



**Texas Juvenile Justice Department**

**Board Meeting**

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

Austin, Texas 78757

Friday, January 30, 2015 – 9:00 a.m.

**BOARD MEMBERS PRESENT:**

Scott W. Fisher, Board Chairman  
The Honorable John Brieden III  
The Honorable Carol Bush  
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

**EXECUTIVE STAFF PRESENT:**

David Reilly, Executive Director  
Roland Luna, Chief Inspector General  
Jim Hurley, Communications Director  
Elaine Mays, Chief Information Officer  
Lisa Capers, Senior Director of Administration & Training  
Karen Kennedy, Deputy General Counsel  
Nancy Slott, Director of Nursing  
Carolyn Beck, Governmental Relations Specialist  
Teresa Stroud, Senior Director of State Programs & Facilities  
James Williams, Senior Director of Probation & Community Services

Chelsea Buchholtz, Chief of Staff  
Royce Myers, Human Resource Director  
Jeannette M. Cantu, Executive Assistant  
Eleazar Garcia, Chief Auditor  
Jill Mata, General Counsel

**OTHER GUESTS PRESENT:**

**John Isle, TJJJ**  
**Connie Simon, TJJJ**  
**Kathryn Mattingly, TJJJ**  
**Steve Roman, TJJJ**  
**Kaci Singer, TJJJ**  
**Lucy Rodriguez, TJJJ**  
**Lisa Smith, TJJJ**  
**Karen Lashbrook, TJJJ**  
**John Gonzales, TJJJ**  
**Tammy Holland, TJJJ**  
**Ashley Kintzer, TJJJ**  
**Christina Corpus-Ybarra, TJJJ**  
**Carlos Garcia, TJJJ**  
**Raymond Gonzalez, TJJJ**  
**Bill Bristow, Grayson Co.**  
**Joe Brown, Grayson Co.**  
**Jarome Finley, TJJJ**  
**Vivian Cohn, TJJJ**  
**Danika Caruthers, Dallas County DA**  
**Kevin DuBose, TJJJ**  
**Estela P. Medina, Travis Co.**  
**Reni Johnson, TJJJ**  
**Art Hinojosa, TJJJ**  
**Pete Heller, TJJJ**  
**Jeannette Lepe, TJJJ**  
**Emily Anderson, TJJJ**  
**Jim Southwell, TJJJ**  
**Steven Vargas, TJJJ**  
**Rejeana Reynolds, TJJJ**  
**Sarah McCleary, TJJJ**  
**Tracy Levins, TJJJ**  
**Kavita Gupta, TJJJ**  
**Nydia D. Thomas, TJJJ**  
**Karol Davidson, TJJJ**  
**Jerome Williams, TJJJ**  
**Rod Venner, TJJJ**  
**Karen Kennedy, TJJJ**  
**Debbie Unruh, OIO**  
**Fred Meinke, TJJJ**  
**Luther Taliaferro, TJJJ**  
**Rebecca Walters, TJJJ**  
**Kristy Almager, TJJJ**  
**Kyle Dufour, TJJJ**

### **Call to Order**

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

### **Prayer**

Jerome Williams opened the meeting with a prayer.

### **Pledge**

The Pledge of Allegiance was recited.

### **Report from the Chairman**

Chairman Fisher discussed a report released by the Council of State Governments (CSG), looking in depth at county probation departments and the implementation of reforms that began in 2007 & 2008 focusing diverting youths from state lock-ups to closer to home interventions. He stated overall, the reforms made in Texas have been successful, but all realize there is more work to do.

Chairman Fisher stated during these past seven years the agency has seen the closure of nine secure facilities and several half-way houses. Juveniles incarcerated in state facilities have been reduced from near 5,000 youths to about 1,100 youths. The savings realized from these closures and the eventual merger of the Texas Youth Commission and the Texas Juvenile Probation Commission into what is now the Texas Juvenile Justice Department, have been re-focused into local diversions programs and mental health provision at the county level.

Chairman Fisher stated there will be continued reforms with a focus on better youth outcomes. He stated the goal of the juvenile justice system, from local communities and counties to state government, is to effectively equip youth with the skills they need to be successful in life and help them develop decision-making skills that make them healthy and productive citizens as adults, keeping them from lives of crime and incarceration.

Chairman Fisher stated education, mental health services, mentoring programs, character development are all critical components of helping them become successful. TJJD is committed to making the juvenile system in Texas a model for the nation.

