

# TEXAS JUVENILE PROBATION COMMISSION BOARD MEETING

March 26, 2010  
Double Tree Hotel  
Austin, Texas

## COMMISSIONERS PRESENT

Ray West, Chair  
Jean Boyd  
Will Conley  
Migdalia Lopez  
Scott O'Grady  
Bob Shults

## COMMISSIONERS ABSENT

Billy Wayne McClendon  
Rene Ordoñez  
Lea Wright

## TJPC MANAGEMENT STAFF PRESENT

Vicki Spriggs, Executive Director  
Lisa Capers, Deputy Executive Director and General Counsel  
Denise Askea, Director Non-Secure Facilities and Special Programs  
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  
Genovia Spencer, Human Resources Manager

## TJPC STAFF PRESENT

Jason Bryant  
Chris Cowan  
Kevin DuBose  
Chris Hubner  
Lesly Jacobs  
Diane Laffoon  
Karen Roe  
Brad Stafford  
Charly Skaggs, TJPC Contractor  
James Williams, Chief-in-Residence

**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 Shults to excuse the absence of Commissioners McClendon, Wright and Ordoñez. Motion passed unanimously.

**3. Approval of Minutes from January 15, 2010 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 – A. Collier**

At this time of the year the Commission should have expended 50% of the total administrative budget. Most of the administrative categories fall within this percentage. Professional Fees and Services is at 0% because contracted services performed by Garza, Gonzalez and Associates, a CPA firm that provides all audited services for the agency sends invoices for services toward the end of the fiscal year.

Travel is at 18.97% due to Field Services' lack of travel while updates are being made to the Standards and Compliance Resource Manual (CRM). Both the Materials and Supplies category and the Communications and Utilities category are down due to lack of travel as well. The Capital Outlay category is at 8.64% due to the purchase of desktop computers for staff and the remaining amount will be spent on JCMS.

The Grants and Contracts budget should be at 58%. Borders Project is at 29.87% because needed information was not submitted in time from a department in order to be included. The information was submitted this week and will be reflected in the next report.

The Community Corrections budget should be at 58% and all categories meet this percentage except reimbursement funds that are disbursed quarterly such as the Secure Felony Placement Fund and the Small County Diversionary Placement. Grants that are disbursed quarterly include the Commitment Reduction Program, Diversionary Fund, Intensive Community Based Program and the Pilot Program. JCMS has not been expended at this time and The Peavy Switch development has been suspended as part of the Commission's 5% budget reduction.

The Special Programs budget should be at 58% and Title IVE is not because the Department of Family and Protective Services (DFPS) is still reviewing claims for the past 2 years before payment is processed. JJAEP Statutory is a reimbursement fund and only 29% of the funds have been disbursed due to low expulsion rates.

The JJAEP Grant fund is disbursed twice a year with the 2nd disbursement in February bringing the total expenditure to 100%. The MacArthur Foundation Grant budget amount includes the salary of one Commission employee assigned to the grant and travel costs associated with the staff attending meetings with the focus on mental health services.

No action was required for this item.

**5. TJPC Advisory Council Update – Doug Vance, Vice Chair of TJPC Advisory Council**

The Advisory Council has met twice since the last board meeting, February 4-5, 2010 and March 1-2, 2010. The majority of the Council's work has been to look at a possible revision of the funding formula for how state grants are distributed throughout counties. The Council has no recommendations to make at this point as they are still working to find a conclusion.

The Council also continues to work on a funding strategy for Grant C but have no conclusions at this time.

The Council has worked with the Commission regarding Standard 343.272 Housekeeping Plan, and revising the language used in Standard 343.286 Room Restriction, Standard 343.304 Menu Plans, and Standard 343.376 Resident Grievance.

The Council has discussed the mandatory budget reductions handed down from the Governor's Office and has drafted a letter that will be forwarded to Legislative Leadership requesting that the state's request to reduce budgets not include Commission funding. Finally, the Council has completed a review of modifications to its existing bylaws and will present this for approval.

No action was required for this item.

*Note: At this time, Bill Bristow, CJPO of Grayson County was introduced and presented an award to Commissioner O'Grady for a presentation given to the Grayson County Juvenile Facility and for continuing to provide motivational speakers that speak monthly at this facility.*

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

This Serious Incident Report shows fiscal year 2005 to fiscal year 2010. At the present time for fiscal year 2010 there have been 290 allegations. 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 a majority of allegations were physical abuse by physical restraint and originated mostly from secure facilities.

