

TEXAS JUVENILE PROBATION COMMISSION BOARD MEETING

January 15, 2010
Brown-Heatly Building
Austin, Texas

COMMISSIONERS PRESENT

Ray West, Chair
Jean Boyd
Will Conley
Billy Wayne McClendon
Rene Ordoñez
Bob Shults
Lea Wright

COMMISSIONERS ABSENT

Migdalia Lopez
Scott O'Grady

TJPC MANAGEMENT STAFF PRESENT

Vicki Spriggs, Executive Director
Lisa Capers, Deputy Executive Director and General Counsel
Debbie Garza, Chief of Staff
Kristy Almager, Staff Services Manager
Nancy Arrigona, Director Research and Statistics
Linda Brooke, Director External Affairs, Policy Development, Behavioral Health
Annie Collier, Chief Financial Officer
Scott Friedman, Director Field Services
Jim Southwell, Director Management Information Systems

TJPC STAFF PRESENT

Kati Branch
Linda Brown
Craig Corder
Chris Cowan
Kevin DuBose
Doug Halstead
Diane Laffoon
Ameli Pena
Katrena Plummer
Samantha Retzlaff
Michael Suda
Anthony Welebob

1. Call to Order – R. West

Commissioner Ray West called the board meeting of the Texas Juvenile Probation Commission to order at 9:15 a.m.

2. Excuse Absences – R. West

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Ordoñez to excuse the absence of Commissioners Lopez, McClendon and O'Grady. Motion passed unanimously.

3. Approval of Minutes from November 20, 2009 Board Meeting – R. West

A **motion** was made by Commissioner Conley and **seconded** by Commissioner Boyd to approve the minutes as presented. Motion passed unanimously.

4. Update on Fiscal Year 2010 Budget and Expenditures – L. Brown

Note: Commissioner McClendon is present at this time.

At this time of the year the Commission should be at 33% of the budget and most areas are within that range. Professional Fees and Services is a category not in that range, but will be after a payment to Garza, Gonzalez and Associates is made in the very near future.

The Travel line item is at 13.36% because agency staff who normally would be traveling at this time of the year are working on the Compliance Resource Manual (CRM). Repairs and Maintenance is over the percentage due to the expense of the warranty extension service with Austin Ribbon and Computer. Capital Outlay is at 8.64% because no payments have been made yet to the Juvenile Case Management System (JCMS).

During this time of the year Border Projects should be at 41.6% but are at 21.34% due to one department not completing the required documentation yet. Once that documentation is received, those funds will be disbursed.

The Community Corrections category should be at 41.6% and Secure Felony Placements is at 27.18% because it's a reimbursement plan. Also, the Commitment Reduction Program is at 25% because disbursements are made to the departments upon receipt of their signed contract.

The Intensive Community Based Pilot (ICBP) is at 0% because the Commission recently started disbursing funds for that grant, and must wait for FY2010 data before those funds are expended. The Small County Diversionary funds are reimbursement grants.

The Title IV-E Contract category is at 0% and the Commission submitted a request for payment in July, 2008 to the Department of Family and Protective Services with 4th quarter administrative claims however payment has not been received.

JJAEP Statutory is a reimbursement plan and the JJAEP Grant is at 50% at this time because 50% is paid at the beginning of the fiscal year and the remaining 50% is disbursed toward the end of the fiscal year. The MacArthur Foundation Grant is at 28.32% but will change in February when traveling and training begin.

All other expenditures have been tracked accordingly and are within budget.

No action was required for this item.

5. TJPC Advisory Council Update – E. Medina

Estela Medina is the Chief Juvenile Probation Officer for Travis County and serves as chair of the Commission's Advisory Council.

At the last board meeting one of the recommendations was for the Advisory Council to work with the Commission on Grant C funding. The council had a meeting on January 4, 2010 to review feedback from a survey given to all of the counties. Vicki Spriggs was present at the discussion and was most helpful.

The council received responses from 51 departments representing 63 counties. 33 responses received were from small, 12 from medium sized and 6 from urban counties.