Chairman Fisher offered some cautions that must be taken into account as the agency goes forward:

1. The CSG report indicated a drop in youth arrests exceeding thirty percent, a number reflected throughout the nation. However, there is no agreement among experts on the cause of this reduction in juvenile crime. Will there be a continued juvenile arrest rate at record lows? It is possible. But what will happen to the system if we see a return to the rates of a decade ago?
2. The CSG report was clear that there is no one-size fits all programming for juvenile offenders. What works for one youth may or may not work for another.

Chairman Fisher said it is clear, the agency must work together with county leaders, legislators, and experts in the field of juvenile justice to build a system that produces better outcomes, more adequately equipped young people inspired with hope and opportunity that will change the trajectory of their life paths. The agency has a historic and unprecedented opportunity to show the nation how Texans can come together and through thoughtful and even passionate discussion or debate, resolve this societal problem.

Chairman Fisher also reported that HB1 and SB2 have been filed. The funding for TJJD is initially zero, pending additional discussion and contingent upon resolving five key areas among r. We are going to be involved in what it will look like going forward. TJJD is a system successfully adapting to change. I encourage you to embrace the reforms that are going to continue to be placed upon all of us.

#### **Recognition of former Board member Joseph D. Brown**

Chairman Fisher recognized Joe Brown and stated he was appointed in 2007 and first served on the TYC Advisory Board, then the TYC Governing Board and the now TJJD Governing Board. For the last seven years, he and Mr. Brown have walked together through this journey of agency reform. Mr. Brown is the District Attorney in Grayson County, Sherman, Texas. Chairman Fisher congratulated Mr. Brown for his many years of service and presented him with a plaque from TJJD and framed certificate of appreciation from former Governor Rick Perry.

Mr. Brown thanked the staff and Board. He said it's a noble purpose that you serve on the Board and thanked them for all they do. He said when he started on this Board, the news was consistently negative and so when he opened the newspaper this morning and saw "Praise the Juvenile Justice System", it almost brought a tear to his eye. He said that's a reflection of the Board and staff leadership.

### **Discussion, consideration, and possible approval regarding excused absences**

All Board members were present.

### **Public Comments**

There were no public comments.

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

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

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

David Reilly, Executive Director, informed the Board that the agency has selected a new Medical Director, Dr. Tueshar Desai, who will start March 1.

Mr. Reilly informed the Board he was recently diagnosed with skin cancer. Surgery was successful and he is currently undergoing treatment. He said he appreciated the Boards concerns and will keep them updated as his treatment progresses.

Regarding the CSG Report, Mr. Reilly stated that TJJD formed a workgroup comprised of TJJD staff and chief probation officers to coordinate an agency response to the findings and recommendations found in the report in order to improve outcomes. The findings and recommendations will serve as a beacon as the agency identifies options for the legislature to consider in the weeks and months ahead. Some of the major topics will be how the agency will provide training and technical assistance to local stakeholders to ensure we are all working on the same page and in the same direction. Some of the questions we hope to answer through this process: Should the agency move to using one risk assessment tool to improve the consistency of the data? How can the agency base a portion of our funding in a way that supports local interventions that are consistent with the core principles for reducing recidivism and how can we do that within the context of recognizing local economy? How can the agency ensure fidelity of programs and replicate them statewide. On the state side, the agency will discuss our challenges and factors beyond our control that limit our ability to achieve the outcomes all of us want and expect, and then how to overcome those challenges with a new model.

Mr. Reilly reported that in the late summer, the legislature asked him what the agency needed to achieve better outcomes. Staff examined our current system, facilities, staffing model, funding levels and training requirements, etc. and determined what those needs were. Staff created and revised the LAR exceptional items list based on those additional needs. It's important to note that while this revision does address deficits in our staffing levels today, it does not address the larger picture of where the reform efforts of the past several years should now be focused for the years to come.

Mr. Reilly stated that for many years it's been acknowledged by policy makers and widely supported by research that the agency achieves better outcomes for youth we serve if we can keep them closer to their homes, in smaller facilities, less prison like environments and where family and parental participation and treatment programs can be more effectively achieved. Over time, we believe that this could be the next step of the reform process. If we did that it would constitute a significant and highly consequential transition in Texas. One that if adopted should be approached purposely and thoughtfully.

