

70 TBCJ Summary Reports 2007 to 2019 with Chaplaincy Word Frequency Analysis



by Michael G. Maness
author of [How We Saved Texas Prison Chaplaincy 2011](#)

See PDF with *all* 70 summaries in 895 searchable pages here:

www.PreciousHeart.net/chaplaincy/TBCJ_2007-2019.pdf ... QR Code >



These 70 Texas Board of Criminal Justice meeting summaries cover March 2007 to Feb. 2019—**12 years**—TBCJ meeting #130 to #203. At each meeting, each board member had a stack of other material related to each agenda item. Most summaries are 10-15 pages, for 895 pages in all, with 300,482 words. Of the 12 years from.

See TDCJ Links to each report from March 2007 to Feb. 2019 at www.TDCJ.Texas.gov

February 08, 2019	February 19, 2016	January 11, 2013	December 10-11, 2009
December 13, 2018	December 15, 2015	November 30, 2012	October 8, 2009
October 18, 2018	October 15, 2015	August 23, 2012	August 21, 2009
August 24, 2018	August 07, 2015	June 15, 2012	June 19, 2009
June 29, 2018	June 10, 2015	April 19, 2012	April 3, 2009
April 20, 2018	April 17, 2015	February 10, 2012	February 13, 2009
February 23, 2018	February 20, 2015	December 9, 2011	December 2-3, 2008
December 15, 2017	December 5, 2014	October 14, 2011	September 26, 2008
October 19, 2017	October 9, 2014	August 19, 2011	August 14, 2008
August 25, 2017	August 22, 2014	June 10, 2011	May 20, 2008
June 30, 2017	June 5, 2014	April 8, 2011	March 26-27, 2008
April 06, 2017	April 17, 2014	February 11, 2011	January 23, 2008
February 10, 2017	February 21, 2014	December 9, 2010	November 29, 2007
December 09, 2016	December 12, 2013	October 14-15, 2010	September 13, 2007
October 18, 2016	October 10, 2013	August 16, 2010	July 12-13, 2007
August 18, 2016	August 23, 2013	June 17, 2010	May 24, 2007
June 24, 2016	June 21, 2013	April 8-9, 2010	March 30, 2007
April 15, 2016	April 5, 2013	February 11, 2010	

Certainly, no one is going to read most of these, and few will read more than one. What is interesting are the two revisions to the TBCJ Board Rule on donated property for religious purposes that had to wait 30 days with publication in the *Texas Register*. The “no comments” to that publication is likely not that unusual, being that the readers are mostly lawyers and so few even attend the TBCJ meetings.

TBCJ #146, 12-10-2009 & TBCJ #147, 2-11-10 ~ TBCJ #173, 6-5-14 & TBCJ #174, 8-22-14

Why was such attention given to this? Just to *clarify* seemed moot. We shall never know, though we have initiated an Open Record request for a list of the *donated* projects. We’ll see.

NOTE: On “Public Comments,” was a **single** request **ever answered?** I didn’t see a **one!**

Word Frequency Analysis on “Chaplaincy” in 70 TBCJ Reports

Of these 70 TBCJ summaries from 2007 to 2019—12 years—TBCJ meeting #130 to #203, this moderate analysis reveals how little chaplaincy is used, even minimized, related to their contributions in the facilitation of the vast array of volunteer and religious facilitation.

Chaplaincy 18x ... Chaplains 2x ... Chaplain 2x

12 x Chaplaincy refers to one of the many volunteer awards, “from Chaplaincy” while most all the other awards are religious oriented *under* Chaplaincy

1x **Chaplaincy**, Barak Foundation personal property donation of 342 books to “**Chaplaincy Program**,” (TBCJ #130, 3-30-7). In ten years, and from a single donation, yet most TDCJ Chaplains will receive individual and bulk donations of books and Bibles, newsletters, pamphlets and booklets of a value between \$30-50,000 each year.

1x **Chaplaincy**, “addition of 20 additional staff positions to **Chaplaincy Department**,” (TBCJ #130, 5-24-7), though the minutes do not mention that 25 in all were added by the legislature, and TDCJ decided to put five into parole positions.

1x **Chaplaincy**, TDCJ Exec. Dir. Brad Livingston noted simply that that the “House and Senate appropriations bills restored funding for the TDCJ **chaplaincy** department” (TBCJ #154, 4-8-11).

1x **Chaplaincy**, in a long paragraph on volunteer contribution “TDCJ’s rehabilitative program” TDCJ Exec. Dir. Brad Livingston also added “success of the volunteer effort in **chaplaincy**” (TBCJ #160, 4-19-12).

1x **Chaplaincy**, TDCJ Council Sharon Howell proposed an amendment to TBCJ board rule 1. Section 152.71 to “clarify that donated buildings shall be used by offenders, to participate in programs with religious and other volunteers, the TDCJ **Chaplaincy** staff, and other programmatic personnel” (TBCJ #173, 6-5-14).

1x **Chaplains** – in Public Comments, 8-21-9, Jim Dinsmore “advised the TBCJ that there was great need for additional **chaplains**.”

2x **Chaplain**, 1x **Chaplains** 1x **Chaplaincy**, when Marvin Dunbar recognized **Chaplain** Vance Drum as “president of the American Correctional **Chaplains** Association, which is an affiliate of the American Corrections Association” and “**Chaplain** Michael Rutledge as the assistant director of the **Chaplaincy** Department,” the latter not a member of ACCA and whose position Dunbar created to leapfrog Rutledge from a unit chaplain to supervisor of chaplains (TBCJ #166, 4-5-19).

Religion 1x ... Religious 52x

1x **Religion**, EEO correction of PD-12, “*color, sex (gender), religion, national origin, age (40 or above), disability...*” (TBCJ #146, 12-10-09).

25x **Religious**, at annual volunteer awards, **Religious Service**, usually two.

1x **Religious**, from Public Comments, Alison Dieter spoke on “restoring religious services to death row offenders” and mentioned harsh conditions (TBCJ #136, 4-26-19).

5x **Religious**, on the agenda and in several minutes, related to BP-02.84 and Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), TDCJ Counsel Melinda Bozarth noted BP-02.84 was identical to Board Rule 152.71, considered at a later meeting, and 37 TAC was under mandatory 4-year review and needed amending (TBCJ #146, 12-10-2009).

2x **Religious**, on the agenda and in several minutes, Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), since no comment was made upon its publication in (12-09) Texas Register, TDCJ Counsel Melinda Bozarth recommended TBCJ adopt the rule as presented in packet (TBCJ #147, 2-11-10).

- 1x **Religious**, TDCJ Counsel Melinda Bozarth recommended changes to offender Disciplinary Rules, specifically Sec. III.B.3.d that “certain **religious** items may not be taken from an offender as a disciplinary sanction” (TBCJ #148, 4-8-10).
- 1x **Religious**, during Public Comments, Gloria Rubac spoke on behalf of death row and solitary confinement offenders and asked when “suspended programming will be reinstated, such as piddling, the work program, and **religious** programs” (TBCJ #168, 8-23-13).
- 5x **Religious**, on the agenda and in several minutes, Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), TDCJ Counsel Sharon Howell presented the rule, “noting its amendment to clarify that donated buildings shall be used by offenders, to participate in programs with **religious** and other volunteers, the TDCJ **Chaplaincy** staff, and other programmatic personnel” (TBCJ #173, 6-5-14).
- 3x **Religious**, on the agenda and in several minutes, Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), TDCJ Counsel Sharon Howell presented Board Rule 152.71 previously “noting its amendment to clarify that donated buildings shall be used by offenders, to participate in programs with **religious** and other volunteers, the TDCJ **Chaplaincy** staff, and other programmatic personnel” and that appeared in Texas Register (6-20-14) with no public comments, and she asked that it be finally adopted (TBCJ #174, 8-22-14).
- See [Texas Register \(v39:25, p. 4734, pdf p. 26\)](#), which changes seem moot:

(4) Buildings that serve as chapels provided by or enhanced by donations under this rule shall provide a place for all offenders to practice their religion guaranteed by the First Amendment to the United States Constitution, in accordance with TDCJ policy and procedures for [ø] religious beliefs and practices of offenders. Furthermore, the buildings shall be used by offenders[; as well as] to participate in programs with religious and other volunteers, the TDCJ chaplaincy [Chaplaincy] staff, and other program [programmatic] personnel.

- 1x **Religious**, during Public Comments, Pat Harwell spoke on solitary confinement reading an offender’s list of complaints, “no make-up for recreation time lost due to bad weather, and the deprivation of sleep, **religious** services,” and asked the TBCJ investigate (TBCJ #174, 8-22-14).
- 4x **Religious**, on the agenda and in several minutes, Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), TDCJ Counsel Sharon Howell presented proposed amendments, as it is up for 4-year review, and “proposed changes do not affect any practice and clarify the responsibilities associated with donating buildings to the TDCJ” (TBCJ #202, 8-13-18).
- 4x **Religious**, on the agenda and in several minutes, Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for **Religious** and Programmatic Activities (37 TAC §152.71), TDCJ Counsel Sharon Howell presented the previously approved amendments, that it has appeared in the *Texas Register* 12-28-18 with no subsequent comments and that the board move forward with final adoption (TBCJ #203, 2-8-19).

See [Texas Register \(v43:52, pp. 8568-69, pdf pp. 58-59\)](#), which changes are dramatic, though similarly moot, as if a volunteer org would hire unqualified builders or that TDCJ might have been somehow obligated prior to change to use unqualified builders, further secularizing and appear to make it harder for volunteers to build chapels. One wants to ask if all the Board Rules were similarly scrutinized, especially since so few (if any) *donated* buildings or enhancements were ever done by purely secular organizations. That is, I doubt *any* building or significant enhancement has ever been done by a purely non-religious organization. That is, as most know, all or most all have been done for Chaplaincy Programs, or at least by those with religious motives, and mostly by Christians. Be interesting to see that studied.

Were any prospective donor groups invited? I doubt it. Likewise, where there any prospective donor groups *in mind* for these changes? Doubt that, too. Or more simply, were there any current donor projects in progress *at all*? What brought this to notice? Just to *clarify*? I doubt it. See changes below:

PART 6. TEXAS DEPARTMENT OF
CRIMINAL JUSTICE

CHAPTER 152. CORRECTIONAL
INSTITUTIONS DIVISION

SUBCHAPTER D. OTHER RULES

37 TAC §152.71

The Texas Board of Criminal Justice proposes amendments to §152.71, concerning Acceptance of Gifts Related to Buildings for Religious and Programmatic Proposes. The amendments are proposed in conjunction with a proposed rule review of §152.71 as published in another section of the *Texas Register*. The proposed amendments clarify the responsibilities associated with donating buildings to the TDCJ.

Jerry McGinty, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the rule will be in effect, enforcing or administering the rule will not have foreseeable implications related to costs or revenues for state or local government.

Mr. McGinty has also determined that for each year of the first five year period, there will not be an economic impact on persons required to comply with the rule. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the rule, will be to enhance the understanding of building donors responsibilities. No cost will be imposed on regulated persons.

The rule will have no impact on government growth; no creation or elimination of employee positions; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy.

Comments should be directed to Sharon Felfe Howell, General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, Sharon.Howell@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §§492.001, 492.013, 501.009.

Cross Reference to Statutes: None.

§152.71. Acceptance of Gifts Related to Buildings for Religious and Secular Programs [Programmatic Purposes].

(a) Policy. Only the Texas Board of Criminal Justice (TBCJ) is authorized to accept gifts on behalf of the Texas Department of Criminal Justice (TDCJ) from any public or private source, for use in maintaining and improving correctional programs and services. The TBCJ also specifically and earnestly encourages the involvement of volunteers and volunteer organizations for the purpose of assisting the [providing] reintegration of offenders into society through religious and secular [and spiritual] programs. Correctional facilities of the TDCJ benefit from donated [typically need] additional space or enhancements to [amenities in] existing space for [to provide] religious and secular [services and] programs. The TBCJ and the TDCJ [shall] actively encourage the donation of buildings and enhancements for buildings that are related to the provision of religious and secular programs.

(b) Procedures.

(1) The TDCJ shall meet with donor groups for the purpose of accepting a building or enhancement for a building related to the provision of religious and secular programs. The TBCJ respects the right of contributors to designate a specific project at a specific TDCJ unit at which the donated building or enhancement will be used.

(2) A donor or designee shall be qualified to design and construct the donated building or enhancement in accordance with the TDCJ Administrative Plan for Capital Improvements by Donor Groups. Subject to final project approval by the executive director or designee, all plans for the building or enhancement must be approved by the Facilities Division. All design and construction activities by the donor or designee will be coordinated through the Facilities Division. The Capital Improvement Review Committee shall review and

coordinate all steps pertaining to the project, ensuring all requirements of the TDCJ Administrative Plan for Capital Improvements by Donor Groups are followed. The donor or designee will design and construct the donated building or enhancement at no cost to the TDCJ. [The donor or designee will design and construct the donated buildings, at the donor's cost, after a determination that the donor or designee is qualified to design and construct the donated buildings in accordance with the TDCJ Administrative Plan for Capital Improvements by Donor Groups. All design and construction activities by the donor or designee will be coordinated through the Facilities Division. The Capital Improvement Review Committee shall review and coordinate all steps pertaining to the project, ensuring all aspects of the TDCJ Administrative Plan for Capital Improvements by Donor Groups are followed.]

(3) The TDCJ shall be the owner of the donated building or enhancement [enhanced building] and shall be responsible for the operation, control, and maintenance of the building, which shall be used for religious and secular [other correctional] programs [and services]. The naming of buildings obtained under this rule shall be in accordance with [is subject to] 37 Texas Administrative Code §155.21.

(4) Buildings that serve as chapels provided by or enhanced by donations under this rule shall provide a place for all offenders to practice their religion as guaranteed by the First Amendment to the United States Constitution, in accordance with TDCJ policy and procedures for facilitating the religious [beliefs and] practices of offenders. Furthermore, the buildings shall be used by offenders to participate in [programs with] religious and secular programs with [other] volunteers, [the] TDCJ chaplaincy staff, and other program personnel.

(5) These donations, including donations at privately-operated, state-owned facilities, shall be presented at a regularly scheduled meeting of the TBCJ for discussion, consideration, and possible action.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 14, 2018.

TRD-201805374

Sharon Howell
General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: January 27, 2019

For further information, please call: (936) 437-6700

◆ ◆ ◆
PROPOSED RULES December 28, 2018 43 TexReg 8569

Volunteerism 5x, Volunteer 360x

Most all uses were during the Annual Governor’s Criminal Justice Volunteer Services Awards Ceremony. ... now, maybe it is just a *coincidence* that two Board Rule changes happened during the *four meetings* where there were no significant volunteers invited. Maybe not.

03-24-07	12th Annual Governor’s Awards Ceremony	TBCJ #131
05-20-08	13th Annual Governor’s Awards Ceremony	TBCJ #137
04-03-09	14th Annual Governor’s Awards Ceremony	TBCJ #142
04-08-10	15th Annual Governor’s Awards Ceremony	TBCJ #148
04-08-11	16th Annual Governor’s Awards Ceremony	TBCJ #154
04-19-12	17th Annual Governor’s Awards Ceremony	TBCJ #160
04-05-13	18th Annual Governor’s Awards Ceremony	TBCJ #166
04-17-14	19th Annual Governor’s Awards Ceremony	TBCJ #172
04-17-15	20th Annual Governor’s Awards Ceremony	TBCJ #178
04-15-16	21st Annual Governor’s Awards Ceremony	TBCJ #184
04-06-17	22nd Annual Governor’s Awards Ceremony	TBCJ #191
04-20-18	23rd Annual Governor’s Awards Ceremony	TBCJ #198

TBCJ Board Rule changes on donated property for religious purposes:

#146, 12-10-2009 #173, 6-5-14
#147, 2-11-10 #174, 8-22-14

On #154, no mention was made of the volunteers that HELPED save Chaplaincy earlier in the year.

Conclusion?—If the TBCJ Really Valued Volunteers, Chaplaincy Would be *Secure*

The TBCJ looks at a lot of material for a huge agency. One might think the Chaplaincy Department within the Rehabilitation Programs Division (RPD) a small affair not deserving Board attention—a near non-entity in their reports. And the Programs Division itself has never published anything significant on what the Chaplains do for the last 25-plus years.

Volunteers are noticed once a year at the TBCJ meetings in the guise of an Annual Governor’s Award, some 20,000 strong, with numerous awards for a variety of services. Look at the award names. Good causes all of them. Not apparent is that most are for *religious* volunteerism. Even the “Employee Volunteer” is most often a Chaplaincy volunteer. Who “volunteers” for a *strictly* secular purpose? The AA volunteer at the Gib Lewis Unit in Woodville for 15 years was a Certified Volunteer Chaplains Assistant and volunteered for strictly Christian purposes. Same for most volunteers, though the RPD has gone to great lengths to make volunteerism *appear* as non-religious as possible, when the reality is the opposite.

What is NOT APPARENT and never related with clarity by the RPD or anywhere is that the 120 Chaplains are the staffers that facilitate 95% of the 20,000 volunteers, perhaps 99.999% of them religious. But who knows? The TDCJ and RPD have rebuffed efforts at honest *analysis* for decades, and the recent hiring of non-educated Dir. of Religious Services is just another part of the sad story of obfuscating the work of Chaplains and hiding the benign profession’s work.¹

Notably, at the 158th TBCJ meeting on Dec. 9, 2010, there was no mention of TDCJ’s plan to delete—i.e., zero budget—the entire Chaplaincy Department. Only on the 154th TBCJ meeting on April 8, 2011, was there mention that Texas House and Senate *restored* funding. The only—only—reason in Austin was that “the volunteers can do it all.” That story was told in full in *How We Saved Texas Prison Chaplaincy 2011—the Immeasurable Value of Religion, Volunteers, and Their Chaplains* which detailed all.² Volunteers are facilitated by staff, and no one cares for them more than the Chaplains, and Madeline Ortiz knew that when she attempted to kill the department. The volunteers helped save it—and the TBCJ should have, too.

The greatest source of change in human history is religion, and chaplains facilitate all.



¹ See the *TDCJ Deep State Report*, www.PreciousHeart.net/OIG/TDCJ-OIG-2019.pdf... for documented details and links to much on this and other tragedies to chaplaincy and travesties to justice and fair play.

² See www.PreciousHeart.net/Saved/.



What do staff Chaplains do that TDCJ never publishes or acknowledges?

In Fiscal Year 2011

**120 TDCJ Chaplains Facilitated, Cared for 99.8% of
20,000 Volunteers in their 418,000 visits with
500,000 hours with an astounding
4,000,000 prisoners in attendance—plus
19,602 Critical Illness/Death Notices & more**

Chaplains facilitated, supported, cared for, and helped volunteers by the millions of contacts ...

TDCJ Chaplaincy Volunteer Stats for Specified Years				
	2012	2011	2010	2004
Vol. Visits	145,701	154,258	140,755	124,507
Vol. Hours	465,413	502,857	460,804	491,287
Vol. Contacts	8,320,713	8,519,116	7,512,681	3,436,748
Spec. Vol. Visits	22,832	29,686	23,298	12,998
Spec. Vol. Hours	94,848	94,100	82,109	35,760
Spec. Vol. Contacts	1,004,488	996,587	1,056,659	688,447
Total Contacts	9,325,201	9,515,703	8,569,340	4,125,195
Total Hours	560,261	596,957	542,913	527,047
Dollar Valuation*	\$ 13,446,264	\$ 14,326,968	\$ 13,029,912	\$ 12,649,128
Total Valuation* \$ 53,452,272 ... for specified years				
*Valuation based upon Independent Sector calculations 2015 at \$23 per hour				
www.IndependentSector.org/volunteer_time				

Extremely important in a transparent Texas, the Independent Sector is used by industries across the U.S. to “value” volunteerism. When that was brought to TDCJ’s attention in 2000 regarding chaplaincy, soon the Volunteer Services was *separated* from chaplaincy. See more here:

www.PreciousHeart.net/Saved/Reports/2011-January-Chaplains-Monthly-Reports.xls

2011 **January** Chaplaincy Monthly Reports, a massive Excel database

www.PreciousHeart.net/Saved/Reports/FY2010-Volunteer-Stats-by-Month.xls

www.PreciousHeart.net/Saved/Reports/FY2011-Volunteer-Stats-by-Month.xls

www.PreciousHeart.net/Saved/Reports/FY2012-Volunteer-Stats-by-Month.xls

See full Excel Spreadsheets here with chaplaincy data:

www.PreciousHeart.net/chaplaincy/FY2004_Chaplaincy.xls

www.PreciousHeart.net/chaplaincy/FY2002_Chaplaincy.xls

2002 highlights several lines that were deleted thereafter ... *i.e., after 2002, less data was collected*

www.PreciousHeart.net/chaplaincy/FY2001_Chaplaincy.xls

www.PreciousHeart.net/chaplaincy/FY2000_Chaplaincy.xls

www.PreciousHeart.net/chaplaincy/FY1999_Chaplaincy.xls

www.PreciousHeart.net/chaplaincy/FY1998_Chaplaincy.xls

For the largest archive on prison chaplaincy in U.S.

www.PreciousHeart.net/chaplaincy

For the first, though small, cumulative report culled from two fuller reports:
www.PreciousHeart.net/chaplaincy/Chaplaincy-Cumulative-FY2010-11.pdf

Part 1 of 3

TDCJ Chaplains Statistics FY2010-11 - Clip pt-1			
	2010	2011	Two-yr Total
Staff Chaplains			
- Classes/Study groups led	6,793	8,455	15,248
- Offenders attending	195,842	236,006	431,848
- Worship Services led	7,406	8,726	16,132
- Offenders attending	581,637	758,752	1,340,389
- Total Programs supervised	60,828	73,594	134,422
- Ministerial Visits Facilitated	2,677	5,225	7,902
- I-60's Answered	346,747	380,522	727,269
- Counseling groups led	2,362	3,065	5,427
- Counseling interviews (15 min. or longer)	38,430	47,308	85,738
- Offender contacts (less than 15 min.)	366,877	446,463	813,340
- Offender family emergency messages delivered	14,593	17,191	31,784
- Offender phone calls supervised	15,815	19,884	35,699
- Phone calls made on behalf of offenders	13,621	14,163	27,784
- Offender family phone calls received	23,053	38,810	61,863
- Offender family letters written	1,173	1,159	2,332
- Offender family letters received	802	790	1,592
- Offender deaths worked	562	445	1,007
- Approved volunteers supervised	106,802	138,484	245,286
- Training hrs. conducted	5,385	2,743	8,128
- Hrs. TDCJ training received	4,012	6,043	10,055
- Hrs. Denom training received	1,907	2,666	4,573
- Hrs. of Continuing Education	1,748	2,331	4,079
- Hrs. of Staff Ministry performed	8,837	13,488	22,325
- Hrs. of Community Service	3,951	4,135	8,086
- Speaking engagements	1,233	1,393	2,626
Volunteer Chaplains			
- Volunteer Chaplain Visits	24,598	33,128	57,726
- Hrs. by Volunteer Chaplains	108,114	139,350	247,464

Part 2 of 3

TDCJ Chaplains Statistics FY2010-11 - Clip pt-2			
	2010	2011	Two-yr Total
Faith Based Dorms			
- Volunteer Visits	9,573	18,288	27,861
- Volunteer Hours	63,308	102,596	165,904
- Offenders attending	633,175	848,268	1,481,443
Mentor			
- Mentor visits	10,361	14,981	25,342
- Offenders visited	228,672	270,591	499,263
Marriage Programs			
- Events held	340	250	590
- Volunteers attending	856	654	1,510
- Volunteer hours	4,657	3,675	8,332
- Offenders attending	9,024	9,348	18,372
- Spouses attending	2,604	8,088	10,692
Parenting Programs			
- Events held	487	338	825
- Volunteers attending	1,225	1,872	3,097
- Offenders attending	30,598	47,685	78,283
- Family members attending	852	5,040	5,892
Rehabilitation Life Skills Programs			
- Classes held	10,544	10,902	21,446
- Volunteers attending	15,863	20,662	36,525
- Volunteer hours	42,960	58,932	101,892
- Offenders attending	360,537	486,116	846,653
Support Groups			
- Classes held	3,778	4,594	8,372
- Volunteers attending	4,970	8,173	13,143
- Volunteer hours	11,365	19,790	31,155
- Offenders attending	151,397	292,074	443,471
Education Programs			
- Classes held	2,527	2,298	4,825
- Volunteers attending	4,170	7,238	11,408
- Volunteer hours	21,697	23,090	44,787
- Offenders attending	186,645	309,041	495,686

Part 3 of 3

TDCJ Chaplains Statistics FY2010-11 - Clip pt-3			
	2010	2011	Two-yr Total
Reentry Programs			
- Classes held	4,548	3,795	8,343
- Volunteers attending	8,237	8,053	16,290
- Volunteer hours	19,911	44,903	64,814
- Offenders attending	334,253	316,277	650,530
Primary Worship Services			
- Services held	28,842	26,282	55,124
- Volunteers attending	61,307	88,203	149,510
- Offenders attending	4,674,270	6,966,884	11,641,154
Additional Services			
- Services held	13,659	11,071	24,730
- Volunteers attending	13,295	19,991	33,286
- Offenders attending	882,136	1,390,022	2,272,158
Spiritual Classes			
- Classes held	31,396	29,274	60,670
- Volunteers attending	102,793	148,314	251,107
- Offenders attending	5,355,870	7,432,315	12,788,185
Crusades			
- Crusades held	893	613	1,506
- Volunteers attending	2,156	3,876	6,032
- Offenders attending	340,813	709,728	1,050,541
Other Classes			
- Classes held	3,775	3,689	7,464
- Volunteers attending	26,174	40,229	66,403
- Offenders attending	1,118,635	2,144,754	3,263,389
Non-Spiritual Programs			
- Classes meeting	1,345	1,606	2,951
- Volunteers attending	11,682	18,096	29,778
- Offenders attending	401,565	585,055	986,620

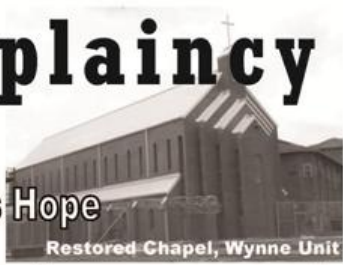
These are superlative statistics never published or acknowledged ... or used to justify any professional consideration for staff Chaplains comparative to other degree-bearing professions in TDCJ. No professional equity.

In Austin in 2011, this flyer helped save TDCJ Chaplaincy from zero-budgeting:

Save Texas Chaplaincy It Saves Money

and Challenges, Cares, and Gives Hope

Chaplaincy Savings and Superlatives Seem without End



Restored Chapel, Wynne Unit

Total Cost Recovery — How Many Times Over?

- 1. First Amendment Rights Must be Managed**
Religion will *always* be in prison, and the time pulled from staff for managing could cost as much as a Chaplain's salary. TDCJ's sophisticated Chaplaincy policy and trained Chaplains help fairness and avoid the dominance of sectarian interests.
- 2. Litigation Savings Alone Recovers Cost**
Sophisticated Chaplaincy policy exists from 100+ years of legal battles — the staff pulled to handle this would consume more time than the cost of an up-to-date Chaplain. Inmates sue.
- 3. Volunteers will ALWAYS be Coordinated by Staff**
The Chaplains coordinate 17,000+ religious volunteers for 400k+ hours a year, which means \$10+ million savings by the Independent Sector — statistics habitually hidden on prison Chaplaincy nationwide — Total Cost Recovery in this venue alone!
- 4. Recidivism—Religion Changes People**
If a single prisoner is kept from returning, a Chaplain's entire salary is covered. Yet, inestimable, the FAITH of the Chaplains, Volunteers, and most Legislators testify, whether Christianity, Catholicism, Islam, Judaism, and whatever, Religion CHANGES people, and herein the COST savings alone to Recidivism covers the cost of Chaplains TEN-FOLD, if not a HUNDRED-FOLD!
- 5. Literature Consumables Equal Salary**
The donated literature consumables and Bibles used by offenders that Chaplains facilitate tally to more than their annual salary.

and people die — who is supposed to be there?
The hurting side of prison — the precious families — notifications of death and critical illness will take place and that should not be a sloppy affair. More than money, the inmates and their law-abiding families need staff Chaplains sensitive to the heart.

The Threat —

For the first time in Texas history, House Bill 1 eliminates the Texas Prison Chaplaincy Program, a legislative process kicked off with a prayer. We must not let this happen.

Whatever else happens in the Senate and House, we have come together to Save Texas Prison Chaplaincy.

What this is NOT —


Chaplaincy is NOT funding for sectarian religion; it is funding for the defense of the First Amendment. NOT funding for play time in the Chapel, but serious faith observance. Chaplaincy is NOT about denigrating any faith in particular, but is about networking with and facilitating fine Religious Volunteers throughout Texas.

What this IS about —

Cost Savings, with a heart. Full of savings and superlatives — in 2004 staff Chaplains facilitated over 400,000 volunteer hours, 82,000+ programs 1.5M attending, and 26,000+ death/illness messages. The 17,000+ Religious Volunteers, 150,000+ inmates and 1,000,000+ law-abiding family members deserve a caring professional who understands deep religious conviction!

With such Cost Savings — Is there a MORE productive program in ALL of Texas?
See the web site for FACTS!

Will You Help? KEY — CONNECT with your Texas Representative and Senator — by visit, phone, letter, email, facebook. For links to Legislators, Resources, and Facts:

 www.PreciousHeart.net/Save_Chaplaincy.htm

TIME — We don't have much time ... only 1-2 months. Get with your Legislator!

Sponsored by Friends of TDCJ Mission, Chaplaincy, Michael G. Maness LLC, Frank Graham's www.ChapelOfHope.org

www.PreciousHeart.net/pdf/Save_Chaplaincy_Summary.pdf

Now, that was used to SAVE the TDCJ Chaplaincy. Note what was used in 2000 in Austin, that for ten years was hidden and also hidden in 2011.

In 2000, some tens prior, this more extensive flyer was used in Austin to secure the first pay group raise in 40+ years. Some might say this is overkill, but the total lack recognition and true lack administrative/professional reciprocity in TDCJ and 2011 the attempted assassination of chaplaincy betray a hostility unfair to the contribution of Chaplains. See 4 critical pages:

see it in color > www.PreciousHeart.net/chaplaincy/CPE-2001.pdf
see whole > www.PreciousHeart.net/chaplaincy/01-Chaplain_Pt_1_Proposal_2000.pdf

Chaplain Professional Equity

Chaplains cultivate the Precious Heart, in prison,
where the needs of the heart are the greatest.

Honorable Senators and Representatives
Great Congress of Texas

Dear Honorable Senators and Representatives:

The TDCJ is a world-class penal institution, and chaplains facilitate the precious heart in this often hostile inter-personal world as *the* most cost-effective program in the Texas. Chaplains need and deserve professional equality *among* TDCJ's own degree-bearing professions.¹ Please remember and consider:

- 14 years ago, about 40 chaplains had secretaries, all new units got secretaries; the newer 1,000-man prison had a secretary, and the older 3,000-man did *not* have a secretary; then the secretaries were deleted in about 1997, just before TDCJ completed the largest building program in U.S. history;
- MHMR had about 25 chaplains, about 17 at Chaplain III Grade for as many 10+ years, with several at Step 1-2, and TDCJ could utilize the Chaplain III Grade and Steps;
- Chaplains got a one pay-group raise in about 2001, and that was a result of their own lobbying and the first in 40 years, which included both MHMR and TYC Chaplains;
- The Chaplaincy 2000 Desk Audit was *not* completed, but reflects like no other document in history the manifold variety of correctional chaplaincy; the data was collated at expense by M.G. Maness with the assistance of the Texas Attorney General's office, for officials did not want to release it²;
- In the very next legislative session 2003, TDCJ had decrease their budget by 10%, but they deleted 33% of chaplains, down from about 150 to 100 full-time Chaplains, which did not reflect the value of Chaplaincy services to the agency, including their documented *complete* cost recovery – to say nothing of the extraordinary audit results mentioned above;
- Statistics for last year include *million-plus* inmate program hours, only the top of the potential, done *without* chaplaincy exposure, *without* in-kind logistical support, and *without* active networking.³
- Chaplaincy has been responsible for building one of the largest volunteer corps in the country, today at nearly 14,000 religious volunteers, essentially by themselves and without much recognition;
- Each degree-bearing profession in TDCJ has had several up-grades in the last 20 years, from engineers to teachers; TDCJ's Windham's 900+ good teachers average a salary of about \$47k and 100+ good counselors average a salary of about \$50k with raises every year for 20 years — average, not top; the statistics of 100 Chaplains *compare* with Windham's 1,200+ employees at a fraction of the cost;

Therefore, because 100 remaining chaplains have been loyal, carried nearly the same load as 150 chaplains with zero audit deficiencies; because several of these chaplains have at their own expense striven to increase their skills through higher education — the following is an equitable up-grade:

Boost 50 of the senior most Chaplain II's to Chaplain III, then, of the 50

- Grant Step 2 Grade to those with an accredited Masters or 10 years experience;
- Grant Step 3 Grade to those with an accredited Doctors or 15 years experience;
- Grant Step 4 Grade to any with 20 years experience.

The above and following FACT SHEET merit a good look for profession of so few doing so much.

Sincerely yours,

Michael G. Maness LLC

www.PreciousHeart.net

¹ Even with the proposal, TDCJ chaplains would still be below the national market: see www.preciousheart.net/chaplaincy.

² See www.preciousheart.net/chaplaincy for a short history and collation of first ever TDCJ Chaplaincy Audit.

³ See www.preciousheart.net/chaplaincy for five years of extraordinary chaplaincy statistics.

FACT SHEET

TDCJ Chaplain Professional Equity

2000 Monthly Snapshot – TDCJ Chaplains Shine

Christians	104,481	Jehovah's Witnesses ...	1,206
Muslims	9,151	Jewish	871
Native Americans	1,277	Buddhist	458 ¹

Major Faith Adherents = 117,733 of 158,005 = 74.5%

66% Christian

Baptists	43,651	Methodists	2,080
Catholics	27,534	Pentecostals	4,018

With 120+ categories of adherents, the Religious Constituents of Texas have a vested interest in the Professional Chaplains charged with facilitating inter-faith issues.

152 Chaplains Supervised in JULY 2000²

Employee Volunteers	65 w/ 552 hrs	Mentor Volunteers	1,729
Hospitality Volunteers	150 w/ 853 hrs	Voyager Volunteers	328
Volunteer Chaplains	403 w/ 7,192 hrs	Marriage Seminar Volunteers	41
General Volunteers	10,697 w/ 41,897 hrs	Contract Chaplain Hours	926

152 Chaplains Led or Facilitated in JULY 2000³

Primary Worship Services	2,158	Chaplain Classes Taught	705
w/ Volunteers	2,859	Chaplain Counseling Groups	465
Total # of Inmates Attending ...	150,190	Individual Counseling Interviews	5,126
Additional Services	1,701	Family Death Messages to Inmates	931
w/ Total # Inmates	69,192	Inmate Crisis Calls Supervised	2,066
Spiritual Growth Classes	1,734	Inmate Deaths Worked	59
w/ Total # Inmates	73,102	Hours of Off-Unit Staff Ministry	692
Community Service Hours	699	Community Speaking Promotions	194

RELIGION—Human History's Most Dynamic Source for Change

Harvard Professor Gordon Kaufman said addressing the ultimate questions of life is a necessity for thinking persons.⁴ Distinguished Professor John Newport of Fort Worth's Southwestern Theological Seminary said this necessity is built into human nature and "has been true through the ages; as long as humans have existed, we have asked ultimate and crucial questions."⁵ "Religion has existed in every society, from the most primitive to the most culturally advanced."⁶ All of the major religions have always spoken to and provided interpretations about existence and influenced every aspect of human behavior, thought, feelings, family, culture, life, death and afterlife.⁷ There is no more complex a profession.

Religion & Health Care Costs

Health care costs have risen faster than any other correctional costs.⁸ Prisoners are adversely affected beyond the intentions of prison mission goals, often developing more severe emotional problems added to their own criminal behavior problems and outside the realm of abnormal diagnosis in DSM IV.⁹

Religion gives faith, hope, meaning, optimism and security to persons, impacting the well-being of persons and their ability to handle stress.¹⁰ In a review of over 200 articles,¹¹ religious commitment indicated a positive impact on morbidity and mortality, with over 80% of the studies indicating longer life.¹² Prisoners are at a risk for suicide, and "Published studies consistently have shown that religious commitment is inversely related to suicide rates."¹³ Furthermore, given the ever-increasing cost of health care to corrections, Johnson and Larson state, "there is considerable empirical evidence concerning the beneficial effect of religious practices and commitment upon various health-care issues."¹⁴

Religion & Institutional Management

Religion helps inmates deal with criminal behavior and denial, helping them cope with the deprivations of prison life and understand the issues inherent in the loss of freedom; religion provides them with the opportunity to start a new life while in prison.¹⁵ No one doubts that religion fosters coping skills in prison.¹⁶

2 of 4

Chaplains Recover ENTIRE Operating Costs and Contribute to EVERY Mission Critical Function of TDCJ

Chaplains Recover ENTIRE Operating Costs and Contribute to EVERY Mission Critical Function of the TDCJ

ENTIRE Cost Recovery of Chaplains

By the Public Sector and Texas own SAO's value of volunteers at \$10-23 per hour, today's 100 TDCJ chaplains supervise over 400,000 hours for a saving of \$5.6 to \$9.2 million dollars, over twice TDCJ's ENTIRE chaplaincy cost.¹⁷ If one chaplain prevented two inmate from returning in a year, that would be 2x cost recovery; if 5,000 of 15,000 religious volunteers prevented one from returning, that is ... hard to imagine how many times the ENTIRE cost of chaplains are recovered.¹⁸ The vision goes beyond that. Texas' full-time chaplains reduce recidivism and recover **MORE** than their entire operating cost several times over. Superlatives that blazon across the sky.

Sterling notation—in University of Texas at Austin study, *Investing in Volunteerism: The Impact of Service Initiatives in Selected State Agencies* (2002), the cost savings to TDCJ of \$7,906,520.16 was 90% from 100 TDCJ chaplains, which by the Texas State Auditor's Office of valuation \$10.39 to \$23.20 when calculated at high rate for religious volunteers, turning 513,744 hours into \$11,918,860 worth of savings, 90% chaplaincy religious volunteers, **OVER** twice the operating costs of Chaplaincy; moreover, that same *Investing in Volunteerism* study indicated that 100 TDCJ chaplains were facilitating about **50% of the volunteers in the ENTIRE state**, even though chaplains were not mentioned one time—not once!¹⁹ Nor are TDCJ Chaplain statistics mentioned in Division reports. Unfairly, the contribution of TDCJ's 100 Chaplains is conspicuously *absent* from records that matter.

TDCJ Need

Good News: from 1990 to 1997 the total crime rate dropped 30%; from 1988 to 1998, the crime rate has dropped significantly in direct proportion to TDCJ's increase in inmate population.²⁰

Greater Needs Coming to TDCJ: from 1970 to 1999 the mental health system has increasingly de-institutionalized its services, down from 12,413 in state hospitals in 1970 to 2,309 in 1999.²¹ "Between 1988 and 1998, while the TDCJ incarcerated population increased by 262%, the number of mentally ill offenders in prison receiving outpatient mental health services increased by 429%."²²

Work has been increasing, especially for the precious heart.

Governor's Performance Measures

Most Chaplains have decades of experience and graduate degrees, facilitate the best citizens, counsel some Texas' most troubled, impact general inmate morale, and reduce recidivism in a cost effective manner. The Governor's *Guide to Performance Measure Management 2000 Edition* indicates TDCJ's chaplains more than merit an up-grade, there is a rationale for a fully funded Chaplaincy Division.²³ Chaplaincy is Texas' only truly inter-faith more purely faith-based program, reflective of the values of Texas and the United States in Baylor University's world-class study, *American Piety in the 21st Century: New Insights to the Depth and Complexity of Religion in the US*.²⁴

Every Which Way You Look - Chaplaincy Shines

By every conceivable measure, chaplaincy shines. Yet they have not been supported according to their measurable data, not even a division recommended up-grade for the last ten years. Chaplains should not have to publicize their own accomplishments to merit consideration. Yet the above is just a clip of what *is* measurable, the *simple* items, even without active networking. The greatest elements of chaplaincy are impossible to measure—the *value* and ultimate *contribution* of the faith facilitated. Imagine what could be done with *vision* and *networking* throughout Texas' multiple faith groups and religious institutions?

There is no down side. Yet none of the measurable items have made it into the division reports for years or are used to rationalize much less provide logistical support the chaplains doing so much.

Every which way one looks, chaplaincy shines, when *allowed to*—even for a full Chaplaincy Division.

FY 2000 & 2001 - Clipped Summary

TDCJ STAFF CHAPLAINS	
18,111	Classes/Groups Lead
5,928	Counseling Groups
90,983	Counseling Interviews
18,713	Offender Death Messages
37,501	Offender Phone Calls
21,564	Phone Calls for Offender
4,699	Letters Written
13,178	Staff Counseling Off Unit
21,320	Community Service Hrs Donated
1,975	Speaking Off-Unit on Chaplaincy
SPIRITUAL PROGRAMS	
38,640	Primary Worship Services
2,505,064	Offender Attendance
35,285	Additional Spiritual Services
1,424,001	Attendance for Additional Services
MENTOR ONE-ON-ONE	
24,914	Volunteer Mentors Visiting
FAMILY PROGRAMS	
2,963	Visitation Volunteers Attending
14,668	Visitation Volunteer Hours
199	Marriage Seminars
1,310	Marriage Sem. Offender Couples
632	Day With Dads/Moms Offenders
28	Day With Dads/Moms Sessions
354	Day With Dads/Moms Children
78	Family Events Held
2,953	Family Event Offenders
5,528	Family Event Family Members
1,203	Marriage/Parenting Classes
26,149	Marriage/Parenting Offenders
VOYAGER THERAPY GROUPS	
3,245	Distinct Classes
10,809	Class Meetings
8,481	Volunteer Facilitators
59,430	Offenders Enrolled
181,346	Offenders Attending
197	New Classes Started
LIFE SKILLS PROGRAM	
12,942	Class Meetings
296,878	Offenders Attending
SUPPORT GROUPS	
5,069	Support Groups
22,008	Volunteer Facilitators Attending
219,586	Offenders Attending
for full two-year spreadsheet and more www.PreciousHeart.net/chaplaincy	

**Chaplains Recover ENTIRE Operating Costs and
Contribute to EVERY Mission Critical Function of the TDCJ**

Chaplain Equity References

- ¹ TDCJ Chaplaincy Department Statistical Run, Huntsville, Texas (August 29, 2000).
- ² TDCJ Chaplaincy Aggregate Monthly Report, Huntsville, Texas (July 2000).
- ³ Ibid.
- ⁴ Gordon Kaufman, *Relativism, Knowledge and Faith*, Chicago: University of Chicago Press, 1960.
- ⁵ John Newport, *Life's Ultimate Questions: Contemporary Philosophy of Religion*. Dallas: Word, 1989: 1.
- ⁶ Joseph Gaer, *What the Great Religions Believe*, New York: New American Library, 1963: 16.
- ⁷ See Kaufman, *Relativism...*; Newport, *Life's Ultimate Questions...*; Gaer, *What the Great Religions Believe*; the Bible, the Quran, the Torah and all of the millions of volumes in the seminary libraries of the major faiths in the world.
- ⁸ D. McDonald, *Managing Prison Health Care and Costs*, Washington, D.C.: National Institute of Justice, U.S. Department of Justice, 1995. The entire issues September 1995 *Corrections Forum* and October 1995 *Corrections Today* were devoted to correctional health care.
- ⁹ Hans Toch, *Mosaic of Despair: Human Breakdowns in Prison*, Rev. ed. [1st 1975], Washington, DC: American Psychological Association, 1992; R. Johnson & H. Toch, *The Pains of Imprisonment*, Prospect Heights, IL: Waveland Press, 1988.
- ¹⁰ D. Moberg, *Spiritual Well-Being: Sociological Perspective*. Washington, D.C.: 1979; D. Hadaway & W. Roff, "Religious Commitment and the Quality of Life in American Society," *Review of Religious Research* (1978: 295-307); D. Williams, "Religion and Psychological Distress in a Community Sample," *Social Science Medicine* (1991: 1257-1262).
- ¹¹ J. Levin & P. Schiller, "Is There a Religious Factor in Health?" *Journal of Religion and Health* (1987: 9-35).
- ¹² J. Levin & H. Vanderpool, "Is Frequent Religious Attendance Really Conducive to Better Health?" *Social Science Medicine* (1987: 69-78).
- ¹³ Byron R. Johnson & David B. Larson, "Linking Religion to the Mental and Physical Health of Inmates: A Literature Review and Research Note," *American Jails* (1997: 29); see also J. Gartner, et al, "Religious Commitment and Mental Health: A Review of the Empirical Literature," *Journal of Psychology and Theology* (1991: 6-25).
- ¹⁴ Ibid., Johnson & Larson, 30.
- ¹⁵ T. Clear & M. Myhre, "A Study of Religion in Prison," *LARCA Journal* (1995: 20-25): A study of over 700 inmates in 20 different prisons. T. O'Conner, et al, "The Impact of Prison Fellowship on Inmate Infraction at Lieber Prison in South Carolina," Center for Social Research (April 1997): two and a half times fewer infractions among those in Prison Fellowship programs.
- ¹⁶ See Johnson & Larson, "Linking Religion to the Mental and Physical Health of Inmates: A Literature Review and Research Note"; Gartner, et al, "Religious Commitment and Mental Health: A Review of the Empirical Literature." See Kaufman, *Relativism...*; Newport, *Life's Ultimate Questions...*; Gaer, *What the Great Religions Believe*; the Bible, the Quran, the Torah and all of the millions of volumes in the major seminary libraries of the major faiths in the world.
- ¹⁷ See www.preciousheart.net/chaplaincy/Chap_Cost_Savings.htm.
- ¹⁸ Gerald Saffel, Independent Study, Maximum Security Ferguson Unit, Midway, Texas (July 2000). For example, Senior Chaplain Gerald Saffel of the Ferguson Unit tracked inmates baptized in three months (12-91 to 2-92) to July of 2000 and found a 7.7% recidivism rate; 13 did not return; Senior Chaplain Saffel more than recovered the entire cost of his own salary for **seven plus years** in three to six months. Saffel did mention the faith work prior to and after baptism for the group prior to release, which certainly impacts whether it was actually three or six plus months of faith work for the 13; but of those he did baptize, there was a 7.7% recidivism on an 8 year span, which is still far better than the current rate of 30-40% recidivism on a 1 to 3 year span of general population inmates in other programs. And Saffel is still baptizing. See also, Byron R. Johnson, et al, "Religious Programs, Institutional Adjustment, and Recidivism Among Former Inmates in Prison Fellowship Programs," *Justice Quarterly* 14:1 (March 1997).
- ¹⁹ See www.preciousheart.net/chaplaincy/Volunteerism_Texas_Report_2002.pdf.
- ²⁰ Tony Fabelo, *Report to the Governor and Legislator*, Austin: Criminal Justice Policy Council (May 1998); Andrew Barbee, et al, *Sourcebook of Texas Adult Justice Population Statistics, 1988-1998*, Austin: Texas Criminal Justice Policy Council (November 1999).
- ²¹ Joel Heikes, *The Public Mental Health System in Texas and Its Relation to Criminal Justice*, Austin: Criminal Justice Policy Council (February 2000): 11.
- ²² Tony Fabelo, Executive Director of Criminal Justice Policy Council, in the intro to Joel Heikes' *The Public Mental Health System in Texas and Its Relation to Criminal Justice*, Austin: Criminal Justice Policy Council (February 2000): 1.
- ²³ See www.preciousheart.net/chaplaincy/Gov-docs/Performance_MeasuresSAO-2000.pdf.
- ²⁴ See www.baylor.edu/isreligion.

Chaplains Cultivate the Precious Heart
Saving Millions of Dollars — Contributing to Every Mission Critical Function
www.PreciousHeart.net/chaplaincy

4 of 4

Chaplains Recover ENTIRE Operating Costs and Contribute to EVERY Mission Critical Function of TDCJ

used in Austin, see it in color > www.PreciousHeart.net/chaplaincy/CPE-2001.pdf
see previous two-page version > www.PreciousHeart.net/chaplaincy/CPE-2000.pdf
whole 90-page proposal > [www.PreciousHeart.net/chaplaincy/01-Chaplain Pt 1 Proposal 2000.pdf](http://www.PreciousHeart.net/chaplaincy/01-Chaplain_Pt_1_Proposal_2000.pdf)

**Chaplains Recover ENTIRE Operating Costs and
Contribute to EVERY Mission Critical Function of the TDCJ**

Chaplaincy Affects All the Mission-Critical Functions of the Agency

What is important? Not merely fairness, but consistency with the whole TDCJ mission, for Chaplains could do much more where it counts if they had the administrative support, additional full-times Chaplains at least to a rate of 1 per 1,000 inmates, and a secretary to handle the confidential items like clearances for volunteers and much more.

Yet, at present, a fair representation at the TBCJ would be welcome. Though the volunteers are honored once a year, there are the Chaplains that recruited them, facilitate them, and care for them in a fashion hitherto unrecognized and even purposely hidden.

used in Austin, see it in color > www.PreciousHeart.net/chaplaincy/CPE-2001.pdf


see previous two-page version > www.PreciousHeart.net/chaplaincy/CPE-2000.pdf

whole 90-page proposal > www.PreciousHeart.net/chaplaincy/01-Chaplain Pt 1 Proposal 2000.pdf

There is much more in the *TDCJ Deep State Report* in documented details and links to much on this and other tragedies to chaplaincy and travesties to justice and fair play.

TDCJ Deep State Report

Case of the Collared Fox



Dual Prospectus for


- 1. OIG Dissolution into Texas Rangers**
with possible Class Action
- 2. Chaplaincy Division**

If Security, Human Resources, and OIG have Ignored so Many Documented Policy Violations for YEARS Hurting the Benign Chaplaincy—
Are these Violations Endemic in Finance, Legal, Engineering too?

Help End the Longest Documented Cover Up in TDCJ History
Equality Has Flown the Coop

Special Letters to
TDCJ Executive Director Bryan Collier
TBCJ Chair Hon. Dale Wainwright

By Michael G. Maness
Official OIG Terrorist Threat Suspect
for "Writing Books"
409-383-4671 ~ Maness3@att.net





See this online w active links: www.PreciousHeart.net/OIG/TDCJ-OIG-2019.pdf >

No lawsuit has been filed yet, so TDCJ should attempt to use "pending litigation"—
as in the past—to deny responses to Open Record Requests.

No Responses to Media or News Agencies will be Given at this Time.

GRIEVED employees or ex-employees interested in joining a possible Class Action
or book should email me. We want your story too. Law firms feel free to email.



www.PreciousHeart.net/OIG/TDCJ-OIG-2019.pdf



Time to pull the cover off so much unfair treatment, end racist decision making, and end simple policy-violating behaviors that no state employee should endure, much less in Texas.

Religions, Volunteers, and Their Chaplains Deserve the Best Care

TEXAS BOARD OF CRIMINAL JUSTICE
Omni Austin Hotel
Austin, Texas

March 30, 2007

Table of Contents for Summary

A. Recognitions.....	Page 1
B. Consent Items.....	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC)	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 2
F. Report from the Chairman, Advisory Committee on Offenders With Medical or Mental Impairments (ACOOMMI)	Page 3
G. Internal Audit Status Reports For Fiscal Year 2006 and Fiscal Year 2007	Page 3
H. Approval of Purchases and Contracts Over One (1) Million Dollars.....	Page 4
I. Review and Update of an Out of Cycle Board Approved Contract for Electricity at the Hobby Unit in Falls County	Page 4
J. Annual Review of Good Conduct Time	Page 5
K. Approval of Revisions to Board Policies.....	Page 5
1. BP-02.08, Policy Statement of Internal Controls	
2. BP-03.46, Standards for the Use of Force and the Use of Force Plan	
3. BP-07.03, GO KIDS (Giving Offenders' Kids Incentive and Direction to Succeed)	
L. Adoption of the Repeals to Board Rules, Title 37, Texas Administrative Code (TAC).....	Page 5
1. § 159.5 - Continuity of Care System for Offenders with Physical Disabilities (37 TAC 159.5)	
2. § 159.7 - Continuity of Care System for Elderly Offenders (37 TAC 159.7)	
M. Adoption of New Board Rules, Title 37 TAC	Page 5
1. § 159.19 - Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded and the Memorandum of Understanding (MOU) (37 TAC 159.19)	
2. § 159.21 - Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally or Significantly Ill and the MOU (37 TAC 159.21)	
N. Adoption of Amendments to Board Rule 151.52 Concerning Sick Leave Pool (37 TAC 151.52)	Page 6
O. Approval of Proposed New Board Rule 159.17, Concerning Employment Referral Services for Offenders and the Memorandum of Understanding (37 TAC 159.17).....	Page 6
P. Land Transactions	Page 6
1. Approval of a Pipeline Easement at the Daniel Unit in Scurry County	
2. Approval of Proposed Amendment to Surface Easement on a Valve Site at the Montford Unit in Lubbock County	
3. Approval of Renewal of a Pipeline Easement at the Ramsey Unit in Brazoria County	

- 4. Approval of a Sanitary Sewer Line, Drainage and Road Easement at the Wynne Unit in Walker County

- Q. Review and Update of Out of Cycle Board Approved Construction Projects Page 7
 - 1. Erosion Drainage Improvements at the Lewis Unit in Tyler County
 - 2. Repair and Replacement of Roofs on Multiple Buildings and Replacement of Ductwork in Building 12 at the Stiles Unit in Jefferson County

- R. Approval of Prison Industry Enhancement (PIE) Contracts Page 7
 - 1. Unique Performance Company at the Boyd Unit in Freestone County
 - 2. Direct Trailer and Equipment Company at the Michael Unit in Anderson County
 - 3. Texas International Hardwoods and Veneers, Inc. at the Ellis Unit in Walker County
 - 4. Atrium Companies, Inc. at the Coffield Unit in Anderson County

- S. Public Comments Page 7

TEXAS BOARD OF CRIMINAL JUSTICE
Summary of March 2007, Meeting

Meeting No. 130

The Texas Board of Criminal Justice (Board) convened into regular session on Friday, March 30, 2007, at 1:15 p.m. and immediately adjourned into executive session at the Omni Austin Hotel, Austin, Texas.

Recognitions

Chairman Crain recognized the recent death of Susan Cranford, a retired Texas Department of Criminal Justice (TDCJ) employee, whose innovative ideas and outstanding leadership made a positive and lasting impact in the field of corrections. Chairman Crain requested a moment of silence to commemorate the life and work of Ms. Cranford.

Chairman Crain recognized John Moriarty, TDCJ Inspector General, on his election to the Board of Directors for the Association of Inspectors General as well as his selection to its Executive Committee. The Association of Inspectors General is a national association for inspectors general, educators, and professional staff interested in promoting accountability and integrity in government. She noted that in 2004, Mr. Moriarty became the first certified inspector general in the State of Texas. Mr. Moriarty thanked the Board for the recognition. He also mentioned that Jay Kimbrough, the conservator of the Texas Youth Commission (TYC), asked him to convey Mr. Kimbrough's gratitude for all of the support that the Board and the TDCJ staff have given him. Chairman Crain thanked Mr. Moriarty for the message, noting that TDCJ employees have done an excellent job in expediting a difficult situation.

Melinda Bozarth, TDCJ General Counsel, recognized Mike McManus as the Deputy General Counsel. Mr. McManus stated that it was his pleasure to serve the Board and the Agency in this new capacity.

Nathaniel Quarterman, Director of the Correctional Institutions Division, stated that the following individuals and their respective units were being recognized for receiving American Corrections Association (ACA) reaccreditation and accreditation. Rodney Cooper, Deputy Director of Prison and Jail Operations, read the names and units:

<u>Reaccreditation:</u>	Boyd Unit – George Stephenson, Senior Warden
<u>Initial Accreditation:</u>	Hamilton Unit – Mark Jones, Warden
	Havins Unit – James Mooneyham, Warden
	Neal Unit – Richard Vogelgesang, Senior Warden
	Pack Unit – Edward Smith, Senior Warden
	Powledge Unit – Dennis Blevins, Warden
	Tulia Transfer Facility – Herman Weston, Warden

Mr. Quarterman noted that, to date, 54 units have received ACA accreditation. Chairman Crain commended the wardens and their staff on a job well done.

Chairman Crain recognized the TDCJ employees who have achieved 25, 30, and 35 or more years of service with the State of Texas during the months of November and December, of 2006, and January, February and March, of 2007. The Board, along with Executive Director, Brad Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals have or will receive a board certificate along with a personal letter of gratitude.

Consent Items

Chairman Crain stated that the Consent Items included handouts for Payment to Attorneys for Indigent Offenders, Personal Property Donations and Sale and Disposal of Surplus Agricultural Goods and Agricultural Personal Property. Revisions to the 129th Meeting Minutes of the Board, which took place on October 27, 2006, were also

presented for approval, with a correction to the motion for Board Rule 152.31, Skyview Unit Capacity, to reflect the intent of the Board to adopt the rule in its amended form based on comments received.

Board member Tom Mechler objected to the inclusion of the personal property donation from the Barak Foundation in the Consent Items, and asked that it be placed in line for consideration on the regular agenda. This objection was due to a conflict of interest on Mr. Mechler's part as he is the president of the foundation. The Barak Foundation has donated 342 copies of a book to the Chaplaincy Program for distribution to offenders incarcerated in TDCJ. As there were no other comments, objections or amendments, the Consent Items posted for this meeting agenda, with the exception of the Personal Property Donation from the Barak Foundation, were approved.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employments
3. Personal Property Donations
4. Payment to Attorneys of Indigent Offenders
5. Sale and Disposal of Surplus Agricultural Goods and Agricultural Personal Property
6. Approval of the 129th Texas Board of Criminal Justice Meeting Minutes
7. Approval of Excused Absences

The Personal Property Donation from the Barak Foundation was voted on and approved with Mr. Mechler abstaining from the vote.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Chairman Crain stated that Ms. Rissie Owens, Presiding Officer of the Texas BPP had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Chairman Crain stated that Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an update on the 80th Legislative Session. He advised the Board that the Sunset Commission Bill was scheduled for Monday, April 2, 2007, in the House and Senate committees. The House Appropriations Committee took action on the General Appropriations Bill on March 29, 2007, and approved the budget. The Senate Finance Committee would finalize its work on the Budget on April 12, 2007. Over the next several weeks the conference committee will meet and work on areas of differences. In terms of treatment program expansion, Mr. Livingston expressed his optimism about receiving a significant infusion in additional treatment programs. He noted that both the House and the Senate approved additional capacity beds for the substance abuse felony punishment program, the in-prison therapeutic community (ITPC), half way house beds, intermediate sanction facilities for parole and probation beds, and probation residential beds. The House Appropriations did not provide for DWI program beds while the Senate Finance Committee approved 500 beds. The committees also provided funding for outpatient substance abuse treatment for the probation system. In terms of an increase to basic supervision within probation, the House Appropriations Committee did not add additional money while the Senate Finance Committee added \$10 million in additional funding. Both committees added \$10 million for Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) treatment items. The Senate Finance Committee added \$5.8 million to reinstate the substance abuse treatment that was once offered in the state jail system. Both committees have funded the transition of two (2) TYC facilities to TDCJ, totaling 1,200 beds (600 beds per facility). The Senate Finance Committee also took action to expand and provide funding for capacity construction for approximately 4,000 beds, using the 1,300-bed Hobby Unit as a prototype with dorm additions. It is still unclear when the construction of the facilities would move forward. The House did not provide funding for capacity construction.

Mr. Livingston reported additional considerations concerning the budget. The Senate Finance Committee provided an increase of \$99 million for Correctional Managed Health Care, which significantly funds its initial request. The House Appropriations Committee added approximately \$60 million. In terms of utilities, the Agency requested \$83 million increase in funding; the House Appropriations Committee provided \$50 million in additional funding, while

the Senate Finance Committee provided \$40 million. Additionally, due to recent policy changes, TDCJ is seeking \$40 million for overtime payments to the correctional staff; the House Appropriations Committee funded the \$40 million while the Senate Finance Committee funded \$20 million. Of the \$80 million that the Agency has requested for repair of TDCJ facilities, the House Appropriations Committee has not included any funds for this item, while the Senate Finance Committee has provided \$40 million. The TDCJ had requested \$24 million for fleet vehicle replacement; the House Appropriations Committee has provided \$5 million, while the Senate Finance Committee has provided \$10 million. The request for personal computer replacement was \$8 million; the item has yet to be funded by the House or Senate. The Agency request for \$15 million for Offender Information Management System has not been funded at this time in either version of the Appropriations Bill.

Mr. Livingston stated that at this point in the session dialogue and subsequent action move quickly. He noted that many items of interest would not be finalized until the end of May. He pledged to keep the Board informed of further developments in critical areas. Mr. Livingston voiced his optimism for the outcome of the session, noting the Legislature's positive response to expanding the treatment programs in the parole and probation areas, designed to reduce the offender population pressure, in addition to an infusion of more funding to the treatment programs in the prison setting. In terms of employee pay, Mr. Livingston noted that while this item is not usually included in an agency's budget, there were discussions on the House and Senate sides to provide state employees pay increases. There have been no decisions yet concerning this item.

Mr. Livingston included for the Board's information a memorandum and a document that outlines a number of TDCJ functions, policies and procedures. TDCJ's operations, policies and procedures have been compared and contrasted with those of TYC. He noted that the Agency has provided staff and support to TYC in addition to its core policies and procedures. Mr. Livingston emphasized that TDCJ staff will continue to focus energy on ensuring as much attention to detail in all areas. He challenged staff to make certain that the Agency has a comprehensive and solid set of policies and procedures that form a sound foundation for correctional management and oversight. In addition, thousands of dedicated hard working public servants provide safety and security within the framework of those policies. Yet, at the same time, the Agency should ratchet-up its self examination and make certain that policies are as strong as can be, and make certain that the execution of those policies are as sound and as ethical as possible. He stressed the importance of ongoing policy review process to revise and/or validate the way business is done.

Chairman Crain commended Mr. Livingston and his staff for their hard work throughout the legislative budget process and the legislative session. She also thanked Mr. Livingston for examining the difficult situations concerning other agencies and ensuring that the TDCJ does its due diligence in assuring that sound policies and procedures are in place.

Board Member Pierce Miller noted that during the legislative session, TDCJ staff are always on call. He commended staff for their diligence and dedication, and thanked them for all they do.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Ms. Judy Briscoe, the Chairman of the ACOOMMI, stated that since the last scheduled meeting of the Board had been canceled, TCOOMMI's Biennial Report was subsequently mailed to the Board. She advised the Board that she would like to discuss the report in more detail at the next meeting of the Health Services Committee meeting.

Internal Audit Status Report for Fiscal Year 2006 and Fiscal Year 2007

Raymond Pyeatt, Director of the Internal Audit Division, provided updates to the FY 2006 and FY 2007 Internal Audit Plans. The following are highlights from Mr. Pyeatt's briefing:

FY 2006 Internal Audit Plan

- **0606 – Business and Finance Division, Payment Processing:** The responses to the draft report were received and the proposed final report will be forwarded to the Executive Director in the near future.

0616 – Parole Division, Review and Release/Institutional Parole Officer: The proposed final report was sent to the Executive Director.

FY 2007 Internal Audit Plan

- **0702 – Parole Division, Client Supervision:** The report is being written. The completion date was extended due to additional fieldwork. This audit will affect Audit 0704.
- **0703 – Information Technology Division, Identification, Authentication, and Access:** The proposed final report was sent to the Chief of Staff on March 29.
- **0704 – Parole Division, Interstate Compact:** This audit will be delayed because it has the same lead auditor as Audit 0702.
- **0706 – Executive Administration Services, Emergency Action Center:** The audit continues in fieldwork and is somewhat behind schedule. The lead auditor is also the lead on Audit 0712, which also had delays.
- **0707 – Correctional Institutions Division, Offender Visitation:** The draft report was released on March 14 and an exit conference is scheduled for April 9.
- **0708 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** The audit has moved into control assessment and remains on schedule.
- **0709 – Human Resources Division, Application Processing:** The audit has moved into control assessment and remains on schedule.
- **0711 – Information Technology Division, Wireless Phones and Pagers:** The audit has moved into control assessment and remains on schedule.
- **0712 – Facilities Division, Resources Management:** The audit will be delayed due to work on Audit 0706. The audit is scheduled to begin on April 13.
- **0717 – Business and Finance Division, Agribusiness, Land and Minerals, Business Administration:** The audit continues in fieldwork and is slightly behind schedule. The draft report is scheduled for completion in mid-April.
- **0719 – Correctional Institutions Division, Food Services:** The proposed final report is being prepared for release to the Executive Director.
- **0721 – Parole Division, Absconder Identification and Tracking:** The draft report was released on March 28.

Approval of Purchases and Contracts Over One (1) Million Dollars

APPROVED

Charles Marsh, Chief Financial Officer, reviewed the contracts over one (1) million dollars, which included two (2) service contracts for TCOOMMI, a contract for programming services, a maintenance contract for improvements to the Agency's communication infrastructure, an interagency agreement (FY 07 – FY 14) to provide consolidated data services as directed by the 79th Legislature, a consolidated utility contract for electrical services for several facilities, an increase to the soybean contract (caused by the drought conditions from last fall), and a blanket contract for items to be sold in the unit commissaries. Mr. Marsh noted that he was also requesting a 10% variance in the contract for the commissary items.

Mr. Marsh requested that item nine (9) for coffee and cappuccino to be sold in the unit commissaries be approved with a 10% variance. Board Member Adrian A. Arriaga asked why item nine (9) was separated from the rest of the food items. Chairman Crain responded it was at the request of Board Member Leo Vasquez to whom she yielded the floor. Mr. Vasquez stated that he wished to abstain from the vote on this contract renewal. His company, CADECO Industries, supplies coffee to a company who in turn supplies coffee to the company who has this contract with the Texas Building and Procurement Commission. He noted that in an abundance of caution and to prevent even the slightest suggestion of impropriety, he would abstain from the vote on this contract renewal.

Review and Update of an Out of Cycle Board Approved Contract for Electricity at the Hobby Unit in Falls County

Mr. Marsh noted that due to the cancellation of the January, 2007, Board meeting, the Agency needed to purchase a contract for electrical power for the Hobby Unit. Under the authority of BP-01.01, Board Responsibilities, staff received the authority from the appropriate Board members to acquire the power contract and take advantage of competitive rates.

Annual Review of Good Conduct Time

Ms. Bozarth reported that under Section 498.005 of the Texas Government Code and BP-01.01, Board Responsibilities, the Board is required to review the Good Conduct Time policy for the Agency. Significant changes to the policy included Section I.B.2.f., which adds offenders who are not capable of participating in work, treatment or educational programs for some reason through no fault of their own; Section VII.B.b.2., which provides calculation for offenses specific to consecutive sentences; and Section VIII., which states that offenders who are sentenced to the TDCJ for a capital offense and receive "Life Without Parole" shall be awarded good time. Ms. Bozarth advised the Board that it does not have to approve the policy, only review it.

Approval of Revisions to Board Policies

1. BP-02.08, Policy Statement of Internal Controls

APPROVED

Mr. Pyeatt stated that the policy directs Agency personnel to establish control to assure that they are accomplishing their duties. He noted that the revisions to the policy language help the policy mirror the internal auditing standards promulgated by the Institute of Internal Auditors.

2. BP-03.46, Standards for the Use of Force and the Use of Force Plan

APPROVED

Ms. Bozarth noted that the Board is required to approve all the amendments to the Use of Force Plan and BP-03.46, Standards for the Use of Force. The following changes were reviewed: updates to the authority section, addition of new definitions, updates to the Use of Force equipment list, clarification of the implementation procedures, revisions to section for DNA collections, additions to the reporting procedures/policies consistent with the Board rule, and revisions to the administrative review process.

3. BP-07.03, GO KIDS (Giving Offenders' Kids Incentive and Direction to Succeed)

APPROVED

Ms. Bozarth stated that revisions clarify the scope of the policy, add the website, clarify the responsibilities of the GO KIDS coordinator, specify the types of data that should be collected and reported, and designate responsibility to the Divisional GO KIDS Liaison in implementing the program.

Adoption of the Repeals to Board Rules, Title 37, Texas Administrative Code (TAC)

1. § 159.5 – Continuity of Care System for Offenders with Physical Disabilities (37 TAC 159.5)

APPROVED

Ms. Bozarth reported that at the October 27, 2006, meeting, the Board authorized the publication of the repeal of this rule in the Texas Register, which was published on November 10, 2006. The rule is being repealed to consolidate the memorandum of understanding under other rules. No comments were received during the required 30 day comment period.

2. § 159.7 – Continuity of Care System for Elderly Offenders (37 TAC 159.7)

APPROVED

Ms. Bozarth stated that the Board authorized the publication of the repeal of this rule in the Texas Register, which was published on November 10, 2006. The rule is being repealed to consolidate the memorandum of understanding into one (1) document. No comments were received during the required 30 day comment period.

Adoption of New Board Rules, Title 37 TAC

1. § 159.19 – Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded and the Memorandum of Understanding (MOU) (37 TAC 159.19)

APPROVED

Ms. Bozarth noted that the Board authorized the publication of the new rule and the memorandum of understanding in the Texas Register, which was published on November 10, 2006. No comments were received during the required 30 day comment period.

2. § 159.21 – Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally or Significantly Ill and the MOU (37 TAC 159.21) *APPROVED*

Ms. Bozarth noted that the Board authorized the publication of the new rule and the memorandum of understanding in the Texas Register, which was published on November 10, 2006. No comments were received during the required 30 day comment period.

Adoption of Amendments to Board Rule 151.52 Concerning Sick Leave Pool (37 TAC 151.52) *APPROVED*

Ms. Bozarth stated that at the October, 2006, meeting, the Board authorized amendments to the rule for publication in the Texas Register, which was published in the December 22, 2006, issue. No comments were received during the required 30 day comment period.

