



**Texas Juvenile Justice Department**

**Board Meeting**

11209 Metric Blvd., Austin, Texas 78757

Friday, May 31, 2013 – 9:00 a.m.

**BOARD MEMBERS PRESENT:**

Scott W. Fisher, Board Chairman  
The Honorable John Brieden III  
Jane Anderson King  
Dr. Rene Olvera  
The Honorable Laura Parker

Melissa Weiss  
The Honorable Carol Bush  
Calvin Stephens  
The Honorable Jimmy Smith

**BOARD MEMBERS ABSENT:**

MaryLou Mendoza  
Joe Brown

**EXECUTIVE STAFF PRESENT:**

Mike Griffiths, Executive Director  
Jim Hurley, Communications Manager  
Elaine Mays, Chief Technology Officer  
Amy Lopez, Senior Director of Education Services  
Debbie Unruh, Chief Ombudsman  
Lisa Capers, Senior Director of Administration & Training  
Teresa Stroud, Senior Director of State Programs & Facilities  
James Williams, Senior Director of Probation & Community Services  
Jeannette Cantu, Executive Assistant

Linda Brooke, Chief of Staff  
Brett Bray, General Counsel  
Dr. Rajendra Parikh, Medical Director  
Eleazar Garcia, Chief Internal Auditor  
Roland Luna, Chief Inspector General

**OTHER GUESTS PRESENT:**

Judge Erin Ford, Houston County  
Jeff Parsons, Mel Brown & Assoc.  
Doug Vance, Brazos County  
Wayne Mask, City of Crockett  
Art Hinojosa, TJJD  
Mel Brown, Mel Brown & Assoc.  
Sarah McCleary, TJJD  
Karol Davidson, TJJD  
Susan Humphrey, Bell County  
Kavita Gupta, TJJD  
Shelly Williams, Hays County  
Britney Watson, Hays County  
Lucy Rodriguez, TJJD  
Thom Lambert, City of Crockett  
Chris Von Doenhoff, City of Crockett  
Sheri Short, Navarro College

Glen McKenzie  
Tammy Holland, TJJD  
Barbara McBride, TJJD  
Rebecca Garza, TJJD  
Bob Contreras, TJJD  
Bob Contrell, TJJD  
Allison Voss, TJJD  
Kris Johnson, Comal County  
Lauren Neal, G4S Youth Services  
Rod Venner, TJJD  
Dan Arrigona, TJJD  
Brett Littlejohn, Hays County  
Kevin DuBose, TJJD  
Michele Deitch, LBJ School, UT

### **Call to Order**

Chairman Fisher called the meeting to order at 9:00 a.m. A quorum was present.

### **Prayer**

Chaplain Melissa Voss led the opening prayer.

### **Pledge**

All present recited the Pledge of Allegiance.

### **Excuse Absences**

Chairman Fisher excused the absences of Joe Brown and MaryLou Mendoza.

### **Public Comments**

There were no public comments.

### **March 22, 2013, Board Meeting Minutes**

Calvin Stephens moved to approve the March 22, 2013, meeting minutes. Jane King seconded. The motion passed unanimously.

### **Report from the Chairman**

Chairman Fisher congratulated staff on a successful move to their new office location. He welcomed two new Board members, Scott Matthew, Chief Probation Officer for Williamson County; and Becky Gregory, an attorney from Dallas.

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

Mike Griffiths welcomed all to their new location and commended Lisa Capers and the move team coordinators on the smooth transition to the new offices.

Workers Compensation Claims are now at the lowest point in the agency's history due to the work of the Risk Management Office staff and Teresa Stroud, Senior Director of State Programs & Facilities.

There are two new senior level administrators, Elaine Mays, Chief Technology Officer and Dorothy Roberts, Budget Director.

The Texas Correction Association selected Jannetta Williams, employee at the Ron Jackson facility as Correctional Officer of the Year and David Riley, Bexar County Chief Probation Officer, as Juvenile Correctional Administrator of the Year.

Education Services as well as the State Programs and Facilities Division are working on new changes for career academies that will be introduced in the next school year. Mr. Griffiths highlighted a program has begun with Navarro College which provides dual credits to students in secure facilities.