Even before that, staff believes there are measures the agency could initiate internally to further the reform effort within our current budgetary limitations. Staff is starting that process now by expanding our provider base of existing programs around the state for kids that can be moved from high restriction to medium restriction facilities.

Mr. Reilly recognized Nancy Slott, Director of Nursing, who has been managing the medical division while the Medical Director position has been vacant. He recognized and thanked Joe Brown for his service to the Board and the agency. He congratulated Board member Judge Laura Parker for her appointment to Chair of the Safety and Security Committee. He welcomed Mr. Riley Shaw to the Board.

Mr. Reilly recognized the following facilities that recently became certified as PREA compliant and the staff leadership present to accept the award: Brownwood House - Jarome Finley; Tamayo House - Raymond Gonzalez.

### **Report from the Safety and Security Committee**

Judge Parker reported the committee heard from Inspector General Roland Luna about the Safety and Security Advisory Committee as well as Kevin DuBose on Administrative Investigations, reporting very good numbers. Teresa Stroud, Senior Director of State Programs and Facilities, reported less than 1000 youth in TJJJ facilities; a new milestone. The committee also heard staff recommendations for rule revisions which the committee also recommends the board approve posting for 30-day public comment period and they also heard default judgment orders which the committee also recommends the board approve.

### **Report from the Inspector General**

Roland Luna, Inspector General, referred to the investigative analysis for the first quarter of FY 2015 and summary of indicators for the aggregates include 3449 reports to the IRC of which 12.5% which were retained for OIG for investigation. OIG investigations submitted for prosecution were 96, a decrease of about 3% in comparison from last year. TJJJ directives to apprehend were 107, a decrease of about 30% from last year. The average number of days for investigation is 35; an improvement. Inspector General Luna reported the Safety and Security Advisory Committee is focusing on structural improvements to facilities, policy developments, training needs and personnel matters. This committee has seen improvement in all four areas.

Ms. Weiss commended Inspector General Luna and his staff for the good work they are doing regarding the progress shown in his report.

### **Report from the Administrative Investigations Division**

Kevin DuBose, Director of Administrative Investigations Division, referred to the summary comparisons for the county investigations showing 748 complaints: 94 classified and being investigated as abuse, neglect and/or exploitation for first quarter of FY 2015; and 101 closed cases. Total cases opened on the state side are 317, 284 of which are policy violations.

**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 (Action)**

Ms. Stroud asked the Board to publish proposed revisions for 30-day public comment review. Changes improve clarity around youth rights, the youth privilege system and clarification provided in the way we define certain aspects of our policy of youth rights. There is nothing substantial other than making changes related to who can admit youth into the redirect program.

Judge Parker moved to approve submittal of the proposed rule for public comment. Commissioner Smith seconded. The motion passed.

**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 (Action)**

James Williams, Senior Director of Probation and Community Services, asked the Board to publish proposed revisions for 30-day public comment review. Changes include the basic clean-up of language.

Judge Parker moved to approve submittal of the proposed rule for public comment. Ms. King seconded. The motion passed.

**Discussion, consideration, and possible approval to publish proposed revisions and rule review 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, in the Texas Register for a 30-day public comment period (Action)**

Kaci Singer, Staff Attorney, asked the Board to publish proposed revisions for 30-day public comment review. Changes include restructuring of language and clarification.

Judge Parker moved to approve submittal of the proposed rule for public comment. Ms. Mendoza seconded. The motion passed.

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

- a) **Sergio Del Campo, Certification # 21091, El Paso County**
- b) **Osbaldo Escamilla, Certification # 27753, Webb County**
- c) **Henry Jennings, Certification # 24427, Hays County**
- d) **Rodolfo Lambert, Certification # 27341, Harris County**
- e) **Beth Pate, Certification #13071, Hood County**
- f) **Abraham Rincon, Certification #25955, Ector County**
- g) **Truman Scranton, Certification # 26414, Galveston County**

Ms. Singer presented the default orders for certified officers.

Judge Parker moved to accept the default orders. Ms. Mendoza seconded. The motion passed.

**Legislative update**

Carolyn Beck, Governmental Relations Specialist, reported four bills have been filed regarding raising the age of criminal responsibility from 17 to 18. Judge Brieden commented that he has a problem with putting 11 and 12 year olds with 17 year olds and nobody is addressing that. Mr. Reilly said that issue has been identified and it is going to be a tough one to resolve but it has been identified.