Approval of Proposed New Board Rule 159.17, Concerning Employment Referral Services for Offenders and the Memorandum of Understanding (37 TAC 159.17) *APPROVED*

Ms. Bozarth stated that the new rule to be published in the Texas Register for comment concerns employment referral services for offenders and a Memorandum of Understanding as required by Section 501.095 of the Texas Government Code. In addition to the Texas Workforce Commission, other signatories include the Texas Youth Commission and the Windham School District (WSD) as specified under Sections 306.004 and 306.005 of the Texas Labor Code.

Land Transactions

1. Approval of a Pipeline Easement at the Daniel Unit in Scurry County

Chairman Crain stated for the record that this item was passed for action and discussion by the Board.

2. Approval of Proposed Amendment to Surface Easement on a Valve Site at the Montford Unit in Lubbock County *APPROVED*

C.F. Hazlewood, Director for Agribusiness, Land and Minerals, presented a proposed amendment to the surface easement on a valve site at the Montford Unit in Lubbock County. MarkWest Pinnacle, L.P. requested that the Board grant an amendment to expand its current easement by .018 acre, increasing the size of the easement to a .028 acre tract. Compensation for the proposed amendment will increase the total amount of compensation to \$5,000 for a five (5) year term.

3. Approval of Renewal of a Pipeline Easement at the Ramsey Unit in Brazoria County *APPROVED*

Mr. Hazlewood reviewed the renewal of an existing pipeline easement at the Ramsey Unit in Brazoria County requested by the Houston Pipeline Company. This line supplies natural gas to Entex who supplies natural gas to the Ramsey Unit. The Houston Pipeline Company proposes to pay \$50 per rod for the pipeline and \$250 for the surface site for a total of \$12,020.50. The term of the renewal will be for ten (10) years.

4. Approval of a Sanitary Sewer Line, Drainage and Road Easement at the Wynne Unit in Walker County *APPROVED*

Mr. Hazlewood stated that Walker County has requested a sanitary sewer line, drainage and road easement as an extension to a previously granted easement. This easement is necessary to build a multi-purpose facility consisting of a veteran's museum and a Federal Emergency Management Agency shelter. Walker County has asked that compensation for the easement be waived. The term of the easement will be as long as Walker County operates the facility or uses the property as a sanitary sewer line, drainage and road easement.

Review and Update of Out of Cycle Board Approved Construction Projects

1. Erosion Drainage Improvements at the Lewis Unit in Tyler County

Frank Inmon, Director for the Facilities Division, stated that in January, 2007, he had requested and received out of cycle approval for the erosion drainage improvements at the Lewis Unit. Work included site grading, trench excavation for draining pipes, improved embankments for erosion control, rock rip-rap and channel construction. The area covered is approximately 67 acres, inside and outside the fence. The work is being performed by Laughlin-Tyson from Houston for a total estimated cost of \$4,105,400. A notice to proceed has been received by the contractor and this project is 2% completed.

2. Repair and Replacement of Roofs on Multiple Buildings and Replacement of Ductwork in Building 12 at the Stiles Unit in Jefferson County

Mr. Inmon stated out of cycle approval was also received to repair and replace roofs on multiple buildings and replace ductwork in Building 12 at the Stiles Unit. The project was originally for the repair of Buildings 1 and 10, but due to extensive damage by Hurricane Rita, multiple roofs require replacement. Also, included in the project is the replacement of air supply ductwork in Building 12. The work is being performed by Liquitech from Houston for a total estimated program cost of \$9,776,600. The notice to proceed has been given and the project is 1% complete.

Approval of Prison Industry Enhancement (PIE) Contracts

1. Unique Performance Company at the Boyd Unit in Freestone County

APPROVED

Rick Thaler, Director for the Manufacturing and Logistics Division, stated that the service contract would enable the Agency to enter into a two-year agreement with Unique Motor Cars, doing business as Unique Performance, to refurbish automobiles at the Boyd Unit. Approximately 30 offenders will be employed and trained in the vehicle restoration industry. This contract will allow the company to expand its core business of vehicle restoration and provide a future opportunity to expand the PIE program with its vehicle assembly operation.

2. Direct Trailer and Equipment Company at the Michael Unit in Anderson County

APPROVED

Mr. Thaler noted that the PIE contract would enable the TDCJ to enter into a two-year extension of an existing contract with Direct Trailer and Equipment Company to operate a heavy-duty vehicle trailer manufacturing operation at the Michael Unit in Anderson County. The company would employ approximately 60 offenders. This contract contains the normal contract provisions with the exception that the company will be renting various pieces of equipment in the building and will reimburse the Agency for wages of several Agency positions.

3. Texas International Hardwoods and Veneers, Inc., at the Ellis Unit in Walker County

APPROVED

Mr. Thaler reviewed the PIE contract to extend current operations with Texas International Hardwoods and Veneers, Inc., at the Ellis Unit in Walker County. The company will employ approximately 15 to 40 offenders. In addition to the other contract provisions it had previously, the company will assume the cost of the utilities provided to the portion of the facility it will occupy.

4. Atrium Companies, Inc., at the Coffield Unit in Anderson County

APPROVED

Mr. Thaler stated that the PIE contract would grant Atrium Companies, Inc., a two-year extension of its current operations at the Coffield Unit in Anderson County. The company will employ approximately 50 offenders. This contract contains normal contract provisions.

Public Comments

Topic was passed as no registration cards were received.

Chairman Crain thanked all attendees for their interest in the meeting of the Board and stated that the next meeting of the TBCJ will be May 24-25, 2007, at the Hilton Austin.

Adjournment of the Regular Session

There being no further business, at 1:13 p.m., Chairman Crain adjourned the regular session of the Board to executive session, which is closed to the public in accordance with Texas Government Code, Sections 551.071 and 551.074.

Following the conclusion of executive session, there being no further business, Chairman Crain adjourned the 130th meeting of the Board at 2:25 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

May 24, 2007

Table of Contents for Summary

A. Twelfth Annual Governor’s Criminal Justice Volunteer Services Awards Ceremony	Page 1
B. Recognitions.....	Page 2
C. Consent Items	Page 3
D. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 3
E. Report from the Chairman, Judicial Advisory Council (JAC)	Page 3
F. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 3
G. Approval of Proposed Creation of Private Facility Contract Monitoring/Oversight Division	Page 4
H. Report from the Chairman, Advisory Committee on Offenders With Medical or Mental Impairments (ACOOMMI)	Page 5
I. Internal Audit Status Report For Fiscal Year 2007	Page 5
J. Approval of Purchases and Contracts Over One Million Dollars.....	Page 5
K. Approval of Amendments to Personnel Directive PD-73, “Selection Criteria for Correctional Officer Applicants	Page 6
L. Approval of Revisions to Board Policies.....	Page 6
1. BP-01.01, “Texas Board of Criminal Justice Responsibilities”	
2. BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice	
3. BP-10.05, “Delegation of Authority for Facility Projects”	
M. Adoption of New Board Rule 159.17, Texas Administrative Code (TAC) Concerning Employment Referral Services for Offenders and the Memorandum of Understanding (37 TAC § 159.17).....	Page 6
N. Approval of Proposed New Board Rules, Title 37, TAC	Page 6
1. § 152.33 – “Addition to Estes Unit Capacity” (37 TAC § 152.33)	
2. § 152.35 – “Addition to Bartlett State Jail Capacity” (37 TAC § 152.35)	
O. Approval of Proposed Amendments to Board Rules, Title 37, TAC	Page 7
1. § 151.4, “Public Testimony and Comments to the Texas Board of Criminal Justice” (37 TAC § 151.4)	
2. § 163.35, “Supervision” (37 TAC § 163.35)	
3. § 163.42, “Substantial Noncompliance” (37 TAC § 163.42)	
P. Request for Approval of a Pipeline Easement at the Daniel Unit in Scurry County	Page 7

TEXAS BOARD OF CRIMINAL JUSTICE
Summary of May 2007 Meeting

Meeting No. 131

The Texas Board of Criminal Justice convened into regular session on Thursday, May 24, 2007, for the Twelfth Annual Governor's Criminal Justice Volunteer Service Awards Ceremony at the Hilton Austin Hotel, Austin, Texas.

Twelfth Annual Governor's Criminal Justice Volunteer Services Awards Ceremony

Chairman Crain welcomed the volunteers and their guests and thanked them for attending the Twelfth Annual Governor's Volunteer Services Awards Ceremony. She noted that these volunteers represent the dedication and commitment of thousands of volunteers who make a difference in the daily lives of fellow Texans. These individuals give of themselves to help the criminal justice system better serve offenders and their families by providing them a chance for a better life.

Chairman Crain read a greeting from Governor Rick Perry, who was unable to attend the ceremony due to the many demands on his schedule. She then yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ). Mr. Livingston also welcomed the honorees attending the ceremony, acknowledging that the honorees represent thousands of volunteers who help make the criminal justice system work. The volunteers provide a unique support system for the offenders should they decide to use it. On behalf of the more than 38,000 TDCJ employees, Mr. Livingston thanked the volunteers for their endeavors as partners within the Agency. He extended his congratulations to the honorees and the programs they represent.

Chairman Crain introduced Susan Weddington as the keynote speaker for the award ceremony. In 2003, Governor Perry appointed Ms. Weddington to serve as the President of the OneStar Foundation, a nonprofit, nonpartisan organization dedicated to increasing the impact and effectiveness of Texas civil society through greater promotion and support of volunteerism, stronger group collaboration and partnerships, and healthier nonprofit organizations. Chairman Crain praised Ms. Weddington's commitment to serving others. She then yielded the floor to Ms. Weddington. Ms. Weddington's address spoke to what was working in the field of volunteerism. Volunteers' efforts are tangible evidence of what volunteers want to see happening in the criminal justice system. She recognized that the success of the volunteers' efforts is due to the support of the Board and leaders in state government, in addition to the leadership within TDCJ. Ms. Weddington stated that the goal is to extend the same support to every single place that either a crime victim or the offender exists so they have an opportunity to access what volunteers can bring to them. On behalf of the Governor and the past and future recipients of programs provided by the volunteers, Ms. Weddington expressed her gratitude and thanked the volunteers for being who they are and being available to do what they do. She also stated that with the volunteers' and the Board's permission, the OneStar Foundation would like to post the honorees testimonials on its website, recognizing their works and motivating other people to serve. She addressed the opportunities for volunteers in the areas of alternative sentencing, which can give individuals a chance not to languish in prison. These opportunities can afford the offenders a chance to integrate into the community at an earlier and quicker speed. Ms. Weddington stressed that volunteers can provide the quality of continuum of community care as part of the whole spectrum of reintegration and reentry. She expressed her goal through the efforts of the OneStar Foundation to rally the people in the community to be a part of what works in transforming hundreds, perhaps thousands, of lives if given the opportunity. Ms. Weddington requested that all the honorees stand while she read the following words by former President Theodore Roosevelt, "It is not the critic who counts, not the man who points out how the strong man stumbles, or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, because there is no effort without error and shortcoming, but who knows the great enthusiasms, the great devotions, who spends himself in a worthy cause; who, at the best, knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat." She recognized that these volunteers have known victory and defeat and keep on going. Ms. Weddington encouraged them to never stop and never give up. Applause followed.

Chairman Crain thanked Ms. Weddington for her kind words and encouragement to everyone present.

Chairman Crain recognized the late Nancy Hees, Ombudsman for the Parole Division, and the late Susan Cranford, a TDCJ employee for 28 years, for their work and positive, uplifting personalities that touched the lives of many, making them true ambassadors of the Agency. In honor of their positive influences throughout their careers, the Parole Division Volunteer Service Award will be known as the "Nancy Hees" Parole Division Award, and the Volunteer Award for Female Programs will be known as the "Susan Cranford" Female Offender Program Award. Chairman Crain recognized Ms. Hees' family, Cindy Davis, Karen Taylor and Chuck Taylor.

Chairman Crain yielded the floor to Board Member Tom Mechler, Master of Ceremonies. Mr. Mechler acknowledged it was an honor to serve as the Master of Ceremonies for the awards presentation. The honorees are the epitome of the caliber of volunteers who serve unselfishly to make a difference in the lives of those supervised by the Texas criminal justice system.

Awards were presented to the following recipients for their outstanding volunteer service: William "Bill" Hays - Chaplaincy Department Award; Sister Gertha Rogers - Correctional Institutions Division Award; Tony Salazar - "Nancy Hees" Parole Division Award; *W.M. - Substance Abuse Treatment Program Award; Glenna Holloman - Sex Offender Treatment Program Volunteer Award; Deborah Moseley - Victim Services Division "Pathfinder" Award; Dickson de la Haye - Windham School District "Judy Burd" Award; Green Acres Baptist Church- Religious Service Award; Horizon Communities in Prisons - Religious Service Award; Jesse Doiron - Restorative Justice Award; Lone Star Region Narcotics Anonymous - "Susan Cranford" Female Offender Program Award; Prison Entrepreneurship Program - Most Innovative Program Award; Solid Rock United Pentecostal Church - Community Service Award; Samaritan Hospitality House - Best Family Program Award; Kenneth Euton - Greatest Number of Hours Award; Sie Davis - Extensive Travel Award; Vernell Houska - TDCJ Employee Volunteer Award; and Tracy Bailey - Criminal Justice Administrator Award. Former Board Chairman Carol Vance presented John Zimmer, Sr. the "Carol S. Vance" Volunteer of the Year Award. **The name of this individual is respectfully omitted.*

Mr. Mechler thanked Mr. Vance for joining the Board in honoring the recipients of the Volunteer Service Awards. He requested that everyone join him in recognizing these individuals for their outstanding achievements. Chairman Crain thanked all presenters and honored guests for their attendance and wished them a safe return to their respective destinations.

Chairman Crain adjourned the Meeting of the Board and reconvened into executive session on Thursday, May 24, 2007, and reconvened into regular session on Friday, May 25, 2007, at the Hilton Austin Hotel, Austin, Texas.

Recognitions

Chairman Crain recognized and welcomed Annette Bell, daughter of Board member Oliver Bell.

Chairman Crain recognized the passing of Susan Cranford and read a Board Resolution honoring Ms. Cranford's outstanding career in criminal justice and service for the betterment of Texas. The resolution was presented to Ms. Cranford's family, Joe Cranford and Diane Strunk.

Bryan Collier, Director of the Parole Division, recognized Reta Flores as the Director of Review and Release Processing.

Nathaniel Quarterman, Director of the Correctional Institutions Division (CID), stated that the following recognitions were units that have received either their initial accreditation or reaccreditations from the American Correctional Association (ACA). David Stacks, Deputy Director for CID Management Operations, presented the following awards:

Initial Accreditation:

Duncan Transfer Facility-Monty Hudspeth

Lynaugh Unit/Fort Stockton Transfer Facility-Eduardo Carmona

Garza East/Garza West-Brenda Chaney

Montford Unit-Bobby Lumpkin accepted this award for Richard Wathen

Scott Unit-Richard Trinci
Stringfellow Unit-James Mossbarger
Wallace Unit/Ware Transfer Facility-J.V. Young

Reaccreditation:

Ellis Unit-Alfred Janicek
Hughes Unit-Dawn Grounds
Middleton Transfer Facility-Bryan Vandagriff
Murray Unit-Rita Thomas
Stevenson Unit-Kelvin Scott

Mr. Stacks noted that the CID has 64 units with ACA accreditation. The Baten Intermediate Sanction Facility and the Correctional Training Department are also accredited by the ACA. Additionally, eight (8) units will be considered in August 2007, by the ACA 137th Congress of Corrections. Mr. Livingston recognized Bobby Lumpkin, Coordinator of the TDCJ ACA Accreditation Office, praising his invaluable contributions to the ACA process. Chairman Crain congratulated all recipients and expressed the Board's appreciation for their hard work.

Chairman Crain recognized the outstanding work of Board office staff, Susan McHenry, Marie Freeland and Kathy Brooks for their participation in setting up the Board's meetings. She recognized Angela Moore, Executive Assistant to Mr. Livingston for her invaluable contributions to the meetings. Also recognized for their support during Board meetings, were Media Services (Jerry Holdenried, Terry Edwards and Jene Robbins), Office of the Inspector General staff, and Executive Services (David Standlee, Michelle Whitecotton and Denise Montgomery).

Chairman Crain recognized the TDCJ employees who have achieved 25, 30 and 35 years of service with the State of Texas during the months of April and May, 2007. The Board, along with Executive Director, Brad Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Consent Items

Chairman Crain inquired if there were any amendments or objections to the Consent Items as presented. There being none, the Consent Items were adopted as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employments
3. Personal Property Donations
4. Payment to Attorneys of Indigent Offenders
5. Sale and Disposal of Surplus Agricultural Goods and Agricultural Personal Property
6. Approval of the 130th Texas Board of Criminal Justice Meeting Minutes
7. Approval of Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Chairman Crain stated that Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Chairman Crain state that Judge Larry Gist, Chairman of the JAC, was unable to attend and report.

**Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
Update on the 80th Legislative Session**

Mr. Livingston provided an update on legislative action to date, noting that the conclusion of the session was Monday, May 28, 2007, and changes could occur. The appropriations process is essentially complete. The

Conference Committee on House Bill 1 substantially funded the expanded treatment bed programs. In addition to the treatment programs, the Conference Committee funded a number of Agency operational items, notably additional funding for utilities. In January 2007, the Agency changed its policy concerning the payment of overtime to correctional officers as they earn overtime, in lieu of banking the hours. The appropriation process provided funding for the Agency to continue this policy. Roughly, \$80 million has been funded for the ongoing repair of TDCJ facilities, an amount similar to what has been received in past sessions. Several basic operational areas have been funded. \$10 million has been allocated for agency fleet vehicle replacement. \$3 million for the replacement of personal computers has been funded for the biennium. Funding has been provided for 30 new positions for the Office of Inspector General and 20 staff positions for the Chaplaincy Department. Correctional Managed Health Care has received approximately \$92 million in additional funding to close the gap in its structural budget and provide the appropriate services on the TDCJ units.

Mr. Livingston reviewed the treatment items as funded in the appropriation process: 1,500 additional beds for the Substance Abuse Felony Treatment Prisons; 1,000 additional treatment slots for the in-prison therapeutic community program; and 500 Driving While Intoxicated (DWI) treatment beds. He noted that the DWI program was a new program that will require staff to work closely with the BPP, while the other beds were expansions to current programs. Funding was received for 300 additional halfway house beds and 800 additional probation beds. \$10 million dollars has been funded for additional outpatient substance abuse treatment for probation. \$10 million has been funded for basic supervision. Additionally, the legislature has funded a \$10 million increase for contracts for mental health services. In terms of facility construction, Mr. Livingston stated that the budget may include authority to begin the process, subject to the approval of the Legislative Budget Board (LBB). The legislature also provided \$5.8 million to reinstate the substance abuse programs in the state jail system that were in place prior to the 78th Legislative Session. Funding has been received for 1,400 additional beds for intermediate sanction facilities, which the General Appropriations Act specifies that those beds will be available for probation and parole offenders. Mr. Livingston noted that the legislature has invested significant funding for TDCJ's treatment programs in probation, incarceration and parole systems. He stated that TDCJ staff are poised to implement these programs efficiently and effectively when the session ends.

Mr. Livingston further noted other bills impacting the Agency. Senate Bill 909, the Sunset Legislation, provisions extend the life of the Agency, allow for early termination of both probation and parole, parolees under certain medically recommended intensive supervision, and expand TDCJ monitoring within the health care system. House Bill 1678 enhances probation, allows for reducing the maximum terms of probation, provides periodic judicial reviews of early termination of probation, and specifies under what conditions an offender may receive credit for time spent in jail or in treatment. Senate Bill 1580 requires the TDCJ to put in place an offender phone system. House Bill 8, "Jessica's Law," imposes a 25 year minimum sentence for sexually violent offenses against children 14 years and younger, eliminates parole eligibility for certain sex offenders, makes a second conviction of sexually violent offense against a child under the age of 14 years a capital felony and extends the statute of limitations for sexually violent offenses against children. In terms of employee compensation, the Sunset legislation includes an expanded career ladder for parole officers, which is in addition to the 2% pay raise in each year of the biennium included in the General Appropriations Act.

Chairman Crain thanked Mr. Livingston and his staff for their tremendous leadership. She noted that throughout the session senior management was presented with many challenges, taking on each one with an unwavering professional spirit. She opened the floor for comments from the Board. On behalf of the Board, Board Member Pierce Miller recognized Chairman Crain's time working and assisting senior management during the legislative process and extended the Board's gratitude and appreciation for all her efforts.

Approval of Proposed Creation of Private Facility Contract Monitoring/Oversight Division *APPROVED*

Mr. Livingston stated that contract oversight and monitoring functions currently in the CID, Parole Division and the Rehabilitation and Reentry Programs Division, were proposed for transition to a new division. He noted that the TDCJ has more contract beds than any correction system within the country. Additionally, the number of treatment beds and contract expansion beds approved in the appropriations process significantly increases the scope and size of that function. Mr. Livingston suggested that the timing was right for the transition of these functions into one (1)

division that is singularly focused on contract monitoring and oversight. He advised the Board that given the magnitude of the treatment programs and expansions approved by the 80th Legislative Session, more monitoring staff will be added to make certain all areas are handled in an effective and appropriate way. After consulting previous internal audits performed by TDCJ Internal Audit staff, he assured the Board that these issues were outlined in those audits over the past several years.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Chairman Crain stated that Judy Briscoe, Chairman of ACOOMMI, had no report.

Internal Audit Status Report for Fiscal Year 2007

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0702 – Parole Division, Client Supervision:** The audit required more fieldwork and delayed the release of the draft report, which should be released by the end of May.
- **0704 – Parole Division, Interstate Compact:** The audit is in background and moving forward.
- **0706 – Executive Administration Services, Emergency Action Center:** The draft report is being revised and should be released to staff for comments by the first week in June.
- **0707 – Correctional Institutions Division, Offender Visitation:** Management responses to the report have been received and a final report should be sent forward by June 1st.
- **0708 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** The audit has moved into fieldwork and continues on schedule.
- **0709 – Human Resources Division, Application Processing:** The audit has moved into fieldwork and remains on schedule.
- **0711 – Information Technology Division, Wireless Phones and Pagers:** The audit has moved into fieldwork and remains on schedule.
- **0712 – Facilities Division, Resources Management:** The audit has moved into background and is progressing.
- **0717 – Business and Finance Division, Agribusiness, Land and Minerals, Business Administration:** The draft report was issued on May 9th and an exit conference is scheduled for May 30th.
- **0718 – Business and Finance Division, Agribusiness, Land and Minerals, Maintenance:** The audit is currently in background.
- **0721 – Parole Division, Absconder Identification and Tracking:** The final report was issued on May 14th.

Approval of Purchases and Contracts Over One Million Dollars

APPROVED

Charles Marsh, Chief Financial Officer, reviewed the contracts over \$1 million which included increases to existing contracts, renewals of varied existing contracts for Fiscal Year 2008 that included a 10% variance for the bulk fuel contract, a renewal of the contract for the electronic monitoring systems and services, renewals of contracts for halfway house services, new contracts for beef trimmings for offender consumption and reflective sheeting for license plate production and a contract for environmental services to support the Agency's maintenance and repair program.

Mr. Miller clarified that the environmental services contract replaces the contract that the Board approved in July, 2002. Mr. Marsh responded affirmatively, explaining that until recently, the Agency was able to operate under the \$1 million threshold. Mr. Miller commented that the 10% for bulk fuel was truly needed. Chairman Crain inquired if the 10% variance in the contract for bulk fuel was adequate. Mr. Marsh responded that the variable rate for fuel was unpredictable, noting that the 10% proposal could be adjusted if needed.

Approval of Amendments to Personnel Directive PD-73, "Selection Criteria for Correctional Officer Applicants"

APPROVED

Melinda Bozarth, TDCJ General Counsel, stated that Board Policy 01.01, "Board Responsibilities," requires the Board to annually review and approve directives related to equal employment opportunities. The Agency's proposed revisions to PD-73, "Selection Criteria for Correctional Officer Applicants," contained two (2) substantive changes, which includes a definition to clarify offenses involving domestic violence and defines the high school equivalency to include a transcript and signed affidavit of the completion of high school via home schooling.

Approval of Revisions to Board Policies

1. BP-01.01, "Texas Board of Criminal Justice Responsibilities"

APPROVED

Ms. Bozarth reviewed the changes as provided in the agenda packet materials (which conform policy to current practices and outline agency policies and directives requiring annual review and/or approval by the Board) noting that the proposed revisions included the restoration of an inadvertently deleted phrase in Section II.A.2, "...upon notification to the Chairman of the Board." She stated that a technical edit would also be made to Section II.E., blending the numeral topic into paragraph E as follows, "The bimonthly investment report shall be submitted..."

2. BP-01.03, "Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice"

APPROVED

Ms. Bozarth stated that the revisions were primarily to conform to the revisions found in BP-01.01, "Texas Board of Criminal Justice Responsibilities." In addition, Section II.F should be corrected to state "...in accordance with Section II.B.30 of BP-01.01...." and Section II.I should be corrected to state "...in accordance with Section II.B.6 of BP-01.01 "Texas Board of Criminal Justice Responsibilities."

3. BP-10.05, "Delegation of Authority for Facility Projects"

APPROVED

Ms. Bozarth noted that the changes conform the policy to revisions found in the previous two (2) approved Board policies.

Adoption of New Board Rule 159.17, Texas Administrative Code (TAC) Concerning Employment Referral Services for Offenders and the Memorandum of Understanding (37 TAC § 159.17)

APPROVED

Ms. Bozarth stated that at the March 30, 2007, meeting the Board authorized staff to publish the proposed new rule in the Texas Register (April 13, 2007, edition) for public comment. No comments were received.

Approval of Proposed New Board Rules, Title 37, TAC

1. § 152.33, "Addition to Estes Unit Capacity" (37 TAC § 152.33)

APPROVED

Ms. Bozarth stated the new rule will increase the capacity of the Estes Unit by 40 beds. This increase was authorized with the passage of House Bill 198, which increases the capacity at a private prison from 1,000 to 1,150. If approved by the Board, the proposed new rule would be published in the Texas Register for public comment and posted on the unit for offender comments.

2. § 152.35, "Addition to Bartlett State Jail Capacity" (37 TAC § 152.35)

APPROVED

Ms. Bozarth stated that the rule proposes a 48-bed increase to the Bartlett State Jail capacity. If approved by the Board, the proposed new rule would be published in the Texas Register for public comment and posted on the unit for offender comments.

Approval of Proposed Amendment to Board Rules, Title 37, TAC

1. § 151.4, “Public Testimony and Comments to the Texas Board of Criminal Justice” (37 TAC § 151.4)

APPROVED

Ms. Bozarth noted that greater detail has been added to the rule to provide better guidance to the public concerning presentations and comments to the Board. She further noted that in Section (e), the word “calendar” was omitted, and she recommended the insertion to read as follows, “Requests for accommodation shall be made at least two (2) calendar days prior to a posted meeting.” She requested that the Board approve the proposed amendments for publication in the Texas Register for 30 days for public comment.

2. § 163.35, “Supervision” (37 TAC § 163.35)

APPROVED

Ms. Bozarth stated that this rule was part of the Community Justice Assistance Division (CJAD) Standards. Subsequent to its required four (4) year review, Agency staff and the JAC recommend that the rule remain in effect. Non-substantive changes have been made to the rule language. Ms. Bozarth recommended that the Board approve the proposed amendments be published in the Texas Register for 30 days to receive public comments.

3. § 163.42, “Substantial Noncompliance” (37 TAC § 163.42)

APPROVED

Ms. Bozarth stated that this rule was part of the CJAD Standards. Subsequent to its required four (4) year review, Agency staff and the JAC recommended a new provision wherein counties, which manage funds allocated for community supervision and corrections departments, are subject to audits by the TDCJ Internal Audit Department, the LBB, the Texas State Auditors Office or the Texas Sunset Advisory Commission. Ms. Bozarth recommended the proposed amendments be published in the Texas Register for 30 days to receive public comments.

Request for Approval of a Pipeline Easement at the Daniel Unit in Scurry County

Chairman Crain stated for the record that this item was passed for action and discussion by the Board.

Thanking the audience for their interest in the proceedings of the Board, Chairman Crain announced that the next meeting of the TBCJ will be July 12-13, 2007, on the fourth floor of the Hilton Austin.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 131st meeting of the Board at 10:04 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

July 12 - 13, 2007

Table of Contents for Summary

A. Recognitions.....	Page 1
B. Consent Items.....	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC)	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 2
F. Report from the Chairman, Advisory Committee on Offenders With Medical or Mental Impairments (ACOOMMI)	Page 2
G. Approval of the Fiscal Year 2008 Annual Audit Plan.....	Page 2
H. Approval of Purchases and Contracts Over One (1) Million Dollars.....	Page 3
I. Approval of the Salary for the TDCJ Executive Director.....	Page 3
J. Approval of the TDCJ Fiscal Year 2008 Proposed Operating Budget	Page 3
K. Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters.....	Page 3
L. Annual Review and Approval of BP-14.67, “Purchasing and Contracting with Historically Underutilized Businesses”.....	Page 3
M. Approval of Proposed Amendments to Board Policies	Page 3
1. BP-03.91, “Uniform Offender Correspondence Rules”	
2. BP-03.77, “Offender Grievances”	
N. Annual Review and Approval of Amendments to Administrative Directives.....	Page 4
1. AD-03.82, “Management of Offender Grievances”	
2. AD-04.35, “Review of Offender Disciplinary Actions”	
O. Approval of Proposed Amendments to Board Rules, Title 37, TAC	Page 4
1. § 151.3, “Texas Board of Criminal Justice Operating Procedures” (37 TAC § 151.3)	
2. § 151.25, “Tobacco Policy” (37 TAC § 151.25)	
3. § 155.31, “Establishing Procedures for Resolving Contract Claims and Disputes” (37 TAC § 155.31)	
P. Approval of Facilities Division Projects.....	Page 5
1. Cleveland Unit – Replace Roof on Multiple Buildings	
2. Coffield Unit – Replace Roof on Multiple Buildings	
3. Goree Unit – Upgrade Emergency Door Release System	
4. McConnell Unit – Replace Roof on Multiple Buildings	
5. Scott Unit – Replace Main Building Roof	
6. Coffield Unit – Replace Water Distribution Lines	

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 132

The Texas Board of Criminal Justice convened into regular session and adjourned into executive session on Thursday, July 12, 2007, and reconvened into regular session on Friday, July 13, 2007, at the Hilton Austin Hotel, Austin, Texas.

Recognitions

Chairman Crain yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), for several recognitions.

Mr. Livingston recognized Bryan Collier as the recently appointed Deputy Executive Director. Mr. Collier thanked Mr. Livingston for giving him the opportunity to serve the Board and the Agency in this new capacity. Chairman Crain congratulated him on his promotion.

Mr. Livingston recognized Dr. Lannette Linthicum, Health Services Director, as the recipient of an American Corrections Association's (ACA) *Best in the Business Award*, which is dedicated to recognizing employees throughout the country who exhibit skills, leadership, dedication and have earned a reputation for their expertise. She was featured in the June 2007, issue of *Corrections Today*. Dr. Linthicum has a national reputation for delivering health care to offender populations. Mr. Livingston noted that this recognition by the ACA was a confirmation of the outstanding work that Dr. Linthicum does for the Agency every day. Dr. Linthicum thanked Mr. Livingston and the Board.

Mr. Livingston recognized Carol Blair Johnston, Director of the Human Resources Division, and presented her with a 25-Year State of Texas Service Award. He thanked Ms. Johnston for her high degree of excellence while serving the State of Texas. Ms. Johnston stated that it has been an honor to serve TDCJ employees who carry out the Agency's mission in helping individuals reenter Texas communities.

Mr. Livingston recognized Dee Wilson, Director of the Texas Correctional Office on Offenders with Medical and Mental Impairments, noting her outstanding work in the field of mental health issues within the criminal justice arena, and presented her with a 20-Year State of Texas Service Award.

Mr. Livingston recognized Celeste Byrne as the Director of the newly created Private Facilities and Contract Monitoring and Oversight Division. Ms. Byrne thanked Mr. Livingston and the Board for their confidence in her.

Chairman Crain recognized the TDCJ employees who achieved 25, 30 and 35 years of service with the State of Texas during the months of June and July, 2007. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Consent Items

Chairman Crain inquired if there were any amendments or objections to the Consent Items as presented. There being none, the Consent Items were adopted as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employments
3. Personal Property Donations
4. Payment to Attorneys of Indigent Offenders
5. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
6. Approval of Amendments to the 129th TBCJ Meeting Minutes

7. Approval of the 131st TBCJ Meeting Minutes
8. Approval of Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Chairman Crain stated that Rissie Owens, Presiding Officer of the Texas BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Gist, JAC Chairman, introduced the following JAC members: Judge Mary Anne Bramblett, Vice Chair (El Paso); Judge Lee Gabriel (Denton); Richard Anderson who has recently been appointed Federal Public Defender for the Northern District of Texas; and Dr. Mel Brown, retired Community Corrections Supervisor and Officer.

Judge Gist recognized Tom Plumlee as the recipient of the National Association of Probation Executive's Award for Outstanding Probation Executive of the Year. Mr. Plumlee is the Director of the Community Supervision and Corrections Department (CSCD) in Fort Worth.

Judge Gist advised the Board of substantive changes in the probation law passed by the Legislature that will enhance the ability to improve public safety by supervising and treating the people under community supervision. The limits for mandatory drug courts were lowered to counties that have a population of 250,000 or more. This legislation will increase the number of drug courts as well as make the drug courts more flexible to the needs in the counties. The law requires that second offense offenders for Driving While Intoxicated (DWI) convictions must go through a DWI drug court as part of the rehabilitative process.

Judge Gist noted that some progressive sanctions have become part of the law, such as allowing the Community Justice Assistance Division (CJAD) the ability to provide grants for successive supervision in a progressive sanction model. This law targets medium and high risk offenders. The law for state jail felony possession cases and certain property crimes assessed as a misdemeanor punishment was revised to require that offenders receive probation. Judge Gist stated that judges could now direct a defendant, whose state jail deferred adjudication probation sentence has been revoked, to the state jail system. Under a new law, an offender can receive credit for time served in a residential treatment facility if the offender completes the program. A funding formula for restitution fees is being developed to aid judges and probation departments in assisting offenders who are completing their programs on time. Judge Gist discussed early release review, noting that several discretionary factors could deny offenders this review, such as sex offenses, DWI offenses and 3G (aggravated or more violent) offenses. Probation departments are also now allowed to collect fines and fees by credit or debit card, which will streamline the collections system.

Chairman Crain thanked Judge Gist and the other members of the JAC for their continuing support. She also thanked Mr. Anderson for his service on the JAC and offered the Board's best wishes to him on his future endeavors.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Chairman Crain stated that Mr. Livingston had no report at this time. Ms. Crain thanked Mr. Livingston and his staff for their hard work and dedication throughout the legislative session.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Judy Briscoe, Chairman of ACOOMMI, did not have a report.

Approval of the Fiscal Year 2008 Annual Audit Plan

APPROVED

Raymond Pyeatt, Internal Audit Director, stated the Audit and Review Committee received a thorough briefing on the Fiscal Year (FY) 2008 Audit Plan on July 12, 2007 and asked for approval of the FY 2008 Annual Audit Plan.

Approval of Purchases and Contracts Over One (1) Million Dollars

APPROVED

Ron Steffa, Director for Contracts and Procurement, reviewed the purchases and contracts over one (1) million dollars which included increases to existing contracts, renewal of service contracts, a contract for temporary capacity, FY 2008 services and food contracts, an open market contract for vehicles, and contracts for the food requirements for FY 2008.

Chairman Crain stated that she would like the record to reflect the following disclosure: The Chairman's mother is employed by Dallas Metro Care Services, a mental health provider in Dallas County. Today the Board has been asked to approve a contract with the Texas Department of Health Services for case management and continuity of services for offenders in Dallas and Ellis counties. The Department of State Health Services may contract with Dallas Metro Care Services for services under this contract. Chairman Crain noted that as Chairman she does not vote on motions except to break a tie. Therefore, she stated she would not vote on whether this contract was approved. Chairman Crain further noted that in an abundance of caution, she wanted to disclose for the record this relationship and potential conflict.

Approval of the Salary for the TDCJ Executive Director

APPROVED

The Board voted unanimously to approve the salary of the Executive Director of the TDCJ, as provided by the 80th Legislature, in the amount of \$181,500.00, with an effective date of September 1, 2007.

Approval of the TDCJ Fiscal Year 2008 Proposed Operating Budget

APPROVED

Jerry McGinty, Budget Director, noted that each Board member had received individual briefings regarding the FY 2008 Proposed Operating Budget, and that the Business and Financial Operations Committee received a detailed briefing on the FY 2008 Operating Budget as well. He stated that the operating budget was \$2.8 billion, and by including the construction funds, the overall budget was \$2.872 billion. The budget is consistent with legislative appropriations, providing funding for more alternatives to incarceration. It also includes the approved state employee pay raise of 2%.

Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters

APPROVED

Mr. McGinty noted that when the Agency receives additional funds for general obligation bonds, a request for financing from the Texas Public Finance Authority is required. As part of this request, the Board has to approve a resolution authorizing the request for \$40 million for repair and rehabilitation of facilities in addition to \$10.4 million for repairs to the Hospital Galveston facility, which is consistent with decisions made by the legislature.

Annual Review and Approval of BP-14.67, "Purchasing and Contracting with Historically Underutilized Businesses"

APPROVED

Melinda Bozarth, General Counsel, reviewed Board Policy 14.67, "Purchasing and Contracting with Historically Underutilized Business." She explained that all state agencies have to adopt the rules promulgated by the Texas Building and Procurement Commission to govern the purchasing and contracting with historically underutilized businesses. Through this policy, the Board is complying with those rules. Ms. Bozarth recommended that one (1) change be made prior to approving the revised policy, which is the addition of Section 493.012, Texas Government Code to the authority section of the policy.

Approval of Proposed Amendments to Board Policies

1. BP-03.91, "Uniform Offender Correspondence Rules"

APPROVED

Ms. Bozarth noted the following substantive revisions: addition of a definition for legal correspondent, addition of the watch list, addition of a provision that allows an offender to meet with another offender regarding a legal matter,

addition of an exception regarding offenders who abuse the mail privileges, and an exception to the 24-hour rule of processing mail for offenders who are on the watch list.

Chairman Crain stated that one (1) speaker, Ms. Nancy Bailey, Texas Coalition to Abolish the Death Penalty, had requested to address this topic. Ms. Bailey addressed her comments to Section I.B.C.6 regarding funds for indigent offenders, which states that TDCJ can recoup funds from an offender's trust fund within a 60-day period from when an offender becomes indigent. She advised that money donated by certain groups, to include church groups, and certain individuals to an indigent offender's trust fund account would be taken away by TDCJ, which would have an adverse affect on offenders who receive very little money from the outside. She noted that this part of the policy would treat offenders unfairly because they were indigent.

2. BP-03.77, "Offender Grievances"

APPROVED

Ms. Bozarth explained that the policy concerning "Offender Grievances" has an added statement that directs the Board to approve all revisions to the Administrative Directives that manage offender grievances.

Annual Review and Approval of Amendments to Administrative Directives

1. AD-03.82, "Management of Offender Grievances"

APPROVED

Ms. Bozarth noted that Board Policy 01.01, "TBCJ Responsibilities" requires that the Board annually review this directive and approve any subsequent revisions. She noted the following substantive revisions: clarification made to Section VII.A.1 regarding grievances of sexual assault of an offender, addition of a note to Section VIII clarifying existing policy, clarification of Section VIII.A. regarding informal resolution of grievances and deletion of a provision that allows an offender to withdraw a grievance.

2. AD-04.35, "Review of Offender Disciplinary Actions"

APPROVED

Ms. Bozarth stated that in accordance with Board Policy 01.01, this Administrative Directive, along with any subsequent revisions, was before the Board for annual review. She noted substantive revisions to the directive were additions to Section IV.D. regarding court orders and Section VII. regarding disciplinary cases of offenders within the custody of the Parole Division.

Approval of Proposed Amendments to Board Rules, Title 37, Texas Administrative Code (TAC)

1. §151.3, Texas Board of Criminal Justice Operating Procedures (37 TAC §151.3)

APPROVED

Ms. Bozarth stated that the amendments for this rule, the majority of which were for clarification, were the result of a four (4)-year review. The following provisions were also recommended for inclusion under Section (c)13: the addition of the TDCJ Executive Director and the Chairman of the ACCOOMI as standing items for the Board's regular session meetings, which has been the Board's practice for several meetings; and a requirement for the Chairman of the Correctional Managed Health Care Committee to report at every regular session meeting of the Board, which was a recommendation of the Sunset Advisory Commission.

2. §151.25, Tobacco Policy (37 TAC § 151.25)

APPROVED

Ms. Bozarth noted that state law places the responsibility on the Board for adopting rules regulating the possession and use of tobacco products by employees of the Agency. The amendments to the rule simplify the process of designating smoking areas, setting a standard that would be applied for all administrative facilities and correctional facilities operated by the Agency. The designated area would be 15 feet from the entryway to the building or the facilities main entrance and preferably removed from the view of passing traffic.

**3. §155.31, Establishing Procedures for Resolving Contract Claims and Disputes
(37 TAC §155.31)**

APPROVED

Ms. Bozarth noted the rule and subsequent amendments were the result of a four (4)-year review. Due to the complexity of the rule language, the recommend amendments are proposed for clarification, such as deleting the definition and references to the Chief Administrative Officer, which is obsolete, and the addition of the definition and references to the Executive Director, which fits current practice. Ms. Bozarth recommended that Section (m)3, which contains provisions that were repealed in the 79th Legislative Session, be removed and subsequent sections be renumbered correspondingly. All references throughout this rule referencing the recommended deleted sections will be updated before publication in the Texas Register.

Approval of Facilities Division Projects

1. Cleveland Unit – Replace Roof on Multiple Buildings

APPROVED

Frank Inmon, Director of the Facilities Division, noted that all six (6) projects presented to the Board for approval were briefed in detail before the Business and Financial Operations Committee. He requested the Board's approval for the replacement of the roof on multiple buildings at the Cleveland Unit for a total project cost of \$1,091,400.

2. Coffield Unit – Replace Roof on Multiple Buildings

APPROVED

Mr. Inmon requested the Board's approval for the replacement of the roof on multiple buildings at the Coffield Unit for a total project cost of \$2,679,600.

3. Goree Unit – Upgrade Emergency Door Release System

APPROVED

Mr. Inmon requested approval for an upgrade to the emergency door release system at the Goree Unit, for a total project cost of \$1,344,200.

4. McConnell Unit – Replace Roof on Multiple Buildings

APPROVED

Mr. Inmon requested approval to replace the roof on multiple buildings at the McConnell Unit for a total project cost of \$5,092,400.

5. Scott Unit – Replace Main Building Roof

APPROVED

Mr. Inmon noted that during the Business and Financial Operations Committee, Mr. Miller had inquired if the skylights in Building A were being removed for security reasons or for leakage problems. He advised the Board that the skylights were being removed to avoid leaks. Mr. Inmon requested approval to replace the main building roof at the Scott Unit for a total project cost of \$1,966,200.

6. Coffield Unit – Replace Water Distribution Lines

APPROVED

Mr. Inmon noted that during the Business and Financial Operations Committee, Mr. Miller had asked if Texas Correctional Industries (TCI) was providing work on this project. He advised the Board that TCI was not providing any work for this project. Mr. Inmon requested approval to increase the budget to replace the water distribution lines on the Coffield Unit by \$354,900. This results in a total project budget of \$3,677,700.

Chairman Crain thanked attendees for coming to the meeting and stated that the Board was scheduled to meet next on September 13-14, 2007, at the Austin Marriott South.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 132nd meeting of the Board at 10:04 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Marriott Austin Airport South
Austin, Texas

September 13, 2007

Table of Contents for Summary

A. Recognitions.....	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC)	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 2
F. Report from the Chairman, Advisory Committee on Offenders With Medical or Mental Impairments (ACOOMMI)	Page 2
G. Internal Audit Status Report For Fiscal Year 2007	Page 2
H. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 3
I. Discussion, Consideration and Possible Action Regarding Salary Increases for the Inspector General, Director of Internal Audit and Director of the State Counsel for Offenders.....	Page 3
J. Discussion, Consideration and Possible Action Regarding Personnel Directives.....	Page 3
1. PD-12, "Equal Employment Opportunity"	
2. PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature"	
3. PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"	
4. PD-29, "Sexual Misconduct with Offenders"	
5. PD-30, "Employee Grievance Procedures"	
6. PD-31, "Discrimination in the Workplace"	
7. PD-52, "Performance Evaluations"	
8. PD-72, "Employee Salary Administration"	
9. PD-73, "Selection Criteria for Correctional Officer Applicants"	
10. PD-97, "Training and Staff Development"	
K. Discussion, Consideration and Possible Action Regarding Repeal of Board Policy 13.70, "Indigent Offender Representation Fee Schedule".....	Page 4
L. Discussion, Consideration and Possible Action Regarding New Board Rules.....	Page 4
1. § 152.33, Addition to Estes Unit Capacity (37 TAC § 152.33)	
2. § 152.35, Addition to Bartlett State Jail Capacity (37 TAC § 152.35)	
M. Discussion, Consideration and Possible Action Regarding Amendments to Board Rules.....	Page 4
1. § 151.3, Texas Board of Criminal Justice Operating Procedures (37 TAC § 151.3)	
2. § 151.4, Public Testimony and Comments to the Texas Board of Criminal Justice (37 TAC § 151.4)	
3. § 151.25, Texas Department of Criminal Justice Tobacco Policy (37 TAC § 151.25)	
4. § 155.31, Establishing Procedures for Resolving Contract Claims and Disputes (37 TAC § 155.31)	
5. § 163.35, Supervision (37 TAC § 163.35)	
6. § 163.42, Substantial Noncompliance (37 TAC § 163.42)	

N.	Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules	Page 5
1.	§ 151.71, Marking of State Vehicles of the Department of Criminal Justice (37 TAC § 151.71)	
2.	§ 155.23, Site Selection Process for the Location of Additional Facilities (37 TAC § 155.23)	
O.	Discussion, Consideration and Possible Action Regarding Land Transactions	Page 6
1.	Land Transfer and an Access Easement to Burnet County in Burnet, Texas	
2.	Land Transfer to the City of Winnsboro in Winnsboro, Texas	
3.	Renewal of United States Coast Guard Lease on Ramsey Unit in Brazoria County, in Rosharon, Texas	
4.	Conveyance of Iron Ore Mineral Rights to Mark Holbert in Cherokee County, Near Rusk, Texas	
P.	Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects	Page 6
1.	Middleton Unit – Energy Efficiency Project	
2.	Montford Unit – Energy Efficiency Project	
Q.	Discussion, Consideration and Possible Action Regarding Prison Industry Enhancement (PIE) Contract With Unique Performance Company at the Powledge Unit in Anderson County, in Tennessee Colony, Texas ...	Page 7
R.	Public Comments	Page 7

**SUMMARY OF MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 133

The Texas Board of Criminal Justice (TBCJ) convened into regular session and adjourned into executive session on Thursday, September 13, 2007, and reconvened into regular session, at the Marriott Austin Airport South, Austin, Texas.

Recognitions

Chairman Crain recognized Ed Owens, former Deputy Executive Director, on his retirement from the Texas Department of Criminal Justice (TDCJ). She read a Resolution of Commendation honoring his career. On behalf of the Board, Chairman Crain thanked Mr. Owens for his dedicated service to public safety and the State of Texas. Mr. Owens thanked the Board and executive administration for their support during his career. Chairman Crain recognized Rissie Owens and thanked her for allowing Mr. Owens to work these many years with TDCJ staff.

Chairman Crain recognized Brad Livingston, TDCJ Executive Director, on his selection as Administrator of the Year by the Texas Public Employees Association, a nonpartisan, non-union association, which is the leading advocate for all state employees before the Texas legislature. It is also the oldest and largest state employee group in Texas. Mr. Livingston's nomination and selection of this award speaks highly of the respect that he has gained due to his leadership and dedication to the Agency and its employees. Chairman Crain expressed the Board's gratitude for having the benefit of Mr. Livingston's expertise and talents. Mr. Livingston stated that this award is a reflection on the quality of the team employed by TDCJ, both at the senior level and in the field.

Chairman Crain recognized John Moriarty, Inspector General, on receiving his Master's Degree in Criminal Justice from Texas State University.

Charles Marsh, Chief Financial Officer, recognized Jerry McGinty as the Deputy Chief Financial Officer, and Sherry Koenig, as the Budget Director.

Mr. Livingston recognized Stuart Jenkins as the Director of the Parole Division.

Carol Johnston, Director of the Human Resources Division, recognized Jan Thornton as the Manager of Employment and Support Operations.

Chairman Crain recognized the TDCJ employees who have achieved 25, 30 and 35 years of service with the State of Texas during the months of August and September 2007. The Board, along with Executive Director, Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Consent Items

Chairman Crain inquired if there were any amendments or objections to the proposed Consent Items as presented. There being none, the Consent Items were adopted as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 132nd TBCJ Meeting Minutes
6. Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Brad Livingston, Executive Director of the TDCJ, had no report.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Judy Briscoe, Chairman of the ACOOMMI, reported on the implementation status of the Memorandum of Understanding (MOU) with the health and human services agencies. Ms. Briscoe stated that the Board has received several briefings over the past few years regarding the MOUs between TDCJ or among TDCJ with the various health and human services agencies who oversee issues dealing with public health, physical disabilities, mental health, mental retardation and aging. Texas is the only state in the nation that has a continuity of care legislative mandate. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) is statutorily responsible for monitoring the implementation of the MOUs and reporting the status of activities to the Board and the legislature. Ms. Briscoe reported that during the past several months the following implementation activities have been initiated: TDCJ and the agencies have begun efforts to cross-reference appropriate databases to determine if offenders are receiving or have ever received services from the health and human service agencies. This activity will help TCOOMMI identify offenders with special needs as well as minimize duplication of effort. TCOOMMI is in the process of developing a list of contact staff for each health and human service agency who responds to any criminal justice referral, i.e. community supervision, the Correctional Institutions Division (CID) or parole. These contact lists should expedite the eligibility and service delivery process. Ms. Briscoe stated that TCOOMMI has provided training and completed the necessary paperwork for those health and human services workers that will be going to CID units to conduct eligibility and service plan activities for offenders scheduled for release within six (6) months.

Chairman Crain opened the floor for questions or comments. There were none.

Internal Audit Status Report for Fiscal Year 2007

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0704 – Parole Division, *Interstate Compact*:** The report is still being revised and a few weeks behind schedule due to the lead auditor being out on emergency state duty with Hurricane Dean.
- **0705 – Board of Pardons and Paroles, *Hearing*:** The audit was assigned on August 28th.
- **0706 – Executive Administrative Services, *Emergency Action Center*:** The audit has been completed. A final report was issued on August 22nd.
- **0708 – Texas Correctional Office on Offenders with Medical or Mental Impairments, *Continuity of Care*:** The draft report was released on August 30th. A final exit conference is pending.
- **0709 – Human Resources Division, *Application Processing*:** The draft report was released on August 20th. The staff responses are due on September 21st.
- **0711 – Information Technology Division, *Wireless Phones and Pagers*:** The audit was completed on September 12th.
- **0712 – Facilities Division, *Resources Management*:** The audit is in fieldwork. Since the lead auditor had a family emergency, the audit is a few weeks behind schedule.

- **0714 – Information Technology Division, Information System Security:** The draft report was released and an exit conference is scheduled on September 18th.
- **0715 – Correctional Institutions Division, State Ready Intake Processing, Offender Mail Services:** The report is being written. The draft report will be released soon.
- **0716 – Information Technology Division, Offender Information Management System:** The report is being written.
- **0717 – Business and Finance Division, Agribusiness, Land and Minerals, Business Administration:** The final report was issued on August 14th.
- **0718 – Business and Finance Division, Agribusiness, Land and Minerals, Maintenance:** The audit is in fieldwork. The audit is somewhat behind schedule because the lead auditor was assigned to another audit, which needed more fieldwork.
- **0720 – Health Services Division, Public Health:** The draft report was released. Staff responses are due on September 14th.
- **0721 – Parole Division, Absconder Identification and Tracking:** The final report was issued on May 14th.
- **0722 – Business and Finance Division, Anti-Fraud Coordination:** The audit has moved into control assessment and remains on schedule.
- **0724 – Texas Department of Criminal Justice, Internal Audit Division, Action Plan Tracking:** The final report was issued on September 10th.

Mr. Pyeatt stated he would be pleased to answer any questions the Board may have. There were none.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars

APPROVED

Mr. Marsh reviewed the purchases and contracts over one (1) million dollars, which included an open market blanket order for corrugated cardboard sheets, two (2) increases to service contracts to the Estes Correctional Center and the Bartlett State Jail that will increase the number of beds to each facility, and five (5) service contracts in support of TDCJ's diversion program provided for by the 80th Legislative Session which will add beds to the In-Prison Therapeutic Community Program, Substance Abuse Felony Punishment Facilities, Driving While Intoxicated Facility, Intermediate Sanction Facilities and State Jail Substance Abuse Program. He noted that the amount column indicated the full contract amount should the contract be extended through the entire contract period.

Chairman Crain asked if there were any questions or comments. Leo Valdez asked if items 4-8 on the chart were already awarded. Mr. Marsh responded that some of the contracts are in the contract bidding process and that the appropriated amount was used as an estimated amount in order to bring the programs on line as quickly as possible. Mr. Miller asked if the dollar amount reflected on the chart was for two (2) years. Mr. Marsh responded that the amount was for the entire contract period as specified on the chart.

Chairman Crain asked if there were any other questions. There were none.

Discussion, Consideration and Possible Action Regarding Salary Increases for the Inspector General, Director of Internal Audit and Director of the State Counsel for Offenders

APPROVED

Chairman Crain called for a motion and second regarding salary increases for the Inspector General, Director of Internal Audit and Director of the State Counsel for Offenders.

Discussion, Consideration and Possible Action Regarding Personnel Directives

APPROVED

1. PD-12, "Equal Employment Opportunity"
2. PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature"
3. PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"
4. PD-29, "Sexual Misconduct with Offenders"
5. PD-30, "Employee Grievance Procedures"
6. PD-31, "Discrimination in the Workplace"
7. PD-52, "Performance Evaluations"

8. PD-72, "Employee Salary Administration"
9. PD-73, "Selection Criteria for Correctional Officer Applicants"
10. PD-97, "Training and Staff Development"

Melinda Bozarth, General Counsel, noted that Ms. Johnston, Division Director for Human Resources, provided the Board with an in-depth review of proposed changes to the ten (10) personnel directives at the Human Resources Committee meeting held earlier in the day. According to Board Policy 01.01 – Board Responsibilities, the Board must review and approve annually any revisions to these policies. Ms. Bozarth requested that the Board move forward with the adoption of the amendments to the policies as presented during the committee meeting.

Chairman Crain asked if there were any comments or questions. There were none.

Discussion, Consideration and Possible Action Regarding Repeal of Board Policy 13.70, "Indigent Offender Representation Fee Schedule"

APPROVED

Ms. Bozarth stated that House Bill 1267, 80th Legislative Session, removes TBCJ from the review of attorneys' fees pursuant to attorneys appointed to represent offenders charged with crimes committed in prison, when State Counsel for Offenders due to a conflict of interest could not represent those offenders. She noted that the policy is no longer necessary and she requested that it be rescinded.

Chairman Crain asked if there were any comments or questions. There were none.

Discussion, Consideration and Possible Action Regarding New Board Rules

1. § 152.33, Addition to Estes Unit Capacity (37 TAC § 152.33)

APPROVED

Ms. Bozarth noted that the rule increases the capacity of the Estes Unit by 40 beds to a total capacity of 1,040. After publication in the June 15, 2007, issue of the Texas Register for public comment, one (1) comment was received by an offender, who expressed concern about the staffing levels, training, overtime and staff morale. Ms. Bozarth stated that while the Estes Unit has an officer vacancy rate of 25%, these vacancies are being filled through overtime; correctional officers were paid over \$450,000 in overtime during the past year. The turnover rate is 4%, which is low. The Estes Unit has an excellent training standard, which meets all of TDCJ training standards. Staff believes that the increase of 40 beds would not adversely affect any of the areas of concern.

Chairman Crain asked if there were any questions or comments. There were none.

2. § 152.35, Addition to Bartlett State Jail Capacity (37 TAC § 152.35)

APPROVED

Ms. Bozarth explained that this new rule would add 48 beds to the Bartlett State Jail bringing its capacity to 1,049. The rule was published in the June 15, 2007, addition of the Texas Register for public comment. Two (2) letters were received containing comments from 18 offenders of the Bartlett State Jail. The comments were directed toward the ratio of showerheads, medical, laundry and recreational services. All concerns were investigated; in each instance, the Bartlett State Jail met or exceeded standards set forth by the American Correctional Association and the TDCJ through division-level reviews. Ms. Bozarth stated that the increase of capacity would have little or no impact on population at this facility.

Chairman Crain asked if there were any questions or comments. There were none.

Discussion, Consideration and Possible Action Regarding Amendments to Board Rules

1. § 151.3, Texas Board of Criminal Justice Operating Procedures (37 TAC § 151.3)

APPROVED

Ms. Bozarth stated that the proposed amendments were published in the July 27, 2007, addition of the Texas Register for public comment. No comments were received. Ms. Bozarth recommended that the Board adopt the rule with its amendments as presented.

Chairman Crain asked if there were any questions or comments. There were none.

2. § 151.4, Public Testimony and Comments to the Texas Board of Criminal Justice (37 TAC § 151.4) *APPROVED*

Ms. Bozarth stated that there were no comments to posting of this rule in the June 15, 2007, addition of the Texas Register. She recommended that the Board adopt the amended rule as presented.

Chairman Crain asked if there were any questions or comments. There were none.

3. § 151.25, Texas Department of Criminal Justice Tobacco Policy (37 TAC § 151.25) *APPROVED*

Ms. Bozarth stated that there were no comments to posting of this rule in the June 27, 2007, addition of the Texas Register. She recommended that the Board adopt the amended rule as presented.

Chairman Crain asked if there were any questions or comments. There were none.

4. § 155.31, Establishing Procedures for Resolving Contract Claims and Disputes (37 TAC § 155.31) *APPROVED*

Ms. Bozarth stated since the posting of the amended rule in the July 27, 2007, addition of the Texas Register, that TDCJ staff noted three (3) places in the rule that referenced a proposed deleted paragraph, which has subsequently been removed from the final text. Ms. Bozarth recommended that the amended rule be adopted as presented.

Chairman Crain asked if there were any questions or comments. There were none.

5. § 163.35, Supervision (37 TAC § 163.35) *APPROVED*

Ms. Bozarth stated that there were no comments to posting of this rule in the June 15, 2007, addition of the Texas Register. She recommended that the Board adopt the amended rule as presented.

Chairman Crain asked if there were any questions or comments. There were none.

6. § 163.42, Substantial Noncompliance (37 TAC § 163.42) *APPROVED*

Ms. Bozarth stated that there were no comments to posting of this rule in the June 15, 2007, addition of the Texas Register. She recommended that the Board adopt the amended rule as presented.

Chairman Crain asked if there were any questions or comments. There were none.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules

1. § 151.71, Marking of State Vehicles of the Department of Criminal Justice (37 TAC § 151.71) *APPROVED*

Ms. Bozarth noted one (1) substantive change to the proposed amendments to the rule, which can be found in Section (b)(3). This provision allows for vehicles used by parole officers to conduct home visits be exempt from the state law requirement having the state seal displayed on the vehicle. She recommended that the amendments be approved for publication in the Texas Register as presented.

Chairman Crain asked if there were any questions or comments. There were none.

2. § 155.23, Site Selection Process for the Location of Additional Facilities (37 TAC § 155.23) *APPROVED*

Ms. Bozarth reviewed the two (2) substantive changes to the proposed amendments to the rule. Section (c)(2) provides that should the Board determine that a new facility will be sited on existing state land, there is no need to

pursue the request for proposal process for site selection. Section (c)(3)(D) provides that staff will be required to provide information to the Board on the ability to hire staff at the proposed new site. She recommended that the amendments be approved for publication in the Texas Register as presented.

Chairman Crain asked if there were any questions or comments. There were none.

Discussion, Consideration and Possible Action Regarding Land Transactions

APPROVED

1. Land Transfer and an Access Easement to Burnet County in Burnet, Texas

C.F. Hazlewood, Director for Agribusiness, Land and Minerals, reviewed the land transfer and access easement located at the Halbert Unit to Burnet County in Burnet, Texas. He recommended that the Board approve the conveyance of the 75-acre tract of land and a 70-foot wide access easement being 5.92 acres to Burnet County as specified by Senate Bill 1533, 80th Session 2007.

Chairman Crain asked if there were any questions or comments. There were none.

2. Land Transfer to the City of Winnsboro in Winnsboro, Texas

APPROVED

Mr. Hazlewood reviewed the land transfer to the City of Winnsboro in Winnsboro, Texas. He recommended that the Board approve the conveyance of 23.723 acres of land to the City of Winnsboro, as specified in House Bill 3688, 80th Legislative Session 2007.

Chairman Crain asked if there were any questions or comments. There were none.

3. Renewal of United States Coast Guard Lease on Ramsey Unit in Brazoria County, in Rosharon, Texas

APPROVED

Mr. Hazlewood reviewed the request for a United States Coast Guard Lease Agreement renewal and recommended that the Board approve the renewal lease.

Chairman Crain asked if there were any questions or comments. There were none.

4. Conveyance of Iron Ore Mineral Rights to Mark Holbert in Cherokee County, Near Rusk, Texas

APPROVED

After reviewing the request, Mr. Hazlewood recommended that the Board approve the conveyance of 57.58 acres of iron ore rights to Mark Holbert in Cherokee County, near Rusk, Texas, for the compensation of \$3,629.48.

Chairman Crain asked if there were any questions or comments. There were none.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects

1. Middleton Unit – Energy Efficiency Project

APPROVED

Frank Inmon, Director of the Facilities Division, noted that the Board received an update of the Middleton Unit – Energy Efficiency Project earlier during the Business and Financial Operations Committee meeting. He recommended that the Board approve this project as presented.

Chairman Crain asked if there were any questions or comments. There were none.

2. Montford Unit – Energy Efficiency Project

APPROVED

Mr. Inmon noted that Board received an update on the Montford Unit Energy Efficiency Project earlier in the day during the Business and Financial Operations Committee meeting. He recommended that the Board approve the project as presented.

Chairman Crain asked if there were any questions or comments. There were none.

Discussion, Consideration and Possible Action Regarding Prison Industry Enhancement (PIE) Contract With Unique Performance Company at the Powledge Unit in Anderson County, in Tennessee Colony, Texas

APPROVED

Noting that the Business and Financial Operations Committee received a presentation earlier in the day, Rick Thaler, Director of the Manufacturing and Logistics Division briefly reviewed the PIE contract with Unique Performance Company at the Powledge Unit. He recommended that the Board approve the contract as presented.

Chairman Crain asked if there were any questions or comments. There were none.

Public Comments

Chairman Crain stated that two (2) registration cards for public comments were received before the established deadline. She explained the procedures for the public to provide comments to the Board, noting that each speaker would be given three (3) minutes for comments. The first presenter called upon was Madelyn Johnson who spoke to issues regarding visitation and purchases.

Ms. Johnson stated that she was the mother of Erica Sheppard, a TDCJ offender. She requested that the Board change the one (1) week visitation notice to schedule an appointment to visit a death row offender at the Mountain View Unit. Ms. Johnson referred to reasons why the rule should be changed to a more reasonable timetable, noting emergencies, deaths in the family, offender injuries and so forth. She also petitioned the Board to allow family members their full visitation time with the offenders if a delay on the road occurs, such as a flat tire. Ms. Johnson requested that the Board consider allowing TDCJ staff to use local vendors for the purchase of typewriters. She related that her daughter has had trouble with the several typewriters purchased in the commissary. The latest typewriter purchased became inoperable and was sent by the unit to the vendor for repair. No word has been received yet from the vendor when the typewriter will be repaired or replaced.

Chairman Crain called Earl Brown who would speak to issues regarding employee pay increases and benefits. Mr. Brown stated he was speaking on behalf of the dedicated correctional officers (CO) and security staff who have real concerns regarding the safety and well-being of the prison system. He spoke to the staff shortages, noting that the Texas economy is good, while CO pay is not competitive with today's job market. Additionally, the cost of living increase is at 4% while the recent pay increase for TDCJ employees was only 2%. Mr. Brown pleaded for the Board to petition the Governor for a special legislative session to address the plight of the correctional and non-uniformed staff of TDCJ.

Mr. Vasquez requested Chairman Crain to allow him to ask Mr. Brown a question. She agreed provided the question was for clarification. Mr. Vasquez asked if Mr. Brown was representing a specific group of individuals. Mr. Brown responded that he was speaking on behalf of all uniformed and non-uniformed employees of TDCJ.

Chairman Crain thanked the presenters for coming to the meeting, assuring them that their comments have been noted and recorded. The issues raised at the meeting will be addressed by Agency staff in written form. She stated that if presenters would like to receive a copy, they should provide their name and contact information on the follow-up sheet located at the speaker registration table.

Chairman Crain thanked all attendees for their interest and stated that the next meeting of the Board will be November 29-30, 2007, at the Hilton Austin.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 133rd meeting of the Board at 3:00 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

November 29, 2007

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Election of Board Officers.....	Page 2
D. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – End of the Year..... Statistical Report	Page 2
E. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
1. Introduction of Newly Appointed JAC Members	
2. Progress on Establishing Emergency Procedures for Local Departments	
3. Upcoming Sentencing Conference	
4. Report on Possible Implementation of Diversion Treatment Alternative Prison (DTAP) Program Initiated by Local Prosecutors	
F. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on Treatment Expansion	Page 3
G. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC) – Overview of CMHCC.....	Page 3
H. Report from the Chairman, Advisory Committee on Offenders With Medical or Mental Impairments (ACOOMMI)	Page 4
I. Internal Audit Report for Fiscal Year 2007 and Fiscal Year 2008	Page 4
J. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 5
K. Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy 14.01, “Texas Department of Criminal Justice Investment Policy” and Resolution Adopting the Investment Policy	Page 5
L. Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-03.76, “Offender Disciplinary Procedures”	Page 5
M. Discussion, Consideration and Possible Action Regarding Annual Review of Personnel Directives	Page 5
1. PD-71, “Selection Systems Procedures”	
2. PD-75, “Applicants with Pending Criminal Charges or Prior Criminal Convictions”	
N. Discussion, Consideration and Possible Action Regarding Board Policy 13.69, “State Counsel for Offenders”	Page 5
O. Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules	Page 6
1. §163.31, Sanctions, Programs, and Services (37 TAC §163.31)	
2. §163.36, Mentally Impaired Offender Supervision (37 TAC §163.36)	
3. §163.39, Residential Services (37 TAC §163.39)	

P.	Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules.....	Page 6
1.	§151.71, Marking of State Vehicles of the Department of Criminal Justice (37 TAC §151.71)	
2.	§155.23, Site Selection Process for the Location of Additional Facilities (37 TAC §155.23)	
Q.	Discussion, Consideration and Possible Action Regarding Rule Review of §163.3, Community Justice Assistance Division Objectives (37 TAC §163.3)	Page 6
R.	Discussion, Consideration and Possible Action Regarding Land Transactions.....	Page 7
1.	Land Exchange with the City of Huntsville on the Byrd Unit in Walker County, Huntsville, Texas	
2.	Pipeline Easement to Fasken Oil & Ranch, Ltd. on the Smith Unit in Dawson County, Lamesa, Texas	
3.	Transfer of the Marlin and the San Saba Facilities from the Texas Youth Commission to the Texas Department of Criminal Justice	
S.	Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects.....	Page 7
1.	Replace Boilers, Heat Exchangers and Storage Tanks at the Central Unit in Fort Bend County, Sugar Land, Texas	
2.	Repair and/or Replace Roofs on Multiple Buildings at the Connally Unit in Karnes County, Kenedy, Texas	
3.	Replace Heating, Ventilation and Air Conditioning (HVAC) in Multiple Locations at the Wynne Unit in Walker County, Huntsville, Texas	
T.	Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §152.37, Addition to Capacity (37 TAC §152.37)	Page 7

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 134

The Texas Board of Criminal Justice convened into regular session at 1:00 p.m., adjourned into executive session on Thursday, November 29, 2007, and reconvened into regular session at 1:38 p.m. on November 29, 2007, at the Hilton Austin, Austin, Texas.

Chairman Crain stated that the Board is committed to providing the opportunity for public presentations on topics within its jurisdiction as well as public comments on topics posted on the meeting agenda in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. She reviewed the requirements for speaker registration. One (1) speaker registration card was received by Board staff by the required deadline. As the presentation is germane to an agenda item, it would be heard prior to the Board taking action on that topic. The presentation time was set at three (3) minutes per individual. Any documentation submitted by the presenter would be handled in accordance with guidelines set forth in Board Rule 151.4. Chairman Crain also reviewed the guidelines for conduct and decorum for the presenters when addressing the Board.

Recognitions

Chairman Crain recognized Allen Sapp, who has served the State and the Agency with distinction and commitment to the criminal justice system. In honor of his services and his departure from the Correctional Managed Health Care Office, she read a Resolution of Commendation highlighting Mr. Sapp's career and accomplishments. Mr. Sapp thanked Chairman Crain for her kind remarks. He stated that it had been an honor and a privilege to serve the various Boards and executive staff over the past 28 years. Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or Agency), remarked that he worked often with Mr. Sapp over several years and depended on Mr. Sapp's advice and recommendations. Mr. Livingston praised Mr. Sapp for the credibility that he has brought to correctional managed health care, which is always critical in the legislative process.