Nominated by their peers, Bobbie Medlock with the Contract Services Division in Fort Worth received the April Employee Excellence Award, and Judy McReynolds, a Title IV-E Program Specialist, received the May Employee Excellence Award.

A study of agency and facility culture was completed by Dr. Roush. He was asked to look at the Mart facility, highlighting 11 areas that need improvement, including staff accountability, strengthening the leadership, strengthening family involvement, adequacy of numbers of Hispanic, bilingual staff, operational practices regarding educational flow in terms of program operation and education, and the employee grievance system. Ms. Stroud and Mr. Adamski are focusing on continuity, consistency and competency. Action plans are already in place and leadership changes have already been made.

### **Legislative Updates**

Mr. Griffiths provided a quick overview of last-minute amendments and how they affect bills related to juvenile justice. A Juvenile Law Section newsletter is being created and the Post-legislative conference will be held July 30-31.

Katrena Plummer, Executive Projects and Activities Coordinator, thanked the agency's legislative team for their work and dedication and noted a few bill highlights. From the original 1,420 bills, the team is now tracking 322, ranging in levels of priority. Level One directly affects TJJD; Level Two may require policy changes and Level Three are "good-to-knows." There were three clean-up bills

introduced during session. Senate Bill 1769 requires the Board to create an Advisory Committee for the Juvenile Justice Department for fingerprinting practices of misdemeanor offenders, consisting of seven members or groups: chief juvenile probation officers, juvenile prosecutors, juvenile defenders, defense attorneys, peace officers, a representative from the Texas Department of Family and Protective Services, juvenile justice advocates, and members of the public. This committee must submit a report to the Board by December 1, 2014, and the committee expires on January 1, 2015. House Bill 1968 was passed to transfer the Al Price facility to Jefferson County as early as January 1, 2014.

If Board members want a copy of any of the bills listed on the agency's legislative bill tracking, they can be emailed to them. The agency's legislative team consists of approximately 22 people; including members of General Counsel Division who met weekly and each had an assignment based on their expertise.

### **Independent Ombudsman comments**

Ms. Debbie Unruh, Chief Ombudsman, provided an update of OIO activities since the last Board meeting. OIO has conducted 51 site visits, interviewed 659 youth, answered or referred 143 concerns from the youth and opened 58 individual cases. They have reviewed and tracked 42 major incidents at county-operated facilities and in these reviews they have not seen trends developing but found the majority of complaints have been physical abuse incidental to restraints. There are no concerns from her office on any of the county facilities.

There were increases in behavior issues across the state-run facilities during the last month. There are larger than usual staff shortages, complaints of Incident Reporting Center phones not being up and running due to the office move. The Executive Team quickly responded to reports, sent teams to Giddings, and improvement was seen instantly. Their response has been favorable to the new team.

Youth-on-youth assaults have decreased, and staff injury incidents have decreased drastically over last several months. A copy of a study requested last year by advocacy groups was provided to each member.

## **Report from the Inspector General**

Mr. Roland Luna, Chief Inspector General, reported an 11% increase in complaints to the Incident Reporting Center, totaling 8,739, with a 15% increase in the first half of the year which has decreased slightly over last few months. Investigations opened criminally for OIG have increased 46% as of today, with 547 investigations open criminal investigations, and 51% more investigations closed than last year at this time, slightly more than 300 more from last year. Investigations submitted for prosecution are up 33% from last year, the actual number being 293. OIG anticipates submitting 525 criminal investigations for prosecution either to SPU or the local prosecutor. There are 57 open directives; 46 have been cleared, about 13% of all active directives.

The three components of an investigation are the receipt, the evaluation, and the assignment of the investigation, with the second component being the investigation and review by the lieutenant or by the person approving the investigation. The last part will be the referral and disposition. In OIG we compartmentalize that even more. It takes one day to evaluate and assign. Last year it took an average of 207 days to investigate a case. This year it's taking 100 days, a great improvement. Over the last two-and-a-half months we've improved 80 days. Average number of days for intake decision is consistent with last year. Average number of days for final disposition is 62 days, versus 187 days last year. Last year it was 411 days from the time complaint was received to the time of final disposition. Today it's 178 days, an improvement of 233 days, with the majority of that improvement occurring over the last three months.

