

Texas Civil Commitment Office



Christy Jack, Chair
Board Members
Roberto "Robert" Dominguez
Kathryn "Katie" McClure
Marsha McLane, Executive Director

Friday, February 5, 2016, at 10:00 a.m.
The Exchange Building
8407 Wall Street, Room N-102
Austin, Texas 78754

MINUTES

Board Members Present

Christy Jack, Chair

Kathryn "Katie" McClure

Roberto "Robert" Dominguez

TCCO Staff

Marsha McLane

Jessica Marsh

Cathy Drake

David Flores

Janet Latham

Mike Necker

Office of the Governor

Libby Elliott

Office of the Attorney General

Celamaine Cunniff

Zindia Thomas

Special Prosecution Unit

Jack Choate

Erin Faseler

Laura Yosko

State Representative Armando Walle's Office

Rahul Sreenivasan

Raul Lopez

Department of State Health Services Staff

Lucrece Pierre-Carr

Correct Care Texas Civil Commitment Center Staff

Tina Kovar

Amy Goldstein

Convene the Board of the Texas Civil Commitment Office

Board Chair, Christy Jack, convened the meeting at 10:02 a.m., roll was taken and it was noted that a quorum was present.

Executive Director's update concerning program operations and the routine functioning of the TCCO

TCCO Executive Director, Marsha McLane began by stating that it has been five months since the opening of the Civil Commitment Center in Littlefield, Texas on September 1, 2015. TCCO's focus has changed from a search to find a place for the center and the movement of clients into the facility to other activities as follows.

Ms. McLane began by introducing the newest TCCO staff, James Hardeman, Management Support Specialist; Roxanne Lackey, Case Manager and Angela Kersh, Operations Monitor. Kennetha Tisdale was formerly a part-time Case Manager in the Austin office, but will now provide all around support as a part-time employee in the Austin office. There will also be an IT person who will start on February 15, 2016. Additionally, there will be a full-time Research Specialist hired who will be responsible for conducting

research and gathering statistics on just about whatever subject TCCO needs, and will be especially valuable during the next legislative session. Currently when a legislator or governmental agency needs specific statistics, it can be provided but it takes significant time. The research specialist will be devoted to this, which will be more efficient.

TCCO encountered its very first civil commitment case from a county last week. This happened in Jasper County. The particular client signed an agreed order of commitment and did not have to actually go to trial. Ms. McLane then presented a list of civil commitment cases set for trial this year, and added that the list may be subject to change.

TCCO also had its first person ever released from civil commitment last week. Paul Keen was found by a clinical examiner to no longer have a behavior abnormality predisposing him to a repeat sexually violent offense. Ms. McLane sent Mr. Keen's assigned Case Manager and the Case Manager's Supervisor to meet with Mr. Keen and offer any help or support that TCCO could, such as finding a place to live or other community resources.

Ms. Jack then inquired as to what role or contact TCCO will have with Mr. Keen in the future, to which Ms. McLane stated that no contact will be required; however, TCCO will certainly attempt to contact him, if he will allow it, to see how he is doing, because everybody will certainly be interested.

In addition to Mr. Keen, a second client, who was at the Civil Commitment Center in Littlefield, was also released from civil commitment last week. Kenneth Fields was also found by a clinical examiner during his required biennial evaluation to be free of the behavior abnormality that would indicate likelihood he would recidivate. Although Mr. Fields has been released from civil commitment, he remains on parole and has moved to a halfway house where he will be supervised by the Parole Division.

Another issue TCCO encountered was that one of their clients, who was noted as being severely mentally ill, went to his due process hearing before Judge Black. At this hearing, Judge Black recognized that there were issues with the client's demeanor and ordered that DSHS have the client evaluated in regard to his appropriateness for the program. Judge Black then ordered that DSHS pick the client up and take him to a state mental health facility where he could be treated until such time as he would be able to effectively participate in the sex offender treatment program and engage in it. The client is still at the Littlefield facility but DSHS only has 30 days to figure out where to place him. Ms. McLane is staying involved and requesting/receiving updates from DSHS on where they are in the process.