John Moriarty, Inspector General, recognized Mike Earp, Deputy Assistant Director for the Investigative Service Division of the United States Marshal's Service. Mr. Moriarty noted the long partnership existing between the TDCJ Office of Inspector General and Mr. Earp. Mr. Earp has assisted in key events such as the Kenneth McDuff case, which changed the criminal justice system in Texas. He also assisted in identifying offenders from Louisiana during Hurricane Katrina, evacuating Texas offenders during Hurricane Rita, as well as providing daily assistance involving parole violators. Mr. Moriarty emphasized that he could not be as effective in his position without the partnership with Mr. Earp and the U.S. Marshal's Service. He presented Mr. Earp with several tokens of the TDCJ's appreciation, including a flag flown over the State Capitol in honor of Mr. Earp's assistance to the State of Texas. Mr. Earp stated that his office and TDCJ have a tremendous partnership and great friendship. Chairman Crain thanked Mr. Earp for all his efforts on behalf of the Agency and the State of Texas.

Mr. Moriarty recognized Terry Cobbs as the Commander of the Special Operations Group and Fred Rhea on his promotion to Lieutenant while assigned to the Fugitive Task Force.

Chairman Crain acknowledged Susan Dow, Legislative Budget Board staff representative and Kyle Mitchell, Office of the Governor, who were in attendance and expressed appreciation for their interest in the Board and Agency.

Celeste Byrne, Director of the Private Facility Contract Monitoring and Oversight Division, recognized Cathy Drake as the Deputy Director of Program Monitoring and Bobby Lumpkin as the Deputy Director of Operations Monitoring.

Stuart Jenkins, Director of the Parole Division, recognized Jay Patzke as the Deputy Director of Field Operations.

Nathaniel Quarterman, Director of the Correctional Institutions Division, stated that he was proud to announce eight (8) facilities have received their initial accreditation from the American Correctional Association (ACA) in August 2007. A total of 72 TDCJ units and facilities have received accreditation by the ACA. Rodney Cooper, Deputy Director of Prison and Jail Operations, presented the following awards to the unit representatives:

Central Unit – Ernest Guterrez, Jr.
Clemens Unit – Kenneth Reagans
Dalhart Unit – Eddie Wheeler
Gatesville Unit – Rita Thomas and Becky Adams (former Warden)
Goree Unit - Charles Williamson
Huntsville Unit – Charles O'Reilly
Hutchins State Jail – John Rupert
Jester IV Unit – Jeffrey Marton

Chairman Crain congratulated the units' staff on a job well done.

Chairman Crain recognized the TDCJ employees, who have achieved 25, 30 and 35 years of service with the State of Texas during the months of October and November, 2007. The Board, along with Executive Director, Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

Chairman Crain stated that the Consent Items included an approval of an excused absence for Patricia Day for this meeting. She asked if there were any further amendments or objections to the Consent Items as proposed. There being none, the Consent Items were approved as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 133rd TBCJ Meeting Minutes
6. Excused Absences

Election of Board Officers

Chairman Crain stated that in accordance with Board Rule 151.3, Texas Board of Criminal Justice Operating Procedures, the Board must elect a Vice Chairman and a Secretary each odd numbered year. The Vice Chairman shall preside over meetings in the Board Chairman's absence and the Secretary shall provide any necessary execution of documents. By unanimous vote, Pierce Miller was selected to serve as Vice Chairman and Oliver Bell was selected to serve as Secretary. Chairman Crain offered her congratulations to Mr. Miller and Mr. Bell. She also thanked Ms. Day for her many years of service with the Board, noting Ms. Day's unwavering support as the Board's Secretary and as a friend.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, reviewed the Fiscal Year 2007 Statistics for the BPP. An overview was provided regarding the duties and responsibilities of the BPP. She noted that during 2007, the BPP voted on over 74,000 cases, ending the year with a 29.84% considerations rate. The BPP voted on 18,131 Discretionary Mandatory Considerations, with a 52% release rate. Ms. Owens explained that the BPP receives and reviews Medically Recommended Intensive Supervision cases recommended by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI). These cases concern Texas prison system offenders who are determined to be mentally ill, mentally retarded, terminally ill, physically handicapped and elderly. Ms. Owens noted that the BPP guidelines were scrutinized during the 80th Legislative Session. An overview of parole approval rates by guidelines level for FY 2007 and a comparison of parole approval rates by guidelines level FY 2002-FY 2007 were provided in the report. She also explained the decisions involving the different types of revocations.

Chairman Crain asked if the Board had any questions or comments. Mr. Bell remarked that decisions regarding technical violations are often distorted by the media and asked Ms. Owens if she would expand her comments regarding the offenders who receive revocation decisions. Ms. Owens explained that there are graduated sanctions within the Parole Division, usually beginning with a verbal reprimand, then a written reprimand as well as other actions taken by the Parole Division. These individuals may be placed in the intermediate sanction facilities three (3) or (4) times before the BPP revokes their parole. She assured the Board that several graduated sanctions by the Parole Division and the BPP take place before a revocation happens. Mr. Bell thanked Ms. Owens for her comments. Chairman Crain also thanked Ms. Owens for her report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, reported that the JAC has several new appointments, which are as follows: Daniel K. Hagood, Leighton Iles, the Honorable Gregory Brewer, the Honorable Rose Guerra Reyna and William R. Turner. The Honorable Sharon Keller was also reappointed to the JAC.

Judge Gist noted that with regard to the emergency procedures for the local Community Supervisions and Corrections Department (CSCD), a committee has been working in cooperation with the Criminal Justice Center of Sam Houston State University. He was pleased to report that the committee was close to presenting a statewide plan so that any CSCD that suffers some kind of catastrophe will have procedures and assistance in place to help identify and supervise individuals.

Judge Gist stated that during the recent Sentencing Conference, it was decided that the conference would become biennial. The conference provides the necessary connections to build a uniform response approach to crime in Texas.

Judge Gist discussed New York's Diversion Treatment Alternative Prison Program (DTAP). This program involves non-violent offenders who have repeatedly been in prison for drug offenses. The prosecutor offers the offender a two (2) year residential treatment plan followed by intensive supervision. Upon completion of the program, the offender's case would be dismissed. According to the DTAP agreement, if the offender violates the conditions of the program, he would receive a substantial sentence. The lengthy sentence acts as a deterrent to violating the terms of the DTAP agreement. New York's DTAP has a 75% success rate. Judge Gist advised the Board that he was hopeful that a similar program would be available in Texas.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Brad Livingston, Executive Director of the TDCJ, had no report.

Report from the Chairman, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, CMHCC Executive Director, reported on behalf of the Committee in the absence of Dr. James Griffin, CMHCC Chairman. He noted that the departure of Mr. Sapp was a tremendous loss to the CMHCC. In order to make the staff as competent as it had been and should be, the CMHCC hired Lynne Webb, who has a background in accounting in addition to auditing free world hospitals. Mr. Hightower stated that the Sunset Bill made several changes to the correctional managed health care program. One (1) of the bill's provisions is that the CMHCC will make quarterly reports on the committee's decisions, financial status, and corrective actions taken on developing statewide policies for the delivery of care, maintaining the contracts, communicating with the Board and the legislature on financial needs of the system, allocating funding made available by legislative appropriation, and monitoring expenditures of the two (2) universities for compliance with statutory and contractual requirements. The CMHCC will also serve as a dispute resolution forum, address the problems found through monitoring to include corrective actions, and identify and address the long-term needs of the health care system. Mr. Hightower stated that there is an established CMHCC website, which provides easy access to information by the public. As the quarter was ongoing, he advised the first quarter statistics report would be provided at the Board's January meeting.

Mr. Hightower recognized David McNutt as a member of the CMHCC. Mr. McNutt's rapport with TDCJ and the legislative family, as well as his credibility with the members of the legislature are important to the CMHCC.

Mr. Hightower assured the Board that the CMHCC would fully comply with the Sunset Commission's recommendations. He pledged that CMHCC would be an open and approachable partner with TDCJ and the universities in addition to delivering a

timely and adequate health care system to the offender population. Chairman Crain thanked Mr. Hightower for his comments.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Judy Briscoe, Chairman, ACOOMMI, had no report.

Internal Audit Report for Fiscal Year 2007 and Fiscal Year 2008

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007 & 2008. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0701 – Human Resources Division, Equal Employment Opportunity:** The final report was issued on November 16th.
- **0704 – Parole Division, Interstate Compact:** The draft report was released on November 19th.
- **0705 – Board of Pardons and Paroles, Hearings:** The report is being written. There will be a few weeks delay in the audit.
- **0708 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** The final report was issued on November 16th.
- **0709 – Human Resources Division, Application Processing:** The final report was issued on October 19th.
- **0712 – Facilities Division, Resources Management:** The draft report was issued November 15th and staff responses are due December 6th.
- **0713 – Office of the General Counsel, Claims Administration:** The audit is behind schedule. Fieldwork will continue over the next few weeks.
- **0715 – Correctional Institutions Division, State Ready Intake Processing, Offender Mail System:** The proposed final report is completed and an exit conference was held on November 27th. The report has been sent to the Chief of Staff.
- **0718 – Business and Finance Division, Agribusiness, Land and Minerals, Maintenance:** The draft report should be released on December 3rd.
- **0722 – Business and Finance Division, Anti-Fraud Coordination:** The audit is still in fieldwork and is behind schedule.

FY 2008 Internal Audit Plan

- **0801 – Correctional Institutions Division, Correctional Officer Training:** The audit start date was delayed due to the work being done on Audit 0722. It should be assigned by December 1st.
- **0802 – Information Technology Division, Offender Information Management System (OIMS):** The audit start date may be reevaluated. The State Auditor's Office (SAO) is conducting an audit on violations and revocations, which include the OIMS. Depending on the results of the SAO, the Internal Audit Office will assess the need to conduct this audit.
- **0805 – Human Resources Division, Employee Grievance Procedures:** The audit is in control assessment.
- **0809 – Correctional Institutions Division, Security Threat Group Management Office:** The audit was assigned on November 6th and is currently in the background phase.
- **0810 – Parole Division, Specialized Programs:** The audit was assigned on November 26th and is in the background phase.
- **0812 – Health Services Division, Office of Mental Health Monitoring and Liaison:** Staff are conducting fieldwork. The target date for the release of the draft report was revised to December 14th. An interim exit conference was held on November 26th.
- **0815 – Community Justice Assistance Division, Accounting Unit:** The audit was assigned on November 9th.
- **0816 – Rehabilitation and Reentry Programs Division, Volunteer Services Program:** Staff are conducting fieldwork. The audit is behind schedule due to a change in the lead auditor.
- **0819 – Manufacturing and Logistics Division, Warehousing and Supply:** This audit was impacted by a delay in another audit. The audit should be assigned by December 15th.
- **0824 – Administrative Review and Risk Management Division, Ombudsman Program:** The audit is in the control assessment phase. The audit is on schedule.
- **0825 – Business and Finance Division, Public Funds Investment Act; Windham School District, Business and Administrative Services:** The final report was released on November 16th.

- **0827 – Walk Throughs:** On November 1st, a walk through has been assigned regarding land access. The walk through is ongoing.

Mr. Pyeatt stated he would be pleased to answer any questions the Board may have. There was none.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts over One (1) Million Dollars

APPROVED

Charles Marsh, Chief Financial Officer, reviewed the purchase of an interagency contract with the Department of Information Resources, which is a five-year contract for \$2.4 million per year. The contract provides maintenance and upgrade of equipment and software for the Agency's wide area network. Mr. Marsh added that the contract has been in place for a number of years.

Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy 14.01, "Texas Department of Criminal Justice Investment Policy" and Resolution Adopting the Investment Policy

APPROVED

Jerry McGinty, Deputy Chief Financial Officer, stated that this policy has been in place since 1996, noting that the Public Funds Investment Act requires that the Board review the policy annually. Minor revisions have been incorporated, however there have been no substantive changes made to the policy since last year's review.

Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-03.76, "Offender Disciplinary Procedures"

APPROVED

Melinda Bozarth, TDCJ General Counsel, noted that BP-01.01, "Texas Board of Criminal Justice Responsibilities," requires the Board to annually review and approve any amendments to this directive. For the most part, the revisions were non-substantive, updated ACA standards and changed the Applicability Section to be specific with the divisions as currently named. Section IV allows the posting of the Disciplinary Rules and Procedures on the Agency website, which is the current practice.

Discussion, Consideration and Possible Action Regarding Annual Review of Personnel Directives

1. PD-71, "Selection Systems Procedures"
2. PD-75, "Applicants with Pending Criminal Charges or Prior Criminal Convictions"

Chairman Crain stated that the Board would pass on these items.

Discussion, Consideration and Possible Action Regarding Board Policy 13.69, "State Counsel for Offenders" (SCFO)

APPROVED

Ms. Bozarth stated that the policy had been revised to be consistent with the format in Board Policy-01.07 concerning the Office of the Inspector General. She noted that Section III.A provides that the SCFO shall provide legal services to both current and former indigent offenders in TDCJ who are civilly committed as sexually violent predators pursuant to House Bill 2034, which passed during the last legislative session. Additionally, Ms. Bozarth requested that in Section IV.F at the end of the last sentence, a clause be added as follows, "and the Chairman shall inform the Board."

Chairman Crain called on Rhonda Taylor, advocating on behalf of Offender Kevin Gordon, who would address her concerns regarding the policy. She reminded Ms. Taylor that the presentation could not exceed three (3) minutes. Ms. Taylor stated that she was speaking on behalf of her son, Kevin Gordon, who is incarcerated at the Hodge Unit and is assigned to the structured Mentally Retarded Offender Program (MROP). She alleged that the SCFO is operating in violation of the 14th Amendment under the equal protection clause as it relates to mentally impaired inmates' constitutional rights. Ms. Taylor claimed that the Director of the SCFO has failed to maintain policies and procedures for inmates who are treated in the structured MROP and function with a low intelligence quotient (IQ). This practice keeps the inmates from accessing legal services. In order for an inmate to get legal services through the SCFO, the inmate must first seek assistance from the unit law library staff and then read the *Inmate Legal Handbook* published by the SCFO. The policy also does not accept inquiries from friends or family members. Ms. Taylor noted that due to the segregated confinement of her son under the conditions of

the structured MROP, he is unable to access legal services available under TDCJ policy. The program continues to provide inadequate medical health care and leaves the inmate untreated and mistreated. Ms. Taylor stated that the SCFO discrimination against the mentally impaired inmates has caused them to endure cruel and unusual punishment. She further noted that the inmates' requirements necessary to access legal services are considered prison barriers based on the inmates with a low IQ, which causes an inability to function, think, concentrate or comprehend what they have read. Ms. Taylor further asserted that the SCFO is in violation of Texas mental health laws as it relates to access to legal services for inmates who suffer from mental impairment and are treated under the structured MROP. Additionally, the SCFO is another program within the Agency that has blind eyes for justice and righteousness toward mentally impaired inmates. Chairman Crain thanked Ms. Taylor for her remarks.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules, Title 37, Texas Administrative Code (TAC)

1. §163.31, Sanctions, Programs and Services (37 TAC §163.31) *APPROVED*

Ms. Bozarth noted that all the revisions to this Board Rule were non-substantive and requested that the Board approve the publication of these proposed amendments in the Texas Register for public comment.

2. §163.36, Mentally Impaired Offender Supervision (37 TAC §163.36) *APPROVED*

Ms. Bozarth noted that the revisions to this Board Rule were non-substantive and requested that these proposed amendments be posted in the Texas Register for public comment.

3. §163.39, Residential Services (37 TAC §163.39) *APPROVED*

Ms. Bozarth noted the Director for the Community Justice Assistance Division reviewed the proposed revisions in the Community Corrections Committee earlier in the day. The amendments clarify state law and incorporate provisions of state law that passed in the 79th and 80th Legislative Sessions. The most extensive revision was to the section covering medical care and the access to medical care for offenders who are incarcerated in community correctional facilities. Ms. Bozarth requested that the Board approve the publication of this rule in the Texas Register for comments from the public.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

1. §151.71, Marking of State Vehicles of the Department of Criminal Justice *APPROVED*

Ms. Bozarth stated that the amendments to Board Rule 151.71, Marking of State Vehicles of the Department of Criminal Justice were published in the September 28, 2007, issue of the Texas Register. No comments were received.

2. §155.23, Site Selection Process for the Location of Additional Facilities *APPROVED*

Ms. Bozarth stated that the amendments to Board Rule 155.23, Site Selection Process for the Location of Additional Facilities, were published in the September 28, 2007, issue of the Texas Register. No comments were received.

Discussion, Consideration and Possible Action Regarding Rule Review of §163.3, Community Justice Assistance Division Objectives (37 TAC §163.3)

APPROVED

Ms. Bozarth stated staff reviewed the rule pursuant to the state law requirement that rules be reviewed every four (4) years. Staff found the rule was not obsolete and needed to continue without amendments. A notice of the rule review was published in the August 17, 2007, issue of the Texas Register. No comments were received.

Discussion Consideration and Possible Action Regarding Land Transactions

1. Land Exchange with the City of Huntsville on the Byrd Unit in Walker County, Huntsville, Texas

APPROVED

C.F. Hazlewood, Director of Agribusiness, Land and Minerals, requested that, as discussed earlier at the Business and Financial Operations Committee, the Board approve the proposed land exchange of 1.3 acres of property located at the Byrd Unit for 1.45 acres belonging to the City of Huntsville.

2. Pipeline Easement to Fasken Oil & Ranch, LTD on the Smith Unit in Dawson County, Lamesa, Texas

APPROVED

Mr. Hazlewood stated that Fasken Oil & Ranch, LTD requested a pipeline easement on the Smith Unit in Dawson County, Lamesa, Texas, for a three (3) inch pipeline running to a tank battery site.

3. Transfer of the Marlin and the San Saba Facilities from the Texas Youth Commission to the Texas Department of Criminal Justice

APPROVED

Mr. Hazlewood noted that pursuant to House Bill 1, General Appropriations Act, 80th Legislative Session, the Texas Youth Commission was directed to transfer facilities owned in Marlin, Texas, and San Saba, Texas, to the TDCJ.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects

1. Replace Boilers, Heat Exchangers and Storage Tanks at the Central Unit in Fort Bend County, Sugar Land, Texas

APPROVED

Frank Inmon, Director of the Facilities Division, noted that this project was previously discussed at the Business and Financial Operations Committee meeting. He requested the Board's approval for a total project amount of \$1,339,800.

2. Repair and/or Replace Roofs on Multiple Buildings at the Connally Unit in Karnes County, Kenedy, Texas

APPROVED

Mr. Inmon noted that this project was previously discussed during the Business and Financial Operations Committee meeting. He requested the Board's approval for a total project amount of \$5,702,900.

3. Replace Heating, Ventilation and Air Conditioning (HVAC) in Multiple Locations in the Wynne Unit in Walker County, Huntsville, Texas

APPROVED

Mr. Inmon stated that the project was discussed during the Business and Financial Operations Committee meeting. He requested the Board's approval for a total project amount \$1,004,500.

Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §152.37, Addition to Capacity (37 TAC §152.37)

APPROVED

Ms. Bozarth explained that the new proposed Board Rule 152.37, Addition to Capacity, will set forth the capacities at the San Saba and Marlin facilities. She recommended that the Board authorize staff to publish the rule in the Texas Register for public comment.

Chairman Crain thanked all attendees for their interest and stated that the next meeting of the Board will be January 23, 2008, at the Hilton Austin.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 134th meeting of the Board at 3:00 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

January 23, 2008

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Personal Property Donation from Patty Ricard, in care of Wal-Mart	Page 2
D. Election of Board Officers.....	Page 2
E. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)	Page 2
F. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
1. Member, Judge Lee Gabriel resigned	
2. Probation caseload and revocations are down	
G. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on Correctional Officer Staffing Challenges	Page 2
H. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 3
I. Report from the Chairman, Advisory Committee On Offenders with Medical or Mental Impairments (ACOOMMI)	Page 3
J. Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008.....	Page 4
K. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 4
L. Discussion, Consideration and Possible Action to Modify the Correctional Managed Health Care Contract	Page 5
M. Discussion, Consideration and Possible Action Regarding a Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters	Page 5
N. Discussion, Consideration and Possible Action Regarding Proposed New Executive Directive 03.32; “Offender Access to Telephones”.....	Page 5
O. Discussion, Consideration and Possible Action Regarding Proposed New Board Policy 15.01, “Public Interaction with the Texas Department of Criminal Justice on the Internet”	Page 5
P. Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policies	
1. BP – 01.07, “Inspector General Policy Statement”	Page 5
2. BP – 14.02, “Internal Audit Division Policy Statement”	Page 6
Q. Discussion, Consideration and Possible Action Regarding Designation of a Person to Coordinate Implementation of Negotiated Rule Making and Alternative Dispute Resolution	Page 6
R. Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule, §152.37, Addition to Capacity (37 TAC §152.37)	Page 6

- S. Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules Concerning Community Justice Assistance Division Standards Page 6
 - 1. §163.31, Sanctions, Programs, and Services (37 TAC §163.31)
 - 2. §163.36, Mentally Impaired Offender Supervision (37 TAC §163.36)
 - 3. §163.39, Residential Services (37 TAC §163.39)

- T. Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules Page 7
 - 1. §151.6, Petition for the Adoption of a Rule (37 TAC §151.6)
 - 2. §159.13, Educational Services to Released Offenders/Memorandum of Understanding (37 TAC §159.13)

- U. Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules Concerning Community Justice Assistance Division (CJAD) Standards Page 7
 - 1. §163.5, Waiver to Standards (37 TAC §163.5)
 - 2. §163.33, Community Supervision Officers (37 TAC §163.33)
 - 3. §163.38, CJAD Sex Offender Supervision (37 TAC §163.38)
 - 4. §163.41, Medical and Psychological Information (37 TAC §163.41)
 - 5. §163.43, CJAD Funding and Financial Management (37 TAC §163.43)

- V. Discussion, Consideration and Possible Action Regarding Land Transactions Page 8
 - 1. Amendment of Existing Easement with Enbridge Pipelines (East Texas) L.P. on the Coffield, Beto And Powledge Units in Anderson County, Tennessee Colony, Texas
 - 2. Drainage Easement with the City of Huntsville on the Huntsville Unit in Walker County, Huntsville, Texas

- W. Discussion, Consideration and Possible Action Regarding a Construction Project to Replace Window Frames at the Stringfellow Unit in Brazoria County, Rosharon, Texas Page 8

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 135

The Texas Board of Criminal Justice (TBCJ or Board) convened into regular session at 11:15 a.m., adjourned into executive session on Wednesday, January 23, 2008, and reconvened into regular session at 1:04 p.m. on Wednesday, January 23, 2008, at the Hilton Austin, Austin, Texas.

Chairman Crain stated that the Board is committed to providing the opportunity for public presentations on topics within its jurisdiction as well as public comments on topics posted on the meeting agenda in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. She reviewed the requirements for speaker registration. Two (2) speaker registration cards were received by Board staff by the required deadline. As the presentations were germane to an agenda item, they would be heard prior to the Board taking action on that topic. The presentation time was set at three (3) minutes per individual. Any documentation submitted by the presenter would be handled in accordance with guidelines set forth in Board Rule 151.4. Chairman Crain also reviewed the guidelines for conduct and decorum for the presenters while addressing the Board.

Recognitions

Chairman Crain acknowledged and praised the efforts of the correctional officers who are involved in the daily operation of the prisons. Their jobs are not easy and are not always safe. These individuals are the backbone of the operation of Texas prisons. Their dedication to the operation of the prisons, while protecting the offenders, their fellow employees and the citizens of Texas is an inspiration. Chairman Crain recognized Susan Canfield, who gave the ultimate sacrifice while carrying out her duties as a correctional officer assigned to the Wynne Unit field squad. She then read a Resolution of Commendation honoring Ms. Canfield and presented it to her family, Charles Canfield (spouse), Kara Holub (daughter) and Allen Holub (son-in-law). Applause and standing ovation followed. Chairman Crain thanked Mr. Canfield and Mr. and Ms. Holub for attending the meeting, noting that individuals such as Ms. Canfield make the Texas Department of Criminal Justice (TDCJ or Agency) a system of which to be proud. She assured them that Ms. Canfield would not be forgotten.

Brad Livingston, Executive Director for the TDCJ, recognized Dr. Lannette Linthicum, Health Services Division Director, as the recipient of the American Correctional Association (ACA) 2007 Walter Dunbar Award, which is granted to an individual who is extraordinarily active in the organization. Mr. Livingston praised Dr. Linthicum's incomparable career and achievements, stating the Agency was fortunate to have a person of her caliber working in the correctional managed health care field. Dr. Linthicum thanked the Board and Mr. Livingston for the recognition of her work. She stated that it has been a pleasure to represent the Agency and the State of Texas in all ACA activities.

Chairman Crain recognized Dee Wilson, Director of the Texas Correctional Office on Offenders with Medical or Mental Impairment (TCOOMMI), and Stuart Jenkins, Director of the Parole Division, on their election to the Board of Directors of the Texas Corrections Association.

Debbie Liles, Director of the Administrative Review and Risk Management Division, recognized the following individuals on their recent promotions: Keith Clendennen, Deputy Director for Review and Standards; Sandra Murphy, Program Administrator for Offender Grievance; and David Scholwinski, Deputy Director for Risk Management.

Mr. Jenkins and Jay Patzke, Deputy Director, Field Operation, Parole Division, recognized Milton David Johnson, as the Parole Division's Regional Director in Tyler.

Chairman Crain recognized the TDCJ employees, who have achieved 25, 30 and 35 years of service with the State of Texas during the months of December 2007 and January 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

Chairman Crain asked if there were any comments, objections or amendments to the Consent Items as proposed. Eric Gambrell voiced his objection to the inclusion of the personal property donation from Patty Ricard, in care of Wal-Mart, in the Consent Items and requested that this item be placed in line for consideration on the regular agenda. This objection is due to a potential conflict of interest on Mr. Gambrell's part, as his firm does work for Wal-Mart. Chairman Crain asked if there were any other comments, objections or amendments. Seeing none, the Consent Items posted for this meeting's agenda with the exception of the personal property donation from Patty Ricard, in care of Wal-Mart, stand approved.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 134th TBCJ Meeting Minutes
6. Excused Absences

Personal Property Donation from Patty Ricard, in care of Wal-Mart

APPROVED

Chairman Crain called for a motion and second regarding the personal property donation from Patty Ricard, in care of Wal-Mart. Mr. Gambrell stated he would abstain from voting on this motion.

Election of Board Officers

Chairman Crain noted that with the recent change of Board membership, the Board must select a Vice Chairman and Secretary. She reviewed the duties of each office. Chairman Crain called for a motion and a second for the election of Vice Chairman and Secretary. By unanimous vote, Oliver Bell was selected to serve as Vice Chairman and Greg Coleman was selected to serve as Secretary. Chairman Crain offered congratulations to Mr. Bell and Mr. Coleman.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, welcomed the new Board members, stating that the members of the JAC look forward to working with them. He noted that District Judge Lee Gabriel has resigned from the JAC. Judge Gist reported on the new resources approved during the last legislative session. He noted probation caseload size was down and the revocation rate was down, most notably in technical violations. The early terminations have demonstrated an upward trend. Judge Gist expressed his optimism that the new measures are making a positive difference in the criminal justice system.

JAC member Bill Turner, District Attorney of the Bryan-College Station area, is the incoming President of the Texas District and County Attorneys Association. Mr. Turner has expressed his desire to become active in involving the prosecutors in the training process. With regard to the legislative interim committees, Judge Gist further reported that all components including professional corrections associations have come together to give the legislators the best information possible.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an update on the correctional officer staffing challenges. He stated that he considers this area to be the Agency's most urgent operational challenge. There are roughly 3,750 vacant correctional officer positions, which is about 15% of the correctional officer position staffing level. Mr. Livingston noted several areas that affect the vacancy challenge to include a strong Texas economy, the remote locations of some prison units and the price of gasoline. The location of several units in one (1) area also contributes to this challenge. He assured the Board that staff were committed to tackling this challenge on several fronts through recruitment, retention and other initiatives, such as closing some dorms on units that are very short on security staff.

Mr. Livingston stated that in November 2007, a Board approved policy (PD-72, "Employee Salary Administration") was implemented changing the correctional officer career ladder in significant ways. The policy created a higher starting salary for correctional officer applicants who had a college degree or honorably discharged with two (2) or more years of military service. A more favorable career ladder for former employees was also initiated. Over 9,000 letters were mailed to former correctional officers advising them of this change. The timeframes for the TDCJ Training Academy were compressed in hopes that more individuals will show up for the Academy start date. Mr. Livingston commented that current results show that promoting and training of front line supervisors is working successfully. He advised the Board that an executive staff committee works with the Human Resources Division to explore innovative measures to attract and retain correctional officers. He praised the security staff on the units for their commitment and vigilance in protecting the public's safety. Mr. Livingston emphasized the executive staff's commitment to working with the state's leadership and the legislature to manage this challenge.

Report from the Chairman, Correctional Managed Health Care Committee (CMHCC)

Dr. Griffin, Chairman of the Correctional Managed Health Care Committee, had no report.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Ms. Judy Briscoe, Chairman of ACOOMMI, had no report. Chairman Crain noted that the Board would receive public testimony from the individuals who turned in registration cards. She reviewed the public presentation procedures.

Chairman Crain called on Rhonda Taylor who spoke to issues concerning the Medically Recommended Intensive Supervision (MRIS) program. Ms. Taylor alleged that procedures under the MRIS program allow the mistreatment of mentally impaired offenders. Ms. Taylor stated that on August 8, 2006, she received a letter from TCOOMMI, which denied the eligibility of Ms. Taylor's son based on a reportable conviction. Ms. Taylor alleged that according to the documentation regarding her son, TCOOMMI knowingly and willingly failed to follow the MRIS procedures in its entirety, which identifies mentally impaired offenders specifically, thereby denying these offenders the ability to qualify for the program. TCOOMMI has harmed offenders by being inconsistent with the Agency's policies and procedures. TCOOMMI is engaging in illegal discrimination by failing to follow all applicable policies, rules and procedures for identifying these offenders. Ms. Taylor protested the confinement of her son in segregation for the past two (2) years, noting that one (1) day he would be released without treatment, which could lead to problems that are more acute. Ms. Taylor said that the policies and procedures were sound, noting the problem was with the staff enforcing these procedures as the Agency had intended.

Chairman Crain called upon Larry Vader who stated he came to provide testimony regarding mentally impaired offenders. Mr. Vader related that he was a former offender, who had been in and out of the Texas prison system from 1975 through 2001. He alleged that there is gross discrimination against mentally impaired offenders in addition to mistreatment. Mr. Vader further related that he was mentally impaired and suffered from a bi-polar disorder. He stated that while incarcerated he was not treated, but was punished for being mentally impaired. Mr. Vader expressed his hope that TDCJ could treat mentally impaired offenders appropriately and not deny them programs they are entitled to under the law.

Chairman Crain thanked the presenters for their comments and directed them to the Board staff if they were interested in obtaining responses to their comments.

Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0704 – Parole Division, Interstate Compact:** The proposed final report with accompanying staff responses were sent to the Chief of Staff.
- **0705 – Board of Pardons and Paroles, Hearings:** Staff responses to the proposed final report are due on February 1, 2008.
- **0712 – Facilities Division, Resources Management:** The final report was issued on January 8, 2008.
- **0713 – Office of the General Counsel, Claims Administration:** The draft report was released and an exit conference was held on January 26, 2008.
- **0715 – Correctional Institutions Division, State Ready Intake Processing, Offender Mail System:** The proposed final report was issued on December 21, 2007.
- **0716 – Information Technology, Offender Information Management System:** The draft report is being revised.
- **0718 – Business and Finance Division, Agribusiness, Land and Minerals, Maintenance:** The responses to the final proposed report have been received. An exit conference with the Chief Financial Officers will be held February 5, 2008.
- **0722 – Business and Finance Division, Anti-Fraud Coordination:** The audit has moved back to fieldwork. It is anticipated that the report will be written in the near future.

FY 2008 Internal Audit Plan

- **0801 – Correctional Institutions Division, Correctional Officer Training:** The audit has been delayed by the work being done on Audit 0722, which has the same lead auditor. The draft report is anticipated to be completed by mid-February.
- **0805 – Human Resources Division, Employee Grievance Procedures:** The audit is in fieldwork. The audit is behind schedule and delays the work on Audit 0811.
- **0809 – Correctional Institutions Division, Security Threat Group Management Office:** The audit was assigned on November 6th and is currently in the background phase.
- **0810 – Parole Division, Specialized Programs:** The audit has moved into control assessment and remains on schedule.
- **0812 – Health Services Division, Office of Mental Health Monitoring and Liaison:** The draft report was released on January 22, 2008. The exit conference is pending.
- **0815 – Community Justice Assistance Division, Accounting Unit:** The audit is in fieldwork. An interim exit conference is scheduled for February 25, 2008.
- **0816 – Rehabilitation and Reentry Programs Division, Volunteer Services Program:** The draft report is being written and should be released in a few weeks.
- **0819 – Manufacturing and Logistics Division, Warehousing and Supply:** This audit is in background. It was assigned December 15, 2007, and remains on schedule.
- **0823 – Administrative Review and Risk Management Division, Offender Grievance Program:** The audit has been delayed by the work on Audit 0801. The audit will not be assigned until mid-February.
- **0824 – Administrative Review and Risk Management Division, Ombudsman Program:** The audit is in fieldwork.

Mr. Pyeatt stated he would be pleased to answer any questions. There were none.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts over One (1) Million Dollars

APPROVED

Charles Marsh, Chief Financial Officer, reviewed the contract over one (1) million dollars to secure services for the Agency wide computer related hardware maintenance and software support for the balance of Fiscal Year 2008 through Fiscal Year 2010. The annual cost is approximately \$1.8 million.

Discussion, Consideration and Possible Action to Modify the Correctional Managed Health Care Contract

APPROVED

Mr. Marsh stated that the TDCJ currently has an agreement with Correctional Managed Health Care to provide health services for offenders. The agreement requires a modification to include the San Saba and Marlin Units for an estimated increase of \$2.9 million for the biennium.

Discussion, Consideration and Possible Action Regarding a Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters

APPROVED

Jerry McGinty, Deputy Chief Financial Officer, explained that during the last legislative session, the Legislature gave the TDCJ two (2) \$40 million appropriations, totaling \$80 million for the 2008-09 biennium for repair and renovation projects. Last summer the Board approved in conjunction with the FY 2008 operating budget, the resolution authorizing a request for financing with the Texas Public Finance Authority for \$40 million. These documents would authorize the request for financing and begin the process to receive the second \$40 million appropriation.

Discussion, Consideration and Possible Action Regarding Proposed New Executive Directive 03.32, "Offender Access to Telephones"

APPROVED

Melinda Bozarth, General Counsel, reviewed the proposed new Executive Directive (ED) 03.32 concerning offender access to telephones. In the last legislative session, Senate Bill 1580 authorized the Agency to solicit proposals for a pay telephone system for offender use. Under the legislation, the TDCJ shall adopt policy governing phone use and the policy shall be subject to Board approval. Under the current policy, eligible offenders receive one (1) phone call every 90 days. This policy keeps the eligibility criteria essentially the same as under current policy. Frequency of phone calling due to the offender's access to these phones will be increased under the new policy. The law provided that an offender should have an average of eight (8) calls per month and up to an average of ten (10) minutes in duration. The policy provides that offenders shall be able to make an unlimited number of telephone calls up to a maximum of 120 minutes per month. Each call length shall not exceed 15 minutes. The phones will be placed in the day rooms and other select areas of the unit to facilitate offender use. These areas shall be open for a set period each day. Offenders shall be allowed to call people on their approved visitors list. In addition, they shall be allowed to call any attorney that currently provides legal services to them. The law specifies that there shall be one (1) phone installed for each 30 eligible offenders. The calls shall be monitored and recorded except those calls to an offender's attorney, which shall be subject to the attorney-client privilege.

Discussion, Consideration and Possible Action Regarding Proposed New Board Policy 15.01, "Public Interaction with the Texas Department of Criminal Justice on the Internet"

APPROVED

Ms. Bozarth reviewed the proposed new Board Policy (BP) 15.01, "Public Interaction with the Texas Department of Criminal Justice on the Internet." During the recent legislative session, Senate Bill 909, Section 15 added a new provision to state law requiring the Board to implement a policy for the TDCJ to use appropriate technology to improve the Agency's ability to perform its functions and to interact with the public on the Internet. The policy designates an email liaison as a point of contact for public inquiries in each division. It also requires departments and divisions to provide the Webmaster with updated information and links that might be helpful to the public.

Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policies

APPROVED

1. BP-01.07, "Inspector General Policy Statement"

Ms. Bozarth stated during the past legislative session, House Bill 434 revised Texas Government Code 493.019 to authorize the Inspector General instead of the Executive Director, to appoint criminal investigators. This change in state law has been incorporated in Section II of the policy. Other substantive revisions to the policy occur in Section II.X.B that allow the Chairman to appoint an interim Inspector General until the next regular session of the Board. Section II.X.I stipulates that the Inspector General shall notify the Board Chairman in the event the Inspector General discovered something that would cause someone in the Agency to be unable to continue to serve and that the Chairman immediately advise the Board should this happen.

2. BP-14.02, “Internal Audit Division Policy Statement”

APPROVED

Ms. Bozarth noted that this policy was updated pursuant to the Agency’s two (2) year review cycle. A few provisions were added to provide consistency to policies governing staff who report to the Board. In Section I, a provision was added to clarify that any records sought by the Internal Audit Division (IAD) regarding attorney-client privilege would not be turned over to the Internal Auditor without the Office of the General Counsel and the Board Chairman being consulted. Section II.G. provides that if the IAD Director becomes aware of any violation of state law, agreements or official misconduct, the IAD Director shall bring that information immediately to the Board Chairman, who shall inform the Board. Section II.I has an allowance for the development of the budget for the IAD, which should be done in consultation with the Chairman, Executive Director and the Chief Financial Officer. Section IV.C. allows the Chairman to appoint an interim IAD Director if for some reason that person could not serve until the next regular session of the Board.

Discussion, Consideration and Possible Action Regarding Designation of a Person to Coordinate Implementation of Negotiated Rule Making and Alternative Dispute Resolution

APPROVED

Ms. Bozarth stated that Section 15 of Senate Bill 909 requires the Board to designate a person to coordinate the implementation of a policy regarding negotiated rule making and alternative dispute resolution to assist in resolving both external and internal disputes. Ms. Bozarth recommended that the Board meet the statutory requirements and appoint a designee to serve in this capacity. Mr. Livingston was designated to coordinate implementation of negotiated rule making and alternative dispute resolution.

Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule, §152.37, Addition to Capacity (37 TAC §152.37)

APPROVED

Ms. Bozarth stated that Board Rule, §152.37, Addition to Capacity, was published in the December 14, 2007, issue of the Texas Register. As no comments were received, Ms. Bozarth recommended that the Board adopt the rule.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules Concerning Community Justice Assistance Division Standards

APPROVED

1. §163.31, Sanctions, Programs, and Services (37 TAC §163.31)
2. §163.36, Mentally Impaired Offender Supervision (37 TAC §163.36)

Ms. Bozarth noted that the amendments to these rules were either not substantive in nature or were added to clarify rule language. Both rules were published in the Texas Register on December 14, 2007. As no comments to either rule were received, Ms. Bozarth recommended that the Board adopt the amended rules.

3. §163.39, Residential Services (37 TAC §163.39)

APPROVED

Ms. Bozarth stated that the amendments to this rule were published in the December 14, 2007, issue of in the Texas Register. She noted that comments were received from the Executive Director for the Coalition for Nurses in Advanced Practice. The recommendations were reviewed by Mike Kelley, M.D., TDCJ Health Services Division, for applicability to the rule. Ms. Bozarth reviewed the recommended amendments to subsection (m) paragraph (1); subsection (n) paragraph (2)(A)(v); subsection (n) paragraph (3)(A)(v); subsection (n) paragraph (7)(E) and subsection (9) paragraph (C)(vii). In addition to these comments, the General Counsel recommended that subsection (i) be amended for clarification of the district judge’s role in relation to the community supervision and corrections departments. Ms. Bozarth recommended that the rule be adopted as presented.

Discussion Consideration and Possible Action Regarding Proposed Amendments to Board Rules

1. §151.6, Petition for the Adoption of a Rule (37 TAC §151.6)

APPROVED

Ms. Bozarth noted that Senate Bill 909, Section 15, included an across the Board recommendation for all state agencies' governing boards to develop and implement a policy to require the use of negotiated rule making. The amendments allow the public the opportunity to participate in rulemaking, thereby the Board encourages citizens to petition that the negotiated rule process be used. Additionally, other amendments include an economic impact statement and a regulatory flexibility analysis if the rule is going to impact small businesses. Ms. Bozarth requested that the rule and its amendments be posted in the Texas Register for purposes of public comment.

2. §159.13, Educational Services to Released Offenders/Memorandum of Understanding (37 TAC §159.13)

APPROVED

Ms. Bozarth explained that the amendments to the rule were a result of the required four (4) year review process. The proposed amendments are necessary to add clarity and expand the locations where the memorandum of understanding between the Texas Education Agency and the TDCJ can be filed. Ms. Bozarth requested that the rule and its amendments be posted in the Texas Register for purposes of public comment.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules Concerning Community Justice Assistance Division (CJAD) Standards

1. §163.5, Waiver to Standards (37 TAC §163.5)

APPROVED

Ms. Bozarth stated the rule was being amended to add clarity throughout the document, noting there are no substantive amendments. She requested that the proposed amendments to the rule be published in the Texas Register for public comment.

2. §163.33, Community Supervision Officers (37 TAC §163.33)

APPROVED

Ms. Bozarth stated that there were some substantive proposed amendments to this rule. One (1) amendment decreases the number of training hours that community supervision officers need to obtain each year if they have over four (4) years of experience. The decrease is from 80 to 40 hours. Another amendment stipulates that the Director of the Community Justice Assistance Division (CJAD) is not going to approve the training hours per se but will retain auditing of the CSCDs to ensure professional based skills training is occurring. Another amendment pertains to an update of the "grandfather" clause that stipulates anyone who had become a community supervision officer prior to September 2, 1989, did not require certification. Ms. Bozarth requested that the proposed amendments to the rule be published in the Texas Register for public comment.

3. §163.38, CJAD Sex Offender Supervision (37 TAC §163.38)

APPROVED

Ms. Bozarth stated that during the recent legislative session, a definition of a sex offender was added to state law and was incorporated into the rule in subsection (a) paragraphs (3) (A), (B) and (C). She requested that the proposed amendments to the rule be published in the Texas Register for public comment.

4. §163.41, Medical and Psychological Information (37 TAC §163.41)

APPROVED

Ms. Bozarth related that the proposed amendments to this rule are not substantive, e.g. the defining of acronyms and clarification of language. She requested that the proposed amendments to the rule be published in the Texas Register for public comment.

5. §163.43, CJAD Funding and Financial Management (37 TAC §163.43)

APPROVED

Ms. Bozarth stated that amendments clarify rule language and conform the rule to state law. She requested that the proposed amendments to the rule be published in the Texas Register for public comment.

Discussion, Consideration and Possible Action Regarding Land Transactions

- 1. Amendment of Existing Easement with Enbridge Pipelines (East Texas) L.P. on the Coffield, Beto and Powledge Units in Anderson County, Tennessee Colony, Texas**

APPROVED

C.F. Hazlewood, Director for Agribusiness, Land and Minerals, noted that the amendment before the Board regarding an existing easement with Enbridge Pipeline (East Texas) L.P. was discussed in detail at the Business and Financial Operations Committee. The amendments to the existing easement include the name change of the company and allow the construction of four (4) all-weather crossings.

- 2. Drainage Easement with the City of Huntsville on the Huntsville Unit in Walker County, Huntsville, Texas**

APPROVED

Mr. Hazlewood reviewed the request for drainage easement on the Huntsville Unit in Walker County, allowing the City of Huntsville to clear the brush from that area.

Discussion, Consideration and Possible Action Regarding a Construction Project to Replace Window Frames at the Stringfellow Unit in Brazoria County, Rosharon, Texas

APPROVED

Frank Inmon, Director of the Facilities Division, noted that he had updated the Board earlier during the Business and Financial Operations Committee on the proposed construction project to replace window frames at the Stringfellow Unit. He requested that the Board approve the project for a total estimated project cost of \$1,667,700.

Chairman Crain thanked all attendees for their interest and stated that the next meeting of the Board will be March 26-27, 2008, at the Hilton Austin.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 135th meeting of the Board at 2:20 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

March 26 - 27, 2008

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC) - Educational Efforts of Community Supervision and Corrections Departments (CSCD) Stakeholders Committee	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Correctional Officer Staffing Update	Page 2
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC) Update on CMHCC Activities	Page 3
G. Report from the Chairman, Advisory Committee On Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 6
H. Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008.....	Page 6
I. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 7
J. Discussion, Consideration and Possible Action Regarding Annual Review of Personnel Directives	
1. PD-71 "Selection Systems Procedures"	Page 7
2. PD-72 "Employee Salary Administration"	Page 7
3. PD-75 "Applicants with Pending Criminal Charges or Prior Criminal Convictions"	Page 7
K. Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
1. §151.6, Petition for the Adoption of a Rule (37 TAC §151.6)	Page 7
2. §159.13, Educational Services to Released Offenders/Memorandum of Understanding (37 TAC §159.13)	Page 7
L. Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules Concerning Community Justice Assistance Division (CJAD) Standards	
1. §163.5, Waiver to Standards (37 TAC §163.5)	Page 7
2. §163.33, Community Supervision Officers (37 TAC §163.33)	Page 7
3. §163.38, Sex Offender Supervision (37 TAC §163.38)	Page 8
4. §163.41, Medical and Psychological Information (37 TAC §163.41)	Page 8
5. §163.43, Funding and Financial Management (37 TAC §163.43)	Page 8
M. Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules	
1. §152.51, Authorized Witnesses to the Execution of an Inmate Sentenced to Death (37 TAC §152.51)	Page 8
2. §159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria (37 TAC §159.1)	Page 8
N. Discussion, Consideration and Possible Action Regarding a Proposed Land Transaction with the City of Sugar Land for an Access and Drainage Easement on the Central Unit in Fort Bend County, Sugar Land Texas	Page 8

O. Discussion, Consideration and Possible Action Regarding Facilities Division Construction Project -
Replace Water Well #2 at the Powledge Unit in Anderson County, Palestine, Texas Page 8

P. Public Comments Page 9

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 136

The Texas Board of Criminal Justice convened into regular session at 2:15 p.m., cancelled executive session on Wednesday, March 26, 2008, and reconvened into regular session at 9:05 a.m. on March 27, 2008, at the Hilton Austin, Austin, Texas.

Chairman Crain stated that the Board is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well as public comments on topics within its jurisdiction in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. She reviewed the requirements for speaker registration. On posted agenda topics one (1) speaker registration card was received by Board staff prior to the required deadline. As the presentation was germane to an agenda item, it would be heard prior to the Board taking action on that topic. The presentation time is three (3) minutes per individual. Any documentation submitted by the presenter would be handled in accordance with guidelines set forth in Board Rule 151.4. Chairman Crain also reviewed the guidelines for conduct and decorum for the presenters while addressing the Board.

Recognitions

Chairman Crain recognized former Board members, Pierce Miller, Patricia Day and Adrian Arriaga for their valuable services, exemplary leadership and notable contributions. She highlighted each member's service while on the Board and presented each with a resolution of commendation. Chairman Crain noted that each member was unique and his or her friendship would be deeply missed. Mr. Miller thanked Chairman Crain and the Board office for their support over the years. He noted the hard work and dedication of the Board Chairman and the executive staff, stating it had been his honor to work with them. Brad Livingston, Executive Director for the Texas Department of Criminal Justice (TDCJ), thanked Mr. Arriaga, Ms. Day and Mr. Miller for their service, recognizing their diligence and support of the Agency.

Chairman Crain recognized Mary Gibson as a new member of the Board staff.

Mr. Livingston recognized Jackie Edwards as the Director of the Administrative Review and Risk Management Division. Mr. Edwards thanked Mr. Livingston and the Board for the vote of confidence, stating he looked forward to serving in this capacity

Rodney Cooper, Deputy Director for Prison and Jail Operations, Correctional Institutions Division, recognized the following units for receiving American Correctional Association accreditation or reaccreditation:

Reaccreditation:

Dominguez Unit – Warden Robert Balli
Eastham Unit – Warden David Sweetin
Goodman Transfer Facility – Warden Michael Davis
Hightower Unit – Warden James Jones
McConnell Unit – Warden Oscar Mendoza
Plane/Henley State Jail – Assistant Warden Leonard Echessa
Robertson Unit – Warden Robert Eason
Sanchez Unit – Warden Will Churchill

Initial Accreditation:

Michael Unit – Warden Loyd Massey
Hilltop Unit – Warden Kay Sheeley and Warden Lorie Wills

Chairman Crain congratulated the units and staff on achieving accreditation or reaccreditation, noting that staff work very hard keeping the units up to par.

Chairman Crain recognized the TDCJ employees, who have achieved 25, 30 and 35 years of service with the State of Texas during the months of February and March 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

Chairman Crain asked if there were any comments, objections or amendments to the Consent Items as proposed. Seeing none, the Consent Items were adopted as posted.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 135th TBCJ Meeting Minutes
6. Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, reported on the educational efforts of the CSCD Stakeholders Committee, which has a body of 25 members representing a wide-range of components within the criminal justice system. The committee has worked intently to educate as many individuals influencing the course of criminal justice on the options available in addition to the standards and procedures. Judge Gist noted the cooperative efforts of the elements within the criminal justice field to maximize the use of the sanctions and remedial tools. He stated that everything was going extremely well. Regional meetings with judges, prosecutors and defense attorneys were being planned for the summer. Judge Gist further reported that the downward trend of revocations has been maintained, especially in the area of technical revocations. An upward trend in the area of early dismissals or early terminations of probation was also noted. Judge Gist advised the Board that the outlook was good with no expectations of change except for the better.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an update on the correctional officer staffing (*Attachment B*). Recruitment and retention of correctional staff remains a top priority and an on-going challenge for the Agency. As of February 29, 2008, there were 3,594 vacant correctional positions, a filled rate of 86.4%. While this is slightly better than September 2007 (which had 3,978 vacant positions), it is typical to see some improvements in staffing during the winter months. Twenty-two units are currently staffed below 80%.

Mr. Livingston reported that TDCJ continues to develop and implement initiatives that focus on recruiting and retaining these critical positions. He reviewed initiatives relating to these areas.

Mr. Livingston stated that historically, the Agency's highest loss of correctional officers occurs within the first year of service. In FY 2007, the turnover rate for correctional officers in their first year was approximately 43%, compared to the overall correctional officer turnover rate of 24%.

Mr. Livingston stated that it was his intent to present for the Board's approval two (2) proposed initiatives that will make starting salaries for correctional officers somewhat more competitive with the state job market. The current practice concerning the Career Ladder Adjustment is all newly hired Correctional Officers, with the exception of college graduates, and military personnel with two (2) or more years of service, begin with a starting salary of \$23,046 and reach the maximum salary of \$33,946 after eight (8) years. Mr. Livingston requested that the Board consider a salary increase proposal to be effective May 1, 2008. This proposal increases the starting salary of a newly hired correctional officer by 10%, to \$25,416. After the first two (2) months of employment, the correctional officer would advance to \$26,940. After six (6) months as a

Correctional Officer II, the correctional officer would advance to \$28,546, currently the second CO III pay level. (By eliminating the first CO III pay level, a reduction of the months of service required to reach the maximum salary by six [6] months for all correctional staff will be realized.) Mr. Livingston noted that correctional staff includes Laundry and Food Service Managers who are on a similar correctional career ladder.

Mr. Livingston stated that the primary focus on increasing the salary in the first few career ladder steps is to impact both the recruitment and retention during those critical early months of employment. He advised the Board that the impact of this proposed career ladder adjustment would be \$15 million annually.

Mr. Livingston reviewed the recruitment bonus proposal. To address targeted staffing shortages, this proposal would provide a \$1,500 recruitment bonus to newly hired correctional officers on designated understaffed correctional facilities. Generally, 20 units have fallen into this category each month. By offering this bonus, coupled with the salary increase proposal, it is anticipated that the number of new recruits would increase staffing levels on these targeted units. Units will be re-evaluated periodically to determine bonus eligibility. Mr. Livingston advised the Board that this proposed policy change would cost approximately \$4.5 million annually. He expressed his gratitude to the state's leadership for their support and commitment, noting that they were very much attune to the correctional officer staffing shortage.

Mr. Livingston further advised that pursuant to Board Policy BP-01.01, "Texas Board of Criminal Justice Responsibilities," the Board's approval is required to make the necessary changes to the Personnel Directives associated with these initiatives. These adjustments will result in expenditures above the appropriated levels. Although there is not sufficient funding within the Agency's budget, agency riders and Article IX provisions provide the authority to make these salary adjustments.

These adjustments are crucial for the Agency to make progress in addressing the substantial number of correctional officer vacancies prior to the summer months, when staffing levels have traditionally diminished; however, more comprehensive salary adjustments will be a key component in the Agency's 2010-2011 Legislative Appropriations Request.

Mr. Livingston advised that later in the meeting he would present an action for the Board to consider allowing staff to make the technical changes to implement these proposals in an effective and expeditious manner by revising the necessary personnel directives, including, Personnel Directive PD-72, "Employee Salary Administration."

Chairman Crain asked if there were any questions or comments. Oliver Bell expressed his support for the proposals that address the correctional officer staff shortage. He stated that they were very positive steps and praised Mr. Livingston and his staff for taking the initiative to put these measures into action, noting he looked forward to the future proposals as well. Mr. Livingston thanked Mr. Bell for his comments, stating that it was a team effort. Chairman Crain praised Mr. Livingston for his leadership and bringing this issue to the forefront. She stated that this was a wonderful signal to the staff that they have the support of the TDCJ leadership team who understands that security staff represent the core component of the Agency, which is the public's safety.

Report from the Chairman, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, the Executive Director of the CMHCC, provided an update on CMHCC activities. He advised the Board that the CMHCC also has shortages of certified professionals as the various medical fields in the private sector can offer better pay and incentive packages than the state. During the first quarter of Fiscal Year (FY) 2008, the population indicators for the health care program have remained stable. The average daily population for the timeframe was 151,638 offenders served, as compared to the first quarter of FY 2007, which were 151,838. This is a decrease of 200 offenders or .01%. While the overall growth was relatively stable, the number of offenders age 55 and over has continued to increase steadily. Mr. Hightower noted that through the first quarter of FY 2008, the average number of older offenders served was 10,120, which represents an increase of 632 or about 7% more than the first quarter of FY 2007. He advised the Board that the CMHCC is aware that the costs for this section of the offender population was rising, but also stated this was an issue to be solved by other components of state government.

Mr. Hightower stated that the overall HIV+ population has remained relatively stable throughout the last two (2) years. The average of the population served during the first quarter of FY 2007 was 2,471 or 1.6%.

Mr. Hightower reviewed the health care cost for the first quarter. The overall cost for the quarter was \$111.12 million, which was below overall revenues earned by university providers by \$1.9 million or 1.7%. He noted that the universities are only

paid what they earn; any unexpended balances remain in the correctional managed health care budget and, as part the General Revenue Fund, would be returned at the end of the fiscal year. The following are highlights of Mr. Hightower's review:

- The University of Texas Medical Branch's (UTMB) total revenue was about \$89 million. Texas Tech University of Health Sciences Center's (TTUHSC) total revenue was approximately \$24 million. UTMB serviced about 80% of the offender population while TTUHSC served about 20%. On-site services, which are services provided on the units, comprised \$54.3 million or 40% of the total health care expenses. Of that amount, almost 80% was for salaries and benefits. Operating costs were slightly over 20%.
- Pharmacy services totaled \$10.7 million representing approximately 9.6% of the total expense. Of that amount, 15% was related to salaries and benefits, almost 4% for operating costs and slightly over 81% for drug purchases. It was noted that UTMB has been able to qualify for what is known as 340B drug pricing. The pricing index is one of the lowest drug pricing programs that the federal government offers. It saves the state about \$1 million dollars each month in drug costs.
- The offsite services, which include hospitalization and specialty clinic care, are not provided at the unit level. In many instances, these services are provided by contract with a local hospital. One (1) of the greatest challenges for the CHMCC is to meet the needs of the correctional health care system in small rural communities. There simply are not enough licensed professionals to meet the medical needs in the State of Texas.
- Mental health services totaled slightly over \$10 million or 9.3% of the total costs. Of this amount, approximately 96% was for mental health staff salaries and benefits, with the remaining 4% for operating costs.
- Indirect support expenses accounted for over \$4 million and represented around 4% of the costs.
- The total cost per offender per day for all health care services statewide through the first quarter of FY 2008 was \$8.06. The average cost per offender per day for the prior four (4) fiscal years was \$7.56.
- As consistently noted in prior reports, the aging of the offender population has impacted the resources of the health care system. Offenders age 55 and older access the health care delivery system at a much higher level and frequency than younger offenders. Hospital costs received to date for the older population totaled approximately \$835 per offender. The same calculation for offenders under age 55 totaled about \$141. While comprising about 7% of the overall service population, offenders age 55 and over account for almost 30% of the hospitalization costs received to date.
- The drug costs through the first quarter of FY 2008 totaled slightly over \$10 million. HIV anti-retroviral medication costs were about \$5 million through the quarter. This represents over 47% of the total drug cost during this period.
- Financial monitoring is also part of the CMHCC. Detailed transaction level data from both providers is tested on a monthly basis to verify reasonableness, accuracy and compliance with policies, procedures and contractual requirements.

Mr. Hightower stated that he would be pleased to answer questions from the Board. Chairman Crain asked if there were any questions or comments. Tom Mechler requested a copy of the FY 2008 First Quarter Report. Mr. Hightower responded the document would be supplied to the Board. Pastor C.L. Jackson commented there seems to be too much expenditure with no corrective action and inquired if there were results. Mr. Hightower responded that from his current position, in addition to his experience as a legislator for 16 years, 12 of which he served as the Chairman of the House Corrections Committee, it is in the state's interest and in the public's interest, that rehabilitation is part of the Agency's mission. Noting that many areas in the CMHCC and in the TDCJ's security arena have been in response to federal court orders, Mr. Hightower advised the Board that the health care providers consider the offenders as patients who have health care needs. He emphasized that without adequate constitutional health care, the system has been and would be much worse; the CMHCC and the medical partners provide state of the art and up to date medical treatment for offenders.

With regard to the aging offender population, Greg Coleman noted that it was his understanding that if these offenders were not incarcerated, they would be eligible for substantial medical aid from the federal government. Upon incarceration, that aid

is terminated, thereby leaving the states to pick up medical costs for them. Mr. Hightower responded that Mr. Coleman was correct. Mr. Coleman asked if that was by federal statute. Mr. Hightower responded that federal statutes do not disallow individuals living in the free world to be denied those rights and privileges, but when they are incarcerated in a secure facility, they are not eligible for those benefits from the federal government.

Chairman Crain inquired if there were any more questions. Noting that UTMB money seemed to be well spent, Mr. Bell inquired if the CMHCC needed more funds to retain and recruit licensed professional staff. Mr. Hightower responded that the legislature was very kind to the CMHCC last session by allowing extra money to address some of the pay issues, such as raises, differential pay and so forth, which was reported in the first quarter figures for UTMB. He further commented that he was pleased with the numbers in the report, noting money will be expended each quarter to attract and retain professional staff.

Janice Harris Lord voiced her concerns about the pharmaceutical costs for mental health, and inquired about the cost of psychotropic medications. She expressed concern that the lack of the psychotropic medications may cause a higher number of critical incidents involving violent behavior. Mr. Hightower stated that he would provide the Board with those numbers. He reviewed the operation of the "Drugstore," which is owned by UTMB and located in Huntsville. Mr. Hightower provided the highest assurances that pharmacy procedures were among the best practices in correctional managed health care. The offender prescriptions are written by licensed health care professionals on the unit and electronically sent to the UTMB pharmacy. If the prescribed drug is in the formulary (not all new generation drugs are available), it is sent to the required unit in blister packs to be distributed by medical staff. If the blister packs are not used and the shelf life is still good, the blister packs are repacked and sent to the field again.

Chairman Crain thanked Mr. Hightower for the CMHCC update. She requested that Mr. Hightower provide a schedule for CMHCC meetings to the Board Office for distribution among the Board, in addition to the First Quarter FY 2008 Report and some generic materials regarding the CMHCC. Mr. Hightower responded that it would be his pleasure to provide these items.

Chairman Crain stated that Ms. Rhonda Taylor requested to provide public testimony under the topic Correctional Managed Health Care, speaking on behalf of her son, Kevin Gordon.

Rhonda Taylor stated that the Correctional Managed Health Care Committee under the Institutional Division policy for contractors for correctional facilities and services failed to create policies and procedures to ensure the TDCJ against law suit claims from services performed under the Agency's medical care contract, for the purpose of their administrative and legal obligations and authority that applies to the Texas Guardianship Law. Her guardianship appointment was created and invested by an act of law based on her son's status as an incapacitated person who is not able to handle his own affairs. On September 29, 2005, four (4) months after his incarceration, she received a letter from Pam Moore, an administrative associate, stating that Ms. Taylor's guardianship is not valid while her son is incarcerated. Ms. Taylor alleged that the CMHCC staff in the administrative section failed to take corrective legal action to resolve her legal standing according to obligations under the law, and in the law as they reflect the termination of her legal relationship and authority over her son due to his mental state. As the result of the continued medical violations, Ms. Taylor notified the Board that she has taken additional actions, such as filing several complaints with the Texas Medical Board. She stated that these complaints were filed on the following licensed physicians: Dr. Lannette Linthicum, Dr. Joseph Penn, Dr. Orrin Joseph Murray and Dr. Joe Hicks Oliver. Ms. Taylor stipulated that she filed these complaints because these physicians totally disrespected her legal court-ordered guardianship, which has caused her son harm and punishment (he has been living in a 23-hour day cell for over two [2] years), with no rehabilitation. She noted that Offender Gordon was incarcerated as a sexual offender and that through a lack of the proper rehabilitative intervention, he is not going to be ready for society when released. Ms. Taylor further alleged that Offender Gordon cannot enter the prison's general population, because isolation has corrupted his mind. Ms. Taylor said that TDCJ stands for justice and the Agency should resolve her legal guardianship because as it stands now, there can be no release of medical records to her as the legal guardianship, which is recognized by the free world. She received a letter from Melinda Bozarth, TDCJ General Counsel, dated March 12, 2008, stating that Dee Wilson, Director for the Texas Correctional Office for Offenders with Medical or Mental Impairments (TCCOMMI), could not get a copy of the medical records because of her lawsuit. Ms. Taylor thanked the Board for listening to her comments.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Ms. Judy Briscoe, Chairman of ACOOMMI, had no report.

Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0704 – Parole Division, Interstate Compact:** The final report was issued February 22.
- **0705 – Board of Pardons and Paroles, Hearings:** The final report was issued February 22.
- **0713 – Office of the General Counsel, Claims Administration:** The proposed final report is completed with an exit conference scheduled for April 10 with the Executive Director.
- **0716 – Information Technology Division, Offender Information Management System:** The final report was issued February 22.
- **0718 – Business and Finance Division, Agribusiness, Land and Minerals, Maintenance:** The final report was issued March 7.
- **0722 – Business and Finance Division, Anti-Fraud Coordination:** The draft report was released for comment on February 27.

FY 2008 Internal Audit Plan

- **0801 – Correctional Institutions Division, Correctional Officer Training:** The draft report is being written.
- **0805 – Human Resources Division, Employee Grievance Procedures:** The draft report is being written.
- **0809 – Correctional Institutions Division, Security Threat Group Management Office:** Fieldwork on the audit continues. The audit will have delays since the lead auditor has left the Agency.
- **0810 – Parole Division, Specialized Programs:** The audit is in fieldwork and remains on schedule.
- **0811 – Windham School District, Computer Services:** The audit was assigned on March 18. Due to staff shortages, this audit will affect Audit 0818.
- **0812 – Health Services Division, Office of Mental Health Monitoring and Liaison:** The proposed report is completed. An exit conference is scheduled for April 10 with the Executive Director.
- **0814 – Correctional Institutions Division, Bench Warrants:** This audit is impacted by the loss of the lead auditor for Audit 0809. The assignment of the audit is delayed until May 1.
- **0815 – Community Justice Assistance Division, Accounting Unit:** The proposed final report was released to the Chief of Staff on March 26.
- **0816 – Rehabilitation and Reentry Programs Division, Volunteer Services Program:** A new lead auditor was assigned to bring the audit in on schedule.
- **0817 – Parole Division, Review and Release, Institutional Parole Offices:** The audit continues in fieldwork.
- **0818 – Facilities Division, Environment Branch:** Due to the limited number of lead auditors, the audit assignment is delayed until mid-June.
- **0819 – Manufacturing and Logistics Division, Warehousing and Supply:** The audit continues in fieldwork, which is more intensive than originally intended. The extension to the audit completion time is approximately four (4) to six (6) weeks.
- **0822 – Executive and Administrative Services, Records Retention:** The audit continues in fieldwork.
- **0823 – Administrative Review and Risk Management Division, Offender Grievance Program:** The State Auditor's Office (SAO) has included this area in one of their audits. The Internal Audit Division will wait until the completion of the SAO's audit to determine if any additional work needs is necessary.
- **0824 – Administrative Review and Risk Management Division, Ombudsman Program:** After additional fieldwork, the draft report is scheduled for release within the next ten (10) days.

Mr. Pyeatt stated he would be pleased to answer any questions. There were none.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts over One (1) Million Dollars

APPROVED

Charles Marsh, Chief Financial Officer, reviewed proposed increases to four (4) existing contracts. The first three (3) increases are in support of the TDCJ agricultural program, two (2) of which are based on commodity indexes recognized in the industry, while the third increase is an increase for tractor parts designated for the farm shops to repair the aging inventory of farm equipment. The fourth proposed increase to an existing contract is for 24 additional beds provided by a halfway house in El Paso.

Discussion, Consideration and Possible Action to Regarding Annual Review of Personnel Directives

1. PD-71, "Selection Systems Procedures"

APPROVED

Melinda Bozarth, TDCJ General Counsel, stated that on Wednesday, March 26, 2008, Carol Blair Johnston, Director of the Human Resources Division, provided a presentation to the Human Resources (HR) Committee on the revisions to PD-71, "Selection Systems Procedures."

In addition to clarification/grammatical changes, proposed revisions include the deletion of priority consideration of former employees separated by reduction of force and the addition of the requirement for HR Representatives to track the next renewal date for applicants hired to positions with license or certification requirements. Addition revisions incorporated the requirement for criminal history background checks on inside applicants for positions requiring access to the Texas Law Enforcement Telecommunications System (TLETS), and an appeal provision for applicants entitled to Veteran's Employment preference.

2. PD-72, "Employee Salary Administration"

APPROVED

Mr. Livingston reminded the Board that the revisions to PD-72, "Employee Salary Administration" were related to the career ladder adjustments that he had proposed earlier in the meeting in addition to the recruitment bonus. The motion would allow staff to make those changes and expedite implementation.

3. PD-75, "Applicants with Pending Criminal Charges or Prior Criminal Convictions"

APPROVED

Ms. Bozarth stated that on Wednesday, March 26, 2008, Ms. Johnston provided a presentation to the Human Resources Committee on the revisions to PD-75, "Applicants with Pending Criminal Charges or Prior Criminal Convictions."

In addition to clarification/grammatical changes, revisions add definitions, incorporate text to reference the criminal history criteria required for applicants for positions requiring access to TLETS and add a new section relating to the criminal history criteria for contract workers.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

1. §151.6, Petition for the Adoption of a Rule (37 TAC §151.6)

APPROVED

Ms. Bozarth stated that no comments were received from the publication of the rule in the Texas Register. However, staff noted that Subsection (c)(2) incorrectly referenced Subsection (a)(3) instead of Subsection (b)(3). The amended rule was proposed for adoption with a correction to the reference as presented

**2. §159.13, Educational Services to Released Offenders/
Memorandum of Understanding (37 TAC §159.13)**

APPROVED

Ms. Bozarth stated that the rule was published in the February 8, 2008, issue of the Texas Register, to allow for comments from the public. No comments were received. She requested that the Board adopt the rule.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules Concerning Community Justice Assistance Division (CJAD) Standards

Ms. Bozarth reported individually on the following five (5) rules, which were published in the February 8, 2008, issue of the Texas Register, to allow comments from the public. As no comments were received, Ms. Bozarth requested the Board adopt all five (5) rules as published.

1. **§163.5, Waiver to Standards (37 TAC §163.5)** *APPROVED*
2. **§163.33, Community Supervision Officers (37 TAC §163.33)** *APPROVED*
3. **§163.38, Sex Offender Supervision (37 TAC §163.38)** *APPROVED*
4. **§163.41, Medical and Psychological Information (37 TAC §163.41)** *APPROVED*
5. **§163.43, Funding and Financial Management (37 TAC §163.43)** *APPROVED*

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules

1. **§152.51, Authorized Witnesses to the Execution of an Inmate Sentenced to Death** *APPROVED*

Ms. Bozarth stated that the rule was reorganized to add clarity. Substantive revisions include increasing the number of victim witnesses to six (6) under certain circumstances, especially when there is a large number of victims, and authorizing the Executive Director to approve exceptions to the rule, as he deems appropriate. She requested that the revised rule be published in the Texas Register to seek the public's comments.

2. **§159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria (37 TAC §159.1)** *APPROVED*

Ms. Bozarth stated that the revisions of the rule incorporate a new provision of state law passed in the 79th Legislative Session, authorizing a pretrial detainee to be placed in a SAFPF if that offender has gone through the drug court program. Another provision was added consistent with the Code of Criminal Procedure, Article 42.12, Section 14, which prohibits the placement of a sex offender in a SAFPF. She requested that the revised rule be published in the Texas Register to seek the public's comments.

