

# TEXAS JUVENILE PROBATION COMMISSION BOARD MEETING

July 16, 2010  
Brown-Heatly Building  
Austin, Texas

## COMMISSIONERS PRESENT

Ray West, Chair  
Jean Boyd  
Will Conley  
Billy Wayne McClendon  
Scott O'Grady  
Bob Shults

## COMMISSIONERS ABSENT

Migdalia Lopez  
Rene Ordoñez  
Lea Wright

## TJPC MANAGEMENT STAFF PRESENT

Vicki Spriggs, Executive Director  
Lisa Capers, Deputy Executive Director and General Counsel  
Bill Monroe, Chief Financial Officer  
Annie Collier, Deputy Chief Financial Officer  
Kristy Almager, Staff Services Unit Coordinator  
Linda Brooke, Director External Affairs, Policy Development, Behavioral Health  
Scott Friedman, Director Field Services  
Jim Southwell, Director Management Information Systems  
Cindy Weisinger, Director Training

## TJPC STAFF PRESENT

Jennifer Carr  
Chris Cowan  
Jessica Gonzales  
Pam Gereau  
Luis Guerrero  
Chris Hubner  
Lesly Jacobs  
Diane Laffoon  
Samantha Retzlaff  
Katrena Plummer  
Ameli Pena  
John Posey  
Saul Salas  
Michael Suda  
Jason Williams  
Kim Woods  
Charly Skaggs, TJPC Contractor

**1. Call to Order – R. West**

Commissioner Ray West called the board meeting of the Texas Juvenile Probation Commission to order at 9:10 a.m.

**2. Excuse Absences – R. West**

A **motion** was made by Commissioner Conley and **seconded** by Commissioner Boyd to excuse the absence of Commissioners Lopez, Wright and Ordoñez. Motion passed unanimously.

**3. Approval of Minutes from March 26, 2010 Board Meeting – R. West**

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner O'Grady to approve the minutes as presented. Motion passed unanimously.

**4. Update on Fiscal Year 2010 Budget and Expenditures – B. Monroe**

Under the Administration category, Salaries & Wages are coming in lower than what has been budgeted. The good news is that the agency now has 71 employees which is the largest number of employees in the history of the agency. There are still a few vacancies at this time.

Professional Fees and Services are at 27.56% because the majority of these funds go to the internal audit firm, Garza and Gonzalez which will audit the Commission in August.

Travel is only at 50.87% because the majority of monitoring will happen this July and August. This category is expected to come in at budget at the end of fiscal year 2010.

Materials and Supplies are at 99.90% because these funds were spent early in the year for supplies for new employees brought in throughout the year. This category will be watched closely through the remaining fiscal year to see if funds will need to be transferred.

Repairs and Maintenance is at 90.84% and spending is slowing down at this time.

Capital Outlay is at 10.59% because the funds are being used for the Juvenile Case Management System (JCMS) program which will be finalized by the end of the fiscal year.

Under Grants and Contracts all category items are on target.

The percentages for Community Reduction Program, Diversion Fund, Intensive Community Based Programs (ICBP), and ICBP Pilot appear to be below normal, however, the funds are disbursed on a quarterly basis and the last quarter payment to the departments will occur this month.

In the Special Programs Category, Title IV-E is shown at 12.14%. There continues to be a struggle with getting all of the payments and criteria for the departments to utilize this grant under the latest federal rules and regulations.

No action was required for this item.

**5. Discussion of Budget Reductions and Possible Action Authorizing the Chairman of the Board to Sign the Texas Juvenile Probation Commission's Legislative Appropriations Request (LAR) for Fiscal Years 2012 - 2013 – B. Monroe**

On May 17, 2010 the agency received a letter from the Legislative Budget Board (LBB) stating that after all consideration the Commission is to reduce the current biennium expenditures by \$8 million. After putting forward a compelling case, the good news is this is better than the full 5% which would have been a little over \$14 million.

This year the Commission has been able to accomplish the reductions without any significant change of any type to the county probation departments due to the use of the Commission's salary savings, the Peavy Switch Mental Health funds and departments choosing not to participate in new Grant C funding. Next year the Commission anticipates being able to do the same sort of thing however it is not all concrete at this time.