In the survey the counties were asked if they accepted the Grant C funds and if not, why. Out of the counties that responded only 4 had not accepted Grant C. One response was they wanted an opportunity to look at the formula itself. Other responses reminded us that as we looked at commitment history we also need to look at the number of kids that were not committed and the cap that had been given to each county.

Another theme was the impact that the mental health provision had placed on Grant C. Part of Grant C distribution with the Commission was to consider mental health problems. For the counties that accepted Grant C, the mental health portion was taken out of the funding.

The feedback from the survey asked for flexibility of funding and the opportunity to use the funds in a variety of programs. It was also suggested that the differences in county sizes be considered when distributing the funds. It also suggests that if we were to look at making recommendations on how funds were distributed then perhaps the discussion should possibly include all of the different grants. The complete survey articulates even more of the comments received.

The Advisory Council in conjunction with our discussions with Vicki thought that perhaps we needed to be looking at an efficient funding strategy that will perhaps combine the current draft plans into one that would streamline and simplify the process. Some of the things important to consider when making any new recommendations for funding formulas is that as we look at local programming and strategies we have to focus on accountability and responsibility.

From our discussion came these 3 indicators that we will present in the form of a recommendation and will continue to work on with the Commission.

1. Commitment Activity. We continue to look at the decrease in commitments to TYC and understand that is important.
2. Certification Rate. In terms of whether or not there is an increase, the interest there is there is no increase in the rate of certification.
3. Recidivism Rate. We understand that we will be measured in terms of whether or not our programs are effective and that the funds we are using are in fact having a positive return on the effectiveness of the programs.

Streamlining the funds may allow for a more effective use of funds and funding oversight. We looked at a state wide funding formula and determined factors to consider. The factors were Juvenile Population, Baseline Funding, Defining County Size, Felony Referrals, and Per Capita Tax Base. Out of these factors, Felony Referrals is very significant because this is the population that could in fact be the ones committed to TYC, but it is also the population that is staying at home right now.

The Commission held a funding conference on January 5th and 6th and the Advisory Council took its discussion to the conference with over 100 representatives from the field present. The Commission was supportive in providing the opportunity to get additional feedback.

No final recommendations have been made at this time. The Advisory Council will continue to work with the Commission. An additional meeting is scheduled for February 4th and 5th, 2010 in Austin.

No action was required for this item.

6. Discussion and Possible Approval of Chapter 345 Related to Code of Ethics for Final Publication in the Texas Register – D. Halstead

As a result of the last board meeting Chapter 345 was posted to the Texas Register. Based on that, the Commission received one sole comment from Bexar County and after review it was respectfully declined. Today the Commission is requesting approval of Chapter 345 related to code of ethics with no changes for final adoption and publication to the Texas Register.

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Ordoñez to approve Chapter 345 for final publication in the Texas Register. Motion passed unanimously.

7. Discussion and Possible Approval of the Electronic Data Interchange Specification Changes for Final Publication in the Texas Register – N. Arrigona

The majority of the Electronic Data Interchange (EDI) changes deal with new mandates in reporting and one is the requirement to complete a risk and needs assessment. The Commission has developed that and is piloting

one now in eight departments. It is anticipated that the vast majority of departments will be using this although other instruments can be used if approved by the Commission. In the event a department will have different response levels other than low, medium and high the Commission will work to make sure they are able to report.

As a result of the last board meeting the EDI specification changes were posted to the Texas Register. No public comments were received and so at this time the request is being made for approval for final publication in the Texas Register.

A **motion** was made by Commissioner Wright and **seconded** by Commissioner McClendon to approve the EDI specification changes for final publication in the Texas Register. Motion passed unanimously.

8. Discussion and Possible Approval of Chapter 349 Related to General Administrative Standards for Initial Publication in the Texas Register – C. Cowan

The Commission is requesting approval this morning of the new Chapter 349 to the Texas Register for initial publication and request for public comment. The revision to Chapter 349 is necessary in order to address the transfer of disciplinary hearings to the State Office of Administrative Hearings (SOAH) as was required by the Sunset Bill.