Discussion, Consideration and Possible Action Regarding a Proposed Land Transaction with the City of Sugar Land for an Access and Drainage Easement on the Central Unit in Fort Bend County, Sugar Land, Texas *APPROVED*

C.F. Hazlewood, Director of Agribusiness, Land and Minerals, recommended that the Board approve the proposed land transaction with the City of Sugar Land for an access and drainage easement on the Central Unit in Fort Bend County as discussed during the meeting of the Business and Financial Operations Committee on Wednesday, March 26, 2008.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Project – Replace Water Well #2 at the Powledge Unit in Anderson County, Palestine, Texas *APPROVED*

Lee Struble, Director of Maintenance, Facilities Division, requested that the Board approve the replacement of Water Well #2 at the Powledge Unit as presented during the Business and Financial Operations Committee, Wednesday, March 26, 2008. The total project amount requested was \$1,854,000.

Public Comments

Chairman Crain noted that six (6) registrations cards had been received prior to the established deadline for public comments on issues within the jurisdiction of the Board, but not posted on the agenda. She reviewed the criteria for individuals providing public comment. Presenters were advised each speaker had three (3) minutes for comments. The following are highlights from each person's comments:

Laura Brady spoke on behalf of Offender Kenneth Foster regarding recreation issues at the McConnell Unit, in addition to confidentiality of legal visits. Ms. Brady informed the Board that men in closed custody are being denied their recreation privileges by McConnell Unit administration. If the weather is inclement or when there is a lack of staff available for outside recreation, staff deny the offenders the use of the day room for recreation. Ms. Brady stated that TDCJ's *Offender Orientation Handbook* (page 32) and the *Disciplinary Rules and Procedures* (page seven [7]) clearly identify the day room as an alternative to outside recreation. Ms. Brady stated that Offender Foster is not receiving complete confidentiality during his legal visits since a correctional officer is posted within hearing distance of the visitors.

Alison Dieter spoke to the Board concerning the necessity of restoring religious services to death row offenders. She said that no human being should be deprived of the opportunity to worship one's deity. Ms. Dieter voiced her opinion that the harsh conditions on State of Texas death row could be compared to prisoner of war torture camps, which are not compatible with the goals of a compassionate society.

Ashley Turner stated that prisoners have been deprived of sleep since the installation of the new stadium lighting at the Polunsky Unit. She spoke to the deteriorating emotional and physical well-being of the prisoners because there is a constant flood of light in each cell. Ms. Turner also alleged that the suicide watch keeps prisoners deprived of sleep as well. She suggested that if suicide was of such concern, death row prisoners should be allowed television and phone privileges.

Gloria Rubac asked the Board to re-enact the death row plan, which allowed offenders on death row to participate in work programs, piddling programs and group recreation. She also spoke to sleep deprivation issues and mental health issues. Ms. Rubac advised that the prisoners are being tortured from isolation and the lack of human contact.

Angie Agapetus spoke about the 16 Texas units that use the 23-hour isolation method, torturing offenders with inhumane treatment. She noted that this isolation method was intended to be short-term treatment for unusual behavior. Ms. Agapetus related several studies that dealt with long-term isolation as a form of torture. She voiced her concerns that the food was substandard and non-nutritious.

Dan Cheney spoke on behalf of Offender Steven Michael Elliot and his medical conditions. The offender has been assigned to the Ramsey Trusty Camp since 2003. Mr. Cheney listed a variety of Offender Elliot's medical problems that include a double hernia, which has not been treated, and the frequent vision impairments from using improper welding equipment while performing his prison job as a welder. Additionally, the offender has requested replacement medical boots for the past three (3) years; he has yet to receive them. Mr. Cheney requested the Board assistance in ensuring that Offender Elliot receives the proper medical treatment.

Chairman Crain thanked the presenters for their comments, which provide a very important service to the Board. She requested that individuals desiring a written response to their public comments leave their names and addresses with staff.

Chairman Crain thanked everyone for attending the meeting and announced that the next meeting of the Board would be May 20, 2008, at the Sheraton Hotel in Austin.

Adjournment

There being no further business, Chairman Crain adjourned the regular session of the 136th meeting of the Board at 10:44 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Sheraton Austin Hotel
Austin, Texas

May 20, 2008

Table of Contents for Summary

A.	13 th Annual Governor’s Criminal Justice Volunteer Service Awards	Page 1
B.	Recognitions	Page 4
C.	Discussion, Consideration and Possible Action Regarding Consent Items	Page 4
D.	Discussion, Consideration and Possible Action Regarding Personal Property Donations	Page 4
E.	Election of Officers	Page 4
F.	Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 4
G.	Report from the Chairman, Judicial Advisory Council (JAC).....	Page 4
H.	Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 5
I.	Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 5
J.	Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 7
K.	Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008.....	Page 7
L.	Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 8
M.	Discussion, Consideration and Possible Action Regarding Revision to Board Policies	
	1. BP-02.43 “Equal Employment Opportunity”	Page 9
	2. BP-03.85 “Offender Visitation” and the “Offender Visitation Plan”	Page 9
N.	Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
	1. §152.51, Authorized Witnesses to the Execution of an Inmate Sentenced to Death (37 TAC §152.51)	Page 9
	2. §159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria (37 TAC §159.1)	Page 9
O.	Discussion, Consideration and Possible Action Regarding Readoption of Board Rule §195.51, Sex Offender Supervision (37 TAC §195.51)	Page 9
P.	Discussion and Possible Action Regarding Proposed Amendments to Board Rules	
	1. §151.21, Weapons Policy (37 TAC §151.21)	Page 10
	2. §151.73, Texas Board of Criminal Justice Vehicle Assignments (37 TAC §152.61)	Page 10
	4. §152.61, TDCJ Emergency Response to Non-Agent Private Prisons/Jails (37 TAC §52.61)	Page 10
Q.	Discussion, Consideration and Possible Action Regarding a Proposed Land Transaction for a Pipeline Easement on the Eastham Unit in Houston County, Lovelady, Texas	Page 10
R.	Discussion, Consideration and Possible Action Regarding Facilities Division Construction Project - Replace Heating, Ventilation and Air Conditioning (HVAC) in Multiple Locations at the Wynne Unit in Walker County, Huntsville, Texas.....	Page 10

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 137

Chairman Oliver Bell convened the 137th Meeting of the Board on Tuesday, May 20, 2008, at 11:12 a.m.

13th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed the honored guests for joining the Board for this important ceremony. He quoted the late Leo Buscaglia, renowned lecturer and author, 'Too often we underestimate the power of a touch, a smile, a kind word, a listening ear, an honest compliment, or the smallest act of caring, all of which have the potential to turn a life around.' He acknowledged that the individuals being recognized at this event represent the dedication and commitment of thousands of volunteers who are, on a daily basis, turning a life around. These volunteers make a difference in the lives of many Texans by unselfishly giving of themselves to help offenders, and their families, have a chance for a better life.

Chairman Bell recognized Christina Melton Crain, the immediate former Board Chairman, who was appointed to the Board in 2001 and served as its Chairman from February 2003 until April 2008. It was under Ms. Crain's oversight that the preparation for the 13th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony began and the Board was honored that Ms. Crain was able to attend the meeting to see the event through to fruition. Chairman Bell personally thanked Ms. Crain for her attendance, noting that her support of the volunteers and their efforts to improve the lives of the offenders, and their families, has been immeasurable. Under Ms. Crain's encouragement and with the GO KIDS initiative, a number of new volunteer programs have been implemented within the Texas Department of Criminal Justice's (TDCJ or Agency) facilities, focusing on the importance of strengthening offender-family relationships.

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the TDCJ. Mr. Livingston welcomed Governor Perry and distinguished guests. He said that it was an honor to recognize a very important group of individuals, who have made a personal commitment to both the criminal justice system and the offenders who are within that system. Those offenders are in significant need of the assistance provided by the volunteers. Many of these volunteers are here because they have one (1) thing in common, although their stories and inspirations may differ from each other, there is commitment to helping offenders turn their lives around. TDCJ staff members play a specific role in assisting in the rehabilitation and reintegration of offenders. The volunteers complement that process by providing a support system to a segment of society who quite frankly many would rather ignore. There are thousands of volunteers who volunteer specifically and directly in the TDCJ correctional facilities, offering messages of hope and encouragement to many offenders. There are also many individuals who provide volunteer services as offenders transition back into society. More volunteers help offenders and offenders' families, specifically their children. Mr. Livingston expressed his gratitude to Ms. Crain for her initiative in that regard. He acknowledged that he greatly admired the enthusiasm and selflessness demonstrated by the volunteers who partner with the TDCJ. The volunteers do not provide this service to obtain fame or celebrity; they are motivated by the desire to help others succeed. TDCJ is fortunate to have the volunteers being recognized in addition to the thousands of others who donate time, effort and energy every day within the criminal justice system. On behalf of TDCJ's 38,000 employees, Mr. Livingston thanked the volunteers for their efforts and for being partners with the Agency.

Chairman Bell requested that the audience place their cell phones on the silent or vibrate mode.

Chairman Bell stated it was his honor and privilege to introduce the keynote speaker, the Honorable Rick Perry, Governor of Texas. He noted Governor Perry's strong stand for the law enforcement community, empowering it with the resources necessary to protect the citizens of Texas and make its communities safer.

The following are highlights of Governor Perry's speech. Governor Perry expressed it was his honor to be in the presence of men and women like the volunteers attending the ceremony, noting he has always been impressed with how many people are willing to give back to Texas because they have realized how much they have been given. He thanked Chairman Bell, the members of the Board, Mr. Livingston and Carol Vance, former Board Chairman, for their outstanding service. He also expressed his appreciation to Ms. Crain for her hard work, dedication and commitment. Governor Perry recognized Ms. Crain's impact on the Agency, the offenders and the offenders' families as indelible. He noted that Ms. Crain's legacy will continue through the GO KIDS initiative, noting the assistance and gifts that traumatized children will receive is a reflection of her heart.

Governor Perry said that Texas is known as a law and order state with an unshakable sense of right and wrong. It has been a long hallmark of the state's unique character. As such, Texas supports its peace officers and advocates for appropriate penalties, insuring that the punishment fits the crime. Once an individual strays beyond the terms of the social contract he has with the citizens and is incarcerated, that individual's choice impacts his freedom, family, friends and community. Governor Perry emphasized there are over 150,000 individuals who have forfeited their freedom by taking actions that were harming, not only to their victims but to their families. To guard and guide these offenders, TDCJ employs approximately 23,000 correctional officers, which is roughly a six (6) to one (1) ratio. This ratio is manageable and within the bounds of the law, but it does not always allow for the time and energy for the human side of things. This is where the remarkable volunteer community comes into play. Approximately 13,000 approved volunteers tendered 500,000 volunteer hours. Volunteers help offenders improve their life skills and their level of education, as well as get a handle on substance abuse issues. Governor Perry stressed that these volunteers provide services that are essential to the reintegration into society. In a civilized society, the notion of punishment must go hand in hand with the concept of rehabilitation and reintegration. By complementing the harsh realities of consequences with the warmth of human compassion, volunteers have enabled offenders to envision a future that does not include repeat offenses. Instead, the compassion and approach provided by volunteers have conveyed a wide array of possibilities, making possible a rich and promising future of personal improvements and positive contributions to society.

Governor Perry stated that the ceremony honors the "best of the best." He noted that the award recipients are genuinely investing their lives by helping others, whose spirit of sacrifice is an inspiration for all. The contributions of volunteers to each individual radiates outward from their heart through their actions. Expressing his gratitude to the recipients, Governor Perry stated that Texans need to know what these individuals are doing to help offenders grow spiritually and make positive life style choices. He hoped that the actions of these volunteers will inspire other Texans to make a difference, noting that every hour that is invested in another person by a volunteer will make a huge difference. Governor Perry thanked the volunteers for assuming the risk of making a difference in the life of another. He praised them for reflecting the best values of compassion and human kindness and for being an inspiration to the state by their selfless service. Governor Perry extended his best wishes to the volunteers for God's richest blessings and through them, he will continue to bless the great State of Texas.

Chairman Bell thanked Governor Perry for his kind and moving words. He yielded the floor to Tom Mechler, Master of Ceremonies. Mr. Mechler stated that it was his privilege to serve as the Master of Ceremonies for the presentation of the awards. The individuals being recognized are the epitome of the caliber of volunteers who serve unselfishly to make a difference in the lives of those supervised by the criminal justice system. The following volunteers were recognized:

- J. Craig Brubaker, Chaplaincy Department Award
- John Vaughn, Correctional Institutions Division Award
- Robert Ronson, Private Facilities Contract Monitoring/Oversight Division Award
- Larry Green, Parole Division – "Nancy Hees" Award
- Sie Davis, Religious Service Award
- Jorge Santana, Religious Service Award
- James S. – Substance Abuse Treatment Program Award
- Brandon Willard, Victim Services Division "Pathfinder" Award
- Julie Gardner, Windham School District – "Judy Burd" Award
- John Morrison, Restorative Justice Award
- Freedom Ministries, Female Offender Program – "Susan Cranford" Award
- Christian Motorcycle Association, Most Innovative Program Award
- Be Free Jail and Prison Ministry, Community Service Award
- Achor Prison Ministry, Best Family Program Award
- Leonard Davis, Greatest Number of Hours Award
- Tom Lowe, Extensive Travel Award

C.F. Hazlewood, TDCJ Employee Volunteer Award

Lorie Wills, Criminal Justice Administrator Award

Mr. Mechler yielded the floor to Carol Vance, former Chairman of the TBCJ, who during his tenure from 1992 to 1999, was vital in the development of the volunteer program within TDCJ. Mr. Vance formed a task force on recidivism, initiated the Life CHANGES course for offenders and laid the path for a partnership between TDCJ and Prison Faith Ministries. Mr. Vance recognized the commitment of the volunteers, the Board, TDCJ executive staff and employees. He stated it was wonderful to see the volunteer efforts continue to grow and move forward. Mr. Vance presented Jim Buffington with the "Carol S. Vance" Volunteer of the Year Award for 2007.

Mr. Mechler reflected on his time as a prison ministry volunteer, noting that if through all the hours spent with offenders one (1) offender is changed then the hours were well spent. He expressed his appreciation for the dedication and hard work of the volunteers. Mr. Mechler requested a generous applause for the award recipients. Applause followed. Mr. Mechler yielded the floor to Chairman Bell.

Chairman Bell thanked Mr. Mechler, Mr. Vance, the award recipients and all other volunteers who were able to attend the awards ceremony, adding that the Board appreciated all the efforts of every volunteer.

At 12:00 p.m., Chairman Bell adjourned the 137th Meeting of the Board until 1:30 p.m., at which time the Board met in Executive Session. Chairman Bell reconvened into regular session at 2:34 p.m. .

Chairman Bell recognized Kyle Mitchell, Office of the Governor, and Susan Dow, Legislative Budget Board, and thanked them for interest in the Board's activities.

Chairman Bell stated that the Board is committed to providing the opportunity for public presentations on posted agenda items as provided in Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. He reviewed the requirements for speaker registration. On posted agenda topics one (1) speaker registration card was received by Board staff prior to the required deadline. As the testimony was germane to an agenda item, it would be heard prior to the Board taking action on that topic. The presentation time is three (3) minutes per individual. Any documentation submitted by the presenter would be handled in accordance with guidelines set forth in Board Rule 151.4. Chairman Bell also reviewed the guidelines for conduct and decorum for the presenters addressing the Board.

Recognitions

Mr. Livingston recognized Melinda Bozarth, TDCJ General Counsel, for serving the State of Texas for the past 25 years and presented her with a 25-year Service Award.

Mr. Livingston recognized Jerry McGinty as the Chief Financial Officer. He voiced his confidence and pride in Mr. McGinty's abilities as a key executive staff member.

Chairman Bell thanked Ms. Bozarth for her advice and excellent counsel. He welcomed Mr. McGinty to his new position.

Nathaniel Quarterman, Director of the Correctional Institutions Division (CID) recognized Joni White as the Assistant Director for Classification and Records, Kelvin Scott as the CID Assistant Director for Transportation, and Brian Rodeen as the CID Region III Director. Chairman Bell congratulated each of these individuals on their promotions.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 plus years of service with the State of Texas during the months of April and May 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell asked if there were any comments or objections to the Consent Items as proposed. Seeing none, the Consent Items were adopted as posted.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 136th TBCJ Meeting Minutes
6. Excused Absences

Discussion, Consideration and Possible Action Regarding Personal Property Donations

APPROVED

1. **Potatoes Donated from the San Antonio Food Bank**
2. **Computer Equipment Donated from Marcie Whisenhunt in care of the Texas A & M University**

Chairman Bell asked if there were any comments. Eric Gambrell stated that as his firm currently represents both entities, he wished to abstain from the voting on the personal property donations from the San Antonio Food Bank and Texas A & M University to prevent any appearance of impropriety in these matters.

Election of Officers

Chairman Bell called for a motion and second for the election of officers to the Board. The Board unanimously voted to select Greg Coleman as Vice Chairman and Tom Mechler as Secretary of the Board.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, reported that Judge John Cruzot was reappointed to the JAC by the Chief Justice of the Texas Supreme Court.

The Probation Advisory Council (PAC) has established the top five (5) priorities for the future. The first priority is a separate line item appropriation for health insurance for probation officers. The second priority is recruitment and retention methods for probation officers. The third priority is residential facility enhancement and repair. The fourth priority is to enhance basic supervision funding, which is the basis for probation. The fifth priority is a change to the distribution of funds that are provided to probation departments.

Judge Gist further reported that the JAC has been advised, that under the Interstate Compact for Adult Offender Supervision rules, there are two (2) major problems, one (1) of which is allowing probationers to travel to another state for temporary reasons. There is nothing in the Interstate Compact which allows this kind of travel, which can hold the Texas judge liable for any injury that a probationer might cause out of state in addition to the State of Texas being fined by the Interstate Compact. The second issue is that most misdemeanor offenders are not covered by the Interstate Compact. Second Offense Driving While Intoxicated (DWI) offenders are covered by the Interstate Compact; however, a First Offense DWI offender who is a resident of another state is not allowed to travel from Texas to his home state. Further, the State of Texas is held responsible if that First Offense DWI offender does harm back in his home state. The Texas Commissioner for Interstate Compact, Kathy Winkler, has written for an advisory opinion from the Compact Administrator. Judge Gist advised the Board that this could be a long process to establish a rule to address these issues.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston had no report.

Report from the Chairman, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director, CMHCC, provided an update on changes in trends, challenges in cost, and the health care delivery system. The following are highlights of Mr. Hightower's review of the Second Quarter of 2008.

- The average daily population served through the Second Quarter of 2008 was 151,671.
- While the overall growth is stable, the number of offenders 55 and older (55+) has steadily continued to increase. The offenders who are 55+ are a tremendous cost impact to the health care delivery system. Through the Second Quarter, the average of older offenders in the service population was 10,211. This figure represents an increase of 6.3% in the 55+ offender population over the last year.
- Age 55+ offenders had a documented encounter with medical staff more than three (3) times as often as those patients under 55 did. An examination of hospital admissions by age category found that through this quarter of the fiscal year, hospital costs received to date for charges incurred for offenders 55+ totaled approximately \$1,618 per offender. The same calculation for offenders under 55 is about \$265 per offender.
- In terms of hospitalization, the older offenders were utilizing the health care resources at a rate of more than four (4) times higher than the younger offenders. While comprising only 6.7% of the overall service population, offenders 55+ count for more than 30.6% of the hospital cost to date.
- The overall HIV population has remained relatively steady. HIV health care information and advice provided by TDCJ Health Care Services has filtered through the communities as well as prison populations, which has resulted in the stagnant level of the HIV population over the last few years.
- Two (2) mental case load measures have remained stable; the average number of psychiatric in-patients within the system is 1,956 through this quarter. The in-patient case load is limited by the number of in-patient beds within the system. Through this quarter, the average number of mental health outpatients was 20,125 representing 13.3% of the service population.
- Dialysis costs continue to be significant, averaging about \$22,000 per patient per year. Providing necessary dialysis treatment for 185 patients through this quarter cost \$2.1 million. An examination of dialysis costs found that, proportionately, older offenders are represented over three (3) times more often in the dialysis population than younger offenders.
- Drug costs totaled \$18.9 million. HIV treatment impacts the drug cost more than any other area. Through the quarter, costs for HIV antiretroviral medications were \$9 million. This represents 47.4% of the total drug costs of the program during this period. Expenses for psychiatric drugs are \$1.7 million, which is 9.1% of the overall drug costs. Another cost is the Hepatitis-C therapies, which is \$800,000 and represents 4.4% of the drug costs.

Mr. Hightower commented that the TDCJ and the CMHCC work in partnership to provide a constitutional level of health care for the offender population at the lowest possible price. He assured the Board that the CMHCC staff reviews and tests detailed transaction level data from both providers. The data is tested on a monthly basis to verify reasonableness, accuracy and compliance with policies, procedures and contractual requirements. In other words, if staff finds a charge back to the managed health care program that does not meet state law or does not comply with the Comptroller's definition of general revenue monies, the university partners make a reversal of charges to the program.

J. David Nelson inquired if the CMHCC had drafted or adopted an approach to address the greater needs and resulting costs for offenders who are 55 plus years. Mr. Hightower responded affirmatively, noting that the legislature can affect change in this area. The Texas Correctional Office on Offenders with Medical or Mental Impairments quantifies the offender's special medical needs request for parole, forwards it to the BPP to render a medical decision. Mr. Hightower noted that sometimes these requests were not granted based on the crime that the offender committed. He explained that the legislature has broadened the pool of incarcerated offenders who can be released for medical reasons. The CMHCC does have a plan for these offenders under the guidelines that are set forth in state law.

Terrell McCombs asked if the CMHCC has reviewed other states' best practices to see how they are handling the situation, recognizing that this is a problem in correctional institutions nationwide. Mr. Hightower stated that his office routinely reviews all the literature concerning health care or mental health care from national publications providing information about other states' health care systems in correctional settings. Pertinent materials are presented along with recommendations to the CMHCC, who in turn work on plausible actions to be presented to the legislature. Mr. Hightower stated that his office would do more of those kinds of recommendations.

Mr. Mechler said that he was very interested in Mr. McCombs' comments. He inquired if the CMHCC staff could provide the Board with a review of these materials and advise the Board in August if there are better ways to do it. Mr. Hightower related that the Texas CHMCC has been actively involved in assisting and sharing knowledge with other states, and he would brief the Board of the findings in August.

Chairman Bell noted that one (1) card for public testimony had been received from Rhonda Taylor. He reiterated that public testimony is limited to three (3) minutes.

Ms. Taylor stated that she was speaking before the Board to inform the Executive Director and the CMHCC that according to Texas legislators, both the BPP and the CMHCC are responsible for making offenders' parole determinations and coordinating offenders' health care services respectively. She alleged that Offender Kevin Gordon's intelligence quotient (IQ) was falsified upon his arrival to prison. Further allegations by Ms. Taylor included that the health care administration failed to provide for offenders who suffer from mental illness and to provide these offenders protection from fraud practices. According to the executive order from Governor Perry in 2004 to detect and fight fraud in government, the health care administrators failed to provide a contact person, a hotline, and rules and policies for reporting alleged fraud and illegal activities among their employees. The TDCJ and the BPP cannot insure public safety if their own departments are operating illegal practices. This has caused Ms. Taylor to look at TDCJ, the health care services and the BPP for corruption among officials for refusing to comply, obey, and fall under the legal authority and obligation to Texas mental health laws.

Chairman Bell thanked Ms. Taylor for her comments.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Ms. Judy Briscoe, Chairman of ACOOMMI, had no report.

Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008

Raymond Pyeatt, Director of the Internal Audit Division, presented the Internal Audit Status Report for Fiscal Year 2007 and Fiscal Year 2008. The following are highlights from his update:

FY 2007 Internal Audit Plan

- **0722 – Business and Finance Division, Anti-Fraud Coordination:** An exit conference is scheduled for Friday, May 23, 2008.

FY 2008 Internal Audit Plan

- **0801 – Correctional Institutions Division, Correctional Officer Training:** The proposed final report is nearing completion.
- **0802 – Information Technology Division, Offender Information Management System:** The audit cannot be completed until Phase III of the Reengineering Project is completed.
- **0803 – Information Technology Division, Corrections Tracking System
Community Justice Assistance Division, Community Supervision Tracking System:**
The audit is in fieldwork and remains on schedule.
- **0805 – Human Resources Division, Employee Grievance Procedures:** The draft report was released on May 7, 2008, with staff responses due on May 20, 2008.
- **0806 – Correctional Institutions Division, Warehouse/Armory:** The audit is scheduled to begin on the June 23, 2008, and will be extended until September 15, 2008.
- **0807 – Business and Finance Division, Parole Division, Supervision and Restitution Fee:**
The audit is to begin July 15, 2008, and will be extend until October 15, 2008.
- **0810 – Parole Division, Specialized Programs:** The draft report is being written.
- **0811 – Windham School District, Computer Services:** The audit remains in the control assessment phase of the audit.
- **0812 – Health Services Division, Office of Mental Health Monitoring and Liaison:** The proposed report is completed. An exit conference is scheduled for April 10, 2008 with the Executive Director.

- **0813 – Correctional Institutions Division, Office of Disciplinary Coordination, Counsel Substitute Program:** The draft report is anticipated to be released by June 30, 2008.
- **0814 – Correctional Institutions Division, Bench Warrants:** The audit was assigned on May 20, 2008.
- **0816 – Rehabilitation and Reentry Programs Division, Volunteer Services Program:** The draft report has been released with an exit conference with staff in the next few days.
- **0817 – Parole Division, Review and Release, Institutional Parole Offices:** The draft report was released on May 19, 2008.
- **0818 – Facilities Division, Environment Branch:** The audit should be completed in the next few weeks.
- **0820 – Parole Division, Sex Offender Registration:** The audit was assigned on April 25, 2008, and remains on schedule.
- **0822 – Executive and Administrative Services, Records Retention:** The draft report was released on May 19, 2008.
- **0824 – Administrative Review and Risk Management Division, Ombudsman Program:** The draft report was released on May 16, 2008. Two (2) exit conferences have been scheduled.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts over One (1) Million Dollars

APPROVED

Mr. Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over one (1) million dollars. Items 1-15 are food items for Fiscal Year (FY) 2008 that have mid-year price increases to the contracts. Item 16 is an increase of \$2 million to an existing FY 2008 contract for a modular panel system, due to an increase in orders. Items 17-18 are increases plus a 10% variance to the FY 2008 bulk fuel contract, which are based upon estimates from figures from the Department of Energy. Items 19-25 are FY 2009 contracts related to the Texas Correctional Industries operations. Items 26-29 are FY 2009 contracts related to the Agribusiness operations. Items 30-31 are FY 2009 renewal contracts for the halfway house residential service for parolees. Item 32 is a new FY 2009 halfway house service in Austin. Item 33 is the FY 2009 contract for food services for the Hamilton Unit. Item 34 is the FY 2009 contract for beef trim for offender consumption. Items 35-37 are one (1) year contracts for reflective specialty sheeting (manufacturing of license plates), and two (2) for computer services. Item 38 is the FY 2009 contract (with a 10% variance) for items to be sold in the commissary. Mr. McGinty noted that pages 34-35 of the agenda packet contained the FY 2009 food requirements for the Agency. He advised the Board that these prices are estimates for July and that the food purchase orders will be awarded at a later date. A 10% variance has been requested for all food items.

Mr. Mechler inquired about Item 33 and if the Hamilton Unit has a kitchen. Mr. McGinty responded that while there is a kitchen in the facility, there has been a food service vendor in place since 2004. The food service vendor has provided service that is comparable to TDCJ food service costs and operation. Mr. Mechler asked if the offenders participated in part of the food service operation. Mr. McGinty responded affirmatively.

Mr. McCombs commented that he hoped TDCJ was using the very best practices in the industry to buy wisely for the best value at the lowest price. He noted that there is currently tremendous commodity inflation, and advised staff to employ all necessary tactics to protect the Agency from price increases. Mr. McGinty assured the Board that he and his staff are doing as Mr. McCombs suggested.

Mr. McGinty reviewed Item 39, noting it was a FY 2009 contract specifically related to coffee/cappuccino for sale in the commissary operations. The contract also has a 10% variance.

Leopoldo Vasquez stated that he wished to abstain from the vote on the contract for coffee/cappuccino items, as his private sector businesses are heavily involved in the coffee business. Therefore, in an abundance of caution and to prevent even the slightest suggestion of impropriety, Mr. Vasquez abstained from the vote on this contract renewal.

Mr. McGinty reviewed items 40-42 which was a FY 2009 renewal contract for Scotch (3M) reflective sheeting for license plates, a FY 2009 renewal contract for 3M Specialty Sheeting for license plates and a FY 2009 contract for John Deere tractor parts.

Mr. Gambrell stated he wished to abstain from the vote on renewing the contracts with 3M and approving the contract with John Deere. He explained that his firm currently represents both companies and to prevent even the slightest suggestion of impropriety, he would abstain from the vote on the contracts with these entities.

Discussion, Consideration and Possible Action to Regarding Proposed Revisions to Board Policies

1. BP-02.43, “Equal Employment Opportunity”

APPROVED

Ms. Bozarth stated that in accordance with BP-01.01, “TBCJ Responsibilities” staff must submit personnel directives for the Board’s review and approval on an annual basis. In addition to slight modifications, Ms. Bozarth noted that the most significant revision was the last sentence in the policy statement, which addresses retaliation by TDCJ officials for an employee or applicant for opposing or reporting employment discrimination in any employment-related process.

2. BP-03.85, “Offender Visitation” and the “Offender Visitation Plan”

APPROVED

Ms. Bozarth referred to a handout which included the Board Policy 03.85, “Offender Visitation” and the “Offender Visitation Plan.” She noted that with regard to the board policy, only small formatting revisions were made. As the “Offender Visitation Plan” was discussed in detail at the Correctional Institutions Division (CID) Committee meeting earlier in the day no additional review was conducted. Ms. Bozarth noted that suggested revisions brought forth by Mr. Gambrell during the committee meeting were incorporated for Board approval.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

1. §152.51, Authorized Witnesses to the Execution of an Inmate Sentenced to Death (37 TAC §152.51)

APPROVED

Ms. Bozarth stated that the Board authorized the publication of the rule in the April 11, 2008, issue of the Texas Register. Thirty days have passed and no public comments were received. Ms. Bozarth noted however that Mr. Mechler made a comment that a spiritual advisor be allowed to accompany the victim’s close relatives to an execution. She noted that a similar provision is allowed for an offender. The suggestion was incorporated for Board approval.

2. §159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria (37 TAC §159.1)

APPROVED

Ms. Bozarth stated that the Board authorized the publication of the rule in the April 11, 2008, issue of the Texas Register. Thirty days have passed and no comments were received. She requested that the rule be adopted.

Discussion, Consideration and Possible Action Regarding Readoption of Board Rule, §195.51, Sex Offender Supervision (37 TAC §195.51)

APPROVED

Ms. Bozarth stated that a notice of review was published in the March 21, 2008, issue of the Texas Register. Staff had reviewed the rule as required by law and recommended no changes. No comments were received during the 30 day public comment period.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules

1. §151.21, Weapons Policy (37 TAC §151.21)

APPROVED

Ms. Bozarth stated that most of the revisions were non-substantive but were added for clarity. In Section (c)(1), a sentence was added to clarify that a parole officer who was authorized to carry a firearm in the scope of their employment may carry a firearm in a state-owned vehicle under Occupation Code §1701.257 and, under Section (c)(2)(B), an insertion was added that stipulates “...parole and community supervision officers participating in the firearms training program pursuant to Occupation Code §1701.257...”

2. §151.73, Texas Board of Criminal Justice Vehicle Assignments (37 TAC §151.73)

APPROVED

Ms. Bozarth stated that sections (b) and (d) have been added to clarify existing state law.

3. §152.61, TDCJ Emergency Response to Non-Agent Private Prisons/Jails (37 TAC §152.61)

APPROVED

Ms. Bozarth stated a few revisions were recommended. The policy statement is the most significant of the changes and clarifies the Agency's ability to assist local law enforcement in the event of any escape.

Discussion, Consideration and Possible Action Regarding a Proposed Land Transaction for a Pipeline Easement on the Eastham Unit in Houston County, Lovelady, Texas

APPROVED

C.F. Hazlewood, Director of Agribusiness, Land and Minerals Department, noted that this item was presented earlier at the Business and Financial Operations Committee. The pipeline easement on the Eastham Unit in Houston County was requested by Autana Pipeline Partners L.P., which has agreed to pay \$305,921.90 for the easement with a ten (10) year term. He recommended that the Board approve the easement for the pipeline system including access roads and surface site to Autana Pipeline Partners L.P.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Project – Replace Heating, Ventilation and Air Conditioning (HVAC) in Multiple Locations at the Wynne Unit in Walker County, Huntsville, Texas

APPROVED

Frank Inmon, Director of the Facilities Division, noted that he had briefed the project to the Business and Financial Operations Committee. The project replaces HVAC in multiple locations at the Wynne Unit. He requested that the Board approve for a total project amount of \$1,308,400.

Chairman Bell thanked everyone for attending the meeting and announced that the next meeting of the Board would be August 13-14, 2008, at the Doubletree Hotel in Austin.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the 137th meeting of the Board at 3:47 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
DoubleTree Austin Hotel
Austin, Texas

August 14, 2008

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 3
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 3
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 3
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 5
I. Discussion, Consideration and Possible Action Regarding Fiscal Year 2009 Annual Audit Plan	Page 6
J. Discussion, Consideration and Possible Action Regarding the TDCJ Fiscal Year 2009 Operating Budget and Fiscal Years 2010-2011 Legislative Appropriations Request (LAR)	Page 6
K. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 7
L. Discussion and Possible Action Regarding Offender Telephone System Contract.....	Page 7
M. Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policy, BP-01.01, Texas Board of Criminal Justice Responsibilities	Page 7
N. Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
1. §151.21, Weapons Policy (37 TAC §151.21).....	Page 7
2. §151.73, Texas Department of Criminal Justice Vehicle Assignments (37 TAC §151.73)	Page 7
3. §152.61, Emergency Response to Municipal, County, State or Federal Law Enforcement Agencies and Non-Agent Private Prisons/Jails (37 TAC §152.61).....	Page 7
O. Discussion, consideration and Possible Action Regarding Proposed Amendments to Board Rules	
1. §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51)	Page 7
2. §155.21, Naming of TDCJ Owned Facilities (37 TAC §155.21)	Page 7
3. §159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (37 TAC §159.9).....	Page 7
P. Discussion, Consideration and Possible Action Regarding Repeal of Board Rule 151.53, Multiple Employments with the State (37 TAC §151.53)	Page 8

Q. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions	
1. Amendment to the Sewer Easement to Include Fiber Optic Conduit at the Wynne Unit in Walker County, Huntsville, Texas	Page 8
2. Drainage Easement at the central Unit in Fort Bend County, Sugar Land, Texas.....	Page 8
R. Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects	
1. Repair and Replace Roofs on Multiple Buildings at the Goree Unit in Walker County, Huntsville, Texas	Page 8
2. Replace Boilers at Packing Plant at the Michael Unit in Anderson County, Tennessee Colony, Texas	Page 8
S. Renaming of TDCJ Facilities	Page 1
T. Public Comments.....	Page 8

**SUMMARY OF THE MINUTES FOR
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 138

Convene – Texas Board of Criminal Justice

Chairman Oliver Bell convened the 138th Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Wednesday, August 13, 2008, at 3:12 p.m. and stated that a quorum was present. He announced that the Board would adjourn the meeting into executive session, which is closed to the public in accordance with the Texas Government Code, Sections 551.071 and 551.074. Chairman Bell reconvened the 138th Meeting of the Board on Thursday, August 14, 2008, at 9:20 a.m., stated that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell noted that during the regular session, the Board would conduct business from the agenda posted in the Texas Register.

Recognitions

Chairman Bell recognized Christina Melton Crain, former Board Chairman, for her valuable service, exemplary leadership and notable contributions to the State of Texas.

Chairman Bell yielded the floor to Lieutenant Governor Dewhurst, who praised Ms. Crain for her leadership of the Board, which put Texas first and made certain that the system protected all the citizens of Texas as well as the offenders and employees of the Texas Department of Criminal Justice (TDCJ or Agency). Chairman Bell thanked Lieutenant Governor Dewhurst for his comments. Chairman Bell yielded the floor to the Honorable Jerry Madden, State Representative, who recognized Ms. Crain for her outstanding leadership and contributions to the citizens of Texas. Chairman Bell thanked Mr. Madden for his comments.

Chairman Bell stated that the magnitude of Ms. Crain's reputation in government as a sound and effective leader was evident given the number of the certificates and letters from federal and state leaders expressing their respect and congratulations. Chairman Bell read the letter from the Honorable George W. Bush, President of the United States, honoring Ms. Crain's dedicated service while serving as the Chairman of the Board.

Brad Livingston, Executive Director of the TDCJ. Mr. Livingston stated that it had been his honor to work with Ms. Crain, who has been a tremendous leader and a good friend. He commended and thanked Ms. Crain for her inquiries and focus on the issues at hand, as well as her passion for the Agency.

Chairman Bell stated that in appreciation for Ms. Crain's service, the Board, the Agency and the WSD wished to commend her publicly by presenting her with a framed Resolution of Commendation, as well as other items honoring her service to the State of Texas. He yielded the floor to Ms. Crain. Ms. Crain thanked the Board and Mr. Livingston for their kind words. She stated that her life was changed through her association with the Agency and its staff, and contact with the offenders and their families. She emphasized the importance of the work that staff do for the Agency and to the State of Texas. Ms. Crain expressed her gratitude to Mr. Livingston, the TDCJ staff and the Board. She recognized and thanked the Board office staff for their hard work, loyalty and dedication. Chairman Bell thanked Ms. Crain for her service on the Board.

Renaming of TDCJ Facilities

APPROVED

Chairman Bell stated that there would be a deviation from the agenda posted in the Texas Register with the item for Renaming of TDCJ Facilities being moved forward on the order of business. In recognition of Ms. Crain and her outstanding service to the Agency and the citizens of Texas, Chairman Bell recommended that the Board rename the TDCJ Gatesville Unit to the Christina Melton Crain Unit.

Recognitions (continued)

Chairman Bell recognized Charles Marsh upon his retirement from the position of Chief Financial Officer and read a Resolution of Commendation highlighting Mr. Marsh's career and outstanding achievements while serving the TDCJ. Mr. Livingston praised Mr. Marsh for his management and leadership skills, noting that an outstanding leader leaves his position better than he found it. Chairman Bell, on behalf of the full Board, thanked Mr. Marsh for his services to the Agency and to the State of Texas. Mr. Marsh stated that it had been an honor and a privilege to have served the Board and the Agency for the past 12 years.

Jerry McGinty, Chief Financial Officer (CFO), recognized Ron Steffa as the Deputy Chief Financial Officer, and Sheila Gaskins as the Director of Contracts and Procurement.

Nathaniel Quarterman, Director, Correctional Institutions Division (CID), thanked Chairman Bell and Mr. Livingston for the opportunity to present the American Correctional Association (ACA) accreditations. Rodney Cooper, Deputy Director, Prison and Jail Operations, presented the following units with their ACA accreditations:

Initial Accreditation:

Lyncher/Kegans State Jails - Warden Troy Simpson
Travis State Jail - Warden Edward Howell
Byrd Unit - Warden Cody Ginsel
Clements Unit - Warden John Adams
Beto Unit - Warden Chuck Biscoe
Stiles Unit - Warden Brenda Chaney

Reaccreditation:

Johnston Substance Abuse Felony Punishment Facility (SAFPF) - Warden Kenneth Karl
Daniel Unit - Warden Stacy Jackson
Formby/Wheeler Unit - Warden David Cole
Glossbrenner SAFPF - Warden Linda Carranza

Mr. Cooper stated that the TDCJ's partnership with Texas Tech University Health Science Center (TTUHSC) and the University of Texas Medical Branch (UTMB) have been invaluable in the ACA accreditation process. He noted that 81 units have received ACA accreditation. Additionally, five (5) units have gone through the ACA hearing process to obtain future accreditation.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 plus years of service with the State of Texas during the months of June and July 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell noted that the approval of the Consent Items includes a correction to the cover of the 137th Meeting Minutes of the Board. The date of the minutes should reflect May 20, 2008. The approval also includes additional Multiple Employments as provided on the handout in the members' folders.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 137th TBCJ Meeting Minutes
6. Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report. Chairman Bell stated that there was one (1) registered public presentation on this topic. He called Rhonda Taylor, reminding her that she had three (3) minutes for her presentation.

Ms. Taylor stated that the JAC was established in 1989 upon the creation of the TDCJ. Ms. Taylor reviewed the JAC's responsibilities as identified in House Bill 335, 71st Legislative Session, Chapter 785, Section 1.12. She alleged that after receiving information concerning Ms. Taylor's legal guardianship, Judge Gist refused to inform the TDCJ's attorney Kim Koogan as to the liability and validation of Ms. Taylor's guardianship and the necessary legal actions the Agency needs to take to terminate her powers and duties according to the Texas guardianship laws. The appropriate legal process is covered under the Probate Code, Chapter 13, Guardianships, which is governed by the Texas Department of Aging and Disability Services. Ms. Taylor expressed her hope that TDCJ and UTMB obey the Texas Guardianship Laws, noting that as her son's legal guardian it was her duty to protect her son's mental health rights. She emphasized that TDCJ is not following the legal process to take that guardianship from her. Ms. Taylor advised the Board that in addition to its duty to protect the communities and victims from harm, it should also help those offenders with mental illness. Ms. Taylor asserted that, according to the Mental Health Laws and Texas Guardianship Laws, the Board has failed the community. Chairman Bell thanked Ms. Taylor for her presentation.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston noted that on August 13, 2008, during a Business and Financial Operations Committee meeting, Mr. McGinty presented the Budget and the Legislative Appropriations Request (LAR). Mr. Livingston highlighted the significant shortage of correctional officers statewide; emphasizing it was the Agency's most critical operational challenge over the next biennium. Earlier in the year, the Board approved the adjustment to the entry-level salary for correctional staff as well as applicants who have a bachelor's degree or military background. A recruitment bonus was added for staff or applicants willing to go to the Agency's significantly under-staffed units. Mr. Livingston reported that those steps have made a difference. In September 2007, the vacancy numbers peaked at just under 4,000. Staff have worked hard to bring that number down to 3,000 vacant correctional officer positions. He advised the Board that salary adjustments can and do matter. Mr. Livingston stated that the budgeted number in the LAR for the salary adjustments was large, over \$450 million, and represents a 20% salary increase for the front line correctional staff. He further advised the Board that he felt it was important to put this request to the legislature and have a solid discussion and dialogue with the State policy makers about adjusting the career ladder in a substantial and meaningful way to bring the Agency's correctional staffing shortage down. He indicated that this request would place the correctional officer staffing and career ladder on solid footing for the long term. This package also includes a similar pay raise for the parole staff throughout the state. The attrition rate for parole officers stands at about 19%, and is higher in some metropolitan areas. Mr. Livingston emphasized that the corner stone in the budget request is an investment in those individuals who provide front line day-to-day public safety for the State of Texas. He pledged that staff will work vigorously for this pay package along with the other items in the LAR. Mr. Livingston expressed his gratitude for the Board's continued support.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, provided an update on the activities of the CMHCC during the past quarter. Through April of FY 2008, the correctional health care program remained essentially stable in the overall offender population served by the program. The number of offenders age 55 and over has continued to increase steadily. The HIV+ population has remained stable. The two (2) mental health caseload measures have also remained stable.

Mr. Hightower reported that the overall health costs though April 2008 totaled \$313.8 million. UTMB had a net loss during this quarter of \$6.1 million. TTUHSC reported a net loss of \$0.6 million. He updated the Board on the exact expenditures of the health care costs. The total cost per offender per day for all health care services statewide through April 2008 was \$8.51, which is an increase of 10.5% from one (1) year ago. CMHCC's review of revenues and expenditures for FY 2008 indicates that UTMB has a total shortfall of \$6,052,055 and TTUHSC has a total shortfall of \$563,973 through April 2008. He noted

that the detailed transaction level data from both providers is being tested on a monthly basis to verify reasonableness, accuracy and compliance with policies and procedures.

Mr. Hightower advised the Board that the managed health care partners have to pay competitive salaries to attract and retain the needed licensed professionals, such as doctors and nurses, especially in the rural areas. He further advised the Board that there will be significant challenges during the next legislative session, due to rising medical costs, notably in the contracts for outpatient care in the rural areas. Regarding the Best Practices in Correctional Managed Health Care document provided to the Board, he stated an expert from each of the health care partners could be requested to speak to this issue at a future Board meeting. Chairman Bell expressed the Board's interest in this area and suggested that staff follow up to arrange a time for the necessary professionals to meet with the Board to discuss best practices.

In relation to the rising outpatient costs, Chairman Bell asked if these costs were considered reimbursable or comparably paid for through Medicare or Medicaid and if those costs were going up at the same rate or paid under a different reimbursable structure. Mr. Hightower explained that the contracts for outpatient care are different in different locations. He also explained the contract process, noting that contract payments can go into negotiations, which are conducted by the medical health care partners separately in their geographical area.

Terrell McCombs thanked the CMHCC for all the work that is done. He stressed it was imperative in the correctional environment that the Board and the CMHCC compare the Texas correctional managed health care system with other states' programs. He noted that this was a critical area, nearly a program in crisis, and that all ideas should be sought and compared with the Texas program model. Mr. McCombs emphasized that even if this study takes a year or so, it needs to be thorough and efforts made to lower the costs of the correctional medical health care delivery system for the State of Texas. Mr. Hightower assured the Board that the CMHCC was committed to researching and finding ways to lower the medical delivery costs.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Judy Briscoe, Chairman of ACOOMMI, reported the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) statutory provisions require a comprehensive plan for creating a continuum of care for offenders with special needs, beginning at the time of arrest throughout the criminal justice continuum. Ms. Briscoe reviewed the flow chart regarding TCOOMMI's sharing of offender information with other entities. TCOOMMI is the only entity in the United States to have the capacity that the Agency has to share information among and between entities to provide the kind of services, contracts, and memoranda of understanding that are available in Texas.

Ms. Briscoe reviewed the new continuity of care activity that pertains to the CID, which is the intake process. There is a daily cross-referencing of all new offender admission with the statewide mental health services database. Health Services forwards those matches to the intake unit's medical staff and TCOOMMI, which contacts the mental health provider to obtain the most recent diagnostic and treatment information. Once TCOOMMI receives this information, it is forwarded to the managed health care providers, who electronically scan the information into the medical records system. The unit medical staff is notified of psychiatric information that will assist them in the diagnostic and treatment process. Ms. Briscoe stated that the anticipated outcomes for this process are a decreased duplication of diagnostic activities, an increased identification of offenders with serious mental illnesses, as well as improved timelines and appropriateness of treatment response by the medical providers.

Janice Lord requested information on how the TCOOMMI handles mentally ill offenders who are outside the Mental Health Mental Retardation (MHMR) system. Ms. Briscoe responded if an offender does not have a recorded history in the MHMR care system prior to arrest then it would be up to the TDCJ diagnostic process to recognize the offender's illness. Dee Wilson, Executive Director of TCOOMMI, advised the Board that TCOOMMI has been working with the Texas Jail Commission on a new intake process. This process will include mental health screening with all identified offenders in or outside of the MHMR care system reported to TCOOMMI. This process will assist in early identification of mental health and medical issues by the jail while the offender is in its custody. Ms. Lord asked if the jails were complying with the new process. Ms. Wilson responded that the larger metropolitan jails with medical staff on duty 24-hours, seven (7) days a week can comply with the pen packet requirement, however, small jails may take longer. Health Services is performing a quality assurance check of all the uniform health status forms to ensure appropriate individuals are identified as having a mental health issue. The notice is sent to the Jail Commission, which in turn sends it to the appropriate jail to improve its record.

Report from the Chairman, TBCJ

Chairman Bell noted that this particular report from the Board Chairman is a new standing agenda item. The purpose of the Chairman's report is to update the Board, staff and public on key issues inside the Agency and to offer the Board and other stakeholders a perspective on the overall progress in a number of areas. Chairman Bell reviewed some of the following initiatives:

- *Board Member Site Visitation:* Mr. Quarterman was requested to develop a regional rotation for Board members to visit TDCJ facilities in addition to the WSD facilities co-located with the units. Each Board member has been assigned ten (10) to 15 CID sites to visit with a goal for each facility to be visited by a Board member. The purpose of the visit is that each facility will have the opportunity to explain how the unit operates, the successes that have taken place and the areas for improvement. Since early May, the Board has made 30 visits to 27 facilities or about a fourth of the facilities in the CID. The Board member may visit the unit at any time of the day or night. The visit may be announced or unannounced, as the Board member believes necessary. The Board member may report on any areas as necessary. The Parole Division and the Community Justice Assistance Division, for the community supervision and corrections departments (CSCDs), have been asked to develop a rotation schedule for the Board members to visit those facilities as well.
- *Facilities:* Chairman Bell has requested Mr. Livingston to monitor long-term initiatives for facility maintenance and rotation, which can aid the Board in its recommendations to the state leadership to improve, modify or adjust facilities in the future.
- *Treatment Programs:* The Board will try to fully implement those initiatives directed by statute and create a number of innovative treatment initiatives. Included among those are the "In-Prison DWI (Driving While Intoxicated) Recovery Program" and the drug rehabilitation programs. While these programs are some of the best in the nation, the Board remains committed to improvement in all areas.
- *Mental Health Initiatives:* The Chairman noted that TCOOMMI and ACOOMMI have worked very diligently, but while much work has been done, there is more to do. Chairman Bell stated that one (1) area to be developed is a strategy to recognize and promote the Agency's ongoing initiatives. He encouraged Ms. Wilson to continue to travel and promote these areas. Chairman Bell requested that Ms. Wilson create a campaign to promote TDCJ mental health initiatives during next year's Mental Health Month.
- *Office of the Inspector General:* Chairman Bell stated that TDCJ has the premiere Inspector General function in the nation, noting that the Executive Director and the Inspector General have an effective working relationship. The Office of Inspector General (OIG) has a strong staff, which validates certain processes and protects the Agency from misdeeds.
- *Safe Prisons Initiatives:* Chairman Bell stated that inappropriate sexual activity within the prisons is always a concern. The Agency continues to promote immediate reporting of offenses so they will be promptly investigated. This is a critical area wherein it is difficult to obtain information because of the nature of the crime. To further the Board's oversight in this area, interviews will take place to fill the new Safe Prison Program Ombudsman position, which will be hired by and report directly to the Board. Once the position is filled, the Board will continue to develop strategies to improve the Agency's performance in this area. Chairman Bell expressed his confidence in the current system, but added improvements can always be made. The Board and the entire Agency's senior staff are committed to success in this area.
- *Phones:* Later in this meeting, the Board will receive a recommendation on a vendor for the new proposed offender phone system. The Agency's selection team was comprised of senior staff leaders. The Board and the Executive Director allowed this team to operate and make the selection based on their professional assessment of TDCJ's operational needs for security, appropriate use of the future system and protection of the public's safety. Properly implemented, the new system will be a national model. One of the ancillary benefits will be the money generated that will be forwarded to the state victims' assistance fund.
- *Management Retreat:* A portion of the Board's September meeting will be in a form of a management retreat. During this meeting, the use of breakout groups will allow Board committee chairs and staff coordinators to interface and discuss key issues and management strategies to help the Agency move forward. During the retreat, the Board will not vote or conduct Board business. The Board will discuss priorities and management strategies to ensure there is a mutual understanding between the staff and the Board on leadership priorities. The Board Chairman and the Executive Director will facilitate the main portion of the meeting. During the breakouts, committee chairs will facilitate discussion on topics such as victim services and internal audits in

addition to discussing effective leadership strategies to continue to enhance the Agency's operations. The ultimate goal is the strategic alignment of all leaders on the Agency's overall direction.

- *Employee Pay:* Chairman Bell credited the Executive Director and his team for an exceptional job in designing a pay proposal for submission as part of the LAR. He stated that this comprehensive program addresses recruitment, retention and professional development. The Board and the Agency's senior leaders continue to be good stewards in using the state's resources and are committed to do more and perform better with less taxpayer resources than similarly sized systems.
- *Public Relations:* At future Board meetings, efforts will be made to highlight the TDCJ's positive efforts in Texas communities. The Board will also periodically recognize employees and let them know the Board appreciates their efforts, in particular the gallant acts performed by staff in security operations and during interagency cooperation when TDCJ may be called upon to assist state and local law enforcement. Efforts will also continue to highlight the activities of some of the creative public private partnerships that have been developed with different volunteer organizations, which enhance the Agency's overall operations and help in accomplishing its mission.

Chairman Bell thanked the staff for their excellent work and delivery of services, acknowledging that the Agency is doing very well.

Discussion, Consideration and Possible Action Regarding the Fiscal Year 2009 Annual Audit Plan *APPROVED*

Raymond Pyeatt, Director of the Internal Audit Division, stated that he had fully briefed the Audit and Review Committee on August 13, 2008, on the FY 2009 Annual Audit Plan. Mr. Pyeatt asked if there were any questions on the proposed plan, there were none.

Discussion, Consideration and Possible Action Regarding the TDCJ Fiscal Year 2009 Operating Budget and Fiscal Years 2010-2011 Legislative Appropriations Request (LAR) *APPROVED*

Mr. McGinty summarized the Exceptional Items of the LAR. The FY 2010-2011 total budget request of \$6.85 billion includes \$926 million for the Exceptional Items that will be above the Agency's anticipated base funding level. The corner stone of the budget is the correctional officer and parole officer pay raises and retention bonuses. Mr. McGinty explained that the budget cycle actually begins in the spring with the budget structure and the strategic plan. The CFO and staff will work closely with the legislature and state leadership during the upcoming session. Mr. McGinty recognized Sherry Koenig, Budget Director, and Allison Dunbar, Assistant Budget Director, for their work on the budget and LAR.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars *APPROVED*

Mr. McGinty reviewed the purchases and contracts over one (1) million dollars. The first three (3) items were for additional services on existing facilities, one (1) of which is the special needs at the Estelle SAFPF, while the other two (2) items were for halfway house services in Houston and Fort Worth. Item Four (4) is the FY 2009 renewal on the contracted temporary capacity based on current FY 2008 per diem rates. Item Five (5) is fertilizer used in agricultural operations. Item Six (6) is a four (4) year contract for an identification card and mug shot system to provide ID cards for both employees and offenders.

Discussion, Consideration and Possible Action Regarding the Offender Telephone System Contract *APPROVED*

Mr. Steffa presented the contract for the offender telephone system for the Board's approval and award. He noted that the Board members had been individually briefed on the request for proposal (RFP) process and the telephone system requirements. Mr. Steffa provided a history of this action, noting that Senate Bill (SB) 1580 as passed by the 80th Legislative Session required that a contract for telephone services be awarded by September 1, 2008. Policies were revised to include the eligibility criteria in procedures for the offender telephone system. An RFP was drafted that included all the requirements of SB 1580 as well as the requirements of Agency policy. The RFP was reviewed by appropriate TDCJ divisions to ensure that all statutory, policy and operational requirements were met for a safe and secure telephone system. Proposals from three (3) companies were received. Mr. Steffa explained the composition of the Technical Evaluation Team, which conducted a thorough review of the each proposal. The consensus of the Technical Evaluation Team was to recommend that the Embarq Corporation be awarded the telephone contract. Embarq was chosen as their technology was superior to other lower proposals

and would provide the best value to the State of Texas. Mr. Steffa advised the Board that the initial term of the contract would be for seven (7) years with two (2) additional two (2) year renewal options. The state will receive 40% of the gross billable revenues. Of that amount, the first ten (10) million dollars annually will go to the crime victims' compensation fund with all revenues beyond that amount divided equally between the crime victims' compensation fund and the General Revenue Fund.

Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policy, BP-01.01, Texas Board of Criminal Justice Responsibilities

APPROVED

Melinda Bozarth, General Counsel, stated that the proposed revisions to Board Policy, BP-01.01, Texas Board of Criminal Justice Responsibilities, reference the new position of the Safe Prison Program Ombudsman/Liaison; the removal of the Board's annual review of BP-14.67, "Purchasing and Contracting with Historically Underutilized Businesses"; removal of certain personnel policies from the Board's review and approval in II.B.31; removal of the annual review requirements for the remaining personnel policies, making approval required only with amendments; and the relocation of Section II.B.32 to another section of the policy.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

Ms. Bozarth noted that at its May meeting, the Board authorized proposed amendments to the following three (3) rules be published in the June 13, 2008, issue the Texas Register. No comments were received. Ms. Bozarth requested that the Board move forward with the adoption of the three (3) amended rules.

- | | |
|---|------------------------|
| 1. §151.21, Weapons Policy (37 TAC §151.21) | <i>APPROVED</i> |
| 2. §151.73, Texas Department of Criminal Justice Vehicle Assignments (37 TAC §151.73) | <i>APPROVED</i> |
| 3. §152.61, Emergency Response to Municipal, County, State or Federal Law Enforcement Agencies and Non-Agent Private Prisons/Jails (37 TAC §152.61) | <i>APPROVED</i> |

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules

Board approval of the following three (3) items authorizes publication in the Texas Register for public comment.

- | | |
|--|------------------------|
| 1. §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51) | <i>APPROVED</i> |
|--|------------------------|

Ms. Bozarth explained that staff recommended the deletion of Section (E), as no Agency employees are in those referenced positions. The revision will conform with Personnel Directive, PD-85 "Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines."

- | | |
|--|------------------------|
| 2. §155.21, Naming of TDCJ Owned Facilities (37 TAC §155.21) | <i>APPROVED</i> |
|--|------------------------|

Ms. Bozarth noted amendments to this rule add clarity and improve the written word; they do not change procedures under which the Board has been operating.

- | | |
|---|------------------------|
| 3. §159.9, Firearms Proficiency Training for Supervision Officers/Memorandum Of Understanding (37 TAC §159.9) | <i>APPROVED</i> |
|---|------------------------|

Ms. Bozarth stated that Michael McManus, Deputy General Counsel, negotiated this Memorandum of Understanding with the Office of the Attorney General.

Discussion, Consideration and Possible Action Regarding Repeal of Board Rule 151.53, Multiple Employments with the State (37 TAC §151.53)

APPROVED

Ms. Bozarth noted that state law requires a governing body to review board rules every four (4) years to determine if the rule remains applicable. During the review of BR-151.53, "Multiple Employments with the State," it was determined that state law does not require the Board to approve multiple employments with the state. Ms. Bozarth further noted that she discussed the subject with other agencies' General Counsels, and no other state agency requires Board approval for multiple employments with the State of Texas. Ms. Bozarth proposed that Agency management review multiple employments for approval. She also noted that Personnel Directive PD-81, "Multiple Employments with the State," will be revised to incorporate the new approval process. Board approval will authorize publication in the Texas Register for public comment.

Discussion, Consideration and Possible Action Regarding Proposed Land Transactions

1. Amendment to the Sewer Easement to Include Fiber Optic Conduit at the Wynne Unit in Walker County, Huntsville, Texas

APPROVED

C.F. Hazlewood, Director of Agribusiness, Land and Minerals, recommended that the Board approve an amendment to the City of Huntsville Sewer Easement to include a four (4) inch fiber optic conduit on the Wynne Unit in Walker County, as discussed during the meeting of the Business and Financial Operations Committee on August 13, 2008.

2. Drainage Easement at the Central Unit in Fort Bend County, Sugar Land, Texas

Chairman Bell passed on any discussion or action of the item.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects

1. Repair and Replace Roofs on Multiple Buildings at the Goree Unit in Walker County, Huntsville, Texas

APPROVED

Frank Inmon, Director, Facilities Division, requested that the Board approve the repair and replacement of roofs on multiple buildings at the Goree Unit as presented during the meeting of the Business and Financial Operations Committee on August 13, 2008. The total project amount requested was \$1,635,700.

2. Replace Boilers at Packing Plant at the Michael Unit in Anderson County, Tennessee Colony, Texas

APPROVED

Mr. Inmon requested that the Board approve the replacement of boilers in the packing plant at the Michael Unit as presented during the meeting of the Business and Financial Operations Committee on August 13, 2008. The total project amount requested was \$2,859,200.

Renaming of TDCJ Facilities

Discussion and action of this item was moved to an earlier time in the meeting.

Public Comments

No registration cards were received, and as such, no comments were heard.

Chairman Bell thanked everyone for attending the meeting and announced that the next meeting of the Board would be September 26, 2008, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the 138th meeting of the Board at 11:55 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
DoubleTree Austin Hotel
Austin, Texas

September 26, 2008

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 1
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 1
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 1
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 2
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 2
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 2
I. Discussion, Consideration and Possible Action Regarding the Selection of the Safe Prison Ombudsman/Liaison	Page 2
J. Internal Audit Status Report for Fiscal Year 2008	Page 3
K. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 3
L. Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)	Page 3
M. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions	
1. Request for Utility Easement at the Halbert Unit in Burnet County, Burnet, Texas	Page 4
2. Request for Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas.....	Page 4
3. Request for Pipeline Easements at the Stiles Unit in Jefferson County, Beaumont, Texas.....	Page 4
N. Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects	
1. Request for Additional Program Budget for Kitchen Renovations at the Ferguson Unit in Madison County, Midway, Texas	Page 4
2. Request for Approval to Replace High Mast Lighting at the Garza West Unit in Bee County, Beeville, Texas	Page 5

**SUMMARY OF THE MINUTES FOR
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 139

Convene – Texas Board of Criminal Justice

Chairman Oliver Bell convened the 139th Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Friday, September 26, 2008, at 9:01 a.m. and adjourned the meeting into executive session. Chairman Bell reconvened the 139th Meeting of the Board on Friday, September 26, 2008, at 10:10 a.m., and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell noted that during the regular session, the Board would conduct business from the agenda posted in the Texas Register.

Recognitions

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 plus years of service with the State of Texas during the months of August and September 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude. Chairman Bell congratulated Greg Coleman and Eric Gambrell on their selection amongst the "Super Lawyers" as chosen by Law and Politics for 2008. He further noted that Mr. Coleman was among the top ten (10) within the State of Texas.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell stated that the approval of the Consent Items would include changes to the 139th Meeting Minutes with the replacement of Attachments A and D as provided. Also included were excused absences for Pastor C. L. Jackson, who has been unable to attend more than two (2) consecutive regularly scheduled meetings of the full Board. Chairman Bell called for any additional amendments or objections to the proposed Consent Items. Seeing none, the Consent Items were approved as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 139th TBCJ Meeting Minutes
6. Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Brad Livingston, Executive Director of the TDCJ, reported on the Agency's recovery from Hurricane Ike. He recognized the TDCJ staff, all of whom went beyond the call of duty prior to, during and after Hurricane Ike. The Command Center staff and the front line staff exceeded every expectation as the Agency weathered the storm. With respect to facility damage caused by Hurricane Ike, Mr. Livingston stated that TDCJ took on minor to moderate damage on some of its facilities, which was much less than the damage caused by Hurricane Rita. Staff have already begun the minor construction efforts necessary to put the facilities in good working order. Pre-landfall activities included evacuating over 5,400 offenders from six (6) units. Additionally, 1,100 parole offenders were evacuated. Until Hospital Galveston can reopen the prison side of the hospital, the

University of Texas Medical Branch (UTMB) is accomplishing responsibilities and tasks for medical services for acute and specialty clinics through a variety of other mechanisms. Some of these services are being provided through sub-contracts with other medical providers. Mr. Livingston reported that Texas City and the Estelle Unit have increased medical activities. Significant staff resources are being used to address the medical challenges that Hurricane Ike has presented. He advised the Board that it is unknown how long services will be suspended at Hospital Galveston, providing assurances that the Agency is prepared for the short-run or the middle-run scenarios.

Mr. Livingston stated that another significant challenge is dealing with parolees and halfway house resources. While halfway house facilities are not owned by the State, the largest halfway house (Houston area) suffered major damage. This particular halfway house is under contract with TDCJ for parolee beds, resulting in the displacement of several hundred halfway house offenders for an extended period. He noted that the use of trusty camps is one (1) option for beds for these offenders. Some parole offenders have been transported to the El Paso area halfway house vendor. Mr. Livingston expressed his pride in the manner in which TDCJ staff prepared and handled operations during Hurricane Ike. He praised front line staff and senior staff for their innovative thinking.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Chairman Bell stated that normally Allen Hightower, Executive Director of the CMHCC, presents a verbal report. However due to the shortened agenda, Mr. Hightower submitted a written report for the Board's information.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Ms. Judy Briscoe, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

Chairman Bell praised staff for their efforts before and after the hurricane. He noted that the Command Center activity was well run and that the movement plan worked out very well. The Emergency Action Center (EAC) was recognized for its participation in this effort. Chairman Bell extended appreciation to Agency staff for their planning and hard work. He expressed the Board's gratitude to the Agency's partners in private facilities for their efforts. He also mentioned TDCJ's assistance to the Texas Youth Commission (TYC) in moving the young people assigned to TYC facilities out of potential harm's way.

Chairman Bell stated that when the town of Presidio became in danger of being flooded, the State Emergency Action Center requested assistance from TDCJ. In response, TDCJ provided 170 offenders to sandbag flooding areas, which helped contain the floodwaters. He expressed the Board's appreciation for these efforts during times of emergency.

Chairman Bell provided an update on the Board's visitation schedule to Agency facilities as well as private facilities. He noted that the community supervision and corrections departments (CSCDs) and parole facilities have been added to the visitation schedule. Bonita White, Director for the Community Justice Assistance Division, and Stuart Jenkins, Director of the Parole Division, were recognized for their efforts in assisting the Board to include these facilities. The Board's visits to the CSCDs would be coordinated to ensure that the areas the Board would like to review would be available. Chairman Bell stated that the visits to the Parole Division facilities could be unannounced site visits.

Discussion, Consideration and Possible Action Regarding the Selection of the Safe Prison Ombudsman/Liaison

Chairman Bell stated that during the past legislative session, the legislature required a position be created for an ombudsman/liaison regarding safe prison issues, with the position reporting directly to the Board. Chairman Bell reviewed the process for the selection of this position. Upon vote, Ralph Bales was selected for the position.

Internal Audit Status Report for Fiscal Year 2008

Raymond Pyeatt, Director for Internal Audit, had no verbal report. A written report was provided in the agenda booklet.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars

APPROVED

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over one (1) million dollars. Items one (1) through six (6) are for increases to six (6) residential and outpatient substance abuse services that are usually referred to as transitional treatment centers (TTCs). Item seven (7) is an increase to the Fiscal Year (FY) 2009 contract for 1,899 temporary beds, due to a 2.8 % increase in the per diem. Staff will continue to monitor the capacity needs of the Agency, utilizing the Legislative Budget Board's update on offender population projections that will be available in January 2009. Items eight (8) through 16 are food items, which exceeded the one (1) million dollar threshold to the contract approved in May 2008. Staff will continue to monitor food contracts. Item 17 is an FY 2009 contract renewal for swine feed premises for pork production. Items 18-22 represent five (5) of seven (7) correctional centers and the Lockhart Work program which have been operated by private vendors since their construction in the 1980s. The Private Facilities Contract/Monitoring and Oversight Division developed a request for proposal (RFP), in coordination with the Correctional Institutions Division (CID) and the Parole Division, as well as a number of the other operational divisions. Mr. McGinty then explained the RFP process. He announced the names of the facilities and the proposed vendors:

- Item 18. Sanders Estes Correctional Center - Management and Training Corporation
- Item 19. Diboll Correctional Center - Management and Training Corporation
- Item 20. Cleveland Correctional Center - GEO Group, Incorporated
- Item 21. B.M. Moore Correctional Center - Management and Training Corporation
- Item 22. Lockhart Correctional Center Work Program Facility - GEO Group, Incorporated

Mr. McGinty explained the terms of the contracts, which were for a two (2) year, seven (7) and one-half (1/2) month base period. These contracts will begin January 16, 2009. The contract also provides for two (2), renewal periods of two (2) years each. The proposed contracts provide an increase of approximately 2.5% of the current rate. Chairman Bell inquired if any of the proposed vendors were current vendors. Mr. McGinty responded that Items 18, 19 and 21 would have new vendors operating those facilities. Items 20 and 22 would not be changing the current vendor.

Chairman Bell asked who the former vendors were. Mr. McGinty responded that the former vendors were GEO Group for Item 18 and Corrections Corporation of America for Items 19 and Item 21.

Mr. Mechler asked how many units are privately operated and if these facilities were being renewed at the same time. Mr. McGinty responded that there are seven (7) correctional centers, five (5) privately operated state jails and the work program at the Lockhart facility. Five (5) of the correctional centers contracts were rebid; the other two (2) facilities' contracts will be rebid in 2010. The privately operated state jail contracts will be rebid in 2011.

Janice Lord asked how many vendors operated substance abuse facilities and if the vendors are licensed. Mr. McGinty responded that the vendors were licensed per terms of the contract. He noted that staff work with the Department of Health Services, and the Private Facilities/Contract Monitoring and Oversight Division provides monitoring and oversight of the contracts. There are roughly 20 TTC contracts.

Terrell McCombs inquired if the increases to food contracts were also about 2%. Mr. McGinty responded that on average the increases to food contracts are 25-30%. Mr. McCombs asked if the increases are based on last year's pricing. Mr. McGinty responded affirmatively.

Discussion, Consideration and Possible Action Regarding the Proposed New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)

APPROVED

Melinda Bozarth, TDCJ General Counsel, stated that in accordance with state law, through this new rule, the Board will be adopting the rules promulgated by the Comptroller of Public Accounts for purchasing and contracting with historically underutilized business. Board Policy 14.67, "Purchasing and Contracting with Historically Underutilized Businesses," which currently addresses this area will be repealed once this new rule is adopted. Ms. Bozarth requested that the Board move forward with authorizing the proposed rule's publication in the Texas Register to allow for the public's comments.

Mr. Coleman asked Ms. Bozarth if she was confident that the rule meets compliance with federal and state laws concerning race, gender and minority issues. Ms. Bozarth expressed her complete confidence that the rule met and most likely exceeded the requirements of federal and state law requirements.