Right now, in the State of Texas, there are 226 civilly committed sex offenders in the community, which includes 204 at the Littlefield facility, five in the Fort Worth area (three in the Lake Worth nursing home and currently one in a private residence, with another to move to a private residence this week), five in the Austin area, three of whom have severe medical conditions and are living at the Burke's Center because of its proximity to necessary medical care, and two of whom are in private residences. There are also four TCCO clients in state hospitals and two in private residences in the Houston area. The remainder of these clients are in County Jails. There are 160 offenders still in TDCJ who have been civilly committed. There have been 27 released since September 1, all of whom went to the Littlefield facility, with the exception of one who had a detainer out of Bowie County for assault on a correctional officer and will go back to TDCJ for that. Additionally, there are 19 scheduled to be released between February and August, at this point.

TCCO Case Managers do very thorough home visits, which include thorough inspections of the property inside and out, on the clients living in private residences. These visits are conducted several times a month and at all hours of the day and night; therefore the security of the Case Managers is a great concern. TCCO has teamed up with local law enforcement agencies to ensure that the Case Managers can contact law enforcement to accompany them to these home visits to ensure their safety.

Ms. Jack asked how the numbers of those civilly committed this year compared to the historical average. Ms. McLane stated that an average of about 43 are civilly committed per year, and that the SPU was only allowed by their budget to conduct a maximum of 50 civil commitment trials per year. Additionally, there

have been 115 due process hearings since September, but there are many more to be completed, which are being conducted in order of release date and will take at least a few more months to complete.

Ms. Jack inquired as to the general attitude of the clients at the Littlefield facility. Ms. McLane noted that most of the clients seem to be doing very well, better in fact than they were in the community. From the date the clients arrived until now their behavior is markedly improved. One TCCO Case Manager from the Houston area visited Littlefield for a week and noted that he was surprised by the fact that the clients he previously supervised, who had been struggling with the program and not engaging, are doing very well in the program at Littlefield.

In December, TCCO responded to the State Auditor's Office regarding their audit of TCCO. TCCO is in substantial compliance in all areas that were found to be out of compliance during the audit. Ms. Jack asked if the State Auditor's Office issued a report recognizing TCCO's compliance and Ms. McLane stated that TCCO had not received a response as of this date but she would follow up to find out if they plan to issue one.

One of the major areas of noncompliance was the area of contracting because the former OVSOM was issuing contracts without utilizing the proper RFP process. TCCO is currently in the process of trying to contract with sex offender treatment providers in the community and is at this time utilizing the ones they have previously contracted with by extending their contracts as needed until the RFP can be issued. The goal is that the RFP will be published by the end of February.

Additionally, there is an open enrollment contracting process TCCO is currently utilizing for trying to find clinical examiners to conduct the biennial examinations of the clients. This process is also being utilized for transport drivers. Ms. McLane reiterated that any person or entity currently being paid by TCCO is under contract.

TCCO is also working on an RFP for housing because they have recognized that, as clients become ready for Tier 5 of the treatment program, independent living, they will be required by law to return to their counties of conviction and housing will be necessary in these areas. Additionally, the clients may not have family or other resources in these areas to find housing. TCCO is attempting to stay ahead of this need and this will likely be an area of focus during the next legislative session.

Another area of contracting addressed by TCCO is case management. Previously, there were case managers who were not employed by TCCO; rather they were under contract to assist the full-time case managers. TCCO worked with Human Resources to take one full-time position and divide it into ten part-time hourly positions so up to ten case managers can actually be employed by TCCO, without fringe benefits, to provide services and be paid for those services only when needed. These part time case managers will not make case decisions; rather they will serve as backup for the duties involved in case management, such as home visits and surveillance.

Additionally, because the agency's budget is over ten million dollars, TCCO is required by law to employ an internal auditor. TCCO is currently entertaining the idea of a contract auditor or one employed by TCCO part-time and paid hourly like the hourly case managers. This auditor will work directly with the TCCO board who will decide what areas the auditor needs to focus on according to a risk assessment of the agency, which will identify the areas that the auditor needs to focus on, and will drive the number of hours the auditor will be needed. The first internal audit report of TCCO is due in November, so TCCO is making this a priority.

