

## 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

Wednesday, February 23, 2022, at 10:00 a.m.

### MINUTES

#### Board Members Present

Christy Jack, Chair  
Jose Aliseda

Katie McClure  
Robert Dominguez

Rona Stratton Gouyton

#### TCCO Staff

Marsha McLane  
Tucker Furlow

Stanley Muli  
Mike Necker

Jessica Marsh

#### Management and Training Corporation

Michael Bell

#### Convene the Board of the Texas Civil Commitment Office (TCCO)

Board Chair, Christy Jack convened the meeting at 10:00 a.m. Roll was taken and it was noted that a quorum was present.

#### Board Chair report

Board Chair, Christy Jack noted that she, Marsha McLane, and Jessica Marsh are traveling to Littlefield that night and that she wants to have a future board meeting at Littlefield to see the facility, observe the progress and speak to the clients. During the visit the following day, there will also be members of the Texas Board of Criminal Justice present as well. During the meeting, the visitors will be able to tour the facility and learn about the program. Additionally, there are clients who have indicated a desire to come and speak to the Board; during the visit, Ms. Jack will meet with the clients personally to address their questions and concerns and will report these issues back to the Board.

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

TCCO Executive Director, Marsha McLane began by noting that the meeting tomorrow with chairman of the board of TDCJ was supposed to just be the chairman but it ended up growing to more people because more people wanted to tour the facility. The general counsel from Senator Perry's office will be there as well, but Senator Perry will not be able to attend.

Ms. McLane introduced TCCO's new General Counsel Tucker Furlow. This is his first board meeting he is attending; he has worked for the state for several years. Tucker thanked Ms. McLane for the introduction and said that he is happy to be here.

Ms. McLane noted that a TCCO client was released from civil commitment last week. TCCO is still having an extremely difficult time obtaining housing for clients. TCCO has had one staff member who has been assigned to try to find housing for the clients. There were two clients that wanted to come to Austin and over 100 places were looked at and no one will take our clients despite them being willing and able to pay the high rent prices in Austin. In the Houston area TCCO staff looked at about 285 places to find a location for one client and upon locating the residence the required notifications were sent out to the local elected officials, the client signed the lease and was preparing to move. The Landlord then rented the home out to someone else. We have recently found another place for this TCCO client and the notifications have been sent to elected

officials; hopefully this will go through. TCCO will also look outside the county of last conviction if there are issues obtaining housing for the TCCO clients. Littlefield is not an option for housing for clients in Tier 5 as the community will not allow it.

There are zero clients at the facility with COVID. There are three MTC staff members who have COVID but they have not been at the facility in weeks. We have 396 clients vaccinated and about 380 clients have received their booster vaccines. We had a total of 7 who died of COVID in 2020.

When TCCO has posted open staff positions, we have had issues getting applicants that are able to meet the requirements for the jobs. Several other state agencies have given raises to attract new applicants. TCCO looked at the current salaries for their positions, compared them to different state salaries for comparable positions and noted that TCCO's salaries were lower than most state agencies. Ms. McLane noted that as a result, salary increases were given to most employees and we will revisit the salaries again in six months. These increases do not exceed the budget.

### **Michael Bell MTC Building Purchase/Construction Update**

MTC finished the purchase of the building for Littlefield and they entered into an agreement in July for engineering and civil and architecture design and schematics for the project. The bids for construction were put out in December and then with the COVID price increases had a hard time finding someone within budget. However, they were able to get a preferred vendor and originally it was going to be \$175-\$185 a square foot but it's now double that because of the increase in prices. Mr. Bell noted that MTC is working on negotiating with the preferred vendor to do the entire project to try and save some money on the project. He will be meeting with the vendor after this board meeting to try and finalize the amount and get to work on the project. Mr. Bell noted that the construction project can begin within 30-45 days of the contract between TCCO and MTC being modified/amended. Mr. Bell also noted that construction for temporary housing should begin within the next 60 days.

Ms. Jack asked about what exactly a modification to the contract would mean and Mr. Bell stated it would have to do with changes to staff and medical.

