



Texas Juvenile Justice Department

Board Meeting

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

Austin, Texas 78757

Friday, May 29, 2015 – 9:00 a.m.

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

The Honorable Carol Bush
Dr. Rene Olvera
The Honorable Becky Gregory

EXECUTIVE STAFF PRESENT:

David Reilly, Executive Director
Jill Mata, General Counsel
Royce Myers, Human Resource Director
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
Jim Hurley, Communications Director

Chelsea Buchholtz, Chief of Staff
Roland Luna, Chief Inspector General
Jeannette M. Cantu, Executive Assistant
Eleazar Garcia, Chief Auditor
Dr. Tushar Desai

OTHER GUESTS PRESENT:

Sheri Short, Navarro College
Fred Meinke, TJJJ
Victor Villarreal, TJJJ
Jerome Williams, TJJJ
Debbie Unruh, OIO
Jerry Taylor, Boy Scouts
Monico Monroe, Boy Scouts
Steve Roman, TJJJ
Lizet Hinojosa, TJJJ
Dan Marin, TJJJ
Roberto Cepeda, TJJJ
Susan Humphrey, Bell Co.
Estela Medina, Travis Co.
Matthew Sprankle, Boy Scouts
Tammy Holland, TJJJ
Kaci Singer, TJJJ
Karen Kennedy, TJJJ
John Isle, TJJJ
Kristy Almager, TJJJ
Rebecca Garza, TJJJ
Tracy Levins, TJJJ
Steven Vargas, TJJJ
Joey Cummings, Bell Co.
Rebecca Walters, TJJJ
Kevin DuBose, TJJJ
Kathryn Mattingly, TJJJ
Ashley Kintzer, TJJJ
Shaun Thompson, TJJJ
Luther Tallifarerro, TJJJ
Jamyen Robinson-Hall, TJJJ
Kavita Gupta, TJJJ
Kimbla Newsome, TJJJ
Ken Ming, TJJJ
Jim Southwell, TJJJ
Lucy Rodriguez, TJJJ
Noreen Ozment, TJJJ
Mike Wagner, TJJJ
Lesly Jacobs, TJJJ
Kyle Dufour, TJJJ
Karol Davidson, TJJJ
Scott Friedman, TJJJ
Matthew Segura, TJJJ
Angela Mitchell, TJJJ
Debbi McDaid, TJJJ
LuAnn Brown, TJJJ
Ameli Pena, TJJJ
Raquel Husbands-Osborne, TJJJ

Board meeting
May 29, 2015

Call to Order

Chairman Fisher called the meeting to order at 9:03 a.m.

Prayer

Chairman Fisher introduced Chaplain Roberto Cepeda. Chaplain Cepeda 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 absences of Judge Bush, Judge Gregory and Dr. Olvera. Mr. Stephens seconded. The motion passed.

Public Comments

There were no public comments.

Discussion, consideration, and possible approval regarding the March 27, 2015 Board meeting minutes

Commissioner Smith moved to approve the minutes. Ms. King seconded. The motion passed.

Report from the Chairman

Chairman Fisher reported a board subcommittee comprised of Scott Matthew, Jimmy Smith, Judge Brieden, Calvin Stephens and he conducted performance evaluations for the executive level staff reporting to the board which includes the Inspector General Roland Luna and Chief Auditor Eleazar Garcia. The reviews were very positive and successful.

The next scheduled board meeting is at the end of August and will be held at the J.W. Marriott Resort in San Antonio. There may also be a need for a short meeting in July, but details are not yet available.

Report from the Executive Director

David Reilly, Executive Director, thanked the Board for their patience while he was out on leave and stated it was good to be back. The staff who stepped up in the last two months, Chelsea Buchholtz, Mike Meyer, Carolyn Beck, did a very good job and you can be very confident that the agency was well represented during the session. He welcomed back Jim Hurley who had also been out on leave due to an injury. He congratulated Riley Shaw on the recent Senate appointment confirmation to the Board. Mr. Reilly congratulated Dan Marin, Superintendent at Schaeffer House in El Paso, for recently becoming certified as PREA compliant. Mr. Reilly introduced Susan Humphry, Bell County Juvenile Probation Chief, who will later give a presentation on a few things that are going on in her county.