Additionally, provisions related to abuse and neglect investigations and certification eligibility which were formerly contained in Chapter 349 have now been included in other chapters and so they've been removed from this revised version that we have.

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Ordoñez to approve Chapter 349 for initial publication in the Texas Register. Motion passed unanimously.

9. Discussion and Possible Approval of Changes Made to Chapter 343.272 Related to Housekeeping Plans for Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities for Initial Publication in the Texas Register – L. Capers

Note: Item number 10 was taken out of order at this time.

The Commission has the responsibility of annually inspecting each the 85 secure juvenile facilities around the state and we now have to determine and report to the juvenile board whether the facility is suitable or unsuitable for the detention of kids. So the Commission is actually going to be monitoring every standard every year at these facilities because that's really the only way that we can make a determination of suitability.

Recently an issue has arisen which is the cleanliness and sanitation of the facilities. The vast majority of the facilities do a very appropriate and good job of maintaining the facilities' sanitation and cleanliness. Unfortunately, there are a few facilities that are missing their mark when it comes to cleanliness and sanitation.

The Commission's previous standard was very minimal. It read: "*Housekeeping Plan: A written housekeeping plan shall be followed which promotes and ensures cleanliness, facility sanitation, and control of vermin and pests.*"

It became very apparent over the course of the last year that this standard was insufficient. About 6 months ago after going with the monitors to a facility to conduct a visual inspection, I went to meet with the juvenile board to encourage the juvenile board to close the facility because it was so bad for a variety of reasons, cleanliness being one of the reasons.

The new standard proposed is longer with more teeth in it. It states very specifically what is expected when you say cleanliness, sanitary conditions, and commitments. No one expects a correctional facility to be luxurious. We're talking basic cleanliness, basic hygiene, and basic sanitation.

Slides from a variety of different facilities were shown of individual rooms, common areas, restrooms, and exterior areas at various facilities. The first slides viewed were those that met good examples of the standard and were thought to be appropriate. It was pointed out that while all of these pictures were taken, these areas also smelled and felt clean. This is the norm. The vast numbers of our facilities are appropriate.

It was then pointed out that the remaining slides viewed would be of facilities that did not meet the standards. The slides could be graphic and contain graffiti with sexual and/or racial references and may show very unsanitary conditions. When graffiti is found present at a facility, the facility usually will have the child clean it; however some slides showed that this is not always the case. TJPC standards have always allowed for

juveniles to do housekeeping and light work under supervision given appropriate supplies and instructions to do so.

A draft of the new proposed standards will go out for public comment today. A concern about including a reasonability clause was raised and noted that it can still be added if need be. This is full of subjectivity and it requires common sense to make sure the standard is not over-enforced. The intent is not to see one tiny mark on the wall and write a facility up for violating the standard. The intent is to address the small number of facilities that have the issues reflected in the slides.

Monitors visit these facilities at least once a year and have a good sense of what the norm is. If a monitor shows up on a day where a child's room was totally destroyed and it was properly documented, then there would not be a write up. A case like this should be documented.

Another question that was raised is that if a child has time to do graffiti so large and grand in scale, then is the officer observing the secluded child every 15 minutes as required by standards?

The question of janitorial services and maintenance was also raised. Some facilities are serviced by their county and others out source service or have staff on site. If it appears that some of this falls under someone's job responsibility, we would ask if a work request has been submitted and documentation completed.

The new standard will be posted to the Register and will be emailed out to all the juvenile boards and facilities. A 30 day comment period is given to submit comments in writing. These comments will then be presented the board to accept or deny. If changes are made then the standard will be posted to the Texas Register for a second comment period.

A **motion** was made by Commissioner Conley and **seconded** by Commissioner Boyd to approve changes made to Chapter 343.272 related to housekeeping plans for initial publication in the Texas Register. Motion passed unanimously.

10. Discussion and Possible Action Regarding Unallocated Grant C Funding – V. Spriggs

Note: This item was taken out of order before item number 9.

During the last meeting discussion was held regarding unallocated funds related to Grant C. One option was the procurement of a license with a company called Assessments.com. That license would allow the Commission to meet the requirement of diverting commitments now and in the future of the State of Texas.