Ms. Beck said there are six bills filed related to the law regarding failure to attend school. Other bills with high interest that the agency is tracking include one bill involving waiving immunizations for youth in TJJD facilities if requested by the parent, one bill regarding sealing juvenile records in certain cases and one that creates a feasibility study regarding social impact bonds, a bill that would create an Advisory Committee to examine the retention of juvenile justice records, a bill that would change the way the juvenile probation fees and court costs are imposed by a juvenile court, a bill that increases the penalty to a first degree felony if there is an offense of engaging in improper sexual activity with a person in custody, a bill that would establish a pilot program in a couple of high schools on the border that would place students in a ROTC program instead of JJAEP, a bill that would require the LBB to conduct a Strategic Fiscal Review by agencies under the Sunset Review, a bill that would establish student loan repayment assistance for certain mental health professionals who work with youth in juvenile justice facilities, a bill that follows the recommendation of the Fingerprint Advisory Committee

that limits who has access to juvenile records. These are the main bills with the highest interest that the agency will be tracking.

Chairman Fisher inquired further regarding the bill filed regarding immunizations. Nancy Slott, Director of Nursing, approached to address the Board. In response to his questions, Ms. Slott said the agency has had discussions with the Education Division to determine whether immunizations are required before youth attend school at TJJD. According to the Texas Education Agency, TJJD does not operate as a public school. It has been our agency policy that we immunize all youth (unless parental consent has been denied) and not force a youth or parent refusal situation. The Texas Department of State Health Services recently verified that parents have a right to refuse their child's immunization by signing a waiver form. TJJD does make sure that all youth have a TB test. We can certainly relook at this issue and revisit the policy. Dr. Olvera asked how often we've had to use the refusal policy. Ms. Slott said that we've rarely had to use it as few refusals occur; we do honor the written waiver. Mr. Matthew said Williamson County requires the immunizations.

Chairman Fisher asked that we reexamine the current policy. Chairman Fisher asked Ms. Beck to notify the Board members when bills are filed effecting juvenile justice, when there are hearings and the progress of those bills.

*Judge Parker left the meeting at 9:57 a.m.*

Chairman Fisher recessed for 10 minutes.

Chairman Fisher reconvened and announced that agenda item 9 would not be heard today since Ms. Short was not able to be present. He stated agenda item 13 would be tabled until the next Board meeting.

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

Estela Medina, Chair of the Advisory Council, acknowledged and thanked Mr. Brown for his service on the Board. She welcomed and congratulated Mr. Shaw on his appointment to the Board.

Regarding the CSG Report released yesterday, Ms. Medina stated that the Advisory Council acknowledges and agrees with the comments already made here today and stands ready and willing to assist with moving forward.

The Advisory Council looks forward to working with the Board and staff as the development of the budget goes forward.

The standards subcommittee has a new assignment to look at another section of the code; section 341. The council looks forward to the recommendations that come forward from the committee.

As stated early, a workgroup regarding the CSG core principals has been working on a response; a potential blue print for juvenile justice. The draft document is soon to be completed.

### **Report from the Trust Committee**

Commissioner Smith reported all members were present. The agency will move forward with a request for qualifications for appraisals for the Wende Trust. Other negotiations for the C5 lease property are ongoing.

### **Report from the Finance and Audit Committee**

Mr. Stephens reported that all members were present. Items heard in the committee will be heard by the full Board for approval.

### **Updates to 2016-2017 Exceptional Item Requests**

Chelsea Buchholtz, Chief of Staff, stated that in the Board materials is an updated exceptional items list. She explained that while meeting with legislators, they have been asking what they agency needs. Staff took a good look at what we need, specifically for addressing the safety and security of our youth and facilities and to improve outcomes. This resulted in an additional \$25 million from what the Board last saw on the exceptional items list. The agency believes this is what is needed to make our facilities an optimal environment. Our approach for the session is to discuss our need for stability, our needs to improve youth outcomes and to be a part of discussions to address changes to our system. This will be a moving target and staff will keep you updated on what conversations we are having with legislators.

Ms. Buchholtz also addressed HB1 and SB2, stating the way the agency was funded is different than any way we've seen. The LBB and the legislature addressed five areas that they believe the agency, with the legislature, need to address before determining what our budget structure needs to look like. The amount that was contingently provided in the appropriations bills is about what was asked for in the base request. Judge Brieden said this is a good opportunity on one hand but also dangerous when they start cutting from the budget. The agency needs to be heavily engaged in the process.

