

Texas Civil Commitment Office

Christy Jack, Chair
Board Members:
Kathryn “Katie” McClure, Vice Chair
Jose Aliseda
Roberto “Robert” Dominguez
Rona Stratton Gouyton
Marsha McLane, Executive Director

Friday, August 23, 2019, at 10:00 a.m.
4616 West Howard Lane
Building 2, Suite 350
Austin, Texas 78728

MINUTES

Board Members Present

Christy Jack, Chair
Jose Aliseda

Katie McClure	Rona Stratton Gouyton
Robert Dominguez	

TCCO Staff

Marsha McLane
Stanley Muli

David Flores	Jessica Marsh
Mike Necker	

House Corrections Committee

Roel Benavides

Convene the Board of the Texas Civil Commitment Office

Board Chair, Christy Jack convened the meeting at 10:05 a.m. Roll was taken and it was noted that a quorum was present.

Board Chair report regarding the agency’s history and accomplishments over the previous five years

Board Chair, Christy Jack, noted that it has been five years since the current TCCO administration and many of the staff have been working together and gave a presentation highlighting the growth, development and accomplishments of the TCCO as it exists today. She also noted the legislative changes to the agency, including the name change from the Office of Violent Sex Offender Management to TCCO, as well as changes to the civil commitment program it oversees.

Ms. Jack stated that her presentation concentrates on the last five years because that is the time when the major change in TCCO administration occurred including a new Board Chair, Board Member, Executive Director, Budget Director and General Counsel. According to Ms. Jack, the agency was in crisis at that time, and the dramatic improvement and growth TCCO has experienced since then is a direct result of the appointment of Marsha McLane as Executive Director and her hiring David Flores as Budget Director and Jessica Marsh as General Counsel.

Prior to the current TCCO administration, from the program’s inception in 1999 to 2014 nobody had ever been released from civil commitment; however, from 2016 to the present, there have been seven clients released from the program. In 2014, there were no clients living independently in the community and today there are five. There were a total of 170 clients living in the community under civil commitment and 164 who had been civilly committed but were still in prison in June 2014, and today there are 355 living in the community and 125 still in prison.

Ms. Jack made many more comparisons regarding the program prior to this administration and the program now, including the decriminalization of many minor violations of the civil commitment rules, making them

treatment violations, addressed by therapeutic progressive sanctions rather than felonies punishable by more prison time; increasing the number of Board members from three to five, which allowed for the use of meaningful committees within the Board; and allowing the current administration to create infrastructure for the agency and implement applicable policies and procedures, allowing for closer and more frequent monitoring of the vendor and more continuity of care for the clients with TDCJ who houses and treats TCCO clients prior to their release from prison to the program.

Ms. Jack continued, further highlighting the growth and improvement of the TCCO, and the fact that it is one of the most efficient and cost effective civil commitment programs in the country, then ended by personally thanking Ms. McLane, Mr. Flores and Ms. Marsh for their hard work and dedication, noting that they are largely responsible for the improvements and the successes the program has encountered and that she never doubted so.

Executive Director's report concerning program operations and the routine functioning of the Texas Civil Commitment Office

Ms. McLane noted that, as of May 1, 2019, there is a new vendor managing and operating the Texas Civil Commitment Center in Littlefield, and that Texas Tech, who was set to manage the treatment program at the TCCC, bowed out at the last minute, and TCCO and MTC were left to create and implement a program to suit the needs of the clients at the facility. A community sex offender treatment provider was brought in as a consultant to help develop the program and several TCCO staff and some MTC staff traveled to Minnesota to learn about their program and gain insight on how their practices had to change after being declared unconstitutional.

Since May, two clients have been released to the community to complete Tier 5 of the program. There was one client who was released from civil commitment altogether after filing an unauthorized petition for release. The client was given a clinical evaluation which found that he no longer had a behavior abnormality. TCCO had concerns and had another evaluator conduct an evaluation. This evaluator found that the client did, in fact, have a behavior abnormality. The Special Prosecution Unit then had a third evaluator look at the case and this evaluator concurred with the first one who said there was no behavior abnormality so the client was released from the program by the judge.

TCCO's information security will be evaluated, with the help of the Department of Information Resources (DIR) and an outside vendor, through a program that DIR offers. This will help ensure that TCCO is compliant with the information security rules outlined in TAC 202. Additionally, the new more user friendly, TCCO website is up and running. There is still more information to be added to the website which TCCO is focusing on now.

Annual training for TCCO case management staff was conducted the first week in August and staff from several other agencies came to offer training in their areas of expertise. Additionally, Dr. Byrne, who is considered an expert in the use and interpretation of the penile plethysmograph, conducted PPG training for the TCCO staff as well as the vendor's staff.

There was one TCCO client who had been living in the community and was charged with indecent activity while on a city bus in Houston. The charge was a Class B Misdemeanor so, upon being found guilty, the client was returned to the civil commitment center in Littlefield for closer supervision and more treatment.