Discussion took place downtown after the provisional approval as to whether or not Assessments.com met the intent of the language in Rider 21 which states that Grant C funds be used for programs to divert kids from the Texas Youth Commission (TYC). The Director and CEO of Assessments.com was then asked to come present this program to the Board and what it does to address the needs of the Texas juvenile justice system.

Sean Hosman – Assessments.com

Assessments.com started in 1997 in a setting where the mandate was to prove outcomes. The desire was a chance to show that certain kinds of community based programs worked better than others and, which ones worked the best. In order to do that, probationers or juveniles that best fit the targets of those kinds of programs were found in order to develop a risk assessment in this case.

The risk assessment was called the PACT (Positive Achievement Change Tool). It is one of several instruments that exist in this system. The instruments are used not only to assess juveniles but also to understand what program is required, and then through the instruments in a pre and post concept, measure whether or not certain risks are being identified, addressed and reduced.

The instrument that TJPC has developed is very similar. The plan would be taking the TJPC instrument and combining within Assessments.com.

The outcomes, for example are, if ultimately I have to reduce recidivism, and the research shows clearly that if you reduce certain risk factors called criminogenic needs, and there's a big eight out there that include dysfunctional families, or anti-social peers, substance abuse, low levels of educational vocational achievements. Certain things we know put these kids at risk and create crime, then can we in the interim show before the ultimate measure of recidivism reduction, reduction in those big eight criminogenic needs, because the research is clear that if you reduce those, you reduce recidivism. There are all kinds of research, correlations and statistics to show that.

Where we identified a certain factor, in different places, different people have realized different outcomes. In some cases that the outcome might be what the goal is here, to reduce commitments to TYC. For example, The Florida State of Criminal Justice, a statewide agency that runs prevention, detention, probation, residential and after care used to commit about 7,000 kids and had one of the largest systems in the country.

Not just because of the implementations of Assessments.com but because of that and other instruments, the programs themselves, i.e. the probation officers being given the skill sets, information, case planning abilities, all of that plus intervention of a place in the community, other policies and protocols they reduced their commitment by now I think it is right around 4300, very significant. Not claimed solely because of Assessments.com but it's a piece of that puzzle.

Another example is a county in California. This was a recent set of numbers that I thought were pretty impressive because they show not just commitment decrease, but decrease of detention population, of residential care populations, out of home placements as well as commitments to the state. Since they have implemented Assessments.com, local detentions which are local residential sometimes secure, sometimes not secure, populations are down considerably. Residential treatment populations are down as well. There are many things that went into the mix, but it was the specific intent of implementing Assessments.com to reduce those numbers.

Another concept that is like Texas where right now the idea is to almost redirect those kids that would otherwise be at TYC, keep them in their communities if they're at the right risk level. And then we know the cost effectiveness of community based programming and of efficacy community based programming is pretty hot. This shows that they used this program to determine eligibility for particular programs within the community. In this case specifically, multi systemic therapy and optional family therapy.

Not cheap, but the very question is, is it cheaper than sending them to in that case, the Florida Department of Juvenile Justice. As determined, they saved 2 million dollars per every 75 youth who complete redirection in the community rather being committed to Florida Department of Juvenile Justice, residential and recidivism rates are low, by about 15% to 20%. So not only better recidivism rate; less money spent; the benefit of keeping kids in their community.

Certain kids need to be at TYC, certain programs can be delivered better there, etc. but if you're looking to reduce the assessment at the front door of your intake system, of your juvenile justice system, need to start directing traffic then and decide who is high risk, who is low risk, who's high risk for what kinds of risks and start saying charge, don't charge, divert, don't divert, place on probation, not probation, administrative case load or not, commitment or not. People can do that now we've been doing it for a long time.

What we want is a consistent measured uniform way of doing that across the board. As policies and implementations, we train what called motivational interviewing which is an extremely evidence based, very effective intervention. It was developed in the addictions world for substance abusers but it has really grown in criminal justice as a style as intervention communicator that has results to motivate people to want to change.