After receiving the first letter on May 17, 2010, the Commission then received a letter on May 27, 2010 stating that detailed instructions for the 2012-2013 biennium can be found on the Legislative Budget Board (LBB) website.

The letter stated, "As a starting point for budget deliberations, an agency's baseline request for General revenue-related (GR and GR-Dedicated) funds may not exceed the sum of amounts expended in fiscal year 2010 and budgeted in fiscal year 2011 adjusted to reflect the full five percent reduction target identified by our office for each agency. Agencies must also submit a supplemental schedule detailing how they would reduce the baseline request by an additional 10 percent (in five percent increments) in general revenue-related funding."

The Commission anticipates in the Legislative Appropriations Request (LAR) that one of our first exceptional items will be to ask for these funds to be returned. In the coming biennium \$42 million is the amount of the reduction or roughly \$21 million a year to be taken away from our \$182 million budget.

On another note, at the TJPC Budget Conference, the Commission asked each department to tell us which grants would be the most painful to lose. The two most painful grants to lose would be Grant Y (Community Corrections) and Grant A (State Aid).

The Commission is requesting the Chairman of the Board to sign the LAR when it is finalized in the next 3 or 4 weeks and ready to be forwarded to the oversight agencies.

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Conley authorizing the Chairman of the Board to sign the Texas Juvenile Probation Commission's Legislative Appropriations Request (LAR) for Fiscal Years 2012 -2013. Motion passed unanimously.

#### **6. Discussion and Possible Approval of the Texas Juvenile Probation Commission's Internal Audit Plan for Fiscal Year 2010 – R. Gonzalez**

The Internal Audit Plan presented uses a risk assessment process that includes interviewing key staff members and reviewing key documents listed in the audit plan.

This year Garza and Gonzalez is proposing to audit two areas that consist of reports that have been issued in prior years and following up on those reports; the State Auditors Report and the Sunset Advisory Commission Report. They will also perform follow up on prior year internal audit findings that remain open.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Shults to approve the Texas Juvenile Probation Commission's Internal Audit Plan for Fiscal Year 2010. Motion passed unanimously.

#### **7. TJPC Advisory Council Update – E. Medina**

The Advisory Council has been reviewing the Grant C funding and has discussed recommendations regarding distribution. Throughout the process the Council realized that the funding problems are much larger than just Grant C. With this in mind, the Council has been working with TJPC staff to look at a funding formula not just limited to Grant C but to all grants.

Since 1995 appropriations for juvenile probation have increased with directed funding streams and limited flexibility. The Texas Advisory Council is working with TJPC and the chief juvenile probation officers across the state to develop a revised funding formula. The Council's strategy is to create a formula that will build on the past funding formula and create a singular equitable funding stream.

Four goals the Council is trying to accomplish are to create flexibility, update base, establish consistency and reduce administrative burden.

In the proposal, the Council will determine how counties are defined by using small, medium, large and urban sized categories. The baseline will not include Grant C funds. Departments will receive Grant C and new money based on the department size category.

Based on the current average funding, the economy of scales by department size translates to:

Small – receives 100% of \$1 per child  
Medium – receives 79% of \$1 per child (or \$0.79)  
Large – receives 54% of \$1 per child (or \$0.54)

Urban – receives 45% of \$1 per child (or \$0.45)

It is understood that accountability for expenditures of funding and performance is necessary and that performance measures should accurately demonstrate the effectiveness of juvenile probation services. The juvenile probation departments shall be held to the following performance measures:

1. Recidivism Rates
2. Commitment Rates
3. Certification Rates
4. Probation Completion Rates

The proposed next steps will be to:

1. Revise TJPC budget structure.
2. Review and determine which TJPC riders in the General Appropriations Act should be eliminated.
3. Determine if new riders are necessary to support this initiative.
4. TJPC Board to develop rules for updated and new funding formulas.

This will also mean that if a new funding formula is adopted, the field must continue to live up to the Texas Youth Commission (TYC) commitment targets.