Board Chair Christy Jack expressed concerns about Mr. Bell's update because at the last board meeting John Cochran represented to TCCO that construction and groundbreaking would begin in January and what we are now hearing is that we nowhere close to doing that. Modification of the contract was never discussed at the last board meeting. Mr. Bell stated their goal was always to start in January but unfortunately that has not taken place because of COVID and pricing issues have slowed this all down.

Ms. Jack noted that none of these issues and setbacks were discussed in the last board meeting. Mr. Bell stated he can have the contract staff meet with Ms. McLane and they can work out all the details. Ms. McLane noted that it may take months to negotiate, finalize and sign a contract amendment. Ms. McLane stated the contract between TCCO and MTC includes a statement from MTC that they are required to house up to 750 people which they can't do today and they can't wait as long as they are. Ms. McLane requested a real date for when the construction would be started. Mr. Bell stated he will speak with his executive management at the meeting he is going to let them know all the concerns that have been stated today. The board would like to see some progress on this construction.

### **Chief Financial Officer's report regarding FY 2022 Budget/Expenditures**

TCCO CFO, Stanley Muli, noted that the Fiscal Year 2022 budget began on September 1, 2021. The budget was a total of \$19,272,107.00 since September the budget had increased by \$24,058 so our current balance is \$19,296,165.00. Mr. Muli explained that the increase is a result of \$14,250 received for American Rescue Plan COVID funding and \$9,800 received for cost recovery. Mr. Muli stated that based on current projections and expenses, TCCO has the budget to cover the expenses for Fiscal Year 2022. It's likely to be tighter than previous years as our SVP releases are expected to be close to projections but as of today it's projected that we will cover those expenses.

Mr. Muli went on to discuss the offsite medical cost report this report that TCCO submitted to the Governor's Office and Comptroller at the end of the first quarter. TCCO reported that 104 clients have received offsite

medical care at a total cost of \$371,026. Of the 104 clients, only four have exceeded the \$25,000 threshold for which MTC is responsible. The expenses covered by contract are \$245,005 and the amount above the \$25,000 covered in the contract is \$126,021 for the four clients. Some of these expenses do include estimates from the healthcare providers and may change once the filing billing is received. As of the end of the first quarter TCCO believes it's too early to get a good picture of the total fiscal year medical costs because more clients tend to exceed the \$25,000 threshold as the year advances.

### **Discussion of Medical Offsite Cost**

TCCO Executive Director, Marsha McLane stated MTC did not submit their 2020 offsite medical expense invoice until December 16, 2021 at the end of the business day and their 2021 came in at that same time. The 2020 Offsite Medical has been paid and the 2021 is being reviewed but there is some missing documentation. In August 2021 TCCO received MTC's 2019 offsite medical costs. The deadline to submit the 2019 medical costs was August 31, 2021. Once it was submitted, TCCO processed it and sent it to HHSC to issue the payment. HHSC issued a paper check rather than paying by direct deposit due to an error by HHSC staff. The check was lost in the mail and the money was not able to be resent out to MTC because it was past the August 31, 2021 deadline. The choices that were given to TCCO by HHSC was that we could pay it out of another budget year but the comptroller doesn't suggest we do that, MTC could sue TCCO and it could be paid as a settlement or we wait until the next legislative session and ask for supplemental funds. Without letting TCCO know, HHSC canceled the check which automatically started the process to request supplemental funds from the next legislative session, unless we go in and pay it nothing else can be done. TCCO is working on what to do to get this amount paid to MTC for offsite medical costs for 2019.

Last time Ms. McLane presented offsite medical costs, she stated that MTC had 1.6 million in COVID costs. MTC did not turn the detail in prior to the deadline to seek funding during the special legislative sessions. Now MTC is saying that its \$800,000 and TCCO has told them to look into all the federal funds available before billing the state to ensure that those funds are exhausted first. This has not been completed. However, MTC is now looking into if they can get the federal funds to pay for it. TCCO has determined there are some FEMA funds that could possibly be used to offset the funds that TCCO will pay to MTC for the COVID expenses. The documents must be submitted by MTC before we move forward with that.