House Bill 1 contained a rider that required that several state agencies work together on the formation of a statewide behavioral health coordinating council to develop a strategic plan on how to utilize behavioral health funding, which includes mental health as well as substance abuse funding. TCCO's budget for these services is about \$154,000 per year, while most of the other agencies involved have millions of dollars budgeted for this purpose. The ultimate plan will be presented to the HHSC Commissioner who will then decide how this funding is spent. Deputy Director, Cathy Drake and Budget Director, David Flores are

TCCO's representatives on this council. TCCO had to develop performance and outcome measures on the subject and a packet will be provided to the Board upon completion.

Board Member, Robert Dominguez inquired as to the problem veterans at the Littlefield facility are having with receiving money and services from the VA and how many residents at Littlefield are affected. Ms. McLane stated that, although they have not stopped providing monetary benefits at this point, they are not providing services to the residents. Mr. Dominguez asked why this was happening and Ms. McLane replied that the VA considers the facility an institution like a prison and they are not required to provide benefits to inmates. Additionally, the Social Security Administration is considering the facility an institution, and individuals who are incarcerated are not entitled to benefits. Social Security benefits have been cancelled or reduced for some residents and others are not being allowed to apply for Social Security benefits. TCCO has been consulting with a veteran's attorney and will continue to talk with other experts to figure out what can be done. Mr. Dominguez then asked who is providing these services in lieu of these agencies, to which Ms. McLane indicated it depends on the specific service, and further indicated that medical and mental health services are provided by the facility, but this situation is something TCCO is working to figure out.

When asked by Ms. Jack how other states are handling these situations for civilly committed individuals, Ms. McLane replied that TCCO has not heard how other states are handling the veterans' issue, but all the other states with whom she has communicated have indicated that the Social Security Administration has stopped benefits for those individuals. The difference between the Texas program and those of other states is that civilly committed individuals in Texas are required to pay a percentage toward their housing, treatment and GPS tracking and no other state does this. This is an ongoing issue for which TCCO will continue to work to find a solution.

Board Chair's report concerning current operations and the functioning of the TCCO Board

Ms. Jack stated that, on January 7, she met with representatives of the Governor's office to answer their questions and provide an overview of what TCCO and the TCCO Board have done since she was named Board Chair in April of 2014. They discussed the evolution of the housing crisis that TCCO faced, issues with vendors providing the housing and how narrowly the housing crisis was averted. Additionally, they discussed the two housing RFP's that had been published, Ms. McLane's efforts to find a satisfactory housing location and the eventual discovery of the Littlefield facility, which was a win-win situation for both TCCO and the Littlefield community.

Ms. Jack also informed them that, during the housing search, TCCO was also involved in the drafting and supporting passage of new legislation governing the program. She also explained to them the differences between the prior law and the current law and how it will practically play out in the next year.

Report from the Special Prosecutions Unit regarding the civil commitment trial process

Erin Faseler, Section Chief for the Civil Commitment Division of the SPU, and Jack Choate, the new Executive Director of the SPU, addressed the Board. Mr. Choate began by introducing himself and giving a brief description of his background.

Ms. Faseler stated that the number of cases referred to the counties for this fiscal year is 40, which is on par for a typical year. Jasper County was poised to be the first county to have a civil commitment trial and they asked for assistance from the SPU. The next case is set for Tarrant County and beyond that they are all over the state. Most of the counties have reached out to the SPU for assistance so they are currently transitioning into the role of teaching and assisting the prosecutors in these counties. Some counties want to be co-chairs with SPU, as was the case in Jasper County; some want SPU to take the lead and some want to maintain leadership and rely on SPU only for support and consultation. When asked by Ms. Jack which counties are asking for the SPU to take the lead, Ms. Faseler replied that it is mostly the smaller counties, including Kaufman, Travis, Caldwell and Atascosa. In Harris County as well as most of the larger counties they are using the co-chair method with SPU.

Ms. Jack asked if the SPU has worked out any kind of training template they could utilize to teach the counties how to handle these cases on their own. Mr. Choate indicated that he and Ms. Faseler have

discussed it and plan to work on it. Mr. Choate included that Ms. Faseler will be receiving training for trainers which she can then utilize for this purpose. The larger counties have more people and resources to utilize in this area so it will be easier for them to take over the process themselves. Ms. Faseler further included that some counties are not sure about the new legislation or what this process actually involves so she is assisting them with learning how to handle these cases.