There are 105 departments in the small category, 38 in the medium category, 14 in the large category and 8 in the urban category.

No action was required for this item.

**8. Update on Allegations of Abuse, Neglect and Exploitation for Fiscal Year 2010 to Date – L. Jacobs**

The statistics run from September 1, 2009 to May 31, 2010 and show 487 allegations of abuse that are being investigated. The Commission had 734 reports of serious incidents.

The overall trend has been down in 2008 and 2009 and we are now about 7% down from 2009 in ANE and about 4% down on serious incidents.

No action was required for this item.

**9. Update on Allegations of Abuse, Neglect and Exploitation Using the Texas Juvenile Probation Commission's Agency Reporting Line – L. Jacobs**

2009 was the Commission's first year with the Abuse, Neglect and Exploitation (ANE) call line and the numbers have trended up since then. However, the calls have gone down as the juveniles have learned the appropriate reasons to call. They and the staff have been better educated on reasons why to call the call line, but every call taken is entered and categorized. A total of 669 calls have been received since the beginning of fiscal year 2010 and 111 of these have resulted in an investigation of ANE.

No action was required for this item.

**10. Discussion and Possible Action on Amending Chapter 343.249(a)(4) Related to Senate Bill 1237 and Provisions to Prevent Firearms from Entering the Secure Area of Secure Juvenile Correctional Facilities for Possible Initial Publication in the Texas Register – L. Jacobs**

The amendments the Commission is proposing are to reinforce the prohibition of allowing firearms into secure facilities, specifically restricting the juvenile probation officers who are now authorized under Senate Bill 1237 to carry firearms during the course of their duties.

The Commission is requesting approval for initial publication in the Texas Register.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Conley to approve amending Chapter 343.249(a)(4) related to Senate Bill 1237 and provisions to prevent firearms from entering the secure area of secure juvenile correctional facilities for possible initial publication in the Texas Register. Motion passed unanimously.

11. **Variance Committee Report**
- a) **Review Discussion and Possible Action Regarding Fort Bend County Juvenile Probation Department's Application for Permanent Variance from Title 37 Texas Administrative Code Section 343.266(a) Related to Bedding – J. Boyd**
  - b) **Review Discussion and Possible Action Regarding Bexar County Juvenile Probation Department's Application for Permanent Variance from Title 37 Texas Administrative Code Section 343.642(b) Related to Single Occupancy Housing Units (SOHU) – J. Boyd**

The Variance Committee voted to approve both applications for variance with the variance conditions recommended by the TJPC staff.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Conley to approve Fort Bend County Juvenile Probation Department's Application for Permanent Variance from Title 37 Texas Administrative Code Section 343.266(a) related to bedding and Bexar County Juvenile Probation Department's Application for Permanent Variance from Title 37 Texas Administrative Code Section 343.642(b) related to single occupancy housing units (SOHU). Motion passed unanimously.

12. **Discussion and Possible Ratification of the Texas Juvenile Probation Commission's 2011–2015 Strategic Plan – J. Posey**

The state law requires the Commission to complete 3 strategic plans: a Juvenile Justice Alternative Education Program (JJAEP) strategic plan, a coordinated strategic plan with TYC and the TJPC agency strategic plan. The one we are discussing today will be the agency strategic plan.

A historical perspective of juvenile services and juvenile probation was highlighted discussing how it looked in 1981 versus how it looks in 2010.

Highlights and accomplishments of the agency were in 2008 when the agency adopted the direct reporting system of Abuse and Neglect and in 2009 -2010 the agency received legislative funding of \$46 million for the Community Corrections Diversion Program and funding for Juvenile Case Management System (JCMS). The Complaint Management Tracking System was developed during this time, and finally in 2010 the agency developed the Risk and Need Assessment to help departments identify which juveniles are most likely to become chronic offenders.

Highlights of the Commission budget were reviewed showing that in the current biennium the Commission had a budget of \$362.5 million which represented a 21% increase in general revenue but a 28% decrease in revenue for probation assistance. The decrease was due to changes in federal guidelines regarding the Title IV-E Program.

