommended, the youth's ARD committee must conduct a manifestation determination review as required by the Individuals with Disabilities Education Act (IDEA).
 - (A) If the youth's ARD committee determines that the youth's conduct was a direct result of a failure to implement the youth's IEP or that the conduct was caused by or had a direct and substantial relationship to the youth's disability:
 - (i) the ARD committee must conduct a functional behavior assessment and develop a behavior intervention plan or, if a behavior intervention plan already exists, modify the existing plan to address the youth's conduct;
 - (ii) the youth will not be removed from his/her regular educational setting unless the youth's parent or surrogate parent (as defined by 34 CFR §300.519) agrees to a change in the educational setting as part of the youth's behavior intervention plan; and
 - (iii) the youth may be admitted to the Redirect program.
 - (B) If the youth's ARD committee determines that the youth's conduct was not a result of a failure to implement the youth's IEP and was not caused by and did not have a direct and substantial relationship to the youth's disability, the ARD committee may determine that the youth may receive educational services in the Redirect housing area.
 - (C) Regardless of the results of a manifestation determination review, a youth may be admitted to the Redirect program and may receive educational services in the Redirect housing area for up to 45 days if the rule violation includes possession of a weapon or the infliction of serious bodily injury upon another person.
 - (i) For purposes of subparagraph (C) of this paragraph only, weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, not including a pocket knife with a blade of less than 2 1/2 inches in length.
 - (ii) For purposes of subparagraph (C) of this paragraph only, serious bodily injury means bodily injury that involves:

- (I) a substantial risk of death;
- (II) extreme physical pain;
- (III) protracted and obvious disfigurement; or
- (IV) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(D) If a youth is removed from his/her regular educational setting, educational services must be provided so as to enable the youth to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the youth's IEP goals.

(g) **Admission Process.**

A Level II due process hearing must be held in accordance with §380.9555 of this title. The youth may be admitted to the Redirect program if there is a finding of true with no extenuating circumstances that the youth committed a rule violation listed in subsection (d) of this section. The parent/guardian must be provided prior notice of the hearing as required by §380.9555 of this title and must be given an opportunity to provide information to be considered in Redirect program placement decisions.

(h) **Program Requirements.**

- (1) The Redirect program is administered in a special unit designated for such purpose.
- (2) On scheduled academic days, youth must be provided with the amount of education services established by the approved master schedule for the regular school program.
- (3) An individual plan must be developed for each youth. The plan must be written in a language clearly understood by the youth. The plan must:
 - (A) address the specific target behavior or cluster of behaviors that led to admission to the Redirect program, taking into consideration the mental health specialist's recommendations to address the motivation for the behavior;
 - (B) involve strategies for intervention and prevention of the target behavior through skills development;
 - (C) include a component that addresses transition to the general campus population; and
 - (D) provide clearly written objectives for release from the Redirect program.
- (4) Staff must explain the individual plan to the youth. The youth must be provided an opportunity to sign the plan in acknowledgment.
- (5) The individual plan and youth's progress with regard to target behaviors and skills development is reviewed and evaluated at least once every seven days by the MDT.
- (6) Youth must be gradually reintegrated into campus programming as soon as he/she demonstrates comprehension of the goals established in the treatment plan.
- (7) Youth who are placed in the Redirect program are afforded living conditions and privileges approximating those available to the general campus population.
- (8) Youth must receive daily visits and a minimum of 30 minutes of counseling per week with the assigned case manager or designee. The case manager or designee must immediately refer youth to a mental health professional if concerns exist as to the youth's mental health status.
- (9) Youth must receive weekly mental health status exams by a mental health specialist while youth movement and program activities are restricted to the Redirect unit. Youth must also receive weekly mental health counseling if deemed necessary by a mental health specialist.
- (10) Youth must be provided with at least one hour of large-muscle exercise seven days per week.

- (11) For youth who remain in the Redirect program more than 30 days, the facility administrator or designee must review the youth's progress, programming, and adequacy of interventions at least once every 30 days.
- (12) For youth who remain in the Redirect program more than 60 days, the division director over residential facilities or designee must review the youth's progress, programming, and adequacy of interventions at least once every 30 days.

(i) **Temporary Removal from the Redirect Program.**

Youth may be referred to the Security program while currently assigned to the Redirect program if the youth meets criteria in §380.9740 of this title. The Security program location for youth in the Redirect program may be in the Redirect program unit, using individual youth rooms.

(j) **Criteria for Release from Redirect Program.**

A youth must be released from the Redirect program and returned to his/her assigned dorm upon the earliest of the following events:

- (1) a determination by the MDT that the youth has:
 - (A) met goals in his/her individual plan; and
 - (B) demonstrated an ability to safely transition to campus programming; or
- (2) a determination by the facility administrator or designee that the program has failed to be implemented as designed for reasons other than noncompliance of the youth; or
- (3) a decision by the division director over residential facilities, the facility administrator, or their designees to return the youth to his/her assigned dorm or transfer to an alternative placement based on:
 - (A) a recommendation by a mental health professional due to the youth's mental health condition; or
 - (B) other administrative concerns; or
- (4) a decision by the receiving facility administrator or designee not to continue the Redirect program after an administrative transfer of the youth to another high restriction facility while assigned to the Redirect program.

(k) **Right to Appeal.**

The youth must be notified in writing of his/her right to appeal placement in the Redirect program in accordance with §380.9353 of this title. The pendency of an appeal does not preclude implementation of the decision.

(l) **Family Notification.**

In accordance with §380.8705 of this title, a youth's parents or guardian must be notified within 24 hours after the due process hearing of the youth's admission to the Redirect program.

For implementation procedures, see CMS.03.61.

Draft 4/23/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Cooling-Off Period for Youth Out of Control ACA: 4-JCF-3B-06 3-JCRF-3C-13 Statutes: N/A	Effective Date: Page: 1 of 1 Replaces: GAP.380.9520, 9/1/09
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RULE

(a) **Purpose.**

This rule provides for the temporary segregation of a youth as a “cooling off” time when he or she appears to have temporarily lost control of behavior. The segregation is intended to allow the youth time to regain self-control. Segregation addressed in this rule is not a disciplinary consequence and is generally in a location near the activity in process.

(b) **General Restrictions.**

- (1) Either staff or the youth may request the youth’s removal from an activity. The youth’s group may not request the youth’s removal.
- (2) The youth may be removed to any room in the same building away from the regular activity. Doors must not be locked.
- (3) The reason for the segregation is explained to the youth and he/she is given the opportunity to explain his behavior.
- (4) The youth must be joined by staff every 15 minutes for counseling.
- (5) The youth may assist in determining his/her readiness to resume regular activity.

(c) **Institutions.**

Segregation is limited to 55 minutes. If the youth is unable to regain control after 55 minutes, staff should take other measures.

(d) **Halfway Houses.**

- (1) Segregation is limited to two hours. If the youth is unable to regain control after two hours, staff should take other measures.
- (2) Youth may not be segregated to their bedrooms.

Draft 4/23/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Phoenix Program ACA: 4-JCF-3C-01, 3C-17, 5B-04 Statutes: 20 USC §1400 et al., 34 CFR §300.530	Effective Date: Page: 1 of 8 Replaces: GAP.380.9535, 9/16/12
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Staff-recommended changes on pages 2, 3, 5, and 8

(a) **Purpose.**

The Phoenix program is designed to protect staff and youth in Texas Juvenile Justice Department (TJJD) state-operated facilities from highly aggressive youth while providing these youth a highly structured environment to reduce their aggression and to progress in treatment. This rule sets forth eligibility criteria, standards of treatment, and services to be provided to youth in the program.

(b) **Applicability.**

This rule does not apply to:

- (1) youth on parole status, unless parole status is revoked in conjunction with the criteria for admission;
- (2) youth with determinate sentences who have been approved by the final TJJD authority for a court hearing to transfer the youth to the Institutions Division of the Texas Department of Criminal Justice;
- (3) youth currently diagnosed with a major emotional disturbance and/or psychiatric disorder that contraindicates admission to the Phoenix program as determined by the manager of institutional clinical services at the youth's assigned facility; or
- (4) youth with a current diagnosis of intellectual disability that contraindicates admission to the Phoenix program as determined by the manager of institutional clinical services at the youth's assigned facility.

(c) **Definitions.**

The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

- (1) **Admission, Review, and Dismissal (ARD) Committee**--a committee that makes decisions on educational matters relating to special-education-eligible youth.
- (2) **Assault Causing Moderate or Serious Bodily Injury to Another Youth**--intentionally and knowingly engaging in conduct that causes another youth to suffer moderate or serious injury as determined by medical staff.
- (3) **Assault Causing Substantial Bodily Injury to Staff**--intentionally and knowingly engaging in conduct that causes a staff member, contract employee, or volunteer to suffer bodily injury that involves more than passing discomfort or fleeting pain.
- (4) **Chunking Bodily Fluids at Staff**--intentionally and knowingly causing a person to contact the blood, seminal fluid, vaginal fluid, urine, and/or feces of another.
- (5) **Fighting Causing Moderate or Serious Bodily Injury to Another Youth**--intentionally and knowingly engaging in a mutually instigated physical altercation that causes another youth to suffer moderate or serious injury as determined by medical staff.
- (6) **Isolation**--the confinement of a youth in a locked room or cubicle as a tool to manage the behavior of a youth. Rules regarding isolation do not apply when doors are routinely locked during normal

sleeping hours and isolation has not otherwise been imposed and do not apply to placement of a youth in the ~~sS~~Security ~~pP~~Program.

- (7) **Multi-Disciplinary Team (MDT)**--a group of staff who are responsible for partnering with the youth and his/her parent/guardian to facilitate his/her progress in the rehabilitation program.

(d) **General Provisions.**

- (1) The Phoenix program is administered in a location designated for such purpose. The location is self-contained and the youth do not leave the location except for healthcare appointments or by approval of the facility administrator for a specific programmatic purpose.
- (2) Security ~~pP~~Program referral/admission and room isolation are used as necessary in accordance with §380.9739 and §380.9740 of this title. The Security ~~pP~~Program location for youth in the Phoenix program is in the Phoenix program unit, using individual youth rooms.
- (3) Youth are demoted to the lowest stage in the agency's rehabilitation program upon admission to the Phoenix program.

(e) **Authorized Facilities.**

The Phoenix program may be administered only at TJJJ-operated high restriction facilities designated by the executive director.

(f) **Program Eligibility.**

The following youth are eligible for placement in the Phoenix program:

- (1) a youth who engages in one or more of the following rule violations as defined in subsection (c) of this section:
- (A) assault causing moderate or serious bodily injury to another youth;
 - (B) assault causing substantial bodily injury to staff;
 - (C) fighting causing moderate or serious bodily injury to another youth; or
 - (D) chunking bodily fluids at staff; or
- (2) a youth who engages in any other major rule violation when the totality of circumstances justifies the placement in the program and the placement is directed by the executive director or designee; or
- (3) a youth who, on three separate occasions within a 90-day period, committed an assault causing bodily injury as defined in §380.9503 of this title and the second and third assaults were committed after a Level II due process hearing finding of true with no extenuating circumstances had been made for the previous assault.

(g) **Additional Considerations for Youth Receiving Special-Education Services.**

When a youth who is receiving ~~Ss~~pecial-~~Ee~~ducation services is recommended for placement in the Phoenix program due to a rule violation that occurred during school-related activities, the youth's ARD committee must conduct a manifestation determination review.

- (1) If the ARD committee determines that the youth's conduct was a direct result of a failure to implement the youth's individualized education program (IEP) or that the conduct was caused by or had a direct and substantial relationship to the youth's disability:
- (A) the ARD committee must conduct a functional behavior assessment and develop a behavior intervention plan or, if a behavior intervention plan already exists, modify the existing plan to address the youth's conduct; and

- (B) the youth may ~~only~~ be removed from his/her regular educational setting and placed in the Phoenix program only if the youth's parent or surrogate parent (as defined by 34 CFR §300.519) agrees to a change in the educational setting as part of the youth's behavior intervention plan.
- (2) If the ARD committee determines that the youth's conduct was not a result of a failure to implement the youth's IEP and was not caused by and did not have a direct and substantial relationship to the youth's disability, the youth may be removed from his/her regular educational setting and placed in the Phoenix program. The ARD committee determines the youth's IEP while the youth is in the Phoenix program.
- (3) Regardless of the results of a manifestation determination review, a youth may be admitted to the Phoenix program and may receive educational services in the Phoenix housing area for up to 45 days if the rule violation includes possession of a weapon or the infliction of serious bodily injury upon another person.
- (A) For purposes of paragraph (3) of this subsection only, weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, not including a pocket knife with a blade of less than 2 1/2 inches in length.
- (B) For purposes of paragraph (3) of this subsection only, serious bodily injury means bodily injury that involves:
- (i) a substantial risk of death;
 - (ii) extreme physical pain;
 - (iii) protracted and obvious disfigurement; or
 - (iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (4) Educational services in the Phoenix program must be provided so as to meet the youth's IEP goals set by the youth's ARD committee.
- (h) **Admission Decision Process.**
- (1) A Level II due process hearing must be held in accordance with §380.9555 of this title. Unless there are considerations concerning special education services that would make the youth ineligible for placement in the Phoenix program as described in subsection (g) of this section, the youth may be referred to the Phoenix program if there is a finding of true with no extenuating circumstances that the youth committed a rule violation listed in subsection (f) of this section.
- (2) A committee composed of, at a minimum, the dorm supervisor, mental health specialist, and case manager assigned to the Phoenix program reviews each youth referred to the program.
- (3) The committee may not recommend approval of a youth's admission to the program unless:
- (A) a current mental health assessment indicates there is no therapeutic contraindication to placement in the Phoenix program; and
- (B) the committee determines that the Phoenix program represents the most appropriate intervention under the circumstances.
- (4) The division director over residential facilities or his/her designee makes the final decision on whether the youth will be admitted to the Phoenix program.
- (5) If the number of referrals exceeds the number of available beds, priority for admission is given to:

- (A) youth with the most dangerous behavior;
- (B) youth with chronic aggressive behavior;
- (C) youth with greater frequency of weapon use; or
- (D) a directive from the executive director or designee.

(i) **Placement in the Redirect Program Pending Admission to the Phoenix Program.**

If, after a Level II hearing, there is a disposition for referral to the Phoenix program, the youth may be placed in the Redirect program pursuant to §380.9517 of this title at the youth's current placement pending admission and transfer of the youth to the Phoenix program. The facility may cancel the referral at any time.

(j) **Program Components.**

The program's structure is designed to maximize the safety and security of youth and staff.

(1) **Physical Structure and Safety Precautions.**

- (A) Youth are assigned to single housing units in accordance with §380.8524 of this title.
- (B) Mechanical restraints may be used in a manner consistent with the use of such restraints in a security unit as provided by §380.9723 of this title.
- (C) A structured daily schedule is maintained and posted to provide a predictable and safe environment.

(2) **Case Planning.**

- (A) An individual plan must be developed for each youth. The plan must be written in a language clearly understood by the youth. The plan must:
 - (i) be based on a comprehensive assessment conducted by the MDT;
 - (ii) address the specific target behavior or cluster of behaviors that led to admission to the Phoenix program, taking into consideration the mental health specialist's recommendations to address the motivation for the behavior;
 - (iii) involve strategies for intervention and prevention of the target behavior through skills development;
 - (iv) include a component that addresses transition to the general campus population following graduation from the Phoenix program; and
 - (v) provide clearly written objectives for promotion through levels of the Phoenix program and graduation from the Phoenix program.
- (B) Staff must explain the individual plan to the youth. Youth must be provided an opportunity to sign the plan in acknowledgment.
- (C) The individual plan and youth's progress with regard to target behaviors and skills development must be reviewed and evaluated at least once every seven days by the MDT.

(3) **Academics.**

- (A) All youth are expected to participate in an educational program. The educational program must provide for at least six hours of required secondary curriculum on each school day.

- (B) All special-education services must be provided in accordance with ARD committee decisions. For youth who are eligible to participate in special-education services, an ARD meeting is held within ten days after admission to the Phoenix program to review the IEP. Subsequent ARD meetings and evaluations are completed in compliance with state and federal regulations.
- (C) Youth with limited English Proficiency must be provided with appropriate adaptations to the Educational Program as recommended by the Language Proficiency Assessment Committee (LPAC).

(4) **Individual Counseling.**

Youth are provided daily contact and weekly counseling with the assigned case manager or designee. The case manager or designee must immediately refer a youth to a mental health professional if concerns exist as to the youth's mental health status.

(5) **Skills Development Groups.**

- (A) In accordance with the daily schedule, the case manager assigned to the Phoenix program conducts groups on topics such as:
 - (i) aggression control;
 - (ii) emotional and behavior regulation;
 - (iii) skills development and demonstration;
 - (iv) identifying and modifying cognitive distortions;
 - (v) risk and protective factors; and
 - (vi) transition issues.
- (B) Scheduled behavior groups are provided to all youth and are conducted daily by the assigned juvenile correctional officer.

(6) **Medical and Mental Health Services.**

- (A) Youth receive weekly mental health status exams by the designated mental health specialists while assigned to the Phoenix program. Youth also receive weekly psychological counseling if deemed necessary by a mental health specialist.
- (B) Youth are seen by medical and/or psychiatric staff, as needed, and treatment is provided as ordered. The Phoenix program mental health specialist continually assesses the youth's mental status, provides individual counseling, and provides consultation with the MDT.

(7) **Behavior Management.**

- (A) Youth are expected to follow a prescribed schedule and commit no rule violations as defined in §380.9503 of this title.
- (B) Youth earn privileges in the Phoenix program based on progress through the Phoenix program levels in accordance with §380.9502 of this title.

(8) **Physical Exercise.**

Youth must be provided with at least one hour of large-muscle exercise seven days per week in an exercise yard if safety and weather permit.

(9) **Family Involvement.**

- (A) Youths' families are encouraged to be involved in the youths' treatment while considerations are made for the safety and security of the program.

- (B) Youth in the Phoenix program are allowed phone calls to approved family members and visitation with immediate family members according to program visitation procedures.

(10) **Youth Rights.**

Basic rights are recognized for each youth in TJJD pursuant to §380.9301 of this title.

(k) **Progress in the Phoenix Program.**

The Phoenix program includes three levels. The MDT reviews each youth's progress weekly.

(1) **Level I.**

- (A) This level is completed when the MDT determines that the youth has:

- (i) demonstrated basic knowledge of the level objectives as defined in the youth's individual case plan (ICP); and
- (ii) participated with the MDT in targeting specific skills for development.

- (B) The youth:

- (i) attends foundational skills development groups;
- (ii) participates in individual sessions with his/her case manager; and
- (iii) demonstrates consistent participation in other areas of programming.

(2) **Level II.**

- (A) This level is completed when the MDT determines that the youth has:

- (i) identified patterns in his/her thoughts, feelings, attitudes, values, and beliefs that relate to ongoing behaviors;
- (ii) demonstrated sufficient competency in the targeted skills to address those behaviors; and
- (iii) completed the level objectives as defined in the youth's ICP.

- (B) The youth:

- (i) attends intermediate skills development groups;
- (ii) participates in individual sessions with his/her case manager; and
- (iii) demonstrates consistent participation in other areas of programming.

(3) **Level III.**

- (A) This level is completed when the MDT determines that the youth demonstrates and practices skills learned in skills development groups through daily application in situations that present increased risk for the youth. Youth are expected to engage in responsible behaviors and provide leadership in the program. Additional skills are learned as assigned and the plan for reintegration to general campus programming is completed.

- (B) The youth:

- (i) attends advanced skills development groups;
- (ii) participates in individual sessions with his/her case manager; and
- (iii) demonstrates consistent participation in other areas of programming.

(l) Progress Reviews.**(1) Multi-Disciplinary Team Reviews.**

(A) The MDT reviews the youth's ICP, evaluates progress through program requirements, and reviews the effectiveness of treatment strategies on a weekly basis. The MDT may not promote youth in the stages of the agency's rehabilitation program while the youth is in the Phoenix program.

(B) The MDT makes decisions regarding promotion within Phoenix program levels based on achievement of established criteria.

(i) Level Promotion.

Youth meeting the established criteria must be promoted to the next level.

(ii) Level Demotion.

The MDT may assign the youth to a lower level when the youth's behavior demonstrates low use of pro-social skills. The MDT may demote one or two levels depending upon the severity of the behavior and/or lack of consistency in the use of pro-social skills.

(2) Individual Case Plan Review.

Case plan reviews and updates are conducted in accordance with §380.8701 of this title.

(3) Mental Health Review.

(A) Youth must be evaluated on a regular basis by the Phoenix program mental health specialist for the presence of a mental health disorder that contraindicates continued placement in the Phoenix program.

(B) Youth must be released from the Phoenix program at any time for mental health reasons based on the recommendation of the mental health specialist or psychiatrist and the approval of the TJJD director of treatment.

(C) Youth with neurological and/or mental health disorders may be temporarily admitted to a TJJD-operated crisis stabilization unit pursuant to §380.8767 of this title for diagnostic purposes to determine the most appropriate placement.

(m) Graduation from the Phoenix Program.

(1) Youth graduate from the Phoenix program upon completion of Level III as described in subsection (k) of this section.

(2) Youth released from the Phoenix program are assigned to the Redirect program at the receiving facility and are provided support to reintegrate into the general campus population at the receiving facility.

(n) Program Monitoring and Youth Rights.

(1) To ensure the Phoenix program is being implemented according to provisions of this rule, staff from facility administration must visit the program daily and staff from psychology administration must visit the program weekly.

(2) Youth rights staff or a designee must visit the Phoenix program daily to ensure that the youth have access to the youth grievance system.

(o) **Appeal of Level Assessment in the Phoenix Program.**

A youth in the Phoenix program may appeal the results of a level assessment or of the lack of opportunity to demonstrate completion of requirements by filing a grievance in accordance with §380.9331 of this title. The person assigned to respond to the youth's grievance must not be a member of the youth's MDT or a staff member who has been involved in the youth's current assessment.

(p) **Independent Review Team Oversight.**

- (1) A managerial staff member designated by the facility administrator who is not assigned to the Phoenix program monitors the Phoenix MDT monthly.
- (2) The director of facility operations reviews compliance with Phoenix program policy and procedure requirements as part of routine facility assessment processes.
- (3) A cross-divisional team based in the TJJD Austin Office reviews youth who remain on Level I or Level II after 120 days in the program until the youth progresses to the next level. The team conducts quarterly reviews thereafter until the youth graduates from the program.
- (4) The TJJD division responsible for monitoring and inspections conducts random reviews of Phoenix program files and coordinates with other departments as appropriate for reviews of certain components of Phoenix program files such as mental health assessments, ICP's, and education service delivery.

For implementation procedures, see CMS.03.75.

DRAFT



**Texas Juvenile Justice Department
RESOLUTION**

**A RESOLUTION FOR APPROVAL TO ADOPT RULE REVIEW AND REVISIONS WITHIN
37 TAC §§380.9312 – 380.9317 AND 380.9337, RELATING TO YOUTH RIGHTS AND REMEDIES, AND
§§380.9501 – 380.9503 AND 380.9517 – 380.9535, RELATING TO BEHAVIOR MANAGEMENT**

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:			Second:		

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the Texas Juvenile Justice Board previously approved the publication of the proposed rule review and proposed revisions within §§380.9312 – 380.9317, 380.9337, 380.9501 – 380.9503, and 380.9517 – 380.9535 in the *Texas Register* for a 30-day public comment period; and

WHEREAS, the public comment period has ended and TJJD did not receive any comments; and

WHEREAS, the TJJD staff recommends additional changes in §§380.9312, 380.9313, 380.9315, 380.9501, 380.9502, 380.9503, and 380.9535;

NOW, THEREFORE BE IT RESOLVED THAT the Board authorizes the adoption of the rule review and revisions within §§380.9312 – 380.9317, 380.9337, 380.9501 – 380.9503, and 380.9517 – 380.9535 as proposed, with the additional changes to §§380.9312, 380.9313, 380.9315, 380.9501, 380.9502, 380.9503, and 380.9535 as noted.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

James Williams, Senior Director of Probation and Community Services

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS FOR 37 TAC §380.9504, RELATING TO RULES AND CONSEQUENCES FOR YOUTH ON PAROLE

Date: May 6, 2015

As part of TJJJ's rule review process, the Probation and Community Services Division proposed changes to its assigned rule from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter E (Behavior Management and Youth Discipline), at the January 2015 Board meeting. The Board approved posting the revisions and a rule review notice in the *Texas Register* for a 30-day public comment period.

The comment period has ended. TJJJ did not receive any public comments. However, the agency staff has recommended the following additional changes to the draft of **§380.9504** (Rules and Consequences for Youth on Parole) that was published in the *Texas Register*:

- Clarified that the youth's conditions of parole are provided to the youth before he/she is released from a facility. The parole conditions, along with the rules of conduct, are then reviewed with the youth when he/she first meets with the parole officer.
- Made minor typographical and grammatical corrections and a non-substantive wording clarification.

The staff now requests the Board's approval to adopt the rule review and the final rule, with the changes described above.

Attached to this memo, please find the following documents:

- A table summarizing the changes to the rule.
- A copy of the final rule, with markups to show the additional changes described above.
- A resolution for board action.

Texas Administrative Code Rule Review
37 TAC Chapter 380, Subchapter E – Behavior Management and Youth Discipline

(Rules assigned to the Probation and Community Services Division)

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
380.9504	Rules and Consequences for Youth on Parole	Establishes the actions that constitute rule violations for TJJD youth on parole. Also establishes the potential consequences for those rule violations.	Yes	<ul style="list-style-type: none"> • Added the option of placing a youth at a medium-restriction facility upon revocation of the youth’s parole. • Modified one part of the rule violation called “Repeated Non-Compliance with a Written Reasonable Request of Staff” to mean that a youth fails to comply with a monthly expectation two times in a <i>60-day period</i> (rather than a 90-day period). • Removed the redundant “Intensive Surveillance Supervision” option from the list of possible consequences for a parole rule violation. This consequence simply restated elements of other consequences. • Clarified that youth receive their conditions of parole before they are released from a residential facility. Those conditions, along with parole rules, are then reviewed when youth have their initial meeting with the assigned parole officer. 	Ready for board adoption

Draft 5/5/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Behavior Management Rule: Rules and Consequences for Youth on Parole ACA: N/A Statutes: HR Code §§244.005, 245.051	Effective Date: Page: 1 of 2 Replaces: GAP.380.9504, 9/1/09
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Staff-recommended changes on pages 1-2

RULE

(a) **Purpose.**

This rule establishes the actions that constitute violations of the rules of conduct youth are expected to follow while under parole supervision. Violations of the rules may result in disciplinary consequences, including revocation of parole, that are proportional to the severity and extent of the violation. Appropriate due process must be followed before imposing consequences.

(b) **Applicability.**

- (1) This rule applies to youth on parole status who are assigned to a home placement.
- (2) For parole revocation purposes, this rule also applies to youth on parole status who are assigned to a residential placement as a home substitute. However, this rule does not apply to the daily rules of conduct for these youth.; For the daily rules of conduct, see §380.9503 of this title.

(c) **General Provisions.**

- (1) Conditions of parole are provided to the youth before release on parole.
- (24) Conditions of parole, including the ~~The~~ rules of conduct, are reviewed with ~~provided to~~ the youth when they initially meet with their parole officers and at other times as necessary.
- (32) Repeated violations of any rule of conduct may result in more serious disciplinary consequences.

(d) **Parole Rule Violations.**

It is a violation to knowingly violate, attempt to violate, or help someone else violate any of the following:

- (1) **Abscond**--leaving a home placement or failing to return from an authorized leave without permission of the youth's parole officer and the youth's whereabouts are unknown to his/her parole officer.
- (2) **Escape**--leaving a high- or medium-~~restriction~~ residential placement without permission or failing to return from an authorized leave.
- (3) **Failure to Comply with Sex Offender Conditions of Parole**--intentionally and knowingly failing to comply with one of the following conditions present in the youth's ~~Ssex Ooffender Cc~~ Parole Aaddendum:
 - (A) do not have unsupervised contact with children under the age specified by the conditions of parole;
 - (B) do not babysit or participate in any activity where the youth is responsible for supervising or disciplining children under the age specified by the conditions of parole; or
 - (C) do not initiate physical contact or touching of any kind with a child, victim, or potential victim.
- (4) **Possession of a Weapon**--possessing a weapon or item(s) that has been made or adapted for use as a weapon.

- (5) **Use of Unauthorized Substances**--using an unauthorized substance or intoxicant including controlled substances or intoxicants (including alcohol and tobacco if the youth is underage), medications not prescribed for the youth by authorized medical or dental staff, or similar intoxicants.
- (6) **Refusing a Drug Screen**--refusing to take a drug screen when requested to do so by staff or tampering with or contaminating the urine sample provided for a drug screen.
- (7) **Repeated Non-Compliance with a Written, Reasonable Request of Staff**--failing on two or more occasions to comply with a specific condition of release under supervision and/or a specific written, reasonable request of staff. If the expectation is daily or weekly, the two failures to comply must be within a 30-day period. If the expectation is monthly, the two failures to comply must be within a 60-day period.
- (8) **Tampering with Monitoring Equipment**--a youth intentionally and knowingly tampers with monitoring equipment assigned to any youth.
- (9) **Violation of a Law**--violating a federal or state law or municipal ordinance.

(e) **Possible Consequences.**

- (1) A parole rule violation may result in a Level I **H**earing or a Level III **H**earing conducted in accordance with §380.9551 or §380.9557 of this title, respectively. Parole officers are encouraged to be creative in determining a consequence appropriate to address and correct the youth's behavior. All assigned consequences should be related to the misconduct when possible.
- (2) Consequences through a Level III **H**earing for a youth on parole include, but are not limited to:
 - (A) **Verbal Reprimand**--conference with a youth including a verbal reprimand drawing attention to the misbehavior and serving as a warning that continued misbehavior could result in more severe consequences. A verbal reprimand may not be considered as a less severe disciplinary consequence for the purpose of parole revocation.
 - (B) **Curfew Restriction**--an immediate change in existing curfew requirements outlined in the youth's **C**onditions of **P**parole.
 - (C) **Community Service Hours**--disciplinary assignment of a specific number of hours the youth is to perform community service in addition to the hours assigned when the youth was placed on parole. In no event may more than 20 community service hours be assigned through a Level III **H**earing.
 - (D) **Increased Level of Supervision**--an assigned increase in the number of primary contacts between the youth and parole officer in order to increase the youth's accountability.
 - (E) **Electronic Tracking**--assignment to a system that electronically tracks a youth's movement and location.
 - (F) **Writing Assignment**--an assignment designed for the youth to address the misbehavior and identify appropriate behavior in similar situations.
- (3) Consequences through a Level I **H**earing for a youth on parole, including youth assigned to a residential placement as a home substitute, include:
 - (A) **P**parole revocation and placement in any high- or medium- restriction program operated by or under contract with the Texas Juvenile Justice Department; and
 - (B) **A**ssignment of a length of stay consistent with §380.8525 of this title.



**Texas Juvenile Justice Department
RESOLUTION**

**A RESOLUTION FOR APPROVAL TO ADOPT RULE REVIEW AND REVISIONS FOR 37 TAC §380.9504, RELATING TO
RULES AND CONSEQUENCES FOR YOUTH ON PAROLE**

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:		Second:			

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the Texas Juvenile Justice Board previously approved the publication of the proposed rule review and revisions for §380.9504 in the *Texas Register* for a 30-day public comment period; and

WHEREAS, the public comment period has ended and TJJD did not receive any comments; and

WHEREAS, the TJJD staff recommends additional changes in §380.9504;

NOW, THEREFORE BE IT RESOLVED THAT the Board authorizes the adoption of the rule review and revisions for §380.9504, with the additional changes as noted.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJD Board Members

From: David Reilly, Executive Director

Kaci Singer, Staff Attorney

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE FINAL ADOPTION OF RULE REVIEW AND REVISIONS WITHIN 37 TAC §380.9301, 380.9311, 380.9331–380.9333, AND 380.9353, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9550 – 380.9571, RELATING TO DUE PROCESS HEARINGS

Date: May 6, 2015

As part of TJJD's rule review process, the Office of General Counsel proposed changes to assigned rules from Chapter 380 (Rules for State-Operated Programs and Facilities), Subchapter D (Youth Rights and Remedies) and Subchapter E (Behavior Management and Youth Discipline), at the January 2015 Board meeting. The Board approved posting the revisions and a rule review notice in the *Texas Register* for a 30-day public comment period.

The comment period has ended. TJJD did not receive any public comments. However, the agency staff has recommended the following additional changes to the drafts that were published in the *Texas Register*:

- In **§380.9551** (Level I Hearing Procedure), corrected typographical errors and one omission made by staff when transcribing the board-approved rules into the required *Texas Register* format.
- In **§380.9555** (Level II Hearing Procedure), corrected typographical errors and made one non-substantive wording clarification.
- In **§380.9557** (Level III Hearing Procedure), corrected a typographical error.
- In **§380.9559** (Detention for Youth with Pending Charges), corrected typographical errors.

The staff now requests the Board's approval to adopt the rule review and the final rules, with the changes described above.

Attached to this memo, please find the following documents:

- A table summarizing the changes to the rules.
- A copy of the final rules, with markups to show the additional changes described above.
- A resolution for board action.

Texas Administrative Code Rule Review
37 TAC Chapter 380, Subchapter D – Youth Rights and Remedies
37 TAC Chapter 380, Subchapter E – Behavior Management and Youth Discipline

(Rules assigned to Office of General Counsel)

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
380.9301	Basic Youth Rights	Establishes the basic rights that must be accorded each youth in TJJD custody.	Yes	<ul style="list-style-type: none"> Added sexual orientation and gender identity to the list of factors upon which a youth may not be discriminated against. Clarified that the right to free expression includes speaking languages other than English, with a few exceptions. Exceptions include classroom discussions, group counseling, or other organized activities unless the use of a translator has been approved. Exceptions also include situations where a staff member has reasonable cause to believe the non-English communication poses a direct threat to safety. Clarified that a youth has the right to participate in religious activities, but not necessarily in activities <i>of the youth's choice</i>. As set forth in other TJJD rules and in Texas law, parents (or guardians) have the right to establish the religious preference for their child if the child is a minor. Deleted redundant information that is covered in other TJJD rules relating to mail and telephone access. 	Ready for board adoption
380.9311	Access to Attorneys and Courts	Requires TJJD to allow youth to have confidential access to attorneys and court personnel.	Yes	<ul style="list-style-type: none"> Deleted information about youth making collect calls to attorneys or courts. Added a requirement for calls to attorneys and courts to be made using staff phones and not charged to a youth's pre-paid phone minutes. 	Ready for board adoption
380.9331	Youth Grievance System	Establishes that youth, parents/guardians, and youth advocates have a right to file grievances concerning the care, treatment, services, or conditions provided for TJJD youth.	Yes	<ul style="list-style-type: none"> No changes needed. This rule was recently revised and approved by the board. The revised rule took effect on January 1, 2015. 	No changes recommended

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
380.9333	Investigation of Alleged Abuse, Neglect, and Exploitation	Establishes the standards TJJJ will use to investigate alleged abuse, neglect, or exploitation occurring in state-operated or state-contracted facilities and programs.	Yes	<ul style="list-style-type: none"> No changes needed. This rule was recently revised and approved by the board. The revised rule took effect on July 15, 2014. 	No changes recommended
380.9353	Appeals to the Executive Director	Lists the issues that may be directly appealed to the TJJJ executive director.	Yes	<ul style="list-style-type: none"> Made a conforming change concerning appeals of Level IV hearings to be consistent with other TJJJ rules. Specifically, clarified that appeals of detention review hearings for TJJJ youth being held in the community will always go to the executive director. However, appeals of detention review hearings for youth being held in TJJJ security units will go to the executive director only when the appeal arises from the second or subsequent detention review hearing. 	Ready for board adoption
380.9550	Definitions—Due Process Hearings	Defines terms used throughout the rules on due process hearings.	Yes	<ul style="list-style-type: none"> Added a definition for “due process” and deleted the definitions of the various types of due process hearings conducted by TJJJ. The individual rules in this subchapter explain what each type of due process hearing involves. Replaced “administrative law judge” with “hearing examiner” in the definition for the staff member who presides in a parole revocation hearing. 	Ready for board adoption
380.9551	Level I Hearing Procedure	Establishes the due process required when seeking to revoke a youth’s parole.	Yes	<ul style="list-style-type: none"> Added a paragraph explaining what each party is responsible for establishing during the disposition phase of the hearing. Clarified that when a youth pleads guilty/true to an offense in court and does not receive deferred adjudication <i>or deferred prosecution</i>, the court judgment is sufficient to prove in a TJJJ parole revocation hearing that the youth committed the offense. Changed references to “tape” recordings to allow for recordings made on electronic media. 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
380.9553	Level I Hearing by Telephone	Establishes when a Level I hearing may be conducted by telephone.	Yes	<ul style="list-style-type: none"> • Removed the requirement for the youth’s attorney to be physically present in the same location with the youth during the telephone hearing. The attorney may now participate by telephone. • Reduced the amount of notice TJJJ requires before it will authorize a hearing to be conducted by telephone. The youth’s attorney will now have to notify TJJJ at least <i>one working day</i> (instead of two working days) before the scheduled hearing that the youth wishes to plead “true” if a telephone hearing is to be authorized. • Added a statement allowing the hearing examiner to adjourn the hearing and require an on-site hearing for any reason to ensure the youth’s due process rights are protected. 	Ready for board adoption
380.9555	Level II Hearing Procedure	Establishes the due process required when seeking to impose major discipline, move a youth to a higher restriction level for non-disciplinary reasons, or deposit contraband money in the student benefit fund.	Yes	<ul style="list-style-type: none"> • Added a provision that allows a Level II hearing to be held by conference call if the hearing manager determines that doing so will not deprive the youth of his/her due process rights. • Changed the deadline to <i>five working days</i> (instead of five calendar days) for conducting a Level II hearing in cases where a youth is being held in the security unit due to his/her potential interference with the investigation or hearing. • Added a statement requiring the staff representative to be trained to function in that role. • Clarified that the youth’s advocate may not be a person who was a witness to the alleged violation. • Added an explanation of when TJJJ staff and youth are considered to be “readily available” for purposes of being called to testify. • Added an explanation of when evidence is considered to be “readily available” for purposes of being introduced at the hearing. • Added a requirement for the hearing manager’s report to be reviewed by supervisory staff to ensure consistency in the application of policy. 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
				<ul style="list-style-type: none"> • Specified that a Level II hearing is the appropriate due process for transferring a youth in a conditional placement to a higher-restriction facility. (Note: this is a conforming change to be consistent with a rule previously approved by the TJJD board.) • Added a provision that allows a youth in a conditional placement to waive the Level II hearing before he/she is transferred to a higher-restriction facility. • Clarified that Level II hearings held to transfer a youth from conditional placement will include only the fact-finding phase and not the disposition phase. • Clarified that a hearing manager's decision to demote a youth's stage in the rehabilitation program is subject to final approval from the facility's administration. 	
380.9557	Level III Hearing Procedure	Establishes the due process required when seeking to admit/extend a youth in the Security Unit or to issue minor consequences to a youth in a medium restriction facility or parole.	Yes	<ul style="list-style-type: none"> • Added a requirement for the hearing administrator to indicate which specific admission criterion was proven before a youth may be admitted or extended in the Security program. • Clarified that the appeal authority <i>must</i> (rather than may) determine some form of equitable relief for a youth who has already completed a disciplinary measure or has otherwise been adversely affected if, on appeal, it is determined: <ul style="list-style-type: none"> ○ the youth did not commit the violation; ○ the youth did commit the violation but there were extenuating circumstances; or ○ the youth did commit the violation but the discipline is determined to be inappropriate. • Clarified that when the appeal authority determines a youth did commit the violation but the discipline was inappropriate, the violation <i>will remain</i> on the youth's behavioral record. 	Ready for board adoption
380.9559	Detention for Youth with Pending Charges	Establishes criteria and procedures for detaining TJJD youth in a TJJD Security Unit when a court proceeding or delinquent/criminal charges are pending.	Yes	<ul style="list-style-type: none"> • Clarified that TJJD considers charges to be pending if there is reliable information that the <i>prosecuting attorney</i> (rather than district attorney) intends to request an indictment or file a petition. • Clarified that the burden of proof is on the staff requesting detention of the youth. 	Ready for board adoption

Rule #	Title of Rule	Summary of Rule	Is rule still needed	Revisions	Status of Revisions
380.9561	Detention for Youth with Pending Level I or II Hearing	Establishes criteria and procedures for detaining TJJJ youth in the community or in a TJJJ Security Unit while awaiting a Level I or Level II hearing.	Yes	<ul style="list-style-type: none"> No changes needed. This rule was revised and approved by the board in 2013. 	No changes recommended
380.9571	Mental-Health-Status Review Hearing Procedure	Establishes the due process required to admit or extend a youth in a TJJJ crisis stabilization unit.	Yes	<ul style="list-style-type: none"> Made non-substantive clean-ups and minor clarifications. 	Ready for board adoption

Draft 4/17/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Basic Youth Rights ACA: 4-JCF-3A-01, 3A-03, 3A-09, 3A-16, 3A-18, 5B-05, 5D-11 Statutes: Texas Religious Freedom Restoration Act (Texas Civil Practice and Remedies Code Chapter 110) Religious Land Use and Institutionalized Persons Act (42 USC §2000cc et seq.) 28 CFR §115.342	Effective Date: Page: 1 of 3 Replaces: GAP.380.9301, 1/17/06
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RULE

(a) **Purpose.**

This rule establishes certain basic rights that are recognized for each youth in the Texas Juvenile Justice Department (TJJD). The basic rights accorded each TJJD youth are not absolute and may be limited to the extent reasonably necessary for TJJD to discharge its statutory responsibilities with respect to public protection, treatment, care, and supervision.

(b) **General Provisions.**

Each youth committed to the care and custody of TJJD is accorded certain basic rights. If a youth feels that TJJD has violated one or more of his/her basic rights or in some way has treated him/her unfairly, abusively, or neglectfully, the youth may initiate action to remedy the situation, and staff must assist youth in doing so.

(c) **Right to Equal Treatment.**

Youth have the right not to be discriminated against because of race, sex, language, national origin, disabilities, sexual orientation, gender identity, religion, or personal opinions.

(d) **Right of Free Speech and Expression.**

(1) Youth have the right to express themselves freely except when:

- (A) their expressions interfere with the safe and orderly operation of the program; or
- (B) totally free expression would be inappropriate due to the unique vulnerability of youth to improper influences.

(2) Youth who speak languages other than English are allowed to speak those languages at any time, except:

- (A) during classroom discussions, group counseling sessions, and other organized activities unless the youth is limited English proficient and has been approved to use a translator; or
- (B) when a staff member has reasonable cause to believe, based on reliable evidence, that the non-English communication poses a direct threat to the safety of others or to facility security and order.