Discussion, Consideration and Possible Action Regarding Proposed Land Transactions

APPROVED

1. Request for Utility Easement at the Halbert Unit in Burnet County, Burnet, Texas

Mr. McGinty reviewed the transfer of 75 acres with a 70-foot access easement to Burnet County, pursuant to Senate Bill 1533, 80th Legislative Regular Session, and approved by the Board in September 2007. The county requested that the access easement be amended to include utilities and an additional 1.32-acre variable width utility easement on the Halbert Unit. The easements will allow service to the new county jail currently being constructed on the 75-acre tract.

Mr. McCombs asked if the Agency was receiving fair market value compensation. Mr. McGinty responded that no compensation is required since the transfer and amendments were a legislative directive.

2. Request for Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas

Mr. McGinty stated that ONEOK Arbuckle Pipeline, L.L.C. requested an easement to construct, maintain and operate a 16-inch pipeline, which will travel 3,100 feet at the far south end of the Ellis Unit. It will be used to transport natural gas liquids to the Mount Belvieu area for further processing. ONEOK Arbuckle Pipeline, L.L.C. agrees to pay \$81,224.82 for the easement with a ten (10) year term.

Mr. Coleman asked if the easement was in addition to what is on the chart marked as "Existing Pipeline." Mr. McGinty responded affirmatively.

3. Request for Pipeline Easements at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. McGinty stated that HSC Pipeline Partnership, L.L.C. (HSC) and TE Products Pipeline Company, L.L.C. (TEPPCO), both entities of Enterprise Products L.P., request to construct, maintain and operate three (3) pipelines on the Stiles Unit in Jefferson County. The total rods for all three (3) pipelines equals 651.9 rods. HSC and TEPPCO agree to pay \$260,476 for the easements with a ten (10) year term.

Discussion, Consideration and Possible Action Regarding Proposed Facilities Division Construction Projects

1. Request for Additional Program Budget for Kitchen Renovations at the Ferguson Unit in Madison County, Midway, Texas

APPROVED

Ron Steffa, Deputy Chief Financial Officer, stated that the Board originally approved the kitchen renovations project at the Ferguson Unit in April 2006 with a project budget cost of over \$4.3 million. Additional funds are requested to allow for the increase to the Architects/Engineer (A/E) design fee, not originally included in the program budget. Mr. Steffa requested that the Board approve an additional \$279,300, which would increase the total project budget to \$4,607,100 million. He noted that the project is 99% complete and scheduled for completion in October 2008.

Mr. McCombs inquired why the design fee was not included in the original budget approval. Mr. Steffa responded that the original estimated construction budget was \$1.8 million with an estimated design fee of \$150,000; however, the actual construction bid came in considerably higher. The increase to the design fee, based on the new construction costs, was inadvertently omitted. Mr. McCombs asked if the vendor made the error when the project first was bid. Mr. Steffa responded that the design fees were contingent upon the construction cost, noting the original design fee was based on the estimated construction cost, which was much lower than the actual bid. Mr. Steffa stated that the design fee increase was not included in the total project cost when brought to the Board for approval in April 2006. He emphasized that under current A/E contracts, the design fee is not contingent upon the construction cost.

Mr. Mechler asked Mr. Steffa if the Board was contractually obligated to approve the increase. Mr. Steffa responded affirmatively.

Chairman Bell asked if, in terms of the omission, if the bidder was at fault by not including the increase or if staff forgot to include the design fee increase in the final project approval. Mr. Steffa responded that when the Facilities staff compiled the project budget for approval, they failed to increase the design fee based on the new construction totals.

Ms. Lord asked Mr. Steffa to clarify the budget request total. Mr. Steffa responded that the total project amount is \$4,607,100, of that total there is an increase of \$279,300 for the design fees. Chairman Bell explained for clarification that the total original project budget was just above \$4.3 million and the adjustment to the design fee is what the Board stands to approve. Mr. Steffa added that the total project budget was \$4,607,100.

**2. Request for Approval to Replace High Mast Lighting at the Garza West Unit
in Bee County, Beeville, Texas**

APPROVED

Mr. Steffa reviewed the job scope and budget to replace the existing lighting system with 16 high mast poles. The reduction of lights and poles will provide an energy savings as well as provide increased lighting levels across the unit. The proposed system meets all federal and state requirements, including “Dark Sky” standards. Additionally the old lighting system would be too costly to repair and maintain. Mr. Steffa requested that the Board approve the total program budget of \$1,004,500. The contractor is the Levy Company, Inc., San Antonio, Texas.

Mr. Coleman asked if the present poles have one (1) light while the new poles will have six (6) or eight (8). Mr. Steffa responded that he believed there are multiple light fixtures on the high mast poles, which can illuminate a large area, noting that he could provide the exact number of fixtures after the meeting.

Mr. Nelson asked if this high mast system had been installed at other units. Mr. Steffa stated that while he did not have that information with him, he could provide it after the meeting. Mr. Nelson suggested that these lights be installed on a system wide basis in areas that need them.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the 139th meeting of the Board at 10:57 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Sheraton, Austin Hotel
Austin, Texas

December 2-3, 2008

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 3
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 3
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
I. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 5
J. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 6
K. Discussion, Consideration and Possible Action Regarding the Capital Expenditure Authority Request	Page 6
L. Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy, BP-14.01, "Texas Department of Criminal Justice Investment Policy" And Resolution Adopting the Investment Policy	Page 6
M. Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-01.80, "Good Conduct Time"	Page 6
N. Discussion, Consideration and Possible Action Regarding Revisions to Personnel Directive, PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"	Page 6
O. Discussion, Consideration and Possible Action Regarding Revisions to Board Policy, BP-01.01, "Texas Board of Criminal Justice Responsibilities".....	Page 7
P. Discussion, Consideration and Possible Action Regarding Repeal of Board Policy, BP-14.67 "Purchasing and Contracting with Historically Underutilized Businesses"	Page 7
Q. Discussion, Consideration and Possible Action Regarding Repeal of Board Rule §151.53, Multiple Employments with the State (37 TAC §151.53).....	Page 7
R. Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)	Page 7

S.	Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
1.	§151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51)	Page 7
2.	§151.21, Naming of a Texas Department of Criminal Justice Owned Facility (37 TAC §155.21)	Page 7
3.	§159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (37 TAC §159.9)	Page 8
T.	Discussion, Consideration and Possible Action Regarding Proposed New Board Rule, §195.41, Community Residential Facilities (37 TAC §195.41)	Page 8
U.	Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules	
1.	§151.8, Advisory Committees (37 TAC §151.8)	Page 8
2.	§151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)	Page 8
3.	§161.21, Role of the Judicial Advisory Council (37 TAC §161.21)	Page 8
V.	Discussion, Consideration and Possible Action Regarding Land Transactions	
1.	Request for Transfer of the Marlin Veterans Affairs Hospital from the United States of America, Department of Veteran Affairs	Page 8
2.	Request for Sanitary Sewer Easement on the Clements and Neal Units in Potter County, Amarillo, Texas	Page 8
W.	Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects	
1.	Request for Approval to Replace Chillers and Heating, Air Conditioning (HVAC) System Controls at the Jester IV Unit in Fort Bend County, Richmond, Texas	Page 9
2.	Request for Approval to Repair/Replace Fire Alarm System at the McConnell Unit in Bee County, Beeville, Texas	Page 9

SUMMARY OF THE MINUTES FOR TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 140

Convene – Texas Board of Criminal Justice

Chairman Oliver Bell convened the 140th Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Tuesday, December 2, 2008, at 2:53 p.m. and stated that a quorum was present. He announced that the Board would adjourn the meeting into executive session, which is closed to the public in accordance with the Texas Government Code, Section 551.

Chairman Bell reconvened the 140th Meeting of the Board on Wednesday, December 3, 2008, at 9:04 a.m., stated that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell recognized staff representatives attending from the Governor's Office, the Legislative Budget Board (LBB), and various legislative offices. Chairman Bell stated that the Board is committed to providing the opportunity for public presentations on topics within its jurisdiction as well as public comments on topics posted on the meeting agenda in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. He reviewed the requirements for speaker registration.

Recognitions

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), recognized Dr. Lannette Linthicum, Health Services Division Director, on her appointment as the Chair of Accreditation with the American Correctional Association (ACA). Mr. Livingston recognized Angie McCown as the Director of the Victim Services Division. Chairman Bell welcomed Ms. McCown and stated that the Board looked forward to working with her.

John Moriarty, Inspector General, recognized Elizabeth Mullen as the Assistant Director of Investigations. Ms. Mullen stated that it was her honor to meet the Board and to work for such a fine organization.

Nathaniel Quarterman, Director of the Correctional Institutions Division, recognized Oscar Mendoza as the Director for Region IV. Mr. Mendoza thanked the Board and executive management for the honor to serve them in this new position.

Mr. Quarterman noted that ten (10) units have recently received initial accreditation or reaccreditation from the American Correctional Association (ACA). This brings the Agency's number of accredited units to 86. Chairman Bell remarked that he would be issuing the Chairman's Coin to each of the wardens for outstanding performance.

Initial Accreditation:

Alfonso Castillo – Estelle Unit
Todd Foxworth – Skyview/Hodge Units
Kenneth Negbenebor-Ramsey Unit
Charles Bell – Wynne Unit

Reaccreditation:

Michael Upshaw – Correctional Training Academy
Tracy Bailey – Halbert Substance Abuse Felony Punishment Facility
Joe Nunn – Jordan Unit and Baten Intermediate Sanction Facility
Jeffrey Marton – Torres and Ney Units
Kay McCleary – Woodman Unit
Rick Thompson – Roach Unit

Chairman Bell congratulated the unit wardens and thanked them and their staff for the hard work regarding the ACA accreditation and reaccreditation.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 plus years of service with the State of Texas during the months of October and November 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell remarked that the Consent Items includes an excused absence for Pastor C. L. Jackson who has been unable to attend more than half of the regularly scheduled Board meetings in the 2008 calendar year. He asked if there were any amendments or objections to the Consent Items as proposed. Eric Gambrell objected to the inclusion of the personal property donation from the San Antonio Food Bank and recommended that it be placed in line for consideration on the regular agenda due to a conflict of interest on his part, as his firm does work for the San Antonio Food Bank.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 139th TBCJ Meeting Minutes
6. Excused Absences

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell called for a motion and second regarding the personal property donations from the San Antonio Food Bank. Mr. Gambrell stated as his firm currently represents this company, to prevent even the slightest suggestion of impropriety, he would abstain from the vote on these personal property donations, which includes assorted breads and ice cream products.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, presented the End of the Year Statistical Report. Ms. Owens provided an overview of the mission statement and the BPP structure. The types of releases were described. Ms. Owens discussed the Fiscal Year (FY) 2008 parole considerations and a comparison of the FY 1997 – FY 2008, noting that the parole approval rate for FY 1997 was 16.71% and 30.93% for FY 2008. The discretionary mandatory supervision approval rates for FY 2008 were 48.77%. Ms. Owens reviewed the Revocation Process, noting that the BPP reviewed 30,268 individuals for revocation decisions. The Executive Clemency Activity for FY 2008 was reviewed in addition to Executive Clemency Activity for FY 2009 year to date (YTD).

Tom Mechler requested Ms. Owens clarify the meaning of a technical revocation. Ms. Owens responded that individuals on parole have a duty to report to the Parole Division to pay fees, attend counseling sessions, and so forth. A technical violation is not a new criminal violation. Mr. Mechler noted that a criminal revocation involves a new criminal violation. Ms. Owens responded affirmatively.

Leo Vasquez inquired on the typical length of a parole term. Ms. Owens explained that the amount of time that an individual is supervised by the Parole Division is dependent on that individual's sentence given by the court. Mr. Vasquez asked if it was possible to receive the averages of offenders' time served. Ms. Owens noted that most of the BPP's statistics came from TDCJ Executive Services and that she would contact staff regarding his request.

Janice Harris Lord requested additional information about the term "exonerations" primarily based on the DNA and where those cases fall within capital cases. Ms. Owens responded that very few of those cases have submitted clemency petitions to the BPP, which if submitted would be a petition for a pardon for innocence. Noting there were six (6) different BPP offices, each with two (2) BPP members and one (1) commissioner, Mr. Gambrell asked if these positions have voting privileges. Ms. Owens explained that all positions have equal voting rights, noting that the decisions needed a majority vote.

Mr. Gambrell asked if the BPP held hearings. Ms. Owens explained the BPP conducts paper reviews, noting that the offender population is too large to conduct hearings. Mr. Gambrell asked if an offender wants a hearing, does that individual submit a request in writing. Ms. Owens responded that the offender may submit a request on an I-60, a transmittal form used by offenders throughout the system or a letter to the BPP office on Shoal Creek Boulevard in Austin. She noted that once an offender's case has been received, any BPP member may interview that offender regarding the case.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Summary of Minutes, Board Meeting No. 140

Page 2 of 9

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston reported that several weeks ago the Agency had a public cell phone incident, which highlighted the threat of cell phones present in the prison system. He stressed that any offender cell phone activity in prisons, regardless of who has been contacted, is unacceptable. Mr. Livingston pledged his and the Agency's commitment to work diligently to stop this activity. He noted that only a few of the Agency's staff violate policy and state law, which risks the security of their peers as well as themselves by bringing contraband into the prison system. Mr. Livingston stated that out of the vast number of employees, most are hard working and dedicated public servants, doing a job that is so critical to the public's safety. Remarking that most prison systems in the United States have contraband issues such as cell phones, Mr. Livingston stated his determination to stop this activity in the Texas prison system. He reported that under the direction of the Governor, the prison system was locked down and each facility underwent the shakedown procedure. This shakedown was different from the biennial shakedowns because all the prisons were on lockdown at the same time. Additionally, all individuals entering a unit must submit to metal detection searches and pat searches. A number of contraband items were found, notably 132 cell phones, 118 chargers, 183 shanks or weapons and a number of other common types of contraband. Mr. Livingston stated that these numbers were too high, stressing there will be zero tolerance for contraband. The information gathered during the shakedown pointed out that the concentration of certain contraband was on only a few units. This has helped Agency staff prioritize where additional resources should be placed. The Agency has requested and received assistance, in terms of the Office of Inspector General (OIG) using cell phone detecting equipment from the Department of Public Safety. TDCJ is working with the Attorney General's Office and the Federal Communications Commission (FCC) with respect to cell phone jamming technology. Six (6) dogs were purchased for training in cell phone detection. Mr. Livingston advised the Board that cell phone jamming seems to be viable. The Agency will continue to work with the FCC, Congress and others to help find a legislative solution to authorize states to utilize this technology to render cell phones useless in the prison system.

Mr. Livingston noted that the Legislative Appropriations Request contains an exceptional item request for \$30 million for security enhancements specifically targeted for contraband screening. TDCJ is seeking those funds immediately as opposed to seeking those funds through the ordinary budget process. He stated that TDCJ would seek an additional \$36 million for video surveillance equipment for installation throughout the prison system. Mr. Livingston advised that later on the agenda an item to be presented by the Chief Financial Officer would outline the necessary approvals that the Board must take before this request is submitted to the Office of the Governor and the Legislative Budget Board (LBB). The first \$10.5 million would provide contraband and personnel screening as appropriate to the type of unit, such as walk through detectors, parcel screening X-ray machines, and ingress/egress video surveillance system wide. It would also provide funding for two (2) mobile contraband screening units and a complete video surveillance system for the Polunsky Unit. The next funding item (\$18.9 million) is to provide comprehensive surveillance equipment at the other 19 maximum-security units. These two (2) funding items will close out the first request for \$30 million. The funding request for \$36 million will be utilized to provide video surveillance systems to the remaining units. Mr. Livingston expressed his confidence that these measures will place TDCJ ahead of the contraband issue in addition to providing better security with respect to offenders, staff and the general public at large.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC) Correctional Managed Health Care, 4th Quarter FY 2008 Financial Report

David McNutt, CMHCC Chief Financial Officer, provided an overview of the 4th Quarter FY 2008 Financial Report. Mr. McNutt stated that copies of all reports could be found on the CMHCC website. The population indicators remained stable throughout the quarter; however, the 55+ offender population continues to increase as discussed in previous meetings. The HIV population has remained stable over the past two (2) years. Mental health care population remained stable as well. Mr. McNutt stated that the overall health care costs for the 4th Quarter are \$477.5 million, which is \$14.7 million above the overall revenues earned by the university providers. The University of Texas Medical Branch (UTMB) total revenue through the quarter was \$366.3 million. Their expenditures totaled \$381 million for a net loss of \$14.7 million. On offender per day

basis, UTMB earned \$8.30 in revenue and expended \$8.63 resulting in a loss of \$.33 per day per offender. The Texas Tech University Health Sciences (TTUHSC) revenue through the quarter was \$96.5 million (round figures). Expenditures totaled \$96.5 million (round figures), which resulted in a net gain of \$39,296. On offender per day basis, TTUHSC earned \$8.49 and expended \$8.49 per day. The total cost per offender through the quarter was \$8.60 per day, compared to the prior four (4) year average of \$7.56. For UTMB the cost per day per offender was \$8.63, which was slightly higher than the cost per day for the last four (4) years (\$7.67). For TTUHSC the cost per day per offender was \$8.49, which was significantly higher than the cost per day over the last four (4) years (\$7.18).

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Dee Wilson, Director of the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), recognized Judy Briscoe, former Chairman of ACOOMMI, for her association with TCOOMMI over the past 20 years. Ms. Wilson noted that Ms. Briscoe has been a tireless champion for offenders with mental illness and other special needs. She then presented Ms. Briscoe with a plaque honoring her extraordinary service and dedication to TCOOMMI. Ms. Briscoe thanked the Board members for their support, stating that she had enjoyed reporting to them. She also noted that correctional people were the hardest working, dedicated professionals that one could ever meet. Ms. Briscoe said it had been her pleasure working with the Board and the Agency staff.

Ms. Wilson introduced John Bradley as the newly appointed Chairman of ACOOMMI. Mr. Bradley acknowledged that as the District Attorney of Williamson County, the notion in Williamson County was to be tough on crime and prosecute offenders as severely as possible. He stated that after becoming better informed, he realized that certain populations in Texas should not be treated or prosecuted to the extent of the law. Through many intervention devices for individuals who were medically or mentally impaired, Williamson County began to realize a savings of significant dollars locally and has had better outcomes. Mr. Bradley related that through his experience as an ACOOMMI member, he has learned valuable information about the TCOOMMI eligible offender population. He stated that Ms. Briscoe has laid tremendous groundwork as the Chair of ACOOMMI and thanked the Board for inviting him to the meeting.

Chairman Bell thanked Mr. Bradley for attending the meeting. He praised Ms. Briscoe for her support and leadership.

Report from the Chairman, TBCJ

The following are highlights of Chairman Bell's report:

Board Visitation Initiative: The Board Visitation Initiative includes CID facilities, Parole Division offices and facilities, and Community Supervision and Corrections Departments (CSCD). To date Board members have visited 51 separate CID facilities, five (5) Parole Offices and five (5) CSCDs. The Board has learned the different areas of the business of corrections. Chairman Bell noted the commitment demonstrated by employees in each facet of the criminal justice system by the way they work with the 750,000 individuals under supervision.

Contraband Activity: Chairman Bell emphasized that beyond zero tolerance, the Board's goal is to find contraband wherever it may be. The ultimate goal is to stop contraband at the perimeter. The Board is committed to doing everything that is legal to stop this contraband activity. He stressed that the Board is very serious about pursuing participants in contraband activity and later in this meeting will address authorizing the request for \$66 million to increase security in TDCJ facilities. More than 90% of the contraband activity is at less than 20% of TDCJ facilities, and those facilities will receive special attention. Chairman Bell noted that in over half of the facilities, no contraband was found. If TDCJ employees are involved in contraband activity, they will be found and prosecuted, offenders will as well. Chairman Bell stressed that the majority of TDCJ's employees are not participating in this activity. He gave examples of how outside influences bring in contraband, which is a business for many people not connected with TDCJ. Chairman Bell stated that the State of Texas will prosecute any outside influences involved in contraband activity. He noted that contraband activity has never been higher than it is today. The Board and Agency staff will continue to watch and remain vigilant. Chairman Bell emphasized that the Board and Agency will do every legal measure available to stop contraband. He stressed that the Board and staff will not break the law while enforcing the law.

Training Initiatives: Chairman Bell praised the leadership team assembled by Mr. Livingston and noted that he believes the Wardens, senior staff and executive staff are the best that the Agency has ever had. Executive staff continues efforts to upgrade the competence of correctional officers. The training initiatives such as edge weapons training, uniform professionalism and complaisance in corrections are offered for all correctional staff to improve performance. The Board is committed to training programs such as these.

Correctional Staffing Initiative: Chairman Bell reported the correctional staffing initiative for increased pay for Correctional Officers (CO) I and II has affected the TDCJ staffing vacancies. Before the increased pay for entry positions, 3,900 vacancies had been reported. As of October 2008, 2,700 vacancies were reported. Chairman Bell noted that the Agency stands now at 89.6% employment rate. He recognized Mr. Livingston's initiative has positively affected the recruitment and retention areas, and enhanced other areas throughout the prisons system. One (1) of the Board's highest priorities throughout the legislative session will be the CO pay proposal. Chairman Bell expressed his hope that the state leadership will look favorably on that request, which will help strengthen the body of correctional staff.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director for the Internal Audit Division, provided a status update for FY 2008 and FY 2009. The following are highlights of Mr. Pyeatt's report:

FY 2008

- **0802 - Information Technology Division, Offender Information Management System:** The final report was issued on October 31, 2008.
- **0803 - Information Technology Division, Corrections Tracking System, Community Justice Assistance Division, Community Supervision Tracking System:** The final report was issued on October 31, 2008.
- **0804 - Rehabilitation and Reentry Programs Division, Rehabilitation Tier Placement, Serious and Violent Offender Reentry Initiative:** The report is being written. The completion date has been revised by two (2) weeks because staff have been shifted to Audit 0901 - Unit Entry Procedures Review as part of the contraband effort.
- **0806 - Correctional Institutions Division, Warehouse/Armory:** The report is being written. The loss of the audit manager has impacted this audit as well as several others.
- **0809 - Correctional Institutions Division, Security Threat Group Management Office:** The exit conference was held November 24, 2008. Responses have been received and are under review.
- **0813 - Correctional Institutions Division, Office of Disciplinary Coordination, Counsel Substitute Program:** The proposed final report has been sent to the Chief of Staff for review. An exit conference with the Executive Director is pending.
- **0814 - Correctional Institutions Division, Bench Warrants:** The draft report was issued on November 17, 2008. An exit conference is pending.
- **0818 - Facilities Division, Environmental Branch:** The proposed final report was sent to the Chief of Staff for review on November 25, 2008. An exit conference with the Executive Director is pending.
- **0819 - Manufacturing and Logistics Division, Warehousing and Supply:** The draft report was issued on November 25, 2008. An exit conference is pending.
- **0820 - Parole Division, Sex Offender Registration:** The proposed final report was sent to the Chief of Staff for review on November 26, 2008. An exit conference with the Executive Director is pending.
- **0821 - Administrative Review and Risk Management Division, Use of Force:** The draft report was issued on November 25, 2008. An exit conference is pending.

FY 2009

- **0901 - Correctional Institutions Division, Unit Entry Procedures:** The audit is in fieldwork. A draft report should be available in January 2009.
- **0903 - Facilities Division, Maintenance:** The audit is in control assessment.
- **0904 - Victim Services Division, Victim Notification System/Victim Information and Notification Everyday:** The audit was assigned on December 1, 2008, as scheduled. Background information is being gathered.
- **0906 - Human Resources Division, Application Processing:** The audit was assigned on December 1, 2008. Background information is being gathered.

- **0907 – Business and Finance Division, Contracts and Procurement Department:** The audit is in control assessment. The draft report should be issued mid-January 2009.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** The assignment of the audit has been delayed until the end of December 2008.
- **0919 – Parole Division, Client Supervision:** The audit should be assigned by mid-December.
- **0920 – Correctional Institutions Division, State Ready Section:** The audit is in fieldwork, which should be finished by the end of December 2008.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** This audit is a consultation regarding Correctional Officer Retention. Two (2) meetings have been held to discuss reason for the high turnover rate for correctional officers. A third meeting is scheduled, which delays the completion date of the report.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts

Over One (1) Million Dollars

APPROVED

Jerry McGinty, Chief Financial Officer, reviewed the two (2) contracts over one (1) million dollars. The first item is the Calendar Year 2010 utility contract for electricity, to provide electrical service to 48 units through a competitive contract. He requested a 25% variance because of the volatile utility market. The second item is the outpatient substance abuse treatment services to be provided by the Dallas County CSCD at an amount not to exceed \$2,761,366. This contract is for a 12-month period to provide the aftercare portion for those offenders being released to Dallas County from the Substance Abuse Felony Punishment Program.

Discussion, Consideration and Possible Action Regarding the Capital Expenditure

Authority Request

APPROVE

D

Mr. McGinty explained the process of the Capital Expenditure Authority Request. Article IX of the General Appropriations Act requires that any agency requesting to exceed its capital limitation must process a formal request along with the justification for the request to the LBB and the Office of the Governor.

Chairman Bell asked if there were any questions. Mr. Nelson asked if the request was for immediate funding. Chairman Bell explained that in the Legislative Appropriations Request (LAR) for FY 2010, the Agency had requested \$30 million. The request includes that \$30 million as well as an additional \$36 million to purchase surveillance equipment as an immediate add on request. Mr. McGinty noted that the request is a supplemental funding request for FY 2009, which is asking for the authority to spend that \$66 million in FY 2009, immediately upon approval.

Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy,

BP-14.01, "Texas Department of Criminal Justice Investment Policy"

and Resolution Adopting the Investment Policy

APPROVE

D

Mr. McGinty explained that the Board has to review the Investment Policy annually in accordance with the *Public Funds Investment Act*. No substantive changes were made to the policy. Mr. McGinty recommended that the Board approve the revised policy and Resolution adopting the policy.

Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-

04.80, "Good Conduct Time"

Melinda Bozarth, General Counsel, explained that state law requires the Board to review this directive, concerning Good Conduct Time, on an annual basis. Staff has no recommended changes to the directive at this time. She noted that the fact that the directive was placed on the agenda and the Board received a copy of the directive reflects compliance with the state law requirement. No official Board action is required.

Discussion, Consideration and Possible Action Regarding Proposed Revisions to Personnel Directive, to Personnel Directive, PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"

APPROVE

D

Ms. Bozarth provided the following highlights of revisions to the directive:

- The Applicability Section has been revised to include employees attending the Office of the Inspector General (OIG) Training Academy, among those exempt from provisions of the policy.
- A definition of technical supervision has been added.
- In Section 10, 2(b), a revision has been made to clarify the role of the General Counsel when reviewing a recommendation for termination.
- Rule 14 has been changed to include "offensive gestures."
- Rule 42 has been revised to clarify employees must notify the Agency of any changes in an offender relationship, including changes based on legal requirements such as custody or visitation rights.
- Rule 45 has been revised to clarify an employee gives implied consent to a search of his/her person or belongings while on state property.

Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policy, BP-01.01, "Texas Board of Criminal Justice Responsibilities"

APPROVE

D

Ms. Bozarth noted the substantive revision of the policy is the deletion of B.17, approving multiple employment authorizations. Ms. Bozarth stated that state law does not require a governing board to approve these types of employments. With revisions to PD-81, "Multiple Employments with the State," this area of responsibility has been shifted to the Human Resources Director.

Discussion, Consideration and Possible Action Regarding Repeal of Board Policy, BP-14.67, "Purchasing and Contracting with Historically Underutilized Businesses"

APPROVE

D

Ms. Bozarth stated that the state law requires this policy to be established as a rule. She noted that later on the agenda the Board would adopt the required rule and as such, recommended the Board repeal the policy.

Discussion, Consideration and Possible Action Regarding Repeal of Board Rule §151.53, Multiple Employments with the State (37 TAC §151.53)

APPROVE

D

Ms. Bozarth stated that as state law does not require a governing board to approve multiple employment authorizations, she recommended that the rule be repealed. The Board approved the publication of the rule in the August 20, 2008, issue of the Texas Register. No comments were received.

Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)

APPROVE

D

Ms. Bozarth noted that the new Board Rule 151.77, Purchasing and Contracting with Historically Underutilized Businesses (HUB) was published in the October 10, 2008, issue of the Texas Register. The purpose of the rule is to adopt the Texas Comptroller of Public Accounts rules related to the HUB program as required by law. Ms. Bozarth noted no comments were received and recommended that the Board adopt the new rule.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

1. §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51)

APPROVED

Ms. Bozarth stated that §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines was published in the August 29, 2008, issue of the Texas Register. As no comments were received during the 30-day comment period, Ms. Bozarth recommended the Board adopt the rule as published.

2. §155.21, Naming of a Texas Department of Criminal Justice Owned Facility (37 TAC §155.21)

APPROVED

Ms. Bozarth states that §155.21, Naming of a Texas Department of Criminal Justice Owned Facility was approved for publication in the August 29, 2008, issue of the Texas Register. As no comments were received during the 30-day comment period, she recommended the Board adopt the amended rule as published.

3. §159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (37 TAC §159.9)

APPROVED

Summary of Minutes, Board Meeting No. 140

Page 7 of 9

Ms. Bozarth stated that §159.9, Firearms Proficiency Training for Supervision Officers/ Memorandum of Understanding was published in the August 29, 2008, issue of the Texas Register for public comment. No comments were received during the 30-day comment period. Ms. Bozarth recommended the Board adopt the rule as published.

Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §195.41, Community Residential Facilities (37 TAC §195.41)

APPROVED

Ms. Bozarth noted that state law requires the Board to adopt standards that govern community residential facilities. Board Rule 195.41, Community Residential Facilities is a new rule modeled after Board Rule 163.39, which governs community corrections facilities for probationers. Ms. Bozarth requested the new rule be published in the Texas Register for public comment.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules

Ms. Bozarth noted that state law requires a governing body to review board rules every four (4) years to determine if the rule remains applicable. Board Rule 151.8 as well as the two (2) following rules are brought forth as a part of this requirement.

1. §151.8, Advisory Committees (37 TAC §151.8)

APPROVED

The proposed amendments to §151.8 improve clarity and conform language to existing organizational structure and Texas statute.

2. §151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)

APPROVED

The proposed amendments improve clarity and ensure service providers follow the same standards set for financial advisors.

3. §161.21, Role of the Judicial Advisory Council (37 TAC §161.21)

APPROVED

The proposed amendments improve clarity and incorporates state law requirements in Section (b)(2) regarding presentations to the Board by the Judicial Advisory Council.

Discussion, Consideration and Possible Action Regarding Land Transactions

1. Request for Transfer of the Marlin Veterans Affairs Hospital from the United States of America, Department of Veteran Affairs

APPROVED

Mr. McGinty noted the Facilities Division and the Office of the General Counsel have negotiated the transfer of the facility from the federal government. Mr. McGinty also noted funding for renovations to the facility is included in the FY 2010-2011 LAR. These renovations will allow the facility to be utilized as a psychiatric/medical facility housing approximately 300-350 offenders.

2. Request for Sanitary Sewer Easement on the Clements and Neal Units in Potter County, Amarillo, Texas

APPROVED

C. F. Hazlewood, Director of Agribusiness, Land and Minerals, recommended that the Board approve the request for a sanitary sewer easement on the Clements and Neal Units in Potter County, Amarillo, Texas, as discussed during the meeting of the Business and Financial Operations Committee on December 2, 2008. Mr. Hazlewood noted a change in the provided documentation to include an addition in the amount of \$3,190.67.

Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects

1. Request for Approval to Replace Chillers and Heating, Air Conditioning (HVAC) System Controls at the Jester IV Unit in Fort Bend County, Richmond, Texas

APPROVED

Frank Inmon, Director, Facilities Division, requested that the Board approve the replacement of chillers and heating, ventilation and air conditioning (HVAC) system controls at the Jester IV Unit in Fort Bend County, Richmond, Texas, as presented at the meeting of the Business and Financial Operations Committee on December 2, 2008. The total project amount requested was \$4,554,000.

2. Request for Approval to Repair/Replace Fire Alarm System at the McConnell Unit in Bee County, Beeville, Texas

APPROVED

Mr. Inmon requested that the Board approve the repair or replacement of the fire alarm system at the McConnell Unit in Bee County, Beeville, Texas, as presented at the meeting of the Business and Financial Operations Committee on December 2, 2008. The total project amount requested was \$1,711,000.

Chairman Bell asked if there were any comments or questions. Mr. McCombs commended Mr. Inmon and the Facilities Division staff for developing a standardized report for tracking major construction projects.

Chairman Bell thanked everyone for attending the meeting, extended holiday greetings and announced that the next meeting of the Board would be Friday, February 13, 2009, at the Holiday Inn on Town Lake in Austin, Texas.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the 140th meeting of the Board at 10:50 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Holiday Inn Town Lake, Austin Hotel
Austin, Texas

February 13, 2009

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 2
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 2
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 3
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 3
I. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 5
J. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 5
K. Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §195.41, Community Residential Facilities (37 TAC §195.41)	Page 6
L. Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
1. §151.8, Advisory Committees (37 TAC §151.8)	Page 6
2. §151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)	Page 6
3. §161.21, Role of the Judicial Advisory Council (37 TAC §161.21)	Page 6

**SUMMARY OF THE MINUTES FOR
TEXAS BOARD OF CRIMINAL JUSTICE**

Meeting No. 141

Convene – Texas Board of Criminal Justice

Chairman Oliver Bell convened the 141st Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Friday, February 13, 2009, at 1:26 p.m., stated that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell noted that during the regular session, the Board would conduct business from the agenda posted in the Texas Register.

Chairman Bell acknowledged the attendance of Kyle Mitchell, representative from the Office of the Governor, as well as, Chief Art Acevedo and Commander William Basto, from the Austin Police Department.

Chairman Bell stated that the Board is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well as public comments on topics within its jurisdiction in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. For today's meeting no speaker registration cards were received by Board staff prior to the required deadline. Therefore, no public presentations would be heard on posted agenda topics during this meeting.

Recognitions

Chairman Bell recognized Raymond Pyeatt, Director of the Internal Audit Division, for recently achieving 25 years of service with the State of Texas. He thanked Mr. Pyeatt for his leadership and dedicated work. Mr. Pyeatt was presented with his 25-year Service Award.

Chairman Bell recognized Chief Acevedo who thanked the Board for its commitment to keeping the public safe. He stated that science should be used to prove the innocence of people before they are imprisoned or die in prison. Chief Acevedo advised the Board to place emotion aside and use the science, remarking that DNA was the fingerprint of the 21st century. He stated his belief that the DNA project is making a difference in Texas and throughout the nation. Chief Acevedo thanked the Board for its commitment to the public's safety, which was also the goal of law enforcement throughout Texas. Chairman Bell thanked Chief Acevedo for his remarks. He stated that the Board provides oversight of the Texas Department of Criminal Justice (TDCJ) and that offenders in the Texas prison system receive adequate care as provided by statute and policy. Chairman Bell stated that the Board supports the use of scientific research evidence, such as DNA, to prevent innocent individuals from entering or staying in the Texas prison system.

Brad Livingston, Executive Director for the TDCJ, recognized Jackie Edwards, Director of the Administrative Review and Risk Management Division, for achieving 25 years of service with the State of Texas. Mr. Edwards was presented with his 25-year Service Award.

Chairman Bell recognized John Moriarty, Inspector General, for his completion of 20 years of service with the TDCJ. He thanked Mr. Moriarty for his leadership and dedication to duty. Mr. Moriarty was presented with his 20-year service award.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 plus years of service with the State of Texas during the months of December 2008 and January 2009. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

Chairman Bell stated that the approval of the consent items would include the elimination of personal property donation from Bree Darwent, care of the Houston Rotary Club. He called for any other amendments or objections to the proposed consent items. Seeing none, the consent items posted for this meeting's agenda stand approved as amended.

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 140th TBCJ Meeting Minutes
5. Excused Absences

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston commented that the week following the Board meeting would mark the 81st Legislative Session as being 25% complete. The House and Senate Committees were announced last week. Representative Jim McReynolds chairs the House Corrections Committee. Representative Jim Pitts chairs the House Appropriations Committee. TDCJ staff will testify before the House Appropriations Committee during the following week. Senator Whitmire remains the Chairman of the Senate Criminal Justice Committee. Senator Ogden remains as the chair of the Senate Finance Committee. TDCJ will provide testimony to Senator Ogden and the Senate Finance Committee on February 19, 2009. The chairs of these House and Senate Committees are individuals who have a long-term working relationships with agency staff.

Mr. Livingston advised the Board that the correctional officer pay and the parole officer front-line packages remain the agency's highest priority during the session. Security enhancement and security equipment also remain high priorities during the session, which Governor Perry has announced as one (1) of the emergency items for the legislature to review. Staff continue working with the state leadership and members of the legislature on security issues. Mr. Livingston advised the Board that Correctional Managed Health Care remains another difficult area during the session. Specifically, the continued recovery from Hurricane Ike has created a number of challenges for TDCJ and its health care partners. Mr. Livingston noted that these items as reported were the standing issues before the legislature.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, reported on the first quarter of Fiscal Year (FY) 2009.

- Throughout the quarter, the health care programs experienced a slight decline in the overall offender population served by the program.
- The older offender population continues to grow steadily, which represents approximately a 6% increase from last year's first quarter.
- The HIV+ population remains stable at 1.7% of the offender health care population. He reviewed the mental health caseload measure, noting that the number of available inpatient beds in the system limits the inpatient caseload. The outpatient caseload represents 12.6% of the service population of mental health patients.
- The health care costs totaled \$117.1 million, which is 1.4% below overall revenues earned by the university providers. The onsite services were 49.5% of the total health care expenses, which is a large decrease. Offsite services were 27.3% of total expenses, which is an immense increase.
- The total cost per offender per day for all health care services throughout the first quarter statewide was \$8.54 compared to the previous four (4) years fiscal average of \$7.86. This current cost per day average is still below the average of costs in the free world.

Mr. Hightower advised the Board that the CMHCC during its meetings, which are open to the public, has been challenged by individuals to reduce the number of patients cared for in free world hospitals. He noted that the number of patients in free world hospitals is 68, which is down from 117 in November 2008. Mr. Hightower further advised that Hospital Galveston has 68 acute care beds occupied by offenders. Before Hurricane Ike, Hospital Galveston had 108 acute care beds and 100 skilled nursing beds. Mr. Hightower expressed the commitment of the CMHCC to continue working with the Board to ensure there is not a discontinuation or a slack in the performance of the delivery of health care to the offender population, regardless of the future of John Sealy Hospital in Galveston.

Chairman Bell thanked Mr. Hightower and the CMHCC for reducing the number of offenders sent to private hospitals. He remarked that security for these offenders is a cost issue. Mr. Hightower responded the praise was not all his to receive, noting that Mr. Livingston's staff from the Health Services Division, the Correctional Institutions Division, Classification and Records Department and Offender Transportation were the first responders to remedy this situation. He noted that TDCJ staff and the CMHCC work closely together and have weekly conferences for planning purposes.

Board Member David Nelson inquired about the financial costs, in addition to property damage, incurred by the aftermath of Hurricane Ike, such as transportation costs and additional funds for health care delivery to offenders. Mr. Hightower responded that the combined costs of the CMHCC, TDCJ, University of Texas Medical Branch (UTMB) and the Texas Tech University Health Science Center were not immediately available. Mr. Nelson stated that the answer was important to him as the Chair of the Health Care Committee. Mr. Hightower explained that he did not have those figures with him but he would work with Mr. Livingston's staff to provide them. Mr. Livingston noted that after Hurricane Ike the damages to UTMB's physical plant and equipment within the facility were extensive. He expressed his doubt that UTMB has an estimated loss at this point, although UTMB has had significant physical plant loss in addition to the operations. With regard to TDCJ and its budget, of which correctional managed health care is a part, staff have roughly calculated where the agency stands, but as Mr. Hightower indicated the onsite costs have dropped considerably because UTMB has not been delivering services at UTMB Hospital Galveston. Offsite costs have increased substantially. Mr. Livingston stated that because the CMHCC is in the position to handle this without supplemental appropriations, he could only conclude this is a wash. From TDCJ's standpoint, with the ongoing overtime expenditures, the impact on TDCJ's budget is around \$33 million; of that number, approximately \$30 million is due to overtime that the agency had to incur for Hurricane Ike. Mr. Livingston advised the Board that the agency has been requested by the House Appropriations Committee and the Senate Finance Committee to present those numbers. He noted that a significant piece of that cost stream is eligible for Federal Emergency Management Agency (FEMA) reimbursement. The critical element is the timeframe in which the state is reimbursed, and how the legislature chooses to grapple with "how to make the agency whole in the intervening months or years." Mr. Livingston summed up the cost at approximately \$33 million to include managed health care operational delivery, which is separate from the millions of dollars of equipment and infrastructure that has been calculated in the budget proposal for consideration by the legislature.

Chairman Bell assured Mr. Hightower that the Board is keeping abreast of the health care issues and hopes for a positive outcome during the session.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

The following are highlights of Chairman Bell's report:

- TDCJ is working diligently to be a good steward of state resources. The budget request is designed to address key issues that continue to enhance the agency's overall mission. TDCJ is a vertically integrated correctional operation with multiple missions that touch several areas. An expanded explanation of the agency's mission was provided.
- Priorities:
 - The Board recognizes the challenges of the current economic times. The economic horizon is very different than it was six (6) months ago, when Mr. Livingston and his staff proposed a pay increase for correctional officers and parole officers. Even though there are economic challenges today, the Board and executive staff feel the pay increases are justified and appropriate for employees that serve the State of Texas and have a positive effect on Texas communities. It is hoped that as the legislative session evolves, those that oversee the agency's resources will give this request due consideration and act favorably.

- Another priority area is approval of additional funds allowing the agency to enhance its security measures and counter measures for the continuation to interdict contraband.
 - In the last year, the agency's correctional officer staffing levels have improved greatly by introducing two (2) key initiatives. Under Mr. Livingston's leadership along with great work from his staff, the agency embarked on an initiative to adjust pay for entry-level correctional officers and provided an assignment bonus for officers accepting assignments to understaffed locations. In the fourth quarter of FY 2007, the correctional officer vacancy rate peaked at around 3,900 positions. In early 2008, the Board, at Mr. Livingston's request, approved the pay and bonus initiatives. At this time, the correctional officer vacancies have been reduced by 1,600 positions or 40%. With additional planned initiatives, such as the pay raise request, it is believed that the agency can significantly impact the staffing situation by further reduction of correctional officer position vacancies. Currently, the agency is staffed at 91% of its authorized level. The requested pay increase would allow the agency to further improve staffing levels during the biennium, which would have a positive affect on all aspects of the TDCJ mission.
- Diversionsary Programs
 - The agency offers programs that offenders can participate in and, upon the successful completion of these programs, they can return to their communities to become contributing citizens again. In particular, the agency offers programs to help individuals with drug abuse and alcohol abuse (DWI). During the last legislative session, the agency received additional funding in these areas and has recently completed awarding contracts for services to several vendors. As these vendors complete their setup, the full array of authorized programs will come online.
 - While the daily operational cost of these facilities is higher than regular facilities, the much shorter duration of stay, along with information that is initially indicating improved recidivism rates, indicates great promise for these alternative programs. For those offenders that would qualify for such programs the recidivism rates are good.
 - In Texas, the standard recidivism rates have fallen during the last six (6) reporting periods from 33% to 27%. The recidivism rates for the Substance Abuse Felony Prisons (SAFP) facilities is 22% for offenders who complete all required aftercare. Properly administered, these programs seem to have great potential. The agency has formed some great partnerships with the vendors to insure the best chance of the successful implementation of these programs.
 - As these programs seem to be positive, TDCJ has encouraged local law enforcement prosecutors and judges to consider using these types of programs when, in their opinion, it is appropriate. TDCJ supports and encourages the counties that have begun similar programs.
- Fuel and Bio-fuel Initiatives:
 - Regarding the concept of being good stewards of state resources, the agency's Agribusiness, Land and Minerals Department and Texas Correctional Industries are experimenting with cost cutting energy initiatives. The ongoing test includes the following:
 - Recycling used oil and utilizing it in a mixture with diesel to create a lower cost diesel fuel for internal use to the agency.
 - Experimenting with the use of waste food oil for conversion to bio diesel for use in TDCJ equipment. If successful, such an initiative potentially has multiple benefits including clean fuel, which is environmentally friendly, lower cost fuel, which has a positive budget impact, potential training for offenders on jobs of the future and eliminating the cost for disposal of waste oil.
- Site Visits: Board member site visits to prisons, parole and probation offices continue.
- Texas Round-Up: The Board recognizes and encourages TDCJ employees to participate in the Texas Round-Up. TDCJ has always been one (1) of the top participating agencies in this statewide event.

Chairman Bell thanked every TDCJ employee attending the meeting for their dedication and hard work, and asked those individuals to pass along the thanks to their employees.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director for the Internal Audit Division, provided a status update for FY 2008 and FY 2009. The following are highlights of Mr. Pyeatt's report:

FY 2008

- **0804 – Rehabilitation and Reentry Programs Division, *Rehabilitation Tier Tracking and Placement, Serious and Violent Offender Reentry Initiative***: The draft report is being reviewed.
- **0806 – Correctional Institutions Division, *Warehouse/Armory***: The draft report was released for comment on January 15, 2009. The responses by staff are due February 18, 2009.
- **0807 – Business and Finance Division, *Parole Division, Supervision and Restitution Fees***: The audit team is working with the Office of the General Counsel regarding the laws pertaining to restitution fees. An objective regarding the efficiency and effectiveness of the collection of restitution fees has been added. This additional objective will delay the audit until the end March.
- **0814 – Correctional Institutions Division, *Bench Warrants***: The audit is complete. The final report was released January 22, 2009.
- **0821 – Administrative Review and Risk Management Division, *Use of Force***: The final report was released February 10, 2009.

FY 2009

- **0901 – Correctional Institutions Division, *Unit Entry Procedures***: The draft report is being written and should be released February 20, 2009.
- **0903 – Facilities Division, *Maintenance***: Due to the loss of the lead auditor, the audit remains in control assessment. The draft report should be ready by mid-March.
- **0906 – Human Resources Division, *Application Processing***: The audit is in fieldwork.
- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), *Continuity of Care***: The audit is in control assessment.
- **0910 – Parole Division, *Case Tracking and Analysis***: The audit was assigned February 2, 2009, and background information is being gathered.
- **0913 – Manufacturing and Logistics Division, *Texas Correctional Industries, Graphics Division***: The assignment of the audit has been delayed until the end of March.
- **0915 – Correctional Institutions Division, *Offender Transportation***: The audit is in control assessment and remains on schedule.
- **0919 – Parole Division, *Client Supervision***: The audit was assigned February 5, 2009, and background information is being gathered.
- **0920 – Correctional Institutions Division, *State Ready Section***: The draft report is being written.
- **0924 – Correctional Institutions Division, *Correctional Officer Retention***: The proposed final report has been sent to the Chief of Staff for review.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over one (1) million dollars. The two first (2) items are increases to the current FY 2008-2009 contracts. Item one (1) is part of the diversionary programs and Item two (2) is for an increase for TCOOMMI services provided at the Andrews Center. Item three (3) is a replacement contract for existing services and the operations and management of 450 beds at South Texas Intermediate Sanction Facility (ISF) in Houston, which was awarded to the GEO Group, Inc. This contract is for one (1) and one-half years.

Chairman Bell asked if there were any questions. Leo Vasquez inquired about the usual length for a replacement contract term. Mr. McGinty responded that typically the contract length is negotiated with the vendor, usually for a longer term. Terrell McCombs inquired on how the South Texas ISF was used for offenders. Mr. McGinty responded that the BPP would vote to send a parole violator to an ISF for a certain length of time, in lieu of revoking the offender's parole and sending the offender back to prison. He noted that this was an existing facility, not one (1) of the new diversion facilities. Mr. McCombs asked if the contract was scrutinized thoroughly. Mr. McGinty responded affirmatively.

Chairman Bell asked if there were any further questions. Janice Lord inquired if the Board, at its last meeting, approved an increase for roughly one (1) million dollars to a first-step counseling program. Mr. McGinty responded that he did not recall the contract that Ms. Lord mentioned. He noted that he has brought forth several increases to existing contracts for residential beds and outpatient treatment slots. Ms. Lord inquired if these were additional treatment beds. Mr. McGinty responded that these contracts cover additional outpatient treatment slots where outpatient counseling is provided as opposed to residential services. Ms. Lord noted it appears judges order people to substance abuse programs and the agency does not have enough places for these offenders, therefore the agency is extending the contract so more people can receive the services. Mr. McGinty explained that as part of the diversion initiatives from the last legislative session, the agency received funding for 1,500 SAFFP beds and 1,000 for In-prison Therapeutic Community treatment slots. All 2,500 beds have an after care component related to them. Approximately 36 current contracts have been modified for these purposes. In this particular case, the increases to the after care contract amount to over one (1) million dollars. Chairman Bell further explained that this approval is an authorization to spend because the vendor is not paid until a service has been provided for each slot. He stated that, in fact, the contracted amount is a spending cap.

Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §195.41, Community Residential Facilities (37 TAC §195.41)

APPROVED

Melinda Bozarth, General Counsel, stated that at the December 3, 2008, meeting, the Board authorized this rule for publication in the December 19, 2008, issue of the Texas Register for public comment. One (1) comment was received from the Office of the Secretary of State regarding a punctuation error and a grammatical error in subsection (j)(17)(C), which has been corrected.

Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules

1. §151.8, Advisory Committees (37 TAC §151.8)

APPROVED

Ms. Bozarth stated that at its December 3, 2008, meeting, the Board authorized this rule for publication in the December 19, 2008, issue of the Texas Register for public comment. No comments were received from the public. She requested that the Board approve the final adoption of the amendments to the rule.

2. §151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)

APPROVED

Ms. Bozarth stated at its December 3, 2008, meeting, the Board authorized this rule for publication in the December 19, 2008, issue of the Texas Register for public comment. Although no public comments were received, staff suggested that the name of the rule be amended to include "service providers." She requested that the Board adopt the rule as presented.

3. §161.21, Role of the Judicial Advisory Council (37 TAC §161.21)

APPROVED

Ms. Bozarth stated that at its December 3, 2008, meeting, the Board authorized this rule for publication in the December 19, 2008, issue of the Texas Register for public comment. No comments were received from the public. She requested that the Board adopt the rule.

Chairman Bell thanked the attendees for coming to the meeting and reminded them that the next meeting of the Board would be April 3, 2009, at the Crowne Plaza Hotel, Austin.

There being no further business after the conclusion of the executive session, Chairman Bell adjourned the 141st Meeting of the Board at 3:44 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

April 3, 2009

Table of Contents for Summary

A. 14 th Annual Governor’s Criminal Justice Volunteer Service Awards	Page 1
B. Recognitions	Page 2
C. Discussion, Consideration and Possible Action Regarding Consent Items	Page 3
D. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 3
E. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
F. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 3
G. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 4
H. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 5
I. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 5
J. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 6
K. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 6
L. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions.....	Page 7
1. Water Line and Injection Site Easement on the Smith Unit In Dawson County, Lamesa, Texas	Page 7
2. Ground Lease of 25 ± Acres on the Clemens Unit in Brazoria County, Brazoria, Texas	Page 7
M. Discussion, Consideration and Possible Action Regarding a Facilities Division Construction Project to Repair and Replace Roofs on Multiple Buildings on the Mountain View Unit in Coryell County, Gatesville, Texas.....	Page 7
N. Public Comments.....	Page 7

SUMMARY OF THE MINUTES FOR TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 142

Chairman Oliver Bell convened the 142nd Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Friday, April 3, 2009, at 11:05 a.m.

14th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all honored guests for joining the Board on this important occasion. He quoted the late Leo Buscaglia, renowned lecturer and author, "Too often we underestimate the power of a touch, a smile, a kind word, a listening ear, an honest compliment, or the smallest act of caring, all of which have the potential to turn a life around." He acknowledged that the individuals recognized at this event represent the dedication and commitment of thousands of volunteers who are, on a daily basis, turning a life around. These volunteers make a difference in the lives of many Texans by unselfishly giving of themselves to help offenders, and their families, have a chance for a better life.

Chairman Bell yielded the floor to Brad Livingston, the Executive Director of the Texas Department of Criminal Justice (TDCJ or Agency). Mr. Livingston welcomed the Honorable Greg Abbott, Attorney General of Texas and honored guests to the 14th Annual Governor's Criminal Justice Volunteer Service Awards. He expressed his gratitude to the volunteers for their service to the Agency. He personally thanked the volunteers for entering in a partnership with TDCJ to the benefit of the offender population. Without the help of the 15,000 volunteers, a significant number of the offender population would not be reached. The TDCJ volunteers gave more than 400,000 hours to support the offender population, whose greatest challenge is reentering society. Mr. Livingston noted that he could not over emphasize how much the volunteer workforce has become an integral part of the Agency's reentry efforts. He expressed his gratitude to each volunteer for filling the critical need in this area. The outstanding men and women of the TDCJ front line correctional staff and the volunteers make a partnership that the Agency is fortunate to have. Mr. Livingston stated that the Agency owes the volunteers a debt of gratitude and thanked them for their public service throughout Texas. He expressed his hope that the respect and admiration of the Agency employees are in some ways a reward for the volunteers, who demonstrate enthusiasm and selflessness on a daily basis. In closing, Mr. Livingston thanked the volunteers for their contributions that affectively change the lives of Texans throughout the state.

Chairman Bell introduced the Honorable Greg Abbott, the 50th Attorney General of Texas, as the keynote speaker, noting that Mr. Abbott's hallmark of his office has been protecting Texans. He provided highlights of Mr. Abbott's tenure as Attorney General. Chairman Bell extended a warm welcome to Mr. Abbott and thanked him for attending the ceremony for the criminal justice volunteers.

Mr. Abbott stated that his office recognizes excellence and public service, especially individuals who achieve great things by going beyond what is expected. These individuals are worthy of emulation and recognition by showing others the way to great achievements. He noted that after acquainting himself with the deeds and accomplishments of the criminal justice volunteers, it was with great pride and humbleness to speak before them on this auspicious occasion. Mr. Abbott acknowledged that the State of Texas through the efforts of these volunteers is a better and safer place.

Mr. Abbott told of his own experience as a person whose life was pieced together physically and spiritually through the many efforts of his family, colleagues and friends. He noted that volunteers help victims and offenders piece their lives back together and in doing so help Texas become a better state. The volunteers help repair the foundation of a person's life. Mr. Abbott spoke to the public safety areas in which the volunteers affect changes in offenders who are reentering society, such as building character, strengthening focus and building work skills. These efforts provide offenders the tools and the base-level support to survive and succeed in the community.

Mr. Abbott praised the volunteers for their indelible fingerprints on the programs and lives that they have changed by giving the best of themselves to make Texas a safer place to live. He thanked the volunteers for their service to Texas and offered them the richest possible blessings.

Chairman Bell thanked Mr. Abbott for his remarks, commenting that as usual he had capsulated the volunteer efforts in the highest manner.

Chairman Bell yielded the floor to Janice Harris Lord, Master of Ceremonies. Ms. Lord thanked Attorney General Abbott as the champion of crime victims and their advocates. She acknowledged the Rehabilitation and Reentry Programs Division

staff for their efforts for this ceremony honoring the volunteers. The individuals recognized by the ceremony are the epitome of volunteerism, whose service is unselfish and exceeds all expectations. Ms. Lord emphasized that many citizens do not know of the amount of effort expended on TDCJ's offenders, spiritually or introducing spirituality in the other programs that address the offenders' emotional, physical and educational needs. She noted that many of the award recipients are faith based individuals who have brought volunteer faith based programs to offenders. While most of the volunteers are Christian, the Agency affords every offender the First Amendment right to freedom of worship. Ms. Lord stated that it was her honor to read the names of the award recipients and then advised them of the award procedures. The following individuals and organizations were recognized:

Stephen Wiest, *Chaplaincy Department*
Casey Miner, *Correctional Institutions Division*
Robert and Audrey Dubois, *Private Facilities Contract Monitoring and Oversight Division*
Mark Warren, *"Nancy Hees" Award-Parole Division*
Mark Hollis, *Religious Service*
KAIROS of Texas, *Religious Service*
Bob K., *Substance Abuse Treatment Program*
Cheryl Miller, *"Pathfinder" Award-Victim Services Division*
John Meriwether, *"Judy Burd" Award-Windham School District*
Terrie Reagan, *Restorative Justice*
Sisters of St. Mary Magdalene, *"Susan Cranford" Award-Female Offender Program*
Men United, *Most Innovative Program*
Winners Circle Peer Support Network of Texas, *Community Service*
Forgiven Ministry, Inc., *Best Family Program*
Leonard Davis, *Greatest Number of Hours*
George (Gum Song) Banks, *Extensive Travel*
Travis G. Morris, *TDCJ Employee Volunteer*
Andrenett Hayes, *Criminal Justice Administrator*

Ms. Lord yielded the floor to Carol Vance, former Chairman of the TBCJ, who during his tenure from 1992 to 1999 was vital in the development of the volunteer program within TDCJ. Mr. Vance formed a task force on recidivism, initiated the Life CHANGES course for offenders and laid the path for a partnership between TDCJ and Prison Faith Ministries. Mr. Vance thanked Mr. Abbott for his inspiring remarks. He recognized the commitment of the volunteers, the Board, TDCJ executive staff and employees to the volunteer program, which continues to grow and move forward. Mr. Vance presented Donna Haggard with the "*Carol S. Vance" Volunteer of the Year Award for 2008.*

Ms. Lord closed the award ceremony by recognizing and honoring the families of award recipients. Chairman Bell thanked Ms. Lord, Mr. Vance, award recipients and all other volunteers who were able to attend the awards ceremony, adding that the Board appreciated all the efforts of every volunteer. He also recognized the Board, who are volunteers appointed by the Governor, and thanked them for their service. Chairman Bell expressed his support and belief in the faith based programs offered throughout the Texas criminal justice system.

At 12:17 p.m., Chairman Bell adjourned the 142nd Meeting of the Board until 2:30 p.m. Chairman Bell reconvened the meeting into regular session at 2:44 p.m.

Chairman Bell recognized Mr. Kyle Mitchell, Office of the Governor and thanked him for attending the Board meeting.

Chairman Bell stated that the Board is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well as public comments on topics within its jurisdiction in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. He reviewed the requirements for speaker registration. For this meeting no speaker registration cards were received by Board staff prior to the required deadline. However, one advanced registration card had been received for the Public Comment section on the agenda.

Recognitions

Mr. Livingston recognized Robert Bray, Director of Information Technology, for serving 25 years with the State of Texas and presented Mr. Bray with the 25 Year Service Award.

Stuart Jenkins, Director of the Parole Division, recognized Ivey Anderson York as the Regional Director in the Tyler area.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 or more years of service with the State of Texas during the months of February and March 2009. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency's staff. To each of these employees, the Board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Chairman Bell introduced a special guest, Carmen Villanueva-Hiles, who has been appointed to the Board by Governor Perry. Chairman Bell welcomed Ms. Hiles, who will be replacing Greg Coleman following the Senate confirmation process.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell stated that the proposed Consent Items were printed in the agenda packet. He inquired if there were any questions or amendments to these items as presented. Seeing none, the Consent Items posted for this meeting stand approved.

1. *Hazardous Duty Pay Authorization Requests*
2. *Personal Property Donations*
3. *Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property*
4. *141st TBCJ Meeting Minutes*
5. *Excused Absences*

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an update on the 81st Legislative Session. He advised the Board that the full Senate had acted on the Appropriations Bill earlier in the week. The House Appropriations Committee had finished its markup work and its budgetary decisions. Staff anticipated that the House would act the week following the Board meeting. Later in April and early May, the House and Senate will have a conference committee to resolve the differences between the House and Senate versions of the budget.

Mr. Livingston noted, with respect to other legislation, it was too early to project the outcome. In terms of the 20% pay package for the front line correctional staff and parole staff, the Senate approved a 10% pay increase while the House approved a 5% pay increase. Mr. Livingston has been engaged in an ongoing dialogue with all key players with respect to this proposal. He noted that the legislators and their staff have been working diligently on this issue. Mr. Livingston assured the Board that he and his staff would continue to work with the legislators for the best possible pay package particularly when the conferees meet to make a final decision.

The House and Senate only funded \$80 million of the \$100 million requested for repair funding for TDCJ facilities. Mr. Livingston was optimistic that this item could be reconsidered for a higher amount. In December, the Agency received ownership of the Marlin Veterans Administration facility; both the House and the Senate have approved the funds to renovate the facility for the delivery of health care within the TDCJ system.

The security equipment funding request was approximately \$66 million; the House Appropriations Committee and Senate Finance Committee requested that TDCJ provide a targeted version of that package, which amounted to roughly \$15.5 million. The Senate Finance Committee did not provide funding for this request. Mr. Livingston stated it was his understanding that the Senate Finance Committee intends to provide funding for the security equipment in a supplemental appropriations bill. He advised that there seems to be a significant amount of support for the \$15.5 million version of security equipment. The House did approve the \$15.5 million request in its appropriations mark-up decisions.

Mr. Livingston stated that the Senate approved the continued funding of the Substance Abuse Felony Prison/Intermediate Sanction Facilities (SAFP/ISF) diversion programs; the House placed the item in Article XI, which is a prioritization list of

items for consideration during the joint conference committee. He expressed his optimism that both committees would consider this version positively.

Mr. Livingston stated that many of the other items were partially funded or in Article XI. With respect to fleet vehicles, the Senate Finance Committee funded \$10 million of the request above the base bill; the House Appropriations Committee funded \$20 million. He noted that the infusion of vehicle capital was above what is typical. Due to the stimulus money, the House focused on one-time capital purchase items.

Mr. Livingston advised that the Agency's biggest piece of unfinished business in budget matters is the continued funding and supplemental increases requested by the Correctional Managed Health Care Committee (CMHCC). TDCJ and CMHCC staff are working with various House and Senate Committees. The Senate Finance Committee funded roughly \$87 million; the House Appropriations Committee approved the capital funding of \$6 million and placed the rest of the funding in Article XI. Mr. Livingston assured the Board that at this point in the session, it was a common occurrence that unfunded items be brought forward for funding later in the session. He noted that relative to the state's economy and the big picture budget decisions, it has been a tight session. Mr. Livingston expressed his confidence that the Agency will receive the necessary funding for the biennium.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Mr. Allen Hightower, Executive Director of CMHCC, conveyed Dr. Griffin's appreciation for the Board's attendance at the CMHCC meetings. He praised Dr. Lannette Linthicum for her expert testimony before the legislative committees, in addition to being the foremost leader in the field of correctional managed health care.

Mr. Hightower noted that there was a slight decrease in the number of offenders served by the correctional health care program. While the overall growth was slightly lower, the number of offenders age 55+ has continued to increase. This population is having a significant impact on the economic resources of the program. The HIV+ population, which is 1.6% of the population served, has remained stable over the past two years and remained so through January 2009. However, the medications for the HIV+ population are 48% of the total pharmacy budget. The two mental health caseload measures have also remained stable. Mr. Hightower noted that the inpatient caseload is limited by the number of available inpatient beds in the system. Through January 2009, the average number of mental health outpatients was 12.4% of the service population.

Mr. Hightower reviewed the health care costs. The health care partners reported expenditure shortfalls. Overall health costs through January 2009 totaled \$201.7 million. This amount was above overall revenues earned by the university providers by \$1,616,661 or 0.8%. Mr. Hightower explained the following breakdown of \$201.7 million in expenses: onsite services represents 50%, pharmacy services represents 10.3%, offsite services accounts for 27.2% and mental health services represents 9.5% of the total costs. The total cost per offender per day for all health care services statewide through January of FY 2009 was \$8.74. The average cost per offender per day for the prior four fiscal years was \$7.86.

Mr. Hightower stated that CMHCC's administrative staff monitor and test detailed transaction level data from both providers on a daily basis to verify reasonableness, accuracy and compliance with policies, procedures and contractual requirements.

Chairman Bell thanked Mr. Hightower for his report and requested that he convey the Board's best wishes to Dr. Griffin and the CMHCC members. Chairman Bell asked why a four-year average was used to compute the cost per day per offender. Mr. Hightower responded that a baseline was needed and two bienniums or four years seemed reasonable.

Leo Vasquez inquired about the status of the University of Texas Medical Branch (UTMB) John Sealy Hospital since Hurricane Ike has affected the Agency's health care delivery system. Mr. Hightower responded that the Agency depends on the services of John Sealy Hospital, which supports the prison hospital in many ways such as food services, imaging, dialysis and record keeping. He noted that 70-72 patient beds are back online at Hospital Galveston. The 108 acute beds are contracted throughout the state as needed. Mr. Hightower explained that while TDCJ and CMHCC are funded under Article VII, UTMB funds would probably be channeled through Article V of the Appropriations Bill. Mr. Vasquez asked if Hospital Galveston's 208 or so prison beds could be used as an argument to help revamp John Sealy Hospital. Mr. Hightower explained that the Agency is one of UTMB's largest and best paying clients. He further explained that most legislators recognize UTMB's Medical School's numerous benefits beyond the financial ones from the partnership with TDCJ.

Mr. Hightower reported that communication among TDCJ staff and the CMHCC staff occurs on a daily basis culminating in a weekly conference call with representation from the various departments. Chairman Bell noted that at the request of Mr.

Nelson, Dr. Linthicum now prepares a monthly report concerning this area. This report will be distributed to the Health Care Committee members for informational purposes.

Terrell McCombs noted with respect to the cost per day per offender statistics being below the national average for increasing health costs, the CMHCC average is only one or two percent lower. He expressed concern that the escalating health care costs would become unsustainable in the near future. Chairman Bell voiced his concurrence with Mr. McCombs and stated that with the Board's vigilance combined with the astute abilities of executive staff, costs would be managed. Chairman Bell noted that he did not want to see Texas end up in the same situation as California, which cannot provide health care for 55,000 offenders, who subsequently will be released. Chairman Bell stated that with the help of CMHCC and Agency staff, Texas could remain a step ahead. He thanked the CMHCC and its staff for their diligence and hard work. He also tendered the Board's appreciation and gratitude to the executive staff and their leadership in monitoring the budget.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Recognition of May as Mental Health Month and Related Activities

Chairman Bell recognized May as Mental Health Month. He stated that Agency employees would receive more information on mental well being, for example stress reduction, health habits for physical and mental well being, etc. Additionally, more mental health information will be included in pre-service and in-service training for Agency staff. With regard to offenders, the Agency will continue its focus on mental health issues. Staff need to remain aware that 18-20% of the offender population are former or current clients of the public mental health system. Chairman Bell has tasked the Director of the Texas Correctional Office for Offenders with Medical or Mental Impairments (TCOOMMI) to work with Agency divisions to develop additional specialized supervision and treatment programs for the offenders identified by TCOOMMI as needing treatment. He attributed the lower three year recidivism rate of 15.4% to staff involvement with the offenders' treatment in this area. Chairman Bell stated that TCOOMMI also would be working on an annual award to recognize employees who play a significant role in the mental health area.

2. Acknowledgement of Outstanding Performance

Chairman Bell verbally recognized Investigator Louis Fawcett, Office of the Inspector General, for his assistance to the Federal Bureau of Investigations – Dallas Division on the Dallas Scarecrow Bandits investigation; and Correctional Officer Robert Collins, Stiles Unit, for his willingness to do the right thing after witnessing and reporting that a fellow officer brought contraband on to the unit. He also recognized the Beto Unit dog tracking team for successfully aiding law enforcement in pursuit of an individual who was in violation of felony probation warrants. Chairman Bell noted that these individuals represent the mission and goals of the Agency. Agency staff are meeting the challenges of working in a criminal justice system and having the courage to do the right thing. Chairman Bell also spoke of the ability to learn from others outside the Agency.

3. Texas Round-Up

Chairman Bell stated that this year the Agency had 11,462 employees participate in Texas Round-Up with 10,120 employees completing the full six-week program. Last year, 8,935 employees participated with 8,100 completing the program. He congratulated those employees as well as the Board members who participated in the program.

4. Board Member Tour Initiative

Chairman Bell thanked the Board for their work over the past ten months. The Board has visited initially 73 correctional institutions with 21 multiple visits. The Board has toured ten community supervision and corrections departments (CSCDs) and six parole offices. Chairman Bell noted that the remaining facilities would be visited by the Board in the future.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director for the Internal Audit Division, provided a status update for FY 2008 and FY 2009. The following are highlights of Mr. Pyeatt's report:

FY 2008

- **0804 – Rehabilitation and Reentry Programs Division, Rehabilitation Tier Tracking and Placement, Serious and Violent Offender Reentry Initiative:** The final report was forwarded to the Chief of Staff on March 24th.
- **0806 – Correctional Institutions Division, Warehouse/Armory:** The final report was released on March 16th.
- **0807 – Business and Finance Division, Parole Division, Supervision and Restitution Fees:** The audit remains in fieldwork. The draft report will begin within a week.

FY 2009

- **0901 – Correctional Institutions Division, Unit Entry Procedures:** The draft report was released on March 20, 2009. Staff responses are pending.
- **0903 – Facilities Division, Maintenance:** The audit is in fieldwork.
- **0904 – Victim Services Division, Victim Notification System / Victim Information and Notification Everyday:** The draft report was released on April 1st. An exit conference is scheduled for April 9th.
- **0906 – Human Resources Division, Application Processing:** The draft report should be released in the following week.
- **0907 – Business and Finance Division, Contracts and Procurement Department:** The draft report should be released April 15th. The issues brought forward by the State Auditor's Office are resolved.
- **0908 – Health Services Division, Office of Mental Health Monitoring and Liaison:** The audit is in fieldwork and has been combined with Audit 0909. The combined audit should be completed by mid-May.
- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** This audit has been combined with Audit 0908.
- **0910 – Parole Division, Case Tracking and Analysis:** The audit is in control assessment and continues on schedule.
- **0912 – Administrative Review and Risk Management Division, Operational Review:** The audit was assigned March 9th and is in the background phase.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** The assignment of the audit has been delayed until the completion of Audit 0807.
- **0915 – Correctional Institutions Division, Offender Transportation:** The audit is more complex than originally planned and will require about a month's extension to the schedule.
- **0916 – Business and Finance Division, Facility Based Budget Program:** The audit was assigned on March 9th and is in background phase.
- **0919 – Parole Division, Client Supervision:** The draft report is being prepared.
- **0920 – Correctional Institutions Division (CID), State Ready Section:** The proposed final report was issued on March 5th. The Director of CID received the final report on April 1st.
- **0922 – Manufacturing and Logistics Division, Freight Transportation:** The audit was assigned on March 9 and is in the background phase.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** A final exit conference is scheduled with the Executive Director for April 8th.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. The following four items were increases to the current year purchases already in place. Item one is a commissary item in the category of chips with 10% price variance; item two is metal aluminum coils for use in the TCI industries; item three is modular panel systems for use by the Agency as furniture and may be sold in modular systems to other governmental entities; and item four is cloth blend Greige sheeting for use by TCI in the production of sheets, pillows and so forth.