For the first time since OIG's inception we held an in-service training for CID personnel, administrative support, command staff, and the IRC, including firearms training, intermediate use of force certification, case management, evidence recovery, and telecommunications operator certification for the IRC. Certification with IRC personnel improves efficiencies of the program. They're also working with Ms. Stroud and Mr. Griffiths for the status checks and warrants. OIG has completed approximately 450 status/warrant checks since assuming that responsibility. Mr. Luna, along with Mr. Griffiths and Chairman Fisher, continue to work with the Special Prosecution Unit (SPU) to finalize a new MOU, which they anticipate being finalized this summer, perhaps by the next SPU Board meeting.

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

Mr. Doug Vance, Vice-Chair of the Advisory Council, reported the Council met on May 9, 2013. A newly convened standards subcommittee was developed to work on developing non-secure standards, also called non-secure rules. Currently, there are no standards developed that govern departments that run non-secure facilities. A scope of work and time-lines was developed and each member who runs a group gave an overview of their program. The Council developed emergency standards at Mr. Griffiths' request with a goal to present new standards at the July Board meeting.

The Council is partnering with TJJJ on a joint training opportunity at an upcoming Quality Assurance conference in August. Senator Van de Putte is concerned about the use of disciplinary seclusion in juvenile facilities, basically a time-out or room confinement, though some advocacy groups have mischaracterized it as solitary confinement.

A subcommittee on mental health funding is following the Legislature's attempt to appropriate an additional \$15.2 million for juvenile probation to enhance mental health services. This subcommittee made recommendations to Mr. Griffiths on how funding may be disbursed, if appropriated.

A subcommittee dealing with parole services is working more closely with James Williams, Senior Director of Probation and Community Services. The Council is also helping TJJJ track legislative bills of importance to juvenile justice.

### **Finance and Audit Committee report**

Mr. Stephens reported the committee met May 30, 2013 and has seven items before the Board for action today. Action items from the committee report are addressed in subsequent Board agenda items.

### **Programs Committee report**

Dr. Rene Olvera presented the report concerning Dr. Roush's facility assessment of Mart and the agency's plan of action presented by Tom Adamski, Director of Secure Facility Operations. Juveniles and staff at Mart were asked a vast array of questions. Youth-on-youth assaults have decreased, as well as staff injuries, indicating issues are being addressed. They want to make the JCOs accountable, including remediation and mentoring; a plan is in place to do this.

Amy Lopez, Senior Director of Education Services, and Connie Simon, Manager of Workforce Development Programs, made a presentation in the Programs Committee meeting that almost one-fourth of kids have GEDs, a significant portion of their population that's no longer in school. A plan was presented about career academies and weekend supplemental career enhancement, where those with GEDs can continue to work on their work skills to help them get a job and maintain employment.

### **Safety and Security Committee report**

Judge Laura Parker reported that the committee heard six default judgments and one agreed order for discipline of certified officers. There were several rule amendments, additions and changes to the administrative rules which will be addressed in subsequent Board agenda items.

### **Audit of Alleged Mistreatment Investigations**

Mr. Eleazar Garcia, Chief Internal Auditor, presented the audit of alleged mistreatment investigations. The last audit was conducted in 2011. The audit draft encompasses parts of FY 2012 and '13 and has the following objectives: to determine if all abuse, neglect and exploitation incidents are investigated by the Administrative Investigation Division (AID) and determine if incidents forwarded to the AID are handled timely. The Incident Reporting Center receives all incidents and complaints and forwards them to the appropriate divisions. The administrative investigations function was moved from under OIG to its own division during FY 2012 and is still ongoing. audit reflects there is work still to be done and processes that need to be refined to ensure appropriate and timely investigations of all abuse, neglect, and exploitation cases; We noted the opportunity to

improve controls over receipt, review and acceptance of incidents, as well as where management can improve its case management of files.

County investigations were included under AID and good controls are in place. Also reviewed were implementation of corrective actions from the prior 2011 audit. Due to the change in operations and management, seven of nine actions require additional work in this area. Management concurs with the audit's findings and responses have been provided to the recommendations; Details of the draft report were presented to the Finance and Audit Committee. Mr. Stephens moved to approve the audit. Jimmy Smith seconded. The motion passed unanimously.