(e) **Right of Religious Freedom.**

Youth have the right to participate in religious activities. TJJD may not compel youth to participate in any religious activity.

(f) **Right to Personal Possessions.**

Youth have the right to keep and use personal possessions that do not endanger the safety of staff and youth, disrupt programs and activities, encourage delinquent subcultural values, or appeal to the unique vulnerability of youth to improper influences. Youth may not possess contraband as defined by §380.9107 of this title. TJJD may also limit a youth's personal possessions based on:

- (1) risk to facility safety (e.g., danger to self or others, fire hazards); or
- (2) risk to sanitary living conditions; or
- (3) the youth's progress in the agency's rehabilitation program; or
- (4) the amount of space allotted to each youth. The amount of space provided to each youth is dependent on local issues such as the configuration of the dorm. Excess items are returned to the youth's family.

(g) **Right to Receive Visitors.**

Youth have the right to receive visitors, including but not limited to private in-person communication with parents. See §380.9312 of this title for more information on visitation.

(h) **Right of Access to Mail and Telephone.**

Youth have the right to correspond freely through the mail, subject to certain limitations described in §380.9315. Youth are provided access to telephones to the extent possible within plant limitations, with equal opportunities for telephone use being provided to all residents within a facility. Youth have access to a telephone in the event of an emergency. See §380.9313 of this title for more information on telephone use.

(i) **Right to Earnings and Monetary Gifts.**

TJJD may limit the amount of money in a youth's personal possession but may not withdraw money from a trust fund without the youth's consent.

(j) **Right to Protection from Physical and Psychological Harm.**

Youth have the right to be protected from physical and psychological harm. They have the right to adequate food, clothing, and shelter, and may not be deprived of food or sleep in the interests of treatment or discipline. Youth may not be administered tranquilizers or other drugs in the interest of discipline or order. Purposeless or degrading work is prohibited.

(k) **Right to Medical and Dental Care.**

Youth have the right to basic and necessary medical and dental care, both routine and emergency. See §380.9183 of this title for more information on medical and dental care.

(l) **Right of Access to Attorneys.**

Youth have the right to confer with their attorneys in private, with appropriate restrictions on the time and place of meeting. See §380.9311 of this title for more information on access to attorneys.

(m) **Right to be Informed.**

Youth have the right to be informed of all rights, policies, procedures, and rules affecting them while in the custody of TJJD.

(n) **Right to Accuracy and Fairness in Decision Making.**

Youth have the right to expect accuracy and fairness in all decisions made concerning them. The degree of procedural protection afforded a youth must be consistent with the requirements of due process of law, including the right to appeal any decision made by staff concerning the youth.

(o) **Right to Confidentiality of Records.**

Youth have the right to expect that their records will not be released to anyone other than those authorized by law to have access to them.

(p) **Right to Express Grievances and Appeal Decisions.**

Youth have the right, without fear of reprisal, to have access to a prompt and fair method of resolving grievances. See §380.9331 of this title for more information on the youth grievance system.

DRAFT

Draft 4/17/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Youth Rights and Remedies Rule: Access to Attorneys and Courts ACA: 4-JCF-3A-01, 3A-11 References: <i>Morales v. Turman</i> Settlement Agreement, Section (V)(C)	Effective Date: Page: 1 of 1 Replaces: GAP.380.9311, 12/31/96
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(a) **Purpose.**

The purpose of this policy is to provide for youth access to any attorney or court through the use of mail, telephone, and visitation.

(b) **Telephone.**

- (1) Liberal but reasonable time limits are placed on calls to attorneys, attorneys' staff, and court staff.
- (2) Youth have the right to confidential communication with their attorneys, attorneys' staff, and court staff. Calls to attorneys, attorneys' staff, and court staff are made using TJJJD staff telephones and are not charged against any pre-paid minutes allotted to the youth or purchased on behalf of the youth.
- (3) Calls from attorneys, attorneys' staff, or court staff may interrupt regular program activities including school, group meetings, and work duties when necessary.
- (4) Youth may receive incoming calls from attorneys, attorneys' staff, or court staff at any time during the day. When youth are unable to come to the telephone, messages are taken.

(c) **Mail.**

Youth are provided an unlimited number of stamps and writing material for use in contacting attorneys, attorneys' staff, or court staff.

(d) **Visitation.**

- (1) Youth may receive visits from their attorneys, including their attorneys' staff, any day of the week at any time between 8:00 a.m. and 5:00 p.m. and after 5:00 p.m. if reasonable arrangements can be made.
- (2) Youth are provided confidential visitation with their attorneys and their attorneys' staff.
- (3) Youth may decline to visit with their attorneys or their attorneys' staff.

RULE

(a) Policy.

- (1) Youth, parents/guardians of youth, and youth advocates have a right to file grievances concerning the care, treatment, services, or conditions provided for youth under the jurisdiction of the Texas Juvenile Justice Department (TJJD). TJJD resolves grievances in a prompt, fair, and thorough manner; however, grievances alleging criminal violations or abuse, neglect, and exploitation are referred to law enforcement for investigation and disposition.
- (2) TJJD recognizes that informal discussions between staff and youth are a key element in resolving issues or concerns at the earliest stage and contribute to a positive facility culture. TJJD makes staff available to meet with youth whenever possible, limited only by consideration for facility order and the safety of youth and staff.

(b) General Rules.

- (1) Except as noted in paragraph (2) of this subsection, there is no limitation on the number or subject matter of grievances a person is permitted to file.
- (2) Appeals of decisions made in TJJD due process hearings or by the Release Review Panel (RRP) are not addressed through the grievance system.
 - (A) See Subchapter E, Division 2 of this chapter for appeals of due process hearings; and
 - (B) See §380.8557 of this title for requests for reconsideration of RRP decisions.
- (3) Each residential facility and parole office provides a time, place, and manner in which youth, parents/guardians, or youth advocates may file grievances. A staff member is available to provide assistance in writing and filing grievances to individuals with disabilities who request accommodations in order to access the youth grievance system.
- (4) In residential facilities, reasonable restrictions may be imposed on the time, place, and manner of submission of grievances filed by youth to preserve order and maintain attention during instructional or treatment activities.
- (5) Retaliation or interference by staff concerning the filing or resolution of grievances is not tolerated and is grounds for disciplinary action up to and including termination of employment.
- (6) To the extent possible, grievances remain confidential. The identity of a person filing a grievance is not shared with staff members other than those necessary to resolve the grievance. Youth files do not contain any reference to the filing of grievances.
- (7) Youth are informed of the system for filing and resolving grievances upon arrival at each placement. Notices containing information on the grievance system are posted in English and Spanish in visible areas throughout residential facilities and parole offices. Parents/guardians are provided information on the grievance resolution system and local contact information upon a child's admission to TJJD and each subsequent placement.
- (8) Persons with limited English proficiency may file grievances in languages other than English.

- (9) TJJJ provides confirmation of receipt, including a tracking number, to grievants having the legal right to access confidential youth information.
- (10) Upon written request, a parent/guardian of a youth under 18 years of age will be provided with a summary of grievances filed by his/her child. A youth 18 years of age or older must provide consent in order to release a grievance summary to his/her parent/guardian.

(c) **Youth Requests for Conference with Staff.**

- (1) Youth assigned to residential facilities may submit a written request for a conference with any staff member assigned to his/her facility as an informal means of addressing issues or concerns. Conferences with youth are scheduled at the earliest opportunity that does not jeopardize youth or staff safety, facility order, or an ongoing investigation. Youth are notified in cases where the request cannot be honored promptly.
- (2) A youth may elect to file a grievance if he/she is dissatisfied with the result of the staff conference or if the issue(s) raised in connection with the conference request cannot be resolved by his/her selected staff member. However, in no case is a youth required to submit a request for conference as a preliminary step prior to submitting a grievance.

(d) **Grievances.**

(1) **Methods for Filing a Grievance.**

(A) **Incident Reporting Center.**

Any person may submit a grievance to the TJJJ Incident Reporting Center (IRC) by telephone, email, fax, or postal service. See TJJJ's website for contact information. Subject to limitations on time, place, and manner, a youth in a residential placement is allowed confidential telephone access in order to contact the IRC.

(B) **In-Person to TJJJ Staff.**

Any person who is unable or unwilling to submit a grievance in writing may verbally communicate a grievance to TJJJ staff.

(C) **Youth Grievance Forms.**

- (i) All youth under TJJJ jurisdiction must have access to pre-numbered grievance forms.
- (ii) In residential facilities, a youth is selected in each living unit or area to distribute grievance forms.
- (iii) In residential facilities, secure drop boxes are provided in easily accessible locations for youth to submit completed grievance forms. Access to the drop boxes is restricted to staff members designated by the executive director or designee.
- (iv) A youth is provided with a copy of each grievance he/she submits.
- (v) Once a youth submits a grievance, it may not be withdrawn.

(2) **Resolution of a Grievance.**

- (A) Grievances are promptly collected, reviewed, and assigned for response. Grievances are screened to identify issues which require expedited resolution in order to avoid substantial loss or harm if delayed.
- (B) Each grievance is assigned to a staff member who is not directly involved in the grievance and has the authority to implement an appropriate corrective measure or has knowledge or access to

provide clarifying information. Grievances involving healthcare issues must be assigned to a person with appropriate clinical expertise and credentials. The assigned staff member must provide a written response to the grievant within 10 workdays after submission of the grievance.

(3) **Appeal of a Grievance Resolution.**

- (A) A grievant may file an appeal if he/she is dissatisfied with the response. Except for healthcare-related grievances, TJJJD designates a staff member to provide a written response to the appeal. Appeals of responses to healthcare-related grievances are submitted as direct appeals to the executive director or designee in accordance with §380.9353 of this title.
- (B) For grievances that are not healthcare-related, a grievant may submit an appeal to the executive director or designee if dissatisfied with the appeal response in accordance with §380.9353 of this title.
- (C) A grievant may submit a direct appeal to the executive director or designee if no written response is received within 15 workdays after submitting a grievance or an appeal of a grievance response.
- (D) An appeal to the executive director or designee exhausts all administrative remedies on the issue(s) raised in the grievance.

See the Youth Rights Procedures Manual for implementation procedures.

NO CHA

RULE

(a) **Purpose.**

This rule provides for the administrative investigation of allegations of abuse, neglect, or exploitation in programs and facilities under Texas Juvenile Justice Department (TJJD) jurisdiction. This rule also provides standards for investigations and for the compilation of investigation information. The purpose of all provisions in this rule is the protection of youth.

(b) **Applicability.**

- (1) This rule applies to administrative investigations involving abuse, neglect, or exploitation allegedly committed by employees, volunteers, or other individuals working in TJJD programs or facilities including institutions, halfway houses, contracted residential services, parole services, and contract programs.
- (2) Except as specifically noted, this rule does not apply to criminal investigations conducted by the TJJD Office of Inspector General under Human Resources Code §242.102.

(c) **Additional References.**

- (1) See §380.9337 of this title for additional requirements regarding investigations of alleged sexual abuse.
- (2) See §380.9353 of this title for information on appeals to the executive director.

(d) **Definitions.**

As used in this rule, the following terms have the following meanings, unless the context clearly indicates otherwise.

- (1) **Abuse**--an intentional, knowing, or reckless act or omission that causes or may cause emotional harm or physical injury to, or the death of, a youth committed to the care and custody of TJJD.
- (2) **Case Closure Disposition**--the finding made upon official closure of a case of alleged abuse, neglect, or exploitation. The following dispositions are used for all allegations:
 - (A) **Confirmed**--an investigation established that the allegation did occur.
 - (B) **Exonerated**--an investigation established that the alleged incident occurred but was lawful and proper or was justified under existing conditions.
 - (C) **Unable to Determine**--an investigation resulted in insufficient evidence to prove or disprove the allegation(s).
 - (D) **Unfounded**--an investigation established that the allegation is false, not factual.
- (3) **Chief local administrator**--the person employed in a TJJD facility or district office who is responsible for overseeing the operations of a facility, contract program, or parole services.

- (4) **Emotional harm**--an impairment in the youth's growth, development, or psychological functioning that normally requires evaluation or treatment by a trained mental health or health care professional, regardless of whether evaluation or treatment is actually received. Sexual conduct in residential facilities is presumed to cause substantial emotional harm.
- (5) **Exploitation**--the illegal or improper use of a youth or the resources of a youth committed to the care and custody of TJJJ for monetary or personal benefit, profit, or gain.
- (6) **Neglect**--a negligent act or omission, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a youth committed to the care and custody of TJJJ.
- (7) **Physical injury**--an injury that normally requires examination or treatment by a trained health care professional, regardless of whether examination or treatment is actually received.
- (8) **Preponderance of the evidence**--a standard of proof meaning the greater weight and degree of credible evidence; e.g., whether the credible evidence makes it more likely than not that abuse, neglect, or exploitation occurred.
- (9) **Report**--notification that alleged or suspected abuse, neglect, or exploitation of a child has occurred or may occur.
- (10) **Sexual conduct**--conduct that constitutes the offense of continuous sexual abuse of a child or children under Penal Code §21.02, indecency with a child under Penal Code §21.11, sexual assault under Penal Code §22.011, or aggravated sexual assault under Penal Code §22.021.

(e) **Reporting Requirements.**

- (1) Under state law, any person having cause to believe that a youth has been or may be adversely affected by abuse, neglect, or exploitation must report the matter to a law enforcement agency or to the Department of Family and Protective Services (DFPS). The TJJJ Office of Inspector General is an appropriate law enforcement agency for reports of suspected abuse, neglect, or exploitation of youths subject to the jurisdiction of TJJJ. Any TJJJ employee, volunteer, or contractor working in a program or facility operated by or under contract with TJJJ who has cause to believe a youth committed to the care and custody of TJJJ has been or may be adversely affected by abuse, neglect, or exploitation or receives such a report must immediately report the matter to law enforcement in accordance with the TJJJ's reporting policies and procedures.
- (2) The person making a report must provide as much detailed information as possible, including the identity of persons involved, the location and time of relevant events, and the identity of others who may provide further information.
- (3) The requirement to report under this section applies without exception to a person whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, or a mental health professional.
- (4) Except for investigation purposes, the identity of a person making a report is confidential.

(f) **Actions Taken upon Receipt of the Report.**

Upon receipt of a report of alleged abuse, neglect, or exploitation, TJJJ:

- (1) in coordination with the appropriate law enforcement entity, immediately takes any action necessary to protect the youth and to preserve evidence that may be pertinent to an investigation of the matter;
- (2) notifies the youth's parents or guardian of the report and notifies the youth if the report was made by a third party;

- (3) determines whether the person accused of wrongdoing must be suspended, temporarily reassigned, or temporarily barred from assignment to TJJD facilities pending the outcome of the investigation; and
- (4) takes any action necessary to ensure that the investigation or review is conducted with the full cooperation of staff and youth, that adequate resources are provided, and that the youth and witnesses are protected from retaliation or improper influence.

(g) **Assignment for Investigation.**

- (1) TJJD promptly reviews each report of alleged abuse, neglect, or exploitation. Each report is entered into a centralized database and assigned for an administrative investigation if the allegation meets the definition of abuse, neglect, or exploitation. The report may also be assigned for criminal investigation.
- (2) Whether to assign a report for criminal investigation by a peace officer from the Office of Inspector General or appropriate law enforcement is determined on a case-by-case basis considering all relevant factors, including the severity and immediacy of potential harm.
- (3) A TJJD investigator must provide an initial response within 24 hours after TJJD receives the report if the report presents an immediate risk of physical or sexual abuse of a youth that could result in death or serious harm to the youth.
- (4) If deemed to be warranted by the chief inspector general or the executive director, a report of abuse, neglect, or exploitation may be referred to appropriate outside law enforcement for investigation.

(h) **Standards for Administrative Investigations.**

- (1) The administrative investigation must be prompt, thorough, and directed at resolving all the relevant issues raised by the report.
- (2) Only a person with qualified experience and training may be assigned to conduct an administrative investigation of a report of abuse, neglect, or exploitation.
- (3) All evidence that is relevant and reasonably available must be gathered and preserved, including documents, physical evidence, witness interviews and statements, photographs, and security videos.
- (4) For any report of alleged abuse, neglect, or exploitation, a preliminary investigation may be conducted to determine whether there is any evidence to corroborate the report or to provide cause to believe that any abuse, neglect, or exploitation has occurred.
- (5) For a report of alleged abuse, the investigator must find whether the:
 - (A) alleged act or failure to act occurred;
 - (B) act or failure to act caused emotional harm or physical injury to the youth; and
 - (C) person who took the action or who failed to act did so intentionally, knowingly, or recklessly.
- (6) For a report of alleged neglect, the investigator must find:
 - (A) whether there was substantial emotional harm or physical injury of the youth as alleged;
 - (B) the standard of care or duty expected under the circumstances that are alleged;
 - (C) whether the actions or failure to act under the circumstances violated the standard of care or duty; and
 - (D) whether the actions or failure to act caused the substantial emotional harm or physical injury of the youth.

- (7) For a report of alleged exploitation, the investigator must find whether:
 - (A) a youth or a youth's resources were used by the accused person in the manner alleged;
 - (B) the use was for monetary or personal benefit, profit, or gain; and
 - (C) the use was illegal or improper.
- (8) The investigator's findings must be based on a preponderance of the evidence.
- (9) The investigator must prepare a written investigative report of the findings, including a summary and analysis of the evidence relied upon in reaching the findings. Copies of relevant documents and photographs must be attached to the investigative report.
- (10) The investigator may make findings on misconduct other than abuse, neglect, or exploitation if the misconduct is established by the evidence. However, the absence of such findings should not be regarded as exoneration of the respondent or other employees as to policy violations or other misconduct indicated by the evidence.

(i) **Administrative Investigation Report - Submission and Closure.**

- (1) The investigator must submit a written investigative report to his/her supervisor upon completion of the investigation.
- (2) The investigator's supervisor must indicate approval of the investigation findings by closing the investigative report and indicating the final case closure disposition. The supervisor or designee must then ensure the appropriate facility is notified of the findings.
- (3) All closed investigative reports must contain the signature of the supervisor who was responsible for making the final closure determination and the signature of the investigator who gathered the evidence in the case.
- (4) In the event the investigator's supervisor disagrees with the investigative report submitted by the investigator upon completion of the investigation, the investigative report must:
 - (A) include a statement by the supervisor that describes the reasons for his/her disagreement;
 - (B) be forwarded to the division director or designee for resolution;
 - (C) include the signature of the division director or designee for official closure of the investigative report.

(j) **Actions in Response to a Closed Administrative Investigation Report.**

- (1) Upon receipt of a closed investigative report, the chief local administrator must review the investigative report and:
 - (A) notify the youth, the youth's parents or guardian, and the person accused of wrongdoing of the results of the investigation;
 - (B) notify the youth and the youth's parents of the right to appeal the investigation findings or to file a complaint regarding the conduct of the investigation under §380.9353 of this title; and
 - (C) if the report is confirmed, take whatever actions are necessary and appropriate to rectify the wrong and prevent future harm under the same or similar circumstances.
- (2) If the allegation was reported by a health care professional who provides services to TJJJ youth through TJJJ's contract health care provider(s), TJJJ must, upon request, notify the health care professional in writing of the results of the investigation and the right to appeal the findings under §380.9353 of this title.

(k) **Standards for Compiling Investigation Information.**

- (1) TJJJ compiles information related to the number and nature of reports filed, case closure dispositions, the dates and locations of reported incidents, the average length of time required for investigations, and any significant trends. This information must be compiled at least twice each year and be available for public inspection.
- (2) Additional information including a summary of the findings and corrective actions taken with regard to all confirmed reports is prepared for periodic review and analysis by the TJJJ executive staff and the TJJJ governing Board.
- (3) Periodic summaries of complaints and appeals regarding investigations conducted under this rule and the final decisions regarding the complaints or appeals are provided to the TJJJ governing board for review. The TJJJ executive director or governing board will take whatever action is determined to be appropriate with regard to the complaint to ensure the investigations are conducted properly.

(l) **Confidentiality of Reports and Investigation Information.**

- (1) To the extent required by state or federal law, TJJJ will release to the public, upon request, a report of alleged or suspected abuse, neglect, or exploitation if:
 - (A) the report relates to a report of abuse, neglect, or exploitation involving a child committed to TJJJ during the period that the child is committed to TJJJ; and
 - (B) TJJJ is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.
- (2) Any information concerning a report of alleged or suspected abuse, neglect, or exploitation that is disclosed will be edited to protect the identity of:
 - (A) a child who is the subject of the report of alleged or suspected mistreatment;
 - (B) any other youth committed to the care and custody of TJJJ who is named in the report;
 - (C) the person who made the report; and
 - (D) any other person whose life or safety may be endangered by the disclosure.
- (3) Notwithstanding any other provision permitting the release of information, TJJJ will not disclose any record or information that, if released to the requestor, would interfere with an ongoing criminal investigation or prosecution.
- (4) An investigative report regarding an investigation of an allegation of abuse, neglect, or exploitation will be provided to:
 - (A) a law enforcement agency or other criminal justice agency for purposes of investigation and prosecution, upon request;
 - (B) a parent, managing conservator, or other legal representative of a youth, upon request. The information contained in the report will be redacted to protect the identity of the person making the report, other youth, and any other person who may be harmed by the disclosure; and
 - (C) the healthcare provider who reported an allegation. The information contained in the report will be redacted to protect the identity of the person making the report, other youth, and any other person who may be harmed by the disclosure.
- (5) An investigative report and evidence gathered in the course of an investigation may be provided to appropriate TJJJ staff for the determination of corrective actions and to employees or former employees for use in an appeal of the investigation findings or to defend against a disciplinary action arising from the investigation findings.

- (A) Investigative reports are confidential under Texas Family Code Chapter 261 and may be used by the employee only for the appeal of investigation findings or to defend against a disciplinary action arising from an investigation.
- (B) Names of individuals contained in the investigative report or related evidence will be redacted if the names are not necessary for the fair resolution of contested facts. Any information that is confidential by law will be redacted prior to delivery to the respondent.

(m) **Periodic Audit of Investigations.**

Pursuant to Family Code §261.403(b), the TJJJ governing board ensures there is a periodic internal audit of procedures related to administrative investigations of alleged abuse, neglect, and exploitation.

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- See GAP.07.03 for procedures on how staff must report alleged or suspected mistreatment.
 - See GAP.07.33 for procedures on what types of notifications are required when a case is opened and closed.
 - See PRS.35.01 for procedures on how discipline may be taken on a confirmed report of mistreatment.
 - See PRS.35.03 for procedures on how TJJJ staff, volunteers, or contractors may appeal the findings of an administrative investigation.
 - See PRS.35.11 for procedures on how the decision authority may appeal the findings of an administrative investigation.

NO CHANGES

(a) **Purpose.**

The purpose of this rule is to permit Texas Juvenile Justice Department (TJJD) youth and their parents or guardians to appeal decisions made by TJJD or contract program employees to the TJJD executive director.

(b) **Direct Appeals to the Executive Director.**

A direct appeal to the executive director or designee may be filed in matters limited to:

- (1) the results of a Level I or II hearing;
- (2) the assignment of a minimum length of stay;
- (3) a response to a healthcare-related grievance;
- (4) a response to an appeal of a grievance not related to healthcare issues;
- (5) the lack of a written response within 15 workdays after submission of a grievance;
- (6) the lack of a written response within 15 workdays after submission of a grievance appeal;
- (7) a disapproved home evaluation;
- (8) the results of a Level IV hearing held for a youth in community detention;
- (9) the results of a second or subsequent Level IV hearing held for a youth in detention in a TJJD security unit;
- (10) a decision to extend the youth's stay in the Security Program for 120 continuous hours or longer;
- (11) a decision from a mental health status review hearing;
- (12) a decision from a Title IV-E hearing;
- (13) the findings of an alleged abuse, neglect, or exploitation investigation; and
- (14) the decision of the administrator of chaplaincy services regarding a request for accommodation of religious practices.

(c) **Filing Deadline.**

All appeals must be submitted in writing, clearly describe the grounds for the appeal, and be filed within six months after the decision being appealed. Appeals filed after that time may be considered at the discretion of the executive director or designee.

(d) **Action of the Executive Director.**

- (1) The executive director or designee responds in writing to each appeal. Failure to respond to an appeal within 30 working days will constitute an exhaustion of administrative remedies for purposes of appeal to the courts, but it will not be construed as acceptance or rejection of any contention made in the appeal.
- (2) The executive director or designee considers the recommendations of the Office of General Counsel in reaching a decision on appeals of investigation findings, including any additional findings or information that resulted from further investigation.
- (3) The executive director or designee may uphold, reverse, or modify a grievance resolution. He/she may also return the grievance to the chief local administrator with instructions or determine that the grievance involves operational issues that have been adequately addressed and resolved at the facility level.

- (4) The executive director or designee may determine that an issue has not been sufficiently developed to render an informed appeal resolution. If so, the executive director or designee may, before a response is issued:
 - (A) conduct further investigation;
 - (B) require staff to provide additional information about the investigation and state a time frame in which to comply; or
 - (C) reopen the investigation. If the investigation findings are changed, the parties entitled to notification are notified of their right to appeal the new findings.

(e) **Distribution of Appeal Decisions.**

- (1) Appeal decisions are distributed to the following:
 - (A) the complainant;
 - (B) the complainant's attorney or representative, if any;
 - (C) the chief local administrator where the youth resides;
 - (D) the chief local administrator where the incident occurred; and
 - (E) other persons as deemed appropriate.
- (2) Appropriate TJJD staff must assist youth in interpreting appeal decisions from TJJD's executive director or designee.

(f) **Exhaustion of Administrative Remedies.**

The appeal decision of the executive director or designee is the final administrative resolution of an issue appealed and constitutes an exhaustion of administrative remedies for purposes of appeal to the courts.

Draft 4/17/15

Chapter: Rules for State-Operated Programs and Facilities	Effective Date:
Subchapter: Behavior Management and Youth Discipline	
Division: Due Process Hearings Procedures	Page: 1 of 2
Rule: Definitions – Due Process Hearings	Replaces: GAP.380.9550, 9/1/09
ACA: N/A	
Statutes: N/A	

The following words and terms, as used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

- (1) **Advocate**--a TJJD employee, contract employee, or enrolled volunteer assigned to represent the youth at a Level II, III, or IV hearing who is trained by TJJD to serve as an advocate.
- (2) **Community Detention**--temporary placement of a youth in a community detention facility pending a Level I or II hearing.
- (3) **Community Detention Facility**--a local detention facility designed for juveniles or adults, including jails.
- (4) **Detention Hearing**--the court hearing required by the Texas Family Code to determine whether conditions exist to justify the detention of a juvenile.
- (5) **Due Process**--the constitutional concept that proceedings must be fair and that a person is entitled to, at a minimum, notice and an opportunity to be heard by a neutral decision maker when the person's liberty or property is at stake.
- (6) **Extenuating Circumstances**--facts that do not rise to the level of a legal defense but that do provide a reasonable explanation for the youth's behavior, such as:
 - (A) the only property involved in the offense was of minimal value and the youth returned it undamaged to its owner;
 - (B) the only bodily injury intended or inflicted by the youth consisted of brief or minor discomfort;
 - (C) the youth's conduct was an impulsive response to perceived provocation and posed no threat to persons or property; or
 - (D) the youth was persuaded to participate in the offense by a parent or other authority figure.
- (7) **Hearing Examiner**--an attorney employed by the Texas Juvenile Justice Department (TJJD) who determines if there is a preponderance of evidence presented at a Level I hearing to prove the youth committed an alleged rule violation. The hearing examiner also determines if the requested dispositions will be imposed.
- (8) **Hearing Manager**--an impartial person who determines if there is a preponderance of evidence presented at a Level II hearing to prove the youth committed an alleged rule violation. The hearing manager also determines if the requested dispositions will be imposed.
- (9) **High-Restriction Facility**--has the meaning assigned under §380.8527 of this title.
- (10) **Institution Detention**--temporary placement of youth in the security unit at a high-restriction facility as described in §380.9559 and §380.9561 of this title.
- (11) **Institutional Status**--the status assigned to all youth who have not yet been released on parole or who have had their parole status revoked through a Level I hearing. Youth may be on institutional status while assigned to high- or medium-restriction placements.

- (12) **Non-Disciplinary Reasons**--reasons not related to a violation of rules that transfer to a higher restriction assignment is necessary, such as:
- (A) the youth has treatment, educational, medical, or other needs that cannot be met at the current placement; or
 - (B) there is no longer a home placement available for the youth.
- (13) **Parole Status**--the status assigned to all youth who have been released on parole. Youth may be on parole status while assigned to a medium-restriction placement or an approved home or home substitute.
- (14) **Preponderance of Evidence**--a standard of proof meaning the greater weight and degree of credible evidence admitted at the hearing (e.g., whether the credible evidence makes it more likely than not that a particular proposition is true).
- (15) **Staff Representative**--the person assigned to assemble and present the allegation(s) and evidence at a hearing.
- (16) **Referring Staff**--the TJJJ employee or contract employee who requests detention for a youth.
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DRAFT

Draft 4/17/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Level I Hearing Procedure ACA: 4-JCF-3A-27 Statutes: Human Resources Code §245.051 References: <i>Morales v. Turman</i> Settlement Agreement Section (V)(J)	Effective Date: Page: 1 of 6 Replaces: GAP.380.9551, 9/1/09
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Staff-recommended changes on pages 2-4, 6

RULE

(a) **Purpose.**

The purpose of this rule is to establish a due process procedure to be followed when seeking to revoke the parole status of a youth as a disciplinary consequence for behavior that presents an unacceptable risk to the safety of persons and property.

(b) **Definitions.**

Definitions pertaining to this rule are under §380.9550 of this title.

(c) **General Provisions.**

- (1) A Level I hearing is required to revoke a youth's parole status. Parole status may be revoked if it is found that a youth has committed a law violation or a parole rule violation as established in §380.9504 of this title and:
 - (A) revocation is determined to be in the best interest of the youth or community; and/or
 - (B) the youth is found to be in need of further rehabilitation at a residential facility operated by the Texas Juvenile Justice Department (TJJD) or under contract with TJJD.
- (2) The hearing examiner must consider the following information to determine if parole revocation is appropriate:
 - (A) the severity of the offense(s) found true at the hearing;
 - (B) any behavioral or adjustment issues while on parole and the steps taken by the staff representative to address those issues;
 - (C) whether or not the youth's conduct while on parole presents a threat to persons or property;
 - (D) reasons the youth is in need of services offered at a TJJD or contract facility;
 - (E) whether appropriate community-based alternatives have been exhausted;
 - (F) any impact statement(s) written by the victim(s);
 - (G) any participation in constructive activity; and
 - (H) any extenuating circumstances.
- (3) The youth must be assisted by an attorney at the hearing. The agency will appoint an attorney for indigent youth from the list of defense attorneys who contract with TJJD for this purpose.
- (4) A Level I hearing on any allegation(s) must be scheduled as soon as possible but no later than seven days after the date of the alleged offense, excluding weekends and holidays, except when:
 - (A) TJJD staff documents that it was impossible, impractical, or inappropriate to have scheduled the hearing sooner; or
 - (B) local authorities make a written request that TJJD defer an allegation to their jurisdiction for prosecution; or

- (C) TJJJ staff elects to defer a Level I hearing on all allegations of misconduct due to criminal allegation(s) pending or filed as adult charges, except that if the pending charge is a first degree felony or capital offense, there must be a written request as described in subparagraph (B) of this paragraph to defer the allegation.
- (5) TJJJ may re-issue a directive to apprehend and request a Level I hearing concerning new or previously deferred allegation(s) if later circumstances make such action appropriate.
- (6) If a youth is on parole from another state and is being supervised by TJJJ under agreement with the other state, a parole revocation hearing may be held by TJJJ and the youth may be returned to the sending state. Such a hearing is coordinated by the Texas Interstate Compact for Juveniles (ICJ) Office and the TJJJ Office of General Counsel.
- (7) If a TJJJ parolee commits an offense in another state, the return of the youth is coordinated by the Texas ICJ Office and the TJJJ Office of General Counsel. A parole revocation hearing is coordinated by ~~and~~ held at the request of the assigned TJJJ staff representative.

(d) **Notice.**

- (1) The staff representative must provide the youth with written notice of the date and time of the hearing not less than three working days before the scheduled hearing date. This notice must include:
- (A) the reason(s) for the hearing;
 - (B) the proposed action to be taken; and
 - (C) the youth's rights in connection with the hearing.
- (2) If the youth is under 18 years of age, the staff representative must make reasonable efforts to inform the youth's parent(s) or guardian of the date, time, and location of the hearing and the reasons for the hearing not less than three working days before the scheduled hearing date. If the youth is 18 years of age or older, this notice may be provided only with the youth's written authorization.
- (3) The staff representative must provide the youth's attorney with written notice of the date, time, and location of the hearing and the reasons for the hearing not less than three working days before the scheduled hearing date. The notice to the attorney must also include:
- (A) the name, address, and telephone number of the staff representative and the hearing examiner;
 - (B) a list of all witnesses the staff representative intends to call;
 - (C) an indication of the expected testimony of each witness;
 - (D) copies of any statements made by the youth;
 - (E) copies of any statements, affidavits, reports, or other documentation relied upon as grounds for the proposed ~~action;~~ ~~actions;~~ and
 - (F) copies of any reports or summaries that will be relied upon at disposition.
- (4) The staff representative must provide the youth's attorney with reasonable access to all information held by TJJJ concerning the youth. The youth's attorney must respect the confidential nature of this information and must comply with TJJJ requests to withhold sensitive information from the youth or the youth's family.
- (5) As soon as possible after receiving the hearing notice and no later than the commencement of the hearing, the youth's attorney must inform the staff representative of any witnesses he/she wishes to call on behalf of the youth. If necessary and possible, the staff representative must assist the youth's attorney in contacting those witnesses and securing their attendance at the hearing.
- (6) The staff representative must ensure that all witnesses he/she intends to call are given written notice of the time, date, and location of the hearing not less than three days before the hearing.

(e) **Evidence.**

- (1) All factual issues are determined by a preponderance of evidence.
- (2) The Texas Rules of Evidence generally apply to the fact-finding portion of the hearing. Unless specifically precluded by statute, evidence that is not admissible under those rules may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Criminal exclusionary rules do not apply in TJJD hearings.
- (3) The hearing examiner must determine the admissibility of evidence. Irrelevant, immaterial, or unduly repetitious evidence is excluded.
- (4) A judgment from a court indicating a youth has pled guilty or true to an offense and has not received deferred adjudication or deferred prosecution is sufficient to prove the youth committed the offense.
- (5) Copies of due process hearing documents need not be certified if these documents are part of the youth's record(s) or have been received through ICJ. These documents are considered reliable and admissible for all purposes.
- (6) Accomplice testimony is sufficient to prove an allegation if it is corroborated by other evidence tending to connect the youth with the alleged violation. The corroboration is not sufficient if it merely shows the commission of the alleged violation. If two accomplices testify, the testimony of each may serve to corroborate the other.
- (7) Legally recognized privileges of relationships are given effect.
- (8) Evidence that is otherwise admissible may be received in written form if doing so will expedite the hearing and will not significantly prejudice the rights or ~~interests~~ interest of the youth. This includes but is not limited to use of affidavits admitted to show the following:
 - (A) ownership and lack of consent;
 - (B) identity of signature on instrument and lack of consent of complaining witness in a forgery case;
 - (C) lack of permission to leave designated placement;
 - (D) chain of custody;
 - (E) identity of substance found in urine sample;
 - (F) identity of controlled substance found in youth's possession.
- (9) A youth's written statement concerning his/her possible involvement in an alleged violation is admissible if it is signed by the youth and accompanied by evidence indicating that the youth made the statement voluntarily after being advised of:
 - (A) the right to remain silent;
 - (B) the possible consequences of giving the statement;
 - (C) the right to consult with an attorney prior to giving the statement; and
 - (D) the right to have an attorney provided if the youth is indigent.
- (10) A youth's non-recorded oral statement is admissible if it:
 - (A) relates facts that are found to be true and that tend to establish the youth's guilt; or
 - (B) was *res gestae* of the conduct that is the subject of the hearing or the arrest; or
 - (C) does not stem from law enforcement or TJJD staff questioning of youth, even if the statement does not meet criteria in subparagraph (A) or (B) of this paragraph; or
 - (D) is voluntary and bears on the youth's credibility as a witness, even if the statement stems from law enforcement or TJJD staff questioning of the youth.

- (11) A youth's recorded oral statement (i.e., audio recorded or visually or otherwise electronically recorded) concerning his/her possible involvement in illegal activities is admissible if it is accompanied by evidence on the recording that it was given after the youth was advised of the rights in paragraph (9) of this subsection. All voices on the recording must be identified and the recording must be accurate and unaltered. A transcript of the recordings is not sufficient.
- (12) A youth's admissible out-of-hearing/court statement admitting he/she committed an offense is sufficient to prove the offense only if it is corroborated by other evidence that the offense was committed.

(f) **Hearing Process.**

- (1) The hearing must be conducted by an impartial hearing examiner appointed by the TJJD general counsel.
- (2) The TJJD staff member requesting a hearing must appoint a staff representative to appear at the hearing and to present the reasons for the proposed action. The staff representative is also responsible for making relevant information available to all parties to the hearing.
- (3) The hearing must be held in the community where the alleged rule violation occurred unless the hearing examiner directs that it ~~be he~~ held in another location.
- (4) All necessary parties must be present at the hearing site unless the hearing is conducted by telephone pursuant to §380.9553 of this title.
- (5) At the request of the staff representative or defense attorney, the hearing examiner may sign and issue a subpoena to compel the attendance of a necessary witness at the hearing or the production of books, records, papers, or other objects. A person who testifies falsely, fails to appear when subpoenaed, or fails or refuses to produce material under the subpoena is subject to the same orders and penalties as a person who takes those actions before a court.
- (6) Before the hearing, the hearing examiner may review copies of any documentation previously provided to the youth's attorney except for those documents that relate solely to dispositional criteria. The hearing examiner may review information relating solely to dispositional criteria only if the hearing proceeds to disposition.
- (7) To protect the confidential nature of the hearing, persons other than the youth, the youth's attorney, the staff representative, and the youth's parent(s) or guardian may be excluded from the hearing room at the discretion of the hearing examiner; however:
 - (A) observers may be permitted with the consent of the youth and the youth's attorney; and
 - (B) any person except the youth's attorney or the staff representative may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing. The reason(s) for the youth's exclusion must be stated on the record.
- (8) A victim who appears as a witness must be provided a waiting area that eliminates or minimizes contact between the victim and the youth, the youth's family, and witnesses on behalf of the youth.
- (9) The hearing is conducted in two parts: fact-finding and disposition.
 - (A) The purpose of the fact-finding is to establish whether there is a preponderance of evidence to prove the youth engaged in the alleged misconduct.
 - (B) The purpose of the disposition is to determine whether revocation of parole status is appropriate under the circumstances.

- (10) The hearing must be recorded. The hearing examiner must retain copies of all documents admitted into evidence. Physical evidence may be retained at the discretion of the hearing examiner; however, if it is not retained, an adequate description of the item(s) must be entered in the record by oral stipulation.
- (11) Factual issues not in dispute may be stipulated by the staff representative and the youth's attorney. Such stipulations must be made on the record of the hearing.
- (12) The youth must be given the opportunity to respond "true" or "not true" to each allegation before any evidence concerning the allegation is heard.
 - (A) The youth has a right to respond "not true" to each allegation and to require that proof of the allegation be presented at the hearing.
 - (B) A response of "true" to any allegation is sufficient to establish each and every element necessary to prove that allegation without the presentation of any other evidence.
- (13) The hearing examiner must administer an oath to all witnesses to testify truthfully.
- (14) With the exception of the youth and the staff representative, any person designated as a witness may be excluded from the hearing room during the testimony of other witnesses and may be instructed to refrain from discussing his/her testimony with anyone until all the witnesses have been dismissed.
- (15) The hearing examiner may question each witness at the hearing examiner's discretion. The youth's attorney and the staff representative must be given an opportunity to question each witness.
- (16) The hearing examiner may allow a witness to testify outside the presence of the youth if doing so appears reasonable and necessary to secure the testimony of the witness. If the youth is excluded from the hearing room during testimony, the youth's attorney must be present during the testimony and must have the opportunity to review the testimony with the youth before questioning the witness.
- (17) The youth may not be called as a witness unless, after consulting with his/her attorney, the youth waives his/her right to remain silent on the record.
 - (A) The youth's decision not to testify does not create a presumption against him/her.
 - (B) A youth who waives his/her right to remain silent may be questioned only concerning those issues addressed by the youth's testimony.
- (18) The hearing examiner must rule immediately on any motions or objections made in the course of the hearing. The motions, objections, and rulings must be included in the hearing examiner's written report.
- (19) The hearing examiner may, upon his/her own motion or the good cause motion of any party, recess or continue the hearing when doing so is necessary to ensure an informed fact finding.
- (20) After the presentation of all evidence pertaining to the factual issues raised at the hearing, the hearing examiner must announce his/her findings on those issues.
 - (A) The hearing examiner may find that the evidence suffices to prove conduct other than the conduct that was originally alleged if the original allegation gave sufficient notice of the conduct proved.
 - (B) Regardless of the evidence, the hearing examiner may not find a criminal offense more serious than the offense that was originally alleged unless the original allegation has been amended on the record and after notice to the youth's attorney.

- (C) If the hearing examiner finds any allegation to be true, the hearing proceeds to disposition. If the hearing examiner does not find any allegation to be true, the hearing is adjourned with no change in the youth's status.
- (21) In the disposition phase, the staff representative presents evidence to establish why he/she believes the youth's parole status should be revoked. The youth is given the opportunity to present evidence as to why his/her parole status should not be revoked, including evidence of extenuating circumstances.
- (22) The evidence considered during disposition may be in the form of testimony from witnesses submitted during fact-finding or disposition, as well as written reports offered by youth, staff, professionals, counselors, or consultants. Relevant documents contained in the youth's record may be admitted and considered. All written documents to be offered must be provided to the parties no later than three days before the hearing unless otherwise waived. Hearsay evidence is admissible in disposition.
- (23) Parole status may be revoked if the hearing examiner determines that revocation is:
- (A) in the best interest of the youth; and/or
 - (B) in the best interest of the community; and/or
 - (C) the youth is in need of further rehabilitation at a residential facility operated by TJJJ or under contract with TJJJ.
- (24) If parole is revoked, the youth is assigned a minimum length of stay in accordance with §380.8525 of this title, based on the most serious offense found true at the hearing. This minimum length of stay may be reduced in accordance with §380.8525 of this title.
- (25) If the hearing examiner determines there are extenuating circumstances, the hearing examiner must take that into account when determining if the criteria for parole revocation exist. If, despite a finding of extenuating circumstances relevant to the proven offense, the hearing examiner finds revocation is appropriate under the circumstances, the youth's parole status will be revoked but the assigned minimum length of stay will be reduced, as determined by the hearing examiner.
- (26) If the youth's parole status is not revoked, lesser disciplinary consequences may be imposed for any rule violation(s) proved at the hearing.
- (27) After announcing the disposition decision, the hearing examiner must inform the youth of the right to appeal any or all findings and decisions made at the hearing.
- (28) Immediately after the hearing is closed, the hearing examiner must give the youth a copy of the hearing report form.
- (29) The hearing examiner's decision is effective and implemented when announced at the hearing, even if the youth appeals and a response is pending.
- (30) As soon as possible after the hearing is closed, the hearing examiner must prepare a written report that includes:
- (A) a summary of the evidence presented;
 - (B) findings of fact, including the reliability of the evidence and the credibility of the witnesses, and the reasons for those findings;
 - (C) conclusions of law;
 - (D) an explanation of the dispositional decision; and
 - (E) rulings made on motions and objections and the reasons for those rulings.
- (31) Copies of the hearing examiner's report must be provided to the youth, the youth's attorney, and the staff representative.