As of right now, 23 cases have been filed this fiscal year in which the county is asking for help from the SPU. Additionally, Dallas County has filed two. Ms. Faseler stated that she has provided the counties with documentation on an entire case to utilize as a template. Ms. Jack asked if there were any counties who have expressed no interest in pursuing civil commitment cases and Ms. Faseler stated that she did not know of any, but there have been counties who have declined cases and she is not sure why. She also included that some counties have just wanted to discuss cases with her and ask what SPU would do in certain cases for affirmation that their decision whether or not to pursue the case was in line with what the SPU would do.

So far this fiscal year, three cases have been referred from TDCJ to counties, in which the evaluator hired by TDCJ found that the offender did not have a behavior abnormality. Two of those cases were declined by the counties, and SPU is working with Travis County on the third one. There have also been three cases where the individual did not qualify legally for civil commitment due to not having the requisite convictions.

When asked by Ms. Jack if, in these three cases, she believed that the MDT felt that the cases legally qualified, Ms. Faseler stated that there is no lawyer on the MDT so there is the potential that they simply did not know that they were not legally qualified. Ms. Faseler further stated that she believes that there should be a legal expert to review the cases first to ensure that they are legally qualified for civil commitment, and has offered to help out with that effort. Though there have only been four cases this fiscal year not qualified for civil commitment that made it out of MDT, we have no idea how many cases which do not legally qualify for civil commitment are actually referred to the MDT.

Board Member, Katie McClure inquired as to the role of SPU in future cases that may be considered for release from civil commitment like Mr. Keen and Mr. Fields. Ms. Faseler indicated that any of these cases that were pending at the time Senate Bill 746 was signed would remain with the SPU and anything after that would go to the county. She further stated that the role of SPU would be to help the county and provide consultation on their cases.

Report from Correct Care Recovery Solutions regarding treatment programs and operations of the Texas Civil Commitment Center

Tina Kovar, Facility Administrator for the Texas Civil Commitment Center, began by stating that she started working for Correct Care Recovery Solutions, the Contractor currently operating the Texas Civil Commitment Center, on November 9, 2015, so she did not get to experience the rapid intake as clients were first being placed at the center. Ms. Kovar introduced Amy Goldstein who is the Clinical Director at the facility. Ms. Goldstein stated that she began her position on October 12, 2015 and that she came from Illinois, where she had worked for seven years at the Illinois Civil Commitment Facility as a treatment provider.

Ms. Kovar stated that, operationally, the facility is doing well. They are doing things, such as removing some of the razor wire and loosening restrictions on resident movement, to help the facility seem less institutional. Clients are also allowed to walk to groups unescorted. She added that, with the exception of a few disciplinary problems, the residents are very cooperative and respectful. There are a few residents who have been assaultive to staff but, because these security officers are not considered correctional officers, they cannot be charged with assault on a correctional officer, which would be a more serious charge. Ms. Kovar indicated that she would like this issue to be brought up during the next legislative session, if possible.

Ms. McLane requested that Ms. Kovar please discuss her philosophy on the operation of the facility as she finds it interesting that Ms. Kovar, with so many years in the correctional field, was so quickly on board with the fact that the facility was not a prison and needed to be operated as a treatment facility, and looked for ways to make the facility look like a treatment facility rather than a prison. TCCO was concerned at first

because they did not want the facility to look like a prison or institution, nor did they want it to be run as such.

Ms. Kovar continued that when she was a warden, it was her job to keep the inmates inside the fences and manage inside the fences; however, now, she feels that her job is to ensure that this is a facility geared toward treating the residents which will lead to them being allowed to go home at some point, while also protecting public safety. She stated that she has realized that each of these individuals is somebody's loved one that may have been forgotten, and is now her responsibility. She strives to treat them with dignity and respect, and to provide safety and security for them.

