

TEXAS JUVENILE PROBATION COMMISSION VARIANCE COMMITTEE MEETING

**Friday, July 16, 2010
Brown-Heatly Building
Austin, Texas**

COMMISSIONERS PRESENT

Jean Boyd, Chair
Bob Shults

COMMISSIONERS ABSENT

Migdalia Lopez
Rene Ordoñez

TJPC MANAGEMENT STAFF PRESENT

Lisa Capers, Deputy Executive Director and General Counsel
Scott Friedman, Director Field Services

TJPC STAFF PRESENT

Diane Laffoon
Samantha Retzlaff
Aaron Mills

1. Call to Order - J. Boyd

Commissioner Jean Boyd called the Variance Committee meeting of the Texas Juvenile Probation Commission to order at 8:20 a.m.

2. Excuse Absences - J. Boyd

A **motion** was made by Commissioner Shults, and **seconded** by Commissioner Boyd to excuse the absence of Migdalia Lopez and Rene Ordoñez.

3. Approve Minutes from March 27, 2009 Meeting - J. Boyd

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Boyd to approve the minutes from the March 27, 2009 meeting.

4. 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 - S. Friedman

There are four elements or criteria that the Commission Board must determine in order to grant variance requests:

- A. Health and Safety of Juveniles – No significant compromises in the health and safety of detained juveniles would occur because of the specific substitution in resident bedding materials;
- B. Purpose and Intent of the Standard(s) – The general purpose and the intent of the standard is being met in that the required bedding items are being replaced with a like item that is laundered and issued per minimum standards;
- C. Undue Hardship – The applicant has sufficiently demonstrated that a programmatic hardship would exist if the appropriate bedding precautions intended to protect residents from self-harm were disallowed;
- D. Law Violations – No known law violations would result from an authorization of the applicable variance.

The application from Fort Bend County involves resident's individual bedding. The standard in question is 343.226(a). The explicit language of the standard reads:

§343.266(a). Bedding.

Each resident shall be provided suitable clean bedding, including two sheets, a pillow and a pillowcase, mattress, and blankets. Mattresses with an integrated pillow may be substituted for a separate pillow and pillow case (Standard effective January 2010).

The Fort Bend County Juvenile Detention Center currently utilizes a weave cotton mattress over a vinyl covered mattress and a heavy acrylic/cotton soft blanket, and a cotton pillowcase, rather than two sheets, blanket and pillowcase required.

Brian Fraser from Fort Bend County addressed the Committee at this time asking that the application be approved.

TJPC Staff Assessment states that the Commission's staff concludes that the single blanket bedding practice as described in the application suffices as an acceptable alternative method to meet or approximate the intent of the standard (i.e., resident hygiene and comfort). The facility's use of a single blanket approximates the use of a cover sheet and in most circumstances negates the need for the issuance of a second blanket. As was affirmatively stated in the department's

application, the Commission would expect that residents' safe and reasonable requests for a second blanket be accommodated.

The Commission staff recommends that a permanent "conditional" variance be granted per the applicant's request as it pertains to resident bedding material substitutions. The recommendation was based on all required criteria being met and the conditions listed below:

- A. The variance would be strictly limited to allow for a single blanket to serve as a substitute for both the standards required top sheet and blanket;
- B. The facility will ensure that the residents are issued clean (laundered) blankets at least every seven calendar days as required in the standards;
- C. The facility will accommodate resident's reasonable and legitimate requests for a second blanket.

A **motion** was made by Commissioner Boyd and **seconded** by Commissioner Shults to recommend to the full board that they approve the permanent variance requested by Fort Bend County related to bedding requirements. Motion passed unanimously.

5. 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) - S. Friedman

There are four elements or criteria that the Commission Board must determine in order to grant variance requests:

- A. Health and Safety of Juveniles – No significant compromises in the health and safety of detained juveniles would occur because of the specific substitution in resident bedding materials;
- B. Purpose and Intent of the Standard(s) – The general purpose and the intent of the standard is being met in that the required bedding items are being replaced with a like item that is laundered and issued per minimum standards;
- C. Undue Hardship – The applicant has sufficiently demonstrated that a programmatic hardship would exist if the appropriate bedding precautions intended to protect residents from self-harm were disallowed;
- D. Law Violations – No known law violations would result from an authorization of the applicable variance.

The application from Bexar County involves floor space for sleeping areas in which residents are confined. The standard in question is 343.642(b). The explicit language of the standard reads:

- a) Floor space for sleeping areas in which residents are confined shall conform to the following minimum requirements:
 1. Single Occupancy: 60 total square feet.
 2. Multiple Occupancy: 35 unencumbered square feet of shared common area per resident.
- b) Each sleeping room shall have at a minimum the following facilities and conditions:
 1. Access to toilet facilities that shall be available for use 24 hours a day;
 2. Access to a washbasin with hot and cold running water;
 3. A bed above floor level; and
 4. Bunk beds, if utilized shall not exceed two levels.

Michael Martinez, Chief Juvenile Probation Officer from Bexar County addressed the Committee at this time asking that the application be approved.

The TJPC staff concludes that the applicant would entail any undue and unnecessary programmatic hardship if ad hoc and temporary dayroom housing assignments were not allowed as a part of comprehensive suicide prevention strategy to help protect youth classified as moderate risk for suicide from self-harm.

The TJPC staff recommends that the request for a permanent variance be granted. The recommendation was based on all required criteria being met and the conditions listed below:

1. The variance is specific to the dayroom adjacent to single occupancy housing units located within the Cyndi Taylor Krier Juvenile Correctional Treatment Center, located at 3621 Farm Road, San Antonio, Texas, and does not apply to any other permanently designated or ad hoc physical plant locations within said facility;
2. The use of dayrooms for ad hoc housing is strictly limited to residents who have been formally classified as being at moderate risk for suicidal behavior (i.e., close observation) as defined by the facility's suicide prevention plan;
3. The use of dayrooms for ad hoc housing of suicidal youth is limited to a maximum of six residents in each dayroom;
4. The use of dayrooms for ad hoc housing of moderate-risk suicidal youth is limited to residents of the same sex;
5. The assigned juvenile supervision officer shall remain within the physical confines of the dayroom when that dayroom is actively being utilized for ad hoc housing;
6. Staff responsible for resident observations for residents housed in dayrooms shall make individual observation entries for each resident every 10 minutes. The standards' requirements to make the observations at "staggered" intervals is not applicable give the officer will be conducting their supervision from within the dayroom;
7. The applicable sections (e.g., housing) of the facility's formal Suicide Prevention Plan shall be amended to reflect the specific departmental assurances, policies, procedures, and practices contained within the variance application and also specific conditions (e.g., 1-6) enumerated in a granted variance.

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Boyd to recommend to the full board that they approve the permanent variance requested by Bexar County related to Single Occupancy Housing Units-SOHU. Motion passed unanimously.

6. Hear Public Comments – J. Boyd

There were no public comments and no action was required for this item.

7. Adjourn – R. West

A **motion** was made by Commissioner Shults and **seconded** by Commissioner Boyd to adjourn. Motion passed unanimously. The meeting adjourned at 8:43 a.m.