Draft 4/17/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Level I Hearing by Telephone ACA: N/A Statutes: N/A	Effective Date: Page: 1 of 1 Replaces: GAP.380.9553, 12/31/96
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RULE

(a) **Purpose.**

This rule allows for a Level I due process hearing to be conducted by telephone when doing so will not significantly diminish a youth's due process rights.

(b) **General Provisions.**

- (1) A Level I hearing may be conducted by telephone only if:
 - (A) the youth waives, in writing, the on-site presence of a hearing examiner after consulting with his/her attorney;
 - (B) the youth's attorney notifies the TJJJ Legal Department at least one working day before the scheduled hearing that the youth wishes to answer "true" to the allegation(s) against him/her;
 - (C) the staff representative has no objection to the hearing being conducted by telephone; and
 - (D) the appropriate authorization form has been properly executed.
 - (2) If the hearing examiner agrees to hold the Level I hearing by telephone:
 - (A) the hearing examiner participates by telephone;
 - (B) the staff representative must be present with the youth at the time and place designated for the hearing; and
 - (C) the youth's attorney may participate by telephone or be present with the youth and staff representative.
 - (3) All required participants must be able to simultaneously hear one another.
 - (4) A telephone hearing must be conducted according to the rules of evidence and procedure that apply to Level I hearings as set forth in §380.9551 of this title.
 - (5) The hearing examiner must adjourn the telephone hearing and require an on-site hearing if the hearing examiner determines that:
 - (A) a youth is not knowingly and voluntarily responding "true" to the allegation(s) presented at the hearing; or
 - (B) an on-site hearing is necessary for any other reason to ensure the youth's due process rights are protected.
 - (6) The hearing examiner who adjourns a telephone hearing may subsequently conduct the on-site hearing unless the youth or the youth's attorney objects.
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Draft 4/20/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Level II Hearing Procedure ACA: 4-JCF-3B-09, 3C-06, 3C-07, 3C-08, 3C-09, 3C-10, 3C-11, 3C-12, 3C-13, 3C-14, 3C-15 Statutes: N/A References: <i>Morales v. Turman</i> Settlement Agreement Section (V)(H)	Effective Date: Page: 1 of 6 Replaces: GAP.380.9555, 9/1/09
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Staff-recommended change on pages 3, 4 and 6

RULE

(a) **Purpose.**

This rule establishes the procedure to be followed to ensure youth are afforded appropriate due process before certain actions are taken.

(b) **Definitions.**

Definitions pertaining to this rule are under §380.9550 of this title.

(c) **Applicability.**

A Level II hearing is required before taking any of the following actions:

- (1) imposing a major disciplinary consequence in accordance with §380.9503 of this title;
- (2) placing a youth in the Redirect program in accordance with §380.9517 of this title;
- (3) transferring a parole-status youth from a home or home substitute to a medium-restriction facility for non-disciplinary reasons;
- (4) transferring a youth who was initially assigned to a medium-restriction facility in accordance with §380.8521 of this title to a high-restriction facility for non-disciplinary reasons;
- (5) transferring a conditionally placed youth to a higher-restriction facility pursuant to §380.8545 of this title;
- (6) with a few exceptions in procedure as identified in §380.9571 of this title:
 - (A) admitting a youth to a Texas Juvenile Justice Department (TJJD)-operated crisis stabilization unit; and
 - (B) extending the time to treat a psychiatric disorder in connection with a crisis stabilization unit placement (as appropriate); or
- (7) depositing into the student benefit fund money possessed by a youth in a residential program in violation of §380.9503 of this title.

(d) **Criteria.**

- (1) To impose a major consequence, place a youth in the Redirect program, or place contraband money in the student benefit fund, the hearing manager must find:
 - (A) the youth committed an eligible rule violation; and
 - (B) there are no extenuating circumstances.
- (2) To transfer a youth to a higher-restriction placement for non-disciplinary reasons, the hearing manager must find there are no less restrictive placements appropriate and available for the youth.

- (3) To transfer a conditionally placed youth to a higher-restriction placement, the hearing manager must find one or more of the criteria required in §380.8545 of this title.
- (4) For criteria for admission to or extension in a crisis stabilization unit, see §380.8767 of this title.

(e) **Investigating Alleged Violations and Requesting the Hearing.**

- (1) When a youth in a residential facility is alleged to have committed a major rule violation or a minor rule violation requiring a security referral, an investigation into the alleged violation(s) must be started within 24 hours after the alleged offense(s) and completed within 24 hours after the time started. The investigation must be conducted by a staff member other than the one who reported the alleged violation.
- (2) A decision on whether or not to pursue a Level II hearing must be made within 24 hours after the completion of the investigation. The appropriate staff person must request permission to schedule a hearing from the facility administrator, parole supervisor, contract case management supervisor, or their designees.
- (3) For hearings involving rule violations or contraband money, the hearing must be conducted as soon as practical but not later than seven days, excluding weekends and holidays, after the alleged violation was committed or the money was found.
- (4) For hearings involving a non-disciplinary transfer or transfer from a conditional placement, the youth may waive the hearing and agree to the transfer. The waiver must be in writing. If the youth does not waive the hearing, the hearing must be held before the transfer. However, if good cause compels a pre-hearing transfer, the hearing must be held no later than three calendar days after the transfer.
- (5) If the youth is being held in a security unit due to potential interference with a pending Level II hearing, the hearing must be conducted as soon as possible but no later than five working days after the date of admission to the security unit.
- (6) Failure to meet any timeline in this subsection must be justified with documentation of circumstances that made it impossible, impractical, or inappropriate to meet the deadline. Failure to document these justifications may result in a dismissal of the allegations or a reversal of the decision(s) of the hearing manager.

(f) **Hearing Manager.**

- (1) The hearing manager must be a TJJJD employee trained to function as a hearing manager. The hearing manager must be impartial and may not be a person who:
 - (A) witnessed any part of the alleged violation(s);
 - (B) made any prior decisions regarding the youth based on the alleged violation; or
 - (C) is directly responsible for supervising the youth.
- (2) If the youth is currently assigned to a halfway house, the hearing manager may not be a member of the halfway house staff.
- (3) If the youth is currently assigned to a contract program, the hearing manager may not be the TJJJD case management specialist assigned to that youth.
- (4) If the youth is currently assigned to his/her home, the hearing manager may not be the parole officer or parole supervisor assigned to the youth's case.

(g) **Staff Representative.**

- (1) The staff representative must be a TJJD employee trained to function as a staff representative.
- (2) The staff representative is responsible for assembling all evidence, giving all required notices, and presenting evidence at the hearing.

(h) **Advocate.**

- (1) A TJJD employee, contract employee, or volunteer who has been trained to serve as an advocate must assist the youth.
- (2) The youth is given the opportunity to choose an advocate from among those trained. The youth's choice must be honored unless there is a showing of unavailability of the requested advocate. If the youth does not choose an advocate or the requested advocate is unavailable, an advocate will be appointed.
- (3) The advocate may not be a person who was a witness to the alleged violation.
- (4) If the youth is not proficient in the English language, the advocate must be proficient in English and in the youth's primary language or an interpreter must be used.

(i) **Notice.**

- (1) Not later than 24 hours before the hearing, the youth and the youth's advocate must be given:
 - (A) written notice of the reasons for calling the hearing;
 - (B) the proposed action to be taken;
 - (C) the evidence to be relied upon; and
 - (D) written notice of the following rights of the youth:
 - (i) the right to remain silent;
 - (ii) the right to be assisted by an advocate in the hearing process;
 - (iii) the right to confront and cross-examine adverse witnesses who testify at the hearing;
 - (iv) the right to contest adverse evidence admitted at the hearing;
 - (v) the right to call readily available witnesses and present readily available evidence on his/her own behalf at the hearing; and
 - (vi) the right to appeal the ~~results~~ ~~result~~ of the hearing. The right to appeal cannot be waived.
- (2) Staff currently employed at and youth currently residing at the location of the hearing are considered to be "readily available" and must be called to testify at the youth's request. If there are unusual circumstances that would prevent the witness from attending in person or by phone or videoconference, the hearing may be postponed or continued to allow a witness's testimony. If the witness's testimony cannot be secured within a reasonable time, the hearing may proceed without the witness. The reasons for proceeding without requested witnesses must be documented and placed in the hearing record.
- (3) Evidence is considered "readily available" if it is within the control of any TJJD staff member at the location of the hearing or is otherwise easily attainable. The reasons for excluding requested evidence must be documented and placed in the hearing record.
- (4) All youth in TJJD facilities and secure contract placements must be given the hearing packet (all written materials relied upon and a list of witnesses) at least 24 hours before the hearing. The paperwork may be taken away from the youth if the youth is misusing the papers in any way.

- (5) After receipt of the written notice and consultation with the advocate, the youth may waive the 24-hour-notice period by agreeing, in writing, to an earlier hearing time.
- (6) If the youth is younger than 18 years of age, reasonable efforts must be made to inform the youth's parent(s) or guardian of the time and place of the hearing at least 24 hours before the hearing. If the youth is 18 years of age or older, such notice may be provided only with the youth's authorization to release the information.

(j) **Location of Hearing, Youth's Presence at Hearing, and Official Record of Hearing.**

- (1) The hearing must be held where the youth resides unless the hearing manager determines another site is more appropriate.
- (2) The hearing must be recorded. The recording is the official record of the hearing. The recording and the hearing packet must be preserved for six months after the hearing.
- (3) The youth must be present during the hearing unless the youth waives his/her presence or his/her behavior prevents the hearing from proceeding in an orderly and expeditious fashion.
 - (A) A voluntary waiver of the youth's presence must be in writing and signed by the youth and his/her advocate. If the youth does not sign the waiver for any reason, his/her presence is not waived.
 - (B) If the youth waives his/her presence, the hearing may be conducted by teleconference.
 - (C) If a youth is excluded from the hearing for behavioral reasons or to secure the testimony of a witness, the reason(s) for the exclusion must be documented in the hearing record. The advocate must be present during the testimony and must have the opportunity to question the witness.
 - (D) A true plea cannot be entered on behalf of a youth who has waived his/her presence at the hearing.
- (4) A victim who appears as a witness should be provided a waiting area where he/she is not likely to come in contact with the youth except during the hearing.
- (5) To protect the confidential nature of the hearing, persons other than the youth, the youth's advocate, the staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the hearing manager; however, any person except the staff representative or the youth's advocate may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing. The reason(s) for the exclusion(s) must be stated on the record.
- (6) The hearing may be held by conference call if the hearing manager determines doing so will not deprive the youth of his/her due process rights. If the hearing is held by conference call, all required participants must be able to simultaneously hear one another.

(k) **Hearing Process.**

- (1) Except as provided by paragraphs (2) and (3) of this subsection, hearings consist of two parts: fact finding and disposition. During the fact-finding portion of the hearing, only evidence concerning the alleged violation(s) may be considered. The youth's prior behavior may not be discussed or considered unless disposition is reached.
- (2) The following types of hearings consist only of fact finding to determine if the criteria for transfer are met:
 - (A) non-disciplinary transfer hearings; and

- (B) conditional placement transfer hearings requested because the conditional placement is no longer a viable option.
- (3) A mental health status review hearing consists only of fact finding to determine if the criteria for admission or extension in a crisis stabilization unit are met.
- (4) The youth must be given the opportunity to plead “true” or “not true” to each allegation. If the youth pleads “true,” the hearing manager must ask questions of the youth to ensure he/she did so voluntarily and that he/she did commit the violation.
- (5) If the youth pleads “not true,” the staff representative has the burden of proving by a preponderance of evidence that the youth did commit the alleged violation(s).
- (6) Witnesses must take an oath before testifying. Witnesses may testify by phone or videoconference if in-person testimony is impractical or unfeasible. If testimony is provided by phone, persons required to be present at the hearing must be able to simultaneously hear the testimony.
- (7) The hearing manager, staff representative, and advocate may question each witness in turn.
- (8) With the exception of the youth or staff representative, any person designated as a witness may be excluded from the hearing room during the testimony of other witnesses and may be instructed to refrain from discussing his/her testimony with anyone until all the witnesses have been dismissed.
- (9) The hearing manager may permit a witness to testify outside the presence of the youth if doing so appears reasonable and necessary to secure the testimony of the witness. If the youth is excluded from the hearing room during testimony, the advocate for the youth must be present during the testimony and must have the opportunity to review the testimony with the youth before questioning the witness.
- (10) The youth may not be called as a witness unless, after consulting with the advocate, he/she waives on the record his/her right to remain silent. Neither the hearing manager nor the staff representative may question the youth unless he/she waives the right to remain silent.
- (A) The youth’s failure to testify must not create a presumption against him/her.
- (B) A youth who waives the right to remain silent may only be questioned concerning those issues addressed by his/her testimony.
- (11) All credible evidence may be considered, irrespective of its form.
- (12) The standard of proof for all disputed issues is a preponderance of evidence.
- (13) The hearing manager may recess or continue the hearing for such period(s) of time as may be necessary to ensure an informed and accurate fact finding or to secure evidence the hearing manager determines may be relevant.
- (14) After all evidence has been presented, the staff representative and advocate may offer summation statements.
- (15) The hearing manager must announce his/her findings of fact.
- (16) If there is a finding of true, the hearing manager must proceed to disposition, unless the hearing consists only of fact finding as described in paragraphs (2) and (3) of this subsection. During disposition, the hearing manager must provide the youth an opportunity to present extenuating circumstances. If no extenuating circumstances are found, the hearing manager must order the disposition recommended by the staff representative.
- (A) A hearing manager’s decision to transfer a youth is final subject to approval by the appropriate administrator.

- (B) A hearing manager's decision to demote a youth's stage in the agency's rehabilitation program is final subject to approval by the facility administrator or assistant facility administrator.
- (C) If extenuating circumstances are found incident to the rule violation(s) proved at the hearing, the youth may not be assigned the requested disciplinary dispositions or any other major consequences. However, the true finding will remain in the youth's record and may be considered by the youth's treatment team or parole officer in determining appropriate actions to address the youth's behavior. If extenuating circumstances are found incident to a youth's possession of prohibited money, the hearing manager determines the appropriate way to dispose of the money.
- (17) The hearing manager must prepare a report of his/her findings, which includes the grounds for the hearing, the evidence relied upon, and the decision.
- (18) After the hearing manager announces his/her decision, ~~he/she he~~ must inform the youth of the youth's his/her right to appeal to the executive director or his/her designee. The hearing manager's decision is implemented even if the youth appeals and the response is pending.
- (19) A copy of the hearing report must be given to the youth immediately after the hearing is closed.
- (20) The hearing manager's report must be reviewed by the appropriate supervisor, institutional superintendent, halfway house superintendent, or parole supervisor, as are all disciplinary reports, to ensure consistency in the application of policy.
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Draft 4/20/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Level III Hearing Procedure ACA: N/A References: <i>Morales v. Turman</i> Settlement Agreement Section (V)(B)	Effective Date: Page: 1 of 2 Replaces: GAP.380.9557, 9/1/09
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Staff-recommended change on page 1

RULE

(a) Purpose.

This rule establishes a hearing procedure that provides the appropriate due process in certain situations.

(b) Applicability.

The Level III hearing procedure is appropriate due process in the following instances:

- (1) to determine admission or extension in the Security Program in accordance with §380.9740 of this title;
- (2) to determine minor disciplinary consequences for youth in medium-restriction facilities in accordance with §380.9503 of this title; and
- (3) to determine minor disciplinary consequences for youth on parole in accordance with §380.9504 of this title.

(c) Procedures.

- (1) To initiate a Level III hearing, the youth must be notified orally of the time and date of the hearing, the alleged misconduct, and the recommended action(s) to be taken.
- (2) The youth has the right and must be given the opportunity to speak on his/her behalf regarding the alleged misconduct or the appropriateness of the recommended action.
- (3) If the Level III hearing involves a decision for an extension in the Security Program beyond the initial 24 hours, the youth must be appointed an advocate to assist the youth in presenting his/her position during the extension hearing.
- (4) The hearing administrator may consider any reasonably reliable information in deciding whether the youth committed the alleged misconduct and whether the requested action is appropriate.
- (5) If the hearing administrator finds a rule violation was committed, the youth will be given the opportunity to present evidence of extenuating circumstances.
- (6) If the hearing administrator finds reasonable grounds to believe a youth on parole or in a medium-restriction facility has committed a violation and does not find that extenuating circumstance exist, the hearing administrator must indicate which violation was committed and the appropriate disciplinary consequence(s) may be imposed.
- (7) If the hearing administrator finds reasonable grounds to believe the criteria in §380.9740 of this title are met to admit or extend a youth in the Security Program, the hearing administrator must indicate which rule violation was committed and which admission criterion was proven.
- (8) If there is a finding of extenuating circumstances:
 - (i) no disciplinary consequence may be imposed; and
 - (ii) the youth may be admitted to the Security Program if criteria in §380.9740 of this title are met.

(d) Appeals.

- (1) The youth may appeal the decision to the facility administrator or parole supervisor or their designees, as appropriate, on grounds that:
 - (A) he/she did not commit the violation that was found true;
 - (B) the disciplinary measure imposed was inappropriate;
 - (C) the criteria for admission or extension in the Security Program was not proven; or
 - (D) there were extenuating circumstances to the commission of the violation.
 - (2) If it is determined the youth did not commit the violation found true at the hearing or there were extenuating circumstances, the youth's behavioral record must be updated to reflect that determination. The appeal authority must determine some form of equitable relief if the youth has completed a disciplinary measure or has otherwise been adversely affected by the finding.
 - (3) If it is determined that the youth did commit the violation found true at the hearing but the disciplinary decision is determined to be inappropriate, the violation will remain on the youth's behavioral record but the appeal authority must determine some form of equitable relief for a youth who has already completed a disciplinary measure and/or has been adversely affected.
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DRAFT

Draft 4/20/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Detention for Youth with Pending Charges ACA: N/A Statutes: N/A	Effective Date: Page: 1 of 3 Replaces: GAP.380.9559, 11/1/11
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Staff-recommended change on pages 2 and 3

RULE

(a) Purpose.

This rule establishes criteria and procedures for detaining youth in a Texas Juvenile Justice Department (TJJD) security unit when criminal or delinquent charges are pending or filed or when the youth is awaiting a court hearing or trial.

(b) Definitions.

Definitions pertaining to this rule are under §380.9550 of this title.

(c) Applicability.

- (1) This rule applies only to TJJD youth on institutional status, regardless of assigned placement.
- (2) This rule does not apply to TJJD youth on parole status, regardless of assigned placement.

(d) General Provisions.

- (1) A youth may be held in institution detention if a court hearing or trial has been requested in writing or has been scheduled or criminal or delinquent conduct charges are pending or have been filed and:
 - (A) suitable alternative placement within the facility is unavailable due to ongoing behavior of the youth that creates disruption to the point that other youth are not able to benefit from programming; or
 - (B) the youth is likely to interfere with the judicial process, to include failing to appear; or
 - (C) the youth represents a danger to others; or
 - (D) the youth has escaped or attempted to escape, as defined in §380.9503 of this title, or is likely to attempt to escape.
- (2) Charges are considered to be pending if there is reliable information that the prosecuting attorney intends to request an indictment or to file a petition or other charging instrument with the court.
- (3) Charges are considered to be filed when an indictment has been issued or when a petition or other charging instrument has been filed with the court.
- (4) If a youth with a determinate sentence is awaiting a court hearing for transfer to the Texas Department of Criminal Justice – Institutions Division, the court hearing is considered to be “requested in writing” when TJJD makes a written request to the court for a hearing date.
- (5) Youth may not be placed in detention for the purpose of punishment.
- (6) All standard requirements and services for the security unit as set forth in §380.9740 of this title, unless otherwise noted in this rule, must be observed while the youth is detained in the security unit.

(e) Procedure.**(1) Approval for Detention.**

- (A) The referring staff must obtain approval from the appropriate supervisor before placing a youth in institution detention.
- (B) The youth must be immediately released from detention and returned to the appropriate placement if:
 - (i) approval for detention is not granted;
 - (ii) it is determined that charges will not be filed or will be dropped; or
 - (iii) it is determined that the court hearing or trial will be cancelled.
- (C) If approval is granted to detain a youth who is not assigned to a high-restriction facility, the referring staff must obtain approval to place the youth in institution detention from the facility administrator or designee at the high-restriction facility.

(2) Admission to Institution Detention.

- (A) The referring staff is responsible for ensuring the following documentation or information is present at the time of admission to institution detention:
 - (i) documentation that charges are pending or filed or that a court hearing or trial is scheduled or has been requested in writing;
 - (ii) a written statement including the purpose of admission with supporting documentation (i.e., any incident reports or arrest reports and expected length of stay); and
 - (iii) the medical file, if available, or copies of pertinent medical records, as well as any medication the youth is taking (applies to youth not assigned to the high-restriction facility where he/she is detained).
- (B) The designated admitting staff must review the information presented to determine whether there are reasonable grounds to believe criteria for admission have been met as outlined in subsection (d)(1) of this section. As a result of this review, the youth may be admitted to institution detention for up to 72 hours.
- (C) The security dorm supervisor or designee (who may not serve as the referring or admitting staff) must review all admission decisions within one workday to determine if admission criteria have been met. If criteria are not met or policy or procedures were not followed, the youth must be released from the security unit.

(3) Timing of Hearing.

- (A) If a youth is admitted to detention, a Level IV hearing (detention review hearing) must be held:
 - (i) no later than 72 hours after admission to institution detention or the next workday if the 72nd hour falls on a weekend or holiday; and
 - (ii) within ten workdays of the previous Level IV ~~H~~hearing.
- (B) If a Level IV ~~H~~hearing is not timely held or is not properly waived, the youth must be released to his/her assigned location.

(4) Decision Maker.

- (A) The appropriate supervisor must appoint a decision maker.

- (B) The decision maker must be impartial and may not be the person who referred or admitted the youth to institution detention or to community detention.
 - (C) The decision maker must be knowledgeable of the policies involved in the decision.
- (5) **Youth Representation and Waiver Rights.**
- (A) A TJJJD employee, contract employee, or volunteer trained to serve as an advocate must assist the youth.
 - (B) The youth may waive the Level IV hearing after speaking with his/her advocate. The waiver must be in writing and be signed by the youth and the advocate.
 - (C) When a subsequent Level IV hearing is required by policy timelines, the youth must be given the opportunity to have that hearing or to waive it. If the youth chooses to waive the hearing after speaking to his/her advocate, a new waiver form must be completed.
- (6) **Hearing Process.**
- (A) The referring staff must show cause to detain the youth pending the hearing. The advocate may present evidence as to why the youth should not be detained.
 - (B) The standard of proof for all disputed issues is reasonable grounds to believe. The burden of proof is on the referring staff requesting detention.
 - (C) All credible evidence may be considered, irrespective of its form.
 - (D) The hearing must be recorded. The recording is the official record of the hearing. Recordings must be preserved for six months following the hearing.
 - (E) The decision maker must base his/her decision on criteria for detention. If criteria are not met, the youth must be released to his/her assigned location.
- (7) **Appeal.**
- (A) The youth is notified in writing of his/her right to appeal.
 - (i) The appeal of the first Level IV hearing is to the facility administrator.
 - (ii) The appeal of the second Level IV Hearing is to the executive director pursuant to §380.9353 of this title.
 - (iii) An automatic appeal to the executive director must be filed by the referring staff on the third and any subsequent Level IV hearings, even if the youth waives the hearing(s).
 - (B) A decision to detain a youth will be implemented even if an appeal has been filed and a response is pending.

See CMS.20.15 for implementation procedures.

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Detention for Youth Pending Level I or II Hearing ACA: N/A Statute(s): Human Resources Code §243.051, Family Code §54.01	Effective Date: 7/15/13 Page: 1 of 5 Replaces: GAP.380.9561, 11/1/11
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RULE

(a) **Purpose.**

The purpose of this rule is to establish:

- (1) criteria and procedures for detaining certain youth in a community detention facility (juvenile or adult) or in a Texas Juvenile Justice Department (TJJD) security unit prior to a Level I or Level II due process hearing; and
- (2) the expectations for interaction between TJJD staff and community detention staff.

(b) **Definitions.**

Definitions pertaining to this rule are under §380.9550 of this title.

(c) **Applicability.**

- (1) This rule applies to:
 - (A) youth on parole status; and
 - (B) youth on institutional status who are assigned to a facility of less than high restriction.
- (2) This rule does not apply to youth assigned to high-restriction facilities.

(d) **General Provisions.**

- (1) Youth who are age 17 or younger may be referred to a juvenile community detention facility with the consent of local authorities. Youth who are age 17 or older may be referred to detention in an adult jail facility.
- (2) Youth may not be placed in detention for the purpose of punishment.
- (3) A Level I or Level II due process hearing will be scheduled in accordance with time frames set forth in §380.9551 or §380.9555 of this title, as applicable.
- (4) Even if TJJD receives information that additional criminal or delinquent proceedings against the youth are planned, pending, or anticipated by local authorities, TJJD may continue to hold the youth in detention and may schedule and hold a Level I or Level II due process hearing.
- (5) For youth held in community detention, the referring staff or a designated parole officer must visit the youth at least once every ten workdays.
- (6) For youth held in institution detention in a TJJD security unit:
 - (A) the referring staff must contact the youth and the institutional placement coordinator or designated staff at least once every three calendar days; and

- (B) all standard security unit requirements and services as set forth in §380.9740 of this title, unless otherwise noted in this rule, must be observed while the youth is detained in a TJJD security unit.

(e) **Criteria for Detention.**

A youth in TJJD custody may be detained when:

- (1) there are reasonable grounds to believe the youth engaged in:
 - (A) criminal behavior, delinquent conduct, or a violation of the conditions of release under supervision that meets criteria for revocation as defined in §380.9504 of this title; or
 - (B) a rule violation that meets criteria for disciplinary transfer as defined in §380.9503 of this title; and
- (2) a Level I or Level II due process hearing has been requested; and
- (3) one or more of the following criteria are present:
 - (A) the youth is likely to abscond and not appear at a disciplinary hearing;
 - (B) suitable supervision, care, or protection for the youth is not being provided by the parent or guardian to ensure protection of the public safety or prevention of youth self-injury and a less restrictive temporary shelter is not available or is inappropriate; or
 - (C) the youth may be dangerous to himself/herself or may threaten the safety of the public or others if released.

(f) **Admission to Detention.**

(1) **Approval for Detention.**

- (A) If the referring staff determines there are reasonable grounds to believe a youth has committed an offense for which a Level I or Level II due process hearing will be requested, the staff must notify an appropriate supervisor to justify and obtain approval for holding the youth in detention.
- (B) If approval for detention is not granted or it is determined that a Level I or Level II hearing will not be sought, arrangements must be made for the immediate release of the youth and return to the appropriate placement, unless the community is detaining the youth for reasons unrelated to TJJD's detention of the youth.

(2) **Admission Process for Youth Held in Institution Detention.**

- (A) The referring staff is responsible for ensuring the following documentation or information is present at the time of admission to institution detention:
 - (i) a copy of the written request for a Level I or Level II hearing;
 - (ii) a written statement including purpose of admission with supporting documentation (i.e., any incident reports or arrest reports and expected length of stay); and
 - (iii) the medical file, if available, or copies of pertinent medical records, as well as information relating to any medication the youth is taking.

- (B) Based on the information presented, the admitting staff must determine whether there are reasonable grounds to believe criteria for admission have been met as outlined in subsection (e) of this section. If the criteria are met, the youth may be admitted to institution detention for up to 72 hours.
- (C) The security dorm supervisor or designee (who may not serve as the referring or admitting staff) must review all admission decisions within one workday to determine if admission criteria have been met. If criteria are not met or policy or procedures were not followed, the youth must be released and returned to the appropriate placement.

(g) **Detention Review Hearings.**

(1) **Timing of Hearing.**

(A) **Community Detention.**

- (i) For youth placed in community detention, TJJD must hold a Level IV hearing (detention review hearing) on or before the tenth workday of detention if:
 - (I) a detention hearing is not waived or conducted by the community detention staff;
 - (II) the Level I or II hearing cannot be held within ten workdays; and
 - (III) further detention is necessary and appropriate.
- (ii) If a detention hearing is conducted or waived by community detention staff pursuant to the Texas Family Code, TJJD staff will participate as requested by the community and complete all required TJJD documentation and/or data entry.
- (iii) If a Level IV hearing is not timely held or is not properly waived, the youth must be released to his/her assigned location or other appropriate non-secure placement.

(B) **Institution Detention.**

- (i) For youth placed in institution detention, TJJD must hold a Level IV hearing (detention review hearing):
 - (I) within 72 hours after admission to institution detention, or the next workday if the 72nd hour falls on a weekend or holiday; and
 - (II) within ten workdays after the previous Level IV Hearing.
- (ii) If a Level IV hearing is not timely held or is not properly waived, the youth must be released to his/her assigned location or other appropriate non-secure placement.

(2) **Decision Maker.**

- (A) The decision maker must be impartial and may not be the person who requested or admitted the youth to institution detention or community detention.
- (B) The decision maker must be knowledgeable of the policies involved in the decision.

(3) **Youth Representation and Waiver of Level IV Hearing.**

- (A) The youth has a right and must be informed of his/her right to be represented at the Level IV hearing:

- (i) by counsel, if the youth is awaiting a Level I hearing. Counsel is an attorney obtained by the youth or appointed to represent the youth; or
 - (ii) by an advocate, if the youth is awaiting a Level II hearing.
 - (B) The youth may waive the Level IV hearing after being advised by his/her attorney or advocate. Such waiver must be in writing.
 - (C) When a subsequent Level IV hearing is required by policy timelines, the youth must be given the opportunity to have that hearing or to waive it. If the youth chooses to waive the hearing after speaking to his/her attorney or advocate, a new waiver form must be completed.
- (4) **Hearing Process.**
- (A) The referring staff must show cause to detain the youth pending the hearing. The attorney or advocate may present evidence as to why the youth should not be detained.
 - (B) The standard of proof for all disputed issues is reasonable grounds to believe.
 - (C) All credible evidence may be considered, irrespective of its form.
 - (D) The hearing must be recorded and the recording is the official record of the hearing. Recordings must be preserved for six months following the hearing.
 - (E) The decision maker must base his/her decision on criteria for detention. If criteria are not met, the youth must be released to his/her assigned location.
- (5) **Appeal.**
- (A) The youth must be notified in writing of his/her right to appeal.
 - (i) For youth in institution detention:
 - (I) appeal of the first Level IV hearing is to the facility administrator;
 - (II) appeal of the second Level IV hearing is to the executive director under §380.9353 of this title; and
 - (III) an automatic appeal to the executive director must be filed by the referring staff on the third and any subsequent Level IV hearings, even if the youth waives the hearing(s).
 - (ii) For youth in community detention, all Level IV hearing appeals are to the executive director under §380.9353 of this title.
 - (B) The pendency of an appeal does not preclude implementation of the decision to detain the youth.
- (h) **Detention Following Level I or II Hearing.**

A youth may be held in institution detention without a Level IV hearing when the youth is waiting for transportation to a different placement following a Level I or Level II hearing. Transportation should be arranged immediately to take place within 72 hours. Any delay in transportation beyond 72 hours must be approved by the facility administrator.

See CMS.20.15 for implementation procedures.

NO CHANGES

Draft 4/20/15

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Procedure for Mental-Health-Status Review Hearing ACA: N/A Statutes: N/A	Effective Date: Page: 1 of 2 Replaces: GAP.380.9571, 11/1/11,
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RULE

(a) **Purpose.**

This rule establishes the due process required to admit a youth into a Texas Juvenile Justice Department (TJJD) stabilization unit or to extend a youth's stay in a stabilization unit to provide treatment for a psychiatric disorder.

(b) **Applicability.**

- (1) For criteria for admission to a TJJD stabilization unit, see §380.8767 of this title.
- (2) A mental-health-status review hearing is a Level II due process hearing with several procedural exceptions, as noted in this rule. See §380.9555 of this title for Level II hearing procedures.

(c) **Procedure.**

(1) **Decision Makers.**

- (A) The facility administrator of the TJJD stabilization unit at which placement is sought appoints a mental health professional, as defined in §380.9187 of this title, to conduct the review hearing and serve as the hearing manager.
- (B) The hearing manager must not have direct or primary responsibility in the youth's current treatment or diagnosis.
- (C) The hearing manager has the same authority and responsibility as that assigned to a hearing manager in §380.9555 of this title.
- (D) The hearing manager must be trained to conduct the review hearing.

(2) **Single-Function Hearing.**

The single function of a mental-health-status review hearing is to consider the facts presented relative to the criteria for admission or extension established in §380.8767 of this title.

(3) **Location.**

All mental-health-status review hearings must be conducted at a TJJD stabilization unit and are the responsibility of staff at that facility.

(4) **Advocate.**

The youth's advocate is appointed by the facility administrator or designee and must be a mental health professional or a case manager assigned to the stabilization unit.

(5) **Timing of Hearing.**

A mental-health-status review hearing must be held for each youth within 96 hours after the youth's arrival at the stabilization unit. If the 96-hour period ends on a Saturday, Sunday, or official holiday, the hearing must be held on the next regular work day. If the hearing manager determines an unavoidable absence would prevent a key witness or party from attending the hearing, the hearing

may be rescheduled to the earliest possible time but not later than 96 hours from the original scheduled hearing.

(6) **Teleconference.**

The hearing may not be conducted by teleconference. However, testimony may be accepted via telephone if the hearing manager determines in-person testimony is impractical or unfeasible. If testimony is accepted via telephone, all persons required to be present at the hearing must be able to simultaneously hear the testimony.

(7) **Exclusion from the Hearing.**

To protect the confidential nature of the hearing, persons other than the youth, the youth's advocate, the staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the hearing manager. However, any person except the youth's advocate or staff representative may be excluded from the hearing room if his/her presence causes undue disruption or delay of the hearing or when matters being discussed are of a very sensitive nature. The reason(s) for the exclusions must be stated on the record.

(8) **Decision.**

- (A) Following the presentation of evidence, the hearing manager must announce his/her decision regarding whether criteria for admission or extension have been established.
- (B) A hearing manager's decision to admit or extend a youth in the stabilization unit must be supported by expert testimony of a psychiatrist that the youth meets the requisite criteria. The testimony should be given in person when feasible.
- (C) The youth must be informed of his/her right to appeal the decision to the executive director in accordance with §380.9353 of this title. The hearing manager's decision will be implemented even if an appeal has been filed and a response is pending.

(9) **Hearing Report.**

- (A) A report that includes the hearing manager's findings and the basis for them must be completed within seven work days after the date of the hearing.
- (B) The facility administrator or designee must review the report to ensure accurate and consistent application of this rule. The person who conducted the hearing may not be the person who conducts this review. If necessary, the facility administrator or designee may return the report to the hearing manager for clarification or to reopen the hearing for the purpose of obtaining further information.

See CMS.07.07 for implementation procedures.



**Texas Juvenile Justice Department
RESOLUTION**

A RESOLUTION FOR APPROVAL TO ADOPT RULE REVIEW AND REVISIONS WITHIN 37 TAC §§380.9301, 380.9311, 380.9331, 380.9333, AND 380.9353, RELATING TO YOUTH RIGHTS AND REMEDIES, AND §§380.9550 – 380.9571, RELATING TO DUE PROCESS HEARINGS

On this **29th day of May 2015**, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:			Second:		

where, among other matters, came up for consideration and adoption the following Resolution:

WHEREAS, Texas Government Code §2001.039 requires each state agency to review each of its rules not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date and to make an assessment of whether the reasons for originally adopting the rule continue to exist; and

WHEREAS, the Texas Juvenile Justice Board previously approved the publication of the proposed rule review and revisions within §§380.9301, 380.9311, 380.9331, 380.9333, 380.9353, and 380.9550 – 380.9571 in the *Texas Register* for a 30-day public comment period; and

WHEREAS, the public comment period has ended and TJJD did not receive any comments; and

WHEREAS, the TJJD staff recommends additional changes in §§380.9551, 380.9555, 380.9557, and 380.9559;

NOW, THEREFORE BE IT RESOLVED THAT the Board authorizes the adoption of the rule review and revisions within §§380.9301, 380.9311, 380.9331, 380.9333, 380.9353, and 380.9550 – 380.9571 as proposed, with the additional changes to §§380.9551, 380.9555, 380.9557, and 380.9559 as noted.

The foregoing Resolution was lawfully moved, duly seconded, and adopted by the Texas Juvenile Justice Board.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Jill Mata, General Counsel

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – DEFAULT ORDERS

Date: May 4, 2015

The Texas Juvenile Justice Department (TJJJ) has statutory authority to reprimand, suspend, or revoke the TJJJ-issued certification of juvenile probation and detention officers. Texas Human Resources Code §222.053. The officer is entitled to a hearing before the State Office of Administrative Hearings if revocation or suspension is requested.

The Administrative Procedures Act (Tex. Gov. Code §2001.056) provides that cases may be disposed by default if agency rules allow it. TJJJ rules allow for a default order to be issued by the Texas Juvenile Justice Board upon the recommendation of the Executive Director if there is proof of proper notice to the certified officer when the officer fails to respond to the formal charges. The default order is to be based on the factual allegations and the sanctions recommended in the formal charges. 37 TAC §349.340.

Proper notice is notice sufficient to comply with Texas Government Code Section 2001.0054 and 37 TAC §349.320, which require TJJJ to provide the certified officer written notice that:

1. was addressed to the certified officer and sent by certified mail, return receipt requested, to the certified officer's most recent address of record with TJJJ;
2. contained a statement of facts or conduct alleged to warrant an adverse certification action;
3. invited the certified officer to show compliance with all requirements of law for the retention of the certification;

4. included in capital letters in 12-point boldface type the following statement: "FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT;" and
5. stated that within 20 days of receipt of the notice, the certified officer shall file a written answer to the formal charge(s) that meets the requirements of 37 TAC §§349.340 and 349.370.

Notice is effective and service complete when the notice is sent by certified mail, return-receipt requested. Notice is presumed received three days after mailing if the wrapper containing the documents is not returned to the Department.

In the case of a default, the certified officer will be deemed to have:

1. admitted all of the factual allegations in the formal charges;
2. waived the opportunity to show compliance with the law;
3. waived the opportunity for a hearing on the formal charges; and
4. waived objection to the sanction(s) recommended in the formal charges.

The Texas Juvenile Justice Board, after consideration of the case, may:

1. enter a default order under Texas Government Code §2001.056 or
2. order the matter set for a hearing at SOAH.

Having reviewed the affidavit of the TJJD staff attorney assigned to this matter, we respectfully request that the Board grant the Default Order(s) in the requested case(s). Attached for your review is the Affidavit of Attorney for each case. The Affidavit explains the notice given, the lack of response, the alleged conduct and violations, and the requested sanction. A proposed Default Order for each case is also attached.

DOCKET NO. DH-15-23270-140300

IN THE MATTER OF	§	BEFORE THE
	§	
EBONY BECK	§	TEXAS JUVENILE
	§	
CERTIFICATION NO. 23270	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015 the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to EBONY BECK (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about May 22, 2014, and on or about November 5, 2014, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about May 22, 2014, and on or about November 5, 2014, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about May 22, 2014, and on or about November 5, 2014, and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 345.310(c)(2)(J) provides that juvenile justice professionals must not utilize unnecessary force or violence and must only use the amount of force reasonably necessary and appropriate when justified to ensure the security of juveniles, the facility, program or department.
5. On or about May 22, 2014, Respondent used unnecessary and excessive force on juvenile N.R. when she pulled him off his bed so that he was face down on the floor, stepped on his back, and pulled his arms up while they were cuffed behind his back, causing him to have trouble breathing and to suffer bruised and swollen wrists.

6. Texas Administrative Code, Title 37, Section 358.100 provides that abuse is defined as in Texas Family Code Sections 261.001 and 261.401.
7. Texas Family Code Section 261.401(a)(1) defines abuse to include an act that causes or may cause physical injury to a child served by the facility or program.
8. On or about May 22, 2014, Respondent abused N.R., a juvenile, by intentionally or knowingly engaged in an act that caused physical harm to N.R., to wit: pulling him off his bed, stepping on his back, and pulling his arms up while they were cuffed behind his back, causing him to have trouble breathing to suffer bruised and swollen wrists.
9. Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) provides juvenile justice professionals must not be designated as a perpetrator in an abuse, exploitation and neglect investigation conducted by TJJD under the authority of Texas Family Code Chapter 261 and Texas Administrative Code Chapter 350.
10. On or about November 5, 2014, Respondent was designated a perpetrator in a TJJD abuse, exploitation, and neglect investigation involving juvenile N.R.
11. TJJD effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on February 13, 2015.
12. More than twenty days have elapsed since February 27, 2015, the date Respondent is presumed to have received notice of the formal charges.
13. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJD has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-5, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(J).
3. As evidenced by Findings of Fact 6-8, Respondent abused N.R.
4. As evidenced by Findings of Fact 9-10, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G).