Ms. Jack inquired as to whether Ms. Kovar is keeping a list of all the modifications she has made at the facility, to which Ms. Kovar stated that she is because one of her obligations to the City of Littlefield is that they not modify the facility in any way they cannot return to original condition. Ms. Jack included that, should the Constitutionality of the program come into question, it will be helpful for Ms. Kovar to be able to provide a list of modifications that have been made to make the facility less like a prison and more like a therapeutic treatment facility.

Board Member, Robert Dominguez stated that he wants to be sure all the residents of the facility are getting their medical and dental needs met. Ms. Kovar stated that the facility uses both an optometrist and a dentist in the Lubbock community that they have been working with to provide services to the residents at the facility. The residents are much older with more health issues than Correct Care had expected when opening the facility, and providing medical services to meet the needs of the clients has been a greater challenge than expected. Correct Care has been working hard referring the clients to the in-house medical department and the doctor at the facility is working hard to make the necessary referrals into the community, when needed, to augment the treatment they get at the facility so that none of their needs fall through the cracks and they will get the treatment they would have been getting at the VA.

Ms. Goldstein began talking about the treatment program by stating that the tiered program is up and running and so are sex offender specific treatment groups. She also stated that she has been sitting in on groups regularly and the difference between how the residents are engaging in and responding to treatment between when she first started at the facility and now is incredible, and they are embracing the treatment.

Ms. Goldstein indicated that the vocational education classes are up and running and staff is in the process of verifying which residents have a GED and which do not. Those residents who do not currently have a GED will begin GED classes soon. Also, they will be using feedback from TCCO to add to their program some of the learning, such as life skills and anger management, and support services the residents will need when they go back to the community.

Ms. Jack inquired as to whether there are any online courses the residents can take. Ms. Goldstein replied that there are not currently, but there are some correspondence courses and the Vocational Education instructor is currently compiling a list of all correspondence courses available to the residents, which will allow them to bring their materials to the study hall and receive guidance from Correct Care personnel to work on and complete the class.

Recreation is going very well and they have incorporated some tournaments for the residents to play in, such as kick ball, soccer, and other sports they can play outside. She stated that when the weather was nice recently, they had about half of the residents outside to play games and enjoy the weather. Ms. Goldstein then asked the Board if they had any specific questions about treatment and Ms. Jack stated that, at a later date, she would like to have a report from Ms. Goldstein regarding what each treatment tier entails, also how long residents are expected to spend on each tier if they are working the program properly.

TCCO is planning to create an advanced treatment area for those that have completed most of the program and are approaching readiness to go back into the community, This will allow them live apart from the other residents with the ability to come and go as they please in order to prepare for independent living by doing

things such as cooking for themselves. The goal is to get them home safely with the ability to take care of themselves.

Ms. Goldstein also included that they have developed a mentorship program where clients in higher tiers actively go into groups with clients in lower tiers for the specific purpose of mentoring them and helping them learn as much as they can.

Board members spoke of the resident council the facility was supposed to implement, whereby residents could voice issues and concerns and the council could work closely with facility staff to resolve issues and alleviate concerns; however, both Ms. Kovar and Ms. Goldstein stated that they had attempted to have resident council meetings, but there were issues and the Contractor's staff had a hard time getting the right residents to participate. Ms. Goldstein added that, just because these meetings are not currently being held does not mean the residents do not have the opportunity to interact with staff or voice concerns, and further commented that she feels this facility has particularly good communication between residents and staff, in her experience. Ms. Kovar indicated there is a real sense of community at the facility.

Report regarding potential, contemplated, and pending litigation

The Board took a ten minute break at 11:55 AM and then went into Executive Session to discuss pending litigation. Executive session ended at 12:44 PM with no formal action taken by the Board. Open session began again at 12:45.

Budget Director's financial report regarding FY 2016 Budget/Expenditures and grant funding

Budget Director, David Flores began by discussing the fact that the need for an Internal Auditor, which was discussed earlier in this meeting, will not require a great number of hours because TCCO has an Operations Monitor and an Operations Specialist dedicated to monitoring compliance with the contract that makes up 80% of the budget. Since two staff members are dedicated to this, the auditor will not be responsible for it.

The Fiscal Year 2016 budget totals \$13,924,182.21 and all of the expenses for 2015 remaining at the time of the last Board Meeting have been paid. Some of the grant money has been credited to the agency and the Governor's Office granted the extension of the grant until April 30, 2016. The agency will receive \$73,392.22 of said grant money, thus making the final budget \$13,997,574.43.