Mr. Mechler asked what was driving the escalating costs of the last three items. Mr. McGinty responded that items two and three were due to increased sales. In the case of item four, the production of items using the sheeting has increased. Ms. Lord inquired how much the Agency was making by selling \$10 million of potato chips each year. Mr. McGinty responded that commissary items have a mark-up of approximately 30%, noting that the idea is not to overburden the offenders for profits, which are used to operate the commissary system. Mr. Mechler requested that Mr. McGinty explain how the profits also

benefit the offenders. Mr. McGinty responded that as an example, Windham School District (WSD) uses some of the profits for the offender education component, such as the radio/television program and libraries. Chairman Bell thanked Mr. McGinty for his vigilance in receiving the Board's approval concerning previously approved purchases and contracts. Mr. McCombs inquired about the increase to item four. Mr. McGinty responded the contract's increase is based on the demand for the products made from this item and not on an increase in offender population.

Discussion, Consideration and Possible Action Regarding Proposed Land Transactions

1. Water Line and Injection Site Easement on the Smith Unit in Dawson County, Lamesa, Texas

APPROVED

C.F. Hazlewood, Director of Agribusiness, Land and Minerals, stated that Fasken Oil and Ranch has a surface easement on the Smith Unit in Dawson County.

2. Ground Lease of 25± Acres on the Clemens Unit in Brazoria County, Brazoria, Texas

APPROVED

Mr. Hazlewood stated that the ground lease of 25 acres, more or less, on the Clemens Unit in Brazoria, Texas was reviewed and discussed earlier in the day during the meeting of the Business and Financial Operations Committee. The surface lease was requested by the Williams Brothers Construction Company for three years at a cost of \$31,795 per year.

Discussion, Consideration and Possible Action Regarding a Facilities Division Construction Project to Repair and Replace Roofs on Multiple Buildings on the Mountain View Unit in Coryell County, Gatesville, Texas

APPROVED

Frank Inmon, Director of Facilities, stated that earlier in the day at the meeting of the Business and Financial Operations Committee, the project to repair and replace roofs on multiple buildings on the Mountain View Unit was reviewed and discussed. He noted that the total project amount was \$1,015,200.

Public Comments

Chairman Bell noted that for public comments regarding issues within the jurisdiction of the Board but not posted on the agenda, there was one advance registration. Chairman Bell reviewed the criteria for individuals providing public comment. Presenters were advised each speaker had three minutes for comments.

Chairman Bell called upon Lynn Furay. Neither hearing nor seeing a response, he asked if Ms. Furay was present. Chairman Bell waited a period of time before announcing that the comment period was closed.

Chairman Bell thanked everyone who attended the meeting and reminded them that the next meeting of the Board would be June 18-19, 2009, at the Crowne Plaza Hotel in Austin.

There being no further business after the conclusion of the executive session, Chairman Bell adjourned the 142nd meeting of the Texas Board of Criminal Justice at 4:30 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

June 19, 2009

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Discussion, Consideration and Possible Action Regarding Personal Property Donations from the San Antonio Food Bank	Page 2
D. Election of Officers	Page 2
E. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 2
F. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
G. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 2
H. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 3
I. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
J. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
K. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 5
L. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 6
M. Discussion, Consideration and Possible Action Regarding Proposed Revisions To Board Policy, BP-01.10, "Texas Board of Criminal Justice Recognition Program".....	Page 6
N. Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rule, §163.21, Administration (37 TAC §163.21)	Page 6
O. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions.....	Page 7
1. Request for Approval to Repair/Replace Roof on the Main Building at the Estelle Unit In Walker County, Huntsville, Texas	Page 7
2. Request for Approval to Replace Fire Alarm System at the Michael Unit in Anderson County, Tennessee Colony, Texas	Page 7
3. Request for Approval to Resurface Concrete Floors in Packing Plant at the Michael Unit in Anderson County, Tennessee Colony, Texas	Page 7
P. Discussion, Consideration and Possible Action Regarding The Transfer of a 221.72 Acre Tract of Land on the Wallace/Ware Units to Mitchell County	Page 7

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF JUNE 19, 2009, MEETING MINUTES**

Meeting No. 143

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, June 19, 2009, at 9:07 a.m. at the Crowne Plaza Austin in Austin Texas; adjourned at 10:45 a.m. into executive session; and finally adjourned at 11:27 a.m.

Recognitions

Chairman Bell recognized the Sixth Annual Texas Round-Up, a statewide fitness initiative to motivate and encourage Texans to become more active and make healthy choices part of their lifestyle. During this year's Governor's Challenge, over 10,000 Texas Department of Criminal Justice (TDCJ or agency) employees completed the physical activity program, which is the highest participating number thus far. As promised, Chairman Bell recognized the following units, divisions and offices with the highest percentage of participation and completion rates:

<i>Best Division Award</i>	Kim Vernon State Counsel for Offenders	91% participation and completion rate
<i>Best Unit Award</i>	Warden Swift Daniel Unit	99% participation and completion rate
<i>Outstanding Unit Achievement Award</i>	Warden Thomas Walker Sayle Unit	91% participation and completion rate
<i>Golden Achievement Award</i>	Anthony Picciello Orange District Parole Office	100% participation and completion rate
<i>Golden Achievement Award</i>	Linda Hammond Mt. Pleasant District Parole Office	100% participation and completion rate
<i>Golden Achievement Award</i>	Bruce Zeller Region V Office Correctional Institutions Division (CID)	100% participation and completion rate
<i>Golden Achievement Award</i>	Gilbert Campuzano Region VI Office CID	100% participation and completion rate

Chairman Bell recognized that this past May was Mental Health Month. The TDCJ recently initiated an effort to broaden the agency's focus on promoting positive mental health for staff and offenders. A new award, Promotion of Positive (POP) Mental Health Award was created to recognize an individual or group for their endeavors in the mental health area. Chairman Bell recognized the Texas Correctional Office for Offenders with Medical or Mental Impairments (TCOOMMI) as the first recipient of the POP Mental Health Award. Dee Wilson, Director of TCOOMMI, accepted the award.

Brad Livingston, the TDCJ Executive Director, recognized Nathaniel Quarterman, the Director of the CID, for his 25 years of outstanding service with the state. He then presented Mr. Quarterman with his service plaque.

Rodney Cooper, the Deputy Director of CID Prison and Jail Operations, presented the following American Correctional Association (ACA) accreditations:

Initial Accreditation:

- Warden Kenneth Negbenebor, Jester I, Jester III and Vance Units
- Warden Stacy Jackson, Cotulla Transfer Facility
- Warden Raymond Thompson, Coffield Unit
- Warden Octavious (Lisa) Black, Mountain View Unit
- Assistant Warden Richard Waldron, Carole Young Medical Facility

Reaccreditation:

Warden Reginald Goings, Gist State Jail
Warden Richard Vogelgesang, Smith Unit
Warden Stacy Jackson, Briscoe Unit
Assistant Warden Tim Lester, Polunsky Unit
Warden James Mooneyham, Cole State Jail
Warden George Stephenson, Luther Unit
Warden Richard Morris, LeBlanc Unit
Warden Linda Carranza, Segovia Unit and Lopez State Jail
Warden David Hudson, Telford Unit
Warden James Jones, Terrell Unit
Warden Richard Thomas, Sayle Substance Abuse Felony Punishment Facility

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 or more years of service with the State of Texas during the months of April and May 2009. The board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the agency's staff. To each of these employees, the board offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a board certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

Chairman Bell stated that the proposed Consent Items were printed in the agenda packet.

1. *Hazardous Duty Pay Authorization Requests*
2. *Personal Property Donations (with the exceptions of items approved below)*
3. *Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property*
4. *May 24, 2007, Education Committee Meeting Minutes*
4. *142nd TBCJ Meeting Minutes*
5. *Excused Absences*

Discussion, Consideration and Possible Action Regarding Personal Property Donations from the San Antonio Food Bank

APPROVED

Chairman Bell called for a motion and a second to approve the personal property donations from the San Antonio Food Bank. Board Member, Eric Gambrell, abstained from the vote.

Election of Officers

APPROVED

Chairman Bell stated that due to the vacancies and rotation of its members, the board needed to fill the vice chairman and secretary positions. Motion was made naming Tom Mechler as vice chairman and Leopoldo Vasquez, III as secretary of the board.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an update on the 81st Legislative Session. He praised the TDCJ staff for their diligent and tireless efforts during the session. The following are highlights of key legislative and funding decisions from the legislature:

- The funding for a pay increase package for correctional officers was top priority throughout the session. Beginning the session, the fiscal climate in Texas and throughout the nation was bleak. As the pay increase package moved through the session, the TDCJ frontline correctional and parole staff in addition to frontline

probation staff were the only state employees singled out for a targeted pay raise. The Texas Youth Commission's institutional staff also received a pay increase. The pay package includes a 3.5% pay raise in FY 2010 and a 3.5% pay raise in FY 2011. The staffing numbers have continued to improve; as of May 2009, the correctional officer vacancy number is below 1,300, which is the lowest it has been in a decade. Non-security TDCJ unit based staff will receive a similar pay raise.

- The continued funding for the Diversion Treatment Initiatives, which was originally funded in the previous legislature, was approved.
- \$70 million was received for the ongoing repair of the TDCJ facilities. An additional \$10 million was approved to renovate the Marlin Veterans Administration Hospital.
- The Office of Inspector General received \$3 million and 30 additional positions to enhance their efforts.
- The legislature approved the funding for 64 reentry transitional coordinators. These positions will be placed strategically throughout the state.
- Correctional Managed Health Care (CMHC) received approximately \$93 million in additional funding to enhance the medical delivery within the criminal justice system.
- The agency received supplemental appropriations to finish out FY 2009. The TDCJ also received \$10 million in additional funding for the purchase of correctional security equipment for those units that have problems with cell phones and other contraband.
- House Bill 2559 significantly impacts the retirement of TDCJ employees. While employee contributions increase, the bill insures the health and continuation of the Employee Retirement System of Texas (ERS). Additionally, most ERS changes apply to individuals hired on or after September 1, 2009.
- House Bill 2289 allows the TDCJ to implement the process of releasing offenders regionally. The six regional release sites have yet to be identified.
- House Bill 1914 abolishes the Private Sector Prison Industry Oversight Authority and moves many of those responsibilities to the TBCJ. Executive staff will provide the board with informational materials and updates.
- House Bill 1003 expands some of the victim notifications to include the notification of victims or witnesses when an offender/defendant within the community ceases to be electronically monitored.
- House Bill 1728 allows the Office of Inspector General to issue administrative subpoenas for phone records, which will expedite the investigative process concerning cell phones.
- House Bill 3228 authorizes the TDCJ Office of Inspector General to acquire electronic devices for detection and monitoring of cell phones. The bill authorizes the TDCJ to use cell phone jamming technology to the extent consistent with federal law.
- House Bill 1711 requires the TDCJ to establish a comprehensive reentry and reintegration plan for offenders released or discharged from a correctional facility. This legislation requires the creation of a Reentry Task Force.
- House Bill 1736 requires the TDCJ to develop a reentry and reintegration plan that would include life-skills, job and vocational training for a wrongfully imprisoned person following discharge for as long as the services are beneficial.
- House Bill 2161 requires the TDCJ, in cooperation with the Department of Public Safety (DPS) and related health services agencies, to provide most of the releasing offenders a personal identification certificate issued by DPS.
- There were several bills regarding land transfers from the TDCJ to a local unit of government. One bill allows the TDCJ to transfer the Dawson State Jail to the City of Dallas in exchange for a comparable facility. This transfer will only happen if all terms of the bill are met.

Mr. Livingston expressed his satisfaction with the appropriations and operational measures passed by the legislature, particularly regarding the salary increases for some of the key positions within the agency. He looked forward to implementing these new measures as approved and funded by the legislature. At the next board meeting, Mr. Livingston stated that he would update the board on the agency's efforts to implement new reentry measures.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

David McNutt, Chief Financial Officer of the CMHCC, reviewed the population indicators through March 2009. The average daily population served was 150,601, a slight decrease from one year ago. All other population indicators remain as previously reported during the past several meetings. The overall health care costs totaled \$288.9 million. This amount is above overall revenues earned by the university providers by \$11,064,355 or 3.8%. The total cost per offender per day for all health care services statewide through March 2009 was \$9.01.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

The following are highlights from Chairman Bell's report:

1. Offender Telephone System

The implementation of the offender telephone system continues to progress. By the end of May, 22 correctional units will have operational telephone systems. By June 30th, 18 unit telephone systems are expected to go on-line. The vendor's schedule continues to indicate the installations will be completed by September 30, 2009. The vendor continues the enrollment process of offenders' friends and family. The board and staff have not waived from their intent to have the premier phone system in the country in terms of technology, operations and security.

2. Information/Intelligence Gathering Efforts

The TDCJ continues its efforts to enhance information gathering and screening capabilities. The Office of Inspector General was recently authorized additional staff positions for enhanced information gathering and intelligence operations. The TDCJ continues to enhance its role in this area by working in coordination with the State Fusion Center and other local state and federal law enforcement agencies.

3. Historically Underutilized Business (HUB) Vendor Identification/Utilization

The mission of the agency's HUB Program is to promote and increase contracting opportunities with HUBs. Over the past three years, the agency's procurements are reflected in its expenditures with HUBs, which have grown from \$24 million in FY 2006 to \$46.1 million in FY 2008. However, this amount is only 5% of the \$1 billion of TDCJ's total expenditures for goods and services. The TDCJ remains committed to reaching out to HUBs to inform these vendors of procurement opportunities. The TDCJ is participating in the state's Mentor/Protégé Program, which matches a HUB vendor with a larger company in order to receive professional guidance and facilitate the HUB's growth and development. Currently, the agency has two active Mentor/Protégé agreements and four additional agreements are in progress.

Chairman Bell encouraged qualified HUB enterprises to enter the bidding process, make their companies known to the agency, and pursue business opportunities for which they are qualified to perform. He announced that the TDCJ is pleased to work with HUBs.

4. Board Member Tour Initiative

On May 29, 2009, the board achieved its goal to have each CID and privately operated prison facility visited by a member over the course of the past year. The board averaged 12-13 facility visits per month. Regarding the district and institutional parole offices, the board has visited 11, with a goal set to cover the remaining 54 offices within the year. Of the 122 county community corrections and supervision departments (CSCDs), 12 have been visited.

Chairman Bell thanked the board for their support and diligence in visiting these facilities. He also extended his thanks to TDCJ executive and facility staff.

5. Key Legislative Items

a. Payraise

The agency's top priority going into the 81st Legislative Session was a substantial, targeted pay increase for correctional and parole officers. Although the fiscal climate was somewhat bleak, the legislature partially funded the request for a targeted pay increase for not only these correctional and parole officers but for all unit-assigned staff, by providing an average pay increase of 3.5% for FY 2010 and a pay increase for 3.5% for 2011. By the end of the biennium, these positions will receive an average 7% increase to their current salary.

Correctional staffing levels for the agency continue to improve. Over the past 12 months, the number of correctional officer vacancies has decreased from 3,428 to 1,262.

b. Security Equipment

The legislature's approval of \$10 million for correctional security equipment will allow the TDCJ to make significant security enhancements, such as extensive contraband screening at entry points and comprehensive surveillance systems focused on the few units that are responsible for the vast majority of the contraband activity.

c. Re-entry Programming

The agency received funding for 64 new positions that will focus on offender reentry. It is the first time in the TDCJ's history that it will have specific staff that focus solely on helping offenders transition to the community. While the TDCJ already has many reentry components in place, the addition of the new positions will significantly enhance the agency's ability to focus on areas, such as identification documents, housing and employment preparation, family reunification, and coordination of services for the offender population.

Chairman Bell reviewed the standards for the new correctional officer uniforms that include a polo shirt and cargo uniform pants. He noted that the reason the board wore the uniform shirts during their meetings on June 18 was to show respect and support for the correctional staff on the frontend of the prison operations. Additionally, the board recognizes the frontline correctional staff for their important role in the agency and its mission.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director for the Internal Audit Division, provided a status update for FY 2008 and FY 2009 since the publication of the agenda packet. The following are highlights of Mr. Pyeatt's report:

FY 2008

- **0807 – Business and Finance Division, Parole Division, Supervision and Restitution Fees:** The draft report is undergoing review.

FY 2009

- **0901 – Correctional Institutions Division, Unit Entry Procedures:** The final report was issued on June 4, 2009.
- **0902 – Information Technology Division, Data Management, Database Management System/Data Dictionary:** The audit will be assigned on August 1, 2009. Staff are working on another audit, which influences the assignment of this audit.
- **0903 – Facilities Division, Maintenance:** The report is being written and should be completed in another week.
- **0904 – Victim Services Division, Victim Notification System/Victim Information and Notification Everyday:** The final report was issued on May 22, 2009.
- **0906 – Human Resources Division, Application Processing:** The final report was issued on June 16, 2009.
- **0907 – Business and Finance Division, Contracts and Procurement Department:** The final report was issued on June 9, 2009.
- **0908 – Health Services Division, Office of Mental Health Monitoring and Liaison:** The draft report was released on June 17, 2009, with an exit conference pending.
- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** This audit is in fieldwork, with a draft report ready for review by the end of July 2009.
- **0910 – Parole Division, Case Tracking and Analysis:** The report should be completed in the next few weeks.
- **0911 – Correctional Institutions Division, Distribution of Offender Medication:** The audit was assigned on May 26, 2009. It is in control assessment and ahead of schedule.
- **0912 – Administrative Review and Risk Management Division, Operational Review:** The audit is in fieldwork. The report should be complete by the end of July 2009.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** Correction to the status report in the agenda book: The audit was assigned on May 20, 2009.
- **0914 – Office of the Inspector General, Records Section:** The audit is in the background phase.
- **0915 – Correctional Institutions Division, Offender Transportation:** The draft report was released on June 16, 2009, with an exit conference pending.

- **0916 – Business and Finance Division, Facility Based Budget Program:** The report has a new target date of July 31, 2009. This audit affects Audit 0918.
- **0918 – Information Technology Division, Information System Security:** The audit assignment date is August 1, 2009.
- **0919 – Parole Division, Client Supervision:** The proposed final report was sent for review to the TDCJ chief of staff.
- **0920 – Correctional Institutions Division, State Ready Section:** The final report was released on May 22, 2009.
- **0921 – Rehabilitation and Reentry Programs Division, Youthful Offender Program:** The audit is in control assessment and remains on schedule.
- **0922 – Information Technology Division, Offender Information Management System (OIMS):** Staff are waiting on full implementation of the final phase of the OIMS, which should occur sometime in September 2009. The audit can only occur after six months of full implementation. The assignment of the audit will not happen during this fiscal year. It will be evaluated for placement on the FY 2010 or FY 2011 Audit Plan.
- **0923 – Manufacturing and Logistics Division, Freight Transportation:** The draft report is being written. It should be released by the end of June 2009.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** At the request of the executive director, the audit has returned to fieldwork, so that staff may interview newly promoted sergeants in July.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Jerry McGinty, Chief Financial Officer, introduced Sheila Gaskins and Billy Sanders, as the Director and the Deputy Director respectively of the Contracts and Procurement Department. He reviewed the purchases and contracts over \$1 million as provided in the agenda packet. Items 1-7 are increases to previously approved contracts. Item 3 is an increase to the FY 2008-09 Correctional Managed Health Care Contract based on supplemental funding received by the legislature. Item 5 (fish portions) provides for a 10% variance for the contract amount. Items 8-22 are FY 2010 contract renewals. Items 9-15 contracts are for manufacturing materials for use by Texas Correctional Industries (TCI). Item 16 (bulk fuel) provides for a 10% variance for the contracted amount. Mr. McGinty noted that most food, bulk fuel and utilities items will also carry a 10% or more variance to the contract amount. Items 23-24 related to commissary goods and required an approval of a 10% variance for the contract. Items 25-27 are FY 2010 contracts for use by TCI. Item 28 is the food service contract for Kegans State Jail. Items 29-30 are information technology contracts for programming services and local and wide-area network support service respectively. Items 31-37 are new contracts for the FY 2010 operations of the Substance Abuse Felony Punishment Facility (SAFPF)/In-Prison Therapeutic Community (IPTC) substance abuse treatment program. Items 38-43 are renewals to existing contracts for the biennium FY 2010-11 of halfway house facilities for placement of parolees lacking residential resources. Items 44-63 are renewals of existing contracts for the biennium 2010-11 for substance abuse treatment and aftercare for offenders released from the SAFPF/IPTC Program. Items 64-75 are renewals for existing contracts for the FY 2010-11 biennium for TCOOMMI programs. Item 76 is a renewal to an existing contract for telephone maintenance. Item 77 is for new contracts for electronic monitoring of specified parolees. Item 78 is a new contract for the continuation of natural gas to TDCJ facilities; it provides for a 25% variance to the contract amount. Item 79 is the food service contract for Hospital Galveston for FY 2010-11.

Mr. McGinty withdrew Item 80, the FY 2010-11 managed health care contract for offenders, from the board's consideration. He noted that the contract would be presented for approval as a separate action item at the August 2009 meeting of the board.

Mr. McGinty presented the FY 2010 food purchases, requesting that the Board approve a 10% variance for the not to exceed dollar amounts. For informational purposes, Mr. McGinty stated that the quantities and unit of measure have also been provided.

Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policy, BP-01.10, "Texas Board of Criminal Justice Recognition Program"

APPROVED

Melinda Bozarth, TDCJ General Counsel, noted that the revisions throughout the policy codify current practice within the agency.

Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rule, §163.21, Administration (37 TAC §163.21)

APPROVED

Ms. Bozarth stated that the substantive revision to the rule codifies existing law as revised by the 79th Legislative Session. This law separates the responsibilities of the judges and the directors of the community supervision and corrections

departments (CSCDs). The judges hire the CSCD directors, approve the budget, and approve the community justice plan. The CSCD directors are responsible for the actual management of the CSCD. Revisions throughout the remainder of the rule pertain to format.

Discussion, Consideration and Possible Action Regarding Proposed Land Transactions

1. Request for Approval to Repair/Replace Roof on the Main Building at the Estelle Unit in Walker County, Huntsville, Texas

APPROVED

The repair and replacement roof project at the Estelle Unit's main building requires the replacement of the roof, insulation, flashing, skylights, down spouts and drain systems. The project cost is \$3,545,700.

2. Request for Approval to Replace Fire Alarm System at the Michael Unit in Anderson County, Tennessee Colony, Texas

APPROVED

The replacement of the fire alarm system at the Michael Unit includes the fire alarm, the door control and the intercommunication systems throughout the unit. The project cost is \$2,034,100.

3. Request for Approval to Resurface Concrete Floors in Packing Plant at the Michael Unit in Anderson County, Tennessee Colony, Texas

APPROVED

The resurfacing of the concrete floors of the Packing Plant at the Michael Unit includes the removal and replacement of flooring materials and the removal and reinstallation of the kitchen equipment. The project cost is \$1,305,800.

Discussion, Consideration and Possible Action Regarding The Transfer of a 221.72 Acre Tract of Land on the Wallace/Ware Units to Mitchell County

APPROVED

C. F. Hazlewood, Director of the Agribusiness, Land and Minerals Department, stated that the transfer of the land on the Wallace/Ware Units to Mitchell County was discussed at the Business and Financial Operations Committee meeting on June 18, 2009. He recommended that the board approve the conveyance of the 221.72 acre tract of land on the Wallace/Ware Units to Mitchell County.

Chairman Bell thanked everyone who attended the meeting and reminded them that the next meeting of the board would be in Austin, August 20-21, 2009, at the Crowne Plaza Austin.

There being no further business for the regular session, Chairman Bell adjourned the board into executive session, which is closed to the public, at 10:45 a.m. Upon the conclusion of executive session, Chairman Bell adjourned the 143rd meeting of the Texas Board of Criminal Justice at 11:27 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

August 21, 2009

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items	Page 2
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 3
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 3
F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)	Page 3
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
I. Discussion, Consideration and Possible Action Regarding the Fiscal Year 2010 Annual Audit Plan	Page 5
J. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars	Page 5
K. Discussion, Consideration and Possible Action Regarding the Interagency Contract for Correctional Managed Health Care.....	Page 5
L. Discussion, Consideration and Possible Action Regarding the TDCJ Fiscal Year 2010 Proposed Operating Budget.....	Page 5
M. Discussion, Consideration and Possible Action Regarding the Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters.....	Page 6
N. Discussion, Consideration and Possible Action Regarding the Full-time Equivalent (FTE) Requirements	Page 6
O. Discussion, Consideration and Possible Action Regarding the Salary for the TDCJ Executive Director	Page 6
P. Discussion, Consideration and Possible Action Regarding the Creation of a New Division	Page 6
Q. Discussion, Consideration and Possible Action Regarding Proposed Revisions to Executive Directive, ED-03.32, "Offender Access to Telephones"	Page 6
R. Discussion, Consideration and Possible Action Regarding Adoption of Amendments To Board Rule §163.21, Administration (TAC §163.21).....	Page 6
S. Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §155.41, Procedures for Resolving Vendor Protests (TAC §155.41).....	Page 7

T. Discussion, Consideration and Possible Action Regarding Proposed Land TransactionsPage 7

 1. Request for Transfer of 33.37 Acres on the Woodman State Jail to Coryell CountyPage 7

 2. Request for Transfer of 2.259 Acres on the Halbert Unit to the City of Burnet.....Page 7

U. Public Comments.....Page 7

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF AUGUST 21, 2009, MEETING MINUTES**

Meeting No. 144

Chairman Oliver Bell convened the 144th Meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, August 21, 2009, at 9:07 a.m., adjourned into executive session, and then reconvened in open meeting at 10:14 a.m.

Recognitions

Chairman Bell recognized former TBCJ vice chairman, Gregory S. Coleman, and presented Mr. Coleman with a Resolution of Commendation, which highlighted his accomplishments while serving on the TBCJ. Mr. Coleman thanked the TBCJ and the Texas Department of Criminal Justice (TDCJ or agency) for their friendship and support during his tenure on the TBCJ. He praised the TBCJ and the TDCJ staff for their commitment to excellence and professionalism in corrections in Texas. Kim Vernon, Director for the State Counsel for Offenders, presented Mr. Coleman with a set of jailhouse keys, which represent his sharing of knowledge, wisdom, and guidance for the past six years.

Chairman Bell recognized Brad Livingston, Executive Director of the TDCJ, as the recipient of the Texas Public Employees Association's (TPEA) "2009 Executive Administrator of the Year" award, which honors excellence in public service and leadership in achieving goals benefiting state government, state employees, and retirees. Mr. Livingston, who also received the 2007 award, is the only individual honored twice as TPEA's recipient of this award. Chairman Bell explained the TPEA role as a non-profit representative of state employees before the legislature. He noted that this award speaks volumes about Mr. Livingston's leadership, dedication, commitment to excellence, and devotion to achieving the best possible benefits for TDCJ employees. Mr. Livingston leads the TDCJ in developing the leadership and striving for the "next" best practices in corrections. Chairman Bell congratulated Mr. Livingston on receiving this prestigious award.

Chairman Bell recognized Nathaniel Quarterman, former Director of the Correctional Institutions Division, (CID) on his retirement after 26 years of outstanding service with the State of Texas. He read and presented Mr. Quarterman with a Resolution of Commendation, which highlighted his career and accomplishments. Mr. Livingston stated that Mr. Quarterman had been a key member of his leadership team for a number of years. He praised Mr. Quarterman's strong and solid leadership as typifying the leadership needed throughout the TDCJ. Mr. Livingston thanked him for his contributions over the span of his career and wished him the best in his future endeavors. Mr. Quarterman thanked the TBCJ and Mr. Livingston for the honor bestowed upon him, noting that Mr. Livingston was an excellent boss who supported him during his tenure as the CID director. He also thanked the TBCJ members for their interest and visits to the CID facilities, which has meant a lot to CID staff.

Mr. Livingston recognized Rick Thaler as the newly appointed Director of the CID, whose experience in corrections spans decades. Mr. Thaler's commitment to excellence in corrections, integrity, professionalism, work ethic, and sound judgment are critical to today's leadership in TDCJ. Mr. Thaler thanked the TBCJ and Mr. Livingston for honoring and entrusting him with the responsibility of leading the CID.

Mr. Livingston recognized C.F. Hazlewood as the Director of the Manufacturing and Logistics Division. He praised Mr. Hazlewood as an integral part of his team. Mr. Hazlewood thanked Mr. Livingston for the opportunity to lead the Manufacturing and Logistics Division.

Chairman Bell recognized the Honorable Steve Ogden, Texas Senate and chairman of the Senate Finance Committee, as a guest of the TBCJ. Chairman Bell yielded the floor to Senator Ogden. Senator Ogden thanked the TBCJ members for their voluntary service to the state. Senator Ogden expressed his satisfaction that TDCJ had good outcomes from the recent legislative session. Mr. Livingston's candor assisted legislators in treating TDCJ as fairly as possible. Noting that legislators wanted to provide a bigger pay increase for correctional officers (CO), Senator Ogden stated that in the context of the budget the COs received the largest percentage increase of any broad group of state employees. He stressed the importance of the COs to Texas and that the pay increase was recognition by the legislature of that importance. The Senate Finance Committee continues to monitor correctional managed health care, which was funded at a level necessary to fulfill the necessary requirements. The legislature is also exploring alternatives to incarceration, such as more treatment, rehabilitation, and other efforts to keep people out of prison forever. He said he was interested in the TBCJ's view on how well those initiatives are going. Senator Ogden advised the TBCJ that debate continues in the legislature if the efforts started in the recent legislative session will have success. Due to the economy, the next biennium budget will be tighter and more restrictive. Senator Ogden

requested that the TBCJ keep the legislature advised if future emergency funds might be needed. He stated that he would be pleased to entertain questions from the TBCJ.

Chairman Bell stated it was an honor to have Senator Ogden speak before the TBCJ. On behalf on the TBCJ and TDCJ senior executives, he expressed appreciation for all the efforts Senator Ogden put forth during the session. During the unit visits over the past year, the TBCJ spoke with many COs regarding the budget process, what the TBCJ was striving to achieve, and the support it had from the legislature, particularly from House Appropriations Committee and the Senate Finance Committee. Chairman Bell advised Senator Ogden that the TBCJ and executive staff would safeguard the state's resources. The TBCJ promises that the legislature will be given early warnings if problems arise. He also stated many of the initiatives approved by the legislature have already begun implementation. Mr. Livingston expressed his gratitude for the legislature's support, noting that Senator Ogden's help was very important to the agency. Leo Vasquez expressed his gratitude for all the assistance Senator Ogden has given to the agency. Tom Mechler thanked Senator Ogden for all his help during the session and offered the TBCJ's assistance regarding any questions or information that he may need. Chairman Bell presented Senator Ogden with the Chairman's Coin in tribute to the Senator's contributions to the TDCJ.

Mr. Thaler recognized Oscar Mendoza as the Deputy Director for CID Management Operations and William (Bill) Stephens as the Deputy Director for Support Operations. Chairman Bell congratulated them on their promotions.

Stuart Jenkins, Director of the Parole Division, recognized Jacqueline Dickerson as the new Parole Region II Director. He also recognized Jay Patzke who is retiring after 32 years of service with the state. Chairman Bell congratulated Ms. Dickerson on her promotion and thanked Mr. Patzke for his years of service.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 or more years of service with the State of Texas during the months of June and July 2009. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the agency's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Chairman Bell recognized the deaths of Correctional Officer Julio Reuble-Caba and Dr. Lane Murray. He requested a moment of silence. Officer Reuble-Caba died in an automobile accident on his way home from work at the Montford Unit. Chairman Bell read a biography on Officer Caba, noting that he had been a former Marine who served in Iraq as part of Operation Enduring Freedom. Chairman Bell noted the passing of Dr. Lane Murray, former Superintendent of the Windham School District (WSD). In 1969, Dr. Murray pioneered the school district concept within a prison system, and is credited as the founding superintendent of the Windham School System for the Texas Department of Corrections, a position she held for more than two decades. Dr. Murray recognized the need for a non-traditional approach to education. With no model to follow, she identified and implemented a non-grade competency based approach within a prison environment. Under her leadership, the WSD grew from eight instructors in 1969 to its current structure, which has over 1,300 employees, of which more than 800 are certified teachers. The WSD is the largest school system in the state by geographic boundary and in 2008 it led the state's school districts in awarding General Equivalency Diplomas (GED). Chairman Bell noted the WSD Board of Trustees will be honoring Dr. Murray at the October meeting. He also noted the newly renamed WSD Teacher of the Year Award, the Dr. Lane Murray Excellence in Teaching Award, will also be awarded at that meeting.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

1. *Hazardous Duty Pay Authorization Requests*
2. *Personal Property Donations*
3. *Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property*
4. *143rd TBCJ Meeting Minutes*
5. *Excused Absences*

Chairman Bell asked if there were any amendments or objections to the proposed Consent Items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank, and as there are personal property donations from that food bank up for approval, he would abstain from voting on the Consent Items.

Chairman Bell asked if there were any further objections. Seeing none, he stated that the Consent Items as posted in the Texas Register stand approved, noting Mr. Gambrell's abstention.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, thanked Mr. Livingston for appointing Carey Welebob as the Director of the Community Justice Assistance Division (CJAD). He stated that there were four members of the JAC whose terms expire on September 1, 2009, noting that all four individuals (Judge Bramlett, Judge Wilborn, Judge Cosper, and District Attorney Turner) have asked for reappointment. The Sentencing Conference, which is scheduled for November 2009, is an excellent way to discuss "what works" in the probation field. The recidivism rate from the front end (probation) is going down, since the management of offenders has become more efficient. Judge Gist encouraged all TBCJ members to visit the CSCDs, which have very innovative initiatives in place. He thanked the TBCJ and Mr. Livingston for their support of the pay increases for corrections employees. Judge Gist advised the TBCJ that one-third of probation officers leave for better paying jobs. He expressed his hope more efforts could be put forth to retain probation officers and the senior probation officials. Judge Gist explained that CJAD's central notification system to CSCD directors concerning the availability of program beds. He expressed his gratitude for the new beds coming online and the ease with which offenders can be placed in these beds.

Chairman Bell stated that the TBCJ would remain supportive of the CSCDs as much as possible. He assured Judge Gist that the TBCJ was visiting the CSCDs.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston provided an overview of the reentry initiative as it relates to an action item that appears later on the agenda. TDCJ currently operates one of the world's largest criminal justice systems, with over 650,000 offenders on probation, parole or incarcerated in prison. The need for successful offender reentry is critical to the TDCJ's public safety efforts. Successful offender transition and reentry requires a comprehensive and coordinated effort. Responsibility for transitional planning and assistance resides in several divisions, most prominently the Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) and the Parole Division.

Mr. Livingston identified the specific ways in which the TDCJ is enhancing its reentry efforts, which include a creation of the statewide reentry council; collaboration with other state agencies to develop a process for identification documents for offenders prior to release; and the employment of 64 reentry specialists to provide pre- and post-release transitional planning for offenders released from incarceration. He explained that it was important to understand that successful reentry is a cross cutting function. Leveraging the skills, expertise and perspective from both internal and external stakeholders will be the key to success. This level of coordination is a core business skill in TCOOMMI. As the TDCJ expands its reach with transitional and reentry services, it is important to leverage these skills.

Mr. Livingston announced that the next step for effectively focusing the TDCJ's reentry efforts was to create a new Reentry and Integration Division. He stated that the new division will be responsible for the coordination and oversight for reentry activities within TDCJ; serve as the lead division in collaborating with external reentry stakeholders; supervise and manage the 64 new reentry coordinators; assume responsibility of Project RIO; and include TCOOMMI in its organizational structure.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, reviewed the population indicators for fiscal year (FY) 2009 through May. The average daily population served was 150,746, a slight decrease from one year ago. All other population indicators remain as previously reported during the past several meetings. The overall health care costs totaled \$382.7 million. This amount is above overall revenues earned by the university providers by \$24,227,756 or 6.7 percent. The total cost per offender per day for all health care services statewide through May 2009 was \$9.31.

Chairman Bell asked if there were any questions. Mr. Mechler requested an explanation why the costs for University of Texas Medical Branch (UTMB) were higher than Texas Tech University Health Sciences Center's (TTUHSC) costs. Mr. Hightower noted that the specialty clinics were located at Hospital Galveston and the UTMB sector has more critical care patients than TTUHSC. Additionally, TTUHSC does not qualify for 340b drug pricing while UTMB does receive this drug pricing benefit. Mr. Mechler stated that it was his understanding the sickest offenders are placed within the UTMB oversight. Mr. Mechler asked how the university partners are making up the shortfall from the revenue received and the expenditures

made. Mr. Hightower responded that the TDCJ would submit a supplemental appropriations request to the legislature to pay the difference to the universities, noting that there is no guarantee of payment.

Janice Harris Lord expressed her appreciation for the role of the CMHCC. She noted that the TDCJ Health Services was assuming more responsibility for the quality of care monitoring. Ms. Lord requested that Mr. Hightower begin reporting the quality of care findings. Mr. Hightower agreed.

Terrell McCombs asked why the TTUHSC does not qualify for the 340b drug pricing. Mr. Hightower responded that the 340b drug pricing is based on disproportionate care giving, meaning that the TTUHSC does not have enough disproportionate costs to qualify for this federal benefit because it does not own a hospital.

Ms. Lord inquired why Hospital Galveston was not American Correctional Association (ACA) accredited. Mr. Hightower responded that it might be better to ask the question to UTMB, since his expertise did not extend to that area. He noted that less than a year after Hurricane Ike, Hospital Galveston was operating at a quicker pace and bringing offenders into programs faster. Ms. Lord suggested that perhaps Dr. Murray, Chairman of the CMHCC, might speak before the Health Care Committee in the future.

Chairman Bell concurred with Ms. Lord's suggestion to add the quality of care to the CMHCC report. He noted that the legislature provided a rider for a joint study on health care for offenders, and suggested a comment also be added to the report regarding this area. He thanked Mr. Hightower for keeping the TBCJ informed. Mr. Hightower stated that the joint study is required to provide its findings by May 2010, noting he hoped a stakeholders meeting would be scheduled for October.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

The following are highlights from Chairman Bell's report:

Leadership – Employee Communication: All TDCJ employees are encouraged to talk with their leadership. The flow of communication can always be improved. Communication is an important component of leadership.

TBCJ Member Tour Initiative: The TBCJ continues to visit units, CSCDs and parole offices. To date, seven more units have been visited and 16 parole office visits have taken place. The professionalism and courtesy of the employees met during these visits is appreciated.

Chairman's Fitness Challenge: The kickoff of the new FY 2010 Chairman's Fitness Challenge for TDCJ employees was announced. This program will encourage the incorporation of fitness and healthy choices for all levels of TDCJ employees into their daily lives. A brief explanation of the four quarterly challenges for the year was provided.

Update on Substance Abuse Treatment Efforts – Waitlist Ends: The waiting list for substance abuse treatment beds has ended. There is no waiting period for offender placement in the program. This is in large part due to legislative actions occurring two years ago. The program has expanded and the backlog has ended. Receiving treatment before release assures that offenders will have a better opportunity for a successful reentry into the communities.

Key Legislative Items:

Pay raise

The agency's top priority going into the 81st Legislative Session was a substantial, targeted pay increase for correctional and parole officers. Although the fiscal climate was somewhat bleak, the legislature partially funded the request for a targeted pay increase for not only these correctional and parole officers but for all unit-assigned staff, by providing an average pay increase of 3.5 percent for FY 2010 and a pay increase for 3.5 percent for 2011. By the end of the biennium, these positions will receive an average 7 percent increase to their current salary.

Correctional staffing levels for the agency continue to improve. Over the past 12 months, the number of correctional officer vacancies has decreased from 3,428 to 1,262.

Security Equipment

The legislature's approval of \$10 million for correctional security equipment will allow the TDCJ to make significant security enhancements, such as extensive contraband screening at entry points and comprehensive surveillance systems focused on the few units that are responsible for the vast majority of the contraband activity.

Reentry Programming

The agency received funding for 64 new positions that will focus on offender reentry. It is the first time in the TDCJ's history that it will have specific staff that focus solely on helping offenders transition to the community. While the TDCJ already has many reentry components in place, the addition of the new positions will significantly enhance the agency's ability to focus on areas, such as identification documents, housing and employment preparation, family reunification, and coordination of services for the offender population.

Chairman Bell reviewed the standards for the new correctional officer uniforms that include a polo shirt and cargo uniform pants. He noted that the reason the board wore the uniform shirts during their meetings on June 18 was to show respect and support for the correctional staff on the frontend of the prison operations. Additionally, the board recognizes the frontline correctional staff for their important role in the agency and its mission.

Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2010 Annual Audit Plan

APPROVED

Raymond Pyeatt, Director for the Internal Audit Division, noted that the Audit and Review Committee received a detailed briefing of the FY 2010 Annual Audit Plan on August 20, 2009.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Jerry McGinty, Chief Financial Officer, provided a review of the four purchases and contracts over \$1 million. Two contracts were increases to current biennial contracts for outpatient substance abuse treatment services and halfway house services. The last two purchases were for swine feed for agricultural purposes, and a bleaching and preshrinking fabric for use by the Texas Correctional Industries (TCI).

Discussion, Consideration, and Possible Action Regarding the Interagency Contract for Correctional Managed Health Care

APPROVED

Mr. McGinty reviewed the correctional managed health care contract. A comparison of the FY 2008-09 / FY 2010-11 Contracts was provided. He noted that the 81st Legislature provided the correctional managed health care a supplement appropriation of \$48.1 million for the requested FY 2008-09 operational shortfalls. For FY 2010-11 funding will be transferred to the CHMCC based on the appropriations that the legislature provided.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2010 Proposed Operating Budget

APPROVED

Mr. McGinty highlighted the budget, noting that the TBCJ received an in-depth briefing at the Business and Financial Operations Committee meeting on August 20, 2009. The budget is \$3,034,408,068 based upon the legislative appropriations. It provides targeted pay increases for COs, parole officers, other unit assigned staff, and probation officers. It addresses the population projections provided by the Legislative Budget Board in the areas of probation, parole, and contracted temporary capacity. It fully funds the continuation of the substance abuse felony punishment facilities and the intermediate sanction facilities. Additional funds were provided for Project RIO. Funds were provided for the 64 reentry coordinator positions and 40 additional positions for the Office of Inspector General. The funding also provides for 96.4 percent of the staffing plan for correctional officer positions, with no overtime. Mr. McGinty noted that there might be some operational and fiscal challenges for FY 2010, but also expressed his confidence in the TDCJ executive team to meet those challenges.

Discussion, Consideration, and Possible Action Regarding the Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters

APPROVED

Mr. McGinty explained the request for financing through the Texas Public Finance Authority, totaling \$80,000,000 for the repair and rehabilitation of TDCJ facilities and renovations to the Marlin Medical Facility.

Chairman Bell asked if there were any comments or questions. Mr. McCombs asked for assurance that the funds were general obligation bonds. Mr. McGinty responded affirmatively.

Discussion, Consideration, and Possible Action Regarding the Full-time Equivalent (FTE) Requirements

APPROVED

Mr. McGinty explained that the TDCJ has a cap of filled positions or full-time equivalent (FTE) positions. Over the past few months, there has been unprecedented growth in correctional officer staffing, due in part to the recent pay increases, recruitment bonuses, the economy, and future pay increases for FY 2010-11. In light of these changes, the TDCJ needs to increase its FTE cap consistent with appropriations for the remainder of FY 2009 to \$40,360.7, for FY 2010 to \$40,740.2, and for FY 2011 to 40,889.2. Upon TBCJ approval, Mr. McGinty will forward a signed letter to the Office of the Governor and the Legislative Budget Board to obtain further approval.

Discussion, Consideration, and Possible Action Regarding the Salary for the TDCJ Executive Director

APPROVED

Chairman Bell noted that in line with the action taken by the 81st Legislature the TBCJ would consider a salary increase for the TDCJ executive director. The authorized amount for the salary is \$186,300.

Discussion, Consideration, and Possible Action Regarding the Creation of a New Division

APPROVED

Mr. Livingston restated that the proposed new division would give the TDCJ an opportunity to realign its resources in a way that will allow additional focus on reentry efforts. The Rehabilitation Programs Division will continue to focus on the current rehabilitation programs.

Mr. Livingston recognized Dee Wilson as the Director of the Reentry and Integration Division. He noted that the TCOOMMI's business model was appropriate for the reentry and integration efforts. Ms. Wilson's strong leadership is a strong asset to the TDCJ. Mr. Livingston stated that TCOOMMI would remain under Ms. Wilson's jurisdiction.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Executive Directive, ED-03.32, "Offender Access to Telephones"

APPROVED

Melinda Bozarth, TDCJ General Counsel, reviewed the revisions to ED-03.32, "Offender Access to Telephones." She noted that with the implementation of the statewide telephone system several questions arose, which have been addressed to some degree in the proposed revisions. The revisions will allow the TDCJ some flexibility so that modification can be made as necessary, to ensure that the demand is met and the system is fully utilized.

Chairman Bell clarified the revisions regarding the telephone minutes, noting that the executive director will keep the TBCJ apprised of any changes. Additionally, if a problem occurs on a unit, the warden will notify the appropriate regional director and terminate the use of the phone system as warranted.

Mr. McCombs inquired if all persons on the Call List underwent comprehensive security checks. Ms. Bozarth responded affirmatively. Mr. McCombs stated that he was concerned about the safety of victims, acknowledging that he was satisfied that the necessary precautions have been taken.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule §163.21, Administration (37 TAC §163.21)

APPROVED

Ms. Bozarth stated that the amendments to Board Rule 163.21, Administration, were published in the July 3, 2009, issue of the Texas Register. No comments were received during the public comment period. Ms. Bozarth requested that the TBCJ adopt the rules as amended.

Discussion, Consideration, and Possible Action Regarding Proposed New Board Rule §155.41, Procedures for Resolving Vendor Protests (37 TAC §155.41)

APPROVED

Ms. Bozarth noted that the new Board Rule 155.41, Procedures for Resolving Vendor Protests, provides a protest procedure for use by an actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation, evaluation or award of a contract by the TDCJ. She advised the TBCJ that the procedure has been in policy for many years; but the proposed action takes steps to elevate it to a rule.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Transfer of 33.37 Acres on the Woodman State Jail to Coryell County

APPROVED

C.F. Hazlewood, Director for Agribusiness, Land and Minerals, noted that on August 20, 2009, the Business and Financial Operations Committee received a briefing on the transfer of land located on the Woodman State Jail to Coryell County.

2. Request for Transfer of 2.259 Acres on the Halbert Unit to the City of Burnet

APPROVED

Mr. Hazlewood noted that pursuant to House Bill 867 of the 81st Legislative Session, 2.259 acres located at the Halbert Unit would be transferred to the City of Burnet.

Public Comments

One speaker registered for public comments. Chairman Bell called Mr. Jim Dinsmore to the podium.

Mr. Dinsmore petitioned the TBCJ's support for financial aid for faith-based dormitories. He noted these faith-based dorm programs have a positive effect on the recidivism rate. The faith-based dorm programs are working. He stated his belief that these programs deserve substantial funding since there is a return of at least a 10-to-1 ratio on the invested dollars. The harmony and the safety within the faith-based dorms encourage officers to serve on those wings. Mr. Dinsmore noted that Gary Reeves, investigative reporter from the Dallas Channel 8, would air a program on the faith-based dorm program at the Beto I Unit. He advised the TBCJ that there was great need for additional chaplains. The Voyager volunteers are currently trying to expand the faith-based dorms specifically at the Coffield Unit and the Robertson Unit. Mr. Dinsmore introduced Barry Strickland, volunteer in the Voyager Program. He stated that the faith-based dorm programs are cost effective particularly since they are not costing the state anything at this point. The volunteers are covering the cost of these programs. On behalf of the Voyager Volunteer Program, Mr. Dinsmore expressed appreciation for TBCJ's continuing support of the faith-based dorms and requested that the TBCJ take the opportunity to help expand these faith-based dorm programs by approving state funding to underwrite the program costs.

Chairman Bell thanked the audience for attending the meeting, noting that the next meeting of the TBCJ would be October 7-8, 2009, at the Omni Austin Hotel at Southpark, Austin, Texas.

There being no further business for the regular session, Chairman Bell adjourned the 144th meeting of the TBCJ at 12:22 p.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

October 8, 2009

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration, and Possible Action Regarding Consent Items	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 1
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 2
F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)	Page 2
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 2
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 2
I. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 3
J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million Dollars	Page 3
K. Discussion, Consideration, and Possible Action Regarding the Repeal of Board Rule §159.3, Continuity of Care System for Offenders with Mental Impairments/Memorandum of Understanding (MOU).....	Page 3
L. Discussion, Consideration, and Possible Action Regarding a Proposed Access Easement and Surface Lease of 431 Square Feet of Property at the Houston Regional Parole Office to the City of Houston in Harris County.....	Page 4
M. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Upgrade Electrical, Unit Wide and Replace Heating, Ventilation and Air Conditioning (HVAC) in the Textile Mill on the Huntsville Unit, in Walker County, Huntsville, Texas	Page 4

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF OCTOBER 8, 2009, MEETING MINUTES**

Meeting No. 145

Tom Mechler, Vice Chairman, convened the 145th Meeting of the Texas Board of Criminal Justice (TBCJ) on Wednesday, October 7, 2009, at 2:15 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code, Chapter 551, the Open Meetings Act. The meeting was adjourned into executive session, and then reconvened on Thursday, October 8, 2009, at 9:33 a.m.

Recognitions

Brad Livingston, Executive Director, of the Texas Department of Criminal Justice (TDCJ), recognized Mike Bell as chief information officer.

Mr. Livingston recognized April Zamora as the director of the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI).

Dee Wilson, Director of the Reentry and Integration Division, recognized Gerald Garrett as the deputy director of that division.

Rick Thaler, Correctional Institutions Division (CID) Director, recognized Thomas Prasifka, as the deputy director of CID Support Operations.

Mr. Thaler recognized Paul Morales as the CID Region II director and Robert Eason as the Region IV director.

Ron Steffa, Deputy Chief Financial Officer, recognized Matthew (Matt) Demny as the director of the Agribusiness, Land, and Minerals Department.

Celeste Byrne, Director of the Private Facility Contract Monitoring/Oversight Division, recognized Lisa Howard as the deputy director of Program Monitoring.

John Moriarty, Inspector General, recognized Joseph Buttitta on his graduation from the Federal Bureau of Investigations (FBI) National Academy in Quantico, Virginia.

Mr. Mechler recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of August and September 2009. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 144th TBCJ Meeting Minutes**
- 5. Excused Absences**

Mr. Mechler asked if there were any objections or amendments to the proposed consent items as presented. Eric Gambrell advised the TBCJ that his firm does work for the San Antonio Food Bank and Walmart and as there were personal property donations from both entities up for approval, he must abstain from voting on the consent items. The consent items were approved as presented with Mr. Gambrell's abstention noted for the record.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston had no report.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, reviewed the population indicators through July 2009. The average daily population served was 150,522, a slight decrease from one year ago. All other population indicators remain as previously reported during the past several meetings. The overall health care costs totaled \$476.1 million. This amount is above overall revenues earned by the university providers by \$38,254,825 or 8.7 percent. The total cost per offender per day for all health care services statewide through July 2009 was \$9.44.

Mr. Hightower reported that at the September 8, 2009, CMHCC meeting, the CMHCC adopted modifications to Policy B.14.11, "Human Immunodeficiency Virus (HIV) Infection," which reflected that actual practice in the discharge planning was after collaboration between the TDCJ Health Services Division and the TCOOMMI. TDCJ Health Services Division provided monitoring reports to the CMHCC on its meeting agenda, which have also been provided to the TBCJ. He noted that the CMHCC routinely posts complete agendas and a record of meeting minutes on its website (www.cmhcc.state.tx.us).

Mr. Hightower stated that at the last TBCJ meeting, Janice Harris Lord had requested that he report on some of the areas that the medical director may provide to the CMHCC, such as operational review audits or monitoring. He stated that the TDCJ medical director's report was included in the information packet to the TBCJ. Mr. Hightower advised the TBCJ members he would try to answer their questions. Ms. Lord stated that she appreciated the inclusion of the reports. She suggested that the TBCJ receive an abbreviated report from Dr. Linthicum, Director of Health Services Division, at another time.

Mr. Mechler asked if the TBCJ had any questions or comments. J. David Nelson inquired about the progress of the report required by the Supplemental Appropriations Bill by May 10, 2010, which addresses the lowering of health care costs or providing improved quality of health care given by the correctional managed health care partners. Mr. Hightower responded that Dr. James Griffin, Chairman of the CMHCC, has requested input from the health care partners. After Dr. Griffin's review of the requested documentation, the CMHCC will meet in early November to deliberate the issue and formulate a strategy regarding the report. After conferring with the author of the legislation, Mr. Hightower stated that the "or" that appears in the rider should actually be an "and" as far as the report is concerned. This means that the sentence should read, "...improve the quality of better health care and then consider the lowering of health care costs." The report should provide a clear picture of how to address any cost increases by using innovative ways to carry out the health care mission, which is providing the best medical care possible for less money. Mr. Nelson requested that during future reports Mr. Hightower include a progress summary on this important project.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Mr. John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

Due to the absence of Chairman Bell, there was no report.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director of the Internal Audit Division, provided the following update to the status report published in the agenda book:

FY 2008 Audit Plan

- **0807 – Business and Finance Division, Parole Division, Supervision and Restitution Fees:** An exit conference with the executive director was held on September 14, 2009. Revised responses are pending.

FY 2009 Audit Plan

- **0903 – Facilities Division, Maintenance:** After two exit conferences, staff responses to the draft report are pending.
- **0905 – Business and Finance Division, Business Administration, Correctional Institutions Division, Food Services:** The proposed final report has been forwarded to the chief of staff for review.
- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** Internal audit senior staff are reviewing the draft report.
- **0910 – Parole Division, Case Tracking and Analysis:** The audit has moved back into fieldwork to answer questions regarding the draft report.
- **0911 – Correctional Institutions Division, Distribution of Offender Medication:** Internal audit senior staff are reviewing the draft report.
- **0912 – Administrative Review and Risk Management Division, Operational Review:** Internal audit senior staff are reviewing the draft report.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** The audit is in fieldwork.
- **0914 – Office of the Inspector General, Records Section:** The draft report was released on October 5, 2009. Staff responses are pending.
- **0917 - Windham School District, Employee Grievance:** The report is being written. Audit 0910 has the same lead auditor, which will slightly delay the release of the draft report.
- **0918 – Information Technology Division, Information System Security:** The audit is in control assessment and remains on schedule.
- **0921 – Rehabilitation and Reentry Programs Division, Youthful Offender Program:** The draft report was released on September 14, 2009. Staff responses have been received and the draft report is being revised.
- **0923 – Manufacturing and Logistics Division, Freight Transportation:** Staff responses to the draft report have been received. A discussion of these responses is ongoing at this time.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** The final report was released on August 3, 2009.
- **0925 – Texas Department of Criminal Justice, Internal Audit Division, Action Plan Tracking:** The proposed final report was released on September 23, 2009.

Mr. Pyeatt stated that the FY 2010 audits have been assigned on schedule and the updates would be in the December 2009 agenda book.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Mr. Steffa reviewed the purchases and contracts over \$1 million, which included the replacement of TDCJ personal computers and software, and the purchase of fleet vehicles to provide for TDCJ's transportation needs.

Discussion, Consideration, and Possible Action Regarding Repeal of Board Rule §159.3, Continuity of Care System for Offenders with Mental Impairments/Memorandum of Understanding (MOU)

APPROVED

Ms. Bozarth explained the purpose of the repeal of Board Rule §159.3, Continuity of Care System for Offenders with Mental Impairments/MOU, is to provide TDCJ flexibility in the negotiation process regarding the MOU with the Texas Department

of State Health Services, the Texas Department of Public Safety, and the 122 community supervision and corrections departments. The repeal of the rule would appear in the Texas Register for 30 days to receive public comment.

**Discussion, Consideration, and Possible Action Regarding
a Proposed Access Easement and Surface Lease of 431 Square Feet of Property
at the Houston Regional Parole Office to the City of Houston in Harris County**

APPROVED

Mr. Demny reviewed the proposed access easement and surface lease request by the City of Houston. He stated that the Business and Financial Operations Committee had received a detailed briefing of the proposed transaction, which would update and expand the City of Houston's radio system. The City of Houston agrees to pay on a monthly basis an amount totaling \$720 per year for this lease, which has a term of 10 years.

**Discussion, Consideration, and Possible Action Regarding
a Facilities Division Construction Project to Upgrade Electrical, Unit Wide
and Replace Heating, Ventilation and Air Conditioning (HVAC) in the Textile Mill
on the Huntsville Unit in Walker County, Huntsville, Texas**

APPROVED

Frank Inmon, Director of the Facilities Division, reviewed the upgrades to the transformer distribution equipment and wiring/grounding throughout the Huntsville Unit, which will address failing outdated equipment and code compliance issues. Additionally, the project includes the replacement of the heating, ventilation, and air conditioning (HVAC) equipment at the Textile Mill. Mr. Inmon noted that the Business and Financial Operations Committee received a detailed briefing on the project, which originally had been two projects. The selection of one contractor simplified and expedited the bid process. Mr. Inmon requested that the TBCJ approve the project for a total program cost of \$4,642,400.

Mr. Mechler noted that combining the two projects provided the state with a cost savings of approximately \$1.5 million.

Mr. Mechler thanked the audience for attending the meeting. He announced that the next meeting of the TBCJ would be December 10-11, 2009, at the Hilton Austin, in Austin, Texas. Mr. Mechler adjourned the 145th meeting of the TBCJ at 10:25 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

December 10 - 11, 2009

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration, and Possible Action Regarding Consent Items	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 1
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 2
F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)	Page 2
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 3
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
I. Internal Audit Status Report for Fiscal Year 2009 and Fiscal Year 2010.....	Page 5
J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million Dollars	Page 6
K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives	
- PD-12, "Equal Employment Opportunity"	Page 6
- PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature"	Page 6
- PD-31, "Discrimination in the Workplace"	Page 6
L. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies	
- BP-02.43, "Equal Employment Opportunity"	Page 6
- BP-03.77, "Offender Grievances"	Page 6
- BP-03.81, "Offender Access to Courts, Counsel, and Public Officials Rules"	Page 7
- BP-07.03, "GO KIDS" (Giving Offenders' Kids Incentive and Direction to Succeed).....	Page 7
M. Discussion, Consideration, and Possible Action Regarding Repeal of Board Policies	
- BP-02.38, "Sensitive Information"	Page 7
- BP-02.84, "Acceptance of Gifts & Grants Related to Building for Religious & Programmatic Purposes"	Page 7
N. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code Section 159.3, Continuity of Care System for Offenders with Mental Impairments/Memorandum of Understanding.	Page 7
O. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code Section 155.41, Procedures for Resolving Vendor Protests (37 TAC §155.41).....	Page 7
P. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Building for Religious and Programmatic Activities (37 TAC §152.71).....	Page 7

Q. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions

- Request for Water Pipeline Easement on the Ellis Unit in Walker County, Huntsville, Texas.....Page 8
- Request for Land Exchange Between the TDCJ and the General Land Office (GLO)
on the Vance Unit in Fort Bend County, Richmond, TexasPage 8
- Request for Lease Agreement with the Texas Forest Service on the
Wynne Unit in Walker County, Huntsville, TexasPage 8

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF December 10 - 11, 2009, MEETING MINUTES**

Meeting No. 146

Oliver Bell, Chairman, convened the 146th Meeting of the Texas Board of Criminal Justice (TBCJ) on Thursday, December 10, 2009, at 2:03 p.m.; he adjourned the meeting into executive session, which is closed to the public. Chairman Bell reconvened the TBCJ on Friday, December 11, 2009, at 9:33 a.m.

Recognitions

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), recognized Jeff Baldwin, TDCJ Chief of Staff, for his outstanding service to the state, and presented him with a 25-year service award from the state of Texas. Chairman Bell thanked Mr. Baldwin for his hard work and support.

Lannette Linthicum, M.D., Director of TDCJ Health Services, recognized Robert L. Williams, M.D., as the deputy director of Health Services, and George Crippen as the chief nursing officer. Chairman Bell congratulated Dr. Williams and Mr. Crippen on their new areas of responsibility.

Celeste Byrne, Director of the Private Facility Contract Monitoring/Oversight Division, recognized Bobby Lumpkin as the division's deputy director.

Chairman Bell recognized the following as the recipients of the Chairman's Fitness Challenge First Quarter Awards: Parole Division Executive Administration; Jester IV Unit; and Windham School District.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2009. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 145th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell advised that his firm does work on a pro bono basis for the San Antonio Food Bank and as there are personal property donations from that food bank, he abstained from voting on the consent items. Chairman Bell asked if there were further objections or amendments; seeing none, the consent items posted for the meeting's agenda stand approved.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, provided an overview of the agency. Ms. Owens reviewed the mission statement and responsibility of the BPP. She then explained the types of releases and the parole review process. In FY 2009, the BPP considered 75,631 cases; 30.41 percent of those cases were approved. The BPP voted on over 18,500 discretionary mandatory cases and 48 percent were approved. Ms. Owens provided an overview of the revocation process and actions the BPP may take. In FY 2009, the BPP reviewed over 30,000 cases in the revocation process; 76 percent resulted in non-revocation action and 24 percent in revocation action. Ms. Owens summarized the BPP recommendations process to the Governor for executive clemency.

Terrell McCombs requested an explanation of the difference between discretionary mandatory releases and parole releases. Ms. Owens responded that discretionary mandatory cases are usually nonviolent offenders. She advised the TBCJ that mandatory supervision is the computation of good conduct time and the flat time to determine an initial mandatory

supervision eligibility release date. For discretionary mandatory cases, the offenders have already had the necessary initial reviews and considerations at that point, this accounts for the higher number of releases.

As a point of clarification, Chairman Bell asked if the discretionary mandatory releases for FY 2009 were included in the parole releases. Ms. Owens responded that the discretionary mandatory releases were a separate statistic and not included in the statistics for parole releases.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston reported on the November 30, 2009, escape of offender Arcade Comeaux from TDCJ custody during transport. Offender Comeaux was taken back into custody by the Houston Police Department on Monday, December 7, 2009. Mr. Livingston thanked the Houston Police Department, the TDCJ Office of Inspector General (OIG), the Texas Rangers, and the United States Marshals Service for their assistance in apprehending this offender. He also extended his appreciation to the many TDCJ staff that assisted in the search.

Mr. Livingston reviewed the measures that have been taken subsequent to the escape, some relating specifically to the Estelle Unit and other measures implemented systemwide. Highlights of these measures follow:

- Once the Estelle Unit received notification of the escape, the unit was immediately placed on lockdown and a shake down of the entire facility was initiated. The unit remains on lockdown.
- Random pat searches of the Estelle Unit staff were expanded, thereby providing around-the-clock pat searches of all individuals entering and exiting the facility.
- OIG and the Texas Rangers have initiated criminal investigations relating to various aspects of the escape.
- The TDCJ Serious Incident Review (SIR) Team began an administrative review and investigation. Mr. Livingston provided assurance that any TDCJ staff who participated in this escape would be prosecuted to the fullest extent of the law. Disciplinary action will be taken regarding any employee negligence that contributed to the escape.
- In addition to the TDCJ SIR Team investigation, Mr. Livingston has directed staff to arrange an independent security assessment by an external entity. The outside review team will be in place at the Estelle Unit within one week.
- The TDCJ has accelerated the systemwide security audits to ensure that the facilities have the most recent reviews of security procedures, practices, and adherence to security policies.
- A special evaluation of in-service and pre-service training has begun, focusing the curricula review on factors contributing to this escape. Lessons learned from this escape must be reviewed on a systemwide basis.
- Unit wardens were directed to personally conduct an immediate review of the compliance at their units with security protocols related to the transport of offenders, shakedowns, and searches.
- The TDCJ is conducting a systemic review of transportation policies and procedures to include an inspection of all transportation vehicles for potential security enhancements.
- In the future, in addition to the current security assessment conducted by TDCJ staff, more independent security reviews will be conducted.
- The TDCJ has also requested that the Correctional Managed Health Care Committee (CMHCC) immediately review medical procedures and policies relating to the identification of offenders with medical conditions severely limiting their mobility.
- The installation of the correctional security equipment purchased with funds appropriated from the 81st Legislative Session is ongoing. The installation of all the equipment with the exception of the video surveillance equipment is anticipated by the end of December 2009.

Mr. Livingston stated that he accepted responsibility for the security lapses, which led to the escape of offender Comeaux. He acknowledged that these lapses were unacceptable. Mr. Livingston assured the TBCJ that he was committed to take whatever corrective action is necessary to ensure the public's safety.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director for the CMHCC, recognized and thanked J. David Nelson for his support and attendance at the CMHCC meeting. He noted a copy of the Fourth Quarter Financial Update was provided to the members as

a handout. The TDCJ Health Services Monitoring Report, Fourth Quarter, was also distributed. Additionally, the CMHCC meeting agenda was mailed to the TBCJ. Mr. Hightower advised that the agenda and supporting documents could be found at www.cmhcc.state.tx.us.

Mr. Hightower reported on the status of the report mandated by House Bill 4586, which directed the TDCJ and the CMHCC to identify and evaluate mechanisms to lower the cost of or increase the quality of care in health and pharmacy services. This report is due to the Legislative Budget Board and the Governor's Office no later than May 1, 2010. Each of the university providers, the TDCJ, and the CMHCC staff have submitted their requests and ideas to the CMHCC. Those requests have been forwarded to Dr. James Griffin, CMHCC Chairman. A timeline has been developed to accomplish the task of completing the report. A public hearing regarding the study will be held for interested parties including the public. The House Committee on Appropriations has been given an interim charge to examine the annual cost increases and factors related to those increases for correctional managed health care, and to recommend policy changes that could yield savings to the state. Mr. Hightower advised the TBCJ that in all probability the TDCJ staff and the CMHCC staff will be asked to testify concerning appropriations in the interim committee studies.

Chairman Bell asked if there were any questions. Mr. Nelson asked when the public meeting will be held and when the agenda topics would be available. Mr. Hightower yielded the floor to David McNutt, Chief Financial Officer for the CMHCC, who noted that Dr. Griffin expressed interest in scheduling the meeting either February 8, 2010, or February 12, 2010. The proposed meeting place will be in Austin. The meeting agenda will be posted in the [Texas Register](#) and will also be on the CMHCC web site. Mr. Nelson inquired about the agenda topics. Mr. McNutt responded the agenda topics will be listed as found in House Bill 4586. Private vendors will be able to testify accordingly. Mr. Nelson commended the CMHCC for holding a public meeting, which will be of tremendous value to the compilation of the published report.

Mr. McCombs asked if the exclusive use of the university health care partners was a legislative fiat. Mr. Hightower responded that it was the initial recommendation in the legislation creating the CMHCC to use the university health care partners to provide necessary health care services at the lowest possible price. Mr. McCombs stated that he felt competition was healthy in any economic system, noting competition may be a way to lower the costs of the correctional managed health care system. Mr. Hightower advised that privatization of the health care system also has its concerns, noting that the CMHCC chairman would be open to entertain ideas to help with the rising health care costs. Mr. McCombs thanked Mr. Hightower and the CMHCC for their efforts. He said that the TBCJ was interested in finding workable solutions that keep the costs to the citizens of Texas at a minimum.

Janice Lord asked when the CMHCC anticipated the House Appropriations Committee meeting would be held. Mr. Hightower responded he did not think the first committee hearing has been scheduled. House Appropriations Committee Chairman, Representative Pitts, would set the agenda, which would be posted in the [Texas Register](#).

Referring to Mr. McCombs' question regarding legislative fiat for using the university health care partners, Tom Mechler asked if it was the belief of the CMHCC that using the partners was the most cost effective approach. Mr. Hightower responded that it was per statute. Mr. McCombs inquired if the only way to change the statute was to have it revised statutorily. Mr. Hightower responded affirmatively. Mr. Mechler asked if there were some parts of the correctional managed health care system that might be handled more effectively by a private or other medical facility. Mr. Hightower responded that from the business end this has been considered. He explained that Hospital Galveston belonged to the state of Texas, noting it would not be effective to contract services when the TDCJ and CMHCC can provide medical services at a lower rate. He stated that the CMHCC has always operated under the framework of the statute. Chairman Bell encouraged the TBCJ members to read Dr. Linthicum's report and to attend the CMHCC meetings as they occur. He stated his anticipation in reading the report that is due in May 2010. Mr. Nelson requested an advance mail out of Mr. Hightower and Dr. Linthicum's report before each TBCJ meeting. Chairman Bell concurred with Mr. Nelson's request. Mr. McCombs thanked Mr. Hightower for his comments and stated he looks forward to working with the CMHCC in the future to keep the medical costs as low as possible.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Mr. John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Security Measures

Chairman Bell extended the TBCJ's sincere gratitude to the TDCJ OIG, the Texas Rangers, the U.S. Marshals Service, the Department of Public Safety, and local law enforcement who participated in the recapture of offender Comeaux. With regard to security measures at the Estelle Unit, the TBCJ is actively involved in the oversight of the serious incident review. Chairman Bell has requested that Mr. Gambrell, Correctional Institutions Committee Chairman, work in conjunction with Rick Thaler, Director of the Correctional Institutions Division, as the TDCJ moves forward in the review process. Mr. Gambrell has asked that the OIG observe the serious incident review process and report any findings to Chairman Bell. An outside vendor has been contracted to conduct an immediate initial review of security measures at the Estelle Unit. In addition to the ongoing criminal investigation, Chairman Bell has instructed the OIG to conduct an administrative review of the security measures at the Estelle Unit to determine if the unit is in compliance with existing policies and procedures.