5. As evidenced by Findings of Fact 11-13, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of EBONY BECK is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJD's order. A party is presumed to have been notified of TJJD's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJD. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJD action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

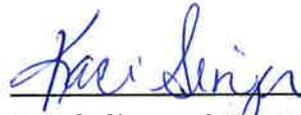
AFFIDAVIT OF KACI S. SINGER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kaci S. Singer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

1. On behalf of the Texas Juvenile Justice Department, written notice of formal charges, addressed to EBONY BECK was sent via certified mail, return receipt requested, and via first class mail, postage prepaid, on February 13, 2015, to the most recent address of record for EBONY BECK as registered with the Texas Juvenile Justice Department.
2. The wrapper sent by certified mail was delivered on February 27, 2015.
3. The wrapper sent by regular mail has not been returned.
4. Notice was effective on February 27, 2015.
5. The written notice indicated that on or about May 22, 2014, Respondent violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(J) when Respondent used unnecessary and excessive force on juvenile N.R. when she pulled him off his bed so that he was face down on the floor, stepped on his back, and pulled his arms up while they were cuffed behind his back, causing him to have trouble breathing and to suffer bruised and swollen wrists.
6. The written notice indicated that on or about May 22, 2014, Respondent violated Texas Administrative Code, Title 37, Section 358.100 and Texas Family Code Section 261.401(a)(1) when Respondent abused N.R., a juvenile, by intentionally or knowingly engaging in an act that caused physical harm to L.S., to wit: pulling him off his bed, stepping on his back, and pulling his arms up while they were cuffed behind his back, causing him to have trouble breathing to suffer bruised and swollen wrists.
7. The written notice indicated that on or about November 5, 2014, Respondent violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) when he was designated as a perpetrator in a TJJD abuse, neglect, and exploitation investigation.
8. The written notice informed Respondent that TJJD was seeking **revocation of Respondent’s certification as a juvenile supervision officer.**

9. The written notice included in capital letters in 12-point boldface type the statement: 'FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.'
10. The written notice informed Respondent of the requirement to file a written response within twenty days of receipt of the notice.
11. Twenty days have elapsed since February 27, 2015, the effective date of notice and Respondent has failed to file a written response to the formal charges."

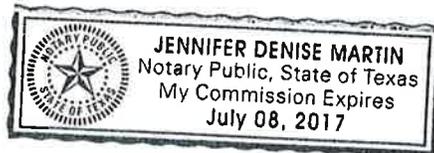


Kaci S. Singer, Attorney

Before me, the undersigned authority, on this day personally appeared Kaci S. Singer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 of April, 2015.


Notary Signature



DOCKET NO. DH- 15-25095-150133

IN THE MATTER OF	§	BEFORE THE
	§	
JUAN DE LA ROSA	§	TEXAS JUVENILE
	§	
CERTIFICATION NO. 25095	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015, the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to Juan De La Rosa (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about January 18, 2015, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about January 18, 2015, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about January 18, 2015 and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 345.310(c)(2)(D) provides juvenile justice professionals must not maintain or give the appearance of maintaining an inappropriate relationship with a juvenile, including, but is not limited to, bribery or solicitation or acceptance of gifts, favors, or services from juveniles or their families.
5. On or about January 18, 2015, Respondent engaged in an inappropriate relationship with J.G., a juvenile under the jurisdiction of the juvenile court, by kissing her.
6. Texas Administrative Code, Title 37, Section 358.100 provides that abuse is defined as in Texas Family Code Sections 261.001 and 261.401.

7. Texas Family Code Section 261.401(a)(1) defines abuse to include an act that causes or may cause emotional harm to a child served by the facility or program.
8. On or about January 18, 2015, Respondent engaged in an act that caused or might cause emotional harm to J.G., to wit: kissing her.
9. Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) provides juvenile justice professionals must not be designated as a perpetrator in an abuse, exploitation and neglect investigation conducted by TJJD.
10. On or about March 27, 2015, Respondent was designated a perpetrator in a TJJD abuse, exploitation, and neglect investigation involving juvenile J.G.
11. TJJD effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on April 23, 2015.
12. More than twenty days have elapsed since April 28, 2015, the date Respondent is presumed to have received notice of the formal charges.
13. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJD has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-5, Respondent's actions violated Texas Administrative Code, Title 37, 345.310(c)(2)(D).
3. As evidenced by Findings of Fact 6-8, Respondent abused J.G.
4. As evidenced by Findings of Fact 9-10, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G).
5. As evidenced by Findings of Fact 11-13, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of Juan De La Rosa is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJD's order. A party is presumed to have been notified of TJJD's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJD. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJD action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

DOCKET NO. DH- 14-28444-140310

IN THE MATTER OF	§	BEFORE THE
	§	
DANIEL HAGEMAN	§	TEXAS JUVENILE
	§	
CERTIFICATION NO. 28444	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015, the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to Daniel Hageman (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about May-June 2014, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about May-June 2014, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about May-June 2014 and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 345.310(c)(2)(C) provides juvenile justice professionals must not accept gifts, presents, favors or other advantages that could give the appearance of impropriety or impair the impartial and objective exercise of professional responsibilities.
5. On or about May-June 2014, Respondent failed to respect and protect the legal rights of children by allowing them to engage in assaultive behavior, to wit: slap boxing, without attempting to stop the conduct and without reporting the conduct.

6. Texas Administrative Code, Title 37, Section 345.310(c)(1)(A) provides juvenile justice professionals shall abide by all federal laws, guidelines, and rules, state laws, and TJJD administrative rules.
7. On or about May-June 2014, Respondent intentionally allowed juveniles in his care to mistreatment he knew was unlawful, to wit: allowing them to engage in assaultive behavior with another.
8. TJJD effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on February 10, 2015.
9. More than twenty days have elapsed since February 14, 2015, the date Respondent is presumed to have received notice of the formal charges.
10. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJD has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-5, Respondent's actions violated Texas Administrative Code, Title 37, Sections 345.310(c)(2)(C).
3. As evidenced by Findings of Fact 6-7, Respondent's actions violated Texas Administrative Code, Title 37, Sections 345.310(c)(1)(A).
4. As evidenced by Findings of Fact 8-10, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of Daniel Hageman is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJJ's order. A party is presumed to have been notified of TJJJ's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJJ. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJJ action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

AFFIDAVIT OF KACI S. SINGER

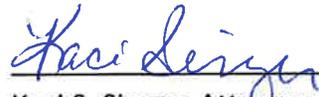
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kaci S. Singer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

1. On behalf of the Texas Juvenile Justice Department, written notice of formal charges, addressed to Daniel Hageman was sent via certified mail, return receipt requested, and via first class mail, postage prepaid, on February 10, 2015, to the most recent address of record for Daniel Hageman as registered with the Texas Juvenile Justice Department.
2. The wrapper sent by certified mail was delivered on February 14, 2015.
3. The wrapper sent by regular mail has not been returned.
4. Notice was effective on February 14, 2015.
5. The written notice indicated that on or about May-June 2014, Respondent engaged in conduct in violation of TJJD standards, rules, and regulations, to wit: Texas Administrative Code, Title 37, Section 345.310(c)(2)(C) when he failed to respect and protect the legal rights of children by allowing them to engage in assaultive behavior, to wit: slap boxing, without attempting to stop the conduct and without reporting the conduct.
6. The written notice indicated that on or about May-June 2014, Respondent engaged in conduct in violation of TJJD standards, rules, and regulations, to wit: Texas Administrative Code. Title 37, Section 345.310(c)(1)(A) when he violated Texas Penal Code Section 39.03, by intentionally subjecting juveniles in his care to mistreatment he knew was unlawful, to wit: allowing them to engage in assaultive behavior with another.
7. The written notice informed Respondent that TJJD was seeking **Revocation of Respondent’s certification as a juvenile supervision officer.**
8. The written notice included in capital letters in 12-point boldface type the statement: **‘FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.’**

Daniel Hageman, Certification #28444

9. The written notice informed Respondent of the requirement to file a written response within twenty days of receipt of the notice.
10. Twenty days have elapsed since February 14, 2015, the effective date of notice, and Respondent has failed to file a written response to the formal charges."



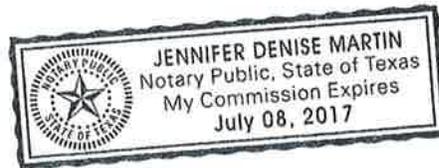
Kaci S. Singer, Attorney

Before me, the undersigned authority, on this day personally appeared Kaci S. Singer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 of April, 2015.



Notary Signature



DOCKET NO. DH- 15-27834-140329

IN THE MATTER OF	§	BEFORE THE
	§	
ELISABETH JOHNSON	§	TEXAS JUVENILE
	§	
CERTIFICATION NO. 27834	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015 the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to Elisabeth Johnson (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about June 28, 2014, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about June 28, 2014, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about June 28, 2014 and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 358.100 provides that abuse is defined as in Texas Family Code Sections 261.001 and 261.401.
5. Texas Family Code Section 261.401(a)(1) defines abuse to include an intentional, knowing, or reckless act or omission that causes or may cause physical injury to a child served by the facility or program.
6. On or about June 28, 2014, Respondent intentionally or knowingly failed to take action when she witnessed another staff, Donald Mitchell, engaging in an act that caused or

could have caused physical harm to R.T., to wit: hitting him, choking him, and pushing him, causing him to have trouble breathing and to suffer scratches on his neck.

7. Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) provides juvenile justice professionals must not be designated as a perpetrator in an abuse, exploitation and neglect investigation conducted by TJJJ under the authority of Texas Family Code Chapter 261 and Texas Administrative Code Chapter 350.
8. On or about January 6, 2015, Respondent was designated a perpetrator in a TJJJ abuse, exploitation, and neglect investigation involving juvenile R.T.
9. TJJJ effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on April 6, 2015.
10. More than twenty days have elapsed since April 9, 2015, the date Respondent is presumed to have received notice of the formal charges.
11. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJJ has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-6, Respondent abused R.T.
3. As evidenced by Findings of Fact 7-8, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G).
4. As evidenced by Findings of Fact 9-11, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of Elisabeth Johnson is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJD's order. A party is presumed to have been notified of TJJD's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJD. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJD action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

AFFIDAVIT OF KACI S. SINGER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kaci S. Singer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

1. On behalf of the Texas Juvenile Justice Department, written notice of formal charges, addressed to Elisabeth Johnson was sent via certified mail, return receipt requested, and via first class mail, postage prepaid, on April 6, 2015, to the most recent address of record for Elisabeth Johnson as registered with the Texas Juvenile Justice Department.
2. The wrapper sent by certified mail was returned by the United States Postal Service marked not claimed by addressee.
3. The wrapper sent by regular mail has not been returned.
4. Notice was effective on April 9, 2015.
5. The written notice indicated that on or about June 28, 2014, Respondent violated Texas Administrative Code, Title 37, Section 358.100 and Texas Family Code Section 261.401(a)(1) when Respondent intentionally or knowingly failing to take action when she witnessed another staff, Donald Mitchell, engaging in an act that caused or could have caused physical harm to R.T., to wit: hitting him, choking him, and pushing him, causing him to have trouble breathing and to suffer scratches on his neck.
6. The written notice indicated that on or about January 6, 2015, Respondent violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) when she was designated as a perpetrator in a TJJD abuse, neglect, and exploitation investigation.
7. The written notice informed Respondent that TJJD was seeking **revocation of Respondent’s certification as a juvenile supervision officer.**
8. The written notice included in capital letters in 12-point boldface type the statement: ‘FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.’

9. The written notice informed Respondent of the requirement to file a written response within twenty days of receipt of the notice.

10. Twenty days have elapsed since April 9, 2015, the effective date of notice and Respondent has failed to file a written response to the formal charges.”



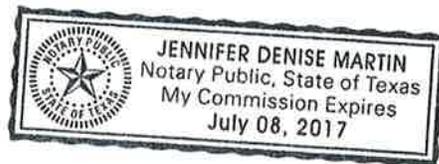
Kaci S. Singer, Attorney

Before me, the undersigned authority, on this day personally appeared Kaci S. Singer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 of April, 2015.



Notary Signature



DOCKET NO. DH-15-27932

IN THE MATTER OF	§	BEFORE THE
	§	
AMBER MENDOZA	§	TEXAS JUVENILE
	§	
CERTIFICATION NO.27932	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015 the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to Amber Mendoza (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about December 21, 2014, and during the month of July 2014, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about December 21, 2014, and during the month of July 2014, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about December 21, 2014, and during the month of July 2014, and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 345.310(c)(2)(l) provides that juvenile justice professionals must not deliver or remove from the grounds of a juvenile facility, program or department any item of contraband, or possess or control any item of contraband beyond the time period required to immediately report and deliver such item to the proper authority within the facility, program or department.
5. On or about December 21, 2014, Respondent took contraband, a cell phone, into the Ector County Youth Center and allowed juveniles to use the phone to, as an example, make contact with individuals via social media.

6. Texas Administrative Code, Title 37, Section 345.310(c)(2)(D) provides that juvenile justice professionals must not maintain or give the appearance of maintaining an inappropriate relationship with a juvenile.
7. During the month of July 2014, Respondent engaged in an inappropriate relationship with juvenile D.A., which included meeting with him at a family residence with no one else present and engaging in a telephone conversation with him.
8. TJJD effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on February 5, 2015.
9. More than twenty days have elapsed since February 10, 2015, the date Respondent is presumed to have received notice of the formal charges.
10. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJD has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-5, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(I).
3. As evidenced by Findings of Fact 6-7, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(D).
4. As evidenced by Findings of Fact 8-10, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of Amber Mendoza is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJD's order. A party is presumed to have been notified of TJJD's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJD. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJD action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

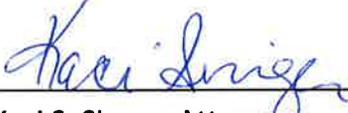
AFFIDAVIT OF KACI S. SINGER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kaci S. Singer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

1. On behalf of the Texas Juvenile Justice Department, written notice of formal charges, addressed to Amber Mendoza was sent via certified mail, return receipt requested, and via first class mail, postage prepaid, on February 5, 2015, to the most recent address of record for Amber Mendoza as registered with the Texas Juvenile Justice Department.
2. The wrapper sent by certified mail was returned by the United States Postal Service marked return to sender.
3. The wrapper sent by regular mail has not been returned.
4. Notice was effective on February 10, 2015.
5. The written notice indicated that on or about December 21, 2014, Respondent engaged in conduct in violation of TJJD standards, rules, and regulations, to wit: Texas Administrative Code, Title 37, Section 345.310(c)(2)(I) when she took contraband, a cell phone, into the Ector County Youth Center and allowed juveniles to use the phone to, as an example, make contact with individuals via social media.
6. During the month of July 2014, Respondent engaged in conduct in violation of TJJD standards, rules, and regulations, to wit: Texas Administrative Code, Title 37, Section 345.310(c)(2)(D) when she engaged in an inappropriate relationship with juvenile D.A. which included meeting with the him at a family residence with no one else present and engaging in a telephone conversation with him.
7. The written notice informed Respondent that TJJD was seeking **revocation of certification as juvenile supervision officer.**
8. The written notice included in capital letters in 12-point boldface type the statement: **‘FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.’**

9. The written notice informed Respondent of the requirement to file a written response within twenty days of receipt of the notice.
10. Twenty days have elapsed since February 10, 2015, the effective date of notice, and Respondent has failed to file a written response to the formal charges."



Kaci S. Singer, Attorney

Before me, the undersigned authority, on this day personally appeared Kaci S. Singer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 of April, 2015.



Notary Signature



DOCKET NO. DH- 15-28498-140329

IN THE MATTER OF	§	BEFORE THE
	§	
DONALD MITCHELL	§	TEXAS JUVENILE
	§	
CERTIFICATION NO. 28498	§	JUSTICE BOARD

DEFAULT ORDER

At its scheduled board meeting on May 29, 2015 the Texas Juvenile Justice Board (the Board) considered the recommendation of the Executive Director and the affidavit of the assigned TJJD staff attorney, which were submitted pursuant to Texas Administrative Code, Title 37, Section 349.340. The documents indicate sufficient proof that proper notice was provided to Donald Mitchell (Respondent) and that appropriate relief, including the imposition of sanctions, was requested. The Board has jurisdiction over and authority to perform this action pursuant to Texas Human Resources Code, Section 222.053, Texas Government Code, Section 2001.056, and Texas Administrative Code, Title 37, Chapter 349.

The Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about June 28, 2014, Respondent held a juvenile supervision officer certification with TJJD.
2. On or about June 28, 2014, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile supervision officers included in Texas Human Resources Code, Chapter 222 and Texas Administrative Code, Title 37, Chapters 341-359.
3. Texas Administrative Code, Title 37, Chapter 345 was in effect on or about June 28, 2014 and required that certified juvenile supervision officers adhere to a Code of Ethics.
4. Texas Administrative Code, Title 37, Section 345.310(c)(2)(J) provides that juvenile justice professionals must not utilize unnecessary force or violence and shall only use the amount of force reasonably necessary and appropriate when justified to ensure the security of juveniles, the facility, program or department.
5. On or about June 28, 2014, Respondent used unnecessary force on juvenile R.T. by punching him, choking him, and pushing him, causing him to have trouble breathing and to suffer scratches on his neck.

6. Texas Administrative Code, Title 37, Section 358.100 provides that abuse is defined as in Texas Family Code Sections 261.001 and 261.401.
7. Texas Family Code Section 261.401(a)(1) defines abuse to include an intentional, knowing, or reckless act or omission that causes or may cause physical injury to a child served by the facility or program.
8. On or about June 28, 2014, Respondent abused R.T., a juvenile, by intentionally or knowingly engaging in an act that caused or could have caused physical harm to R.T., to wit: hitting him, choking him, and pushing him, causing him to have trouble breathing and to suffer scratches on his neck.
9. Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) provides juvenile justice professionals must not be designated as a perpetrator in an abuse, exploitation and neglect investigation conducted by TJJD under the authority of Texas Family Code Chapter 261 and Texas Administrative Code Chapter 350.
10. On or about January 6, 2015, Respondent was designated a perpetrator in a TJJD abuse, exploitation, and neglect investigation involving juvenile R.T.
11. TJJD effectively served Respondent with proper notice of the formal charges and requested discipline through written notice sent via certified mail, return receipt requested, on April 6, 2015.
12. More than twenty days have elapsed since April 9, 2015, the date Respondent is presumed to have received notice of the formal charges.
13. To date, Respondent has not filed an answer to the formal charges.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact 1-3, TJJD has jurisdiction to hear this case and to impose the requested discipline.
2. As evidenced by Findings of Fact 4-5, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(J).
3. As evidenced by Findings of Fact 6-8, Respondent abused R.T.
4. As evidenced by Findings of Fact 9-10, Respondent's actions violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G).

5. As evidenced by Findings of Fact 11-13, the requirements upon which a default order may be granted as provided by Texas Government Code, Section 2001.056 and Texas Administrative Code, Title 37, Section 349.340 have been met.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Texas Juvenile Justice Board that:

1. The juvenile supervision officer certification of Donald Mitchell is revoked.
2. All requested Findings of Fact and Conclusions of Law not expressly adopted herein are denied.
3. All pending motions and requests for relief not previously granted or expressly granted in this Order are denied.

This Order shall not be final and effective until twenty days after a party is notified of TJJD's order. A party is presumed to have been notified of TJJD's Order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this Order shall not become final and effective until such motion is overruled, or if such motion is granted, this Order shall be subject to further action by TJJD. Pursuant to Texas Government Code Section 2001.146(e), the time allotted for TJJD action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until ninety days from the date the parties are notified of the Order.

TEXAS JUVENILE JUSTICE DEPARTMENT
Signatures and date affixed by Default Disposition
Master Order dated May 29, 2015

AFFIDAVIT OF KACI S. SINGER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kaci S. Singer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

1. On behalf of the Texas Juvenile Justice Department, written notice of formal charges, addressed to Donald Mitchell was sent via certified mail, return receipt requested, and via first class mail, postage prepaid, on April 6, 2015, to the most recent address of record for Donald Mitchell as registered with the Texas Juvenile Justice Department.
2. The wrapper sent by certified mail was returned by the United States Postal Service marked not claimed by addressee.
3. The wrapper sent by regular mail has not been returned.
4. Notice was effective on April 9, 2015.
5. The written notice indicated that on or about June 28, 2014, Respondent violated 37 Texas Administrative Code Section 345.310(c)(2)(J) when he used unnecessary and excessive force on juvenile R.T. by punching him, choking him, and pushing him, causing him to have trouble breathing and to suffer scratches on his neck.
6. The written notice indicated that on or about June 28, 2014, Respondent abused R.T., a juvenile.
7. The written notice indicated that on or about January 6, 2015, Respondent violated Texas Administrative Code, Title 37, Section 345.310(c)(2)(G) when he was designated as a perpetrator in a TJJD abuse, neglect, and exploitation investigation.
8. The written notice informed Respondent that TJJD was seeking **revocation of Respondent’s certification as a juvenile supervision officer.**
9. The written notice included in capital letters in 12-point boldface type the statement: ‘FAILURE TO FILE A WRITTEN ANSWER TO THE FORMAL CHARGES, EITHER PERSONALLY OR BY AUTHORIZED REPRESENTATIVE, MAY RESULT IN THE ALLEGATIONS CONTAINED IN THE FORMAL CHARGES BEING ADMITTED AS TRUE AND THE RELIEF SOUGHT BY THE COMMISSION IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.’

10. The written notice informed Respondent of the requirement to file a written response within twenty days of receipt of the notice.

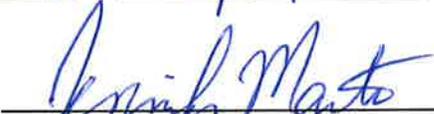
11. Twenty days have elapsed since April 9, 2015, the effective date of notice and Respondent has failed to file a written response to the formal charges."



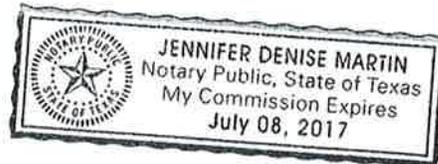
Kaci S. Singer, Attorney

Before me, the undersigned authority, on this day personally appeared Kaci S. Singer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 of April, 2015.



Notary Signature





**Texas Juvenile Justice Department
MASTER DEFAULT ORDER**

A MASTER DEFAULT ORDER RELATED TO DISCIPLINARY CASES OF CERTIFIED JUVENILE PROBATION OR SUPERVISION OFFICERS

On this the 29th day of May 2015, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Scott W. Fisher					
John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:	Second:				

where, among other matters, came up for consideration and vote Requests for Default Orders in the following matters related to the discipline of certified juvenile probation or supervision officers:

DOCKET NUMBER	NAME, CERTIFICATION NUMBER, LOCATION	RECOMMENDED ORDER TERMS	COUNTY
15-23270-140300	Ebony Beck, 23270, Gregg County Juvenile Detention Center	Revocation of Certification	Gregg
15-25095-150133	Juan De La Rosa, 25095, Bexar County Juvenile Detention Center	Revocation of Certification	Bexar
15-28444-140310	Daniel Hageman, 28444, Leadership Academy	Revocation of Certification	Harris
15-27843-140329	Elisabeth Johnson, 27834, The Oaks Brownwood	Revocation of Certification	Brown
15-27932	Amber Mendoza, 27932, Ector County Youth Center	Revocation of Certification	Ector
15-28498-140329	Donald Mitchell, 28498, The Oaks Brownwood	Revocation of Certification	Brown

WHEREAS the Board has jurisdiction over these actions pursuant to Texas Human Resources Code §222.053 and Texas Administrative Code, Title 37, §349.305 et seq. and authority to enter a Default Order under Texas Administrative Code, Title 37, §349.340, pursuant to Texas Government Code §2001.056; and

WHEREAS the Board considered the Requested Default Order in each matter and a motion to adopt the recommended findings and facts and conclusions of law as set forth in the Final Orders was lawfully moved, duly seconded, and approved by a majority of the present and voting members of the Texas Juvenile Justice Board; and

WHEREAS the following Board members recused themselves from participation in a particular matter:

<i>BOARD MEMBER</i>	<i>NAME OF OFFICER(S)</i>

NOW, THEREFORE BE IT ORDERED THAT the Final Order in each referenced matter shall become effective as provided therein according to the date this Order is signed and that a copy of this Order shall be affixed to each Final Order.

Signed this 29th day of May 2015.

Texas Juvenile Justice Board

Scott W. Fisher, Chairman



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director

Jill Mata, General Counsel

Subject: DISCUSSION, CONSIDERATION, AND POSSIBLE APPROVAL REGARDING THE DISCIPLINE OF CERTIFIED OFFICERS – AGREED ORDERS

Date: May 4, 2015

The Texas Juvenile Justice Department (TJJJ) has statutory authority to reprimand, suspend, or revoke the TJJJ-issued certification of a certified juvenile probation or supervision officer under Section 222.053 of the Texas Human Resources Code. The officer is entitled to a hearing before the State Office of Administrative Hearings (SOAH) if revocation or suspension is requested. Agency administrative rules found in Texas Administrative Code, Title 37, Chapter 349 allow TJJJ to dispose of certain disciplinary cases without referring the cases to SOAH.

The rules require TJJJ to give the certified officer a statement of facts or conduct alleged to warrant an adverse certification action as well as notice of the discipline sought to be imposed. The notice must invite the officer to show compliance with all requirements of law for the retention of the certification, give notice that the officer must file a written answer to the formal charges in compliance with TJJJ administrative rules found in Chapter 349, and give notice that a failure to file a written answer may result in the alleged conduct being admitted as true and the relief sought being granted by default. The notice must be sent via certified mail, return receipt requested to the certified officer's most recent address of record with TJJJ.

The rules allow a resolution to be negotiated informally between the certified officer and TJJJ through an agreed order. Attached for your review are the Agreed Order and the Resolution for approval to issue a Final Agreed Order related to disciplinary cases of certified juvenile probation or supervision officers. TJJJ and the certified officer have agreed to the discipline indicated.

DOCKET NO. DH-15-24410

<p>IN THE MATTER OF</p> <p>TIMOTHY MCCULLOUGH, JR.</p> <p>CERTIFICATION NO. 24410</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>TEXAS JUVENILE</p> <p>JUSTICE BOARD</p>
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AGREED ORDER

At its scheduled board meeting on May 29, 2015, the Texas Juvenile Justice Board (the Board) considered the matter of the certification of Timothy McCullough, Jr. (Respondent).

This Agreed Order is executed pursuant to Texas Government Code, Section 2001.056, which authorizes the informal disposition of contested cases. In order to conclude this matter without further delay and expense, the Texas Juvenile Justice Department (TJJD) and Respondent agree to resolve this matter by this Agreed Order. The Respondent agrees to this disposition for the purpose of resolving this proceeding only and without admitting or denying the Findings of Fact and Conclusions of Law set out in this Agreed Order.

The Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order:

FINDINGS OF FACT

1. On January 16, 2015, Respondent held a juvenile probation officer certification with TJJD.
2. On January 16, 2015, Respondent was required to comply with all relevant TJJD standards, rules, and regulations relating to certified juvenile probation officers included in Texas Human Resources Code Chapter 222 and Title 37, Texas Administrative Code Chapters 341-359.
3. Title 37, Texas Administrative Code Chapter 345 was in effect on January 16, 2015, and required that certified juvenile probation officers adhere to a Code of Ethics.
4. A Petition for Disciplinary Action was mailed to Respondent on February 5, 2015, and Respondent was provided with the opportunity to respond to the charges stated in the Petition and to show compliance with the relevant TJJD standards, rules, and regulations.
5. The Petition for Disciplinary Action alleges that on or about January 16, 2015, Respondent engaged in conduct in violation of TJJD standards, rules, and regulations. Specifically, Respondent violated Title 37, Texas Administrative Code Section

345.310(c)(1)(A), when he was convicted of the federal offense of sex trafficking of children, thereby making him ineligible to maintain his certification as a juvenile probation officer due to having a disqualifying criminal history under Title 37, Texas Administrative Code Section 344.400.

CONCLUSIONS OF LAW

1. Respondent is subject to the jurisdiction of TJJD and is required to comply with all TJJD standards, rules, and regulations including Texas Human Resources Code Chapter 222, Title 37, Texas Administrative Code Chapters 341-359, and all state and federal laws.
2. Title 37, Texas Administrative Code Chapter 349 provides for the disciplining of a certified juvenile probation officer whose acts or omissions violate the law, including TJJD standards, rules, and regulations.
3. Respondent's conduct is a violation of Texas Administrative Code, Title 37, Section 345.310(c)(1)(A).

ORDERING PROVISIONS

IT IS THEREFORE ORDERED by the Board of the Texas Juvenile Justice Department that:

1. The certification of Timothy McCullouch, Jr. as a juvenile probation officer is revoked. The terms of this Agreed Order will be published in the Final Orders and Decisions section of the TJJD website.
2. Upon approval of the Board, the Executive Director of TJJD is authorized to sign this order on behalf of the Board.
3. By signing this Agreed Order, Respondent:

Agrees to its terms, acknowledges an understanding of them, and waives the right to a formal hearing and any right to judicial review of this Agreed Order.

I, TIMOTHY MCCULLOUGH, JR., RESPONDENT, HAVE READ AND UNDERSTAND THE FOREGOING AGREED DISPOSITION ORDER. I UNDERSTAND THAT BY SIGNING THIS AGREED DISPOSITION ORDER, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, WILLINGLY, AND KNOWINGLY. I UNDERSTAND THIS AGREED DISPOSITION ORDER CONTAINS THE ENTIRE AGREEMENT AND

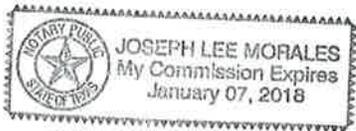
THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE.

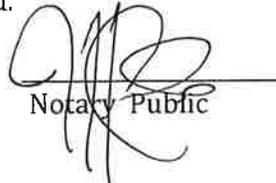
DATED: 4-23, 2015.

STATE OF TEXAS §
COUNTY OF Hudspeth §


Signature of Respondent

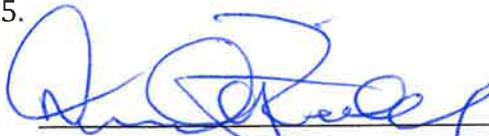
Before me, the undersigned notary public on this day personally appeared Tim McCullouch, known to me (or proved to me on the oath of Joseph Morales, or through 30742380 (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.




Notary Public

Approved by the duly authorized designee of the Texas Juvenile Justice Board on

4-30, 2015.


David Reilly, Executive Director



**Texas Juvenile Justice Department
MASTER AGREED ORDER**

**A MASTER AGREED ORDER RELATED TO DISCIPLINARY CASES OF CERTIFIED JUVENILE PROBATION
OR SUPERVISION OFFICERS**

On this the 29th day of May 2015, a duly called and lawfully convened meeting of the Texas Juvenile Justice Board was held in the City of Austin, Texas, pursuant to the Texas Open Meetings Act. A quorum of the Members was present, to wit:

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John Brieden III					
Carol Bush					
Becky Gregory					
Jane A. King					
Scott Matthew					
MaryLou Mendoza					

BOARD MEMBER	PRESENT	ABSENT	YES	NO	ABSTAIN
Rene Olvera					
Laura Parker					
Riley Shaw					
Jimmy Smith					
Calvin Stephens					
Melissa Weiss					
Motion:	Second:				

where, among other matters, came up for consideration and vote Request for Agreed Order in the following matter related to the discipline of certified juvenile probation or supervision officer:

DOCKET NUMBER	NAME, CERTIFICATION NUMBER, LOCATION	RECOMMENDED ORDER TERMS	COUNTY
15-24410	Timothy McCullouch, 24410, El Paso County Juvenile Probation Department	Revocation of Certification	El Paso

WHEREAS the Board has jurisdiction over these actions pursuant to Texas Human Resources Code §222.053 and Texas Administrative Code, Title 37, §349.305 et seq. and authority to enter a Default Order under Texas Administrative Code, Title 37, §349.340, pursuant to Texas Government Code §2001.056; and

WHEREAS the Board considered the Agreed Order in each matter and a motion to adopt the recommended findings and facts and conclusions of law as set forth in the Final Orders was lawfully moved, duly seconded, and approved by a majority of the present and voting members of the Texas Juvenile Justice Board; and

WHEREAS the following Board members recused themselves from participation in a particular matter:

BOARD MEMBER	NAME OF OFFICER(S)

NOW, THEREFORE BE IT ORDERED THAT the Agreed Order in each referenced matter shall become effective as provided therein according to the date this Order is signed and that a copy of this Order shall be affixed to each Agreed Order.

Signed this **29th day of May 2015.**

Texas Juvenile Justice Board

Scott W. Fisher, Chairman



Texas Juvenile Justice Department

Trust Committee Meeting

11209 Metric Boulevard, Building H – Lone Star Conference Room

Austin, TX 78758

Thursday, March 26, 2015 – 11:00a.m.

BOARD MEMBERS PRESENT:

The Honorable Jimmy Smith, Committee Chair
David "Scott" Matthew
Scott W. Fisher, Board Chairman

BOARD MEMBERS ABSENT:

The Honorable John Brieden

EXECUTIVE STAFF PRESENT

Chelsea Buchholtz, Chief of Staff
Jill Mata, General Counsel
Jeannette Cantu, Executive Assistant

OTHER GUESTS PRESENT:

Karen Kennedy, Deputy General Counsel
Ken Ming, Director, Business Services & Contracts
Kathryn Mattingly, Staff Attorney, Office of the General Counsel
Maria Tissing, Executive Assistant, Office of the General Counsel
Debbi McDaid, Administrative Assistant, Office of the General Counsel
Charles Trubee, Friends of Parrie Haynes Ranch
Marianne Trubee, Friends of Parrie Haynes Ranch
Chris Belliveau, Friends of Parrie Haynes Ranch
Bradley B. Ware, Friends of Parrie Haynes Ranch
Carole Bammer, Parrie Haynes Equestrian Center
Christian Williams, U.S. Fish and Wildlife Service
Kathryn Love, C-5 Corporation

Trust Committee
March 26, 2015

Call to Order

Committee Chairman Jimmy Smith called the meeting to order at 11:08 a.m.

Discussion, Consideration, and Possible Approval Regarding Excused Absences

Board member John Brieden was granted an excused absence.

Discussion, Consideration, and Possible Approval Regarding the October 23, 2014 Meeting Minutes

Chairman Fisher moved to approve the minutes of the October 23, 2014 meeting. Mr. Matthew seconded the motion. The motion passed.

Discussion, Consideration and possible approval regarding board authorization for the executive director to appoint the Public Funds Investment officer for the John C. Wende and Parrie Hayes Trust Funds

Chairman Smith recognized Mike Meyer, Chief Financial Officer who explained the public funds investment officer oversees funds that are invested according to board-approved investment policies and strategies. In the past the Board has designated a TJJJ employee to serve in this capacity. Rather than the Board appointing a new staff member each time there is a turnover in the position, it is recommended that the employee who is the position of the agency's Lead General Ledger Accountant act in this capacity. The committee members supported the recommendation.

Staff Report on Issues Related to the Parrie Haynes and Wende Trusts

This agenda item was discussed under the agenda items that follow.

Staff report on issues related to the transfer of the mitigation funds held by the Texas Parks and Wildlife Foundation and report from U.S. Fish and Wildlife Service Representative

Chairman Smith recognized Kathryn Mattingly, Staff Attorney. In conversations with Christina Williams of the U.S. Parks & Wildlife Service, and upon review of Board and committee meeting minutes from the past 15 years, Ms. Mattingly learned that the Texas Youth Commission (TYC) was involved in the negotiations that placed the money at the Foundation. She also explained that Ms. Williams believes the money has been properly handled by the Texas Parks & Wildlife Foundation (the Foundation) since

that time. In light of this information, Chairman Fisher asked Ms. Mattingly to reiterate the options for developing the wildlife management plan and asked for a staff recommendation. Ms. Mattingly reiterated that the options were either the Foundation implements the plan and reports to the Board, the Foundation disperses a certain amount of money to the Trust each year so the Trust may implement the plan, or the Trust does not pursue having a wildlife management plan on the Parrie Haynes Ranch. Jill Mata, General Counsel, suggested that the committee not pursue the option wherein the Trust directly implements the plan and endorse either no plan or a coordinated effort to develop the plan to be financed with funds held by the Foundation, with TJJJ proving oversight and coordination.

Update on C-5 Lease Discussion

Ms. Mattingly reported that C-5 was notified in January, 2015 that TJJJ would not accept certain changes to the present lease for the Parrie Haynes Ranch and that the present lease would continue through 2018. Since that time, C-5 officials have continued working with Chairman Smith to reach an agreement on lease terms. Chairman Smith stated that C-5 has communicated that they are agreeable to most of the terms of the lease, however, they want to have an extension because of an agreement they are working on with the Boys and Girls Club. Committee members discussed the items C-5 wishes to re-negotiate and determined that it was the fiduciary duty of the TJJJ Board to forego changing the present lease or signing an extension to the proposed lease, and to begin the process of lease negotiations in 2017 by obtaining an updated appraisal of the Parrie Haynes Ranch.

Staff Report on the Request for Qualifications for Appraisal Services for the Wende Trust Properties

Ms. Mattingly stated that as work continued on a Request for Qualifications (RFQ) to solicit appraisal services for the Wende properties on Barton Springs Road, she and Connie Booker, Contracts Manager, contacted the chief appraiser of the General Land Office (GLO), Mark McAnally, for guidance on the substance of the RFQ. Mr. McAnally suggested that through an inter-agency agreement, the GLO oversee the selection of qualified appraisers due to that agency's extensive experience in this area. Through an interagency Memorandum of Understanding, GLO would solicit and collect bids. GLO would contract with the selected appraiser and oversee the appraisal process and accept the final document and review before sending to the Office of the General Counsel. Mr. Kenneth Ming, Director of Business Operations and Contracts, spoke and stated that the GLO would pick the appraiser, but that the Board could accept or reject that selection. Committee members supported this course of action.

Mr. Matthew moved to adjourn the meeting. Chairman Fisher seconded. There being no objection, the Chairman adjourned the meeting at 11:44 a.m.



**BOYS & GIRLS CLUBS
OF CENTRAL TEXAS**

Boys & Girls Clubs of Central Texas and C5 Program Plan



BGCTX Mission over 50 years of Service in the Killeen/Ft. Hood Area



Mission: “ To inspire and enable all young people, especially those who need us most, to reach their full potential as productive, responsible and caring citizens”.

Purpose:

- ▶ To increase knowledge of healthy lifestyles and increase positive character and develop leadership through outdoor activities.
- ▶ To be a vital part of positive community and environmental growth by being active outside.
- ▶ To make a revitalizing impact in the Central Texas area that creates an ongoing legacy for this community.



Boys & Girls Clubs of Central Texas

National Affiliate of Boys & Girls Clubs of America



- ▶ **Woody Hall Unit**
 - ▶ 5100 Trimmier Rd. Killeen
 - ▶ **Bigham Unit**
 - ▶ 304 W Ave B Killeen
 - ▶ **Clements Teen Center**
 - ▶ 2900 East Elms Rd. Killeen
 - ▶ **Stonehaven Unit**
 - ▶ 210 West 18th St. Georgetown
 - ▶ **Park Lane Unit**
 - ▶ 1313 Williams Dr. Georgetown
 - ▶ **Copperas Cove Branch**
 - ▶ 1002 Veterans Ave. Copperas Cove
 - ▶ **Gatesville Branch**
 - ▶ 2533 E. Main St. GatesvilleCom
 - ▶ **Lampasas Branch**
 - ▶ 107 North Main St. Lampasas
 - ▶ **Marlin Branch**
 - ▶ 207 Kendrick St. Marlin
 - ▶ **Belton Christian Youth Center**
 - ▶ 505 E. Ave. C Belton
 - ▶ **Ralph Wilson Youth Center**
 - ▶ 310 General Bruce Dr. Temple
- ▶ **School Based Units:**
 - ▶ **AYPYN Office**
 - ▶ **3101 Courtney Lane Killeen**
 - Charles Patterson
 - Eastern Hills
 - Liberty Hill
 - Live Oak
 - Manor
 - Nolan
 - Palo Alto
 - Rancier
 - Union Grove
 - Copperas Cove Jr. High
 - SC Lee
 - Ellison High School
 - Harker Heights High School
 - Shoemaker High School
 - Pathways
 - Killeen High School

Boys & Girls Clubs of Central Texas



Total Youth Membership- 11,629

Total Youth Served – 18,683

School Year Average Daily Attendance – 2,098

Summer Year Average Daily Attendance – 1,467

Free & Reduced Lunch – 40%

Single Parent Households – 36.4%

Military Connected Youth – 3,322

Connected to State wide network with over 100 local organizations, through the Texas Alliance of Boys & Girls Clubs.



TEXSYN – Texas State - Wide Youth Services Network -



TEXSYN-Since the inception of the Texas Statewide Youth Network (TEXSYN) Program at the Department of Family and Protective Services in 2008, **99.9% participating youth have had no contact with juvenile probation.** Over 19,000 youth in Boys & Girls Clubs across the state have benefited from a high quality juvenile delinquency prevention initiative that includes an evidence-based curriculum, *SMART Moves*, and the Boys & Girls Club Experience - regular attendance and participation at the Club.

Boys & Girls Clubs of Central Texas – 455 that we have tracked with the TEXSYN program and over 700 actually served locally.

Texas Alliance Numbers – Over 19,000 Statewide



Specific Events at Parrie Haynes Ranch – YES Tracking System



Torch/Keystone Summit (130 members-ages 10-18yrs) Keystone/Torch Club members learn to work together to implement activities in four areas: service to Club and community; education; health and fitness; and social recreation. Activities for the weekend are geared around training and giving them tools to go back their clubs. (Friday evening- Saturday afternoon)

Monthly Passport to Manhood Retreat - TEXSYN (30 members- ages 10- 18yrs) an overnight retreat with curriculum geared around Passport to Manhood. Passport to Manhood represents a targeted effort to engage young boys in discussions and activities that reinforce character, leadership and positive behavior. The program includes a service project where boys learn the importance of giving back to the community. Activities for the weekend are geared around training and giving them tools to go back their clubs. (Friday evening- Saturday afternoon)

Monthly Smart Girls Retreat – TEXSYN (30 members- ages 10-18yrs) an overnight retreat with curriculum geared around Smart Girls. Smart Girls encourage young women to have healthy attitudes and lifestyles, SMART Girls helps them reach their full potential. Through dynamic sessions, group activities, and mentoring opportunities with adult women, Club girls enjoy the opportunity to build skills for eating right, staying physically fit, getting good health care, and developing positive relationships (Friday evening- Saturday afternoon)

Summer Day Camp June- August- (100 members a day- ages 7-13) Outdoor day camp geared around outdoor activities including swimming, hiking, nature projects, fishing, canoeing, outdoor sports. These activities will be used to provide a venue to implement the 3 priority outcomes. Daily, June- July, Monday- Friday.

Residential Camp July and August- (130 members ages 8-12) Youth will be housed in 16 bed cabins. Outdoor camp geared toward the 3 priority outcomes and the 5 key elements of positive youth development facilitated around outdoor activities including swimming, hiking, nature projects, fishing, canoeing, outdoor sports, horse activities (non-riding), gardening, and leadership skills. Sunday night to Thursday.

Specific Events – YES Tracking System



Community Garden (open to all members throughout the year) sites will be able to organize in participating in preparing, planting, harvesting. Members will be able to sell their items at the farmer's market. Food grown will also be provided for members families in need.