The ANE Unit is now fully staffed with 7 full time investigators.

No action was required for this item.

**7. Discussion and Possible Approval of Chapter 349 Related to General Administrative Standards for Final Publication to the Texas Register – C. Cowan**

No public comments were received within the official public comment period in response to the initial publication of new Chapter 349 in the Texas Register. Public comments were submitted by Bexar County after the close of the public comment period. The comments were reviewed and considered, however, Commission staff respectfully declined to adopt the requested changes.

The Commission is requesting approval for final adoption of Chapter 349 and publication in the Texas Register, with no changes from the rules as initially posted. The anticipated effective date for new Chapter 349 will be May 1, 2010.

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

**8. Discussion and Possible Approval of Non-Substantive Amendments to Chapter 341 Related to Texas Juvenile Probation Commission Standards to Conform to new Chapter 349 Section Numbers for Initial Publication in the Texas Register – C. Cowan**

*Note: This item was withdrawn from the agenda*

**9. Discussion and Possible Approval of Non-Substantive Amendments to Chapter 343 Related to Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities to Conform to new Chapter 349 Section Numbers for Initial Publication in the Texas Register– C. Cowan**

The requested change is a non-substantive amendment made to Chapter 343 related to Texas Juvenile Probation Commission standards to conform to new Chapter 349 section numbers:

Standard	Current Reference	Proposed Reference
343.106	349.2	349.200

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Boyd to approve the amendments to Chapter 343 for initial publication in the Texas Register. Motion passed unanimously.

**10. Discussion and Possible Approval of Non-Substantive Amendments to Chapter 344 Related to Employment, Training and Certification to Conform to new Chapter 349 Section Numbers for Initial Publication in the Texas Register – C. Cowan**

The requested change is a non-substantive amendment made to Chapter 344 related to Texas Juvenile Probation Commission standards to conform to new Chapter 349 section numbers:

Standard	Current Reference	Proposed Reference
344.410	349.2	349.2

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Shults to approve the amendments to Chapter 344 for initial publication in the Texas Register. Motion passed unanimously.

**11. Discussion and Possible Approval of Non-Substantive Amendments to Chapter 351 Related to Standards for Short-Term Detention Facilities to Conform to new Chapter 349 Section Numbers for Initial Publication in the Texas Register – C. Cowan**

The following requested changes are non-substantive amendments made to Chapter 351 related to Texas Juvenile Probation Commission standards to conform to new Chapter 349 section numbers or to reflect former Chapter 349 section numbers that have since been included in newly created chapters:

Standard	Current Reference	Proposed Reference
351(d)(2)(B)	349.8	Chapter 344 Subchapter C
351.17	349.2	349.200
351.30(c)(1)(H)	349.2	349.200
351.33	Chapter 349 (2 references)	Chapter 344 (2 references)

Additionally, the following requested changes are non-substantive amendments made to Chapter 351 related to Texas Juvenile Probation Commission standards to conform to new Chapter 349 section numbers and to provide clarification as to the new section numbers referenced.

*Section 351.30(c)(2)(A).* An individual whose certification is currently under a suspension order issued under §349.27(d)(2) as a result of a disciplinary action pursuant to Chapter 349 of this title shall not qualify for employment as a juvenile probation officer, supervisor of juvenile probation officers or chief administrative officer so long as the suspension order remains in effect.

*Section 351.30(c)(2)(B).* An individual whose certification is currently under a mandatory suspension order issued under §349.31 as a result of failure to pay child support pursuant to §349.385 of this title shall not qualify for employment as a juvenile probation officer until the Commission receives an order issued under Texas Family Code §232.013 staying or vacating the license suspension.

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner O'Grady to approve the amendments to Chapter 351 for initial publication in the Texas Register. Motion passed unanimously.

**12. 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 Final Publication in the Texas Register – L. Capers**

In January, the Board approved amendments made to Section 343.272 regarding facility cleanliness to be posted for an initial 30-day public comment period. Public comments were received from Bexar County and Smith County. After further review and consideration, the Commission has made substantial changes to Section 343.272 and therefore is respectfully declining to make these suggested amendments within the public comment.

Staff is recommending that the board approve to withdraw the amendments to Section 343.272 as published in the February 12, 2010 issue of the Texas Register. In addition, staff is asking to post the newly proposed amendments to Section 343.272 for an initial 30-day public comment period.