#### **Audit of student use of PCs and flash drives**

Mr. Garcia presented the audit and stated it was conducted in response to an incident at the Mart facility where a student allegedly circumvented agency firewalls to access prohibited websites through the use of a flash drive which contained The Onion Router (TOR) browser program. The IT Department determined it was a Kingston flash drive not agency issued so was it considered contraband. As we reviewed the incident, we determined a need to assess controls over student-used PCs and flash drives. This included visits to Mart, Giddings, Gainesville, Corsicana, Cottrell House and Willoughby House. Enhanced control will improve security of agency's systems. The agency is working toward implementation of improved safeguards. Management concurs with the audits findings.

In another incident, Dallas ISD provided access to wireless networks in the community when Wi-Fi was installed at the Cottrell House without including the agency's IT Department in the process. Dallas ISD sent network specialists to work with the agency to remove hard drives and add controls to mitigate the risk. IT is currently drafting a policy change to include non-agency issued flash drives as contraband. Mr. Stephens moved to approve the audit. Ms. King seconded. The motion passed unanimously.

### **Audit of York House**

Mr. Garcia presented the audit and stated the objective was to determine compliance with required operations and protecting student rights. This included a review of student grievances, conference request logs, community service, case management reports, contraband, employee training and employee evaluations. The audit determined a need for more consistent and effective practices at this facility. Management concurs with the findings.

Based on the audit and Ms. Stroud's review of the situation, operation at York House has been temporarily suspended to retrain the staff, strengthen management and ensure appropriate staffing. York House should return to full operation within the next few weeks. Mr. Stephens moved to approve audit. Ms. King seconded. The motion passed unanimously.

### **Repurposing closed facilities: Crockett State School**

Chelsea Buchholtz introduced Houston County Judge Erin Ford, Mayor Wayne Mask of Crockett, and two members of the Crockett Economic and Industrial Development Corporation, Thom Lambert and Chris Von Doenhoff.

The Crockett State School was closed after the 2011 legislative session. Senate Bill 653 merged the two former agencies and authorized the transfer of the Crockett State School to the City of Crockett or Houston County. The property can only be transferred if it is shown it will be used for a purpose benefitting the public interest of the state. A plan by the Houston County Commissioners Court would have repurposed the facility for use by the Federal Immigration and Customs Enforcement Agency but it never came to fruition. The TJJD Board approved a plan to have the county use the facility for female veterans; that too did not come to fruition. There is no specific plan to present today, but the county and city are trying to find a purpose for the facility. This facility costs TJJD \$400,000 a year to maintain; the primary cost is utilities to maintain buildings, and it is in the agency's best interest to eliminate these expenses.

A resolution was presented for the Board to approve the transfer of the facility to either the city or the county upon a showing that the facility will be used for a public purpose. If the resolution is

approved today, the agency will wait until a public purpose is presented by either entity and then finalize the transfer. General Counsel will ensure that the public purpose is verified. If the public purpose fails, the facility reverts back to TJJJ. Passing the resolution allows the city and county to move forward without having to wait for the next Board meeting to approve transfer. A few proposals are pending but nothing final due to lack of funding to support the facility maintenance without a vendor utilizing it. The facility is for sale through the General Land Office, as well. Mr. Stephens moved to approve the resolution. Ms. King seconded. The motion passed unanimously.

### **Secure Residential Specialized Program Services**

Kenneth I. Ming, Director of Contracts and Procurements, reported, along with Mr. Griffiths, that the request for proposal for secure residential program services was released January 2013. Mr. Ming utilized an evaluation team of both external parties and internal employees. Three proposals were submitted, Rite of Passage, G4S Services, and Cornerstone Programs Corporation. The team has conducted three phases of evaluations, including oral interviews with proposers. The resolution requests the Board's authorization to have the Executive Director, through Mr. Ming's staff, proceed with a negotiation process with these three proposals, as all three are recommended and that the Director is allowed to sign contracts for an amount not to exceed the budgeted amount, currently an aggregate \$3 million annually. Mr. Smith moved to approve resolution. Ms. Weiss seconded. The motion passed unanimously.