### **Update from the Deputy Director concerning Treatment Programming and Monthly Penalties**

Deputy Director Jessica Marsh stated that every month TCCO does a 100% review of all treatment activities at TCCC. This means that the Deputy Director or the Contract Monitor goes through every client file and looks to see if individual sessions and group sessions, treatment plans, and progress reports were completed in a timely fashion. During the first four months of Fiscal Year 2022 penalties totaled are \$312,309, which is consistent with FY 2021 penalties. Ms. Marsh conducted a review of the first four months of FY 2022 to look at each penalty and determine if it was a treatment activity that was completed late or that was not completed at all. Ms. Marsh presented a handout to the board listing the activities that were late or missing. Throughout this Fiscal Year we had 407 items that were completed late and 869 that were not completed at all as of December 31, 2021. TCCO will continue to do this breakdown in order to see if there are certain areas where the facility is struggling and see if there are things that TCCO can help them work on. Ms. Marsh noted she has offered to help MTC with time management/scheduling and they have not yet taken her up on that offer.

Board Chair Christy Jack asked what is the reason that was given as to why these items were completed late or not completed at all. Ms. Marsh stated that she has been told the therapists were too busy, out sick, something else was due, or lately COVID exposure. However, if the therapists are following the COVID exposure protocols then TCCO isn't adding penalties for those times. Unfortunately, those procedures have not been followed. MTC has had some staffing issues, however this is more of a time management issue with the therapists.

TCCO's primary concern is not the money that MTC will pay in penalties but rather ensuring that clients are getting adequate treatment. If clients are not receiving the treatment they are supposed to, this can result in lawsuits being filed. The current clinical director for MTC has resigned but he is staying on until March 11, 2022. None of the therapist are working overtime to take care of this problem even though they are salary employees and there would be no cost to MTC if they worked overtime instead of paying the penalties for being late or not completing their work.

Despite these issues with late and incomplete activities we are still seeing tier movement from the clients. We've had 59 clients that have moved up a tier within the last six months and 26 clients that were new initial tier placements that came in at a Tier 2 instead of Tier 1, because they had treatment experience with TDCJ. We've had 19 clients that have moved down tier to work on issues. Board Chair Christy Jack suggested to add how many people in each tier to the spreadsheet Ms. Marsh created and how many people have been released during the time period reviewed. Ms. McLane stated that 53 clients are in Tier 1, which is 13% of the population, 184 clients in Tier 2, 46% of the population, 129 clients in Tier 3, 32% of the population, 27 clients in Tier 4 6% of the population and 4 clients in AGES, the advanced Tier 4 environment.

### **Reports Regarding Potential Contemplating or Pending Litigation and for Personnel Items Related to the Evaluation of the Executive Director**

The Board went into executive session at 11:02 a.m. to cover these agenda items. The Board reconvened in open session at 12:05 p.m. with no formal action taken by the Board during the executive session.

### **Discussion, consideration and possible action regarding salary of the Executive Director**

A motion was made by Board Chair, Christy Jack that the Executive Director's salary be increased to \$240,000 per year. The motion was seconded by Ms. McClure and passed without opposition. Board Member Katie McClure stated the Board appreciates everything that Ms. McLane does for this agency and given her hard work and the quality of work she does for this agency the Board feels that this bump in salary is justified and is well earned.

### **Concerns from Board Member Jose Aliseda about the Construction and Lack of Treatment with MTC**

Board Member Jose Aliseda raised a concern regarding the construction not having started at the Texas Civil Commitment Center and the treatment activities that are not being completed. Mr. Aliseda requested that this issue be included on the agenda at every board meeting until resolved and we may have to consider an executive session to discuss other aspects of this contract and whether we should continue with it. Treatment is among the biggest concern for the Board Members for the clients.

Ms. McLane noted that she did have a TCCO staff member start writing a request for proposals just in case it was needed.

Mr. Aliseda stated he would like on the future agenda to discuss what the possible legal steps are in the future if there is noncompliance from MTC.

### **Discussion, Consideration, and Possible Action Regarding Excused Absences**

Ms. Jack noted that all Board Members were present at the last meeting.

### **Discussion, consideration, and possible action regarding October 21, 2021 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 October 21, 2021 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 April 14, 2022 at 10:00 a.m. at the Texas Civil Commitment Office in Austin.

### **Public Comment**

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

**Meeting Adjourned at 12:15 p.m.**

**SIGNATURE ON FILE**

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Christy Jack, Chair

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Date  
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**SIGNATURE ON FILE**

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Marsha McLane, Executive Director

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Date