Ms. Buchholtz said that the agency is committed to keeping the appropriations committees informed, so as not to be surprised by anything presented in budget hearings; for those to be a repeat of conversations we've already had; for them to have seen our exceptional items list; for them to understand what we need; to understand what our challenges are; for them to have confidence in where the agency is headed so that what happens in those hearings are formalizing the private discussions. Discussion ensued among the Board regarding the appropriations process.

### **Discussion, consideration, and possible approval regarding the JCMS 2015 Resource Sharing Addendum Amendment**

Lisa Capers, Senior Director for Training and Organizational Development, presented an amendment to the 2013 JCMS Resource Sharing Addendum for consideration and approval. The updated addendum allocates the agency's appropriated funds of \$1,250,000 from the 83<sup>rd</sup> Legislature to cover the calendar year 2015. Judge Bush moved to approve the amendment. Ms. Mendoza seconded. The motion passed.

**Discussion, consideration, and possible approval regarding the Fixed Assets Audit**

Eleazar Garcia, Chief Auditor, presented the draft Fixed Assets Audit. While the agency's physical inventory report accounts for fixed assets, the process can be strengthened to ensure compliance with the State's Comptroller's inventory requirements. Recommendations to strengthen controls and improve accountability were provided to management. Management concurs with the results of the work. Mr. Matthew moved to approve the audit. Ms. King seconded. The motion passed.

**Report from the Programs Committee**

Dr. Olvera reported the committee met and all members were present. The committee heard presentations on Special Education Services and state performance tracking as well as other items also to be heard by the board on today's agenda.

**Discussion, consideration, and possible final adoption of rule review and revisions within 37 TAC §§380.9103 - 380.9107 and 380.9115 - 380.9121, relating to Basic Services, and §§380.9187 - 380.9190, relating to Suicide Prevention**

Teresa Stroud, Senior Director of State Programs and Facilities, stated the comment period for these rules has ended and TJJJ did receive public comments from the Texas Academy of Physician Assistants. Due to the comments, the staff recommends making changes to the drafts that were published in the Texas Register. There are also a few recommended changes that are unrelated to the public comments that are highlighted in the board materials. The staff requests the Board's approval to adopt the final rules, with the changes described above; and approve the agency's responses to the public comments. Ms. Weiss moved to adopt the final rules and approve the agency's responses to the public comments. Ms. King seconded. The motion passed.

**Discussion, consideration, and possible final adoption of rule review and revisions within 37 TAC §§380.9113, 380.9175 – 380.9186, 380.9191 – 380.9194, and 380.9197-380.9198, relating to Health Care Services**

Nancy Slott, Director of Nursing, stated the comment period for these rules has ended and TJJJ received public comments from the Texas Academy of Physician Assistants. Due to the comments, the staff recommends making changes to the drafts that were published in the Texas Register. The changes are highlighted in the board materials. The staff requests the Board's approval to adopt the final rules with the changes described; and approve the agency's responses to the public comments. Mr. Matthew

moved to adopt the final rules and approve the agency's responses to the public comments. Commissioner Smith seconded. The motion passed.

**Discussion, consideration, and possible final adoption of rule review and revisions within 37 TAC §§380.9125 - 380.9163, relating to Education Programs and Youth Employment/Work**

Amy Lopez, Senior Director of Education Services, stated the comment period for these rules has ended. TJJ did not receive any public comments. However, the staff has recommended additional minor grammatical changes. The staff requests the Board's approval to adopt the final rules as proposed with the noted changes. Ms. Mendoza moved to adopt the final rules and proposed with the noted changes. Ms. Weiss seconded. The motion passed.

**Discussion, consideration, and possible final adoption of new 37 TAC §385.9981, relating to Sick Leave Pool Administration**

Royce Myers, Director of Human Resources, stated the comment period for this rule has ended. TJJ did not receive any public comments and the staff has not recommended any further changes. The staff requests the Board's approval to adopt the final rule as proposed. Mr. Shaw moved to adopt the final rule as proposed. Judge Brieden 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 at 11:04 a.m. 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 at 11:28 a.m. No action was taken in closed session.

**Adjourn**

There being no further business before the board, Chairman Fisher adjourned the open meeting at 11:28 a.m.