Fall Festival (Open to all members) End of October festival with hayrides, games, music and food.

Winter Festival (Open to all members) Christmas Holiday theme hayride, games, music and food.

Summer Festival (Advertising for Camp)- camp activities, food and games.

Spring Break Camp Day Camp sign up by sites. (100 members a day- ages 7-13) Outdoor day camp geared around outdoor activities including swimming, hiking, nature projects, fishing, canoeing, outdoor sports.

Staff Team Building Retreat Ability for sites to come together for team building, training, vision and planning.

Administration Planning Retreat Admin team come together for team building, training, vision and planning.

Keystone Retreat Leadership camp for older members. (ages 13-18 Leadership of each site with Keystone 35-45)

Torch Club Retreat Leadership camp for younger members. (ages 9-12 Leadership of each site with Keystone 35-45)

Sites will have the opportunity to choose to bring their members to a themed weekend retreat scheduled 2 months in advance. Scheduling will be based on open weekends.

Themed weekend retreats

Horses- knowledge, care, activities. (all members) Partnering with Ona at the Equestrian Center

Camping- knowledge and mentoring/life skills. (all members)

Outdoor sports- Team building with obstacle courses, outdoor team sports. (all members)

Mother/Daughter- parent/child relationships. (all members)

Father/Son- parent/child relationships. (all members)

Music- knowledge, expression, participation. (all members)



Potential Use of Hoover House



As a full functioning site encompassing and managing all activities, it will require an office for staff to work. Hoover House is a useful and strategically placed headquarters between the camp, equestrian center and the public.



C5 Mission and Purpose



Mission:

The mission of the C5 Youth Foundation of Texas is to change the odds for high potential youth...inspiring them to pursue personal success and preparing them for leadership roles in college, work, and their communities.

- ▶ **C5 youth in become...**
- ▶ Character-driven
- ▶ Community-focused
- ▶ Challenge-ready
- ▶ College-bound, and
- ▶ Committed to a Better Future!



Specific Events



▶ **C5 Summer Signature Programs**

- ▶ Each summer C5 Texans engage in an intensive summer learning experience designed to provide them an opportunity to learn and practice skills in all five of the curriculum areas and to set them up for the next year of Pathway Learning in their community. The five Summer Signature experiences include:
- ▶ **Camp Leadership U** - 3 weeks at the Parrie Haynes Youth Ranch near Killeen, designed to introduce C5 Texans to leadership concepts, the C5 program and to establish the relationships and culture that will support their success for the next five years.
- ▶ **Camp Leadership U₂** – 4 weeks at the Parrie Haynes Youth Ranch near Killeen. Second year participants take on leadership roles working with the first year class while accepting a series of leadership challenges that focus and extend their skills.
- ▶ **C5 Bridges /Rexam Leadership Challenge** - three weeks of training that include leadership for preparing and executing a 14 day experience in Utah and Wyoming including: college visits, exploring legacy at Yellowstone National Park and exploring personal mission while on a 7 day back packing trip in the Big Horn Mountains.
- ▶ **Road to College** - Students plan and execute a 10 day tour of college in Texas and the surrounding states and explore college life and the admissions and scholarship application processes.
- ▶ **ACT Now Summit** - Student led week-long conference on a significant community issue focused on identifying solutions and advocating for change. This serves as the kick off for students individual Medallion Community Action Projects, a centerpiece of their final year.

Camp Ground Identified Improvements



- Trail Restoration
 - Widen trails for safety
 - Clear under oak tree
- Native Species Conservation
 - Protein Blocks for deer
 - Cut down and thin cedar trees to create better water source
 - Reseed native grass
- A safer, easier way to get down to Lampasas River
 - steps/pulley system to move the boats up and down
- Additional Cabins as Identified
- Remodel bath house to be functional and safe for children to prepare for pool

Community Partnerships



- ▶ Summer Lunches (KISD) Food Program
- ▶ 4-H
- ▶ Girl Scouts & Boy Scouts
- ▶ Local ISD's & Colleges
- ▶ City Governments
- ▶ Fort Hood CYS





Collaboration with BGCTX, C5 and PHR Equestrian Center



Parrie Haynes Equestrian Camp



- Primitive Camp facility
- Equine Programming/Events incorporated into residential/day camps and special events
- Fund Raising Events collaboration
- Equine Education
- Parrie Haynes history memorial/education



Environmental/Agricultural Sustainability



- Pond construction for reintroduction of endangered catfish
- Conservation Education
- Native Endangered Species Education
- Potential Soil & Water Conservation
- Wild Fire Mitigation
- Ecological advantages of composting by utilizing Community Garden

Environmental/Agricultural Sustainability



- Pond construction for reintegration of threatened/endangered catfish and/or minnows.

- ✓Widemouth Blindcat
- ✓Toothless Blindcat
- ✓Bluntnose Shiner
- ✓Bluehead Shiner

Environmental/Agricultural Sustainability



- Conservation Education

- ✓ Expose members to conservation curriculum created by US Dept of Agriculture.

- ✓ Expose members to actual conservation research.

- ✓ Use Parrie Haynes to give our members an opportunity to participate in conservation research/projects.

Environmental/Agricultural Sustainability



- Potential Soil & Water Conservation

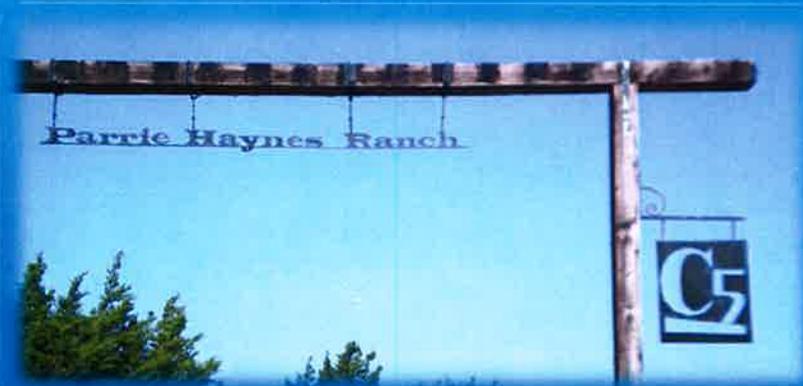
- ✓ Members to participate in the Wildlife Alliance for Youth.
- ✓ Educate members and their families on the Lampasas River Watershed Protection Plan.
- ✓ Use Parrie Haynes to give the members an opportunity to participate in the Lampasas River Watershed Protection Plan.

Environmental/Agricultural Sustainability



- Native Endangered Species Education

The Black Cap Vireo Bird
The Golden Cheek Warbler





BGCTX working Budget See Handout



Questions & Answers



**BOYS & GIRLS CLUBS
OF CENTRAL TEXAS**



**Texas Juvenile Justice Department
Finance and Audit Committee Meeting**

11209 Metric Blvd., Building H, Austin, Texas 78758
Thursday, March 26, 2015– 1:00 p.m.

BOARD MEMBERS PRESENT:

Jane King
Scott W. Fisher, Board Chairman

BOARD MEMBERS ABSENT:

Calvin Stephens, Committee Chairman
The Honorable Judge John Brieden

EXECUTIVE STAFF PRESENT:

Chelsea Buchholtz, Chief of Staff
Elaine Mays, Chief Information & Technology Officer
Eleazar Garcia, Chief Auditor
James Williams, Sr. Director of Probation & Community Services
Jeannette Cantu, Executive Assistant
Jill Mata, General Counsel
Mike Meyer, Chief Financial Officer
Teresa Stroud, Sr. Director of State Programs & Facilities
Terri Dollar, Director of Monitoring & Inspections

OTHER GUESTS PRESENT:

Angela Mitchell, TJJD
Deidre Hernandez, TJJD
Emily Anderson, TJJD
Jamyen Robinson-Hall, TJJD
Jeannette Lepe, TJJD
Jim Southwell, TJJD

Kati Kieffer, TJJD
Kenneth I. Ming, TJJD
Kyle Dufour, TJJD
Matthew Segura, TJJD
Ron Quiros, Guadalupe County Juv. Svcs.
Steven Vargas, TJJD

Call To Order

In the absence of Committee Chairman Calvin Stephens, Ms. Jane King called the meeting to order at 1:01 p.m.

Excused Absences

Ms. Jane King stated no quorum was present for this action item.

March 26, 2015 Meeting Minutes

Ms. Jane King stated no quorum was present for this action item.

Updates from the Chief Information and Technology Officer

Elaine Mays, Chief Information & Technology Officer, presented this informational report. As of this report, out of 227 juvenile departments, 148 departments have been trained and implemented on the Juvenile Case Management System (JCMS). Over the next several months, 10 more departments will have received training.

In response to a question asked by Ms. Jane King, Jim Southwell, Deputy Information & Technology Officer, stated 4 counties are still indecisive regarding the implementation of JCMS.

All TJJJ sites have received the software for the radio re-banding initiative. Ron Jackson State Juvenile Correctional Complex (RJSJCC) was used as the prototype and is 100% complete with additional spares on sight.

Report charts related to security components were included in the board packet. Staff will continue to work diligently to ensure no outside intrusions enter TJJJ.

Updates from the Chief Financial Officer

Mike Meyer, Chief Financial Officer, presented this informational report. Mr. Meyer congratulated Emily Anderson, Fiscal Affairs & Budget Director, and her staff for completing the financial report in time for inclusion in the board packet. This has been a significant challenge under the numerous transitions the finance division has faced over the last two years.

TJJJ's institutional population was below projections and had trended downward during the first two quarters of the fiscal year and the use of contract beds remains higher than projected in the general appropriations act. Agency expenditures, through the second quarter, were well within expectations.

Finance staff will conduct a mid-year review to ensure all planned expenditures have been budgeted and a reasonable amount of contingency funds have been set aside for unexpected expenditures.

Monthly overtime expenditures in this area were lower on average by month than during the previous fiscal year. However more funds will be set aside for this purpose for the remainder of the year.

Mr. Meyer also discussed the Finance staff's efforts to improve TJJJ employees' experience with the Centralized Accounting Payroll/Personnel System (CAPPS) over the last quarter. Comfort with the system has significantly improved.

Both appropriating committees adopted population based funding reductions in the Probation & Community Services and State Programs & Facilities divisions. House Appropriations took no further action, while Senate Finance did adopt some exceptional items related to Probation Grants, Workforce Re-entry positions, Parole Officers and Fleet Vehicles. The Senate also adopted a pay raise of 2.5 percent each fiscal year for Juvenile Correctional Officers (JCO's) and Parole Officers, as well as \$379,000.00 for laptop and desktop replacements.

TJJJ is already in compliance with the two riders reinstated by the Senate relating to Grievance Procedures and the Harris County Leadership Academy. No decision regarding TJJJ's budget structure had been made. The proposed plan for regionalization of probation activities will inform that structure and overall funding levels. Staff presented a possible structure assuming passage of that legislation.

The next step of the process will be the House to pass its version of the budget which is slated to happen next week. It will then be sent to the Senate for consideration where they will substitute their own version and conference negotiations will begin in late April. The majority of decisions regarding TJJJ's appropriations will take place at the end of the budget writing process, through that conference committee, once policy discussions have been resolved.

In response to a question by Chairman Fisher, Mr. Meyer stated the tone of the discussion has been very positive and a sincere effort to include agency staff in the initial phase of the negotiations. Once the plan for regionalization started to materialize, some of the members conducted private negotiations. Staff were given the opportunity to present information and provide input.

Mr. Meyer also stated the most challenging thing encountered is that in the absence of any structure, it is difficult to know what to ask for or how to ask for it. Not having this information probably had an impact on the degree of consideration of the exceptional items presented. Another impact is the

absence of a long term plan which would affect their willingness to consider items especially related to staffing or improvements to facilities.

In response to a question asked by Chairman Fisher, Mr. Meyer stated the \$117 million identified for mental health, is very broadly connected to behavioral health. It is very expansive as it is related to any type of service the agency provides for youth with behavioral health needs. The concern would be the expectation those funds would be directed specifically towards mental health or behavioral health services as opposed to other services for youth with those needs. The rider asks for state wide collaboration coordination. This would not necessarily have an impact on how TJJD would use the funds but rather ensure the opportunity to collaborate with other state agencies. Hopefully when the rider is finalized the dollar amount would be adjusted to match whatever funding decisions were made since the \$117 million was based on the agencies appropriations request and not on current funding levels.

Discussion, consideration and possible approval regarding the Ron Jackson State Juvenile Correctional

Complex Audit

Eleazar Garcia, Chief Auditor, presented this action item. The overall objective of this audit was to determine if controls related to student rights, facility safety and security, and business operations are in place. The scope included student grievances, level two due process hearings, staff ratios, case management, and gasoline distribution. The period covered was October 1, 2014 through December 31, 2014.

Audit findings noted the grievance process is functioning as intended and staff ratios were observed to be in compliance with agency guidelines. Facility supervisors, and managers, provided guidance to the case management staff to meet case management responsibilities. Areas where operations could be improved are as follows: Periodic review of hearing manager training attendance, improved review of the gasoline distribution from the storage tank to ensure accuracy and completeness in the documentation.

In response to a question asked by Chairman Fisher, Mr. Garcia stated there is a gasoline storage tank equipped with a meter log. Also, each day, staff document the daily meter log entries. When gas is obtained, there is a separate log where the gallons are recorded. Currently, there are two separate logs

kept aside from the daily meter log. One is maintained at the warehouse and the other at the gate house.

The reason for the gatehouse log is to document the distribution of gas after non-business hours. At that time the gate house log becomes the main log after hours. When logs were reconciled to the meter, inconsistencies were noted. This could be due to timing issues, staff not properly documenting or rounding off how many gallons were pumped.

In response to a question asked by Chairman Fisher, Mr. Garcia stated distribution of fuel is strictly limited to state vehicles only and pumps are only located at the secure facility sites and not at halfway houses or district office locations. Mr. Garcia also stated another process used to obtain gasoline for state vehicles is each vehicle in the fleet has a voyager credit card assigned.

Ms. King stated since this was the first time this area had been audited, staff might want to look at other sites. Mr. Garcia stated the implementation of the corrective action would ensure other facilities are reviewing this area.

Ms. Jane King stated no quorum was present for this action item.

Discussion, consideration and possible approval regarding the Fleet Management Audit (action)

Eleazar Garcia, Chief Auditor, presented this action item. The Texas Comptroller's Office and the Texas Fleet Management Plan require state agencies to properly maintain and repair state vehicles and to report complete vehicle information through the Texas Fleet Management System.

The objective of this audit was to determine whether the controls over the fleet management are in place. The scope included vehicle maintenance and review of fleet expenses paid through either purchase orders or with the Voyager credit cards. It also included fleet operations in the Austin Office and field locations. The Audit covered the period from August 2014 through December 2014. As part of this audit, facilities visited were Giddings State School, Corsicana Residential Treatment Center , Gainesville State School, McLennan County State Juvenile Correctional Facility (MCSJCF), Willoughby

Halfway House, Ayers Halfway House, McFadden Ranch, Ft. Worth District Office and San Antonio District Office.

Two facilities were singled out for having best practices. MCSJCF Managers had detailed vehicle lists that track vehicle information and status, while McFadden Ranch Managers had established a maintenance schedule for monitoring preventive maintenance.

Areas where operations could be improved are as follows:

- Establishing a monitoring process for the Agency's compliance with the alternative fuel program requirement as required by the State;
- Improving the process for capturing all fleet related expenses to ensure proper internal/external reporting of the expenses;
- Requiring periodic review of the Voyager Credit Card transactions;
- Establishing a periodic vehicle inspection process;
- Establishing a process to track vehicle warranties;
- Implementing a periodic review of personnel with user access rights to the fleet management system could ensure only TJJJ staff have access to the system.

Recommendations to improve controls and accountability were provided to management. Management concurred with the results of the audit and provided responses.

In response to a question asked by Chairman Fisher, Mr. Meyer stated the staff that oversees the fleet is part of the Contract Administration, Procurement and Facility Business Management Department as of last year. Staff will take steps to meet regularly to determine progress on the rest of the audit recommendations. Mr. Garcia stated one of the weaknesses noted is when the system is owned by another entity, it is staff's responsibility to contact that entity to let them know an employee is no longer with the agency. This is an area that we have discussed with the Information Technology & Human Resources divisions to improve the process.

Chairman Fisher stated there should be a centralized way to ensure we are taking care of the vehicles.

In response to a question asked by Chairman Fisher, Mr. Meyer stated there are a number of vehicles that are managed through the Austin and District Offices.

In a response to a question asked by Mr. Fisher, Mr. Meyer stated there are about 60 vehicles either tied directly to the Austin or District Offices. Most of the information is managed via an Excel spreadsheet and include who is using the vehicle. This is a recent effort to catalog the information in order to track more efficiently and keep up-to-date. Vehicle information includes all vehicles, their age, mileage, whatever date it was produced, location and who the vehicle is assigned to.

Chairman Fisher stated it seems like we should have somebody, fleet person or fleet manager, tied to Contracts and Procurement or Finance, that has this ultimate responsibility.

Ms. Jane King stated no quorum was present for this action item.

Discussion, regarding the Internal Audit status of Projects and Performance Measures

Eleazar Garcia, Chief Auditor, presented this informational report. Projects completed have been the Ron Jackson State Juvenile Correctional Complex Audit and the Fleet Management Audit presented at this meeting. The Fixed Assets Audit was presented in January which was part of the 2014 plan. Currently underway are the contract care audit, an interstate compact audit, and the staff development and training audit. Staff continue to work on the follow-up audit to prior audit recommendations, and plan to present it at the May board meeting. Management responses to the recommendations will be provided.

Four of the performance measures are reported on a quarterly basis. The percent of the approved 2015 audit plan completed is currently at 25 percent. The percent of audits completed within 110 percent of budget stands at 100 percent. The percentages of high risk areas included in the audit work completed to date is 40 percent. Additionally, the percent of staff time spent on planned audit activities is 86 percent. Overall, staff will meet the goal in 3 of the 4 performance goals reported.

Adjourn

The meeting was adjourned at 1:30 p.m.

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director
Elaine Mays, Chief Information Officer

Subject: Updates from the Chief Information Officer

Date: April 29, 2015

This memo is for informational purposes; no formal Board action is required.

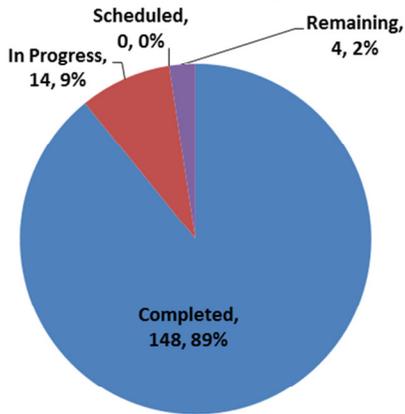
IT OPERATIONS & APPLICATION REPORT

JCMS Implementation: March and April saw an additional 10 Juvenile Departments complete the migration from the legacy Caseworker system to JCMS. This group encompassed 13 geographic counties and included 1 Judicial District. We are edging closer to the end of the implementation process for JCMS. Our team continues to push forward with the remaining 7 Juvenile Departments who are currently on target to migrate by the end of May. There are currently 148 Juvenile Departments using JCMS as their primary system for managing the data about youth in the Probation system.

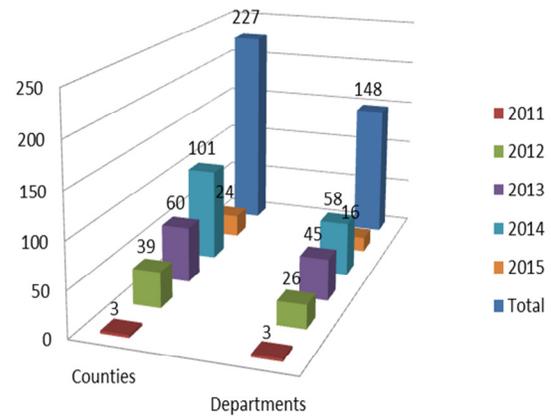
At the end of the Implementation phase, there will be 4 departments who have not yet decided to adopt JCMS. Discussions with these departments will be ongoing to determine how they can best interoperate with the JCMS environment if they choose not to adopt the system.

The closure of this phase regarding JCMS will bring about the official retirement of the legacy Caseworker application. The system, built and supported by TJPC/TJJJ over the past 20+ years, has proven to be an extremely valuable resource for the agency as well as the Juvenile Probation Departments throughout the state. The retirement is met with mixed emotions since this has been such a beneficial tool for all parties for so long. The agency will cease providing support of programming fixes for Caseworker effective August 31, 2015.

Implementation Status: Department Perspective



Yearly totals - by County & Department



Data Center Servers to be upgraded: TJJD has been part of the Data Center Services arrangement since the program started. The agency is collaborating with the Department of Information Resources (DIR) and Xerox/Cap-Gemini (DCS support vendors) on a substantial server upgrade initiative. The agency has over 60 servers functioning across our technical environment - many located in the state’s centralized Data Center although some reside at each agency facility – and the vast majority of these servers are in need of both hardware and operating system refreshes to bring them to currently supported levels. The agency is working to develop a phased plan and timeline under which this work will be done to avoid a one-time massive upgrade which typically proves to be problematic.

Radio Re-banding Initiative: The radio re-banding effort is well on its way. Reprogramming of the handheld radios, Phase 1 of the larger initiative, has been completed at Ron Jackson, Evins and Gainesville, with Mart and Giddings scheduled for the coming weeks. This phase of the effort is being completely driven by IT field staff in close coordination with staff at each facility. Phase 2 is the reprogramming of the cell towers used as part of the overall communications systems and will require vendor support to complete. This is tentatively planned for June but will be dependent on funding.

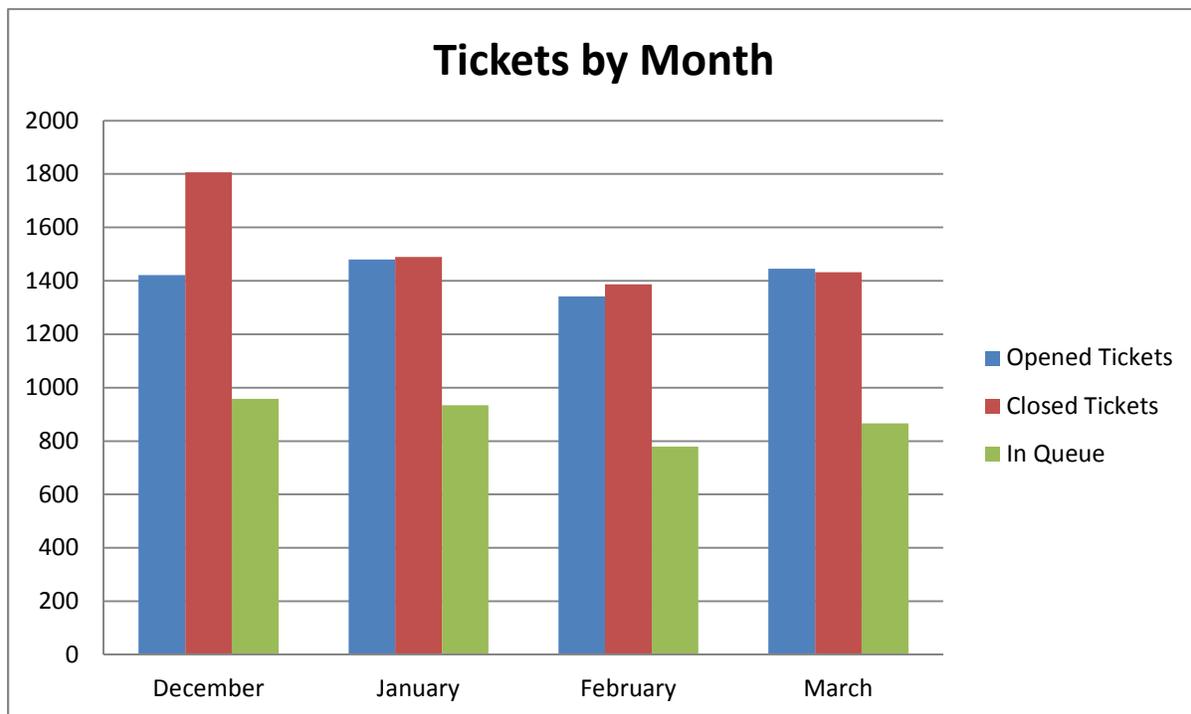
Handheld Radio Re-banding Initiative							
Location	March	April	May	June	Radio Count	Completion Percentage	
Phase I: Radio Reconfig							
Ron Jackson Campus - Radio reconfig					138	100%	
Evins Campus - Radio reconfig					92	100%	
Gainesville Campus - Radio reconfig					100	97%	
Mart Campus - Radio reconfig					155	Scheduled	
Giddings Campus - Radio Reconfig					93	Scheduled	
Phase II: Cell Site Upgrade							
Brownwood Campus - Cell Site Upgd							
Gainesville Campus - Cell Site Upgd							
Giddings Campus - Cell Site Upgd							
Mart Campus - Cell Site Upgd							
Evins Campus - Cell Site Upgd							
Phase III: Radio Sever (NSC) Move							

IT Operations expands monitoring tools: The IT operations team is working to more fully leverage a variety of tools, some which were already in place and others which are new additions to TJJJ, with the goal of providing more detailed monitoring and reporting on the health of the agency’s network resources. These tools will provide a more granular view of the various aspects and locations of the network to allow our technical teams to more fully identify, diagnose and correct technical issues that occur within our network. Additionally, the increased use of remote access and administration of our network components will enable the team to be more effective and more efficient with a reduced need for travel between sites.

IT Staffing Changes: The Division continues to push to fill vacancies and has brought additional staff members on board: In March, Kevin Goettl joined the IT Operations section as a Telecommunications Specialist and Meg Askey came on as a Web Administrator in the IT Applications section; In April Clayton Heald joined TJJJ as a Systems Analyst in the IT Applications Section. Unfortunately, March also saw the retirement of Joni Gross, a long-time veteran of TYC/TJJJ, and April will bring out the departure of Cynthia Park after 25 years with the agency. We continue to work towards filling the remaining opportunities in IT Operations, Project Management, Application Development and our Field IT Operations in both Gainesville and Brownwood.

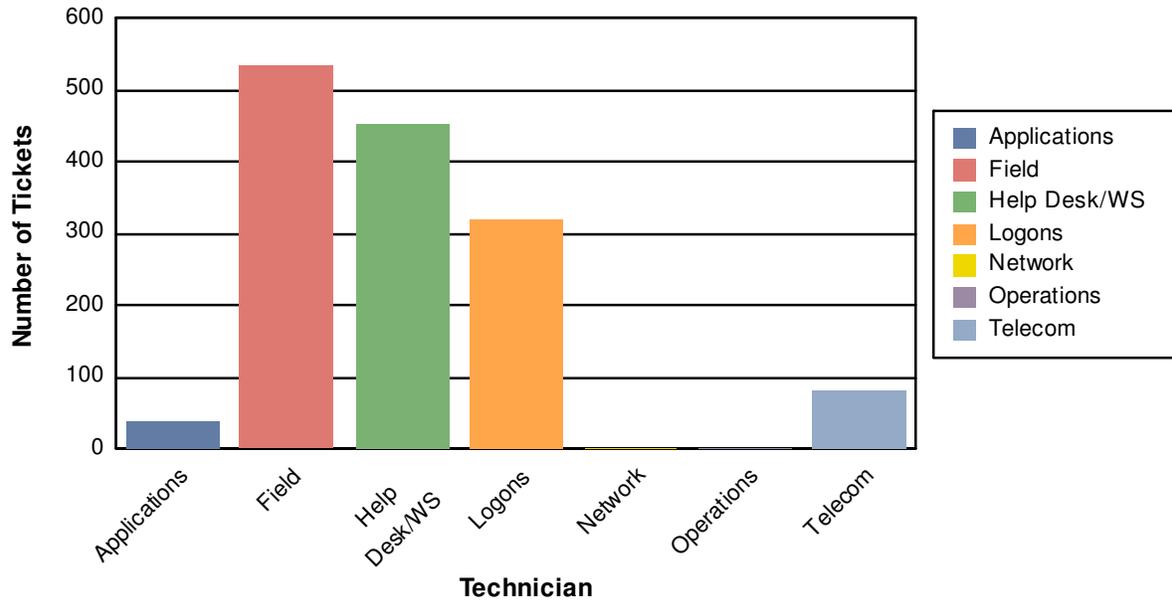
Software License Management: Stephen Rehberg, our IT Help Desk Manager, has worked diligently through the multitude of software titles in use across all sections of TJJJ to enhance the management of the licensing related to each product. This arduous task has recently been completed and new procedures are being adopted to better manage these products and maintain licensing compliance.

Help Desk Ticket Management:



Tickets Closed by Team

Month of March

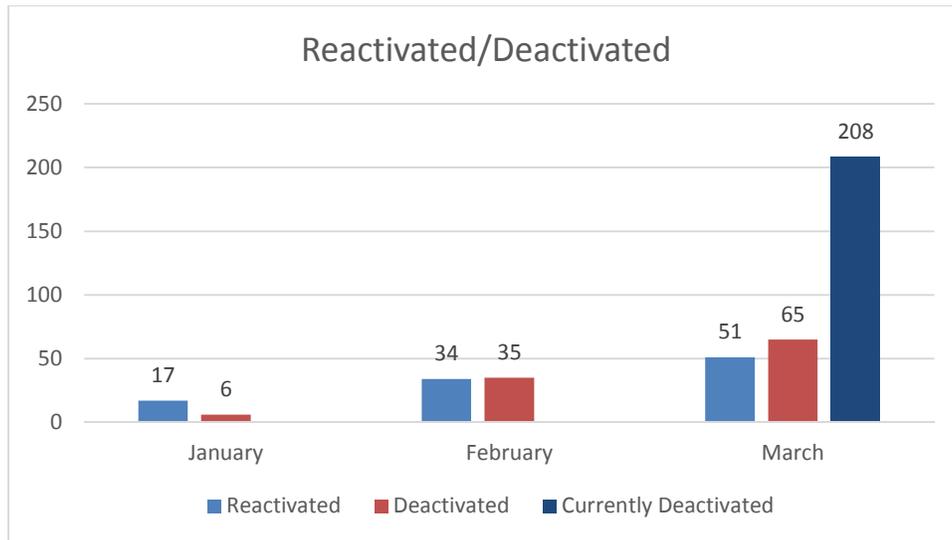


IT Security Office:

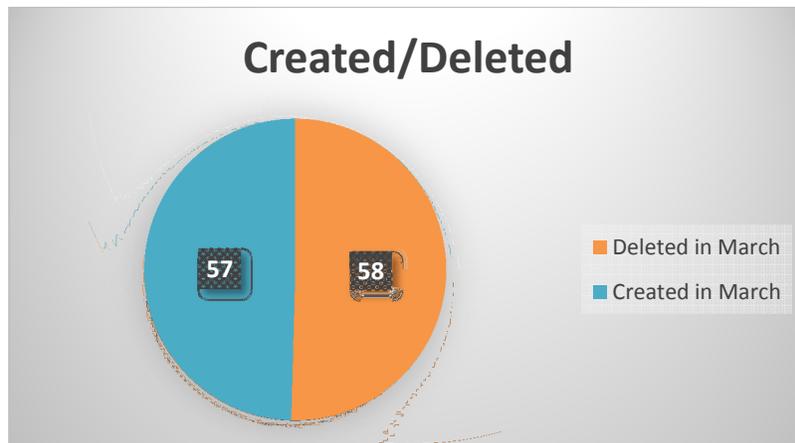
Account Management Team Highlights

- Katrena Plummer has been instrumental in keeping the team caught up with logon / reactivation / deactivation requests.
- Terry Gaona has been working diligently with the mainframe database account cleanup effort. The CCS database cleanup has been completed, and work is currently being done on the M204 Student Banking database (KACE # 50045) and Alleged Mistreatment (AIM) Old and New databases.
- Sedric Taylor has been instrumental in building roles based on position using assigned access and data collected from the Access Control Matrix. Sedric also continues to work on a new combined logon request form using the Access Control Matrix data. In preparation to change logon ID from the user-j format (last name -first initial) to employee ID, 2000 user accounts now have the employee ID attribute populated. The team continues to work to populate the remaining accounts.

Automatically Disabled Due to Inactivity vs Requests to Reactivate Disabled Accounts

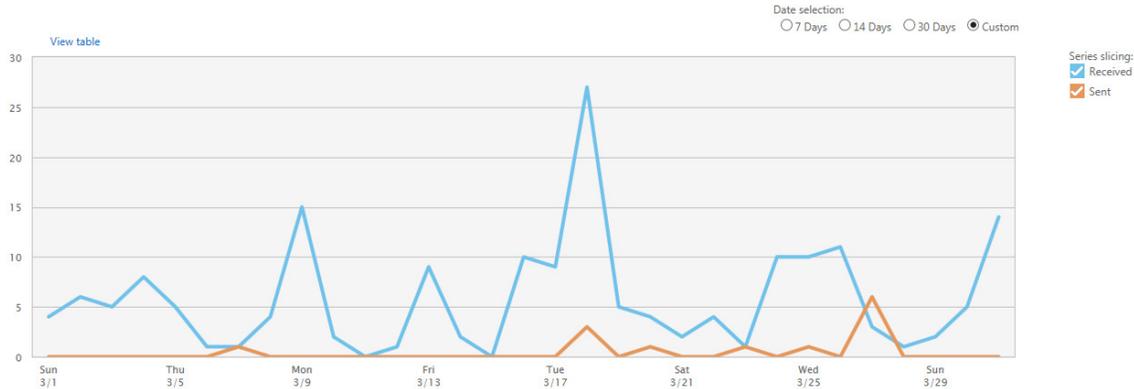


User Accounts Created VS User Accounts Deleted



Total Daily Malware Detections (March)

malware detections [ⓘ]

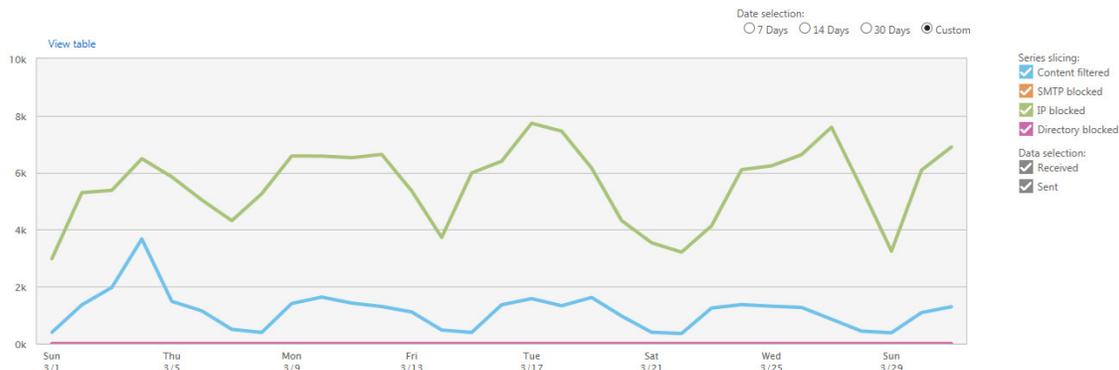


Peak of 17 emails received containing malware occurred on 2/13

- 13 emails were reported to contain malware on 2/11:
- 12 Senders were non-deliverable reports from "Postmaster" that were sent back to the originating sender external to TJJD. The malware was stripped and not returned with the email, but was included on this report.
- 1 was a non-delivered email from an internal account whose machine was scanned and cleaned from infection.

Total Daily Spam Detections (March)

spam detections [ⓘ]

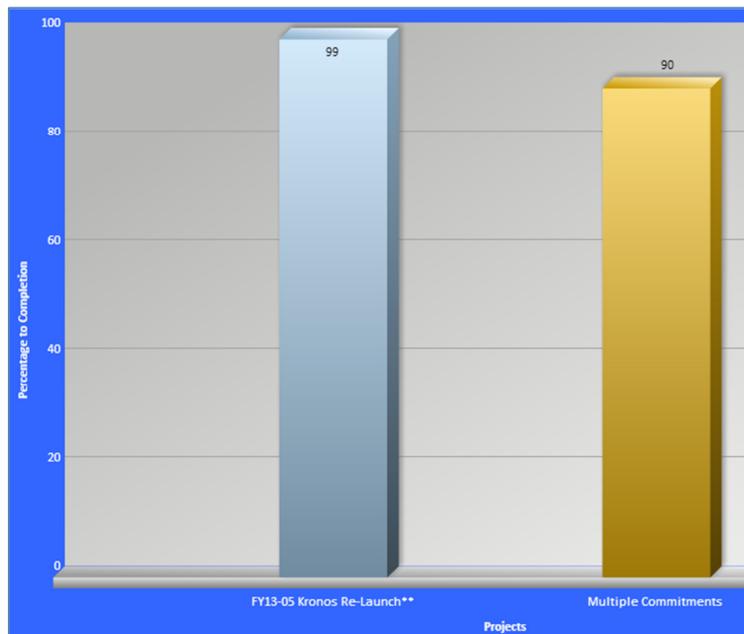


Green line = messages blocked based on IP addresses of known malware/spam identified by DIR
 Blue line = messages blocked based on rules matching email content

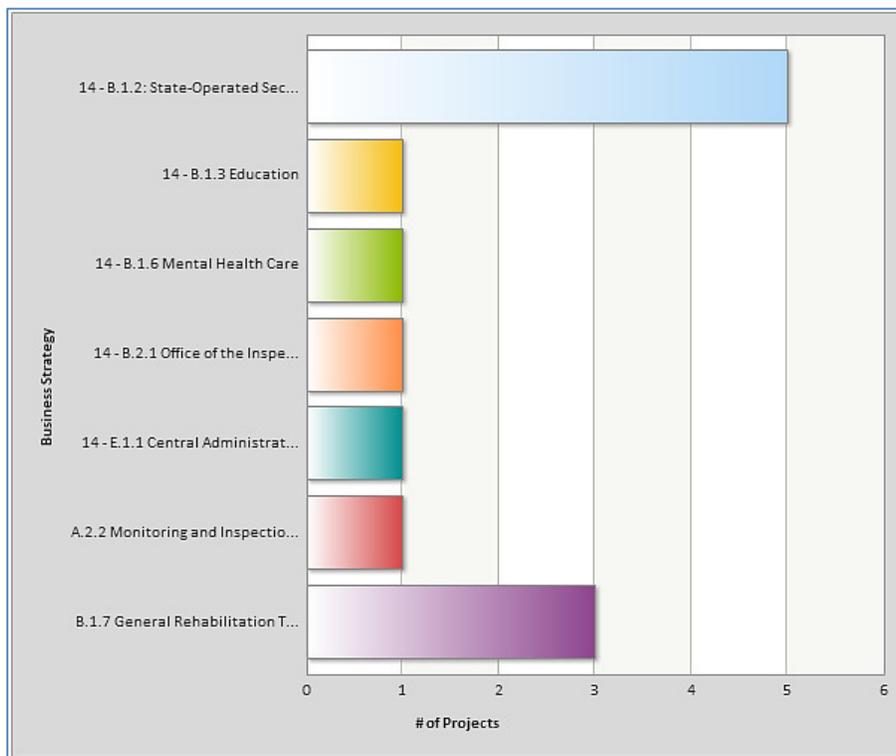
- A peak of 7734 emails received from known bad IP addresses occurred 3/17.
- A peak of 3676 email blocked due to content occurred 3/4.

Project Management:

Percentage to Completion of Active projects

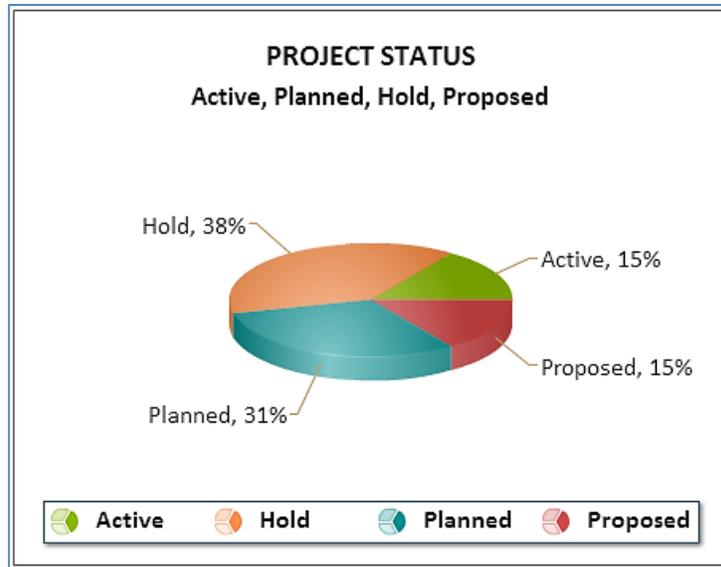


Business Strategies for All Projects Active, Planned, Proposed, and on Hold



Business strategy B.2.2 State-Operated Secured Facilities leads with 5 requested projects and B.1.7 General Rehabilitation Treatment Services has 3 requested projects.

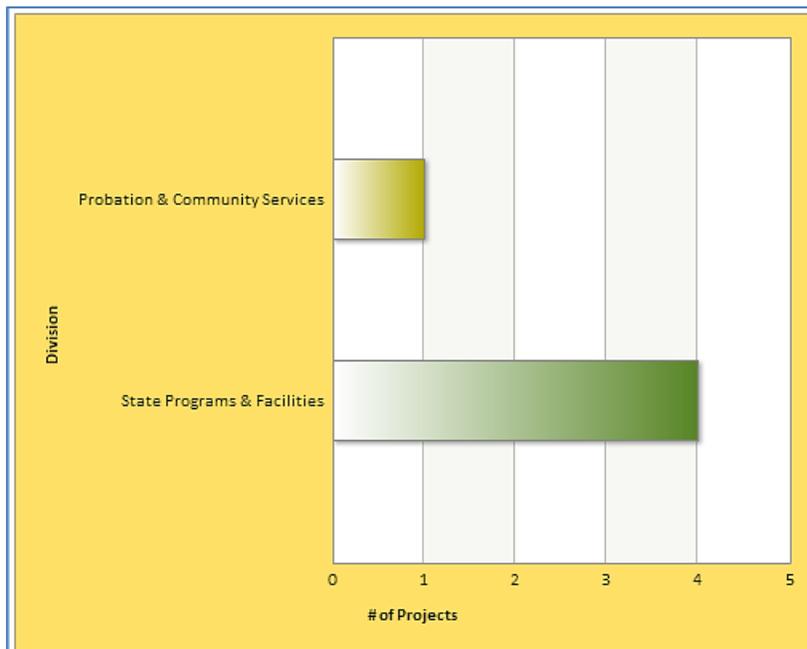
Pie chart of Projects Active, Planned, Proposed, and on Hold



Project Status Overview

- 2—Active [15%]
- 5—On Hold [38%] – 3 of these are related to changes involving the DSM5, which will be scoped into 1 larger project before we can continue with work requested, 1 is scheduled to be revisited with new available resources for knowledge transfer and status will change to “Active”, 1 is presently awaiting pre-work regarding the new platform that will be utilized for its build and will then move to a re-evaluation for its’ estimated start and completion target date determination.