If we are going to better target better divert and better direct these juveniles, those that are looking to communicate sometimes can receive good services from providers that exist in the community. For 120 let's say of your 160 districts, A lot of times what that means is they don't have a lot of services to deliver. They're just not available, money or not, they're just not there.

Assessments.com is a web-based, web platform software application. One of the things we have done a lot of in the country is integrate our software and become everybody's local package over time and also plan to be integrated with Assessments.com. So anybody who gets on to JCMS and looks up for example, Johnny Jones, they look up Johnny Jones there will be a new link that says product assessment or case plan and they can just seamlessly move back and forth between the programs. The data seamlessly moves back and forth, they exist in the same place during multiple current aggregate reporting, etc.

The training is something that will be a little more on the ground. The skills test to develop is in three different curriculums and if we go around the state we will train TJPC staff as a training for trainer model. Sometimes we will shadow or co-facilitate or just train line staff directly. Before we do anything we sit down and have a 4-7 month period called an invitation team period and we do a lot of that planning, logistics, facilities, quality assurance and line treatment; we get that all set up in a comprehensive strategy and implementation plan and then we begin rolling it out.

There is a lot of sustainability, but there is a lot of quality assurance that we do in order to make this thing have some legs for a while and not quickly become a disparate system not used properly. Not easy, quality

assurance like anything around it is about the hardest thing to do and we are very focused on it. It is also important to not only train up front but to continue that training into the future.

As we visualize the roll out of this program, we already know that the majority of the urban counties where 51% of the juvenile age populations in the state are, are very anxious to do this. Judge Boyd who represents Tarrant County and is on the Board and can certainly speak to any specifics that anyone else might want to ask about the system.

Other jurisdictions where it has been applied include Wyoming, California, Florida, Washington, Montana, Utah and Oregon, about 85-86 jurisdictions. So we also know that commitment is the most expensive option within the Juvenile Justice Program. We know that placement is the second most expensive option. We know that diversion to a community based resource when appropriate is the least expensive option.

So if we know and are able to identify where this child needs to go because we have actually properly identified thorough evidence based validated tools what the child's needs are, then we can make effective and cost effective interventions that not only divert the juvenile being committed to TYC but actually start to stream line who is coming into the system and bring them out to where they need to be.

So, the tax dollar utilization which is not the purpose of Grant C but it is the purpose of the state Assessments.com meets that criteria. For diverting youth from TYC, it meets that criteria, which is the ultimate goal of Grant C funds. For enhancing the skill set of probation officers who don't have a lot of resources as an option which we talked about earlier, it does that as well.

To them, because of the attention to vitality of the model and the ongoing training and measuring that is part of Assessments.com, it just takes us ten years down the road. And now I want to back up to say a lot of work has gone on here to develop a risk assessment tool that is valid by our own research department, and that is great and that's wonderful, and then we can spend the next few years developing the next array of tools that will in the next decade get to where everything that we can get with Assessments.com or we can do this right now while we have the opportunity.

The ongoing cost is about 20% of your license price so you're talking about \$300,000 a year which is reports, annual reports, a helpdesk and then the upgrades. That is one way we ensure the quality is there as well by continuing validation. Implementing evidence based practices as a whole is pretty expensive stuff, pretty labor intensive a lot of times and training ends up over a year being more expensive than monitoring because there is a commitment that has to be made just to continue this. There is just going to be some expense to make sure this stays at a high quality level.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner McClendon to approve staff's recommendation for unallocated Grant C funding. Motion passed unanimously.

11. Discussion and Possible Action on Grant C Mental Health Services Applicant Selections – V. Spriggs
Note: This item was tabled to a future board meeting

12. Update on Allegations of Abuse, Neglect and Exploitation for Fiscal Year 2010 to Date – K. Dubose

A Serious Incident report was reviewed showing reports from fiscal year 2005 to December fiscal year 2010. If the Commission continues on the present path, there will be a smaller number of incident reports this fiscal year than in fiscal year 2009.

A breakdown of all fiscal year 2010 reports to date shows the majority of allegations originate from secure facilities. The most frequently reported classification is physical abuse by physical restraint at 79 allegations out of 205 allegations to date.