Mr. Reilly stated the legislative session concludes on Monday, June 1. At the beginning of the session, the agency was funded in HB 1 and SB 2 through a block funding rider, with appropriations contingent upon addressing what were called “fundamental issues” of the agency and the juvenile justice system. There was no strategy level detail or budget structure provided.

Much of the staff’s time at the Capitol this session was devoted to responding to fundamental issues mentioned in the budget rider, working with leadership offices to reorganize the agency’s budget and determine the policy direction for the juvenile justice system. Senator Whitmire filed SB 1630, directing the agency to facilitate regionalization of probation activities as the next step in reform efforts. Representative McClendon also filed HB 1586, which was more prescriptive, but had the same intent. While HB 1586 did not move out the house, SB 1630 did progress out of the senate, and in the house had several amendments added. Yesterday, Senator Whitmire requested a conference committee to work out the differences between each chamber. One of the amendments added by the House adds the Raise the Age of jurisdiction initiative to the bill, though it would not go into effect until September, 2017, after the next legislative session. Along with monitoring of this key legislation, agency staff had very productive conversations with a number of offices and the Legislative Budget Board (LBB) about how to allocate available funding across a modified set of strategies to increase transparency and address areas of long-standing confusion and disagreement. Mr. Reilly said he felt good about the degree to which the agency was able to offer input, and how seriously agency proposals were considered.

Last week, the conference committee for the final budget bill adopted recommendations that included both meaningful changes to the agency's budget structure, and \$10 million to support county regionalization regardless of whether SB 1630 itself would ultimately be enacted. One very helpful change in the agency's budget structure is that facility costs that are fixed in nature will now appear separately from those that track with population. This benefit the agency in future discussions about the impact of population fluctuations on operating costs by keeping those discussions focused on the appropriate portion of the budget. Also of note, this is the first session since 2007 in which there is not at least one mandatory closure of a facility. Mr. Reilly said he is hopeful that this will have a positive impact on the agency's high facility turnover rate.

Mr. Reilly said that he can't say enough about how excited he is about probation regionalization and the opportunity the agency will have to study how TJJ's existing facilities may be repurposed. These two initiatives are inter-related and the agency will approach the tasks ahead within that context. It is known through research that most kids do better when they are close to home. And county regionalization will facilitate more of that. It will enhance collaboration between probation departments and encourage regional sharing of beds, programming and other resources. It will give the agency an opportunity to incentivize that type of collaboration. And it will allow the agency an opportunity to see how low commitment numbers can reach. By doing this, it will then necessitate an examination of the agency's use of the state facilities for repurposing consideration for the next session.

Mr. Reilly also provided an additional update on probation funding. It is close to flat based on funding provided in HB 1, but counties will see a reduction in areas of state financial assistance because of the way the funding was allocated. If you look at just the budget strategies that support the major grants A, C and N, these are less by about \$11.9 million or 4.1%, which is population driven. The agency is currently determining how much funding will be offered in each of these grants and how to structure it based on appropriation requirements. That will take a few weeks, then, the agency will determine how to allocate funding to each county. The counties can expect to see their total between those 3 grants down by about 4%. Mr. Reilly said he sees the results of the budget and policy conversations as a huge vote of confidence in the direction laid out in SB 1630, and a sign of renewed confidence in the agency. The agency's charge for the next two years is to live up to that confidence, and it will.

Mr. Reilly stated implementation of regionalization and the re-purposing study and all other legislative initiatives will require significant collaboration with the entire juvenile justice system – the advisory council, chief probation officers, regional leaders, contract providers, advocates, employees, and others. That will start immediately. In fact, the advisory council will meet next month, where next steps will be discussed thoroughly. Internally, the agency has several planning meetings scheduled next week. The agency intends to hit the ground running on these fronts.

Mr. Reilly stated the agency was also able to see a few other helpful bills pass. Carolyn Beck will outline many of those in her report to the Board. Most notably, was a bill that postponed the sunset review of TJD by four years. This means the agency will not be reviewed until 2021, rather than 2017, which would start immediately.