A **motion** was made by Commissioner O'Grady and **seconded** by Commissioner Boyd to withdraw earlier amendments and to approve newly proposed amendments made to Chapter 343.272 for initial publication in the Texas Register. Motion passed unanimously.

**13. Update on Juvenile Case Management System (JCMS) Project**

*Note: This item was tabled until the next board meeting*

**14. Discussion and Possible Action on Current Funding Formulas for Initial Publication in the Texas Register to Include the Following Grants: – A. Collier**

The Texas Juvenile Probation Commission proposes new Title 37, Chapter 346 of the Texas Administrative Code relating to select funding formulas for the Texas Juvenile Probation Commission.

The Commission is required to adopt these rules by the Legislature pursuant to House Bill 3689 which added Section 141.081 that mandates the Commission, no later than September 1, 2010 to establish funding formulas for basic probation services and community corrections. The rules presented today formalize in our standards the grant allocation formulas that became effective on September 1, 2009.

**A. State Aid/Grant A**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant A funding formula for initial publication in the Texas Register. Motion passed unanimously.

**B. Commitment Reduction Program/Grant C**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant C funding formula for initial publication in the Texas Register. Motion passed unanimously.

**C. Diversionary Fund/Grant H**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant H funding formula for initial publication in the Texas Register. Motion passed unanimously.

**D. Intensive Community Based Programs-Pilot/Grant U**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant U funding formula for initial publication in the Texas Register. Motion passed unanimously.

**E. Intensive Community Based Programs/Grant X**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant X funding formula for initial publication in the Texas Register. Motion passed unanimously.

**F. Community Corrections Fund/Grant Y**

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner Shults to approve the Grant Y funding formula for initial publication in the Texas Register. Motion passed unanimously.

**15. Review, Discussion and Possible Approval of Summer School Funding for Juvenile Justice Alternative Education Programs – D. Askea**

The Commission's Rider # 9 allows for up to \$3 million of Juvenile Justice Alternative Education Programs (JJAEP's) funding to be allocated for summer school programs in the mandatory JJAEP counties. Staff recommends that funds be made available to mandatory JJAEP counties based on the percentage of population served during the 2008/2009 regular school year. The Commission estimates that at least \$1.8 million will be available for summer school programs.

Staff has surveyed the JJAEP's for their interest in operating summer school programs. To date 13 counties have expressed interest in summer school funding, 13 counties have declined to operate summer school programs and 1 did not respond.

Staff recommends that \$1.8 million be made available to counties requesting to operate a summer school program. Available amounts are based upon each county's proportionate share using the total number of mandatory student attendance days during the 2008/2009 school year.

Additionally, the Commission makes the following recommendations regarding the operation of summer school programs:

1. Summer school programs will be funded for a minimum of 20 operational days and a maximum of 35 operational days.

2. Any unspent funds from the regular school year must be applied to summer school prior to any additional funds being allocated.
3. Days funded will only be for students expelled for a mandatory reason under the Texas Education Code 30.007(a), (d), or (e).
4. Programs may choose to operate either a half-day (minimum of 3.5 hours) or a full-day (minimum of 7 hours). Programs choosing to operate a half-day will be funded at the maximum rate of \$40 per student day of attendance and programs operating a full- day at the \$79 rate per student day of attendance.
5. Counties will be required to notify the Commission no later than May 1, 2010 if they intend to operate a summer school program under the approved plan.

A **motion** was made by Commissioner Lopez and **seconded** by Commissioner O'Grady to approve the funding of summer school programs for Juvenile Justice Alternative Education Programs. Motion passed unanimously.

**16. Review, Discussion and Possible Action Regarding Disciplinary Action in the State Office of Administrative Hearings' Docket No. 665-10-0814; Texas Juvenile Probation Commission v. Donte Wells, TJPC Certification No. 14389; A Certified Officer (Proposal for Decision and Final Order) - K. Roe**

This is a disciplinary action case taken against a certified officer, Mr. Wells. Pursuant to the Commission's authority to grant certifications to officers and to revoke or suspend them for violations of Abuse and Neglect Standards or Code of Ethics, various violations are brought to the Commission's attention. Historically the Commission has always approved the final orders for these decisions. This is the first case where a hearing has been conducted by the State Office of Administrative Hearings (SOAH).

Prior to the passage of House Bill 3689 these hearings were conducted by one of the Commission's staff attorneys, who was assigned to serve as an administrative law judge. With the statutory change, it was recommended by the Sunset Commission and part of Legislation that those hearings be moved to SOAH.