Chairman Bell identified other security measures such as a systemwide security review that will be conducted by an outside vendor. Currently, an ongoing TDCJ systemwide review is being conducted, and each warden has been directed to review procedures and protocols. Chairman Bell has instructed the TDCJ to look at available technology to enhance communication between staff while transporting offenders off state property, which will maintain constant, real time communication.

Chairman Bell reviewed the four "Cs" of security, which are competency, compliance, complacency, and commitment. He explained each definition as it relates to security. Training programs will be reviewed and improved to ensure the highest level of competency possible in TDCJ correctional facilities. Failure of employees to adhere to the established policies and procedures puts all individuals in danger; therefore, the compliance of each employee is crucial. Complacency is not acceptable as it leads to mistakes with terrible consequences. The TBCJ and the TDCJ staff will intensify their commitment to protecting the public's safety by adhering to the established rules and regulations, eliminating errors, and improving security practices systemwide.

2. Transfer of the Prison Industries Enhancement Certification Program

House Bill 1914 transferred the Prison Industries Enhancement Certification Program to the TBCJ with the approval of the Bureau of Justice Assistance. As that approval has now been received, a program review as well as proposed rules will be presented to the TBCJ in February 2010. Once the rules are in place, the TBCJ will begin its oversight process.

3. State Employee Charitable Campaign (SECC)

Each year during of the months of September and October state employees are given the opportunity to donate to their favorite charities through payroll deductions or a one-time contribution. In addition to making personal donations, employees are able to coordinate events to collect further contributions. These fund raising events can include food sales, car washes, silent auctions and other creative activities in the work place. The preliminary total for the 2009 SECC for TDCJ employee contributions is \$880,000, which is \$74,000 more than the previous year. Chairman Bell recognized and thanked all TDCJ employees for their generosity in a troubled economy.

4. Chairman's Fitness Challenge

Participants in the First Quarter of the Chairman's Fitness Challenge figuratively walked 165,384 miles or 200 times around the perimeter of TDCJ. The second quarterly challenge is "Maintain No Gain." This effort is to encourage employees to maintain a healthy lifestyle during the holiday season. The third quarter will highlight the Governor's Annual Texas Round-Up at which Chairman Bell hopes TDCJ will take the Governor's Cup for agencies with 5,000+ employees.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director of the Internal Audit Division, provided the following update to the status report published in the agenda book:

FY 2009 Audit Plan

- **0902 – Information Technology Division, Data Management, Database Management System/Data Dictionary:** The draft report was released on November 24, 2009. An exit conference is scheduled for December 16, 2009.
- **0903 – Facilities Division, Maintenance:** The final report was released on November 17, 2009.
- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, Continuity of Care:** The draft report was released on November 17, 2009. Two exit conferences are scheduled for the week following the TBCJ meeting.
- **0910 – Parole Division, Case Tracking and Analysis:** The draft report was released on December 7, 2009. An exit conference is pending.
- **0911 – Correctional Institutions Division, Distribution of Offender Medication:** The draft report was released on December 10, 2009. The exit conference is pending.
- **0912 – Administrative Review and Risk Management Division, Operational Review:** The draft report is being rewritten. The draft report is anticipated to be released within 10 days.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** The draft report is being reviewed and is anticipated to be released next week.
- **0916 – Business and Finance Division, Facility Based Budget Program:** The draft report is being written. It is scheduled for release in mid-January 2010.
- **0917 - Windham School District, Employee Grievance:** The proposed final report has been forward to the Chief of Staff for review on December 9, 2009.
- **0918 – Information Technology Division, Information System Security:** The audit is in fieldwork. Internal Audit staff are working with the new Chief of Information Technology to resolve some issues. The draft report is anticipated for release in early January 2010.
- **0923 – Manufacturing and Logistics Division, Freight Transportation:** The final report was released on November 17, 2009.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** The final report was released on August 3, 2009.
- **0925 – Texas Department of Criminal Justice, Internal Audit Division, Action Plan Tracking:** The proposed final report was released on September 23, 2009.

FY 2010 Audit Plan

- **1003 – Information Technology Division, Information System Security:** The audit is behind schedule. It is in fieldwork. The draft report is anticipated for release in January 2010.
- **1004 – Information Technology Division, Communications:** The draft report is being written. Its release date is anticipated in January 2010.
- **1006 – Administrative Review and Risk Management Division, Risk Management:** The audit was assigned on December 2, 2009. It is in background.
- **1008 - Parole Division, District Reentry Centers:** The draft report is being written. The audit remains on schedule.
- **1009 – Parole Division, Annual Reporting Status and Early Release from Supervision:** The audit is in fieldwork and remains on schedule.
- **1010 – Correctional Institutions Division, Unit Classification Committee:** The audit was assigned on December 1, 2009. It is in background.
- **1016 – Administrative Review and Risk Management Division, Access to Courts:** The audit was assigned on December 9, 2009, and is slightly behind schedule. Background work has begun.
- **1018 – Business and Finance Division, Agribusiness, Land and Minerals Department, Maintenance:** The fieldwork has begun on the audit, which remains on schedule.
- **1019 – Administrative Review and Risk Management, Office of the Ombudsman:** The draft report is under going Internal Audit staff review. The draft report is anticipated for release in mid-January.
- **1021 – Parole Division, Sex Offender Registration:** The audit fieldwork has begun.
- **1022 – Business and Finance Division, Financial Operations; Windham School District, Administrative and Business Services:** The draft report was released on December 3, 2009. An exit conference is pending.

Mr. Pyeatt advised the TBCJ that Internal Audit has been assigned a project that is not on the Audit Plan. It is a review of the American Recovery and Reinvestment Act. This review is in relation to the two grants, \$1.9 million for aftercare for probationers and a small grant for \$90,000 received by the Windham School District (WSD) for a research based mathematics program. Internal Audit staff will have to review internal controls that the TDCJ and the WSD have put in place to ensure compliance with reporting requirements for the grants.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. The first three items are renewal contracts for intermediate sanction facilities, while items five and six relate to residential and outpatient substance abuse treatment services. Mr. McGinty requested that item four, “*Residential and Outpatient Substance Abuse Treatment Service – Amarillo*,” be removed from consideration.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives

APPROVED

Melinda Bozarth, TDCJ General Counsel, stated that the director for Human Resources provided an in-depth review of the proposed revisions to the following three policies at the Human Resources Committee on December 10, 2009.

1. PD-12, “Equal Employment Opportunity”

The only substantive change to PD-12 was the revision of the definition of “retaliation” to comply with the Equal Employment Opportunity Commission regulations regarding this area. Ms. Bozarth noted that Ms. Hiles advised her of an error in the third paragraph of page three of the policy as printed in the agenda packet. In the second line, “...*color, sex (gender), religion, national origin, age (40 or above), disability, or genetic information...*,” the parenthetical (40 or above) should not be deleted. Ms. Bozarth requested that the TBCJ approve the revisions to the policy as presented.

2. PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature”

Ms. Bozarth noted that Mr. McCombs recommended that under Procedures, Section I.B.1, the reference to Lotus Notes be deleted from the first sentence, “*Employee Relations Intake shall be contacted via telephone, or fax, or Lotus Notes e-mail no later than 72 hours...*,” so that the email may be sent using any form of software the employee may have to communicate as necessary. Ms. Bozarth requested that the TBCJ approve the policy as presented to include the change noted by Mr. McCombs.

3. PD-31, “Discrimination in the Workplace”

As with PD-13, Ms. Bozarth noted that Mr. McCombs recommended that the reference to Lotus Notes be deleted from the first sentence in Section I.B.1 under Procedures. Ms. Bozarth requested that the TBCJ approve the policy as presented to include the change noted by Mr. McCombs.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

APPROVED

1. BP-02.43, “Equal Employment Opportunity”

Ms. Bozarth stated that the notable substantive revision was to require that the policy be reviewed and approved by the TBCJ on a two-year cycle. Ms. Bozarth requested the TBCJ approve the revised policy as presented in the agenda packet.

2. BP-03.77, “Offender Grievances”

Ms. Bozarth stated that the revisions are minimal and are required to conform to similar information in other TBCJ policies. As such, she requested the TBCJ approve the revised policy as presented in the agenda packet.

3. BP-03.81, “Offender Access to Courts, Counsel, and Public Officials Rules”

Ms. Bozarth stated that the major revision is the incorporation of the offender telephone procedures in the policy under Section VI. Attorney/Offender Telephone Calls. Mr. Nelson asked if there was a way to keep telephone conversations between the attorney and the offender from being recorded. Ms. Bozarth stated that any telephone call to the attorney from his offender client is not recorded or monitored. Mr. Nelson suggested that under Section G.8 “Depositions,” the allowable persons should include a court stenographer and video equipment operator. Ms. Bozarth stated that the intent of the definition “Designated Representative” of individuals visiting with a TDCJ offender for matters related to an attorney-client or attorney-witness relationship as certified by the attorney was not to exclude the positions as noted by Mr. Nelson. She advised Mr. Nelson that staff would revise the first sentence of Section G.8. to read “...attendees shall be limited to attorneys, designated representatives, court reporters, videographers, and the offender.”

4. BP-07.03, “GO KIDS” (Giving Offenders’ Kids Incentive and Direction to Succeed)

Ms. Bozarth stated the major revision to the policy was to update and incorporate language regarding the maintenance of the GO KIDS website into Section I; Section II. A-C, containing outdated language of same, was omitted. Ms. Bozarth requested the TBCJ approve the revised policy as presented in the agenda packet.

Discussion, Consideration, and Possible Action Regarding Repeal of Board Policies

APPROVED

1. BP-02.38, “Sensitive Information”

Ms. Bozarth noted that the Ruiz Final Judgment has been vacated and the Public Information Act covers the definition of sensitive information. Therefore, BP-02.38 is recommended for repeal.

2. BP-02.84, “Acceptance of Gifts & Grants Related to Buildings for Religious & Programmatic Purposes”

Ms. Bozarth recommended the policy be repealed as it is identical to Board Rule 152.71, Acceptance of Gifts and Grants Related to Buildings for Religious and Programmatic Activities, which will be considered later in the meeting.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code Section 159.3,

APPROVED

Continuity of Care System for Offenders with Mental Impairments/Memorandum of Understanding

Ms. Bozarth stated that the purpose of the repeal is to provide flexibility to the TDCJ in negotiating with the memorandum of understanding (MOU) with the Texas Department of State Health Services, the Texas Department of Public Safety, and 122 community supervision and corrections departments. She advised the TBCJ that this repeal does not retract the MOU, which remains in existence until it is renegotiated by the director of the TDCJ Reentry and Integration Division. The rule was published in the October 23, 2009, issue of the Texas Register. Ms. Bozarth noted that no comments were received.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code Section 155.41, Procedures for Resolving Vendor Protests (37 TAC §155.41)

APPROVED

Ms. Bozarth stated that the proposed rule was published in the Texas Register on September 4, 2009. No comments were received. The rule was recommended for approval.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts and Grants Related to Buildings for Religious and Programmatic Activities (37 TAC §152.71)

APPROVED

Ms. Bozarth stated that the rule is being reviewed pursuant to the statute that requires rule review every four years. The proposed amendments are necessary to clarify the existing procedures. The rule was recommended for publication in the Texas Register for the 30-day comment period.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Water Pipeline Easement on the Ellis Unit in Walker County, Huntsville, Texas *APPROVED*

Matt Demny, Director of the Agribusiness, Land and Minerals Department, reviewed the water pipeline easement on the Ellis Unit in Walker County, Huntsville, Texas. He stated that the easement was discussed at the Business and Financial Operations Committee meeting on December 10, 2009. He recommended that the TBCJ approve the easement to the Riverside Water Supply Corporation.

Chairman Bell asked if there were any questions or comments. Mr. McCombs stated that for the record he has requested that Mr. Demny and the Office of General Counsel explore other means of evaluation for pipeline easements in rural areas. He expressed his belief that the TDCJ was not receiving full value for this property. Chairman Bell stated that the TDCJ can always ask for more money regardless of the outcome.

2. Request for Land Exchange Between the TDCJ and the General Land Office (GLO) on the Vance Unit in Fort Bend County, Richmond, Texas *APPROVED*

Mr. Demny reviewed the land exchange between the TDCJ and the GLO at the Vance Unit. The Business and Financial Operations Committee discussed the land exchange on December 10, 2009. Mr. Demny recommended that the TBCJ approve this request.

3. Request for Lease Agreement with the Texas Forest Service on the Wynne Unit in Walker County, Huntsville, Texas *APPROVED*

Mr. Demny reviewed the lease agreement with the Texas Forest Service on the Wynne Unit in Walker County, Huntsville, Texas. The Business and Financial Operations Committee discussed the lease agreement on December 10, 2009. Mr. Demny recommended that the TBCJ approve the request for the lease agreement with the Texas Forest Service.

There being no further business for the regular session, Chairman Bell adjourned the 146th meeting of the TBCJ at 11:18 a.m.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

February 11, 2010

Table of Contents for Summary

A. Recognitions	Page 1
B. Discussion, Consideration, and Possible Action Regarding Consent Items	Page 1
C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 1
D. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 2
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 2
F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)	Page 2
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 2
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 2
I. Internal Audit Status Report for Fiscal Year 2009 and Fiscal Year 2010.....	Page 3
J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million Dollars	Page 4
K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies	
- BP-01.07, "Inspector General Policy Statement"	Page 4
- BP-02.06, "Request for Attorney General Opinions".....	Page 4
- BP-03.91, "Uniform Offender Correspondence Rules"	Page 5
L. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes (37 TAC §152.71).....	Page 5
M. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of of Rules Promulgated by the Private Sector Prison Industries Oversight Authority, Title 37 Texas Administrative Code Chapter 245 (37 TAC §§245.10-245.47).....	Page 6
N. Discussion, Consideration, and Possible Action Regarding Proposed New Board Rules for the Private Sector Prison Industries Programs, Title 37 Texas Administrative Code Chapter 154 (37 TAC §§154.1-154.12).....	Page 6
O. Discussion, Consideration, and Possible Action Regarding Proposed New Board Rule §195.81, Temporary Housing Assistance (37 TAC §195.81)	Page 6
P. Discussion, Consideration and Possible Action Regarding Proposed Land Transactions	
- Request for Renewal of Natural Gas Pipeline Easement to Houston Pipe Line Company on the Central Unit in Fort Bend County, Sugar Land, Texas	Page 6
- Request for Renewal of Natural Gas Pipeline Easement to Chevron Phillips Chemical Company, LP on the Clemens Unit in Brazoria County, Brazoria, Texas	Page 7
- Request for Renewal of Pipeline, Valve Site, and Electrical Line Easement to South Tex 66 Pipeline Company, LTD. on the Clemens Unit in Brazoria County, Brazoria, Texas, and on the Scott Unit in Brazoria County, Angleton, Texas	Page 7

- Request for Renewal of Valve Site and Electrical Line Easement to South Tex 66 Pipeline Company, Ltd. on the Scott Unit in Brazoria County, Angleton, TexasPage 7

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF February 11, 2010, MEETING MINUTES**

Meeting No. 147

Oliver Bell, Chairman, convened the 147th Meeting of the Texas Board of Criminal Justice (TBCJ) on Thursday, February 11, 2010, at 12:57 p.m.

Mr. Bell acknowledged the attendance of the following staff representatives: Kyle Mitchell, Office of the Governor; Larance Coleman and Doug Clements, Senate Criminal Justice Committee staff; and Travis Sampley, Committee Clerk, House Corrections Committee.

Recognitions

Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ), recognized Jan Thornton as the director of the Human Resources Division. Ms. Thornton thanked Mr. Livingston and the TBCJ for their support. Chairman Bell congratulated and welcomed Ms. Thornton to her new position with the executive staff.

John Moriarty, Inspector General, recognized Louis Fawcett for his service with the Office of Inspector General (OIG) as an investigator. Mr. Fawcett was a key player in an investigation of fraud that cost 500 offender families \$1.4 million. Through diligence of the Board of Pardons and Parole (BPP), the Parole Division, and Mr. Fawcett, the perpetrator received a sentence of over 12 years in the federal prison system. Chairman Bell remarked on the excellence of agency employees, noting the outstanding service of the investigators in the OIG. Chairman Bell presented Mr. Fawcett with a 15-Year Service Award.

Carey Welebob, Director, Community Justice Assistance Division (CJAD), recognized Manny Rodriguez, as the deputy director of CJAD.

Stuart Jenkins, Director, Parole Division, recognized Pamela Thielke, as the deputy director for Parole Support Operations, and Norma Greenfield, as the Parole Region IV director.

Celeste Byrne, Director, Private Facility Contract Monitoring/Oversight Division, recognized Grady Wallace as the deputy director for Operations Monitoring.

Ron Steffa, Deputy Chief Financial Officer, recognized Matt Demny, Director of the Agribusiness, Land and Minerals Department, for serving the State of Texas for 25 years. Chairman Bell and Mr. Livingston presented Mr. Demny with his 25-year service award.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of December 2009 and January 2010. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 146th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. (*Eric Gambrell and J. David Nelson were not present during the approval of the consent items.*)

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston stated that the correctional officer (CO) staffing report for January 2010 indicated 512 CO vacancies. As the staffing plan continues to improve, the TDCJ will continue to raise the bar to increase the standards for CO positions. Mr. Livingston thanked the TBCJ, the legislature, and staff for their support over the years concerning the CO staffing issue.

Leo Vasquez asked Mr. Livingston to outline where the TDCJ was in its CO staffing levels just a few years ago. Mr. Livingston responded that the worst peak in the CO vacancies was in September/October 2007 when the vacancies were just under 4,000. Since that time, the state's leadership, the legislature, the TBCJ, and TDCJ staff have worked on incentives and means to reduce the number of CO vacancies as well as retain experienced personnel. Mr. Livingston stated that over the past two years there has been a positive trend in this area; the January CO staffing report has shown the best CO staffing level in well over a decade. Mr. Vasquez praised Mr. Livingston and staff for a job well done. Chairman Bell noted that the agency really has come a long way in a two-year period with the support of many people. He commended the TDCJ Human Resources Department for its excellent managing and monitoring in the recruitment and retention areas; Mr. Livingston for his leadership; the leadership team that initiated and implemented these strategies; and foremost to the legislature for its support during these difficult economic times.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, stated that a public meeting was held on February 8, 2010, to hear public testimony on House Bill 4586. The bill states that the TDCJ and CMHCC will identify and evaluate ways to lower the cost or increase the quality in health or pharmacy services and submit a report to the Legislative Budget Board (LBB) and the Office of the Governor no later than May 1, 2010. Mr. Hightower outlined the method of notification used for the meeting through the Texas Register and to the offices of interested government entities. The TBCJ was represented, as well as, the chairman of the CMHCC and other CMHCC members. Only one group, Correctional Medical Services, signed up for the public comment period. Correctional Medical Services presented an industry overview, company history in correctional management and health care, and methods to lower costs. The company's recommendations included a proposal for a pilot project that would outsource for a two-year period. Their proposed project would need to cover a certain geographical region of the state that consists of a representative sample of the facility's mission, medical acuity, age and gender, and a plus or minus of 15 percent of the health care population. The information gathered from the meeting will become a permanent part of the report submitted to the LBB and the governor. It is the CMHCC's intent to present a draft report, which will include recommendations from the Texas Tech Health Sciences Center, University of Texas Medical Branch, TDCJ Health Services Division, and the testimony taken at the public meeting. The draft report will be distributed for comment to the TBCJ, Health Services Division, CMHCC, and the university health care partners.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Mr. John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

The following are highlights of Chairman Bell's report:

1. Polunsky Unit Escape Attempt

A description of the escape was provided. The efforts of the picket and perimeter staff, who quickly took charge of the situation, stopped the escape attempt inside the unit's perimeter. Chairman Bell commended the correctional officers for their exceptional efforts in discharging their duties.

2. Reentry Task Force

On January 15, 2010, the TDCJ held its first meeting of the Reentry Task Force, a 21-member group comprised of state agencies, advocacy groups, and representatives from the courts. The meeting was well attended and productive. Several work groups were subsequently developed to research and formulate recommendations to include areas of employment, family and

support services, housing, information sharing, rehabilitation and support services, special needs, identifying key issues for female offenders, and community reentry. The task force is a key component of the reentry of the offenders into their communities as well as positively influencing the recidivism rate.

3. Diversion Programs

Over the past two legislative sessions, diversion programs have received substantial funding to increase diversion programming and strengthen community supervision. Chairman Bell reviewed the legislative funding for the diversion programs. There is currently no waiting list for any of the community supervision beds. The diversion programs addressed, through progressive sanctions, the needs of offenders on the front end of the criminal justice system. Chairman Bell recognized the CJAD staff for outstanding work in interfacing with the judicial community, which needs to be aware of the opportunities to assign offenders to these programs as opposed to prison.

4. Chairman's Fitness Challenge

The Texas Round Up is at the half-way point. Staff was advised to encourage employees to participate in the six-week challenge or in the family walk at the Round Up day in April. Employees may also volunteer to assist with that event which also counts as participation in the program.

For the second quarter of the Chairman's Fitness Challenge, the "Maintain, No Gain" program, two departments, the Parole Executive Administration Office and the Mount Pleasant District Parole Office, registered 100 percent participation. Forty-one offices/departments achieved 100 percent completion rates based on employees who actually participated the full six weeks. The names of the offices/departments along with the wellness coordinators will appear in an upcoming edition of *Connections*. The Marshall District Parole Office had 70 percent participation rate along with a 90 percent completion rate, giving them the best overall average in both areas combined. The group will receive a certificate of recognition.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director of the Internal Audit Division, provided the following update to the status report published in the agenda book:

FY 2009 Audit Plan

- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, *Continuity of Care*:** The proposed final report is being prepared.
- **0910 – Parole Division, *Case Tracking and Analysis*:** The final report will be released by February 12, 2010.
- **0911 – Correctional Institutions Division, *Distribution of Offender Medication*:** The final report was released on January 13, 2010.
- **0912 – Administrative Review and Risk Management Division, *Operational Review*:** The draft report was released on February 5, 2010. An exit conference is pending.
- **0913 – Manufacturing and Logistics Division, *Texas Correctional Industries, Graphics Division*:** The management responses to the draft report are pending.
- **0916 – Business and Finance Division, *Facility Based Budget Program*:** The draft report is being reviewed by a lead auditor. It should be available for release within a week.
- **0918 – Information Technology Division, *Information System Security*:** The draft report, which is under review by Internal Audit staff, should be released within a week.

FY 2010 Audit Plan

- **1001 – Correctional Institutions Division, *Unit Entry Procedures*:** The audit was reassigned on February 1, 2010.
- **1004 – Information Technology Division, *Communications*:** The draft report was released on February 1, 2010. The second exit conference is scheduled for February 16, 2010.
- **1007 – Manufacturing and Logistics Division, *Texas Correctional Industries, Accounts Receivable*:** The audit has moved to control assessment.
- **1008 - Parole Division, *District Reentry Centers*:** The draft report was released on January 25, 2010. It is currently under revision.
- **1009 – Parole Division, *Annual Reporting Status and Early Release from Supervision*:** The draft report is being written.

- **1010 – Correctional Institutions Division, Unit Classification Committee:** The audit has moved in to control assessment.
- **1011 – Office of the General Counsel, Open Records:** The audit was assigned on January 12, 2010. The background for the audit has begun.
- **1013 – Parole Division, District Parole Officer Training Academy:** The State Auditor’s Office (SAO) recently announced an audit of the Parole Division. One of the SAO’s audit components might be training; therefore, Internal Audit will not perform this audit.
- **1018 – Business and Finance Division, Agribusiness, Land and Minerals Department, Maintenance:** The draft report is being written.
- **1019 – Administrative Review and Risk Management, Office of the Ombudsman:** The draft report was released on January 15, 2010. A third exit conference has been scheduled for February 25, 2010.
- **1021 – Parole Division, Sex Offender Registration:** The audit fieldwork has begun.
- **1023 – Texas Department of Criminal Justice, Internal Audit Division, Self Study:** The audit was assigned February 1, 2010, and has moved into background.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Mr. Steffa, reviewed the three purchases and contracts over \$1 million. Item (1) is a request for an increase to an existing Fiscal Year (FY) 10 contract for cans and lids designated for use at the Terrell Canning Plant. Item (2) is a request for isolated soy protein for use in the processing of meat for offender consumption. Item (3) is a request for the purchase and installation of a comprehensive video security surveillance system at the Polunsky Unit for \$2,575,000. Sigma Surveillance Incorporated will install the system throughout the unit, including buildings, walkways, and the perimeter. There will be 25 monitoring systems throughout the unit, providing full recording capability.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

1. BP-01.07, “Inspector General Policy Statement”

APPROVED

Melinda Bozarth, General Counsel, reviewed the following revisions to the policy:

- Sections V.E and X.H: Added language that requires OIG to investigate all allegations of excessive/unnecessary uses of force that result in serious bodily injury (current policy requires investigation of all such allegations regardless of serious bodily injury), as well as added references to AD-16.20, “Reporting Incidents/Crimes to the Office of the Inspector General.”
- Section V.P: Added language relating to administrative subpoenas.
- Section VI.A: Added “original documents” to the list of items the OIG has the right to full, unrestricted access to during the course of their duties.
- Various grammatical and language updates.

Ms. Bozarth recommended that the TBCJ approve the policy’s revisions as presented in the agenda packet.

2. BP-02.06, “Request for Attorney General Opinions”

APPROVED

Ms. Bozarth noted the policy was extensively revised. The following provides the major revisions proposed to the policy:

- Policy Section, second paragraph: Revised language to reflect the TBCJ chairman and the executive director are authorized to request opinions from the attorney general.
 - Second paragraph: Added language requiring TBCJ approval of all requests sent to the attorney general on behalf of the TBCJ.
 - Fourth paragraph: deleted requirement for a majority vote of the board.
- Section I: Added language to clarify that a request may be initiated by the TBCJ, chairman, executive director, or a division director.
- Section II: Revised to require requests for attorney general opinions from TDCJ divisions not reporting to the TBCJ to be submitted in writing to the executive director. Added language addressing TBCJ member and divisions reporting to the TBCJ.

- Section III: Information moved from Section II. Deleted language relating to highly speculative questions and those requesting resolution of factual disputes.
- Section V: Revised to reflect that the general counsel shall draft requests for opinions initiated or approved by the TBCJ, chairman, or executive director, and the draft shall be approved, signed, and submitted by the executive director or chairman.
- Section VI: New section requiring the general counsel to notify the TBCJ of all opinions requested and received.
- Grammatical revisions and language updates.

Ms. Bozarth recommended that the policy revisions be approved as presented in the agenda packet.

3. BP-03.91, “Uniform Offender Correspondence Rules”

APPROVED

Ms. Bozarth reviewed the following policy revisions:

- Added definitions of educational materials, e-message, and reference book.
- Revised definition of Special Correspondent to clarify that all division directors, deputy directors, and wardens of the TDCJ are considered special correspondents.
- Section I.C.3 and I.E: Added language allowing offenders to receive educational materials and reference books from volunteer organizations that operate various educational programs in accordance with Texas Government Code §501.009, as well as procedures regarding such materials.
- Section III.B: Deleted the reference to “consistently” to allow TDCJ the opportunity to suspend an offender’s legal mail privileges following just one violation of law or correspondence rules through legal correspondence.
- Section IV.E.2: Revised to include generalized language relating to the sender of a publication.
- Section IV.F: Added language relating to the maintenance of records indicating the source and destination of outgoing mail from death row offenders.
- Grammatical revisions and language updates.

Ms. Bozarth noted that the following corrections:

- Section II.A: The second sentence should read “All incoming correspondence from any special or media correspondent shall be opened and inspected only for contraband, except under the special circumstance noted in these rules.” The addition of the language strengthens the policy regarding the search for contraband in the mail.
- Section III.A: The second sentence should read “No correspondence from an offender to any legal correspondent shall be opened or read.” The third sentence should read “All incoming correspondence from any legal correspondent shall be opened and inspected for contraband only.”
- Section IV.E.2: The first and second sentences in the paragraph should read “If a publication is rejected, the offender and sender shall be provided a written notice of the disapproval and a statement of the reason for disapproval within 72 hours of receipt of the publication on a Publication Denial Form. Within the same time period, the offender and sender shall be notified of the procedure for appeal.”
- Section V.B: The first paragraph should read “Any offender or other correspondent, or sender of a publication may appeal the rejection of any correspondence or publication. An offender or sender may appeal the placement of the sender on the offender’s negative mailing list. An offender or sender may apply to the DRC for reconsideration of the negative mailing list placement after the passage of six months.”

Ms. Bozarth recommended that the TBCJ approve the revised policy as printed in the agenda packet to include the corrections as presented.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code Section 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes (37 TAC §152.71)

APPROVED

Ms. Bozarth stated that no comments were received from the rule’s publication in the December 25, 2009, issue of the Texas Register. She recommended that the TBCJ adopt the rule as presented in the agenda packet.

Chairman Bell recognized and welcomed Mr. Gambrell whose arrival was delayed by inclement weather.

Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Rules Promulgated by the Private Sector Prison Industries Oversight Authority, Title 37 Texas Administrative Code Chapter 245 (37 TAC §§245.10-245.47)

APPROVED

Ms. Bozarth stated that the director for Manufacturing and Logistics Division provided a presentation earlier today to the Business and Financial Operations Committee, on the Private Sector Prison Industry Programs. As the Private Sector Prison Industries Oversight Authority was abolished in the 81st Legislative Session, and the responsibilities transferred to the TBCJ, Chapter 245 for the authority is proposed for repeal. Ms. Bozarth recommended that the repeal of these rules be published in the Texas Register for public comment as presented in the agenda packet.

Chairman Bell recognized and welcomed Robert Hamilton, staff representative from the Office of the Lieutenant Governor.

Discussion, Consideration, and Possible Action Regarding Proposed New Board Rules for the Private Sector Prison Industries Programs, Title 37 Texas Administrative Code Chapter 154 (37 TAC §§154.1-154.12)

APPROVED

Ms. Bozarth stated that, in the same presentation given earlier today to the Business and Financial Operations Committee, the director for Manufacturing and Logistics Division provided an in-depth review of the proposed rules governing the Private Sector Prison Industries Programs that are now the responsibilities of the TBCJ. Corrections to the documents in the agenda packet for publication in the Texas Register follow:

- Rule §154.2, Definitions should be numbered (1) – (11).
- Rule §154.11, Program Compliance should be numbered (1) – (2).
- Rule §154.12, Complaint Investigations, Subsection (f) should be revised to Subsection (e), Subsection (g) revised to Subsection (f), and Subsection (h) revised to Subsection (g).

Ms. Bozarth recommended the TBCJ approve the proposed rules for publication in the Texas Register for public comment as printed in the agenda packet to include the corrections presented.

Discussion, Consideration, and Possible Action Regarding Proposed New Board Rule §195.81, Temporary Housing Assistance (37 TAC §195.81)

APPROVED

Ms. Bozarth stated that earlier in the day, the director for the Parole Division provided the Community Corrections Committee an overview regarding House Bill 3226 which created a new program to provide temporary housing assistance to offenders who have no financial resources and no residence at the time of their release. The proposed new rule has been written with flexible guidelines. Ms. Bozarth recommended that the rule be approved for publication in the Texas Register to receive public comment as presented in the handout.

Chairman Bell recognized and welcomed Mr. Nelson whose arrival was delayed by inclement weather.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

Mr. Demny presented the following items to the Business and Financial Operations Committee for review and discussion earlier on this date.

1. Request for Renewal of Natural Gas Pipeline Easement to Houston Pipe Line Company on the Central Unit in Fort Bend County, Sugar Land, Texas

APPROVED

Mr. Demny reviewed the renewal of the natural gas pipeline easement to the Houston Pipe Line Company on the Central Unit in Fort Bend County, Sugar Land Texas. He recommended that the TBCJ approve the easement as presented.

2. Request for Renewal of Natural Gas Pipeline Easement to Chevron Phillips Chemical Company, LP on the Clemens Unit in Brazoria County, Brazoria, Texas

APPROVED

Mr. Demny reviewed the renewal of a natural gas pipeline easement to Chevron Phillips Chemical Company, LP on the Clemens Unit in Brazoria County, Brazoria, Texas. He recommended that the TBCJ approve the request as presented.

Chairman Bell asked if there were any comments or questions. Mr. Gambrell stated he wished to abstain from vote on the renewal of an easement with Chevron Phillips Chemical Company, LP, since his law firm represents this company. He further stated he wished to prevent any suggestion of impropriety or conflict on this item. Chairman Bell instructed that the record reflect Mr. Gambrell's abstention on the vote of this item.

3. Request for Renewal of Pipeline, Valve Site, and Electrical Line Easement to South Tex 66 Pipeline Company, Ltd. on the Clemens Unit in Brazoria County, Brazoria, Texas, and on the Scott Unit in Brazoria County, Angleton, Texas

APPROVED

Mr. Demny stated that South Tex 66 Pipeline Company, Ltd. has requested a renewal of a pipeline, valve site, and electrical line easement on the Clemens Unit in Brazoria County, Brazoria, Texas and on the Scott Unit in Brazoria County, Angleton, Texas. He noted that the Clemens portion of the renewal should read "...ten feet in width and 9,908.91 feet in length..." Mr. Demny recommended that the renewal be approved as presented and corrected.

4. Request for Renewal of Valve Site and Electrical Line Easement to South Tex 66 Pipeline Company, Ltd. on the Scott Unit in Brazoria County, Angleton, Texas

APPROVED

Mr. Demny stated that South Tex 66 Pipeline Company, Ltd. has requested a renewal of a valve site and electrical line easement to South Tex 66 Pipeline Company, Ltd. on the Scott Unit in Brazoria County, Angleton, Texas. He recommended that the TBCJ approved the easement as presented.

There being no further business for Regular Session, Chairman Bell adjourned the 147th meeting of the TBCJ at 2:33 pm.

TEXAS BOARD OF CRIMINAL JUSTICE
Crowne Plaza Hotel
Austin, Texas

April 8-9, 2010

Table of Contents for Summary

A. 15 th Annual Governor’s Criminal Justice Volunteer Service Awards Ceremony.....	Page 1
B. Recognitions	Page 2
C. Discussion, Consideration, and Possible Action Regarding Consent Items	Page 3
D. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP).....	Page 3
E. Report from the Chairman, Judicial Advisory Council (JAC).....	Page 3
F. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)	Page 3
G. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)	Page 3
H. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
I. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
J. Internal Audit Status Report for Fiscal Year 2009 and Fiscal Year 2010.....	Page 4
K. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million	Page 4
L. Discussion and Review of Proposed Revisions to Administrative Directives - AD-04.80, “Good Conduct Time”	Page 5
- AD-04.81, “Review Process for Promotion in Time-Earning Class”	Page 5
M. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Disciplinary Rules and Procedures for Offenders	Page 5
N. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive, PD-29, “Sexual Misconduct with Offenders”	Page 5
O. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies - BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice”	Page 5
- BP-01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice”	Page 6
P. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code - §159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria	Page 6
- §159.15, GO KIDS Initiative (Giving Offenders’ Kids Incentive and Direction to Succeed).....	Page 6
Q. Discussion, Consideration and Possible Action Regarding Adoption of Repeal of Rules Promulgated by the Private Sector Prison Industries Oversight Authority, Title 37 Texas Administrative Code Chapter 245	Page 6

R. Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Chapter 154, Regarding Private Sector Prison Industries ProgramsPage 6

S. Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code §195.81, Regarding Temporary Housing AssistancePage 7

T. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace the Heating, Ventilation, and Air Conditioning (HVAC) System in the Texas Correctional Industries Building at the Daniel Unit in Scurry County, Snyder, TexasPage 7

U. Public Comments.....Page 7

**TEXAS BOARD OF CRIMINAL JUSTICE
SUMMARY OF APRIL 8-9, 2010, MEETING MINUTES**

Meeting No. 148

Chairman Oliver Bell convened in regular session on Thursday, April 8, 2010, at 11:03 a.m. at the Crowne Plaza Hotel, Austin, Texas.

15th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all the honored guests who joined the TBCJ on this important occasion. He acknowledged that the individuals recognized at this event represent the dedication and commitment of thousands of volunteers who are, on a daily basis, turning a life around. Volunteers make a difference in the lives of many Texans by unselfishly giving of themselves to help offenders, and their families, have an opportunity for a better life. Chairman Bell read a greeting from Governor Rick Perry, who could not be present for the ceremony.

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests; he expressed his gratitude to the volunteers for their service to the agency. Without the help of the volunteers, a significant number of the offender population would not receive cognitive skills and spiritual nourishment. Mr. Livingston noted that he could not over emphasize how much the volunteer workforce has become an integral part of the TDCJ's reentry efforts. The outstanding men and women of the TDCJ front line correctional staff and the volunteers make a partnership that the TDCJ is fortunate to have. Mr. Livingston acknowledged that the men and women promote positive change in those offenders presently incarcerated and those released into their communities.

Chairman Bell introduced Carol Vance, former TBCJ chairman, as the keynote speaker. Chairman Bell credited Mr. Vance as the driving force behind the development and growth of the volunteer program within the TDCJ, which consists of 19,500 volunteers entering the prisons regularly to mentor, teach seminars, and provide other programs. Mr. Vance was also instrumental in the implementation and growth of the InnerChange Freedom Initiative in a prison system, making Texas the first in the nation to have such a program in a correctional facility.

Mr. Vance thanked Chairman Bell for his kind invitation to participate as the keynote speaker for the award ceremony honoring the criminal justice volunteers. He related how he and his wife became interested in volunteering in the prisons while he was on the TBCJ. The birth of the volunteer program began in 1993 with the expansion of Texas' prison system. The vision for creating a volunteer program to assist offenders in gaining cognitive skills through Prison Fellow Ministries began one of the most innovative ideas in the corrections field. Mr. Vance emphasized that offenders, through the efforts of the thousands of volunteers, receive the tools and support to succeed in the community. He noted that the selfless and untiring pioneer spirit of volunteers make Texas a safer place to live. Mr. Vance expressed his gratitude to the volunteers for their service to Texas and extended the richest possible blessings to them.

Chairman Bell thanked Mr. Vance for his remarks, commenting that through the endeavors of volunteers, offenders can succeed in Texas communities.

Chairman Bell yielded the floor to Eric Gambrell, Master of Ceremonies. Mr. Gambrell thanked Mr. Vance for his inspiring remarks. He stated that the individuals being recognized were the epitome of the caliber of volunteers that serve unselfishly to make a difference in the lives of those supervised by the Texas criminal justice system. Mr. Gambrell acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony to honor the volunteers. Mr. Gambrell stated that it was his honor to read the names of the award recipients and advised them of the award procedures. The following individuals and organizations were recognized:

Gilbert Peters, Chaplaincy Department
David Rust, Correctional Institutions Division
Kevin Marks and Kevin Varner, Private Facilities Contract Monitoring and Oversight Division
Wilbert Burney, "Nancy Hees" Award-Parole Division
Lovers Lane United Methodist Church, Religious Service
CrossNet-Criminal Justice Ministry, Religious Service
John N., Substance Abuse Treatment Program
Jessica Godinez, "Pathfinder" Award-Victim Services Division
Marie Herbort, "Judy Burd" Award-Windham School District

Calvary Commission, *Restorative Justice*
Women's Storybook Project of Texas, "*Susan Cranford*" Award-Female Offender Program
G4-Faith Based Row, *Most Innovative Program*
Regional Criminal Justice Ministry of South Texas, *Community Service*
Mercy Heart Legacy Day with Mom, *Best Family Program*
Leonard Davis, *Greatest Number of Hours* (presented posthumously)
Ronald Fields, *Extensive Travel*
Ricky D. Henderson, *TDCJ Employee Volunteer*
Jacqueline Anderson Dickerson, *Criminal Justice Administrator*

Following the presentation of Mr. Davis' award to his niece, Phyllis Hennigan, Chairman Bell read a resolution recognizing the dedicated volunteer service of Mr. Davis who passed away on October 2, 2009, at the age of 78. Mr. Davis' incredible sense of duty, his faith, and his enduring devotion to serving others as a volunteer, has been an inspiration to all that knew him. Mr. Davis is the recipient of the Greatest Number of Hours for a TDCJ Volunteer for 2009, contributing 1,865 hours during the last nine months of his life. Mr. Davis has been the recipient of this award on several occasions. In honor of Mr. Davis' dedicated, unwavering service to TDCJ, the Greatest Number of Hours award category is henceforth known as the Leonard Davis Award for Most Hours Served.

Mr. Gambrell yielded the floor to Mr. Vance who presented Randy Richter with the "*Carol S. Vance*" Volunteer of the Year Award for 2009.

Mr. Gambrell closed the award ceremony by recognizing and honoring the families of award recipients. Chairman Bell adjourned this portion of the 148th Meeting of the board at 12:15 p.m.

Tom Mechler, Vice Chairman, reconvened the 148th Meeting of the TBCJ on Friday, April 9, 2010, at 9:07 a.m.

Mr. Mechler acknowledged the attendance of staff representative Angela Issack, Legislative Budget Board (LBB).

Mr. Mechler stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations, and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no speaker registration cards were received by TBCJ staff prior to the required deadline; no public presentations on posted agenda topics or public comments would be heard.

Recognitions

Mr. Mechler recognized Carol Blair Johnston on her retirement after serving 26 years with the TDCJ. He read a Resolution of Commendation highlighting her career achievements. Mr. Livingston praised Ms. Johnston on her outstanding contributions to TDCJ, thanking her for her passion, focus, and commitment to TDCJ employees. Ms. Johnston thanked Mr. Livingston and the TBCJ for all their support over the years.

Mr. Livingston recognized Bryan Collier, TDCJ Deputy Executive Director, on receiving his 25-year service award from the State of Texas.

Jerry McGinty, Chief Financial Officer, recognized Ron Steffa, Deputy Chief Financial Officer, on receiving his 20-year service award from the State of Texas.

C.F. Hazlewood, Director of the Manufacturing and Logistics Division, recognized Darin Pacher as the deputy director of Manufacturing and Logistics Division.

Stuart Jenkins, Director of the Parole Division, recognized Dede Johnson as the section director of Specialized Programs, Christina Propes as the section director of Review and Release Processing, and Gwenette Macklin as the director of Region III Parole Office in Houston.

Mr. Mechler recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of February 2010 and March 2010. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Mr. Mechler acknowledged Kyle Mitchell, Office of the Governor; Larance Coleman, staff member from the office of Senator Whitmire; Marsha McLane, staff member from the office of Representative Madden; and Travis Sampley, Committee Clerk, House Corrections Committee, as present.

Discussion, Consideration and Possible Action Regarding Consent Items

APPROVED

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
4. **147th TBCJ Meeting Minutes**
5. **Excused Absences**

Mr. Mechler noted that the consent items include excused absences for Janice Harris Lord and for himself, as they were both unable to attend the TBCJ February meeting due to weather and travel delays. They also include an excused absence for David Nelson who was unable to attend the April TBCJ meeting as he was traveling outside the United States. The approval also includes an amendment to minutes of the TBCJ February Minutes, last page, last sentence, under adjournment should read as follows: "...147th meeting of the TBCJ..." Mr. Mechler asked if there were any further amendments to the consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and there are personal property donations from the food bank donations brought before the TBCJ for approval, he abstained from voting on the consent items. Seeing no further objections, Mr. Mechler stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

1. **Overview of the JAC Sentencing Conference**
2. **Discussion on Community Supervision and Corrections Department (CSCD) Refunds**

Judge Larry Gist stated that the refunds from the CSCDs as a method of finance have been handled by a professional staff and the result has been a rewarding experience. The recent sentencing conference was a huge success and well attended by judges and prosecutors. Judge Gist thanked the TBCJ for its support and looked forward to future cooperative endeavors.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Mr. Livingston, TDCJ Executive Director, had no report.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director, CMHCC, thanked Mr. Nelson and Ms. Lord for being present at the March 9, 2010 meeting of the CMHCC. Mr. Hightower informed the TBCJ that the CMHCC staff is working on the joint study required by HB 4586, which is due in the Governor's Office and the LBB by May 1, 2010. A rough draft is anticipated by April 16, 2010. Mr. Hightower explained the methodology used to write the report. He reviewed the history of legislatively mandated studies. Mr. Hightower advised the TBCJ that the CMHCC report would not make a recommendation to the legislature on what the CMHCC thinks the legislature should do, but rather provide all the information that is available so that the legislature can make a sound policy decision.

Terrell McCombs inquired why the CMHCC would not make a recommendation. Mr. Hightower responded the CMHCC will remain silent in that area so as to not influence the legislature's decision. Mr. Hightower responded positively. Mr. McCombs asked if the new federal health care plan could help the State of Texas lower the cost for TDCJ offenders. He suggested that perhaps the federal health care plan could be researched over the eight years to help lower health care costs. Mr. Hightower concurred with Mr. McCombs that the federal health plan should be researched to seek coverage for Texas offenders. Mr. Hightower noted that over the past six years he has not found any legislation or grants that allows for money to aid convicted felons. Mr. Hightower stated that at this time he did not foresee anything in the federal health care bill that would aid the

Texas prison system in its health care system. Mr. McCombs thanked Mr. Hightower for doing a very difficult job in the best way possible.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

Due to Chairman Bell's absence, no report was given.

Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009

Raymond Pyeatt, Director of the Internal Audit Division, provided the following update to the status report published in the agenda book:

FY 2009 Audit Plan

- **0909 – Texas Correctional Office on Offenders with Medical or Mental Impairments, *Continuity of Care*:** The proposed final report is pending an exit conference with the Executive Director.
- **0912 – Administrative Review and Risk Management Division, *Operational Review*:** The proposed final report is pending staff responses.
- **0913 – Manufacturing and Logistics Division, *Texas Correctional Industries, Graphics Division*:** The proposed final report is awaiting release by the Executive Director.
- **0918 – Information Technology Division, *Information System Security*:** The final report has been released.

FY 2010 Audit Plan

- **1004 – Information Technology Division, *Communications*:** The final report has been released.
- **1006 – Administrative Review and Risk Management Division, *Risk Management*:** The draft report has been released. Management responses are pending.
- **1008 - Parole Division, *District Reentry Centers*:** The final report has been released.
- **1019 – Administrative Review and Risk Management, *Office of the Ombudsman*:** The final report has been released.
- **1021 – Parole Division, *Sex Offender Registration*:** The draft report has been released. Management responses are pending.
- **1026 – Business and Finance Division, *Windham School District, American Recovery and Reinvestment Act Grants*:** The draft report has been written.
- **1013 – Parole Division, *District Parole Officer, Training Academy*:** The State Auditor's Office will be auditing this area and will also be covering the scope of the TBCJ audit. Internal Audit will add a follow up audit on the 2011 Audit Plan.

Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over \$1 Million

APPROVED

Mr. McGinty reviewed the purchases and contracts over \$1 million. Item One is residential and outpatient substance abuse treatment services in Amarillo. Item Two is a competitive bid utility contract for electricity for calendar year 2011 for 48 facilities. Mr. McGinty noted that there is a 25% variance on the approved amount. He stated the third item, which could be found on the provided handout, was for a video surveillance equipment system to be installed at the Stiles Unit in the amount of \$2,425,000.

Mr. McCombs inquired why there was a 25% variance for electrical costs, instead of a 10% variance. Mr. McGinty explained that it will give the state time to negotiate the lowest rate.

Discussion and Review of Proposed Revisions to Administrative Directives

1. AD-04.80, “Good Conduct Time”

Melinda Bozarth, TDCJ General Counsel, stated Section I.B.4.a., was revised to include protective custody, and Gang Renouncement and Disassociation (GRAD) offenders. On the summary of changes, under Section III, Ms. Bozarth noted a correction was needed to reflect there was no final approval for backdating State-Approved Trusty (SAT) good conduct time credit. The agency does not backdate good time. The change made in Section III was in the approval entity, from State Classification Committee to the Classification and Records Office, for offenders’ reclassification to a higher time-earning status. Ms. Bozarth noted that the TBCJ was not required to take action, only to review the directive.

2. AD-04.81, “Review Process for Promotion in Time-Earning Class”

Ms. Bozarth stated that the Policy Section was revised to include information relating to TBCJ approval for amendments to procedures within the directive and to delete subsequent references to the TBCJ mandates throughout the directive. The introduction paragraph of Section II was deleted, because the referenced attachment has been deleted. Section III.B.2 was revised to include procedures for restoration of good conduct time credit reinstatement effective September 1, 2009. Other revisions included grammatical revisions and language updates. As with AD-04.80, only a review is required by the board.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Disciplinary Rules and Procedures for Offenders

APPROVED

Ms. Bozarth stated that most of the revisions to the Disciplinary Rules were procedural clarifications. She noted that Section III.B.3.d specifies that certain religious items may not be taken from an offender as a disciplinary sanction. Section IV.B.1.b designates that an offender assigned to a psychiatric inpatient facility or placed on an outpatient psychiatric caseload will be assigned a counsel substitute to assist with their defense if they are charged a major disciplinary offense. Section IV.B.4.e was deleted, as the requirement that an offender receive a counsel substitute upon his/her request exceeds constitutional standards. It is still discretionary if the TDCJ chooses to do so, but is not mandated or required. Section V.C adds language to clarify that an offender who self inflicts an injury cannot be disciplined if an evaluation by a mental health professional determines the offender’s behavior was the result of a mental condition. The TDCJ does not want to discipline an offender who is mentally ill and is acting out because of a medical condition. Section V.E has added language addressing the hearing impaired who are entitled to an interpreter during a disciplinary hearing. Section VII.A.2.a.(3) was revised to address the reinstatement of good conduct time credit. Ms. Bozarth also noted a correction to the Good Time Loss Limits Chart, under Level 2, the offense 23 - Creating a Disturbance, was inadvertently omitted from the document in the agenda packet.

Ms. Lord asked why sexual misconduct offenses were not raised to a level one offense. Ms. Bozarth stated that perhaps it was because they were not forcible offenses. Ms. Lord suggested Ms. Bozarth consult with Ralph Bales, the Prison Rape Elimination Action (PREA) Ombudsman, regarding this matter.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive, PD-29, “Sexual Misconduct with Offenders”

APPROVED

Ms. Bozarth stated PD-29, “Sexual Misconduct with Offenders,” was reviewed in alignment with its two-year review process and only non-substantive changes were recommended.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

APPROVED

1. BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice”

Ms. Bozarth noted the following revisions: Section II.E language was revised to depict current practices for cases discussed in executive session. Section II.I was amended to conform the policy with state law Texas Government Code §493.031 concerning the establishment of a grant funds committee. Section III.A was revised to include and reflect that the PREA ombudsman reports directly to the TBCJ, and to delete references to the Windham School District (WSD) superintendent, as the superintendent is appropriately covered under WSD policy.

2. BP-01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice”

Ms. Bozarth stated that the revisions to the policy have incorporated the TBCJ’s new responsibilities for reviewing and approving Prison Industry Enhancement (PIE) Certification Program contracts. She noted Sections I.A.06 and I.A.08 were revised to stipulate provisions under which a TBCJ member can be removed if a program contract is signed with a company they own, have an interest in, etc. Section X.C and Section XII.C were added to incorporate existing state law.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code

APPROVED

1. §159.1, Substance Abuse Felony Punishment Facilities (SAFPF) Eligibility Criteria

Ms. Bozarth stated proposed revisions clarify the offenders’ eligibility criteria to participate in the substance abuse felony punishment facility program. She requested that the TBCJ move forward with the approval to authorize staff to publish the rule in the Texas Register to receive public comment.

2. §159.15, GO KIDS Initiative (Giving Offenders’ Kids Incentive and Direction to Succeed)

Ms. Bozarth stated this rule is presented as a part of its mandatory four-year review, and only non-substantive revisions are recommended. She requested that the TBCJ authorize staff to publish the rule in the Texas Register to receive public comment.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Rules Promulgated by the Private Sector Prison Industries Oversight Authority, Title 37 Texas Administrative Code Chapter 245

APPROVED

Ms. Bozarth stated that the proposed repeal of the rules within Chapter 245 were published in the Texas Register for public comment. As 30 days have passed and no comments have been received, Ms. Bozarth requested that the TBCJ proceed with the adoption of the repeal of Chapter 245.

Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Chapter 154, Regarding Private Sector Prison Industries Programs

APPROVED

Ms. Bozarth stated that these rules were published in the February 26, 2010, issue of the Texas Register. She noted that comments were received. A private citizen expressed concern if the rules applied to existing vendors. Ms. Bozarth stated that HB 1914 had provisions protecting existing vendors. Therefore, the rules as published in the Texas Register incorporated the allowances where they would not apply to an existing program. Comments were also received from the Texas Workforce Commission (TWC). The TWC acknowledged that while the rules do not specifically require them to certify whether or not a proposed industry will result in the displacement of employees or the loss of existing jobs of a similar nature by employers in the state, they felt, by de facto, the rules would place them in the role of certifying that displacement. Ms. Bozarth explained that the rules require the governmental entity to request information from the TWC in order to make the required certification. They do not require the TWC to make the certification. The TWC also requested clarification on whether the governmental entity would be responsible for affected employer notifications. Ms. Bozarth confirmed this would be handled by the governmental entity. Ms. Bozarth recommended that the TBCJ approve the rules as published in the Texas Register since the comment required no changes to the rules.

Mr. McCombs inquired what would happen if the TWC could not provide information on displacement. Ms. Bozarth responded that the governmental entity would seek assistance from the Department of Justice, Bureau of Justice Assistance, who provided certification of the PIE program to the TDCJ, and work in developing a strategy for that determination. Mr. McCombs asked if there is a threshold of displacement. Ms. Bozarth responded that there is no threshold of displacement, and it would be at the discretion of the TBCJ if the displacement was significant to prevent the program from proceeding.

Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code §195.81, Regarding Temporary Housing Assistance

APPROVED

Ms. Bozarth stated that the rule was published in the February 26, 2010, issue of the Texas Register. As no comments were received, Ms. Bozarth requested that the TBCJ adopt the rule as published.

Ms. Lord suggested that section (2)(C) be revised to read "...located more than 1,000 feet of premises where children..." Ms. Bozarth stated that the 1,000 feet is a factor to be examined to be sure the facility is not within 1,000 feet of premises where children play.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace the Heating, Ventilating, and Air Conditioning (HVAC) System in the Texas Correctional Industries Building at the Daniel Unit in Scurry County, Snyder, Texas

APPROVED

Frank Inmon, Director of the Facilities Division, stated that the Business and Financial Operations Committee received a comprehensive briefing on the construction project to replace the HVAC system in the Texas Correctional Industries Building at the Daniel Unit in Scurry County, Snyder, Texas. The total project amount is \$1,007,700.

Public Comments

Mr. Mechler stated no registration cards were received for public comments.

Adjournment

There being no further business for the regular session, Mr. Mechler adjourned the 148th meeting of the Texas Board of Criminal Justice at 10:30 a.m.

Texas Board of Criminal Justice
149th Meeting



Minutes

June 17, 2010
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Austin Hotel at Southpark
4140 Governor's Row
Austin, Texas 78744
Omni A,B,C**

**June 17, 2010
1:30 – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Goods and Agricultural Personal Property
4. 148th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Fiscal Challenges

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

1. Spend Forward Authority
2. HB 4586 Update
3. State Audit
4. Reduction in Force Letters and Plans to Reduce the Fiscal Year 2010-11 Shortfall
5. Update on Meeting with Legislative Budget Board Staff

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

- H. Report from the Chairman, TBCJ
 - 1. Chairman's Fitness Challenge, 4th Quarter
 - 2. Mental Health Month (May)
 - 3. TDCJ Correctional Officer Training Academies
- I. Internal Audit Status Report for Fiscal Years 2009-2010
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy, BP-14.02, "Internal Audit Division Policy Statement"
- L. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code
 - 1. §159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria
 - 2. §159.15, GO KIDS Initiative
- M. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code §159.17, Employment Referral Services for Offenders – Memorandum of Understanding
- N. Discussion, Consideration, and Possible Action Regarding Prison Industry Enhancement (PIE) Program Operations at the Coffield Unit in Anderson County, Tennessee Colony, Texas
- O. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for a Water Pipeline Easement to the Trinity River Authority at the Polunsky Unit in Polk County, Livingston, Texas
 - 2. Request for Renewal of Petroleum Pipeline Easement to the Shell Pipeline Company, LP at the Stiles Unit in Jefferson County, Beaumont, Texas
- P. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Water Line in Main Building at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request to Replace Roof on Cannery at the Terrell Unit in Brazoria County, Rosharon, Texas

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 149

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Thursday, June 17, 2010, Omni Austin Hotel at Southpark, Austin, Texas, at 1:55 p.m., adjourned into executive session at 3:22 p.m., and finally adjourned at 4:03 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBERS ABSENT:

Pastor C.L. Jackson

TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ)

STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Angie McCown
Mike Bell Jerry McGinty
Melinda Bozarth Susan McHenry
Celeste Byrne John Moriarty
Matt Demny Madeline Ortiz
Jackie Edwards Raymond Pyeatt
C. F. Hazlewood Ron Steffa
Frank Inmon Rick Thaler
Stuart Jenkins Jan Thornton
Sherry Koenig Kim Vernon
Lannette Linthicum, M.D. Carey Welebob
Michelle Lyons Dee Wilson

OTHERS PRESENT:

Kyle Mitchell, Office of the Governor; Robert Hamilton, Office of the Lieutenant Governor; Kevin Robnett, Office of the Speaker of the House; Angela Isaack, Legislative Budget Board (LBB); Marsha McLane, staff member from the office of Representative Madden; and Travis Sampley, Committee Clerk, House Corrections Committee; Dr. James D. Griffin, Chairman, Correctional Managed Health Care Committee; the Honorable Allen Hightower, Executive Director, Correctional Managed Health Care Committee; Debbie Roberts, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell, convened the 149th Meeting of the TBCJ on Thursday, June 17, 2010, at 1:55 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code, Chapter 551, the *Open Meetings Act*. The TBCJ conducted business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode.

Chairman Bell acknowledged the attendance of staff representatives Kyle Mitchell, Office of the Governor; Robert Hamilton, Office of the Lieutenant Governor; Kevin Robnett, Office of the Speaker of the House; Angela Isaack, Legislative Budget Board (LBB); Marsha McLane, staff member from the office of Representative Madden; and Travis Sampley, Committee Clerk, House Corrections Committee.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. TBCJ staff received no speaker registration cards prior to the required deadline; therefore, no public presentations would be heard on posted agenda topics.

Recognitions

Chairman Bell noted that the Fort Worth Commission for Women recognized Janice Harris Lord as the recipient of the 2010 Outstanding Women Who Volunteer Award in the field of women's issues and advocacy. He congratulated Ms. Lord on this prestigious honor.

Chairman Bell mentioned that often times it has been said that prisons are the dumping grounds for the mentally challenged and mentally ill. He stated that he wanted to let people know that the neither TBCJ nor TDCJ staff feels that way. In that spirit, last year the Promotion of Positive (POP) Mental Health Award was created to recognize an individual or group for their contributions in the field of mental health as it related to the TDCJ. Dee Wilson, Director of the Reentry and Integration Division, recognized Judge Susan Hawk as the recipient of the 2010 POP Award for her work with the ATLAS Mental Health Court. This court is operated by Judge Hawk and a team of criminal justice professionals in Dallas to help individuals who are diagnosed with mental illness and have cases in the criminal justice system. Judge Hawk thanked the TBCJ for this honor, stating it was a privilege to work with this population of offenders.

Brad Livingston, TDCJ Executive Director, recognized Rick Thaler, Director of the Correctional Institutions Division, on receiving his 30-year service award from the State of Texas.

Mr. Livingston recognized Jan Thornton, Director of the Human Resources Division, on receiving her 25-year service award from the State of Texas.

Mr. Livingston recognized Kirk Moss as the TDCJ's incident manager.

Chairman Bell recognized Marie Freeland, Executive Assistant to the TBCJ, on receiving her 20-year service award from the State of Texas.

Chairman Bell recognized Susan McHenry, Executive Assistant to the TBCJ Chairman, on receiving her 25-year service award from the State of Texas.

Ms. Thornton recognized Patty Garcia as the manager of the Employment and Support Services Section of the Human Resources Division.

Frank Inmon, Director of the Facilities Division, recognized Mike Bowling as the director of Maintenance and Tommy Vian as the deputy director of Maintenance.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of April 2010 and May 2010. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 148th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted that the consent items include excused absences for Pastor Jackson and for himself, as they were both unable to attend the April meeting. The approval also includes an amendment to the April TBCJ Minutes, found on page 10; the attachment should read as follows: "*(Attachment D)*." Chairman Bell asked if there were any further amendments to the consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and as there are personal property donations from the food bank brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

**Report from the Presiding Officer,
Texas Board of Pardons and Paroles (BPP)**

Ms. Rissie Owens, Presiding Officer, BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Honorable Larry Gist, Chairman of the JAC, had no report.

**Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)**

Mr. Livingston reviewed the fiscal challenges for the remainder of the 2010-2011 biennium and the upcoming biennium. In January 2010, all state agencies were instructed to prepare a 5% budget reduction plan, impacting their fiscal year (FY) 2010-2011 budgets. As part of the 5% plan submission, the TDCJ requested a reduction to the total 5% amount, from \$294 million to \$50 million, to avoid impacting critical agency operations. On May 17, 2010, the exemption was substantially approved by the state's leadership.

Mr. Livingston advised the TBCJ that the upcoming Legislative Appropriations Request (LAR) and legislative session would prove to be very challenging due to the tough fiscal climate. The exemptions that were approved in May will be back up for discussion during the budget process. Staff intends to justify and document the importance of those items. State agencies were directed to provide different scenarios in their budgets that would outline an additional 10% reduction in 5% increments. The two scenarios will specify reductions and justify continued funding of key items within the TDCJ's operations. Mr. Livingston pledged that the executive staff would be good stewards of the state's resources and be fiscally prudent and operationally focused during the budget process. While the Office of the Governor and the legislature deliberate the statewide budget, the TDCJ will have an opportunity to make its case of the importance of its operations as evidenced by the budget process of the current biennium. Discussions with the state's policy makers regarding fiscal issues, who also share a commitment to the TDCJ's mission, are ongoing. Mr. Livingston noted that this is the beginning of a long budget process, and it is too early to predict outcomes and decisions. He assured the TBCJ that the TDCJ has an experienced, competent, and creditable team that will continue to have dialogue with necessary policy makers and are committed to the mission of the TDCJ. Mr. McGinty will present the LAR for the TBCJ's approval on August 16, 2010. Mr. Livingston provided a schedule of events involving the LAR before the legislative session, which convenes January 11, 2011, and adjourns May 30, 2011.

Chairman Bell extended an early thank you to Mr. Livingston and the TDCJ finance team for their expertise on financial issues. He applauded their ability to create a partnership with the senate and house finance teams by providing prompt, reliable, and accurate information.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Allen Hightower, Executive Director of the CMHCC, thanked Ms. Lord and David Nelson for their participation in the CMHCC meetings. The following are highlights of Mr. Hightower's report:

- **Spend Forward Authority:** At its March 9, 2010, meeting, the CMHCC voted to request approval from the LBB and the Office of the Governor to transfer \$18 million from FY 2011 to FY 2010 to help the University of Texas Medical Branch (UTMB) alleviate its FY 2010 projected shortfall. The request was sent to the LBB and the Office of the Governor on April 23, 2010, and as of this date, no action has been taken.
- **HB 4586 Report:** The report was submitted April 30, 2010, to the LBB and the Office of the Governor.
- **Office of the State Auditor (SAO) Meeting:** The CMHCC staff met the state auditors on May 5, 2010, for the entrance conference. Chairman Griffin participated by phone. The audit objectives include examining the deficit reported by the committee for the FY 2010-2011 biennium, and any projected shortfall reported in the CMHCC legislative appropriations request for FY 2012-2013. Additionally, the state auditors will follow up on selected recommendation in the SAO's Report No. 07-17 (March 2007), an audit report on CMHC funding requirements. The audit has begun and should be completed in October. The report should be issued in November 2010.
- **LBB Staff and UTMB Meeting:** CMHCC staff met with the LBB and UTMB staff on May 12, 2010. A lengthy discussion was held regarding projections, special appropriations request, numbers of full time employees (FTE's), and other cost related items.
- **UTMB "Reduction in Force" letters and each item UTMB plans to initiate to reduce the FY 2010-2011 shortfall:** At the June 8, 2010, CMHCC meeting, most of the discussion centered on a reduction-in-force for the nursing care model and dental program. UTMB and TDCJ representatives met with the executive director of the Texas Board of Nursing and her staff on June 10, 2010. TDCJ provided an overview of the CMHCC contract, facilities, patients, and the clinical services provided to the offenders. UTMB followed with a description of the methodology used to create the proposed nursing practice model and the resultant staffing modifications. Both entities emphasized the need to provide appropriate nursing care to TDCJ patients and to ensure that staff did not knowingly place any of the nursing employees at risk of practicing outside the scope of their license. The Board of Nursing did not commit to a response or a timeline on any action.

Chairman Bell asked if there were any questions. Mr. Nelson requested that Dr. James Griffin please stand and be recognized. Chairman Bell invited him to advance to the podium. Chairman Bell welcomed Dr. Griffin, noting that as the CMHCC Chairman, he was a key component in the health care delivery system. He thanked Dr. Griffin for his leadership of the health care partnership, which provides quality care to offenders. Dr. Griffin thanked Chairman Bell for his kind words. He also thanked TBCJ Members, Mr. Nelson and Ms. Lord, for their participation in the CHMCC. He thanked Dr. Lannette Linthicum, TDCJ Director of Health Services, Dr. Robert Williams, Deputy Director of Health Services, and Bryan Collier, TDCJ Deputy Executive Director, who play pivotal roles in the correctional managed health care system. He noted that

nothing is more important than the health of every one who walks the earth. In recognition of Dr. Griffin's efforts, Chairman Bell presented him with a Chairman's Coin.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

- **Chairman's Fitness Challenge, Fourth Quarter:** Chairman Bell stated that the "Walk the Beaches of Texas" starts June 21, 2010. TDCJ teams will have six weeks in which to walk the equivalency (624 miles) of the Texas coastline. The effort is to keep people fit, work on life style awareness, and upgrade the standard for TDCJ employees. Chairman Bell encouraged all employees to join a team and keep the momentum going forward for better physical health.
- **Mental Health Month (May):** Chairman Bell noted that earlier in the meeting the POP Mental Health Award went to Judge Susan Hawk, which was the second annual presentation of the award. In the promotion of mental health and awareness, the award will be expanded to recognize individuals and organizations in several categories to include promotion of mental health week among TDCJ's employees. The establishment of a nomination process by which individuals from the field can submit candidates for consideration is being formulated.
- **TDCJ Correctional Officer Training Academies:** Chairman Bell stated that there have been many new enhancements and initiatives that have taken place over the past year in the pre-service, in-service, and specialized training programs for TDCJ correctional staff and unit based staff. He reviewed the training components for each training program. Chairman Bell emphasized that many of the training initiatives were in direct response to correcting an area that was defined as a deficiency. He noted that searching for contraband, firearms accuracy, physical agility testing, and defensive tactics are important training components for security personnel. He emphasized that public safety, security, and staff safety are primary concerns of the TDCJ. Mr. McCombs commented that the correctional officers do a remarkable job protecting the citizens of Texas.

Internal Audit Status Report for Fiscal Years 2009-2010

Raymond Pyeatt provided the following revision to the handout of the Internal Audit Status Report for the Fiscal Years 2009-2010:

- **1009 – Parole Division, Annual Reporting Status and Early Release from Supervision:** The draft report was released on June 17, 2010.

Chairman Bell reminded TBCJ members that Mr. Pyeatt's status report would from this time forward be a handout so that they could receive the most current information. He asked if there were any questions; there were none. (*Attachment B – Internal Audit Status Report*)

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Items 1-4 are increases to FY 2010 contracts previously approved at the June 2009 board meeting; staff are seeking a 10% variance. Item 5 is an increase to the FY 2010 beef trim contract for products used for offender consumption. Item 6 is an increase to a FY 2010 service contract for halfway house beds. Items 7-9 are increases to FY 2010-2011 contracts for outpatient substance abuse treatment services, which are aftercare services provided to offenders that have gone through the substance abuse felony punishment program. Item 10 is a replacement contract for outpatient substance abuse treatment services provided through Dallas County. Item 11 is a new contract for the installation of a comprehensive video security surveillance system at the Darrington Unit. Item 12 is a FY 2011 contract renewal for bulk fuel; staff are requesting a 10% variance. Items 13-18 are FY 2011 contract renewals for agriculture operations. Items 19-24 are FY 2011 contract renewals for materials for use by Texas Correctional Industries (TCI). Items 25-32 are FY 2011 contract renewals for the operation of the substance abuse felony punishment facility/in-prison therapeutic community substance abuse treatment program. Item 33 is the FY 2011 contract renewal for food services at the Hamilton Unit. Items 34-35 are the FY 2011 purchase orders for items to be sold in the unit commissaries; staff are seeking a 10% variance. Items 36-37 are replacement contracts for agriculture operations. Items 38-39 are contracts for materials produced by TCI. Item 40 is the FY 2011 food services contract for Kegans State Jail. Items 41-42 are FY 2011 contracts related to TDCJ's information technology support. Item 43 is a FY 2011-2012 contract renewal for halfway house services in El Paso. Items 44-45 are FY 2011-2013 contracts for the operation and management of the Bridgeport Correctional Center and the Kyle Correctional Center, which if approved would be awarded to the Management Training Corporation (MTC). Item 46 is the FY 2011-2013 contract for the operation and management of the South Texas Intermediate Sanction Facility (ISF) in Houston, which if approved would be awarded to MTC. Item 47 is a FY 2011-2013 contract for substance abuse treatment services at the South Texas ISF, which if approved would be awarded to the Gateway Foundation. The FY 2011 Food Purchases contract was coordinated with Food Services and Agribusiness, Land and Minerals to ensure that TDCJ maximizes its agricultural and internal resources in deciding what is purchased and how it is served in unit kitchens. Mr. McGinty requested that the TBCJ approve a 10% variance not to exceed dollar amounts for the food purchases.