On the downside, the fact that the agency started with essentially a clean slate with no budget structure this session meant that the requested exceptional items were only superficially discussed. The members wanted to address the big picture first and rightly so, but by the time that process was complete there were too many demands on their attention, and too little time, to return to the agency's exceptional requests. Mr. Reilly said he felt confident that with the funding provided the core operational needs of the agency will be met, though he will continue to be concerned about the possibility of an IT equipment failure. But the advancements and stability achieved this session will position the agency better to pursue needs like those in the future.

In response to a question by Judge Brieden regarding the 4.1% reductions to the counties, Mr. Reilly confirmed those base reductions are in state financial assistance and are population driven. This happens every session when the LBB reviews the populations. He also clarified that the counties will receive funding for regionalization but it will not go back into the state financial assistance funds.

Mr. Reilly reported that several from the executive team, including Teresa Stroud, Rebecca Walters, Tom Adamski, Madeleine Byrne, Amy Lopez, James Williams, Jill Mata, and Chelsea Buchholtz, along with Judge Parker will be going to Washington, D.C. in July for Georgetown University's Center for Juvenile Justice Reform's Youth in Custody Certificate Program. The program shines a light on the serious, high-risk juvenile offender population, and helps leaders from across the country begin or accelerate systemic change to improve outcomes for youth in custody. This could not come at a better time – on

the heels of the CSG report, focusing on outcomes, and when the agency is taking such a broad look at the future. He said he was excited about this opportunity and looks forward to reporting back to the board on the outcome of their hard work.

Mr. Reilly said at the March board meeting, the Programs Committee had the benefit of hearing about one of his favorite programs at TJJ, the PAWS program. He was happy to mention that the agency is working towards expanding that program to other facilities. In his experience, animals can have a profoundly positive impact on the kids that TJJ serves. Therapeutic events don't just occur in therapist's offices or in group session. Some kids relate better to animals than they do to people.

Bell County Juvenile Probation Department Boy Scout Troup Program Presentation

Susan Humphrey, Chief Juvenile Probation Officer of Bell County Juvenile Probation Services, provided an overview of the local program services provided in Bell County. She introduced Boy Scout Troup 112 and described their requirements, fundraisers and activities.

Report from the Advisory Council

Estela Medina, Chief Juvenile Probation Officer of Travis County and Chair of the Advisory Council, reported the Advisory Council on Juvenile Services is scheduled to meet again on June 26, 2016 in Austin with an opportunity to review actions taken by the 84th legislative session and to include review and discussion regarding the FY 2016-17 Budget. The discussion will include any determinations as to proposed regional plans, pending matters regarding raising the age of jurisdiction, funding and funding structure. The subcommittee continues its work on the Texas Administrative Code standards Chapter 341. The work of the committee has included review of Chapter 341 Texas Administrative Code, subsections regarding assessments and screening, data collections, restraints, Juvenile Board and Chief Juvenile Probation Officer responsibilities. A sub-committee is working on review of the standards regarding case plans and case management. The committee is working collaboratively with various perspectives and representation and TJJ staff. Ms. Medina gave special recognition to former council member, Randy Turner, for his work on the advisory council. She congratulated and welcomed Riley Shaw on his confirmation to the TJJ Board.

New Appointments to the TJD Advisory Council

Chairman Fisher stated that in order to assist the Board in making appointments to the Advisory Council, he created the Advisory Council Nominations Committee, comprised of board members who are also Chief Juvenile Probation Officers. That committee reviewed the list of nominees and worked with Chelsea Buchholtz, Chief of Staff, and Jill Mata, General Counsel, to come up with a list of recommendations to fill the expired terms.

Mr. Reilly stated that the agency is asking the Board to make the appointments for the five expired Advisory Council terms as recommended by the committee and listed on page 28 of the board materials. In addition, the agency also asks the Board to 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. Chairman Fisher stated that he didn't think that was something the Board could statutorily do. Jill Mata stated she would research the statute regarding advisory council term limits and report back to the Board.

Mr. Matthew moved to appoint the advisory council members as recommended. Ms. King seconded. The motion passed. Mr. Shaw moved to approve to request the advisory council to make recommendations concerning term limits for its members. Commissioner Smith seconded. The motion passed.

Chairman Fisher called for a 10 minute break.