### **Appropriations update and proposed agency budget methodology for FY 2014-2015**

Mr. Griffiths, Ms. Stroud and Dan Arrigona, Interim Chief Financial Officer, presented. Appropriations of \$645,154,898, not including the \$5.5 million for deferred maintenance, were approved on May 26 by the Legislature. The appropriations are broken out by goals specific to purposes the agency is responsible for. Goal A is services in the 168 Community Probation Departments in the State and the total awarded was higher than the Board's request but it does include the exception item request for mental health services of \$10.2 million. Goal B was awarded an amount \$23 million lower than requested by the Board. Goal C for the Office of Independent Ombudsman received great support from the Legislature with approval of a request to replace two positions that were previously grant funded. There is a significant reduction of \$2,056,000 for

Central Office Administration. Included in this appropriation were several riders, some beneficial, such as a 5% salary increase for the JCO staff at facilities, 3% increase for state employees. Rider 35 of the bill mandates that the agency will only operate five secure facilities, which includes approval of the closure plan by the Board plus final approval by the Legislative Budget Board (LBB).

The agency must submit the closure plan prior to September 1. The TJJD is to submit the plan earlier and request the LBB make a decision as soon as possible after receiving Board approval of the plan so the agency can move into the transition phase. Very serious discussions will begin next week with senior leadership staff and others to culminate in a public hearing in mid-July. The plan will then be refined and recommendations presented at the Board meeting on July 26.

Funding allocated to counties categorically seems higher but, excluding mental health dollars that were specific for that purpose; the counties will realize a 4 to 4.5% reduction possibly in terms of how those funds are allocated. In meeting with LBB personnel will discuss what flexibility they will have in terms of Goal A and providing those kinds of directives to the counties. Flexibility means a good deal to commitment diversion. Counties have done a great job at diverting youth and one of the factors is the ability to blend dollars. Mr. Griffiths' commitment to the counties would be that after the July Board meeting, county contracts will be sent out.

Over the next two months leadership will be putting together a matrix for potential closings and fiscal impact for each facility to provide to the Board with a staff recommendation.

A variable not considered with previous closures was the facility's ability for future growth. The LBB expects the youth that are displaced to be served in existing facilities, which complicates the issue.

The Chairman and Mr. Arrigona discussed the fiscal impact of the approved budget and the FTEs. Though being faced with closing a facility, the agency isn't looking at a significant reduction of existing staff because current staffing levels are below projected staffing in the new budget. Currently the agency is appropriated 3,060.9 FTEs. Next year we'll be appropriated approximately

2,700 FTEs. This month's current fill rate is 2,704. While there will probably not be massive reductions, positions will have to be transitioned, watched and managed carefully.

An email will be sent to the state secure staff and county probation staff with general information on formulation of county budgets, with reductions of from 2% to 4.5% reduction in what they will call their Grant A.

There is some misunderstanding in the communities regarding closures, and some legislators are saying this budget doesn't require closure, but the rider says it does. The rider explicitly says the agency will only be able to use appropriated funds for five facilities and the budget explicitly says they have \$23 million less to operate those facilities for the biennium. So it's felt to be impossible to operate six with the current staffing levels and current youth resident levels. Staff will be looking at all options to maintain high-quality care for this year. The resolution asks the Board to endorse the proposed agency budget methodology. Mr. Matthew moved to approve the resolution for authorization. Mr. Stephens seconded. The motion passed unanimously.

#### **Acknowledgement of gifts**

Mr. Arrigona reported Mike Levine donated an estimated value of \$500 worth of lumber to the Woodshop Vocational Program at McLennan County State Juvenile Correctional facility to be used in the vocational program. Staff requests the Board approve the resolution for acknowledging the acceptance of the gift. Mr. Smith moved to approve the resolution. Ms. King seconded. The motion passed unanimously.

#### **Discussion and possible adoption of proposed amendments to administrative rule 380.9561, relating to Detention for Youth Pending Level I or II Hearing.**

James Williams, Senior Director of Probation and Community Services, requests Board approval of changes to 37 TAC 380.961, pertaining to detention of youth pending a Level I or II hearing. This was brought before the Board at March meeting and posted for public comment in the Texas Register. There were no comments received. Board approval to make the changes is requested.

Judge Parker moved to approve the resolution. Judge Bush seconded. The motion passed unanimously.