The needs of juveniles in the system were discussed by gathering early results from the use of the Risk and Needs Assessment.

- 37% of juveniles had experienced a traumatic event in their life
- 29% were aggressive
- 37% were chronically truant
- 42% were failing 2 or more subjects in school
- 27% had siblings with a criminal history
- 38% had a parent or guardian with a criminal history

In fiscal year 2008, 33% of the juveniles in the system were estimated to be mentally ill but only 37% of them received mental health services.

The number of juveniles committed to TYC has declined by 40% from 2005 to 2009 but the number of juveniles certified as an adult has increased by 42% from 2005 to 2009.

The Federal Prison Rape Elimination Act (PREA) was discussed and highlights of the agency's efforts to reduce sexual violence against youth in custody now and in the future.

Summary of the Sunset Bill, legislative issues and agency performance measures were reviewed. Agency planning processes highlighted the Strategic Plan with TYC and ongoing work groups.

The Commission turnover rates are less than the state and TJPC survey scores continuously were higher than other agencies in the state.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner McClendon to approve Ratification of the Texas Juvenile Probation Commission's 2011–2015 Strategic Plan. Motion passed unanimously.

**13. Discussion and Possible Approval of Amendments Made to Chapter 349 Related to General Administrative Standards for Initial Publication in the Texas Register – C. Hubner**

The Commission is proposing amendments to Chapter 349 relating to disciplinary procedures initiated by the Commission before the State Office of Administrative Hearings (SOAH). These amendments are being made in an effort to clarify and formalize existing internal criteria used in making disciplinary decisions. The Commission is requesting that these amendments be approved for initial publication to the Texas Register for a 30-day public comment period.

A **motion** was made by Commissioner O'Grady and **seconded** by Commissioner McClendon to approve amendments made to Chapter 349 related to general administrative standards for initial publication in the Texas Register. Motion passed unanimously.

**14. 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 Final Publication in the Texas Register – C. Cowan**

No public comments were received within the comment period in response to the initial publication in the Texas Register of the following non-substantive amendment to Chapter 343:

Standard	Current Reference	Proposed Reference
343.106	349.2	349.200

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

**15. 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 Final Publication in the Texas Register – C. Cowan**

No public comments were received within the comment period in response to the initial publication in the Texas Register of the following non-substantive amendment to Chapter 344:

Standard	Current Reference	Proposed Reference
344.410	349.2	349.200

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Conley to approve amendments to Chapter 344 related to employment, training and certification to conform to new Chapter 349 section numbers for final publication in the Texas Register. Motion passed unanimously.

**16. 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 Final 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
351.2(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 §349.34~~ 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.

The Commission is requesting approval for initial publication in the Texas Register for a 30-day public comment period.

A **motion** was made by Commissioner O'Grady and **seconded** by Commissioner Boyd to approve non-substantive amendments to Chapter 351 related to standards for short-term detention facilities to conform to new Chapter 349 section numbers for final publication in the Texas Register. Motion passed unanimously.

**17. 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**

No public comments were received within the comment period in response to the initial publication in the Texas Register regarding Changes made to Chapter 343.272 related to housekeeping plans for secure juvenile pre-adjudication detention and post adjudication correctional facilities.

The Commission is requesting final approval for publication in the Texas Register with an August 1, 2010 effective date.

A **motion** was made by Commissioner O'Grady and **seconded** by Commissioner Conley to approve 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. Motion passed unanimously.

**18. Discussion and Possible Approval of Current Funding Formulas for Final Publication in the Texas Register – A. Collier**

No public comments were received within the official public comment period in response to the initial publication of the new Chapter 346 regarding funding formulas in the Texas Register.

The Commission is requesting approval of new Chapter 346 for final publication and adoption in the Texas Register, with no changes from the rules as initially posted for publication.

**A. State Aid/Grant A**

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

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

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

**C. Diversionary Fund/Grant H**

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

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

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

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

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

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

A **motion** was made by Commissioner McClendon and **seconded** by Commissioner Shults to approve new Chapter 346 regarding funding formulas for final publication in the Texas Register. Motion passed unanimously.