Projects on Hold by Requesting Division





TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJJ Board Members

From: David Reilly, Executive Director
Mike Meyer, Chief Financial Officer

Subject: Updates from the Chief Financial Officer

Date: May 6, 2015

FY15 Expenditures. The Board will be provided with the April financial report no later than the meeting of the Finance and Audit Committee. Highlights from the report will be discussed at that meeting.

FY15 Year-End/CAPPS. Staff identified several potential difficulties in completing normal year-end activity that are specific to the CAPPS system but are tied to internal business processes. In particular, staff may be unable to enter contracts and purchase orders for the new fiscal year while the current fiscal year remains open without redesigning our indexing scheme. Staff are in discussion internally and with staff from the CPA's office to develop a solution.

FY16 Budget. Preparation of the agency's internal operating budget for fiscal year 2016 is underway. Initial departmental allocations based on historical and projected expenditures are being discussed with department heads. During the month of June, amounts will be reconciled to TJJJ's appropriations and budget structure, and finalized recommendations will be presented for approval at the August Board meeting.

Performance Measures. Second quarter output/efficiency measure highlights are presented at the end of this memo. Measures are grouped by those within 5 percent of the *General Appropriations Act* target, and those outside 5 percent of the target. Within each group, Probation measures appear first, followed by measures for State Programs and Facilities.

Appropriations. The following list summarizes actions related to TJJJ's appropriations between the last meeting of the Board and May 6, 2015. Most decisions related to the agency's budget

and funding allocations were expected to occur in the early part of May; further updates will be provided at the May Board meeting.

- Both the House and the Senate passed their respective versions of the state budget in early April. As expected, neither chamber adopted a specific structure or funding allocation for TJJJ, but rather retained the block funding rider with amounts reflective of their respective adjustments.
- TJJJ staff provided a proposal to leadership offices on April 15th (additional detail provided April 27th) that would allocate Senate funding across a modified budget structure. The new structure was designed to facilitate the implementation of CSSB 1630, address issues raised in TJJJ's HB 1 block funding rider, increase transparency in several areas of legislative interest, and better position the agency for future appropriations discussions. As far as staff were aware, the agency's proposal was the only proposal that had been developed.
- The budget Conference Committee met for the first time on April 28th. No specific information was provided on the structure of workgroup meetings or degree of agency involvement. The chairs' stated intent was to meet again to adopt recommendations within two to three weeks. It appeared that TJJJ staff would not be asked to attend workgroup meetings.
- Staff continued to meet with offices of leadership offices and budget conferees and had valuable opportunities to offer feedback on the direction of the policy and appropriations conversation. Meetings were encouraging and seemed to suggest that agency proposals were being seriously considered.
- CSSB 1630 was received in the House on April 15th, and was referred to the Committee on Juvenile Justice & Family Issues on May 1st. It had not yet been heard in committee but was likely to be heard the week of the 11th. The bill was awaiting a House sponsor. In addition to the structure of TJJJ's budget, staff were working on estimates of necessary startup funding to support initiatives under CSSB 1630.

Additional updates will be provided at the meeting of the Finance and Audit Committee as they are available.

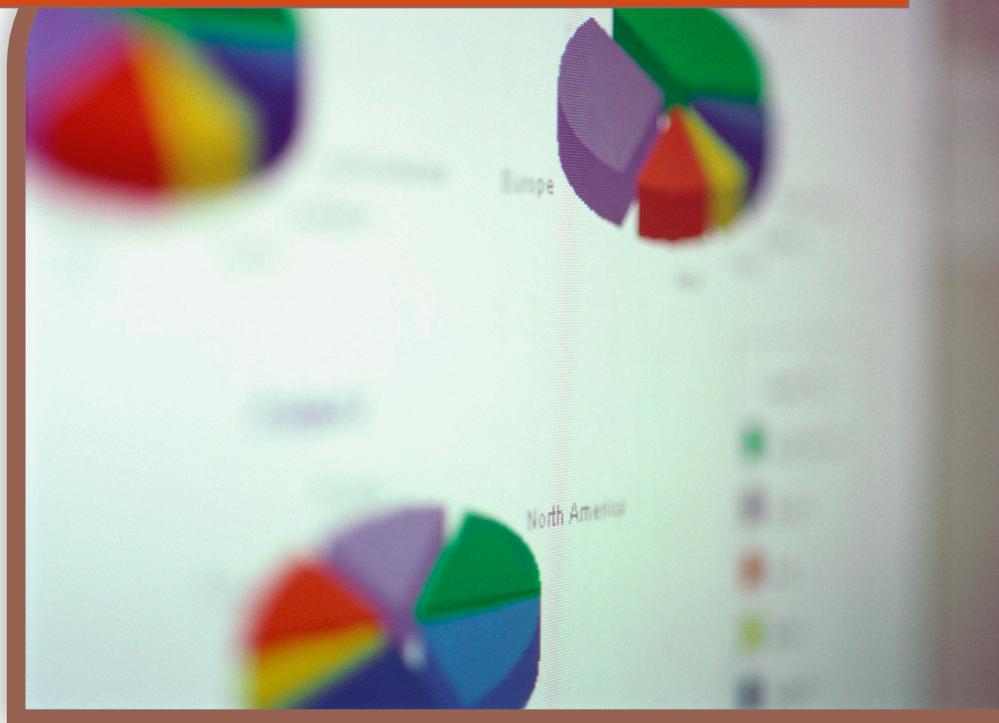
FY 2015 Second Quarter Performance Measure Highlights

Output/Efficiency Measures

Within 5% of the target:	Target	Actual	Pct of Target
ADP: Conditional Release	3,076.0	3,056.9	99.4%
ADP: Deferred Prosecution	6,758.0	6,853.8	101.4%
ADP: Court Ordered Probation	13,442.0	13,314.1	99.0%
CPD: Basic Supervision	\$5.40	\$5.17	95.7%
ADP: State-Operated Corrections Facility	1,045.0	1,018.0	97.4%
ADA: JJD Operated Schools	1,030.0	991.3	96.2%
ADP: Gen Rehabilitation Treatment	1,110.0	1,158.9	104.4%
CPD: State-Operated Correctional Facility	\$201.00	\$205.89	102.4%
CPD: Health Care Services Cost	\$19.46	\$18.85	96.9%
CPD: Mental Health (PSYCH)	\$2.00	\$1.93	96.5%
Outside 5% of target			
ADP: Residential Placement	2,800.0	2,061.8	73.6%
ADP: Commitment Diversion Initiatives	2,800.0	1,541.6	55.1%
CPD (State): Residential Placement	\$54.05	\$22.43	41.5%
CPD: Commitment Diversion	\$19.42	\$26.20	134.9%
ADP: Assessment/Orientation	100.0	75.8	75.8%
ADP: Halfway House Programs	196.0	122.0	62.3%
ADP: Specialized Treatment	1,000.0	881.5	88.1%
ADP: Contract Programs	78.0	94.7	121.3%
ADP: Parole	581.0	460.6	79.3%
CPD: Halfway Houses	\$131.73	\$205.49	156.0%
CPD: General Rehabilitation Treatment	\$16.79	\$19.98	119.0%
CPD: Specialized Treatment	\$15.68	\$14.89	95.0%
CPD: Contract Capacity	\$141.89	\$117.57	82.9%
CPD: Parole	\$18.34	\$21.41	116.7%

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Texas Juvenile Justice Department Financial Report FY 2015 through April 2015





Texas Juvenile Justice Department

TJJD Budget Status Highlights FY 2015 through April 30, 2015

- ◆ **Population:** As of the end of April 2015, TJJD's institutional Average Daily Population (ADP) was as follows:

	GAA* Target	Close of Business, 4.30.2015			Fiscal Year-to-Date		
		Actual	Over (Under)	Percent	Actual	Over (Under)	Percent
Secure Facilities	1,045	1,014	(31)	(2.9%)	1,015.3	(29.7)	(2.8%)
Halfway Houses	196	140	(56)	(28.5%)	125.9	(70.0)	(35.7%)
Contract Care	78	93	15	19.2%	94.3	16.4	21.1%
Total	1,319	1,247	(72)	(5.5%)	1,235.6	(83.5)	(6.3%)

These figures present a year-to-date total institutional population that is below projections, and a current total that is below projections by a lesser margin. This is reflective of a recent increase in institutional population. These figures indicate available capacity in state facilities, which is currently spread across all units except Ron Jackson. With regard to halfway houses and contract care, the figures above show a greater use of contract beds than originally projected, and a lesser use of halfway house beds.

- ◆ **Agency Expenditures:** TJJD expenditures through the end of April totaled \$213.7 million, including \$202.1 million in General Revenue. The following table shows how year-to-date expenditures compare to the agency's amended budget.

Expenditures as a Percentage of Amended Budget	All Goals	Goals B-E
General Revenue Only	68.5%	62.6%
All Methods of Finance	65.2%	60.4%

If monthly expenditures were even throughout the fiscal year we would expect the figures above to be 66 percent. Spending was below this threshold in all areas except for "All Goals" / General Revenue. This is because "All Goals" figures include probation grant distributions which are greater early in the fiscal year and predominately affect General Revenue. Looking at non-grant activities (Goals B-E), total expenditures were well within expectations. New this fiscal year, TJJD has a budgeted contingency to meet unanticipated needs. These funds currently total about \$1.4 million but will fluctuate over the course of the fiscal year.

- ◆ **FTEs and Overtime:** TJJD's appropriated and budgeted full-time equivalent (FTE) caps are 2,855.1 and 2,831.1, respectively. Actual FTEs as April 30th were 2,468.52 which is 386.58 below the GAA* cap and 362.58 below the budgeted FTE cap. The agency expended \$2.7 million in overtime through the end of April, or 99.9 percent of the current budget for this purpose. Juvenile Correctional Officers accounted for 92.3 percent of overtime spent. Additional funds will need to be set aside for this purpose from among salary dollars.
- ◆ **Construction Projects:** Approximately \$106,588 remains from repair and rehabilitation funding provided by the 81st Legislature. TJJD staff are concluding negotiations for architecture and engineering services for \$5.5 million in new projects funded by the 83rd Legislature. The agency expects to begin construction on some projects before the end of the fiscal year.

* General Appropriations Act

Average Daily Population

Facility	Actual											
	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG
Corsicana State Home												
Evins Regional Center	132	131	129	130	132	130	130	125				
Gainesville State School	255	244	246	243	244	244	244	229				
Giddings State School	209	211	213	209	204	200	200	205				
McLennan County SJCF	256	262	250	253	248	239	239	249				
Ron Jackson Unit I	173	186	195	182	169	188	188	206				
Total, Institutions	1,025	1,034	1,033	1,018	997	1,000	1,000	1,014				
Halfway Houses	120	123	132	123	116	118	134	140				
Total, TJJJ Operated Facilities	1,145	1,157	1,165	1,141	1,113	1,118	1,134	1,154				
Contract Care ADP	94	95	97	97	93	92	94	93				
TOTAL BUDGETED ADP	1,239	1,253	1,262	1,238	1,206	1,210	1,228	1,247				
GAA Population Targets	1,319	1,319	1,319	1,319	1,319	1,319	1,319	1,319				
Over (Under)	-80	-66	-57	-81	-113	-109	-91	-72				
Parole Services ADP	472	458	451	453	457	459	436	419				
GAA Population Targets	581	581	581	581	581	581	581	581				
Over (Under)	-109	-123	-130	-128	-124	-122	-145	-162				

Executive Summary By Strategy

		General Appropriations Act	Amended Budget	Expended/ Disbursed ² YTD	% Expended
<u>Strategies:</u>					
A.1.1	Prevention and Intervention	3,092,556	3,036,124	2,057,285	67.8%
A.1.2	Basic Supervision	45,844,595	45,844,595	33,604,973	73.3%
A.1.3	Community Programs	13,096,891	12,921,805	5,877,608	45.5%
A.1.4	Pre and Post Adjudication Facilities	59,733,847	59,763,847	44,263,112	74.1%
A.1.5	Commitment Diversion Programs	19,846,054	19,896,054	14,911,738	74.9%
A.1.6	JJAEP	8,614,302	8,614,302	3,714,136	43.1%
A.1.7	Mental Health Services	12,804,748	12,863,765	9,591,808	74.6%
B.1.1	Assessment & Orientation	1,804,161	2,100,317	1,262,894	60.1%
B.1.2	Facility Operations	76,665,848	78,114,207	50,829,532	65.1%
B.1.3	Education	16,953,047	16,746,296	9,645,596	57.6%
B.1.4	Halfway House Operations	9,423,608	9,702,933	6,091,292	62.8%
B.1.5	Health Care	9,645,738	9,112,624	5,492,719	60.3%
B.1.6	Mental Health (Psychiatric) Care	989,150	906,150	551,008	60.8%
B.1.7	General Rehabilitation Treatment	6,802,468	8,186,850	5,306,101	64.8%
B.1.8	Specialized Rehabilitation Treatment	5,724,350	5,313,731	3,177,494	59.8%
B.1.9	Contract Capacity	4,039,750	3,831,723	2,356,182	61.5%
B.1.10	Parole Services	3,889,053	4,357,628	2,427,631	55.7%
B.2.1	Office of the Inspector General	2,022,196	2,224,318	1,439,233	64.7%
B.2.2	Health Care Oversight	1,124,604	1,120,972	551,275	49.2%
B.3.1	Construct & Renovate Facilities	-	5,500,000	-	0.0%
C.1.1	Office of the Independent Ombudsman	438,831	526,097	325,693	61.9%
D.1.1	Training and Certification	963,585	1,230,065	854,437	69.5%
D.1.2	Monitoring and Inspections	3,335,906	3,249,989	2,062,475	63.5%
D.1.3	Interstate Agreement	283,998	245,726	152,064	61.9%
E.1.1	Central Administration	6,735,362	6,855,003	4,179,536	61.0%
E.1.2	Information Resources	5,429,686	5,585,664	2,927,920	52.4%
TOTAL - Strategy Budget		\$319,304,334	\$327,850,786	\$213,653,740	65.2%
<u>Method of Finance:</u>					
	General Revenue	290,632,958	295,125,614	202,120,578	68.5%
	Federal Funds	13,196,661	12,178,689	4,671,905	38.4%
	Criminal Justice Grants	-	75,780	46,649	61.6%
	General Obligation Bonds	-	5,500,000	-	0.0%
	Appropriated Receipts	1,628,913	1,279,900	20,679	1.6%
	Interagency Contracts	13,845,802	13,690,802	6,793,929	49.6%
TOTAL - Method of Finance		\$319,304,334	\$327,850,786	\$213,653,740	65.2%

Notes:

1. The normal range is +/- 5% of the straight-line projection of 66% for April.
2. Amounts reflect grant funds disbursed to the counties.
3. Red represents areas \geq (greater than or equal to) 70%.

Executive Summary By Strategy and Method of Finance

<u>Strategies:</u>	General Appropriation Act	Amended Budget	Expended/ Disbursed/ YTD	% Expended
A.1.1. Prevention and Intervention				
General Revenue	3,092,556	3,036,124	2,057,285	
Subtotal	3,092,556	3,036,124	2,057,285	67.8%
A.1.2. Basic Supervision				
General Revenue	44,694,595	44,694,595	33,604,973	
Appropriated Receipts	1,150,000	1,150,000	-	
Subtotal	45,844,595	45,844,595	33,604,973	73.3%
A.1.3. Community Programs				
General Revenue	6,096,891	6,021,891	4,452,720	
Federal Funds	7,000,000	6,899,914	1,424,887	
Subtotal	13,096,891	12,921,805	5,877,608	45.5%
A.1.4. Pre and Post Adjudication Facilities				
General Revenue	59,733,847	59,763,847	44,263,112	
Subtotal	59,733,847	59,763,847	44,263,112	74.1%
A.1.5. Commitment Diversion Initiatives				
General Revenue	19,846,054	19,896,054	14,911,738	
Subtotal	19,846,054	19,896,054	14,911,738	74.9%
A.1.6. JJAEP				
Interagency Contracts	8,614,302	8,614,302	3,714,136	
Subtotal	8,614,302	8,614,302	3,714,136	43.1%
A.1.7. Mental Health Services				
General Revenue	12,804,748	12,863,765	9,591,808	
Subtotal	12,804,748	12,863,765	9,591,808	74.6%
B.1.1. Assessment, Orientation, Placement				
General Revenue	1,804,161	2,100,317	1,262,894	
Subtotal	1,804,161	2,100,317	1,262,894	60.1%
B.1.2. State Operated Secure Operations				
General Revenue	74,253,249	76,026,900	49,304,157	
Federal Funds	2,028,686	1,967,807	1,504,960	
Appropriated Receipts	383,913	119,500	20,415	
Subtotal	76,665,848	78,114,207	50,829,532	65.1%
B.1.3. Education				
General Revenue	10,402,547	10,038,009	5,811,599	
Federal Funds	2,010,000	2,322,787	1,161,089	
Interagency Contracts	4,540,500	4,385,500	2,672,908	
Subtotal	16,953,047	16,746,296	9,645,596	57.6%

Executive Summary By Strategy and Method of Finance

Strategies:	General Appropriation Act	Amended Budget	Expended/ Disbursed YTD	% Expended
B.1.4. Halfway House Operations				
General Revenue	9,023,633	9,460,442	5,944,933	
Federal Funds	399,975	232,091	146,095	
Appropriated Receipts		10,400	265	
Subtotal	9,423,608	9,702,933	6,091,292	62.8%
B.1.5. Health Care				
General Revenue	9,645,738	9,112,624	5,492,719	
Subtotal	9,645,738	9,112,624	5,492,719	60.3%
B.1.6. Mental Health (Psychiatric) Care				
General Revenue	989,150	906,150	551,008	
Subtotal	989,150	906,150	551,008	60.8%
B.1.7. General Rehabilitation Treatment				
General Revenue	6,802,468	8,164,153	5,288,857	
Federal Funds	-	22,697	17,243	
Subtotal	6,802,468	8,186,850	5,306,101	64.8%
B.1.8. Specialized Rehabilitation Treatment				
General Revenue	5,033,350	4,622,731	2,770,608	
Interagency Contracts	691,000	691,000	406,885	
Subtotal	5,724,350	5,313,731	3,177,494	59.8%
B.1.9. Contract Capacity				
General Revenue	2,281,750	3,264,263	2,102,437	
Federal Funds	1,758,000	567,460	253,744	
Subtotal	4,039,750	3,831,723	2,356,182	61.5%
B.1.10. Parole Services				
General Revenue	3,889,053	4,291,780	2,363,831	
Federal Funds	-	65,848	63,801	
Subtotal	3,889,053	4,357,628	2,427,631	55.7%
B.2.1. Office of the Inspector General				
General Revenue	2,022,196	2,224,318	1,439,233	
Subtotal	2,022,196	2,224,318	1,439,233	64.7%
B.2.2. Health Care Oversight				
General Revenue	1,124,604	1,120,972	551,275	
Subtotal	1,124,604	1,120,972	551,275	49.2%
B.3.1. Construct & Renovate Facilities				
General Obligation Bonds	-	5,500,000	-	
Subtotal	-	5,500,000	-	0.0%
C.1.1. Office of the Independent Ombudsman				
General Revenue	438,831	450,317	279,044	
Criminal Justice Grants	-	75,780	46,649	
Subtotal	438,831	526,097	325,693	61.9%

Executive Summary By Strategy and Method of Finance

		General Appropriation Act	Amended Budget	Expended/ Disbursed YTD	% Expended
<u>Strategies:</u>					
D.1.1. Training and Certification					
	General Revenue	868,585	1,230,065	854,437	
	Appropriated Receipts	95,000	-	-	
	Subtotal	963,585	1,230,065	854,437	69.5%
D.1.2. Monitoring and Inspections					
	General Revenue	3,335,906	3,149,903	1,962,389	
	Federal Funds	-	100,086	100,086	
	Subtotal	3,335,906	3,249,989	2,062,475	63.5%
D.1.3. Interstate Agreement					
	General Revenue	283,998	245,726	152,064	
	Subtotal	283,998	245,726	152,064	61.9%
E.1.1. Central Administration					
	General Revenue	6,735,362	6,855,003	4,179,536	
	Subtotal	6,735,362	6,855,003	4,179,536	61.0%
E.1.2. Information Resources					
	General Revenue	5,429,686	5,585,664	2,927,920	
	Subtotal	5,429,686	5,585,664	2,927,920	52.4%
	Total - Strategy Budget	319,304,334	327,850,786	213,653,740	65.2%
<u>Method of Finance:</u>					
	General Revenue	290,632,958	295,125,614	202,120,578	68.5%
	Federal Funds	13,196,661	12,178,689	4,671,905	38.4%
	Criminal Justice Grants	-	75,780	46,649	61.6%
	General Obligation Bonds	-	5,500,000	-	0.0%
	Appropriated Receipts	1,628,913	1,279,900	20,679	1.6%
	Interagency Contracts	13,845,802	13,690,802	6,793,929	49.6%
	Total - Method of Finance	319,304,334	\$327,850,786	\$213,653,740	65.2%

Notes:

1. The normal range is +/- 5% of the straight-line projection of 66% for April.
2. Amounts reflect grant funds disbursed to the counties.
3. Red represents areas \geq (greater than or equal to) 70%.

Executive Summary By Location

<u>Location/Program:</u>	<u>Amended Budget</u>	<u>Expended/ Disbursed YTD</u>	<u>% Expended</u>
Ron Jackson State School	20,116,079	13,062,984	64.9%
Gainesville State School	18,843,696	11,984,295	63.6%
Giddings State School	20,116,847	12,937,215	64.3%
Evins Regional State School	15,167,993	9,752,237	64.3%
Corsicana State School	326,538	184,554	56.5%
McLennan Cnty State School	21,294,883	13,403,428	62.9%
McLennan Cnty State Treatment Center	7,101,847	4,720,702	66.5%
Phoenix Facility	1,815,378	1,194,669	65.8%
Subtotal - State-Operated Secure Facilities	\$104,783,261	\$67,240,083	64.2%
Halfway House Operations	10,930,435	6,777,396	62.0%
Contract Care	4,176,131	2,648,448	63.4%
Parole	4,078,027	2,282,306	56.0%
County Disbursements	161,883,876	113,714,648	70.2%
Austin Office ³	41,999,055	20,990,859	50.0%
TOTAL	\$327,850,786	\$213,653,740	65.2%

Notes:

1. The normal range is +/- 5% of the straight-line projection of 66% for April.

2. Red represents areas \geq (greater than or equal to) 70%.

3. Central Office includes expenses related to direct and indirect administrative functions, construction and capital projects, closed facilities, and other statewide administrative costs such as unemployment, worker's compensation and contingency.

Executive Summary By Program

Strategy/Program	Amended Budget	Expended/ Disbursed YTD	% Expended
A.1.1 Prevention and Intervention			
Grants	2,934,508	1,992,989	67.9%
Austin Office	96,466	62,040	64.3%
Contingency	1,821	-	0.0%
SORM / Unemployment	3,329	2,255	67.7%
Subtotal - Strategy	3,036,124	2,057,285	67.8%
A.1.2 Basic Supervision			
County Refunds	1,150,000	-	0.0%
Subtotal - Strategy	45,844,595	33,604,973	73.3%
A.1.3 Community Programs			
Title IV-E	6,899,914	1,424,887	20.7%
Subtotal - Strategy	12,921,805	5,877,608	45.5%
A.1.4 Pre and Post Adjudication Facilities			
JCMS	955,000	241,716	25.3%
Subtotal - Strategy	59,763,847	44,263,112	74.1%
A.1.5 Commitment Diversion Programs			
	19,896,054	14,911,738	74.9%
A.1.6 JJAEP			
County Grants	4,616,573	-	0.0%
Subtotal - Strategy	8,614,302	3,714,136	43.1%
A.1.7 Mental Health Services			
	12,863,765	9,591,808	74.6%
B.1.1 Assessment & Orientation			
Ron Jackson Unit Girls	145,492	77,095	53.0%
Ron Jackson Unit Boys	1,682,013	1,047,140	62.3%
Automated Assessment - Assessment.com	99,934	93,308	93.4%
Contingency	105,326	-	0.0%
SORM / Unemployment	67,553	45,351	67.1%
Subtotal - Strategy	2,100,317	1,262,894	60.1%
B.1.2 Facility Operations			
Ron Jackson Unit I	12,519,630	8,276,000	66.1%
Gainesville State School	13,126,710	8,499,626	64.8%
Giddings State School	14,259,751	9,265,561	65.0%
Evins Regional Juvenile Center	10,821,902	7,069,260	65.3%
Corsicana Treatment Center	326,538	184,554	56.5%
Mart Complex	14,511,107	9,410,076	64.8%
MTC	5,572,359	3,691,266	66.2%
Phoenix Program	1,388,889	921,997	66.4%
Austin Office	1,990,068	1,190,179	59.8%
Regions	317,471	211,032	66.5%
Riders	119,500	20,415	17.1%
Data Center Services	418,030	418,030	100.0%
Contingency	226,639	-	0.0%
SORM / Unemployment	2,515,613	1,671,536	66.4%
Subtotal - Strategy	78,114,207	50,829,532	65.1%

Executive Summary By Program

Strategy/Program	Amended Budget	Expended/ Disbursed YTD	% Expended
B.1.3 Education			
Ron Jackson Unit I	2,112,846	1,195,600	56.6%
Gainesville State School	2,495,541	1,416,799	56.8%
Giddings State School	2,317,549	1,516,188	65.4%
Evins Regional Juvenile Center	1,800,364	1,128,511	62.7%
Mart Complex	2,139,851	1,322,029	61.8%
MTC	1,126,073	786,250	69.8%
Federal Education Grants	2,322,787	1,161,089	50.0%
Halfway House Services	127,928	27,984	21.9%
Phoenix Program	216,489	136,121	62.9%
Parole	171,222	77,903	45.5%
Austin Office	807,183	449,089	55.6%
Contingency	496,561	-	0.0%
SORM / Unemployment	611,902	428,034	70.0%
Subtotal - Strategy	16,746,296	9,645,596	57.6%
B.1.4 Halfway House Operations			
Halfway House Services	9,365,599	5,905,894	63.1%
Riders	10,400	265	2.5%
Contingency	68,241	-	0.0%
SORM / Unemployment	258,693	185,134	71.6%
Subtotal - Strategy	9,702,933	6,091,292	62.8%
B.1.5 Health Care			
Ron Jackson Unit I	1,990,778	1,419,927	71.3%
Gainesville State School	1,519,092	962,660	63.4%
Giddings State School	1,359,565	845,816	62.2%
Evins Regional Juvenile Center	1,343,510	792,643	59.0%
Mart Complex	2,540,179	1,307,317	51.5%
Halfway House Services	194,500	105,976	54.5%
Contract Care Services	165,000	58,379	35.4%
Subtotal - Strategy	9,112,624	5,492,719	60.3%
B.1.6 Mental Health (Psychiatric) Care			
Ron Jackson Unit I	175,000	118,105	67.5%
Gainesville State School	95,000	58,618	61.7%
Giddings State School	50,000	25,619	51.2%
Evins Regional Juvenile Center	52,295	18,361	35.1%
Mart Complex	335,000	243,611	72.7%
Halfway House Services	90,000	33,401	37.1%
Contract Care Services	90,000	53,294	59.2%
Contingency	18,855	-	0.0%
Subtotal - Strategy	906,150	551,008	60.8%
B.1.7 General Rehabilitation Treatment			
Ron Jackson Unit I	802,658	544,152	67.8%
Gainesville State School	1,301,147	858,301	66.0%
Giddings State School	1,152,944	742,351	64.4%
Evins Regional Juvenile Center	971,111	624,412	64.3%
Mart Complex	1,113,467	699,660	62.8%
MTC	380,523	243,186	63.9%
Phoenix Program	209,999	136,550	65.0%
Contract Care Services	654,835	442,676	67.6%
Halfway House Services	490,404	318,484	64.9%
HOGG	22,697	17,243	76.0%
Austin Office	786,984	497,100	63.2%
Contingency	27,400	-	0.0%
SORM / Unemployment	272,681	181,986	66.7%
Subtotal - Strategy	8,186,850	5,306,101	64.8%

Executive Summary By Program

Strategy/Program	Amended Budget	Expended/ Disbursed YTD	% Expended
B.1.8 Specialized Rehabilitation Treatment			
Ron Jackson Unit I	482,403	291,657	60.5%
Gainesville State School	306,205	188,292	61.5%
Giddings State School	977,038	541,679	55.4%
Evins Regional Juvenile Center	178,812	119,051	66.6%
Mart Complex	655,280	420,735	64.2%
MTC	841,980	522,273	62.0%
Contract Care Services	22,893	-	0.0%
Halfway House Services	662,003	385,657	58.3%
Austin Office	294,548	180,429	61.3%
DSHS	691,000	406,885	61.3%
Contingency	20,596	-	0.0%
SORM / Unemployment	180,973	120,835	66.8%
	5,313,731	3,177,494	59.8%
B.1.9 Contract Capacity			
Contract Care Administration/Residential	3,243,403	2,094,099	64.6%
Title IV-E Contract Care	517,044	221,747	42.9%
Title IV-E - Austin Office	48,802	30,787	63.1%
Contingency	8,459	-	0.0%
SORM / Unemployment	14,014	9,548	68.1%
Subtotal - Strategy	3,831,723	2,356,182	61.5%
B.1.10 Parole Services			
Parole	3,906,805	2,204,403	56.4%
PBIS	225,534	98,119	43.5%
GitRedy Grant - OJJDP	65,848	63,801	96.9%
Contingency	74,588	-	0.0%
SORM / Unemployment	84,853	61,308	72.3%
Subtotal - Strategy	4,357,628	2,427,631	55.7%
B.2.1 Office of the Inspector General			
Office of Inspector General	2,148,169	1,393,709	64.9%
Contingency	9,370	-	0.0%
SORM / Unemployment	66,779	45,523	68.2%
Subtotal - Strategy	2,224,318	1,439,233	64.7%

Executive Summary By Program

Strategy/Program	Amended Budget	Expended/ Disbursed YTD	% Expended
B.2.2 Health Care Oversight			
Austin Office	899,219	529,228	58.9%
Contingency	189,419	-	0.0%
SORM / Unemployment	32,334	22,047	68.2%
Subtotal - Strategy	1,120,972	551,275	49.2%
B.3.1 Construct & Renovate Facilities			
Repair and Rehab	5,500,000	-	0.0%
Subtotal - Strategy	5,500,000	-	0.0%
C.1.1 Office of the Independent Ombudsman			
Austin Office	425,601	269,316	63.3%
CJD - OIO Expanded Services	75,780	46,649	61.6%
Contingency	14,264	9,729	68.2%
SORM / Unemployment	10,452	-	0.0%
Subtotal - Strategy	526,097	325,693	61.9%
D.1.1 Training and Certification			
Training and Certification	1,186,554	827,818	69.8%
Contingency	6,107	-	0.0%
SORM / Unemployment	37,404	26,618	71.2%
Subtotal - Strategy	1,230,065	854,437	69.5%
D.1.2 Monitoring and Inspections			
Monitoring and Inspection	3,019,114	1,889,191	62.6%
Title IV-E	100,086	100,086	100.0%
Contingency	26,648	-	0.0%
SORM / Unemployment	104,141	73,198	70.3%
Subtotal - Strategy	3,249,989	2,062,475	63.5%
D.1.3 Interstate Agreement			
Interstate Compact	236,341	147,088	62.2%
Contingency	2,076	-	0.0%
SORM / Unemployment	7,309	4,976	68.1%
Subtotal - Strategy	245,726	152,064	61.9%
E.1.1 Central Administration			
Austin Office	6,567,583	4,036,435	61.5%
Contingency	80,077	-	0.0%
SORM / Unemployment	207,342	143,102	69.0%
Subtotal - Strategy	6,855,003	4,179,536	61.0%
E.1.2 Information Resources			
Management Information Resources	3,374,206	1,936,445	57.4%
Data Center Services	1,657,960	766,295	46.2%
JCMS	375,000	150,000	40.0%
Contingency	70,163	-	0.0%
SORM / Unemployment	108,336	75,181	69.4%
Subtotal - Strategy	5,585,664	2,927,920	52.4%
TOTAL - TJJD	327,850,786	213,653,740	65.2%

Executive Summary By Program

Strategy/Program	Amended Budget	Expended/ Disbursed YTD	% Expended
<i>Method of Finance:</i>			
General Revenue	295,125,614	202,120,578	68.5%
Federal Funds	12,178,689	4,671,905	38.4%
Criminal Justice Grants	75,780	46,649	61.6%
General Obligation Bonds	5,500,000	-	0.0%
Appropriated Receipts	1,279,900	20,679	1.6%
Interagency Contracts	13,690,802	6,793,929	49.6%
TOTAL - Method of Finance	327,850,786	\$213,653,740	65.2%

	Amended Budget	Expended/ Disbursed YTD *	% Expended
Goal A: Community Juvenile Justice	162,940,492	114,020,659	70.0%
Goal B: State Services and Facilities	147,217,750	89,130,955	60.5%
Goal C: Office of the Independent Ombudsman	526,097	325,693	61.9%
Goal D: Juvenile Justice System	4,725,780	3,068,975	64.9%
Goal E: Indirect Administration	12,440,667	7,107,457	57.1%
TOTAL - Goal Summary	327,850,786	213,653,740	65.2%

1. The normal range is +/- 5% of the straight-line projection of 66% for April.
2. Red represents areas greater than or equal to 70%

FTE Report

Facility	JCOs			Case Managers			Education			All Other			TOTAL TJJD		
	USPS	Mon FTE	Vacant	USPS	Mon FTE	Vacant	USPS	Mon FTE	Vacant	USPS	Mon FTE	Vacant	USPS	Mon FTE	Vacant
Ron Jackson I	248.00	228.42	19.58	30.00	28.00	2.00	31.00	25.00	6.00	107.00	96.00	11.00	416.00	377.42	38.58
Al Price	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gainesville	250.60	203.60	47.00	29.00	25.00	4.00	43.00	32.00	11.00	85.00	71.94	13.06	407.60	332.54	75.06
Giddings	277.60	245.71	31.89	25.00	20.00	5.00	44.00	35.98	8.02	96.50	81.50	15.00	443.10	383.19	59.91
Evins	179.00	165.34	13.66	16.00	16.00	-	30.00	27.57	2.43	76.00	67.00	9.00	301.00	275.91	25.09
Crockett	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Corsicana	-	-	-	-	-	-	-	-	-	3.00	3.00	-	3.00	3.00	-
McLennan	407.00	348.63	58.37	43.00	39.00	4.00	64.00	54.07	9.93	143.00	125.00	18.00	657.00	566.70	90.30
Halfway Houses	129.00	119.00	10.00	21.00	18.95	2.05	-	-	-	63.00	49.00	14.00	213.00	186.95	26.05
Contract Care	-	-	-	-	-	-	-	-	-	8.00	5.00	3.00	8.00	5.00	3.00
Parole	-	-	-	-	-	-	-	-	-	56.00	47.00	9.00	56.00	47.00	9.00
Inspector General Regions	-	-	-	-	-	-	-	-	-	24.00	23.00	1.00	24.00	23.00	1.00
Central Office Regions	-	-	-	-	-	-	-	-	-	2.00	5.00	(3.00)	2.00	5.00	(3.00)
Central Office	-	-	-	-	-	-	-	-	-	294.30	262.81	31.49	294.30	262.81	31.49
TOTAL	1,491.20	1,310.70	180.50	164.00	146.95	17.05	212.00	174.62	37.38	957.80	836.25	121.55	2,825.00	2,468.52	356.48

Summary by Month:	USPS	Actual	Vacant
September	2,824.60	2,462.69	361.91
October	2,827.10	2,415.17	411.93
November	2,829.10	2,484.65	344.45
December	2,824.10	2,450.13	373.97
January	2,825.60	2,486.04	339.56
February	2,836.60	2,491.15	345.45
March	2,824.00	2,492.09	331.91
April	2,825.00	2,468.52	356.48
May			0.00
June			0.00
July			0.00
August			

General Appropriations Act (GAA) FTE CAP	2,855.10
Under/(Over) GAA FTE CAP	386.58
Budgeted FTE CAP	2,831.10
Under/(Over) Budgeted FTE CAP	362.58

Overtime Report

Facility	Original Budget	Budget Amendments	Amended Budget	Expended JCOs	Expended Non-JCOs	Total Expended	Balance	%
								Expended
Ron Jackson Unit I (21)	350,000	-	350,000	206,651	17,712	224,363	125,637	64.1%
Gainesville State School (24)	350,000	-	350,000	427,027	53,239	480,266	(130,266)	137.2%
Giddings State School (25)	500,000	-	500,000	381,448	30,237	411,685	88,315	82.3%
Evins Regional Juvenile Center (27)	500,000	-	500,000	636,234	33,076	669,310	(169,310)	133.9%
Corsicana Treatment Center (31)	-	-	-	-	-	-	-	
McLennan Cnty State Juv Corr Facility (34)	800,000	-	800,000	759,839	35,096	794,936	5,064	99.4%
Halfway Houses (51-61)	160,000	-	160,000	56,955	15,163	72,118	87,882	45.1%
Central Office (11)	-	-	-	-	8,229	8,229	(8,229)	
Service Regions (41-44)	-	-	-	-	6,623	6,623	(6,623)	
Office of Inspector General (Field)	15,000	-	15,000	-	5,385	5,385	9,615	35.9%
TOTAL	2,675,000	-	2,675,000	2,468,154	204,760	2,672,914	2,086	99.9%

NOTES:

1. The normal range is +/- 5% of the straight-line projection of 66% for April.
2. Red represents areas greater than or equal to 70%
3. Overtime does not count against FTE cap.

Construction Report

Capital Construction Projects 80th Legislative Session

#1 - Repair and Rehabilitation of Existing Facilities, Fund 7628

Appropriation Authority - GAA, Art. IX, Sec. 19.70, Proposition 8
Expires August 31, 2014

TPFA Approval December 2007
BRB Approval January 2008
A&E Contracts June 2009 & February 2010

Construction Contract
Group I Contract date: 06/10 - 100% complete.
Group II Contract date: 03/11 - 100% complete.
Group III Contract date: 01/11 - 100% complete.

This fund was closed on 8/31/2014, fully expended.

	Operating Budget					Total	Expended & Enc.	Pending Projects	Balance
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012				
Budget									
Professional Fees - Design		389,561	421,299			810,860	810,860		0
Salaries & Personnel Costs				180,130		180,130	180,130		0
Travel				0		0			0
Construction Contracts	144,743	201,850	3,186,981	4,823,103	468,349	8,825,026	8,825,026		0
Total	144,743	591,411	3,608,280	5,003,233	468,349	9,816,016	9,816,016	0	0

#2 - Remodel Existing Dormitories in TYC Facilities, Fund 7628

Appropriation Authority - GAA, Art. IX, Sec. 19.70, Proposition 8
Expires August 31, 2014

TPFA Approval December 2007
BRB Approval January 2008
A&E Contract June 2007

Construction Contract
Phase I (large dorms) Contract date: 02/08. 100% complete.
Phase II (small dorms) Contract date: 06/12. 100% complete.

This fund was closed on 8/31/2014, fully expended.

	Operating Budget					Total	Expended & Enc.	Pending Projects	Balance
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012				
Budget									
Professional Fees - Design	45,496		163,869		320	209,685	209,685		0
Professional Fees - TDCJ Management	360,290					360,290	360,290		0
Salaries & Personnel Costs			126,726		8,023	134,749	134,749		0
Travel			1,895	6,285		8,180	8,180		0
Construction Contracts	15,973,132	522,371	34,236		2,757,357	19,287,096	19,287,096		0
Total	16,378,918	522,371	326,726	6,285	2,765,700	20,000,000	20,000,000	0	0

#3a - Construct New Recreation Building at Ron Jackson, Fund 7637

Appropriation Authority - GAA, Art. IX, Sec. 19.71, SJR 65, SB 2033
Expires August 31, 2014

TPFA Approval November 2008
BRB Approval November 2009
A&E Contract January 2010
Construction Contract Alternate A/E firm selected 11/10. On Hold. Project Cancelled.

	Operating Budget					Total	Expended & Enc.	Pending Projects	Balance
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012				
Budget									
Professional Fees - Design			6,300			6,300	6,300		0
Construction Contracts \$1,069,208 Budget transferred to McLennan on 8/16/12.						0			0
Total			6,300	0	0	6,300	6,300	0	0

Construction Report

80th Legislative Session - continued

#3b - Construct Addition to Existing Recreation Building at McLennan, Fund 7637

Appropriation Authority - GAA, Art. IX, Sec. 19.71, SJR 65, SB 2033

Expires August 31, 2014

LBB Approval Letter received on August 16, 2012, regarding request to repurpose Ron Jackson budget for use at Mart.

TPFA Approval

BRB Approval

A&E Contract August 2012

Construction Contract August 2012

Budget

This project was completed on 7/31/2014, fully expended.

Professional Fees - Design Design was completed on 11/1/2012.

Construction Contracts Contract date: 08/12. 100% complete.

Professional Fees - Design			82,000			82,000	82,000		0
Construction Contracts			987,208			987,208	987,208		0
Total			<u>1,069,208</u>			<u>1,069,208</u>	<u>1,069,208</u>	<u>0</u>	<u>0</u>

#4 - Construct New Education Building at Crockett, Fund 7637

Appropriation Authority - GAA, Art. IX, Sec. 19.71, SJR 65, SB 2033

Expires August 31, 2014

TPFA Approval November 2008

BRB Approval January 2009

A&E Contract January 2010

Construction Contract Alternate A/E firm selected 11/10. On Hold. Project Cancelled.

Budget

We are awaiting a decision on repurposing the Crockett funds for use at the Corsicana facility.

Professional Fees - Design

Construction Contracts \$1,777,020 Budget Lapsed on 8/29/12.

Professional Fees - Design		10,191				10,191	10,191		0
Construction Contracts	1,714,301					1,714,301		1,714,301	
Total	<u>1,714,301</u>	<u>0</u>	<u>10,191</u>	<u>0</u>	<u>0</u>	<u>1,724,492</u>	<u>10,191</u>	<u>0</u>	<u>1,714,301</u>

Capital Construction Projects

81st Legislative Session

#5 - Repair and Rehabilitation of Existing TYC Facilities, Fund 7645

Appropriation Authority - GAA, Art. IX, Sec. 17.11, Proposition 4

Expires August 31, 2015

TPFA Approval December 2009

BRB Approval January 2010

A&E Contract May 2010

Construction Contract Contracts combined 80th and 81st projects

Group I On-going.