**Discussion and possible adoption of proposed amendments to the following sections of 37 TAC Chapter 343 (Secure Pre-Adjudication Detention and Post-Adjudication Correctional Facilities)**

Mr. Williams requests Board approval of changes to 37 TAC Chapter 343, to make clean-up changes to the entire chapter to bring it into compliance with current law and other legislation. Some made the wording consistent with the Family Code. Others related to areas where there was redundancy in the standard. This was brought before the Board at March meeting and posted for public comment in the Texas Register. There were no comments received. Board approval to make the changes is requested. Judge Parker moved to approve the resolution. Mr. Smith seconded. The motion passed unanimously.

**Discipline of Certified Officers - Default Judgment Orders**

Brett Bray, General Counsel, requested the Board approve six default judgment orders listed below concerning discipline of certified officers, some revocations and some suspension with probation.

- a. Marcus Carter, DH-13-24045
- b. John Groneman, DH-13-23064-120192
- c. Aubrey Higgins, DH-13-26403-130018
- d. Steven Mojica, DH-13-26874-120374
- e. Thomas Clayton, DH-15514-130013
- f. Reginald Carter, DH 13-0348-130013

Judge Parker moved to approve the resolution. Ms. King seconded. The motion passed unanimously.

### **Discipline of certified officer - Agreed Order**

Mr. Bray stated the agreed order for this officer was approved at the last March Board meeting. This is a ministerial act to make a technical correction made during that approval. The Board approved the agreed discipline but the wording in the overall order was incorrect; it is a revocation that the certified officer agreed to. Judge Bush moved to approve the master agreed order. Ms. King seconded. The motion passed unanimously.

### **Discussion and possible approval to publish the proposed repeal of 37 TAC 380.8761 (Substance Abuse Services) in the Texas Register for a 30-day public comment period.**

Ms. Stroud asked the Board for approval to publish the proposed repeal of 37 TAC 380.8761 for substance abuse services. The content of this rule exists elsewhere in TJJJD's rules. The request is to publish the proposed repeal in the Texas Register for a 30-day public comment period prior to final vote on the repeal. During the public comment period there will be documentation supporting why the TAC rule is not needed. Mr. Stephens moved to approve the resolution. Ms. King seconded. The motion passed unanimously.

### **Discussion and possible adoption of proposed amendments to 37 TAC 380.9503 (Rules and Consequences for Residential Facilities), approval of responses to public comments, and approval of expedited effective date**

Ms. Stroud asked that the Board adopt of a revision to 37 TAC 380.9503 that relates to rules and consequences for residential facilities. Proposed revisions have already been published in the Texas Register and accepted comments under the 30-day review period. A public hearing was conducted April 22, 2013. In cases of disabled youth, psychologists and the youth's case management team will determine whether or not a disability played a part in a major rule violation. Staff requests the Board approve the proposed agency responses to public comments, adoption of the final rule, with revisions as noted and an expedited effective date eliminating the 20-day waiting period that generally applies in order to implement this change immediately. Judge Parker moved to approve the resolution. Mr. Matthew seconded. The motion passed unanimously.

**Discussion and possible approval of new Texas Administrative Code Chapter 355 (relating to Non-Secure Correctional Facility) for immediate adoption on an emergency basis**

Mr. Williams proposed the Board adopt on an emergency basis new 37 TAC Chapter 355, relating to Non-secure Correctional Facilities. The new chapter establishes minimum standards for the operation of non-secure correctional facilities housing residents under the jurisdiction of a juvenile court. The rules focus on facility operation that impact the safety, security, healthcare, and education of residents. Previously there were no standards for these programs. The facilities are all across the state and differ vastly. They're doing a good job but have not had oversight over daily operations. The Board is requested to approve the adoption of new Chapter 355 on an emergency basis. Judge Parker moved to approve the resolution. Mr. Matthew seconded. The motion passed unanimously.

**Closed Session – Executive Session**

The Board recessed and reconvened in closed session at 11:34 a.m.

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

The Board reconvened in open session at 11:53 a.m. Chairman Fisher announced the next committee meetings and Board meeting will be July 25 and 26, 2013. There will be an announced public hearing in early July. The August meeting dates are incorrectly posted on the calendar; correct dates are August 29 and 30, 2013.

**Adjourn**

The meeting was adjourned.