Legislative Update

Carolyn Beck, Governmental Relations Specialist, provided an overview of the summary and the status of high interest bills the agency has been tracking this session including bills related to failure to attend/truancy, juvenile records, and various topics of high priority/interest house and senate bills. She stated that she felt it has been a successful session. In response to a question by Chairman Fisher, Ms. Beck stated there was no change regarding the disposition of the Corsicana facility. In response to a question by Mr. Stephens, Royce Myers, Director of Human Resources, stated approximately 215 employees are affected by SB 239, regarding student loan payment assistance for mental health professionals.

Report from the Inspector General

Roland Luna, Inspector General, introduced Lizet Hinojosa, Analytics Intelligence Manager, who co-presented with him. Inspector General Luna reviewed the investigative analysis through April FY 2015 reporting 8,375 Incident Reporting Center (IRC) Reports (3% decrease from last year), 480 referred to Administrative State, 809 referred to Administrative County, 1,093 referred to OIG criminal (5% decrease from last year), 3,615 referred to Youth Rights, 1,475 referred to State Programs, 903 closed, 256 OIG criminal investigations submitted to prosecution and 313 TJJJ active directives to apprehends issued (5% decrease from last year). Ms. Hinojosa reviews the investigative life cycle though April FY 2015 reporting 1 day for receive, evaluate and assign, 39 average investigative days, 22 average days for intake decision and 80 average days for final disposition. In response to a question by Chairman Fisher, Inspector General Luna stated that the average number of days for final disposition is the time in which the case is with the SPU. Inspector General Luna reviewed the contraband, detection and interception division though April FY 2015 reporting 3,650 room searches, a 400% increase historically. Judge Brieden commended Inspector General Luna for the data that he provides.

Report from the Administrative Investigations Division

Kevin DuBose, Director of Administrative Investigations, reviewed the county summary comparisons for FY 2015 through May 1, reporting 1796 total reports received and 283 total investigations completed. He reviewed state summary comparisons for the same time period reporting 693 total investigations opened and 456 total investigations closed fiscal year to date. Of importance, the majority of the closed state cases were closed within the 30-90 day time frame.

Report from the Trust Committee

Commissioner Smith stated the Committee discussed several items including a memorandum of agreement with the Texas Parks and Wildlife Foundation for the preparation of a wildlife management plan that you will hear as an action item on the agenda. The Committee also heard a presentation from the Boys and Girls Club of Central Texas on their interest in a possible lease of the Parrie Haynes Ranch. The Committee looks forward to talking with them more about this opportunity. Chairman Fisher stated that it will be an opportunity to utilize this property more in line with its intent than has ever been done. Commissioner Smith stated the Committee also heard a report on the appraisal of the Wende Trust Properties and Mark McAnally, Chief Appraiser from the General Land Office, was here to tell us the status of the appraisal process.

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

Chairman Fisher explained the action before the Board is to delegate authority for final approval of a MOA to him in his capacity as Trustee of the Parrie Haynes Trust. Judge Brieden clarified that it's also to delegate authority to him to negotiate the terms of the MOA. Commissioner Smith moved to approve the resolution as presented. Mr. Shaw seconded. The motion passed.

Report from the Finance and Audit Committee

Mr. Stephens stated the Committee heard updates from the Chief Information Officer, the Chief Financial Officer and reviewed audit reports provided by the Chief Auditor.

Discussion, consideration, and possible approval regarding the Residential Contract are Audit

Eleazar Garcia, Chief Auditor, presented the draft report. The overall objective was to determine if controls over Residential Contract Care operations are in place and operations comply with applicable requirements. Controls in the following areas function as intended: Payments to Residential Contract Care Providers are supported and accurately coded and serious incidents are reported to the TJJJ Incident Reporting Center (IRC). Controls in the following areas can be enhanced: Medicaid referrals, continued training and communications on contract requirements and expectations, data reliability and system access review. Recommendations are included in the draft audit report. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed.

In response to a question by Chairman Fisher, Mr. Garcia clarified that the Medicaid referrals are for the juveniles who are leaving state facilities. Chairman Fisher expressed his concern for how to successfully connect these kids with health care, post-release, to ensure they have health care coverage and do not fall through the cracks. Mr. Garcia added that the Department of Family and Protective Services has a Medicaid Tracker System, to which the agency has access. When TJJJ kids are released, staff are required to report them through this system. This reporting procedure was part of the audit.