When asked by Ms. Jack how TCCO is performing in the budget aspect, Mr. Flores stated that TCCO is in excellent shape. Mr. Flores further noted that, when comparing the Fiscal Year 2016 budget to the Fiscal Year 2015 budget, you can clearly see that the procurement process for awarding contracts is being fully utilized, the lack of which was one of the audit findings by the State Auditor's Office, and the evidence is reflected in the budget and the amount of funds encumbered.

Ms. Jack added that, the fact that TCCO is performing so well is another reason she would really like to have a written response from the State Auditor's Office. Their audit report was scathing, and that was understandable given the way the OVSOM was performing at that time, but the strides being made by TCCO should be documented.

Mr. Flores further stated that case counts are not as high as expected and, though that will affect the budget, one of the things changed during the last legislative session is the fact that TCCO, per their request to the legislature, can roll any money left in the FY 2016 budget into the FY 2017 budget. The end of FY 2017 will be the point at which any funds not utilized during the biennium will be returned to the State of Texas. Another budget issue mentioned by Mr. Flores was medical expenses. The amount spent so far by Correct Care on off-site medical expenses is approximately \$269,000.00. While Correct Care is contractually responsible for paying the first \$25,000.00 in off-site medical expenses per resident, the remainder of the cost is left to the State. There is an issue right now because the specific entity responsible for these costs is unclear, but TCCO, the Governor's Office and other agencies are working together to clarify the issue. This was a cost for which TCCO had requested funding from the legislature but it was not granted.

Grant Specialist's update regarding Grant Number 2852301

Grant Specialist, Janet Latham, began by stating that TCCO was issued a grant by the Governor's Office to be spent by December 31, 2015. TCCO asked for and was issued an extension to the grant until April 30, 2016, and she fully expects that they will ask for another extension, as TCCO wants to ensure that their objectives in receiving the grant are met. Additionally, some of the unanticipated transition costs incurred by TCCO were able to be paid with grant funds, which was a positive outcome for the TCCO budget.

Ms. Latham further stated that she wished to talk about some of the benchmarks in how the grant was spent. Two consultants from the Sand Ridge Secure Treatment Center in Wisconsin visited for two days and provided valuable information on best practices in many areas. Additionally, Ms. Latham was able to visit the Illinois civil commitment program and observe the operational aspect of their program.

The training for the multidisciplinary team required by Senate Bill 746 to be developed by the TCCO in conjunction with TDCJ has been developed and implemented. There have been two trainings conducted and Ms. Latham expressed the desire to meet with Ms. Faseler from SPU to discuss the issues she presented earlier at this meeting so they can be incorporated into the training. Additionally, there have been two Case Manager trainings, along with hands-on GPS training, conducted in Littlefield. Additionally, Correct Care staff have been presented a background and description of duties for TCCO six times.

Discussion, Consideration, and Possible Action Regarding Excused Absences

Ms. Jack noted that all Board Members were present at the last meeting; therefore, there were no absences to excuse.

Discussion, Consideration, and Possible Action Regarding September 24, 2015 Meeting Minutes

A motion was made by Board Member, Katie McClure, to adopt the September 24, 2015, meeting minutes; the motion was passed without opposition, at which time Board Chair, Christy Jack and Executive Director, Marsha McLane signed the minutes.

Discussion, Consideration, and Possible Action Regarding Future Meeting Dates

The Board Chair suggested the board meet in Littlefield in April. The meeting was tentatively scheduled for April 22, 2016.

Public Comment

There was only one member of the public registered to speak at the meeting. Ms. Irene Rubio stated that she had some written remarks she would like to provide to Ms. Faseler, who had already left the meeting. She was instructed to send the comments directly to Ms. Faseler, and was reminded that her e-mail address is provided on the SPU website. Ms. Rubio had additional written comments for TCCO and was instructed to leave them with TCCO's Executive Assistant.

Meeting Adjourned at 1:13 pm.



Christy Jack, Chair

4-29-16
Date



Marsha McLane, Executive Director

4-29-16
Date