A proposal for the decision was prepared by Judge Garza at SOAH and a final order has been drafted that takes her proposed findings and conclusions of law verbatim and incorporates them into the order. That is what is being presented for approval at this time.

A hearing was requested and when held, the respondent Mr. Wells did not appear. SOAH granted a continuance and asked that the Commission try to contact Mr. Wells again by sending another letter letting him know that intent to revoke his license was being sought. The Commission did that and conducted a hearing again on December 1, 2009 where Mr. Wells did not appear.

The judge then entertained the motion for default of judgment in his absence. She outlined her findings, however, in her conclusions of law she finds that even though he did commit the acts, the facts were not sufficient to revoke his certification for those violations.

One thing that we have done that will hopefully improve a situation like this in the future is if a state agency has an administrative rule that says under default judgment, we find not only the findings of facts against you but also the recommended sanctions.

The SOAH provision became effective in September and this hearing was held in November and December, that default judgment rule was not yet in effect. It was proposed on the Chapter 39 provision that was approved earlier in the meeting today. In the future, when a certified officer doesn't appear, the Commission will now have a rule that says SOAH must accept the Commission's recommended sanction. In this case, his certification would have just expired by the passage of time anyway. He is no longer employed by the county and left shortly after these allegations occurred. His certification would have expired in February 2009.

If the order that has been proposed today is adopted, his certification will not be revoked but he will not have a current certification because it has expired. In the future should he return to the employment of a county and seek certification, he would be eligible for certification.

The administrative law judges asked whether or not our administrative standards had different factors and considerations that the members used. We have drafted some of these factors and considerations and hope to

present them at the next meeting. This would help the administrative law judges at SOAH have something to look at that allows them to see the factors the Commission used to recommend revocation.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Shults to approve the decision of final order. Motion was passed unanimously.

**17. Executive Director's Report – V. Spriggs**

Jason Bryant was introduced as the new Abuse, Neglect and Exploitation Investigator and Brad Stafford was introduced as the new Database Administrator in the MIS unit.

Two new contract positions were introduced. The first being Coach/Technical Advisor, Charly Skaggs and the second is Chief in Residence, James Williams.

The Commission still has 4 personnel vacancies which are 1 MIS position, 2 Trainer positions, and Annie Collier has decided to take the position of Deputy Chief Financial Officer, so the Commission will now seek to fill the position of Chief Financial Officer.

Recent resignations within the field were noted: Harvey Hetzel of Harris County, Charly Skaggs of Williamson County and Mike Griffiths of Dallas County.

The Commission has requested an exemption from the 5% reduction request, however, should exemption not be allowed, the Commission agreed to eliminate the residential mental health facility that was planned with current year appropriations, return funds from salaries of vacant positions and to use unspent Community Corrections funding.

The Commission has 4 upcoming agency sponsored training conferences: Intensive Supervision Probation (ISP) Conference – May 10, 2010; Leadership Conference – May 19, 2010; Special Programs Conference (JJAEP & Placement) – June 20, 2010; Juvenile Detention Alternatives Conference – June 23, 2010.

On January 1, 2010, Vicki Spriggs began her tenure as the Chair of the National Council on Juvenile Crime and Delinquency.

Vicki was also one of 12 invitees to the Georgetown University Center for Juvenile Justice Reform, the newly created Juvenile Justice Leadership Network. Their goal is to bring together select juvenile justice reformers to create a forum to share information and support their respective reform efforts. Texas was the only state with 3 representatives present. Mike Griffith represents local juvenile probation departments, Cherie Townsend represents state institutions and Vicki Spriggs represents state probation.

Other States represented were New York, Massachusetts, Kansas, Missouri, Delaware, California, Philadelphia and Washington D.C.

No action was required for this item.

**18. Discussion and Assignment of Joint TJPC/TYC Board Subcommittee – R. West**

*TJPC/TYC Joint Committee:*

- 1) Migdalia Lopez, Chair
- 2) Robert Shults
- 3) Jean Boyd

A **motion** was made by Commissioner O'Grady and **seconded** by Commissioner Lopez to approve the assignment of the TJPC/TYC Joint Board Committee. Motion passed unanimously.

**19. Public Comments – R. West**

There were no public comments and no action was required.

**20. Adjourn – R. West**

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner O'Grady to adjourn. Motion passed unanimously. The meeting adjourned at 11:09 a.m. The next board meeting will be May 21, 2010.