Group II On-going.

Group III On-going.

Budget

	Operating Budget						Total	Expended & Enc.	Pending Projects	Balance
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015				
Professional Fees - Design	261,514		19,834			4,811	286,159	286,159		0
Salaries & Personnel Costs			21,909				21,909	21,909		0
Travel							0			0
Construction Contracts - FEMA		43,632	20,514	78,936	452,441	293,078	888,601	834,834	43,000	10,767
Construction Contracts	500,909	2,369,636	635,633	629,652	527,875	892,946	5,556,651	5,202,076	258,754	95,821
Total	<u>762,423</u>	<u>2,413,268</u>	<u>697,890</u>	<u>708,588</u>	<u>980,316</u>	<u>1,190,835</u>	<u>6,753,320</u>	<u>6,344,978</u>	<u>301,754</u>	<u>106,588</u>

* Group I: Gainesville

Group II: Evins, Giddings, and Mart

Group III: Corsicana, and Ron Jackson

Construction Report

Capital Construction Projects
83rd Legislative Session

[#6 - Repair and Rehabilitation of Existing Facilities, Fund 7663](#)

Appropriation Authority - GAA, Art. IX, Sec. 17.02.

Expires August 31, 2015 contingent on Rider UB authority

TPFA Approval June 2014

BRB Approval September 2014

A&E Contract pending

Construction Contract

Group I

Group II

Group III

Budget

Professional Fees - Design

	Operating Budget					Total	Expended & Enc.	Pending Projects	Balance
	FY 2014	FY 2015	FY 2016	FY 2017					
Professional Fees - Design	374,500					374,500			374,500
						0			0
						0			0
Construction Contracts	4,125,500					4,125,500			4,125,500
DVR System Maintenance	1,000,000					1,000,000			1,000,000
Total	5,500,000	0	0	0	0	5,500,000	0	0	5,500,000

TEXAS JUVENILE JUSTICE DEPARTMENT

Monthly Construction Program Status Report
FY 2010 - 2014
April 2015

Distribution

Scott W. Fisher, Chair

The Honorable John Brieden III

The Honorable Carol Bush

Becky Gregory

Jane Anderson King

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**Texas Juvenile Justice Department
Construction & Finance Departments**

TEXAS JUVENILE JUSTICE DEPARTMENT

Monthly Construction Program Status Report

April 2015

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A. Project Budgets/Status	Page 2.1 - 2.12
B. Program Budget Summary	Page 2.13

Published 5-8-2015

Executive Summary
Construction Projects Monthly Report
April 2015

This summary will explain current project activities and cost considerations. All projects are open for discussion during scheduled Board Committee Meetings as requested.

All major FY 10/11 bond funded construction projects at the Gainesville State School are complete. Minor bond funded projects including HVAC unit replacement on two buildings is underway and expected to complete by June 2015.

All major FY 10/11 bond funded construction projects at the Ron Jackson Facility are complete. Two small projects for Pride dorm (boy's security unit) were approved. These include a fenced-in exercise area and conversion of 6 dry cells into wet cells along the perimeter of the building. The projects were competitively bid. The exercise yard is complete and work on the wet cells is nearing completion. All work will complete in June 2015.

All major FY 10/11 bond funded construction projects at the Giddings State School are complete. One small project for HVAC work in the Education building was completed in April 2015. Other requested site improvement projects will be incorporated into the scope of work for the FY14/15 repair projects.

All major FY 10/11 bond funded construction projects at the Mart facility are complete. Modifications to the Vocational Building on side I for creation of a Culinary Arts program were designed in-house, bid and construction completed in March 2015. Additional small projects for security improvements to the side II vocational building will be taken to the HUB Spot Bid Fair in Irving in May.

All major FY 10/11 bond funded construction projects at the Evins Facility are complete. A perimeter security fence improvements project to reinforce the bottom rail was designed in-house, competitively bid, awarded and completed in April 2015. A roof repairs project for a 24 bed dorm was also completed in February 2015.

FY2014/2015 funding was approved by the LBB and agreements have been negotiated with Engineers for new major repair projects at the five state facilities. Agreement amendments and assignments with these firms are nearing completion. Design work will begin in May 2015.

This summary of items and events is current as of May 1, 2015.

**Texas Juvenile Justice Department
Summary of Change Orders issued in April 2015**

**Zimmerman Construction Co, Inc. Group 1
Contract # C104, awarded in June 2010, for \$2,340,000
Gainesville - Facility Improvements FY 08-09**

Date	C/O #	Facility	Scope of Work	CAUSE OF CHANGE					Amended Contract Total	
				user group request	A/E error/omission	unforeseen condition	value engineering	TOTAL		
				Prior Change Orders	\$553,123	\$0	\$199,149	\$67,181	\$819,453	\$3,159,453
There were no Change Orders issued this month.									\$0	
Total change orders issued this month					\$0	\$0	\$0	\$0	\$0	
Total Change Orders					\$553,123	\$0	\$199,149	\$67,181	\$819,453	\$3,159,453

**Zimmerman Construction Co, Inc. Group 3A
Contract # C111, awarded in January 2011, for \$2,847,500
Corsicana, Crockett & Ron Jackson - Facility Improvements FY 08-09 & 2010-11**

Date	C/O#	Facility	Scope of Work	CAUSE OF CHANGE					Amended Contract Total	
				user group request	A/E error/omission	unforeseen condition	value engineering	TOTAL		
				Prior Change Orders	\$969,107	\$57,058	\$23,865	\$36,603	\$1,086,633	\$3,934,133
There were no Change Orders issued this month.									0	
									0	
Total change orders issued this month					\$0	\$0	\$0	\$0	\$0	
Total Change Orders					\$969,107	\$57,058	\$23,865	\$36,603	\$1,086,633	\$3,934,133

**Gaeke Construction Co, Inc. Group 2
Contract # C114, awarded in March 2011, for \$2,234,700
Evins, Giddings & McLennan - Facility Improvements FY 08-09 & 2010-11**

Date	C/O#	Facility	Scope of Work	CAUSE OF CHANGE					Amended Contract Total	
				user group request	A/E error/omission	unforeseen condition	value engineering	TOTAL		
				Prior Change Orders	\$419,269	\$1,666	\$19,549	\$8,316	\$448,800	\$2,683,500
There were no Change Orders issued this month.									0	
Total change orders issued this month					\$0	\$0	\$0	\$0	\$0	
Total Change Orders					\$419,269	\$1,666	\$19,549	\$8,316	\$448,800	\$2,683,500

Total change orders issued this month for Groups 1, 2 & 3					\$0	\$0	\$0	\$0	\$0	
Total Change Orders for Groups 1, 2 & 3					\$1,941,499	\$58,724	\$242,563	\$112,100	\$2,354,886	\$9,777,086

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Corsicana Residential Treatment Center

ARCHITECT: KGA Architecture HUB % 44
GENERAL CONTRACTOR: Zimmerman Construction Co, Inc. HUB % 15

NOTICE TO PROCEED: April 6, 2011

PROJECT DESCRIPTION:	WORK IN PLACE	COMPLETION DATE
		Beneficial Occupancy Estimated Final Completion
Facility Security Fence, Gates, Lighting	100%	
Building Electrical Systems	100%	
Building Fire Protection Systems	100%	
Install new 80kw Generator and Transfer Switch at Kitchen	100%	
Replace forty-nine doors throughout campus	100%	
Install new HVAC units in Education Building	100%	

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	330 days			March 1, 2012
EXTENSIONS FOR WEATHER	Previous	0		
	New	0		
	Subtotal	0		
EXTENSIONS FOR SCOPE CHANGES	Previous	518		
	New	0		
	Subtotal	518		
TOTAL TIME EXTENSIONS		TOTAL	518	
ADJUSTED CONTRACT COMPLETION				August 1, 2013

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	848	of	848	100%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

NOTES: 1) Notice to Proceed issued to General Contractor on April 6, 2011.
2) Purchased materials for roof repairs.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	53,688		53,688	(13,890)	39,798		39,798	39,798
TYC ADMINISTRATION	57,500		57,500	(51,356)	6,144		6,144	6,144
OWNER FURNISHED ITEMS	0		0	9,989	9,989		9,989	9,989
RESERVED FOR ADDITIONAL WORK	0	170,000	170,000	(170,000)	0		0	
GENERAL CONTRACTOR	457,977	(151,407)	306,570	203,198	509,768		509,768	509,768
PROJECT CONTINGENCY	66,915	(18,593)	48,322	153,477	201,799	0	201,799	
TOTAL PROJECT COST	636,080	0	636,080	131,418	767,498	0	767,498	565,699
CONTINGENCY AS % OF G.C.	15%		16%		40%		40%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Evins Regional Juvenile Center - Edinburg

ARCHITECT: T. Howard and Associates HUB % 30
 GENERAL CONTRACTOR: Gaeke Construction Co, Inc. HUB % 8
 NOTICE TO PROCEED: May 17, 2011

PROJECT DESCRIPTION:	WORK IN PLACE	COMPLETION DATE	
		Beneficial Occupancy	Estimated Final Completion
Repair & Replace Roofs	100%		March 31, 2013
Building Plumbing Systems	100%		
Building HVAC Systems	100%		
Replace above-ceiling copper piping in Infirmary	100%		

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	240 days			January 11, 2012
EXTENSIONS FOR WEATHER		Previous	0	
		New	0	
		Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES		Previous	353	
		New	35	
		Subtotal	388	
TOTAL TIME EXTENSIONS		TOTAL	388	
ADJUSTED CONTRACT COMPLETION				February 2, 2013

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	685	of	593	116%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

- NOTES:** 1) Notice to Proceed issued to General Contractor on May 17, 2011.
 2) Replace rain gutters.
 3) Add site security lighting enhancements.
 4) Add electrical power for a vocational welding shop.
 5) Repair roofs at Infirmary and Dorms 1 & 2.
 6) Replace group room doors at Dorms 3 & 4.
 7) Replace backflow preventor.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	74,750		74,750	(5,649)	69,101		69,101	69,101
TYC ADMINISTRATION	87,000		87,000	(78,540) ¹	8,460		8,460	8,460
OWNER FURNISHED ITEMS	0		0	249,697	249,697		249,697	277,319
RESERVED FOR ADDITIONAL WORK	0		0		0		0	
GENERAL CONTRACTOR	629,440	(75,992)	553,448	34,403	587,851		587,851	587,851
PROJECT CONTINGENCY	83,033	75,992	159,025	(100,215)	58,810	0	58,810	
TOTAL PROJECT COST	874,223	0	874,223	99,696	973,919	0	973,919	942,731
CONTINGENCY AS % OF G.C.	13%		29%		10%		10%	

- NOTES:** 1) Owner furnished items increased \$4,880 for roof repair at dorm, and \$4,548 for acoustical tiles for Education.

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Gainesville State School

ARCHITECT: Half Associates, Inc.
GENERAL CONTRACTOR: Zimmerman Construction Co, Inc.

HUB % 23
HUB % 0

NOTICE TO PROCEED: July 19, 2010

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion
Retrofit doors identified as non-compliant in Fire Marshals report 100% February 28, 2013

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	425 days			September 17, 2011
EXTENSIONS FOR WEATHER	Previous	0		
	New	0		
	Subtotal	0		
EXTENSIONS FOR SCOPE CHANGES	Previous	527		
	New	0		
	Subtotal	527		
TOTAL TIME EXTENSIONS		TOTAL	527	
ADJUSTED CONTRACT COMPLETION				February 25, 2013

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	956	of	952	100%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

NOTES: 1) Repairs made to Campus Wide Fire Alarm System.
2) Paint security cells and hallways in the Security building.
3) Replace boiler at the Education building.
4) Additional design work for site lighting is underway.
5) Repair culvert under roadway.
6) Replace HVAC unit at Gym.
7) Replace sidewalk leading to Dorms 11&12.
8) Reprogram Fire Alarm System
9) Replace lock control panel at Dorms 19&20, and refinish gym floor.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	38,002		38,002	(34,881)	3,121		3,121	3,121
TYC ADMINISTRATION	24,500	(23,090)	1,410		1,410		1,410	1,410
OWNER FURNISHED ITEMS	0	53,395	53,395	168,645	222,040		222,040	209,492
RESERVED FOR ADDITIONAL WORK	0		0		0		0	
GENERAL CONTRACTOR	312,208	(312,208)	0	39,557	39,557		39,557	39,557
PROJECT CONTINGENCY	58,912	281,903	340,815	(317,407)	23,408	0	23,408	
TOTAL PROJECT COST	433,622	0	433,622	(144,086)	289,536	0	289,536	253,580
CONTINGENCY AS % OF G.C.	19%		0%		0%		59%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Giddings State School

ARCHITECT: T. Howard and Associates
GENERAL CONTRACTOR: Gaeke Construction Co, Inc.

HUB % 30
HUB % 8

NOTICE TO PROCEED: May 17, 2011

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Building Plumbing Systems 100% October 31, 2012

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	240 days			January 11, 2012
EXTENSIONS FOR WEATHER		Previous	0	
		New	0	
		Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES		Previous	348	
		New	35	
		Subtotal	383	
TOTAL TIME EXTENSIONS		TOTAL	383	
ADJUSTED CONTRACT COMPLETION				January 28, 2013

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	534	of	588	91%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

- NOTES: 1) Notice to Proceed issued to General Contractor on May 17, 2011.
2) Purchase exterior light fixtures for Dorms 1-8.
3) Enclose porch area of Gatehouse to create entryway.
4) Purchase combination units for control rooms in Dorms 2,4,6,8 & 3.
5) Add site security lighting enhancements.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	7,687		7,687	19,022	26,709		26,709	26,709
TYC ADMINISTRATION	8,000		8,000	(7,121) ¹	879		879	879
OWNER FURNISHED ITEMS	0		0	150,817	150,817		150,817	153,388
RESERVED FOR ADDITIONAL WORK	0	14,000	14,000	(14,000)	0		0	
GENERAL CONTRACTOR	64,584	(12,584)	52,000		52,000		52,000	52,000
PROJECT CONTINGENCY	9,429	(1,416)	8,013	(1,703)	6,310	0	6,310	
TOTAL PROJECT COST	89,700	0	89,700	147,015	236,715	0	236,715	232,976
CONTINGENCY AS % OF G.C.	15%		15%		12%		12%	

- NOTES: 1) Owner furnished items increased \$24,650 for manhole replacement, and \$10,850 for air duct cleaning.

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

McLennan County Juvenile Facility

ARCHITECT: T. Howard and Associates
GENERAL CONTRACTOR: Gaeke Construction Co, Inc.

HUB % 30
HUB % 8

NOTICE TO PROCEED: May 17, 2011

PROJECT DESCRIPTION:	WORK IN PLACE	COMPLETION DATE
		Beneficial Occupancy Estimated Final Completion
Sewer Distribution Systems	100%	
Facility Security Fence, Gates, Lighting	100%	January 31, 2013
Replace Gate 5 Operator Control	100%	
Drainage Improvements at Phoenix Recreation Court	100%	

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	240 days			January 11, 2012
EXTENSIONS FOR WEATHER		Previous	0	
		New	0	
		Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES		Previous	353	
		New	35	
		Subtotal	388	
TOTAL TIME EXTENSIONS		TOTAL	388	
ADJUSTED CONTRACT COMPLETION				February 2, 2013

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	626	of	593	106%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

- NOTES: 1) Notice to Proceed issued to General Contractor on May 17, 2011.
2) Make Fence Modifications to inner campus on one side. Amendment to Recreation Improvements contract.
3) Modifications at Vocational building for Culinary Arts program.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	15,579		15,579	(1,775)	13,804		13,804	13,804
TYC ADMINISTRATION	13,500		13,500	(11,745) ¹	1,755		1,755	1,755
OWNER FURNISHED ITEMS	0		0	192,330	192,330		192,330	192,330
RESERVED FOR ADDITIONAL WORK	0		0		0		0	
GENERAL CONTRACTOR	131,155	(87,155)	44,000	38,817	82,817		82,817	82,817
PROJECT CONTINGENCY	21,926	87,155	109,081	(2,128)	106,953	0	106,953	
TOTAL PROJECT COST	182,160	0	182,160	215,499	397,659	0	397,659	290,706
CONTINGENCY AS % OF G.C.	17%		248%		129%		129%	

- NOTES: 1) Owner furnished items increased \$14,600 for installation of a vent hood at the vocational building.

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Ron Jackson Unit I - Brownwood

ARCHITECT: KGA Architecture HUB % 44
GENERAL CONTRACTOR: Zimmerman Construction Co, Inc. HUB % 15
NOTICE TO PROCEED: April 6, 2011

PROJECT DESCRIPTION:	WORK IN PLACE	COMPLETION DATE	
		Beneficial Occupancy	Estimated Final Completion
Facility Security Fence, Gates, Lighting	100%		April 23, 2012
Building Structural Repairs	100%		
Building Security Systems	100%		
Replace Cooler/Freezer at Warehouse	100%		

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	330 days		March 1, 2012
EXTENSIONS FOR WEATHER		Previous	0
		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	208
		New	0
		Subtotal	208
TOTAL TIME EXTENSIONS		TOTAL	208
ADJUSTED CONTRACT COMPLETION			September 25, 2012

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	384	of	538	71%
PERCENTAGE OF CONTRACT FUNDS EXPENDED				100%

- NOTES:** 1) Notice to Proceed issued to General Contractor on April 6, 2011.
2) Replace carpet at Vocational and Education buildings.
3) Replace the warehouse cooler/freezer.
4) Replace/upgrade Fire Alarms on various buildings.
5) Construct an outdoor Exercise area at boy's Dorm.
6) Construct wet cells at the boy's security unit in Pride Dorm.

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	53,840		53,840	10,182	64,022		64,022	64,022
TYC ADMINISTRATION	65,500	(10,000)	55,500	(52,239) ¹	3,261		3,261	3,261
OWNER FURNISHED ITEMS	0		0	420,283	420,283		420,283	328,783
RESERVED FOR ADDITIONAL WORK	0		0		0		0	
GENERAL CONTRACTOR	502,498	130,748	633,246	(11,000)	622,246		622,246	622,246
PROJECT CONTINGENCY	77,132	(120,748)	(43,616)	77,866	34,250	0	34,250	
TOTAL PROJECT COST	698,970	0	698,970	445,092	1,144,062	0	1,144,062	1,018,312
CONTINGENCY AS % OF G.C.	15%		-7%		6%		6%	

- NOTES:** 1) Owner furnished items increased \$79,600 for an exercise area, and \$91,500 to construct wet cells at the boy's security unit in Pride Dorm.

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2010-11

Video Surveillance System Maintenance - All Facilities

ARCHITECT: HUB %
 GENERAL CONTRACTOR: HUB %
 NOTICE TO PROCEED:
 PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
 Beneficial Occupancy Estimated Final Completion
 Video Surveillance System Maintenance 100%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION			
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	0	of	0	
PERCENTAGE OF CONTRACT FUNDS EXPENDED				99%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT			0		0		0	
TYC ADMINISTRATION			0		0		0	
OWNER FURNISHED ITEMS	1,470,544		1,470,544		1,470,544		1,470,544	1,452,683
INDUSTRY FURNISHED ITEMS (TCI)			0		0		0	
GENERAL CONTRACTOR	0		0		0		0	
PROJECT CONTINGENCY	0	0	0	0	0	0	0	
TOTAL PROJECT COST	1,470,544	0	1,470,544	0	1,470,544	0	1,470,544	1,452,683

CONTINGENCY AS % OF G.C.

NOTES:

**Texas Juvenile Justice Department FY 2010-2011 Projects
Project Cost Information Summary**

April 30, 2015											Invoiced as of 4/30/15
LOCATION	Original Budget	Revised Budget	Revised Project Contingency	All Approved Changes	General Contractor Change Order Dollars	No. of G. C. Change Orders	% of C. O. Dollars to G. C. Contract Amount	All Pending Changes	Remaining Contingency	Invoiced Amount	% of Revised Budget
* <i>AI Price (facility closed)</i>	\$ 334,055	\$ 20,425	\$ 208,289	\$ 208,289	\$ -		0.00%	\$ -	\$ -	\$ 20,425	100.00%
Corsicana	\$ 636,080	\$ 767,498	\$ 48,322	\$ (153,477)	\$ 203,198	3	66.28%	\$ -	\$ 201,799	\$ 565,699	73.71%
* <i>Crockett (facility closed)</i>	\$ 837,297	\$ 256,293	\$ 175,390	\$ (174,244)	\$ (126,918)	1	-38.02%	\$ -	\$ -	\$ 256,293	100.00%
Evins	\$ 874,223	\$ 973,919	\$ 159,025	\$ 100,215	\$ 34,403	1	6.22%	\$ -	\$ 58,810	\$ 942,731	96.80%
Gainesville	\$ 433,622	\$ 289,536	\$ 340,815	\$ 317,407	\$ 39,557	1	1.69%	\$ -	\$ 23,408	\$ 253,580	87.58%
Giddings	\$ 89,700	\$ 236,715	\$ 8,013	\$ 1,703	\$ -		0.00%	\$ -	\$ 6,310	\$ 232,976	98.42%
McLennan County	\$ 182,160	\$ 397,659	\$ 109,081	\$ 2,128	\$ 38,817	1	88.22%	\$ -	\$ 106,953	\$ 290,706	73.10%
Ron Jackson	\$ 698,970	\$ 1,144,062	\$ (43,616)	\$ (77,866)	\$ (11,000)	1	-1.74%	\$ -	\$ 34,250	\$ 1,018,312	89.01%
<i>Maintenance for Video Surveillance Sys</i>	\$ 1,470,544	\$ 1,470,544	\$ -	\$ -	\$ -		0.00%	\$ -	\$ -	\$ 1,452,683	98.79%
** Deferred Projects	\$ -	\$ 888,601	\$ 888,601	\$ 875,987	\$ -		0.00%	\$ -	\$ 12,614	\$ 765,124	86.10%
TOTAL	\$ 5,556,651	\$ 6,445,252	\$ 1,893,920	\$ 1,100,142	\$ 178,057	8		\$ -	\$ 444,144	\$ 5,798,529	89.97%

FY2010-11 BOND FUNDS \$ 5,556,651
 GEN REV-FEMA Reimb-Receiveable 888,601
 REVISED BUDGET \$ 6,445,252

* Work on these projects was suspended in June 2011, due to facility closure.

COMPLETED PROJECTS IN ITALICS

** Project work and contingency amounts deferred as a result of Hurricane Rita. Work to be reinstated when FEMA reimbursements are received.

TEXAS JUVENILE JUSTICE DEPARTMENT
 FY 2014-15
 Evins Regional Juvenile Center - Edinburg

ARCHITECT/ENGINEER: Huitt Zollars
 GENERAL CONTRACTOR:

HUB %
 HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE

COMPLETION DATE
 Beneficial Occupancy Estimated Final Completion

Fence alarm/motion detector for perimeter fence 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION		days	
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	25,000		25,000		25,000		25,000	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	254,640		254,640		254,640		254,640	
PROJECT CONTINGENCY	20,360		20,360		20,360	0	20,360	
TOTAL PROJECT COST	300,000	0	300,000	0	300,000	0	300,000	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Evins Regional Juvenile Center - Edinburg

ARCHITECT/ENGINEER: KGA Architecture
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion
Roof Repairs Dorms 3 & 4 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days	Previous	0
EXTENSIONS FOR WEATHER		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	8,000		8,000		8,000		8,000	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	81,485		81,485		81,485		81,485	
PROJECT CONTINGENCY	6,515		6,515		6,515	0	6,515	
TOTAL PROJECT COST	96,000	0	96,000	0	96,000	0	96,000	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Evins Regional Juvenile Center - Edinburg

ARCHITECT/ENGINEER: Stanley Consultant
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION:	WORK IN PLACE	COMPLETION DATE
		Beneficial Occupancy Estimated Final Completion
Replace copper piping	0%	
Replace water heaters and toilets in dorms 1 & 2	0%	
Hot water system - Education	0%	
Replace HVAC systems	0%	

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days	
EXTENSIONS FOR WEATHER	Previous	0
	New	0
	Subtotal	0
EXTENSIONS FOR SCOPE CHANGES	Previous	0
	New	0
	Subtotal	0
TOTAL TIME EXTENSIONS	TOTAL	0
ADJUSTED CONTRACT COMPLETION		

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	80,900		80,900		80,900		80,900	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	824,523		824,523		824,523		824,523	
PROJECT CONTINGENCY	65,977		65,977		65,977	0	65,977	
TOTAL PROJECT COST	971,400	0	971,400	0	971,400	0	971,400	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Gainesville State School

ARCHITECT/ENGINEER: Half
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION:

WORK IN PLACE

COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Expansion of parking lot

0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION		days	
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	16,354		16,354		16,354		16,354	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	162,636		162,636		162,636		162,636	
PROJECT CONTINGENCY	13,010	0	13,010		13,010	0	13,010	
TOTAL PROJECT COST	192,000	0	192,000	0	192,000	0	192,000	0

CONTINGENCY AS % OF G.C.

8%

8%

8%

8%

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Gainesville State School

ARCHITECT/ENGINEER: KGA Architecture
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION:

WORK IN PLACE

COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Reconfigure Infirmary

0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days	Previous	0
EXTENSIONS FOR WEATHER		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	10,646		10,646		10,646		10,646	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	105,883		105,883		105,883		105,883	
PROJECT CONTINGENCY	8,471	0	8,471		8,471	0	8,471	
TOTAL PROJECT COST	125,000	0	125,000	0	125,000	0	125,000	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Giddings State School

ARCHITECT/ENGINEER: Arizpe Group
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Resurface roadways, parking lot and sidewalks 0%
Repair structures (warehouse freezer/cooler) 0%
Repair ductwork and air exchange system in school 0%
Hot water system - Education 0%
HVAC enhancements to Gym and Rec Bldg. 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days		
EXTENSIONS FOR WEATHER		Previous	0
		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	#DIV/0!
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	58,312		58,312		58,312		58,312	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	599,341		599,341		599,341		599,341	
PROJECT CONTINGENCY	47,947	0	47,947	0	47,947	0	47,947	
TOTAL PROJECT COST	705,600	0	705,600	0	705,600	0	705,600	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Giddings State School

ARCHITECT/ENGINEER: KGA Architecture
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Install new security doors and jams to match new dorm 0%
Repair gym floor 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION		days	
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	#DIV/0!
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	25,288		25,288		25,288		25,288	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	259,918		259,918		259,918		259,918	
PROJECT CONTINGENCY	20,794	0	20,794	0	20,794	0	20,794	
TOTAL PROJECT COST	306,000	0	306,000	0	306,000	0	306,000	0

CONTINGENCY AS % OF G.C. 8% 8% 8% 8%

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

McLennan County Juvenile Facility

ARCHITECT/ENGINEER: Huitt Zollars
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion
Fence alarm/motion detector for perimeter fence 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days		
EXTENSIONS FOR WEATHER		Previous	0
		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	26,525		26,525		26,525		26,525	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	271,735		271,735		271,735		271,735	
PROJECT CONTINGENCY	21,740	0	21,740	0	21,740	0	21,740	
TOTAL PROJECT COST	320,000	0	320,000	0	320,000	0	320,000	0

CONTINGENCY AS % OF G.C. 8% 8% 8% 8%

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

McLennan County Juvenile Facility

ARCHITECT/ENGINEER: Halff
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Resurface roadways, parking lot and sidewalks 0%
Drainage, irrigation 0%
Dorm B HVAC 0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days	Previous	0
EXTENSIONS FOR WEATHER		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of
PERCENTAGE OF CONTRACT FUNDS EXPENDED	0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	54,560		54,560		54,560		54,560	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	558,741		558,741		558,741		558,741	
PROJECT CONTINGENCY	44,699	0	44,699	0	44,699	0	44,699	
TOTAL PROJECT COST	658,000	0	658,000	0	658,000	0	658,000	0

CONTINGENCY AS % OF G.C. 8% 8% 8% 8%

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Ron Jackson Unit I - Brownwood

ARCHITECT/ENGINEER: Huitt Zollars
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION:

WORK IN PLACE

COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Fence alarm/motion detector for perimeter fence

100%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION		days	
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	#DIV/0!
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	26,700		26,700		26,700		26,700	
TYC ADMINISTRATION	0		0	1	0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
GENERAL CONTRACTOR	271,575		271,575		271,575		271,575	
PROJECT CONTINGENCY	21,725	0	21,725		21,725	0	21,725	
TOTAL PROJECT COST	320,000	0	320,000	0	320,000	0	320,000	0

CONTINGENCY AS % OF G.C. 8% 8% 8% 8%

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

Ron Jackson Unit I - Brownwood

ARCHITECT/ENGINEER: KGA Architecture
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION: WORK IN PLACE COMPLETION DATE
Beneficial Occupancy Estimated Final Completion
Repair shower pans and plumbing in 5 dorms 100%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION	days		
EXTENSIONS FOR WEATHER		Previous	0
		New	0
		Subtotal	0
EXTENSIONS FOR SCOPE CHANGES		Previous	0
		New	0
		Subtotal	0
TOTAL TIME EXTENSIONS		TOTAL	0
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	of	#DIV/0!
PERCENTAGE OF CONTRACT FUNDS EXPENDED		0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT	21,358		21,358		21,358		21,358	
TYC ADMINISTRATION	0		0		0		0	
OWNER FURNISHED ITEMS	0		0		0		0	
RESERVE FOR ADDITIONAL WORK	250,000		250,000		250,000		250,000	
GENERAL CONTRACTOR	217,261		217,261		217,261		217,261	
PROJECT CONTINGENCY	17,381	0	17,381		17,381	0	17,381	
TOTAL PROJECT COST	506,000	0	506,000	0	506,000	0	506,000	0
CONTINGENCY AS % OF G.C.	8%		8%		8%		8%	

NOTES:

TEXAS JUVENILE JUSTICE DEPARTMENT
FY 2014-15

DVR Maintenance, Enhancements & System Upgrades - All Facilities

ARCHITECT:
GENERAL CONTRACTOR:

HUB %
HUB %

NOTICE TO PROCEED:

PROJECT DESCRIPTION:

WORK IN PLACE

COMPLETION DATE
Beneficial Occupancy Estimated Final Completion

Video Surveillance System Maintenance

0%

SCHEDULE STATUS

ORIGINAL CONTRACT COMPLETION			
EXTENSIONS FOR WEATHER	Previous	0	
	New	0	
	Subtotal	0	
EXTENSIONS FOR SCOPE CHANGES	Previous	0	
	New	0	
	Subtotal	0	
TOTAL TIME EXTENSIONS	TOTAL	0	
ADJUSTED CONTRACT COMPLETION			

CONTRACT STATUS

PERCENTAGE OF CONTRACT TIME EXPIRED	0	of	0	
PERCENTAGE OF CONTRACT FUNDS EXPENDED				0%

NOTES:

BUDGET STATUS

DESCRIPTION:	ORIGINAL PROJECT BUDGET	MANAGEMENT APPROVED CHANGES OR VARIANCES	REVISED PROJECT BUDGET	APPROVED CHANGES OR VARIANCES	CONTROL BUDGET	PENDING CHANGES OR VARIANCES	PROJECTED BUDGET	INVOICED THRU 4/30/15
ARCHITECT			0		0		0	
TYC ADMINISTRATION			0		0		0	
OWNER FURNISHED ITEMS	1,000,000		1,000,000		1,000,000		1,000,000	
INDUSTRY FURNISHED ITEMS (TCI)			0		0		0	
GENERAL CONTRACTOR			0		0		0	
PROJECT CONTINGENCY	0	0	0	0	0	0	0	
TOTAL PROJECT COST	1,000,000	0	1,000,000	0	1,000,000	0	1,000,000	0

CONTINGENCY AS % OF G.C.

NOTES:

**Texas Juvenile Justice Department FY 2014-2015 Projects
Project Cost Information Summary**

April 30, 2015											
LOCATION	Original Budget	Revised Budget	Revised Project Contingency	All Approved Changes	General Contractor Change Order Dollars	No. of G. C. Change Orders	% of C. O. Dollars to G. C. Contract Amount	All Pending Changes	Remaining Contingency	Invoiced Amount	% of Revised Budget
Corsicana	\$ -	\$ -	\$ -	\$ -	\$ -			\$ -	\$ -	\$ -	
Evins	\$ 1,367,400	\$ 1,367,400	\$ 92,852	\$ -	\$ -		0.00%	\$ -	\$ 92,852	\$ -	0.00%
Gainesville	\$ 317,000	\$ 317,000	\$ 21,481	\$ -	\$ -		0.00%	\$ -	\$ 21,481	\$ -	0.00%
Giddings	\$ 1,011,600	\$ 1,011,600	\$ 68,741	\$ -	\$ -		0.00%	\$ -	\$ 68,741	\$ -	0.00%
McLennan County	\$ 978,000	\$ 978,000	\$ 66,439	\$ -	\$ -		0.00%	\$ -	\$ 66,439	\$ -	0.00%
Ron Jackson	\$ 826,000	\$ 826,000	\$ 289,106	\$ -	\$ -		0.00%	\$ -	\$ 289,106	\$ -	0.00%
Maintenance for Video Surveillance System	\$ 1,000,000	\$ 1,000,000	\$ -	\$ -	\$ -		0.00%	\$ -	\$ -	\$ -	0.00%
TOTAL	\$ 5,500,000	\$ 5,500,000	\$ 538,619	\$ -	\$ -	0		\$ -	\$ 538,619	\$ -	0.00%

FY2014-15 BOND FUNDS \$ 5,500,000

REVISED BUDGET \$ 5,500,000

COMPLETED PROJECTS IN ITALICS

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TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: Finance and Audit Committee Members
David Reilly, Executive Director
TJJD Executive Team

From: Eleazar Garcia, Chief Auditor

Subject: Results of Audit Follow-up Review, Project 15-2

Date: May 28, 2015

Attached for your review is our report on the status of the agency's implementation of proposed management actions to the audit findings and recommendations.

The Internal Audit Charter and Audit standards require Internal Audit to follow-up and report on the current status of prior audit recommendations, as well as verify effective implementation for recommendations that have been reported as implemented by management. This report was completed based on information reported to Internal Audit as of February 25, 2015.

This follow-up entailed 97 total recommendations in 27 audits, including 26 internal audits and one external audit performed by the State Auditor's Office, dating from fiscal year 2012 to fiscal year 2015. Internal Audit used a cut-off date of November 25, 2014 for management actions reported as implemented. Verification was performed on the 50 recommendations that were reported by management as implemented prior to this date.

Internal Audit addressed to TJJD management staff the importance of timely implementation as well as the cooperation that is needed between auditors and division managers to properly report on the status of corrective actions. Executive management has expressed their support by allocating resources to enforce and assist with the ongoing follow-up process.

This audit follow-up review was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* and *Generally Accepted Government Auditing Standards*. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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RESULTS

Management continues to address and improve upon the implementation of corrective actions.

Follow-up on audit recommendations is an ongoing process requiring assessment of management responses and actions.

Audit performed *verification* on 50 (100%) management actions that were previously reported by management as implemented as of November 25, 2014. Based on the testing result, 42 of 50 (84%) management actions were implemented and verified by auditors.

The status of management actions was determined based on the following:

- **Implementation Verified** – Corrective action has been implemented and verified by Auditors. No further action is required.
- **Need Further Action** – Management reports that corrective action has been implemented; however, review of support did not confirm implementation. Recommendations will be reviewed in the next follow up
- **Underway** – Management reports as Underway or Implemented after our cut-off date of 11/25/2014. No further work completed for these items.

Status	Total Recommendations	Percentage
Implementation Verified	42	43%
Need Further Action Based on Review	8	09%
Underway	47	48%
Total	97	100%

Comprehensive Overview

The twenty seven audits that were addressed during this follow-up report ranged from April 2012 to January 2015. The table below shows all of the audits that had outstanding recommendations prior to this report. Of the twenty seven audits that required follow-up/verification work, Auditors determined that 7 (26%) audits are closed due to recommendations being fully implemented while 20 (74%) still require corrective action and statuses will be reviewed during the next follow-up report.

Audit Title	Total # of Recommendations	Implementation Verified	Need Further Action Based on Review	Underway
12-5 Software License Audit	2	0	0	2
12-8 IT General Controls	7	5	0	2
12-9 Financial Controls	1	1	0	0
13-10 TAC 202 Compliance	3	0	0	3
13-12 Parole Audit	3	2	0	1
13-14 Student Use PCs and Flash Drives	5	4	1	0
13-15 SAO Audit Assistance	20	15	1	4
13-1A Cottrell House	1	1	0	0
13-1B Evins	7	7	0	0
13-1C York Halfway House	6	6	0	0
13-1D Giddings State School	4	2	1	1
13-2 Phoenix Program	2	2	0	0
13-4 Due Process Hearings	5	5	0	0
13-5 Procurement Cards	1	1	0	0
13-7 Alleged Mistreatment	13	8	0	5
13-8 Ethics	6	3	0	3
14-10 Risk Management Audit	3	0	0	3
14-1A McLennan County Juvenile Correctional Facility Audit	6	3	3	0
14-1B Garza County Regional Juvenile Center	7	6	1	0
14-1C Schaeffer House	8	6	0	2
14-1D Gainesville (Facility Audit)	3	0	0	3
14-3 Endowment Trust Funds Audit	4	1	0	3
14-5 Medical Services	6	6	0	0
14-6 Student Transportation	3	0	1	3
14-7 Community Relations	5	0	0	5
14-8 Gang Intervention Program Audit	7	0	0	7
14-9 Fixed Assets Audit	4	0	0	4
Total: 27 Audits	142	72	8	63

Detailed Results for Recommendations

The following table outlines the results of management actions that were previously reported by management as implemented and are in the verification stage. If testing showed that corrective action has been implemented, the recommendation is “Implementation Verified” and no future follow-up is needed. If after testing the implementation could not be verified or if the corrective action did not address the initial finding, the recommendation has been labeled as “Need further action based on review” and managers provided new corrective action plans and new projected implementation dates.