**19. Update on Agency Technical Assistance and Coaching Initiative – C. Skaggs**

This coaching initiative has been in place for approximately 6 weeks. At least half of all counties have been contacted so far with many more pending. It has been well received by all departments and the departments are happy to have a TJPC position like this available to them. Contracts, programs, surveys and all other chief issues have been discussed.

No action was required for this item.

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

New staff were introduced: Bill Monroe, Chief Financial Officer; Jason Williams, Resource Specialist in the Compliance Department; Jennifer Carr, Accountant; Jessica Gonzales, Research Specialist.

Senate Bill 1237 was adopted last session and it requires TJPC and TCLOSE to develop a MOU for the Administration of Fire Arms Certification Program and to develop a firearms certification course for juvenile probation officers selected to carry firearms while on duty. Two workgroups involving TJPC and TCLOSE staff met in September and November of 2009 to begin work on the curriculum and since April, TJPC staff have been reviewing and assessing the overall soundness of it.

In addition to working on the curriculum, the Commission has been developing an exam to ensure understanding of the concepts involved and when to use deadly force.

The chief juvenile probation officer in each county will make the determination whether or not to allow the use of firearms by juvenile probation officers.

The Commission will have its first orientation meeting with the Sunset Commission on August 19<sup>th</sup>.

The first joint TJPC/TYC board meeting has been scheduled for August 20<sup>th</sup> in Houston.

PREA was passed in 2003 and the Commission has participated in 2 week-long training sessions in July of 2008 in Washington D.C., and then hosted the *Behind Closed Doors: Preventing, Responding to, Investigating and Prosecuting Sexual Abuse in Juvenile Justice Facilities Conference*. Over 200 attendees were present.

The Commission participated in the Washington College of Law grant funded initiative on building staff in youth capacity which addresses sexual violence on youth in custody. The Commission participated in the development of a national curriculum. Texas via TJPC is one of two states that will be testing this new curriculum.

As of today the Commission has completed the statutory onsite mandated monitoring of 20 of the 87 secure facilities in the state. It is projected to be completed by the middle of December. The monitoring scores to date have resulted in an average score of 91% for the pre-adjudication facilities and 90% for the post-adjudication facilities.

The Commission's Management Information Systems (MIS) department has been working very hard to finish development on our Juvenile Case Management Systems program and has worked on the Risk and Needs Assessment Program.

No action was required for this item.

## 21. Public Comments – R. West

### 1. Megan Baker – Lesbian, Gay, Bisexual and Transgender (LGBT) Youth in Juvenile Justice System

The Board was addressed in order to bring awareness to LGBT youth in the Texas Juvenile System.

- a) Lesbian, gay, bisexual and transgender youth are overrepresented in the juvenile justice system throughout the U.S.
- b) As many as 13,267 LGBT youth were referred to the juvenile justice system in Texas in 2007, with an average of around 255 LGBT youth in detention in every day.
- c) LGBT youth may be 4 times more likely to be detained.  
Factors contributing to higher rates of detention include:
  - Lack of parental support
  - Trouble in school
  - Tendency to run away from home
  - Higher rates of substance abuse
  - Bias in the system
  - Lack of appropriate alternative placements for LGBT youth
- d) LGBT youth in detention often face harassment, abuse, and discrimination
  - 80% of LGBT youth indicate concerns about safety in detention
  - 50% of detention workers are personally aware of mistreatment of LGBT youth  
This mistreatment includes: Sexual assault with a broom handle, as well as staff and other youth calling LGBT youth names such as “fag,” “queen,” “butchy,” he/she,” “it.”
- e) The safety and well-being of youth in the Texas juvenile justice system in your hands.  
Additional safeguards and modifications to existing standards would ensure that LGBT youth don't suffer these types of abuse in Texas.

### 2. Paul O'Reilly – Youth Quest of America

Mr. O'Reilly addressed the Board to give accounts of his experience as a youth committed to the Texas Youth Commission (TYC) and to promote his cause in helping youth challenged with drug addictions and behaviors that are destructive and lead to a life in the juvenile justice system.

## 22. 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 September 17, 2010.