Both the TCCO Operations Specialist and Operations Monitor attended Certified Contract Manager Training as there is a new requirement for anyone overseeing or monitoring a contract needs to take the training.

Beginning September 1, Texas Tech will oversee the mental health program at the civil commitment center. TCCO informed HHSC that there needs to be a specific transition plan in order to insure that the new vendor is familiar with their cases and the transition does not interrupt or hinder the treatment of clients currently utilizing mental health services.

There are two Tier 5 clients who have been living successfully in the community in Fort Worth for over a year. These clients will be allowed to share their experiences with clients at the facility via videoconference, thus

providing insight into their real world experiences in order to help prepare clients in lower tiers to be able to progress toward independent living.

TCCO did a presentation at the American Probation and Parole Association conference on the importance of continuity of care and strong relationships with other treatment providers and agencies such as Veterans' Affairs and the Social Security Administration along with community leadership to help provide all the resources available to the clients and help them be successful once returned to the community.

Currently, TCCO is focusing on streamlining its policies and procedures to make them as relevant and specific as possible. Additionally, client tier movement was discussed and a handout was provided noting the current tier placement of the clients at the facility and illustrating the tier movement that is occurring.

Ms. McLane then noted some TCCO staff updates, including hiring a new Internal Auditor, Cathy Sherwood and a new CFO, Stanley Muli, who is currently in training to assume the position upon David Flores' retirement. Additionally, Operations Monitor, Amanda Mercer has been promoted to the position of Director of Program Operations, so TCCO is looking to hire an Operations Monitor to replace her.

Budget Director's report regarding FY 2019 Budget/Expenditures, Rider 155 Healthcare Costs and proposed FY 2020 Operating Budget

TCCO Budget Director, David Flores, noted that the current budget is just over \$19.6 million and this includes the transfer of \$3.1 million that was left over from the FY 2018 budget to the FY 2019 budget. Additionally, there was \$210,000 in cost recovery collected from the clients. It is expected that there will be approximately \$2.5 million left in the budget before staff salaries and travel costs for the month of August 2019.

Rider 155 offsite healthcare report is a report that TCCO provides to the Legislative Budget Board and the Governor's office outlining how the funding for offsite healthcare is being utilized. TCCO requests extra funding from the legislature for this purpose because the facility is only responsible for paying the first \$25,000 in offsite healthcare per client and once this is reached the remaining medical care would fall upon the county's indigent healthcare expenses. A facility the size of ours would cost the county a lot of money and, to a county the size of Lamb County, this could do serious financial damage. This year there have already been 172 clients who have required offsite healthcare this year and, of those, 21 of them have exceeded the \$25,000 for which the vendor is responsible.

The FY 2020 TCCO Budget will start out at \$17.9 million. Of this, over \$14.8 million will be expended for the MTC contract and the TCCO staff and services related to it.

Discussion, consideration, and possible action regarding review and approval of the TCCO FY 2020 Operating Budget

Board Chair Jack made a motion to adopt the FY 2020 operating budget as proposed and authorize adjustments up to \$1 million. If such adjustments are made, they are to be presented to the Board at the next scheduled Board Meeting. The motion was seconded, voted on and passed with no opposition.

Internal Audit Presentations regarding FY 2019 Internal Audit Update, FY 2019 Peer Review and Proposed FY 2020 and FY 2021 Audit Plans

After taking a break from 11:28 a.m. to 11:38 a.m., the meeting resumed and TCCO Internal Auditor, Cathy Sherwood, began by noting that the FY 2019 Audit Plan included follow-up work which is used to determine the status of corrective action taken in response to the audit recommendations contained in the reports from audits previously conducted. The two audits requiring follow-up were Audit 1701 regarding data reliability of the Corrections Software Solutions (CSS) database and Audit 1801 regarding Correct Care Recovery Solutions (CCRS) monthly billing. The follow-up found that TCCO management had sufficiently addressed corrective actions and are continuing to focus on improving the quality of data in CSS, and all prior audit recommendations were noted as fully implemented.

The FY 2019 Audit Plan also included a review of CCRS internal quality assurance processes; however, this was not completed due to the fact that CCRS is no longer the vendor and it would add no value for TCCO to complete this review and it was noted as closed/cancelled due to vendor changes.

Additionally, in accordance with the Texas Internal Auditing Act, Texas Government Code, Chapter 2102, The Institute of Internal Auditors (IIA) Code of Ethics, International Standards for the Professional Practice of Internal Auditing, and the U.S Government Accountability Office (GAO) Government Auditing Standards, TCCO must undergo a Peer Review at least once every three years. The purpose of the peer review is to have an outside entity evaluate the Internal Audit function at TCCO. The Peer Review was completed by Chris Cirrito, Director of Internal Audit for the Texas Department of Criminal Justice (TDCJ) during July and August of 2019. The scope of the review covered all completed audit projects from FY 2016 to the present. TCCO received the highest of three ratings for the peer review.