A change made to the statistical report was regarding our compliance with something that originated in House Bill 3689 that changed the Human Resources Code requiring that we provide to the board a statistical report which shows local outcomes in relation to those allegations. These can be found on page 48.

No action was required for this item.

13. Appeal of Termination Request by Former TJPC Employee

a. Closed Meeting.

Executive Session pursuant to Section 551.074 of the Government Code - Personnel Matters.

Discussion and Consideration of Executive Director's Denial of Appeal of an Employee's Termination in Accordance with TJPC Policy and Procedure Regarding Disciplinary and Grievance Procedure, Section 8.02. With regard to this agenda item, the Commission may also meet in executive session pursuant to Section 551.071 of the Government Code to consult with legal counsel.

The Texas Juvenile Probation Commission went into closed executive session at 11:30 a.m., pursuant to the Texas Open Meetings Act, on agenda item 13 to discuss the appeal of termination request by former TJPC employee as codified in Texas Government Code Section 551.074.

Commissioner West appointed a committee with the exclusive authority to reverse or affirm the Executive Director's action. This committee included Bob Shults, Chairman, Rene Ordonez and Lea Wright. All members of the public and staff (other than those that were determined should attend) were requested to leave the meeting room.

**b. Resume Open Meeting.
Discussion and any Final Action, Decision or Vote on Matters which were the Subject of Executive Session.**

The Texas Juvenile Probation Commission board reconvened in open session at 11:35 a.m. No action was taken. *Note: After the open meeting adjourned the committee continued in closed executive session.*

**14. Executive Director's Report – V. Spriggs
– Introduction of New Staff**

Samantha Retzlaff was introduced as the new Administrative Technician in the Executive Unit.

The goal coming out of the last legislative session was to reduce commitments to the Texas Youth Commission and all the speculation that circulated around the Grant C funding. In the 1st quarter of last fiscal year there were 431 commitments and in this current fiscal year there are 239 commitments.

Last week there was a budget committee meeting with probation departments. Part of the mandate from the Sunset Bill, HB3689 required a funding formula for the statute. In order for that to happen a funding formula needs to go into the Texas Register by March and hopefully everything will be approved by September 1, 2010. The goal of the budget conference was to discuss and work on state aid and community corrections. The Commission also asked the Advisory Council to work on Grant C in September, they were going to begin work on that issue during their next meeting as well.

During the course of the Advisory Council meeting on Tuesday, there was a broader discussion about the bigger budget, taking a look at long term issues instead of a short term issue. The Commission's funding formula has not been modified since the early 1990's.

Last night the State Board of Education met and one of the items on their extensive agenda was the approval of the charter for the mental health residential program that the Commission is working on in East Texas, the Peavy Switch facility. Again, in the Sunset Bill there was a requirement for them to do this. When the item was brought up on the agenda there was a lot of excitement about including a vocational charter educational component into the treatment approach.

At the next board meeting an administrator from the Peavy Switch Facility will come to speak to the board about the mental health program.

The Commission has a number of positions open in the Training, Abuse and Neglect and Field Services Units.

When the legislative appropriations process started last year the Commission had in its Legislative Appropriations Request (LAR) the purchase of another vehicle. After some discussion TYC offered to provide the Commission with one of their vehicles. The contract was finally approved Wednesday so by next week the Commission should have two running vehicles available to staff as they travel throughout the state to provide training and technical assistance to departments.

The Commission would like to move the next board meeting to March 26, 2010 as opposed to the originally scheduled meeting on March 19th due to all the events taking place in Austin at that time.

No action was required for this item.

15. Public Comments – R. West

There were no public comments and no action was required.

16. Adjourn – R. West

A **motion** was made by Commissioner Wright and **seconded** by Commissioner Boyd to adjourn. Motion passed unanimously. The board meeting adjourned at 11:48 p.m. The next board meeting will be March 26, 2010.

Note: The committee reconvened in closed executive session at 12:00 p.m. with counsel present. The Committee ended its closed session at 1:30 p.m. on January 15, 2010 with no action taken.