Discussion, consideration, and possible approval regarding the Staff Development and Training Audit

Mr. Garcia presented the draft report and reported three areas where controls could be enhanced: Developing the training curriculum to include human trafficking information, a periodic review of the Training Tracking System data and establishing periodic access review process in the Integrated Certification Information System (ICIS). Another observation was presented regarding the Handle with Care Annual Block Training Course, specifically, the time-span for re-taking the course may make it difficult for staff to fully grasp the restraint techniques. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed.

Report from the Safety & Security Committee

Judge Parker reported that her Committee did not have a quorum so only heard items requiring no action. They heard from Inspector General Luna with the OIG, Kevin DuBose with Administrative Investigations and from Rebecca Walters with State Programs and Facilities. Ms. Walters reported that workers compensation numbers are down which is good for the agency.

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

Royce Myers, Director of Human Resources, stated the Human Resources Division conducted the review of the rule and determined that the rule apply to the TJJJ facilities and not to the contract facilities. The staff requests the board's approval to publish these proposed revisions for a 30-day public comment period. Judge Parker moved to approve submittal of the proposed rule for public comment. Mr. Shaw seconded. The motion passed.

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

Inspector General Luna stated the OIG completed its review of the assigned rules and as a result of this review the staff were in consensus and recommends several revisions. The staff proposes these revised rules be posted in the Texas Register for public comment. Judge Parker moved to approve submittal of the proposed rules for public comment. Mr. Shaw seconded. The motion passed.

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

Lesly Jacobs, Deputy Director for Administrative Investigations Division, stated most of proposed revisions are merely clean up with two substantive proposed changes: Revising the definition of sexual abuse to be in line with PREA and removing of the ability of an officer who's been an alleged perpetrator to have his information redacted from the division's database. Mr. Matthew move to approve submittal of the proposed rules for public comment. Mr. Shaw seconded.

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

Rebecca Walters, Director of Integrated State Operated Programs and Services, stated she would like to withdraw 380.9709 and 380.9710. She said the agency would like to continue working on revisions to these rules and bring them back at a later date. Of the remaining rules, the agency would like to repeal 9701 and 9727. Those rules are no longer necessary as they have been incorporated into other parts of rules in this chapter. Other changes to the rules are minor in nature. Ms. Mendoza moved to approve submittal of the proposed rules for public comment. Judge Parker seconded. The motion passed.

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

Ms. Walters stated the public comment period for these posted rule revisions has ended and there were no public comments. However, the agency staff has recommended additional changes to the drafts that are listed in the board materials. Ms. Weiss moved to adopt the final rule as proposed. Judge Parker seconded. The motion passed.

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

James Williams, Senior Director of Probation and Community Services, stated the public comment period for this posted rule revision has ended and there were no public comments. However, the agency staff has recommended a change to clarify the youth's conditions of parole are provided to the youth before he/she is release from the facility. The staff now requests approval to adopt the final rule. Ms. King moved to adopt the final rule as proposed. Mr. Shaw seconded. The motion passed.

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

Kaci Singer, Staff Attorney, stated the public comment period for this posted rule revision has ended and there were no public comments. However, the agency staff has recommended changes to typographical errors. The staff now request approval to adopt the final rule. Judge Parker move to adopt the final rule as proposed. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers – Default Orders

- 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**

Ms. Singer named the counties in which these officers were employed. Judge Parker said she would recuse herself from item b. Chairman Fisher entertained a motion on items a, c, d, e, and f. Ms. King moved to approve the default orders. Judge Brieden seconded. The motion passed. Chairman Fisher entertained a motion on item b with Judge Parker recusing herself. Ms. King move to approve the default order. Mr. Matthew seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers – Agreed Orders

a. Timothy Mccullouch; 15-24410; 24410

Ms. Singer presented one officer, who agreed to relinquish his certification after being convicted of a federal offense of sex trafficking. The party and Mr. Reilly have signed the agreed order but the board's approval is now needed. Mr. Matthew moved to approve the agreed order. Mr. Shaw 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.

Adjourn

Chairman Fisher adjourned the meeting at 11:38 a.m.