In formulating the audit plan for FY 2020 and FY 2021, Ms. Sherwood developed a risk assessment and the areas that were found to have the greatest risk or need for review are the areas that are on the audit plan for FY 2020 and FY 2021. The proposed audit area for FY 2020 will be Supervision Requirements and the budgeted hours are 200 and the audit area for FY 2021 will be Treatment Requirements with 165 hours budgeted.

Ms. Sherwood was reminded by the Board that the hours budgeted for the audit plan are not a minimum, rather the expected number of hours to complete the tasks. Additionally, follow-up hours have never been used by previous auditors, so any hours beyond the 365 hours approved will need to be brought before the board for approval but, at this time, there will be no approval for additional hours. Ms. Sherwood suggested that there is a learning curve for an internal auditor new to an agency and was reminded by the board that all previous internal auditors have had the same learning curve and still accomplished the work without using all budgeted hours. Ms. Sherwood requested 160 hours be budgeted for follow-up and was again reminded that no internal auditor in TCCO's history has needed or utilized any follow-up hours because they were all able to complete the audit projects and follow-up utilizing fewer hours than budgeted for the audit projects. Ms. Sherwood then wanted it noted that there are an additional 155 hours available, if need be, for follow-up and was reminded that it is not necessary to note this anywhere because the board has the authority to direct an audit of any number of hours at any time.

Discussion, consideration, and possible action regarding FY 2020 and FY 2021 Internal Audit Plans

A motion was made to approve the FY 2020 audit plan with 200 hours budgeted for a review of Supervision requirements and the FY 2021 audit plan with 165 hours budgeted for a review of Treatment Requirements with any additional hours for follow-up and required projects to be addressed as they become necessary. It was also added that in the event the Internal Auditor wishes to deviate from the approved audit plan, the Internal Auditor shall consult with the Executive Director, Audit Committee Chair and Board Chair and provide information regarding the work to be performed as well as information outlining the work that has been completed for approval by the Board Chair. If approved, the deviation should be documented as required by the Texas Internal Auditing Act and presented to the Board at the next scheduled meeting. The motion was seconded, voted on and passed without opposition.

Discussion, consideration and possible action regarding personnel matters related to the evaluation of the Executive Director

The Board went into Executive Session at 12:07 p.m. and all members of the public were asked to leave. The Board reconvened in open session at 12:47 p.m. with no formal action taken by the Board during Executive Session.

Board Member, Katie McClure stated that during the Executive Session, the board discussed the annual evaluation of the Executive Director's position. It is the Board's unanimous position that Ms. McLane does an outstanding job in executing the duties of her position. Several comments were made regarding the fact that the Board Members can sleep at night because of the confidence they have in Ms. McLane's abilities to lead the agency. Ms. McLane has a working knowledge of every single area of operations within this organization and even outside the agency in areas that she is not responsible for because they are contracted to another entity. She has pursued grants, special programs and innovative technology and training in an effort to make TCCO excellent. Ms. McLane has supervised some very difficult contracts and contractors while at the same time serving as a supervisor to some excellent employees who are loyal to her and honestly love her which has caused them to stick with the agency through some very difficult times. Ms. McLane is a vital part of the agency she supervises and is priceless to the agency and to the Board.

A motion was made by Board Member, Rona Stratton Gouyton that the Executive Director’s salary be increased to \$207,000 per year in order to more closely align the salary with the requirements of the position. The motion was seconded by Ms. Jack and passed without opposition.

Ms. McLane thanked the Board and noted that it is her staff and the informed and involved Board that helps make her look good and she stated that the dedication of the Board is what makes her and her staff want to do what they do and do it well.

Report regarding potential, contemplated, and pending litigation

This agenda item was addressed during the Executive session noted above.

Discussion, Consideration, and Possible Action Regarding Excused Absences

Ms. Jack noted that two Board Members were absent from the last Board Meeting on April 17, 2019 as it was an emergency Board Meeting to approve the new contract and she had already excused the absences of Board Members Katie McClure and Robert Dominguez from that meeting.

Discussion, consideration, and possible action regarding April 17, 2019 Meeting Minutes

After determining that all Board Members present had reviewed the minutes from the previous meeting, Board Chair Christy Jack asked for a motion to adopt the April 17, 2019 meeting minutes; the motion was made, seconded, voted on and passed without opposition.

Discussion, consideration, and possible action regarding future meeting dates

The next meeting of the TCCO Board was tentatively scheduled for Friday, October 4, 2019 at 10:00 a.m. at the facility in Littlefield, Texas.

Public Comment

There was no member of the public requesting to address the Board.

Meeting Adjourned at 12:54 p.m.

Signature on file

Christy Jack, Chair

Date

Signature on file

Marsha McLane, Executive Director

Date