Recommendations in Verification Stage

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
12-8 IT General Controls	The Risk Manager will facilitate updating agency Disaster Recovery Plans to ensure they include procedures for DCS and Non-DCS servers.	Auditor reviewed the response completed by the State Office of Risk Management and identified that that the COOP was completed for the agency and included procedures for DCS and Non-DCS Servers.	Implementation Verified
12-8 IT General Controls	To ensure consistent competitive bid practices and to monitor progress toward meeting agency HUB goals, the Director of Contracts and Procurement should periodically report HUB and non-HUB bids to the Director of Finance.	Auditor spoke with Director of Business Operations and Contracts regarding the quarterly report on HUB progress to the CFO and quarterly report was provided.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-12 Parole Audit	The Senior Director of Probation and Community Services should ensure Parole staff have opportunities to be involved with youth transitioning to Parole.	Auditor reviewed the revised Case Management Standards, the additions to the Parole Manual, and the inclusion of the CRP-T to the Noble system which supported implementation.	Implementation Verified
13-14 Student Use PCs and Flash Drives	To ensure collaboration and application of necessary protocols with agency systems, the Chief of Staff should ensure the MOUs provide for pre-authorization and/or overview by IS&T of any IT related resources.	Director of Business Operations and Contracts agreed he should be the new owner of this recommendation. Based on the review, the MOUs have not incorporated the IT review when warranted. Thus this management action plan is not completed to address the finding.	Need further action based on review
13-15 SAO Audit Assistance	To strengthen its reading program in the schools at all of its facilities, the Department should implement controls to help ensure the accuracy of data in CCS related to assessment information and student participation in its reading program.	Review of documentation provided by Senior Director of Education supports that a review process is in place to ensure the accuracy of data in CCS related to assessment information and student participation in the reading program.	Implementation Verified
13-15 SAO Audit Assistance	The department should provide additional training to teachers and attendance clerks on attendance coding to improve the accuracy of attendance records.	Documentation provided supported that all secured facilities were provided training to ensure the accuracy to attendance of training records improve.	Implementation Verified
13-15 SAO Audit Assistance	The Department should formally adopt updated procedures related to attendance.	Review of documentation support that policy was updated to provide guidelines/procedures related to attendance.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-15 SAO Audit Assistance	The department should annually review user access to CCS, txGradebook, ITCCS, and ABEST and make appropriate revisions based on the results of those reviews.	Recommendation not implemented based on discussions with management and review of data to date. Further work needed in this area.	Need further action based on review
13-1A Cottrell House	To ensure JCO work scheduling practices and expectations are consistent, the Sr. Director of State Programs and Facilities should ensure policies over the halfway houses are finalized and codified.	Intranet supported the Halfway House Manual was published in August 2014 to address JCO work scheduling practices and expectations.	Implementation Verified
13-1B Evins	The facility Superintendent should ensure a process of collecting medical certification for employees' absences is in place and that disciplinary action is implemented.	A spread sheet is being utilized by Human Resources to track the employees who need a medical certification in accordance to policy. This is communicated to the Program Supervisor over Operations who then will evaluate if the employee needs to be submitted for disciplinary action.	Implementation Verified
13-1C York Halfway House	To ensure accurate completion and documentation of community service hours meets agency expectations, the Superintendent should implement a review of hours.	Review of documentation supports accurate completion and documentation of community service hours and the review of the documentation by the Superintendent.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-1D Giddings State School	The Senior Director of State Programs and Facilities should work with the Senior Director of Education to ensure assignment of a party responsible for direct oversight of the Campus Work Program including implementation of a periodic review in order to maintain accountability and compliance with local and agency policies.	Based on the testing results and communication with the audit client, the action plan for annual monitoring is not completed.	Need further action based on review
13-2 Phoenix Program	To assure compliance with the Phoenix Program, the Facility Superintendent should ensure oversight outlined in CMS 03.75 be completed to identify concerns and that proper actions are taken to address them.	Training Sign in Sheets supported the case managers were provided training on applicable policies. A test of youth in the Phoenix Program indicated compliance with case management responsibilities.	Implementation Verified
13-4 Due Process Hearings	The Senior Director of State Programs and Facilities should ensure due process hearing documentation is properly filed in the youths' folders.	The Quarterly File Review Tool was distributed to TJJJ facility Compliance Officers on 2/23/15. The e-mail included instructions state they should review incidents in CCS for 15 youth and review the youths' Security sub-file to ensure that documentation for the incidents in CCS are reflected in the youths' folder.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-4 Due Process Hearings	To ensure incidents requiring mandatory Level II Due Process Hearings are conducted and reported in the CCS, the Senior Director of State Programs and Facilities should implement monitoring tools to include verification of incidents from the Master file to CCS.	The Senior Director of State Programs and Facilities implemented monitoring tools to ensure verification of incidents from the Master file to CCS.	Implementation Verified
13-4 Due Process Hearings	To ensure quality of documentation, the Senior Director of State Programs and Facilities should implement a monthly monitoring and reporting of Level III due process hearings.	A monitoring tool was designed and implemented for use by the facility compliance officers. Each month the compliance officers at secure facilities review 10 files using the monitoring tool and submit the results to the State Programs Performance Accountability Specialist.	Implementation Verified
13-4 Due Process Hearings	To ensure timeliness of required actions that encompass Level II and Level III due process hearings, the Senior Director of State Programs and Facilities should implement a periodic review for compliance with agency requirements.	The Justice & Order Tool was developed and incorporated into the TJJJ annual Monitoring & Inspections report.	Implementation Verified
13-5 Procurement Cards	The Director of Business Operations and Contracts should evaluate the use of toll tags and ensure a process is in place for approval of toll fees.	Travel policies outline guidelines for toll road usage and monitoring of toll road fees. Review completed identified toll fees expensed with explanation and destination provided for the months under review.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-7 Alleged Mistreatment	The Director of AID should implement the required 90 day case management review to ensure state investigations are conducted according to policy, proper time management practices are employed, and required preliminary investigations are conducted.	AID management will implement policy to conduct quality assurance reviews of samples of each SIU investigator's caseload every 90 calendar days. In addition, AID management will review each investigator's caseload every 90 calendar days to ensure the correct prioritization and appropriate time management is being utilized.	Implementation Verified
13-7 Alleged Mistreatment	To improve reporting of AID case handling, the Director of AID should report the full timeframe for completion of investigations as part of the dashboard reports to the Board.	Reviewed dashboard reports indicated days of deposition is noted on each report.	Implementation Verified
13-7 Alleged Mistreatment	To ensure consistency of data entry into the ANE system, the Director of AID should monitor data entry as part of the quality assurance reviews.	AID requires each "on call" investigator to complete and maintain a handwritten log of data elements related to new complaints being processed. In addition, quality assurance reviews are conducted by Deputy Director Jacobs to assure data elements are correct.	Implementation Verified
13-7 Alleged Mistreatment	The Chief of Staff should assess the need to establish a time period for supervisory review of investigations to ensure timeliness of the closure process.	AID is now conducting supervisory review of investigative reports within 10 days of submission of the reports by investigators.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
13-8 Ethics	To ensure oversight and annual reporting of the ethics program, General Counsel should determine the need for the implementation of an Ethics Officer, an ethics program, and periodic reporting requirements.	The General Council will be the ethics officer for the agency, formulate the ethics components, propose any additions, and determine appropriate periodic reporting requirements which is also outlined in agency policy.	Implementation Verified
13-8 Ethics	To ensure accurate reporting of the Training Tracking System, the Senior Director of Administration and Training should work with IS&T to ensure reliable tracking of training records.	A new system encompassing all of our current tracking components will ensure more accurate reporting from the JJTA and consistency with training data. Currently, we have provided Information Systems and Technology with a description of the work detail in an Initial Project Proposal. While in its infancy stages, JJTA and Information Systems and Technology are moving forward with identifying all necessary components and specifications that will be required for the rewrite.	Implementation Verified
14-1A McLennan County Juvenile Correctional Facility Audit	The Senior Director of State Programs and Facilities should designate authorized staff intended to carry OC spray.	Reorganization of Security Operations within State Programs and Facilities will take place for monitoring of these lists.	Need further action based on review

Audit Follow-Up May 2015

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-1A McLennan County Juvenile Correctional Facility Audit	To ensure the use and reporting of OC spray is reviewed by agency staff as intended in policy, the Senior Director of Programs & Facilities should develop a workgroup with applicable staff to improve the process.	By the 10 of the month the information is due to the Performance Accountability Specialist who reviews information reported in SAS, confirms with information reported by UTMB staff. Review of documentation did not support weekly checks were completed.	Need further action based on review
14-1A McLennan County Juvenile Correctional Facility Audit	To ensure entry searches adhere to policy, the Senior Director of State of Programs and Facilities should implement formalized training program on search procedures.	All current search policy and procedures were trained with Mart Security Staff and documented 1/22/14.	Implementation Verified
14-1A McLennan County Juvenile Correctional Facility Audit	To ensure compliance with STAR Team monthly training and bi-annual drills, the Senior Director of State Programs and Facilities should implement a review of training documents.	Reorganization of duties related to Security Operations in the State Programs and Facilities division requires clarification of duties. Once completed the Senior Director of State Programs and Facilities or designee will review STAR team training documents no less than quarterly March 31, June 30, September 30 and December 31st annually to ensure compliance with training requirements.	Need further action based on review
14-1A McLennan County Juvenile Correctional Facility Audit	To ensure routine strip searches are documented in accordance with policy, the McLennan Superintendent should implement a periodic review of search logs	The Superintendent will document a quarterly review of those logs to Director of Secure Facilities by email no later than March 31, June 30, September 30 and December 31st annually.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-1B Garza County Regional Juvenile Center	To ensure youth in security are receiving required educational services, the Youth Services Contract Manager should assist Garza with improving the existing education tracking process.	The Youth Services Contracts Manager will collaborate with GCRJC administration on developing an improved communication system between education and operational staff to ensure youth in segregation are receiving required education services.	Implementation Verified
14-1B Garza County Regional Juvenile Center	To ensure incident reports accurately reflect youth behavior, the Youth Services Contract Manager should provide training to Garza staff and the Parole Services Assistant on documentation and key entry expectations.	The Youth Services Contracts Manager will provide training to GCRJC staff on rules and consequences for residential facilities, along with appropriate documentation for formal incident reports. Additionally, the Youth Services Contracts Manager will provide training to agency staff (who enters formal incident reports for GCRJC) on screening and entering incident reports into the CCS.	Implementation Verified
14-1B Garza County Regional Juvenile Center	The Youth Services Contract Manager should ensure the Case Management Specialist implements a review of incident reports to establish compliance with guidelines and accuracy of coding.	The Youth Services Contracts Manager will ensure that either, the Case Management Specialist, Case Management Supervisor, or Youth Services Contracts Manager reviews all incident reports submitted by Garza for 30 days for accuracy prior to entry into the CCS. A summary report of these reviews will be provided to the Senior Director of State Programs and Facilities.	Implementation Verified

Audit Follow-Up May 2015

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-1B Garza County Regional Juvenile Center	The Youth Services Contract Manager should ensure the Case Management Supervisor enhances the Master File Audit tool by reviewing the accuracy of incident report entry into the Correctional Care System.	The Case Management Supervisor will modify his audit tool to include random reviews of incident reports entered into the CCS.	Implementation Verified
14-1B Garza County Regional Juvenile Center	To support supervision of segregated youth, the Youth Services Contract Manager should implement a periodic review of supporting documentation.	The Youth Services Contracts Manager (or designee) will conduct 90-Day random reviews of segregation practices and/or segregation incidents that occur at Garza County Regional Juvenile Center (GCRJC).	Implementation Verified
14-1B Garza County Regional Juvenile Center	To ensure eligible youth are receiving TCOOMMI screenings and referrals, the Senior Director of State Programs and Facilities should enhance the existing monitoring process.	Information and Technology Department is in the process of developing an exceptions report that will identify youth with no TCOOMMI referrals and prior to the youth's minimum length of stay date (MLOS). A TJJD Program Specialist will continue to track referrals and include the TJJD Youth Services Contracts Manager on oversight reports.	Need further action based on review
14-1B Garza County Regional Juvenile Center	The Senior Director of State Programs and Facilities should follow up with the Information and Technology Department to ensure the Correctional Care System (CCS) has been updated to include corrections to the TCOOMMI program service codes.	Information and Technology Department has changed the coding and 120 definition (April 29, 2014). Additionally, on 4/29/14 the Office of General Counsel updated the CCF-120 Description form on line.	Implementation Verified

Audit Follow-Up May 2015

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-1C Schaeffer House	The Superintendent should ensure case management reports are completed and submitted timely to Austin Office.	The Superintendent will complete and submit the case planning report by the 15th of each month.	Implementation Verified
14-1C Schaeffer House	The Superintendent or designee should perform a periodic review of the conference request log to ensure compliance with agency guidelines.	The Superintendent or designee will meet with the JCO VI on a monthly basis to review the conference request log to ensure compliance per GAP and YRP. A monthly report will need to be submitted to the Superintendent showing that a review was conducted.	Implementation Verified
14-1C Schaeffer House	The Superintendent should ensure student trust funds eligible for escheatment are included on the Student Trust Fund Escheatment Affidavit form (ACC-707) prior to approval and submittal to Austin Office.	The Superintendent will meet with the Business Services Coordinator at the onset of the escheatment process in June of each year to cross reference the escheatment report and to both agree which youth monies need to be escheated. The Business Services Coordinator will advise the superintendent of each step of the process until completion prior to July 15, 2014.	Implementation Verified
14-1C Schaeffer House	To ensure trust funds follow the youth, the Superintendent should create a process to notify the business service coordinator of every youth scheduled for release from the facility.	The Superintendent or Assistant Superintendent will copy the Business Services via e-mail on all youth movements.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-1C Schaeffer House	To ensure grievances are processed in accordance to policy, the Superintendent should periodically monitor youth grievances.	The Superintendent will monitor the youth grievance log book on a monthly basis to ensure grievances are processed per the Youth Rights Procedures Manual by initialing the youth grievance log book with the review date. Also the superintendent will ensure that the Youth Rights Monthly Monitoring Report (YRD 108) is consistent with the Youth Grievance Manager (Reports).	Implementation Verified
14-1C Schaeffer House	To ensure data reliability of filed grievances, the Youth Rights Manager should periodically review data submitted into the Youth Grievance Manager System.	Grievances will be monitored quarterly beginning April 30th. The Assistant Superintendent will be responsible for submitting supporting documentation to the Youth Rights Program Administrative Assistant and Youth Rights Manager via email.	Implementation Verified
14-3 Endowment Trust Funds Audit	To ensure consistency to agency contractual processes, the CFO should ensure controls over contractual agreements with external entities are in accordance with the Act and agency policy.	Agency staff is currently in contact and negotiation with the current external investment firm to address the issues identified.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-5 Medical Services	To ensure only active TJJJ employees have access to EMR, the Medical Director should collaborate with the Director of Human Resources to identify all currently terminated employees and remove their access.	Medical Services and HR identified all employees with EMR access that have either separated from the agency or no longer require access. A Delete User form for each applicable employee was submitted to UTMB-CMC on 2/24/14. Medical Services will verify that the forms were received by UTMB-CMC and that employee access was removed. Also, the TJJJ employee access list was compared with the UTMB-CMC list on 2/25/14 to reconcile any discrepancies.	Implementation Verified
14-5 Medical Services	To ensure Medical Services is notified of terminated employees with EMR access, the Director of Human Resources should provide guidance to HR staff on the critical nature of properly conducting the exit documentation and communicating results to Medical Services.	Medical Services will maintain and make available a list of employees who have access to the EMR database. When an employee separates, HR will reference this list and if the employee has access, a Delete User form will be sent to Medical Services to forward to UTMB for access removal.	Implementation Verified
14-5 Medical Services	To ensure halfway house staff is assessing each youth for self-administration of medication, the Medical Director should collaborate with the Manager of Halfway Houses and Reentry to expand monitoring over the program to ensure assessment and rationale is documented.	The supervised self-administration of medication program is currently monitored by Medical Services. Monitoring will be expanded in the next fiscal year (to maintain consistency this fiscal year) to include a review of assessment / rationale documentation.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-5 Medical Services	To ensure all halfway house youth are provided the opportunity to participate in the supervised Self-Administration of Medication program, the Manager of Halfway Houses and Reentry should collaborate with the Medical Director to enhance policies that clarify roles and responsibilities, identify barriers to implementation, improve documentation of program utilization, as well as promote safe implementation of the program.	The Manager of Halfway Houses and Reentry will collaborate with the Director of Nursing to establish written criteria for program eligibility, clarify youth referral, assessment, and documentation procedures, and revise the medication administration process, as needed, to address barriers to implementation and other safety issues.	Implementation Verified
14-5 Medical Services	To ensure the agency follows protocols for creating and amending contracts, the Director of Business Operations and Contracts should provide training to management as part of a Central Management Team meeting and/or other such avenue to ensure management staff understand the process.	The requisition, procurement, and contracts process training curriculum is complete. Director of Business Operations and Contracts will request to be included on the agenda for a future CMT Meeting to provide training within the next 90 days.	Implementation Verified
14-5 Medical Services	To ensure the agency and facility administration is informed of authorized University of Texas Medical Branch (UTMB) staff, the Medical Director should provide each facility with current UTMB staffing lists, as well as periodic updates as warranted.	The Medical Director will collaborate with the Senior Director of State-Operated Programs and Services to determine the best mechanism for notifying facility administration of current UTMB-CMC staffing information and changes.	Implementation Verified

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-6 Student Transportation	To ensure trip mileage and changes to trip schedules are accurately reflected in the transportation system while also evaluating efficiencies in the trips, the Transportation Supervisor should develop a process for periodic monitoring of the data entered.	The Transportation Supervisor will check the beginning and ending mileage on the Transportation Vehicle Check form and the Trip Sheet to the mileage data entered into the transportation system for discrepancies and investigate 100% of trips on a weekly basis and check the mileage input of the transporters against the mileage indicated by a MapQuest search and investigate variances over 25 miles on a weekly basis.	Implementation Verified
14-6 Student Transportation	To ensure the Transportation Vehicle Check form supports the safe transport of youth, the Transportation Supervisor should review the form to incorporate needed improvements.	The Transportation Supervisor will update the Transportation Vehicle Check form to include documentation of the total number of working equipment and youth transported to support safety.	Implementation Verified
14-6 Student Transportation	The Director of State Programs and Facilities should work with the Chief Information Technology Officer to ensure the transportation system is operating effectively and properly documented to support the end-user.	The Senior Director for State Programs and Facilities will work with the Chief Information Technology officer to develop recommendations for corrections and a timeline for any needed corrections by May 31, 2014.	Need further action based on review

Audit Follow-Up May 2015

Audit Control #/Title	Recommendation	Current Status per Management (Summarized)	Report Status
14-8 Gang Intervention Program Audit	Manager of Specialized Treatment should meet with the Project Management Office to discuss and determine if PMO can be utilized during the remainder of the New Freedom rollout.	Manager of Specialized Treatment and Senior Director of State Programs and Facilities determined that PMO would only be used on this project to evaluate “lessons learned” during rollout as the rollout is nearly completed.	Implementation Verified



Texas Juvenile Justice Department

Safety & Security Committee Meeting

11209 Metric Boulevard, Building H - Lone Star Conference Room
Austin, Texas 78758
Thursday, January 29, 2015, 2:30 p.m.

BOARD MEMBERS PRESENT:

The Honorable Laura Parker, Committee Chairman
The Honorable Becky Gregory
Riley Shaw
The Honorable Judge John Brieden III (non-committee member)
The Honorable Jimmy Smith (non-committee member)

BOARD MEMBERS ABSENT:

EXECUTIVE STAFF PRESENT:

Roland Luna, Chief Inspector General
Teresa Stroud, Senior Director of State Programs and Facilities
James Williams, Senior Director of Probation and Community Services
Eleazar Garcia, Chief Auditor
Karen Kennedy, Deputy General Counsel

OTHER GUESTS PRESENT:

Kevin DuBose, TJJD
Rod Venner, TJJD
Melanie Cleveland, TJJD
Kaci Singer, TJJD
Reni Johnson, TJJD
Vivian Cohn, TJJD
Karol Davidson, TJJD
Ashley Kintzer, TJJD

Call to Order

Chairman Laura Parker called the meeting to order at 2:30 p.m. Chairman Parker introduced Riley Shaw, the new appointee to the TJJ Board. Mr. Shaw works for Tarrant County District Attorney's Office. Chairman Parker stated that there was not a quorum present at this time and moved to item 3 on the agenda, the Report from the Office of the Inspector General (OIG).

Office of the Inspector General Update

Chief Roland Luna, Inspector General, presented the OIG investigative analysis with summary indicators for the Incident Reporting Center (IRC) aggregates through the 1st Quarter of Fiscal Year 2015. Chief Luna stated there were 3,449 reports to the IRC. Of those reports, 216 were referred to the Administrative Investigations Division (AID), 359 to AID Probation, 434 retained by OIG, 1,438 to Youth Rights, 654 to State Programs, and 348 closed as either duplication or a directive to apprehend (DTA).

OIG submitted 96 criminal investigations to prosecution, which is a three percent (3%) decrease from last year. He stated that while criminal cases were up, cases referred to prosecution are down. Of those cases submitted to prosecution, 91 were in the assaultive category, 1 in the sexual assault category, which shows a decrease from last year, 2 in the property category, zero in the contraband category, and 2 in the other category. TJJ Active DTAs issued were 107 for the 1st Quarter of FY15. OIG completed 9 apprehensions and 72 apprehensions as a result of intelligence shared with other law enforcement agencies.

Chief Luna reviewed the numbers on the Investigative Life Chart. The average number of days to receive, evaluate and assign a case is one day. This remains steady from last fiscal year. Average number of investigative days is 35, compared to 74 days for the same date range last year. The average number of days for intake decision after a case is referred to SPU is stable and constant at 20 days, which is attributed to the partnership fostered with the Special Prosecution Unit (SPU). The average number of days for final disposition is stable as well with 80 days. The complete investigative life cycle is at a total of 136 days.

Other OIG activity includes 996 status checks which are the detainer checks performed by OIG when youth move from secured to non-secured facility. The Contraband Detection and Interception Division (CDID), which is the K9 division, has been with OIG for about a year, allowing OIG the ability to quantify what those search results have been. Chief Luna stated that the CDID has more than doubled their search efforts at 1,791 searches. He explained that there are four different types of searches that are conducted at secured

and non-secured facilities. These include searching the perimeter, gatehouse searches, open-air searches, and dorm searches. As a result of the increase in searches there has been less contraband at the facilities. He attributes this to more detection aspects, which are a deterrent.

Chief Luna reported that the Security Intelligence Officer (SIO) program has been fully implemented since December 1, 2014. The program is showing a lot of promise. The SIO program has completed an evaluation of 450 existing records. Chief Luna stated that the first Security Intelligence Report, which will be shared with the agency and all secured facilities, will be starting in February.

Chief Luna reminded the Committee of the installation of a Safety & Security Advisory Committee that was discussed at the previous committee meeting. He stated that the outcome thus far has been very good. The focus of the committee has been on structural improvements, policy development, training improvement, and personnel matters. In the four months since the inception of the committee there have been many process improvements throughout the agency. The committee is a cross-divisional representation; meaning OIG, AID, Executive Management, various departments within State Programs, Research and Planning, Medical and most all other departments are represented. During committee meetings issues are addressed and discussed in an effort to find solutions.

Administrative Investigations Update

Kevin DuBose, Director of Administrative Investigations Division, presented his division report. The County Investigations Unit summary comparison report from Fiscal Year 2014 to present shows a total of 748 complaints received on the county side, 94 of which have been classified as allegations of abuse, neglect or exploitation and have been assigned for investigation. In each category there is a slight increase in terms of the total numbers as compared to last year. Total cases closed to date for Fiscal Year 2015 are 101.

The State Investigators Unit, which has investigators assigned to each of the secure State facilities, reported a total of 317 total investigations opened and have closed 518 total investigations to date. Mr. DuBose explained that with each investigative report you could have multiple allegations involved. So, that number (518) does not necessarily represent reports but the total number of complaints that have been addressed and disposed of.

Chairman Parker questioned if Mr. DuBose means a multi-character incident. Mr. DuBose responded that that is not necessarily the case. It could also involve a multitude of rule violations by the same staff. Mr. DuBose confirmed for Chairman Parker the 518 cases closed represents complaints, not people.

Mr. DuBose completed his report by stating that of the 317 cases that have been opened to date, AID has closed 100 cases. All 100 have been closed within a 30 to 90-day timeframe, leaving 217 open cases that AID is continuing to work on diligently throughout the remainder of the year.

State Programs and Facilities Update

Teresa Stroud, Senior Director of State Programs and Facilities, presented the division report. The population report shows less than 1,000 youths in the facilities. This is the lowest amount in several years. As of this morning, it is around 980. There are a little less than 112 youths in halfway houses and 94 in contract care facilities to date.

The State Programs and Facilities division is working to ensure that the most accurate and easily interpreted data is reported. Ms. Stroud stated that they are hoping to convert the incident report to actual numbers of incidents incurred rather than calculating incidents per 100 youth. With reduced populations, this reporting can make incident rates overall sound inflated. In October and November of 2014 the agency experienced sharp downward trends in incidents at Gainesville, Evins and Mart long term, Mart RTC and the Phoenix Unit and the Ron Jackson long term unit housing female youth. Ms. Stroud indicated a modest downturn at the Ron Jackson O&A Unit and rates at Giddings held steady.

Ron Jackson continues to roll out the Positive Behavioral Supports and Interventions (PBIS) to the entire campus and Gainesville also began implementation of PBIS. Recently, the Education department arranged for a Birds of Prey exhibition as an incentive for youth who were eligible at each facility. The demonstrations were well received by youth and enjoyed by all who attended.

Ms. Stroud stated that our first facilities participating in PREA audits all passed successfully and were awarded certification in October 2014. The agency is moving forward with the next round of secure facilities and halfway houses with PREA audits scheduled in February 2015. Additionally, Garza County Juvenile

Correctional Facility in Post, Texas contracted independently for their PREA audit and successfully passed in late 2014, being our first contract vendor to obtain PREA certification.

Ms. Stroud discussed November and December workers' compensation numbers. They are both down a little from October. We certainly are not thrilled with the numbers we received. We're going to continue to address that through management and our accident review boards at the facilities.

Under the leadership of the State Programs and Facilities division and in cooperation with our agency Research Department, the agency is finalizing a Memorandum of Understanding to enter a long term research partnership with the Criminal Justice Department at Sam Houston State University (SHSU). The University and TJJD look forward to a meaningful partnership in which many issues facing juvenile justice practitioners may be researched and addressed, resulting in information sharing as well as continuous improvement of service delivery and treatment.

August 21, 2014 meeting minutes

Chairman Parker acknowledged the arrival of Becky Gregory and recognized a quorum is present. She moved to approve the minutes. The motion was seconded and the motion passed.

October 23, 2014 meeting minutes

Chairman Parker moved to approve the minutes. The motion was seconded and the motion passed.

Discussion, consideration, and possible approval to publish proposed revisions and rule review within 37 TAC §§380.9312 – 380-9317 and 380.9337, relating to youth rights and remedies, and §§380.9501 – 380.9503 and 380.9517 – 380.9535, relating to behavior management, in the Texas Register for a 30-day public comment period.

Ms. Stroud indicated that this agenda item involved the Youth Rights and Remedies and Behavior Management. Ms. Stroud would like Board approval to post this agenda item in the Texas Register for a 30-day public comment period. This is part of the ongoing rule review regarding visitation. Ms. Stroud highlighted portions of the rule revisions. Regarding visitation and the use of telephones, this rule revision would improve and clarify that the agency is meeting all youth's rights regarding the use of the telephone and ensuring that it is accessible for emergency calls to the OIG and the Office of the Independent

Ombudsman (OIO). The revision also clarifies immediate family, what numbers can be posted on the phone, and clarified youth mail as it pertains to special correspondence so youth mail is not opened and special force monitoring is involved. We also added to that our employees that are part of the TJJJ OIG and investigators from other departments.

The agency is proposing several changes to the behavior system overview. If a deteriorating dorm culture threatens youth/staff safety and is not considered disciplinary by safety and security measures, a dormitory restriction needs to be enacted. Disciplinary consequences cannot deny youth access to mental health services, educational services, or religious services. That has not been allowed in the past but is being clarified in the policy. Staff draws reference to use of force in upper management because use of force is not considered behavior management. In our youth privilege system staff made some changes that designed that policy more with the possible behavior interventions for those who were moving towards behavior management system. Staff removed the requirement for a youth to receive a daily behavior rating and for those ratings to be averaged for an overall weekly rating. Youth will receive daily feedback, but not a numerical daily behavior rating. Staff also added a provision that allows the executive director, or designee, to make exceptions to visitation rules in emergency situations in addition to a case-by-case basis.

Chairman Parker called for a motion to recommend publishing the proposed revisions and rule review in the Texas Register for a 30-day public comment period. The motion was made, seconded, and approved.

Discussion, consideration, and possible approval to publish proposed revisions and rule review for 37 TAC §380.9504, relating to rules and consequences for youth on parole, in the Texas Register for a 30-day public comment period.

Chairman Parker invited James Williams, Senior Director for Probation and Community Services, to speak about this agenda item. Mr. Williams indicated that this agenda item involved cleaning up the language in 37 TAC §380.9504 to make it easier for youth to read and understand. Mr. Williams indicated that there was nothing of real substance that was changed. There is nothing controversial. Staff request permission to post the changes in the Texas Register for the 30-day public comment period.

Chairman Parker called for a motion to recommend publishing the proposed revisions and rule review in the Texas Register for a 30-day public comment period. The motion was made, seconded, and approved.

Discussion, consideration, and possible approval to publish proposed revisions and rule review within 37 TAC §§380.9301, 380.9311, 380.9331 – 980.9333, and 380.9353, relating to youth rights and remedies, and §§380.9550 – 380.9571, relating to due process hearings, in the Texas Register for a 30-day public comment period.

Chairman Parker invited Kaci Singer, Staff Attorney, to speak about this agenda item. Ms. Singer indicated that this agenda item involved revising several rights and remedies, behavior management, youth discipline, and due process as part of the regular rule review. Youth rights added sexual orientation and gender identification and a list of factors by which a youth may not be discriminated against. Some rights to free expression were clarified that includes speaking languages other than English with certain exceptions related to Safety & Security. It clarifies that a youth does have a right to participate in religious activities but the parent has a right to establish a religious preference for the minor child.

A provision was also added requiring calls to the attorneys and courts by youth to be made using staff phones and not charged to the youth's prepaid phone account. Items related to the due process hearings were clarified.

Another rule revision will allow youth's attorney to participate by phone in a rule revocation hearing that is being conducted by telephone. Clarifications were made to our hearing and procedures. Ms. Singer requested to publish the revisions in the Texas Register for a 30-day public comment period.

Chairman Parker called for a motion to recommend publishing the proposed revisions and rule review in the Texas Register for a 30-day public comment period. The motion was made, seconded, and approved.

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

Ms. Singer indicated that TJJD has the authority to issue discipline on certified officers, like Probation Officers and certified Supervision Officers provided that proper notice has been made. She presented a list of seven default judgments that staff are asking the Board to approve. The Office of General Counsel determined that

proof of proper notice and failure to respond exists in these cases. The Default Order explains the notices provided, the lack of response, the alleged conduct and violations, and the requested sanction.

Chairman Parker called for a motion to recommend the default judgments. The motion was made, seconded, and approved.

Adjourn

The meeting was adjourned at 2:55 p.m.

DRAFT



Texas Juvenile Justice Department
Safety & Security Committee Meeting

Thursday, March 26, 2015
11209 Metric Boulevard, Building H - Lone Star Conference Room
Austin, Texas 78758

BOARD MEMBERS PRESENT:

Riley Shaw, Acting Chairman
The Honorable Becky Gregory

BOARD MEMBERS ABSENT:

The Honorable Laura Parker
The Honorable Carol Bush

EXECUTIVE STAFF PRESENT:

Jill Mata, General Counsel
Carolyn Beck, Governmental Relations
Specialist
Roland Luna, Chief Inspector General
Teresa Stroud, Senior Director of State
Programs and Facilities

Eleazar Garcia, Chief Auditor
Karen Kennedy, Deputy General Counsel
Jeannette Cantu, Executive Assistant
James Williams, Senior Director of
Probation and Community Services

OTHER GUESTS PRESENT:

Kevin DuBose, TJJD
Kaci Singer, TJJD
Steve Roman, TJJD
Ashley Kintzer, TJJD
Rebecca Walters, TJJD
Jorge Gonzalez, TJJD
Rod Venner, TJJD
Scott Friedman, TJJD
Paul Bartush, TJJD
Tom Brooks, Harris County Juvenile
Probation Department
Ron Quiros, Guadalupe County
Juvenile Services

Rebecca Thomas, TJJD
Lisa Colin, TJJD
Melanie Cleveland, TJJD
Rod Venner, TJJD
Terri Dollar, TJJD
Reni Johnson, TJJD
Fred Meinke, TJJD
Michael Turner, TJJD
Lisa Smith, TJJD
Sarah McCleary, TJJD

Safety & Security Committee
March 26, 2015

Called to Order

Riley Shaw, Acting Chairman, called the meeting to order at 2:37 p.m. Mr. Shaw stated that Judge Parker and Judge Bush would not be attending the committee meeting.

Office of the Inspector General Update

Chief Roland Luna, Inspector General, presented the OIG investigative analysis with summary indicators for the Incident Reporting Center (IRC) fiscal year comparisons for the first two quarters through FY 2014 and 2015.

Chief Luna reviewed the numbers on the Investigative Life Cycle Chart. The average number of days under investigation last year at this time was 64 with the median case completion time this year being 40 days. The average number of days for an intake decision by the Special Prosecution Unit (SPU) or the local prosecutor is 22 days. The average number of days for final disposition once the intake decision has been made by the prosecution is 80 days. The total number of days for the life cycle is 143.

Chief Luna reported on new activities in the OIG division. The contraband, detection and interception team (K-nine unit) for this fiscal year-to-date through the second quarter shows 2,665 searches. There are four different categories of searches which include perimeter, open air, gate house and dorm searches.

The Security Officer program has been with OIG since the beginning of this fiscal year. There was full implementation of the program on December 1, 2014. A draft report has been finalized as of the day of this meeting. A comprehensive security intelligence report will be shared with each facility on a monthly basis. The comprehensive report will have all of the facilities listed.

Administrative Investigations Update

Kevin DuBose, Director of the Administrative Investigations Division, provided summary comparisons for FY 2015 as compared to FY 2014. The data is as of March 1, 2015. The total number of complaints has declined on the county side. There have been 168 cases assigned for this fiscal year. The total number of investigations completed for this fiscal year is 179. Calendar days to disposition include 14 cases closed in less than 30 days, 31 cases closed in 30 – 90 days and 134 cases closed in 90+ days. The State Investigations Unit report includes the total number of cases opened as compared to this time last year is

532. There were 632 last year. There were 13 investigations completed in less than 30 days for FY 2015. There were 248 cases completed with 30 to 90 days.

State Programs and Facilities Update

Teresa Stroud, Senior Director of State Programs and Facilities presented the division report. Ms. Stroud pointed out that on the tracking report it remains a little bit under budget at around 7%. There are 1125 kids in the residential programs today. Less than 1000 are in secure facilities, 135 in halfway houses and 96 in contract care. The programs that are most significantly under budget are the specialized programs such as the Residential Treatment Center and Orientation and Assessment Unit.

Ms. Stroud announced that in February, Donald Brooks, the Superintendent of the Evins facility passed away. He was a superintendent for a few years and had been with the agency for over 20 years. Ms. Stroud stated that he was a great asset to the agency and will be sorely missed. The interim acting superintendent is Eduardo Garza, the current Assistant Superintendent.

Ms. Stroud informed the committee a student from the PAWS program along with staff and a canine will be giving a demonstration at the Programs Committee meeting. Cris Burton, the Lead Treatment Specialist, is responsible for the inception of that program. Cris works very closely with the dorm supervisor, Holli Fenton, who has been with the program since the very beginning. It was noted that there is a lot of community support for this program.

Michael Turner was introduced as a new employee of the State Programs and Facilities division. Mike transferred from the Education division. He will be in charge of the Performance and Accountability Department within the State Programs division.

The facilities are in the second round of PREA audits. So far there have been successful completions. Schaeffer House was recently awarded their certification. Rebecca Walters, the Director of Integrated State Operated Programs and Teresa Stroud will be serving on the national Mental Health Committee for the American Correction Association for the next biennium.

The performance and tracking materials show an increase in the use of OC spray at the Evins facility. Data is being reviewed and a training plan is being developed to review the use of OC spray and policy. A 60-day plan is being developed to train all of the JCOs and any one authorized to carry it.

State Programs has been working with the Risk Management Division to monitor increases in the workman's compensation rate over the last few months. Someone from Risk Management is being assigned specifically to the secure facilities where most of the incidents occur. There has been an increase in injuries across the board related to staff assaults.

The tracking report now includes the actual number of major and minor incidents. The recent research regarding the Phoenix program is very promising. There have been 25 youth that have successfully completed the program returned to a main campus.

Review, discussion and possible action regarding the Brown County Juvenile Board application for permanent variance for Title 37 Texas Administrative Code Section 343.644 related to spatial requirements for single occupancy housing units.

Review, discussion, and possible action regarding the Brown County Juvenile Board application for permanent variance for Title 37 Texas Administrative Code Section 343.666 related to exercise and day room areas.

These two items were combined and presented by Scott Friedman who was representing the Monitoring and Inspections division. These applications were submitted on behalf of The Oaks facility which began operation in 2013. The variances were being sought to address discrepancies specific to resident room ceiling height and spatial requirements in resident day areas. Discussion followed and it was pointed out that there were no safety or fire code issues. There was no action taken.

Review, discussion, and possible action regarding the Harris County Juvenile Board application for permanent variance for Title 37 Texas Administrative Code Section 343.250 (related to external and perimeter security), Section 343.658 (relating to shower facilities), Section 343.660 (relating to toilet facilities), Section 343.662 (relating to washbasins), and section 343.664 (relating to drinking fountains).

This item was presented by Scott Friedman and the Harris County Chief Juvenile Probation Officer, Thomas Brooks. Harris County Youth Village is currently a non-secure co-ed facility that is seeking multiple variances to allow the facility to be re-designated/certified as a secure post-adjudication facility. Discussion followed regarding physical plant issues and no action was taken.

Discussion, consideration, and possible approval to publish proposed revisions to 37 TAC 343.236 and 343.238, relating to secure storage areas and hazardous materials, in the *Texas Register* for a 30-day public comment period.

Mr. James Williams, Senior Director of Probation and Community Services, presented this request to publish this revision for public comment in the Texas Register. This revision would require that that hazardous materials be stored inside the facility rather than outside and that everyone who has access to the materials be properly trained. Brief discussion followed. There was no action taken.

Discussion, consideration, and possible approval regarding the discipline of certified officers default judgment order for Charles Ford, Certification #27432, Hays County.

Kaci Singer, Staff Attorney, recommended that a default order be issued by the board. Mr. Ford never responded to the notice of hearing. There was no action taken.

Discussion, consideration, and possible approval to set aside the default order revoking the certification of juvenile supervision officer Stanley Sneed, #12773, in cause #DH665-11-8451, heard by the TJJD Board on January 20, 2012.

Kaci Singer, Staff Attorney, recommended that the default order be set aside due to the notice of hearing being sent to the wrong address. Mr. Sneed never received notice. There was no action was taken.

Safety & Security Committee
March 26, 2015

Adjourn

The meeting was adjourned at 3:55 p.m.

DRAFT



TEXAS
JUVENILE JUSTICE
DEPARTMENT

Memorandum

To: TJJD Board Members

From: David Reilly, Interim Executive Director

Teresa Stroud, Senior Director of State Programs and Facilities

Subject: Report from the State Programs and Facilities Division

Date: May 5, 2015

Population: (as of 5/1/15)

Programs	Budgeted	Actual	Female Pop	Over Under	Percent
Evins	136	125	*	-11	(8.1%)
Gainesville	252	229	*	-23	(9.1%)
Giddings	205	207	*	-1	1.0%
Mart –LT	206	195	*	-11	(5.3%)
Mart- RTC	50	40	*	-10	(20.0%)
Mart - Phoenix	16	7	*	-9	(56.3%)
Ron Jackson Youthful	20	14	*	-6	(30.0%)
Ron Jackson LT	96	103	102	7	7.3%
Ron Jackson O & A	92	88	6	-4	(4.3%)
Total Institutions	1073	1011	104	-70	(6.1%)

Halfway Houses	Budgeted	Actual	Female Pop	Over Under	Percent
Ayres House	20	21	*	1	5.0%
Brownwood House	6	7	7	1	16.7%
Cottrell House	16	17	*	1	6.3%
McFadden	48	37	*	-11	(22.9%)
Schaeffer House	12	21	*	9	75.0%
Tamayo House	16	23	*	7	43.8%
Willoughby House	12	12	*	0	---
York House	16	8	*	-8	(50%)
Total HWH's	146	146	7	0	---

Contract Programs	Budgeted	Actual	Female Pop	Secure
Associated Marines RGMI	12	7	*	NO
Byrds Group Home	6	1	*	NO
Garza County	35	32	*	YES
Gulf Coast Trades Ctr	8	13	*	NO
Pegasus	2	4	*	NO
The Oaks	30	33	*	YES
Mentor	2	0	*	NO
SAFY	5	4	*	NO
Triumph House	n/a	1	1	NO
Austin State Hospital	0	0	*	YES
Terrell State Hospital	0	0	*	YES
Vernon State Hospital	0	0	*	YES
Total Contract	100	95	1	

Residential Programming

The overall population at state operated facilities is by under budget by 6.1%. In line with February, commitment trends remained up slightly in March 2015 compared to the previous year. Commitments have increased one percentage point each month since February with the agency currently up by 3% over last year. We have seen a small increase in the number of youthful offenders committed as well (under the age of 14 years old)

State Programs and Facilities is very pleased to announce that the agency has moved to the next step in accreditation by the American Psychological Association. The agency APA self-study was approved by the association and the next step will be a site visit. According the American Psychological Association website:

Accreditation is both a status and a process. As a status, accreditation provides public notification that an institution or program meets standards of quality set forth by an accrediting agency. As a process, accreditation reflects the fact that in achieving recognition by the accrediting agency, the institution or program is committed to self-study and external review by one's peers in seeking not only to meet standards but to continuously seek ways in which to enhance the quality of education and training provided.

The accreditation process is a lengthy one which has been led by Director of Treatment, Madeleine Byrne and will allow the agency to be recognized formally for the level of standard of clinical care. This further will improve the agency ability to recruit and retain doctoral candidates working through internship to licensure, improving our pool of qualified candidates.

The Gainesville State School has successfully completed their PREA certification audit and will be recognized for this significant accomplishment.

Workers' Compensation

State Programs & Facilities is pleased to report a decrease in workman's compensation injuries from January to March with the most significant reduction at Evins. We strive to continue to reduce this incident rate through training, accident and use of force review. The Risk Management division of Monitoring and Inspections is engaging with facility accident review teams to help identify problem areas which may further reduce incidents of injury.

- Number of claims in March: 32 (Averaging 40 per month)
 - Due to industrial accidents: 8 (Averaging 8 per month)
 - Due to youth aggression: 24 (Averaging 32 per month)
 - Due to an assault: 5
 - During a restraint: 19

- FY15 YTD Injury Frequency Rate: 19.07
 - FY14 IFR: 19.14

- FY15 YTD Expenditures \$2,141,154.27 (83% from previous year claims)
 - Same period FY14: \$1,553,544.11

 - FY15 YTD Cost per FTE: Projected to be \$1,458.89

 - FY14 Cost per FTE: \$1,308.62

- FY15 YTD Lost Days: 2913
- FY15 YTD Restricted Days: 2266

Turnover

A recent review of turnover trends has revealed improvements in several programs at the facility level. Gainesville has made significant improvements since FY 2013, McLennan and Ron Jackson continue to exceed expectations. Giddings is seeing significant improvement halfway into FY 15. Halfway Houses on average remain below 10% turnover rate.

Facility Overall Rate All Employees (# employees)	FY 13	FY 14	To date FY 15	Projected FY 15
Corsicana (277)	37.08%	95.25%*	Closed 12/14	n/a
Evins (279)	31.77%	37.04%	13.66%	23.25%
Gainesville (391)	51.24%	38.29%	22.59%	38.45%
Giddings (407)	40.65%	35.97%	13.46%	22.91%
McLennan (555)	24.63%	24.66%	17.91%	30.49%
Ron Jackson (267)13 (367) 15	16.67%	21.08%	11.63%	19.80%
Totals	33.69%	33.56%	16.07%	27.35%

Halfway Houses Overall	FY 13	FY 14	To Date FY 15	Projected FY 15
Ayres (23)	18.60%	28.57%	8.48%	14.44%
Beto (25)	20.83%	100%	Closed	n/a
Brownwood House (16)	n/a	0%	12.28%	20.90%
Cottrell (22)	30.11%	8.33%	9.33%	15.89%
McFadden (46)	6.67%	2.20%	10.97%	18.67%
Schaeffer (24)	17.78%	29.17%	0	0
Tamayo (23)	4.30%	12.24%	0	0
Turman (24)	18.39%	100%	closed	n/a
Willoughby (24)	19.51%	16.33%	4.07%	6.93%
York (22)	15.09%	22.47%	18.79%	31.99%
Totals	16.44%	23.84%	7.99%	13.61%

*Corsicana, Beto House and Turman House were closed in FY 14

* Brownwood House was opened in FY 14

New and Good

The State Programs and Facilities Division recently hosted Dr. Cay-Shea Hellervick from Minneapolis, MN. Dr. Hellervick is a retired psychologist who worked in Juvenile Justice in Hennepin County Minnesota more than 20 years. She is the author of It's Not Your Fault; A workbook for parents of children involved in juvenile justice. Dr. Hellervick and her husband are endowing a chair in the Psychology department at the University of Ohio. The focus of the chair will be research in cognitive-behavioral therapies with juvenile justice involved youth. Dr. Byrne, Ms. Walters and Ms. Stroud have been invited to participate in a conference at the University next year speaking on the use of Cognitive Behavioral therapy in TJJD rehabilitation programs.

TJJD was again selected by Youth Service America as a Texas Lead Agency for the 2015 Global Youth Service Day. This is an annual campaign that mobilizes millions of youth across the world to improve their communities through service-learning projects each April. In addition to all of the TJJD operated facilities and parole offices participating, we have 21 probation departments and the Hays Consolidated School District involved in our Lead Agency Coalition. Preliminary data indicates we'll collectively have nearly 3,000 youth completing 105 community service-learning projects. The State Volunteer Resource Council and the Texas Community Service Association collectively disbursed \$3,000 in mini-grants to our GYSD coalition to cover expenses of equipment, supplies, and refreshments. Some of the examples of projects were the Evins youth who worked alongside their visiting family members to make "sock cupcakes" for a local organization, the Gainesville youth who made 200 "boo-boo bunnies" for local children's hospitals and chew blankets for the animal shelter, and probationers in Cherokee County who did extensive gardening projects at a local park.

Representatives from our PAWS program at Ron Jackson presented at the Juvenile Justice Association of Texas in San Antonio in April, including demonstrations from a participating youth and canine. They had very positive reception with request from one probation department for consulting because they have interest in starting a program.