Chairman Bell asked if there were any questions. Mr. McCombs inquired if the food quantities were approximately the same as in past years. Mr. McGinty responded that there was very little change in the FY 2011 food contracts from the FY 2010 food contracts. At times the quantity changes when substitutes are used for a better value or when agriculture increases crop production and less food needs to be ordered. Mr. McCombs asked how, considering all economic factors, these prices compared to prices over the past several terms. Mr. McGinty responded that TDCJ did not experience price increases in food services in FY 2010. Leo Vasquez stated that there was a difference between Items 5 and 17 regarding beef trimmings of over one million dollars. He asked if the chief financial officer would request additional funds later in the year to increase the contracts. Mr. McGinty responded that the beef market fluctuates throughout the year, and he did not anticipate any increases.

Mr. Vasquez noted that Items 44-46 would be awarded to MTC. He asked how many of the private facility contracts have been awarded to MTC. Mr. McGinty explained that there are a number of private facilities operated by different vendors and that MTC has six of those contracts. Chairman Bell further explained that during his tenure on the TBCJ, these vendors have changed numerous times. He also mentioned that the interdisciplinary review team ensured that contracts are awarded using a fair and unbiased system. Mr. McGinty assured the TBCJ that the TDCJ received the best value for the money on the contract award. Mr. McCombs complimented Mr. McGinty and his staff on their excellent work. Tom Mechler also thanked Mr. McGinty.

Seeing no further questions, Chairman Bell called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve the purchases and contracts over \$1 million, as presented.

Mr. Mechler seconded the motion.

Chairman Bell asked if there were any abstentions or objections. Mr. Gambrell abstained from the vote on the purchases over \$1 million as his firm represents 3M Corporation, Management Training Corporation, and John Deere. Mr. Vasquez abstained from the vote on the purchases over \$1 million, as one of the commissary items listed is coffee/cappuccino and he has an affiliation with major coffee companies operating in Texas.

The motion passed unanimously when called to a vote (Mr. Gambrell and Mr. Vasquez abstained.)

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy, BP-14.02, "Internal Audit Division Policy Statement"

Melinda Bozarth, TDCJ General Counsel, reviewed the revisions to the policy. The substantive revision was to Section II. Mission, which added language addressing the Institute of Internal Auditor's International Professional Practices Framework's definition of internal auditing. All other revisions were for consistency with current policy format or grammatical and language updates. Ms. Bozarth requested that the TBCJ approve the revisions as presented.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the TBCJ approve the proposed revisions to Board Policy 14.02, "Internal Audit Division Policy Statement," as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code

1. §159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria

Ms. Bozarth stated that the TBCJ approved amendments to this rule were published in the April 23 2010, issue of the Texas Register. One comment was received from a director of a community supervision and corrections department (CSCD), who requested an exception that would allow some sex offenders to be placed in the program. TDCJ recommends, based upon the one comment, that the rule not be revised and the TBCJ move forward with adopting the amendments as published in the Texas Register.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the TBCJ adopt amendments to Board Rule 159.1 Substance Abuse Felony Punishment Facilities Eligibility Criteria, as published in the Texas Register and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

2. §159.15, GO KIDS Initiative

Ms. Bozarth stated that the rule was published for public comment in the April 23, 2010, issue of the Texas Register. No comments were received. Ms. Bozarth recommended that the rule be adopted.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Carmen Villanueva-Hiles made a motion that the TBCJ adopt the amendments to Board Rule 159.15 regarding the GO KIDS Initiative, as published in the Texas Register and that the chairman sign the order to this effect.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code §159.17 Employment Referral Services for Offenders – Memorandum of Understanding

Ms. Bozarth stated that recently the TDCJ shifted the responsibility of the Project RIO Program from the Windham School District to the newly formed Reentry and Integration Division. The proposed amendments to this board rule reflect that change. In addition, the memorandum of

understanding (MOU) between TDCJ, the Texas Workforce Commission, and the Texas Youth Commission expires on August 31, 2010. With the final adoption of the board rule, the MOU would be renewed for a four-year period.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the TBCJ approve for publication in the Texas Register the proposed amendments to board rule 159.17 regarding Employment Referral Services for Offenders – Memorandum of Understanding for public comment, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Prison Industry Enhancement (PIE) Program Operations
at the Coffield Unit in Anderson County, Tennessee Colony, Texas**

C.F. Hazlewood, Director of the Manufacturing and Logistics Division, requested the undesignation of the Atrium Companies, Inc. as a cost accounting center to the Coffield Unit located at Tennessee Colony, Texas. He advised the TBCJ that the Undesignation Form officially notifies the Bureau of Justice Assistance that the Atrium Companies, Inc. cost accounting center will no longer be operative.

Chairman Bell inquired if this particular operation was going away or was being moved. Mr. Hazlewood responded that because of the economy, Atrium Companies, Inc. decided to consolidate their operations and save free world jobs by shutting down the prison operations. Chairman Bell stated that Atrium Companies Inc. is no longer part of the PIE Program and all operations at the Coffield Unit are shut down. Mr. Hazlewood responded affirmatively, noting the operations have been shut down since January 2010.

Chairman Bell called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ undesignate Atrium Companies at the Coffield Unit in Anderson County, Tennessee Colony, Texas, as a cost accounting center under the Private Sector Prison Industry Enhancement Program, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action
Regarding Proposed Land Transactions**

Matt Demny, Director for Agribusiness, Land and Minerals stated that the following land transactions were presented to the Business and Financial Operations Committee earlier in the day.

1. Request for a Water Pipeline Easement to the Trinity River Authority at the Polunsky Unit in Polk County, Livingston, Texas

Mr. Demny reviewed the request from the Trinity River Authority (TRA) for an easement consisting of 2.018 acres of land for the installation of one 20-inch water line. The easement is located at the Polunsky Unit along and adjacent to F.M. 350. TRA is seeking the easement to deliver drinking water to the City of Livingston. The TRA has agreed to pay \$10,000 for the easement with a 50-year term.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the TBCJ approve the request for a water pipeline easement to the Trinity River Authority at the Polunsky Unit in Polk County, Livingston, Texas, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Renewal of Petroleum Pipeline Easement to the Shell Pipeline Company, LP at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Demny stated that Shell Pipeline Company, LP has requested a renewal of a petroleum pipeline easement at the Stiles Unit in Jefferson County, containing one 20-inch pipeline, which extends 5,679.96 feet. He noted that the map in the agenda booklet should denote a petroleum pipeline instead of a water line. Shell Pipeline Company, LP has agreed to pay \$68,848 for the renewal with a 10-year term.

Chairman Bell asked if there were any questions. Seeing none he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ approve the renewal of a petroleum pipeline easement to Shell Pipeline Company, LP at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Facilities Division Construction Projects**

Mr. Inmon advised the TBCJ that the following construction projects had been presented to the Business and Financial Operations Committee earlier in the day.

1. Request to Replace Water Line in Main Building at the Ellis Unit in Walker County, Huntsville, Texas

Mr. Inmon stated that the replacement of the water distribution lines to the main offender housing area and the connection to the existing fire line at the Ellis Unit has a total project cost of \$1,010,100.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the TBCJ approve a not to exceed budget of \$1,010,100 to replace the water line in the main building at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Replace Roof on Cannery at the Terrell Unit in Brazoria County, Rosharon, Texas

Mr. Inmon stated that the project cost for the replacement of the roof on the Texas Correctional Industries' cannery at the Terrell Unit is \$1,342,800. He requested that the TBCJ approve this amount.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve a not to exceed budget of \$1,342,800 to replace the roof on the cannery at the Terrell Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked all who were in attendance and reminded them that the next meeting of the TBCJ will be August 16, 2010, at the Crowne Plaza Hotel, in Austin, Texas.

Adjournment

At 3:22 p.m., Chairman Bell adjourned the regular session into executive session, which is closed to the public in accordance with the Texas Government Code Sections 551.071 and 551.074. There being no further business, Chairman Bell finally adjourned the Texas Board of Criminal Justice at 4:03 p.m.

*

*

Chairman

Secretary

* Signatures on file

Referenced attachments for the minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
150th Meeting



Minutes

August 16, 2010
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons A, B, C, D
6121 North IH-35
Austin, Texas 78752**

**August 16, 2010
2:00 – 2:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 149th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) –
TDCJ Budget Request

F. Report from the Executive Director, Correctional Managed Health Care Committee
(CMHCC)

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental
Impairments (ACOOMMI)

H. Report from the Chairman, TBCJ

1. Recognition of TBCJ's 150th Meeting
2. Fiscal Responsibility
3. Sanchez State Jail Visit
4. Chairman's 4th Quarter Fitness Challenge

- I. Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2011 Annual Audit Plan
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2011 Proposed Operating Budget and Fiscal Years 2012-2013 Legislative Appropriations Request (LAR)
- L. Discussion, Consideration, and Possible Action Regarding the Full-Time Equivalent (FTE) Request
- M. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule §159.17, Employment Referral Services for Offenders – Memorandum of Understanding (37 TAC §159.17)
- N. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for the Sale of Land for the Expansion of Harlem Road at the Jester I Unit in Fort Bend County, Richmond, Texas
 - 2. Request for a Proposed Amendment to the Existing Easement at the Montford Unit in Lubbock County, Lubbock, Texas
- O. Public Comments

Adjourn into Executive Session

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 150

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Monday, August 16, 2010, Crowne Plaza Hotel, Austin, Texas, at 2:18 p.m. and adjourned at 2:52 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBERS ABSENT:

Pastor C.L. Jackson

TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ) STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Matt Demny
Jackie Edwards
C. F. Hazlewood
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Madeline Ortiz
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Kyle Mitchell, Office of the Governor; Robert Hamilton, Office of the Lieutenant Governor; Kevin Robinett, Office of the Speaker of the House; Michele Connolly, Legislative Budget Board (LBB); Marsha McLane, staff member from the office of Representative Madden; Travis Sampley, Committee Clerk, House Corrections Committee; the Honorable Allen Hightower, Executive Director, Correctional Managed Health Care Committee; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell, convened the 150th Meeting of the TBCJ on Monday, August 16, 2010, at 2:18 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code, Chapter 551, the *Open Meetings Act*. The TBCJ conducted business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode.

Chairman Bell acknowledged the attendance of staff representatives Kyle Mitchell, Office of the Governor; Robert Hamilton, Office of the Lieutenant Governor; Kevin Robinett, Office of the Speaker of the House; Michele Connolly, Legislative Budget Board (LBB); Marsha McLane, staff member from the office of Representative Madden; and Travis Sampley, Committee Clerk, House Corrections Committee.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. No speaker registration cards were received prior to the required deadline; therefore, no public presentations on posted agenda topics or public comments would be heard.

Recognitions

Jerry McGinty, Chief Financial Officer, recognized Sherry Koenig, Budget Director, for serving 25 years with the Texas Department of Criminal Justice (TDCJ) and presented her with a 25-year Service Award with the State of Texas.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of June 2010 and July 2010. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action
Regarding Consent Items

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
4. **149th TBCJ Meeting Minutes**
5. **Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and as there are personal property donations from the food bank brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Presiding Officer,
Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ) – TDCJ Budget Request

Brad Livingston, TDCJ Executive Director, stated that the agency was moving into an extremely tight fiscal period as reflected in the Legislative Appropriations Request (LAR) for Fiscal Years (FY) 2012-2013. He noted that the fiscal stewardship and operational responsibilities will be more profound over the course of the next few years. Mr. Livingston stated it was too early to predict the funding decisions that will ultimately be made for the next biennium. He emphasized that the criminal justice system is stable and sound. The offender population trends remain flat with a slight downward trend. Over the years, the TBCJ and the TDCJ staff have worked through challenges, which have been substantially addressed in an aggressive and ongoing manner. Staff recognizes that the operational responsibilities entrusted to them will not vanish in a tight fiscal environment. They also recognize it is imperative for them to remain focused. Mr. Livingston assured the TBCJ that the executive and senior staff is committed to the TDCJ's fiscal and operational responsibilities, and to working with the state's leadership as they did to obtain the exemptions for the 5% reductions to the FY 2010-11 budget. Mr. Livingston expressed his optimism that together with hard work and support from the state's leadership,

members of the legislature and the TBCJ, the TDCJ will have a sound budget for the next biennium.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

Mr. Allen Hightower, Executive Director of the CMHCC, had no report. Chairman Bell noted that the CMHCC meets quarterly and has not met since the TBCJ's June meeting. The CMHCC will report in October on the adjustments in services with the University of Texas Medical Branch (UTMB). Additionally, Dr. Lannette Linthicum, Director of TDCJ Health Services, will report on these adjustments from an operational perspective.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

Mr. John Bradley, Chairman of ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Recognition of TBCJ's 150th Meeting

Chairman Bell recognized the present meeting as the 150th meeting of the TBCJ since its establishment in 1989. The creation of TDCJ placed probation, corrections, and parole under one umbrella to strengthen the lines of communications between the departments.

2. Fiscal Responsibility

Chairman Bell emphasized the importance of the responsibility of each employee to be a good steward of the state's resources. As the TDCJ moves toward the upcoming legislative session, staff will work with state leaders by providing the information needed to make informed decisions. The TBCJ and TDCJ will faithfully implement those decisions as the commitment to our mission to public safety requires. The goal of the TBCJ and the TDCJ staff is to be good stewards of the state's resources in addition to keeping the public safety of Texas citizens in the forefront.

3. Sanchez State Jail Visit

Chairman Bell stated that board members have visited all the Correctional Institutions Division facilities. The Parole Division facilities are currently being visited. Chairman Bell recently visited Sanchez State Jail in El Paso. He complimented the staff for their morale and vigor.

4. Chairman's 4th Quarter Fitness Challenge

Chairman Bell stated that Walk the Beautiful Beaches of Texas campaign ended in August. Of the participating 63 departments, 43 achieved the 624-mile goal. For this challenge, TDCJ staff walked a total of 106,954 miles. During the six-week period, 33 departments and units achieved 100% completion from all participants. The Parole Division's Executive Administration and the TBCJ office staff had 100% participation. Chairman Bell thanked everyone for participating.

Discussion, Consideration, and Possible Action **Regarding the Fiscal Year 2011 Annual Audit Plan**

Raymond Pyeatt, Director of the Internal Audit Division, stated that a complete review of the FY 2011 Annual Audit Plan was provided to the Audit and Review Committee earlier in the day. He stated he would be pleased to answer any questions.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Tom Mechler made a motion that the TBCJ approve the Internal Audit Plan for Fiscal Year 2011 and authorize the Internal Audit Director to perform audit work outside of the audit plan if the deviations are warranted in the judgment of the Internal Audit Director, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Janice Lord second the motion, which passed unanimously when called to a vote.

Chairman Bell praised Mr. Pyeatt and his staff for their diligence and excellence.

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts Over \$1 Million**

Mr. McGinty reviewed the one contract over \$1 million, which is a five-year lease for printing equipment for the Hobby Unit Printing Facility.

Chairman Bell asked if there were any questions or objections. Mr. Gambrell stated that he wished to abstain from the vote because his firm represents IKON Office Solutions, Inc. Chairman Bell called for the record to reflect Mr. Gambrell's abstention. Seeing no further objections, he called for a motion and a second.

David Nelson made a motion that the TBCJ approve the purchases and contracts over \$1 million, as presented.

Terrell McCombs seconded the vote, which prevailed unanimously when called to a vote (Eric Gambrell abstained).

**Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal
Year 2011 Proposed Operating Budget and Fiscal Years 2012-2013
Legislative Appropriations Request (LAR)**

Noting that the Business and Financial Operations Committee received a detailed briefing on the budget and LAR earlier in the day, Mr. McGinty reviewed the FY 2011 Proposed Operating Budget of \$3.19 billion. He explained the reductions made in response to the request all state agencies received from the LBB and Governor's office, and also explained the exemptions that were granted from the requested 5% budget reduction.

Mr. McGinty noted for the FY 2012-2013 LAR, the 5% reduction scenario was again being considered. State agencies were also directed to provide an additional 10% budget reduction scenario and discuss how this reduction would impact the operations of their agencies.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve the TDCJ FY 2011 Operating Budget and FY 2012-2013 LAR as presented, and authorize the executive director of the TDCJ to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. McGinty and his staff for their efforts in developing the budget and the LAR in addition to the individual briefings with the TBCJ.

(Attachment B – FY 2011 Operating Budget and FY 2012-2013 LAR)

**Discussion, Consideration, and Possible Action
Regarding the Full-Time Equivalent (FTE) Request**

Mr. McGinty stated that due to the recent and unprecedented growth of the correctional officer staffing, he was requesting that the TBCJ approve an amendment to the Full-Time Equivalent (FTE) Request from the Office of the Governor and the Legislative Budget Board. The increase would be a little less than 200 FTEs per year over the previously requested amount.

To clarify the possible action before the board, Chairman Bell inquired if at the present the TDCJ is slightly below the projected FTE annual numbers for 2010. Mr. McGinty responded affirmatively. Mr. McCombs noted that it was not so long ago that the TDCJ had 4,000 vacant correctional officer positions. He complimented staff on a remarkable recruitment endeavor.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez made a motion that the TBCJ approve the TDCJ's request for an increase to the agency's number of full-time equivalents (FTE's) as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule §159.17, Employment Referral Services for Offenders – Memorandum of Understanding (37 TAC §159.17)

Melinda Bozarth, TDCJ General Counsel, stated that the TBCJ authorized the publication of the amendments to §159.17, Employment Referral Services for Offenders – Memorandum of Understanding in the Texas Register. The proposed amendments were published in the July 2, 2010, issue. The 30-day public comment period has passed, and no comments were received. Ms. Bozarth recommended that the TBCJ adopt the rule as published.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Carmen Villanueva-Hiles made a motion that the TBCJ adopt amendments to Board Rule 159.17, Employment Referral Services for Offenders – Memorandum of Understanding, as published in the Texas Register, and that the Chairman sign the order to this effect.

Mr. Nelson seconded the motion, which passed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for the Sale of Land for the Expansion of Harlem Road at the Jester I Unit in Fort Bend County, Richmond, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, noted that the board received a detailed briefing on the two land items earlier in the day during the Business and Financial Operations Committee meeting. Fort Bend County is requesting to purchase a 6.615-acre tract for the proposed expansion of Harlem Road. The county has offered \$201,712 or \$.70 per square foot, based on a recent appraisal. Mr. Demny informed the board that as authorized by section 496.0021, Texas Government Code, the board may sell state-owned real property, and under this statute, the General Land Office (GLO) shall negotiate and close a transaction on behalf of the board. Mr. Demny recommended that the board approve and authorize the GLO to proceed with the sale of the tract to Fort Bend County.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve the sale of land for the expansion of Harlem Road at the Jester I Unit in Fort Bend County, Richmond, Texas, as presented.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

2. Request for a Proposed Amendment to the Existing Easement at the Montford Unit in Lubbock County, Lubbock, Texas

Mr. Demny stated that the City of Lubbock is requesting to amend an existing pipeline easement. They intend to include the installation of a 36" treated water pipeline within the confines of the existing easement. The easement will provide an additional line to augment the water supply and enhance distribution to the users in that area to include the Montford Unit. The city has agreed to pay \$14,000 for this amendment.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the TBCJ approve the amendment to the existing easement at the Montford Unit in Lubbock County, Lubbock, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

As mentioned earlier, Chairman Bell noted that no speaker registration cards had been received by the required deadline. No public comments were given.

Chairman Bell thanked all who attended and announced that the next TBCJ meeting will be October 14-15, 2010, at the Doubletree Hotel in Austin, Texas.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 150th meeting of the Texas Board of Criminal Justice at 2:52 p.m.

*

*

Chairman

Secretary

Signatures on file.

Reference attachments for the minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
152nd Meeting



Minutes

December 9, 2010
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel – Salon E
6121 North IH-35
Austin, Texas 78752
Salon E**

**December 9, 2010
1:30 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 151st TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) –
Fiscal Challenges and Upcoming Legislative Session

F. Report from the Executive Director, Correctional Managed Health Care Committee
(CMHCC)

1. Fiscal Year 2010 Financial Report
2. Historical Cost Per Day

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental
Impairments (ACOOMMI)

- H. Report from the Chairman, TBCJ
 - 1. Chairman's Fitness Challenge
 - 2. Security Enhancement
 - 3. Fiscal Responsibility
- I. Internal Audit Status Report for Fiscal Years 2010-2011
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Readoption of Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding
- L. Discussion, Consideration, and Possible Action Regarding a Proposed Land Sale Related to the Expansion of State Highway 36 at the Hilltop Unit in Coryell County, Gatesville, Texas
- M. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Roof on Main Building at the Byrd Unit in Walker County, Huntsville, Texas
 - 2. Request to Install Fire Alarm System at the Clemens Unit in Brazoria County, Brazoria, Texas

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 152

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Thursday, December 9, 2010, at the Crowne Plaza Hotel, Austin, Texas, at 1:55 p.m., adjourned at 2:50 p.m. into executive session, and finally adjourned at 3:59 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Pastor C.L. Jackson
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Celeste Byrne
Matt Demny
Jackie Edwards
C. F. Hazlewood
Frank Inmon
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

The Honorable Allen Hightower, Executive Director, Correctional Managed Health Care Committee (CMHCC); David McNutt, Chief Financial Officer, CMHCC; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 152nd meeting of the TBCJ on Thursday, December 9, 2010, at 1:55 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. The TBCJ conducted business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He noted that no public officials or their staff representatives were in attendance.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ did not hear public presentations on posted agenda topics.

Recognitions

Celeste Byrne, Director of the Private Facilities Contract Monitoring and Oversight Division (PFCMOD), recognized Bobby Lumpkin, Deputy Director of the PFCMOD, for 20 years service with the state of Texas. She presented Mr. Lumpkin with a 20-year Service Award.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2010. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Chairman Bell recognized the passing of Gregory S. Coleman, former TBCJ vice chairman, secretary, and member, who served on the board from 2003-2009. He highlighted Mr. Coleman's brilliant legal career beginning with his appointments as a judicial clerk to the Honorable Edith Hollan Jones on the United States Court of Appeals for the Fifth Circuit; the legal clerk for Supreme Court Justice Clarence Thomas; and in 1998, the first Solicitor General of the state of Texas. Mr. Coleman became recognized as one of the greatest litigators in Texas, frequently appearing before the Supreme Court. Mr. Coleman was known as one of the top ten "Super Lawyers" by *Texas Monthly* magazine. Mr. Coleman was also a devoted husband and father, who was kind, gracious, and humble. His public service, charity, and generosity were legendary. Chairman Bell requested a moment of silence in memory of Gregory Coleman. (Silence followed.)

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action
Regarding Consent Items

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
4. **151st TBCJ Meeting Minutes**
5. **Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and as there are personal property donations from the food bank brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Presiding Officer,
Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)
Fiscal Challenges and Upcoming Legislative Session

Brad Livingston, Executive Director of the TDCJ, reported that all state agencies have received a letter from the offices of the Governor, Lieutenant Governor, and the Speaker of the House requiring them to identify an additional 2.5% in savings for this fiscal year. For TDCJ this means a budget reduction of \$75 million. Mr. Livingston stated these additional reductions would pose a difficult operational challenge for all state agencies. Dialogue with the state leadership offices will continue to outline where reductions would have a more manageable impact and where reductions would cause severe operational and system problems within the TDCJ. Mr. Livingston stated that TDCJ recognizes its fiscal responsibilities and takes them seriously. At the same time, TDCJ acknowledges that it is critical to be clear when reductions impact its ability to fulfill its mission. Mr. Livingston emphasized that as outlined in the Legislative Appropriations Request, it would be impossible to avoid staff reductions under the additional 2.5% savings scenario. He noted that TDCJ staff is committed to working with the state leadership throughout this process, with diligence while maintaining the integrity of the

operations and mission of the TDCJ. The TBCJ would be kept apprised as to how the process unfolds.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

1. Fiscal Year 2010 Financial Report

David McNutt, Chief Financial Officer for the CMHCC, reported that the overall health care costs through the Fourth Quarter of Fiscal Year (FY) 2010 totaled \$545.5 million. This amount is above overall revenues earned by the university providers by \$21.6 million. The University of Texas Medical Branch's (UTMB) total revenue was \$417 million and their expenditures totaled \$435.7 million resulting in a net loss of \$18.7 million. Texas Tech University Health Sciences Center (TTUHSC) total revenue was \$106.9 million and expenditures totaled \$109.8 million resulting in a net loss of \$2.9 million. The cost per day was \$9.88. Drug costs through the fourth quarter were \$39.8 million.

2. Historical Cost Per Day

Mr. McNutt reviewed the historical cost per day from FY 1996 through FY 2011. He stated that the growth of the CMHCC appropriations was in direct response to the growth of the offender population treated. Additionally, the offender population aged 55+ has grown 6-7% each year over the past few years. Mr. McNutt explained that the CMHCC continues to operate below the national average on health care costs per day.

Chairman Bell asked if there were any questions or comments. David Nelson thanked Mr. McNutt for his update. He then asked if there were statistics available showing what private prisons pay on a per diem cost for health care for offenders under their care. Mr. McNutt responded private contractors would have to establish a pilot program to determine cost, while UTMB and TTUHSC are already in place. Mr. Nelson noted that the board should explore all possibilities even those in private facilities. Mr. McNutt assured Mr. Nelson that the CMHCC was dedicated to providing a quality of care in addition to finding cost saving measures.

Terrell McCombs asked why Oklahoma health care costs were low. Mr. McNutt stated that their costs did not include psychiatric services.

Tom Mechler asked if the CMHCC received the 2.5% reduction letter as did other state agencies. Mr. McNutt stated that he has spoken with Jerry McGinty, TDCJ Chief Financial Officer, and discussed the 2.5% reduction. The 2.5% savings would be in the TDCJ appropriations package.

Mr. McCombs inquired how much out of the \$9.88 cost per day would be charged to mental health. Mr. McNutt responded that the mental health cost share is \$.90.

Chairman Bell commented that the management of the health care system is for a large population. The delivery of the health care overall is comparable to the private sector. Chairman

Bell noted that according to the daily rate chart and the subsequent charts in Mr. McNutt's presentation, most of the other correctional health care systems have not been able to stabilize their costs per day. TDCJ and the CMHCC have worked diligently to keep the numbers down. California has tripled the costs in correctional health care. Chairman Bell stated that while the staff is working on lowering costs and finding more efficient and effective ways of health care delivery, the past and current numbers reflect the effectiveness of the correctional managed health program in Texas. He commended UTMB and TTUHSC for their endeavors.

Allen Hightower, Executive Director of the CMHCC, assured the TBCJ that the report was an impartial rendering of facts and statistics. He stated that the CMHCC would take any suggestions and recommendations that the TBCJ had in relation to the document for the upcoming legislative session.

(Attachment B – CMHCC Handout)

Report from the Chairman,
Advisory Committee on Offenders with Medical or Mental Impairments
(ACOOMMI)

John Bradley, chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Chairman's Fitness Challenge

The first quarter of the Chairman's Football League was a big success. For this event, divisions were created to match like size offices, departments and units to compete for championship. Points were achieved through exercise completed during the challenge. Chairman Bell recognized the top ranking participants in each division as follows:

Division 1 – 39 or fewer employees: Top participant - Parole Division Specialized Programs Department achieving 785 points. Second and third place winners were the Texas Board of Criminal Justice and the Richmond/Rosenberg Parole Office.

Division 2 – 40 to 99 employees: Top participant - Agribusiness, Land, and Minerals Department earning 985 points. Second and third place winners were State Counsel for Offenders and the Houston III Parole Office.

Division 3 – 100 to 199 employees: Top participant - Fort Stockton Unit with 2,667 points. Second and third place winners were the Human Resources Main Headquarters and the Information Technology Division.

Division 4 – 200 to 299 employees: Top participant - Lynaugh Unit earning 3,941 points; the highest points earned of all participating departments and units. Second and third place were the Cole State Jail and the Scott Unit.

Division 5 – 300 plus employees: Top participant - Gurney Unit with 2,706 points. Second and third place winners were the Holliday Unit and the Jester IV Unit.

Chairman Bell noted that for the first time in the chairman's challenge, a private facility participated and acknowledged the Mineral Wells Pre-Parole Transfer Facility. He also acknowledged the Windham School District, whose employees earned 2,011 points.

The next challenge in the Chairman's Football League "Balanced for Life – 24/7/365" begins December 13, 2010.

2. Security Enhancement

Chairman Bell stated that funding provided in the 81st Legislative Session is being used to install comprehensive video surveillance equipment at the Polunsky, Stiles, Darrington, and McConnell units. Security equipment was also purchased to enhance the TDCJ's ability to eliminate contraband and other security threats at other locations where contraband has been most prevalent. Security technology enhancements included body orifice scanner chairs (43 chairs installed on 34 units), walk through metal detectors (74 detectors on 33 units), parcel scanners (41 scanners on 23 units), and egress and ingress video systems (32 systems on 32 units). The TDCJ has increased the frequency of comprehensive searches and reviews on maximum security units. Additionally, pat searches are conducted continually of all individuals entering maximum facilities, and random pat searches entering all other facilities. The TDCJ continues to provide enhanced curriculum in pre-service and in-service training pertaining to offender searches, offender manipulation tactics, and transportation procedures. Chairman Bell stated that there are ongoing exchanges of information between the Office of Inspector General and the Security Threat Group office concerning offender tactics. He mentioned other areas of security enhancement such as correctional officer physical agility testing and random drug testing.

3. Fiscal Responsibility

Chairman Bell recognized that the state is facing challenging fiscal times. The TBCJ is dedicated to fulfilling the mission of TDCJ to protect the public's safety, promote positive offender change, reintegrate offenders into society, and assist victims of crimes. Staff will work with the state leadership by providing information to them to make informed decisions about the future of the criminal justice system. TDCJ will implement the decisions made, remaining dedicated to keeping the public's safety at the forefront. During session, each bill will be scrutinized by TDCJ staff for any impact to the agency.

Internal Audit Status Report for Fiscal Years 2010-2011

Raymond Pyeatt, Director for the Internal Audit Division, provided the following revision to the handout of the Internal Audit Status Reports for the Fiscal Years 2010-2011:

- **1017 – Rehabilitation Programs Division, Clinical Staff Development Program:** The final report was mailed to the TBCJ on December 8, 2010.

Chairman Bell asked if there were any questions or comments. Mr. Nelson inquired if Mr. Pyeatt had any scheduled audits dealing with correctional managed health care and its delivery systems. Mr. Pyeatt responded that there were none scheduled for this year. There was no further discussion.

(Attachment C – Internal Audit Status Report for FY 2010-2011)

Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts Over \$1 Million

Chairman Bell stated the board would pass on this item with no action taken.

Discussion, Consideration, and Possible Action Regarding
Readoption of Title 37 Texas Administrative Code Section 163.45,
Distribution of Community Corrections Funding

Melinda Bozarth, General Counsel, stated that Rule 163.45, Distribution of Community Corrections Funding, was reviewed as required by Texas Government Code §2001.039, which requires state agencies to review rules every four years. Staff recommended no revisions. The notice of the review was published in the July 23, 2010, issue of the Texas Register. No comments were received as a result of that notice. Additionally, Ms. Bozarth noted that Carey Welebob, Director of the Community Justice Assistance Division, presented the rule to the JAC, the Probation Advisory Council, and to all community supervision and corrections departments directors. No comments were received by those entities or those directors. Ms. Bozarth requested that the TBCJ readopt the rule as presented.

Mr. Mechler made a motion that the TBCJ approve the readoption of Title 37 Texas Administrative Code Section 163.45, as published in the Texas Register, regarding the distribution of community corrections funding, and that the chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
a Proposed Land Sale Related to the Expansion of State Highway 36
at the Hilltop Unit in Coryell County, Gatesville, Texas**

Matt Demny, Director of the Agribusiness, Land and Minerals Department, reviewed the request by the Texas Department of Transportation to purchase 0.843 of an acre of land for the proposed expansion of State Highway 36. He explained that the TBCJ is authorized by Texas Government Code §496.0021 to sell state owned real property under its management and control at the real property's fair market value. Based on a recent appraisal, Coryell County has offered \$4,215 for the subject property. Under the referenced statute, the Texas General Land Office may negotiate and close a transaction on behalf of the TBCJ using the procedures in the Texas Natural Resources Code §31.158(c). As required by statute, proceeds from this transaction shall be deposited in the Texas capital trust fund.

Mr. Vasquez made a motion that the TBCJ approve the land sale related to the expansion of State Highway 36 at the Hilltop Unit in Coryell County, Gatesville, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action
Regarding Facilities Division Construction Projects**

1. Request to Replace Roof on Main Building at the Byrd Unit in Walker County, Huntsville, Texas

Frank Inmon, Director of the Facilities Division, reviewed the project to replace the roof on the main building, pickets, and back gate at the Byrd Unit, for approximately 118,521 square foot of roofing. The project bids were received on November 23, 2010. Based on the bids, the total project budget is expected to be \$2,410,300. He noted that if approved by the TBCJ, the work would be performed by Texas Ligua Tech Services, Inc., which is a historically underutilized business (HUB) vendor.

Mr. Gambrell made a motion that the TBCJ approve a not to exceed budget of \$2,410,300 to replace the roof on the main building at the Byrd Unit in Walker County, Huntsville, Texas, as presented.

Pastor Jackson seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Install Fire Alarm System at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Inmon stated the Clemens Unit project is the installation of a fire alarm system, which includes buildings within and outside the perimeter. Project bids were received in October 2010. If approved, the work would be performed by Asez Inc. dba Sterling Security, which is a HUB vendor. The project cost is \$1,034,300.

Mr. McCombs made a motion that the TBCJ approve a not to exceed budget of \$1,034,300 to install a fire alarm system at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

(Attachment D – Project Scope and Budget Information)

Chairman Bell thanked all in attendance and stated that the next meeting of the TBCJ will be February 11, 2011, at the Sheraton Hotel, in Austin.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice into executive session at 2:50 p.m. The TBCJ finally adjourned at 3:59 p.m.

*

*

Chairman

Secretary

Signature on file.

Note: Referenced attachments for the minutes are available upon request from the Office of Record, TDCJ Executive Services.

Texas Board of Criminal Justice
153rd Meeting



Minutes

February 11, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Sheraton Austin Hotel – Capitol Ballroom D
701 East 11th Street
Austin, Texas 78701**

**February 11, 2011
1:00 PM – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 152nd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on the 82nd Legislative Session

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

H. Report from the Chairman, TBCJ

1. Community Work Projects
2. Chairman's Fitness Challenge

I. Internal Audit Status Report for Fiscal Years 2010-2011

- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. §163.34, Carrying of Weapons
 - 2. §163.46, Allocation Formula for Community Corrections Program
 - 3. §195.61, Method of Payment for Parole Supervision and Administrative Fees
 - 4. §§195.71 – .78, Testing for Controlled Substances Relating to Parole
- L. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code Chapter 153
 - 1. Subchapter A, Investigations of Abuse, Neglect, or Exploitation in a Facility Operated by the Texas Department of Criminal Justice
 - 2. Subchapter B, Private Real Property Rights Preservation
- M. Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Section 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender
- N. Discussion, Consideration, and Possible Action Regarding Prison Industry Enhancement (PIE) Program Operations at the Texas Youth Commission, Gainesville State School, Gainesville, Texas
- O. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project to Replace Plumbing Fixtures at the Clemens Unit in Brazoria County, Brazoria, Texas

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 153

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, February 11, 2011, at 11:38 a.m. and immediately adjourned into executive session. The executive session adjourned at 12:20 p.m. The regular session reconvened at 1:24 p.m. and finally adjourned at 2:09 p.m. The meeting was held at the Sheraton Austin Hotel, Austin, Texas.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Janice Harris Lord
Terrell McCombs
J. David Nelson

TBCJ MEMBER ABSENT:

Carmen Villanueva-Hiles
Pastor C.L. Jackson

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Celeste Byrne
Jackie Edwards
C. F. Hazlewood
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Madeline Ortiz
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Chelsea Buchholtz, Advisor, Office of the Governor; the Honorable Larry Gist, Chairman of the Judicial Advisory Council; the Honorable Dale Sturgeon, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 153rd meeting of the TBCJ on Friday, February 11, 2011, at 11:38 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. Chairman Bell adjourned the meeting into executive session, which is closed to the public in accordance with Texas Government Code Chapter 551.071, 551.074, and 551.076.

Reconvene the Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 153rd meeting of the TBCJ on Friday, February 11, 2011, at 1:24 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the TBCJ would conduct business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Advisor-Budget, Planning and Policy, Office of the Governor, and the Honorable Dale Sturgeon, Jones County Judge.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ did not hear public presentations on posted agenda topics.

Recognitions

Chairman Bell recognized Kim Vernon, Director of the State Counsel for Offenders, for obtaining her 20 Year Service Award with the State of Texas. He thanked Ms. Vernon for the years of dedicated service and presented her with a plaque signifying her accomplishment.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of December 2010 and January 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 152nd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted that the proposed consent items include the excused absence of Pastor Jackson from the October 2010 meeting, as he was unable to attend due to personal business. He asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and as there are personal property donations from the food bank brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Larry Gist, Chairman of the JAC, had no report.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on the 82nd Legislative Session

Brad Livingston, TDCJ Executive Director, noted that since the December TBCJ meeting there have been ongoing discussions regarding TDCJ's fiscal challenges. The Speaker of the House and the Lieutenant Governor named committee chairmen and members during the past week. Mr. Livingston stated that there appears to be a significant continuity in place among the leadership offices. TDCJ has long standing working relationships with many of the chairmen of the committees in both the House and the Senate. He noted that the proposed budget is somewhat different in the House and Senate, which is a deviation from previous legislative sessions. The budget on the House side is approximately \$750 million below TDCJ's current biennial level and on the Senate side the budget is approximately \$550 million below the current biennial level. These funding amounts represent an austere starting point. In both the House and Senate, significant discussions have occurred with respect to the budget and the challenges facing TDCJ based upon the proposed bills. Mr. Livingston stated that he has testified before the

House Appropriations Committee, not as a formal budget hearing, but as part of an overview of the main budget drivers within state government, of which criminal justice is one of the areas highlighted. He noted that the hearing was a productive dialogue with the committee in which TDCJ outlined the importance of continued funding for many of the key components within the TDCJ system. Mr. Livingston felt it was important that everyone acknowledge the criminal justice system is now stable for a variety of reasons. For the last several years, the population has been flat with some recent growth; the Legislative Budget Board projects moderate growth over the course of the next five years. Mr. Livingston emphasized that the treatment programs continue to be important and should continue to receive funding for those that are effective and which span the spectrum of criminal justice (probation, prison, and parole). Mr. Livingston stated that he is committed to focusing on the responsibilities that he and his staff have as fiscal stewards. He stated that he and his staff would provide clear and concise testimony, relevant to the various funding levels and what the impact would be on the TDCJ system. Mr. Livingston noted that he has been referencing the Fiscal Years (FY) 2012 and 2013 budget process and overlaid on top of the challenges for FY 2011. While the increments are smaller, FY 2011 budget concerns are more urgent and timely with respect to budget reductions. Mr. Livingston cautioned that not everything presented by media sources is fact. He advised the TBCJ that some reductions in force are likely but that decision makers responded favorably to the criticality of TDCJ functions. Mr. Livingston stated he felt upbeat about the current fiscal year cuts as compared to where the TDCJ could have been. He noted that the session was only 25% through the process and many changes and challenges were yet to come.

Chairman Bell asked if there were any questions or comments. He praised Mr. Livingston and his staff for taking the leadership role and making an incredible effort to ensure the TDCJ is staying in touch with all the key offices in the executive and legislative branches. He also commended Mr. Livingston for his composed demeanor, noting that many changes can happen along the way until June, most of them positive. Chairman Bell stated that under Mr. Livingston's leadership the TDCJ has established an enormous amount of credibility with the executive, legislative, and other governmental offices. He stated that the state's leadership and legislative offices have confidence that the information given from TDCJ is solid and reliable.

**Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)**

Chairman Bell stated that the CMHCC has not met since the December TBCJ meeting. Therefore, there would be no report.

**Report from the Chairman,
Advisory Committee on Offenders with Medical
or Mental Impairments (ACOOMMI)**

Mr. John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Community Work Projects

Chairman Bell stated that through the community work project program the TDCJ provides offender labor to eligible nonprofit organizations and governmental agencies that offer services, which enhance social welfare and general well-being of the community. During FY 2010, offenders provided assistance with 2,681 projects, giving more than 880,000 hours of labor to community work projects. The largest beneficiary of the community work program by project and hours are local communities. Across the state offenders help maintain city parks and cemeteries as well as city buildings and surrounding property. They provide lawn care services, clear trees and brush, and repair sprinkler systems and potholes. They also provide cities with janitorial services and basic facility maintenance such as painting and repairing floors, doors, and walls. In addition, they assist local non-profit projects with set-up and clean-up for county fairs and community events.

Another beneficiary of the offender community work program is the Texas Food Banks' Second Chance Program. Offenders assist in receiving, sorting, cleaning, and distributing donated goods. During FY 2010, offenders handled over 159 million pounds of food with more than half of that being distributed to families in need. TDCJ's partnership with food banks across the state varies based on the local community, local need, and unit proximity. For instance, in nine of the major food banks in Texas, offenders assist in product recovery by sorting donated food for distribution. TDCJ also participates in the Texas Fresh Approach and the Unit Food Bank Garden Program. Offenders at a number of units grow fresh fruits and vegetables and provide them to local area food banks. In addition to having the opportunity to give back to the communities, offenders learn marketable skills through community service projects. For instance in collaboration with the Dallas, Houston, and San Antonio food banks offenders can participate in the culinary training program to help prepare meals benefiting the children of hungry families. Offenders at the Dominguez State Jail can participate in the Windham School District vocational course on plant processing and warehouse equipment operations. In conjunction, they work for the San Antonio Food Bank receiving, sorting, packaging, and inventorying food and dry good items. Community work projects are a valuable tool in serving local communities while enhancing the rehabilitative efforts of the TDCJ. Chairman Bell thanked everyone participating in those programs.

2. Chairman's Fitness Challenge

For the second quarter of the 2011 Chairman's Football League (CFL), the following teams were at the top of their division:

- Division One: The Parole Division Region III Office won the championship by obtaining 11,754 points. The Parole Division's Specialized Programs Department won second place. Support Operations of the Correctional Institutions Division placed third.
- Division Two: The Houston III Parole Office achieved the championship with 18,556 points. The TDCJ Administrative Review Office placed second. The Agribusiness, Land and Minerals Department placed third.

- Division Three: For the second time, the championship goes to the Fort Stockton Unit, which achieved 12,538 points. The Tulia Unit placed second. The Information Technology Division placed third.
- Division Four: For the second time, the Lynaugh Unit took the championship with 45,492 points. The Cole State Jail took second place. The Stevenson Unit took third place.
- Division Five: The Jester IV Unit achieved the championship with 6,085 points. The Manufacturing and Logistics Division placed second. The Hightower Unit placed third.
- Division Six: No private facilities participated during the quarter; therefore the championship for this quarter was waived.
- Division Seven: The Windham School District achieved 15,939 for the quarter.

Chairman Bell stated that registration for the 2011 CFL Round-Up would be starting soon. He noted that for this six-week challenge, employees would be encouraged to complete 30 minutes of physical activity five days a week or 150 minutes per week. . The Texas Round-Up Run/Walk event is scheduled for April 30, 2011 in Austin, Texas. Chairman Bell encouraged all interested TDCJ employees to participate.

Internal Audit Status Report for Fiscal Years 2010-2011

Raymond Pyeatt, Director for the Internal Audit Division, provided the following revision to the handout of the Internal Audit Status Report for the Fiscal Years 2010-2011:

- **1020 – Parole Division, Specialized Programs:** The draft report was released on February 8, 2011.

Chairman Bell asked if there were any questions or comments. There were none.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases over \$1 million. Items 1 and 2 are increases to previously approved FY 2011 orders for beef and pork trimmings. Item 3 is an increase to a FY 2010-11 electronic monitoring contract initially approved at the June 2009 TBCJ meeting. Item 4 is a one-year renewal contract for the operations and management of the East Texas Intermediate Sanction Facility. Items 5-7 are renewal contracts for the next six months for the West Texas Intermediate Sanction Facility, the Mineral Wells Pre-Parole Transfer Facility, and the Bridgeport Pre-Parole Transfer Facility.

Chairman Bell asked if there were any questions or comments. Mr. Gambrell stated that he wished to abstain from the vote on purchases and contracts over \$1 million as his firm represents Corrections Corporation of America, who is the facility operator for two of the four presented contract renewals. Chairman Bell noted Mr. Gambrell's abstention.

Leo Vasquez requested additional information about Item 6, noting that the contract was for six months at a contracted rate of \$12.9 million. Mr. McGinty responded the contract was a six-month contract renewal for over 2,000 beds. He advised Mr. Vasquez that the per diem rate is approximately \$33, and during the recent contract negotiations, the vendors extended the current per diem rate. Seeing no further questions, Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the TBCJ approve the purchases and contracts over \$1 million, as presented.

David Nelson seconded the motion, which prevailed unanimously when called to a vote (Eric Gambrell abstained).

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code

1. §163.34, Carrying of Weapons

Melinda Bozarth, TDCJ General Counsel, stated that the revisions to §163.34, Carrying of Weapons, were presented to the JAC, the Probation Advisory Counsel (PAC), and the Community Supervision and Corrections Department (CSCD) directors for review and comment. Comments were received from Judge Keller who serves on the JAC; her comments were incorporated into the proposed revisions. These revisions are necessary to conform the rule according to state and federal law. Ms. Bozarth noted that in section (d)(2)(A) a clause has been added that a community supervision officer (CSO) cannot carry a firearm if he was discharged from the armed forces under dishonorable conditions. This complies with current law. She further noted that section (i)(1) sets forth a time period by which the training program must be completed. The CSO has six months to complete the training program after obtaining a psychological release. Ms. Bozarth stated the rest of the revisions are nonsubstantive.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Terrell McCombs made a motion that the TBCJ approve for publication in the Texas Register the proposed amendments to Board Rule, 163.34, Carrying of Weapons to receive public comment, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

2. §163.46, Allocation Formula for Community Corrections Program

Ms. Bozarth stated that the revisions to §163.46, Allocation Formula for Community Corrections Program were submitted to the JAC, PAC, and the CSCD directors for review and comment. No comments were received. All revisions are nonsubstantive and clarify the existing process.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ approve for publication in the Texas Register the proposed amendments to Board Rule, 163.46, Allocation Formula for Community Corrections Program to receive public comment, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

3. §195.61, Method of Payment for Parole Supervision and Administrative Fees

Ms. Bozarth reviewed the revision to §195.61, Method of Payment for Parole Supervision and Administrative Fees, which allows the TDCJ the option to explore payment of supervision fees through electronic means instead of limiting it to a money order or cashier's check.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve for publication in the Texas Register the proposed amendments to Board Rule, 195.61, Method of Payment for Parole Supervision and Administrative Fees to receive public comment, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

4. §§195.71 – .78, Testing for Controlled Substances Relating to Parole

Ms. Bozarth stated that the revisions to §§195.71-.78, Testing for Controlled Substance Relating to Parole, were recommended to clarify current procedures pursuant to the state law requirement that rules are reviewed every four years. There are no substantive revisions.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the TBCJ approve for publication in the Texas Register the proposed amendments to the Board Rules, 195.71-.78, Testing for Controlled Substance Relating to Parole, to receive public comment, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code Chapter 153

1. Subchapter A, Investigations of Abuse, Neglect, or Exploitation in a Facility Operated by the Texas Department of Criminal Justice

Ms. Bozarth stated that the proposed repeal of Subchapter A, Investigations of Abuse, Neglect, or Exploitation in a Facility Operated by the Texas Department of Criminal Justice, was published in the October 29, 2010, issue of the Texas Register, 35 TexReg 9672. Thirty days have passed with no comments received. Ms. Bozarth recommended that the TBCJ move forward with the adoption of the repeal of the rule.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Janice Lord made a motion that the TBCJ adopt the repeal of Title 37 Texas Administrative Code Chapter 153 Subchapter A, Investigations of Abuse, Neglect, or Exploitation in a Facility Operated by the Texas Department of Criminal Justice, as published in the Texas Register and that the Chairman sign the order to this effect.

Mr. Gambrell seconded the motion, which passed unanimously when called to a vote.

2. Subchapter B, Private Real Property Rights Preservation

Ms. Bozarth stated that the proposed repeal of Subchapter B, Private Real Property Rights Preservation, was published in the October 29, 2010, issue of the Texas Register, 35 TexReg 9672. Thirty days have passed with no comments received. Ms. Bozarth recommended that the TBCJ move forward with the adoption of the repeal of the rule.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the TBCJ adopt the repeal of Title 37 Texas Administrative Code Chapter 153 Subchapter B, Private Real Property Rights Preservation, as published in the Texas Register and that the Chairman sign the order to this effect.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

(Attachment B – Adoption Orders 37 TAC 153 Subchapter A and Subchapter B)

Discussion, Consideration, and Possible Action
Regarding Adoption of Title 37 Texas Administrative Code
Section 156.1, Investigations of Allegations of Abuse, Neglect,
or Exploitation of an Elderly or Disabled Offender

Ms. Bozarth explained that the new rule was published in the October 29, 2010, issue of the Texas Register, 35 TexReg 9673. Thirty days have passed with no comments received. Ms. Bozarth recommended that the rule be adopted as presented.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the TBCJ adopt Title 37 Texas Administrative Code Section 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender, as published in the Texas Register and that the Chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

(Attachment C – Adoption Order 37 TAC 156.1)

Discussion, Consideration, and Possible Action Regarding
Prison Industry Enhancement (PIE) Program Operations
at the Texas Youth Commission, Gainesville State School,
Gainesville, Texas

C.F. Hazlewood, Director of the Manufacturing and Logistics Division, presented the Notice of Undesignation in accordance with the Prison Industry Enhancement Certification Program. WJ Welding Company has stopped operations at the Texas Youth Commission's Gainesville State School in Gainesville, Texas. WJ Welding ceased operations on August 1, 2010. Additionally, their contract was terminated on October 14, 2010. Mr. Hazlewood advised the TBCJ needed to take official action by approving the Notice of Undesignation and the TBCJ Chairman signing the form.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ undesignate WJ Welding at the Texas Youth Commission Gainesville State School, Gainesville, Texas, as a cost accounting center under the Private Sector Prison Industry Enhancement Program, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding
Facilities Division Construction Project to
Replace Plumbing Fixtures at the Clemens Unit
in Brazoria County, Brazoria, Texas

Frank Inmon, Director of the Facilities Division, stated he had briefed the TBCJ earlier at the Business and Financial Operations Committee. He noted the project was to replace broken plumbing fixtures at the Clemens Unit. He requested the TBCJ's approval for a total project amount of \$1,266,000.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve a not to exceed budget of \$1,266,000 to replace the ancient plumbing fixtures at the Clemens Unit in Brazoria, Texas, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice at 2:09 p.m.

*

*

Chairman

Secretary

*Signature on File

Note: Referenced attachments for the approved minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
154th Meeting



Minutes

April 8, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel
6121 North IH-35
Austin, Texas 78752
Salons E - H**

**April 8, 2011
11:00 AM – 12:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 153rd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on the 82nd Legislative Session

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC) – Update on the First Quarter FY 2011 Financial Report

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

H. Report from the Chairman, TBCJ

1. Fiscal Responsibility
2. Ongoing Security Efforts
3. Chairman's Fitness Challenge Update

- I. Internal Audit Status Report for Fiscal Years 2010-2011
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 11.76, “Benefit Policy”
- L. Discussion, Consideration, and Possible Action Regarding Proposed New Board Policy 02.09, “Prison Rape Elimination Act Ombudsman Policy Statement”
- M. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Title 37 Texas Administrative Code
 - 1. §163.34, Carrying of Weapons
 - 2. §163.46, Allocation Formula for Community Corrections Program
 - 3. §195.61, Method of Payment for Parole Supervision and Administrative Fees
 - 4. §§195.71 – .78, Testing for Controlled Substances Relating to Parole
- N. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Electrical Transmission Line Easement at the Dalhart Unit in Hartley County, Dalhart, Texas
 - 2. Request for Renewal of Valve Site Easement at the Montford Unit in Lubbock County, Lubbock, Texas
 - 3. Request for Renewal of Cathodic Protection Site and Electrical Line Easements at the Ramsey Unit in Brazoria County, Rosharon, Texas
- O. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Install High Mast Lighting at the Coffield Unit in Anderson County, Tennessee Colony, Texas
 - 2. Request to Replace Locking System at the Ferguson Unit in Madison County, Midway, Texas
 - 3. Request to Replace Fire Alarm System at the Garza West Unit in Bee County, Beeville, Texas
- P. Public Comments

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 154

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, April 8, 2011, at 11:12 a.m. and adjourned at 12:25 p.m. at the Crowne Plaza Hotel, Austin, Texas.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBER ABSENT:

Eric Gambrell

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell
Melinda Bozarth
Matt Demny
Jackie Edwards
C.F. Hazlewood
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Madeline Ortiz
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Angela Isaack, Legislative Budget Board; Marsha McLane, Representative Madden's office; the Honorable Dale Sturgeon, Jones County Judge; the Honorable Allen Hightower, Executive Director, Correctional Managed Health Care Committee (CMHCC); David McNutt, CMHCC Chief Financial Officer; Debbie Roberts, Superintendent, Windham School District; and members of the media.

Convene Texas Board of Criminal Justice (TBCJ)

Chairman Oliver Bell convened the 154th meeting of the TBCJ on Friday, April 8, 2011, at 11:12 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the TBCJ would conduct business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Angela Isaack, staff representative from the Legislative Budget Board (LBB); Marsha McLane, staff representative from Representative Madden's office; and the Honorable Dale Sturgeon, Jones County Judge. Chairman Bell also recognized Nathaniel Quarterman, former director of the Correctional Institutions Division of the Texas Department of Criminal Justice (TDCJ or agency).

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics or public comment during the meeting.

Recognitions

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of February and March 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Chairman Bell stated that the month of April has several observances he would like to note as well as the divisions and offices in the TDCJ which work on these vital issues: National Sexual Assault Awareness Month, Ralph Bales, the PREA Ombudsman; National Crime Victims' Rights Week, April 10-16, 2011, Angie McCown, Victim Services Division Director; and National Volunteer Week, April 10-16, 2011. Chairman Bell recognized the 20,000 volunteers who work with the TDCJ and the Windham School District (WSD). Chairman Bell also recognized Madeline Ortiz and wished her happy birthday. He led the board in singing a variation of the Happy Birthday song.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 153rd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Seeing none, the consent items posted for this meeting stand approved.

Chairman Bell recognized and welcomed new board member, the Honorable Larry Gist. He also welcomed and thanked Mrs. Terrell McCombs for attending the meeting.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, JAC Chairman, had no report. Chairman Bell asked Judge Gist if he would continue in his position as the JAC chairman. Judge Gist responded that he had resigned from the JAC, adding that the Chief Justice and the Presiding Judge of the Court of Criminal Appeals would appoint a JAC chairman in the near future.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Update on the 82nd Legislative Session

Brad Livingston, TDCJ Executive Director, provided an update on the major milestones in the legislative session. The House version of the appropriations bill passed. The Senate Finance Committee is still working on the Senate version of the budget, although substantial tentative markup decisions for the TDCJ budget were made. Mr. Livingston explained the reconciliation process of the House and Senate budgets, which could take through the month of May to obtain a budget agreement.

Mr. Livingston noted the following legislative items of interest:

- Neither chamber has taken action at this time on the correctional health care funding, which is a significant portion of the TDCJ budget.
- The House Appropriations Committee increased TDCJ funding by roughly \$350 million, which will keep TDCJ treatment programs viable.
- The House and Senate appropriations bills restored funding for the TDCJ Victim Services Division.
- The House and Senate appropriations bills restored funding for the TDCJ chaplaincy department.
- The House and Senate appropriations bills provide substantial funding increases for the continued operations of TDCJ facilities and parole offices. Both budgets fund projected offender increases in parole supervision programs and functions.
- The House appropriations bill assumes the Central Unit is closed, which has a capacity of just under 1,100 beds. It does not fund 2,800 privately operated beds, which leaves approximately 4,000 beds unfunded. Both of these items are funded in the Senate appropriations bill.
- The House appropriations bill adds back \$75 million in the probation function, but the starting point was lower than the Senate appropriation bill. The two chambers remain approximately \$56 million apart on probation, with the Senate bill funding roughly \$56 million more for probation than the House appropriations bill. In both chambers, there has been substantial upward movement in the funding for the probation area. The viability of the probation supervision function and the resources necessary on the front end of the criminal justice system are looking better in the House and Senate budgets.
- In terms of facilities infrastructure, TDCJ had originally sought funding for \$80 million in bond funds to continue projects within the agency that address the ongoing infrastructure needs. The Senate and the House appropriations bills have provided \$50 million from the funding source for that item.

Mr. Livingston assured the board that he and the executive staff would work diligently with the legislative committees to answer any questions and provide the required information throughout the session.

Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)
Update on the First Quarter FY 2011 Financial Report

David McNutt, Chief Financial Officer of the CMHCC, thanked board members David Nelson and Janice Lord for their participation at the March 8, 2011, meeting of the CMHCC. He provided an update on the First Quarter of the CMHCC Fiscal Year (FY) 2011 Financial Report. The average daily population served by the correctional health care program increased to 152,386 compared to 151,551 of the first quarter of FY 2010. The number of offenders in the service population aged 55 or older increased to 12,410, which is an increase of 836 or 7.2% from one year ago. The overall HIV population remained stable at 2,403 or about 1.6% of the

population served. The two mental health caseload measures remained relatively stable. The mental health outpatient number was 20,025 or 13.1% of the population.

The overall health care costs through the first quarter of FY 2011 were \$133.1 million. This was above overall revenue earned by the university providers by \$5,077,039 or 4.0%. The University of Texas Medical Branch's (UTMB) total revenue was \$101.4 million. Their expenditures totaled \$105.8 million resulting in a loss of \$4.4 million. UTMB earned \$9.21 in revenue per day but expended \$9.61 resulting in a net loss of \$0.40 per offender per day. The Texas Tech University Health Sciences Center (TTUHSC) total revenue was \$26.7 million. Expenditures totaled \$27.3 million resulting in a net loss of \$643,336. TTUHSC earned \$9.33 in revenue per day but expended \$9.56 resulting in a net loss of \$0.23 per offender per day. The total cost per offender per day for all health care services through the first quarter of FY 2011 was \$9.60. The cost per day for FY 2010 was \$9.88.

Mr. McCombs stated that the Oklahoma's Department of Corrections' correctional health care costs were very impressive. He asked if the CMHCC had examined Oklahoma's correctional health care system. Mr. McNutt replied that Oklahoma's costs were provided in the cost analysis at the December board meeting, but those costs did not include mental health costs. Mr. McNutt stated that he would research Mr. McComb's request and provide an answer to the board.

With respect to the expenditures and revenue figures, Tom Mechler inquired who provided the data. Mr. McNutt responded that the university partners provide the data each month for the financial report prepared by the CMHCC staff office. This report is required by the Sunset legislation to be posted on the CMHCC website, reported to the CMHCC at its meetings, and to the TBCJ at its regular meetings. Mr. Mechler inquired if Mr. McNutt's office conducts a financial audit of the receipts. Mr. McNutt verified that the CMHCC does spot-check the university partners' expenditures to ensure that they are within the terms of the contract. Allen Hightower, CMHCC Executive Director, noted that there are a number of categories that are spot checked for accuracy, accountability, and validity under general revenue, and how it may be spent under those guidelines. He assured the board that when mistakes occur the money is wired back to correctional health care accounts. Mr. Hightower stated that in the next four or five weeks the legislature would most likely change the way the money streams from one line item to another, the way the money will be spent, and the purposes for which it will be spent. Mr. Mechler commented that in his tenure on the board of over five years he had not heard a report from the CMHCC that did not include losses from the university partners. He stated he did not understand how that could be the case. Mr. Hightower replied that he felt the same frustration from time to time. He explained that each month he and his staff visit the accountants and review the accounts to verify the rate that is being charged. He stated that the outcome from the legislative session would probably answer most of the board's concerns regarding how the money is reported or the total amount that is available to be spent.

Janice Lord asked if the contracts identify the difference between direct health care costs and the educational component that is being charged to the TDCJ by the universities. Mr. Hightower responded that allowing for the length and breadth of the contract, he did not think there was a clause regarding the educational component and health care costs. He did acknowledge that in original legislation and general law the state did agree to pay a portion of the contract into the

residents' salaries of the universities education programs. Ms. Lord commented that she thought it would be interesting to see the breakdown of the educational component costs from the health care costs. Mr. Hightower stated that until now there had not been a requirement, request, or recommendation to do so.

David Nelson commented that the TBCJ's scope of responsibility goes beyond the approval of the CMHCC contracts; it also includes the monitoring of the university partners and their contractors, in addition to the quality and delivery of health care. With regard to the State Auditor's Office (SAO) audit, Mr. Nelson inquired if the CMHCC executive staff's procedures for spot-check audits changed. Mr. Hightower responded that there have been no changes to the spot-check audit or what the audit review. He explained that a previous Sunset Commission Review had stipulated that the CMHCC should audit for the validity of spending according to general revenue statutes. Mr. Hightower explained the limitations of the CMHCC by legislation and by contract regarding the education component of the university partners. While these discrepancies were noted by the SAO audit report, the CMHCC did not have the authority to manage the business side of how the university partners administer medicine, pay employees, determine salary schedules, and so forth. Mr. Hightower stated that it was his belief that based on several reports and findings, the legislature would change the structure of the correctional managed health care system.

Chairman Bell advised the board that the questions had gone beyond the scope of the posted topic. He thanked Mr. McNutt and Mr. Hightower for their report. Chairman Bell stated that there were challenges with the correctional managed health care system. He expressed his hope that at the end of session that there would be a clear-cut understanding of what is allocated on the revenue side, what the costs are on the expenditure side, and that it all balances so that offenders receive care, Texans get service, and the money is not wasted.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Fiscal Responsibility

Chairman Bell noted that there are approximately 50 days remaining in the legislative session. The leadership of each branch of government is experiencing challenging times. The House and Senate committees are striving to create a fiscally sound budget. Chairman Bell pledged the board's support to any executive or legislative office in terms of providing information to make decisions about the future of the criminal justice system in Texas. No matter the outcome of the appropriations process, the board is dedicated to fulfilling its mission, with the allocated

resources. Chairman Bell emphasized that nothing is sacred in this process, all operations and processes are being examined for more efficient ways to accomplish the tasks. He further emphasized that the board and the TDCJ will respect the taxpayer's dollars without risking the public's safety.

2. Ongoing Security Efforts

Chairman Bell stressed that the essential core function of TDCJ's mission is security within the prisons as well as the supervision of offenders within the communities. The TDCJ has implemented a number of initiatives to enhance unit security measures. The agency continues to research additional methods to eliminate contraband and other security threats. Chairman Bell recognized John Moriarity, Inspector General, and his staff for their outstanding work during a recent escape. He also recognized the partners in the Joint Task Force.

3. Chairman's Fitness Challenge Update

Chairman Bell stated that TDCJ is in the final week of the Chairman's Fitness Challenge Round Three, which involved 30 minutes of exercise each day for five days a week. He encouraged all TDCJ employees to participate in the fourth quarter segment of the Chairman's Fitness Challenge Round Four. The 30 minutes of exercise each day contributes to the physical well being of each participant and encourages a healthy life style.

Internal Audit Status Report for Fiscal Years 2010-2011

Raymond Pyeatt, Director for the Internal Audit Division, provided the following revision to the handout of the Internal Audit Status Report for the Fiscal Years 2010-2011:

- **1105 - Community Justice Assistance Division, *Community Supervision Tracking System:*** Deferred due to audit by SAO. The Internal Audit Division will add a follow up audit to the FY 2012 Audit Plan.
Information Technology Division, *Correction Tracking System:* Deferred due to audit by SAO. The Internal Audit Division will add a follow up audit to the FY 2012 Audit Plan.
- **1110 - Reentry and Integration Division, *Project Re-Integration of Offenders:*** The audit was deleted due to the elimination of the program.
- **1012 - Parole Division, *Warrants Section:*** The final report was issued on April 6, 2011.
- **1104 -Business and Finance Division, *Payroll Processing:*** The draft report was issued on April 6, 2011.
- **1119 - Parole Division, *Specialized Programs:*** The draft report was issued on April 6, 2011.

Chairman Bell asked if there were any questions. There were none.

(Attachment B – Internal Audit Status Report)

Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty reviewed the purchases and contracts over \$1 million, which are increases to two current contracts for design professional services and an increase to an existing contract for nonfat dry milk. The nonfat dry milk is a food service menu modification included in the FY 2011 funding reductions, and replaces the cartons of milk on all the facilities.

Mr. Mechler inquired what services the first two contracts provided and why they are being increased. Mr. McGinty responded that design professional services are architectural and engineering firms who have blanket contracts used by the TDCJ Facilities Division. There are approximately 12 design professional firms under contract to TDCJ. These two companies have been used frequently and require an increase to their contract.

Mr. Mechler made a motion that the TBCJ approve the purchases and contracts over \$1 million to include a 10% price variance for nonfat dry milk, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy 11.76, "Benefit Policy"

Mr. McGinty reviewed the proposed revisions to Board Policy (BP) 11.76, "TDCJ Benefit Policy." He noted that the primary revision is based on housing. TDCJ has been in discussion with state leadership as it relates to TDCJ employee housing. For many years, TDCJ has been able to offer unit based, primarily ranking correctional officers reduced housing rates. In light of fiscal times, the state leadership requested that TDCJ examine and develop a cost recovery model. An appropriations rider mandates that the board shall have a benefits policy specifically as it relates to laundry services and meals. In consultation with the TDCJ general counsel and others, it is the agency's recommendation that the board policy be limited to laundry services and meals. Mr. McGinty referred to Executive Directive (ED) 11.77 (rev.5), "State-Owned Employee Housing and Mobile Home Spaces," page 8, Section V. Housing/Utility Rates, Effective September 1, 2011. He reviewed the rates that would be effective after September 1, 2011. The revenue generated from the change in housing rates is projected to be equivalent to utilities and maintenance necessary to maintain the houses.

Chairman Bell stated that the simple summary is that there is no cost to the state for a TDCJ employee living in state housing. Mr. McGinty responded affirmatively.

Mr. Nelson voiced his support for the swift and immediate response of staff to the concerns of state leadership. He inquired how fair market value was determined. Mr. McGinty responded that there are general provisions in the Appropriations Bill that specify that the General Land Office provides the fair market value for all state housing to agencies every two years. TDCJ

would use that instrument. Mr. Nelson noted that the authorized meal component is not revised. Mr. McGinty affirmed that was correct, since there was not a change in the General Appropriations Act, Article V, Rider 10 relating to meals. Mr. Nelson requested that Mr. McGinty share with the board why that is appropriate and necessary. Mr. McGinty responded that the correctional facilities are large complexes and providing meals to correctional staff helps with efficient use of staff time and eliminates contraband issues that could be brought in any food by staff entering the facility.

Mr. Mechler asked if it was beneficial to the state of Texas to have correctional staff living in state housing in the event of an emergency. Mr. McGinty responded affirmatively and noted that about one third of correctional facilities had state housing.

Chairman Bell asked if there was any further discussion. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ approve the revisions to Board Policy 11.76, "TDCJ Benefit Policy," as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

(Attachment C - ED-11.77 (rev.5), "State-Owned Employee Housing and Mobile Home Spaces")

Discussion, Consideration, and Possible Action
Regarding Proposed New Board Policy 02.09,
"Prison Rape Elimination Act Ombudsman Policy Statement"

Melinda Bozarth, General Counsel, stated that the Prison Rape Elimination Act (PREA) ombudsman had informed the Correctional Institutions Committee that he would bring forward a PREA Ombudsman Policy Statement for the board to adopt. She reviewed the duties and responsibilities of the PREA ombudsman as outlined in the policy.

Chairman Bell inquired if there were any questions or comments. He noted that Texas is ahead of every state on the PREA issue. Chairman Bell praised Mr. Bales on his efforts to establish the PREA Office, the interdivisional relationships, investigations, and so forth. He called for a motion and a second.

Carmen Villanueva-Hiles made a motion that the TBCJ approve the proposed new Board Policy 02.09, "Prison Rape Elimination Act Ombudsman Policy Statement," as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Adoption of Amendments to Title 37 Texas Administrative Code

1. §163.34, Carrying of Weapons

Ms. Bozarth stated that the rule was published in the February 25, 2011, issue of the Texas Register. No comments were received during the public comment period. She requested that the board adopt the rule as presented.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ adopt Title 37 Texas Administrative Code Section 163.34, as published in the Texas Register, regarding Carrying of Weapons, and that the Chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

2. §163.46, Allocation Formula for Community Corrections Program

Ms. Bozarth stated that the amendments to the rule were published in the February 25, 2011, issue of the Texas Register. No comments were received during the public comment period. Ms. Bozarth requested the board adopt amendments to the rule as presented.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the TBCJ adopt Title 37 Texas Administrative Code Section 163.46, as published in the Texas Register, regarding Allocation Formula For Community Corrections Program, and that the Chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

3. §195.61, Method of Payment for Parole Supervision and Administrative Fees

Ms. Bozarth stated that the amendments to the rule were published in the February 25, 2011, issue of the Texas Register. No comments were received during the public comment period. Ms. Bozarth requested the board adopt the amendments to the rule as presented.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the TBCJ adopt Title 37 Texas Administrative Code Section 195.61, as published in the Texas Register, regarding Method of Payment for Parole Supervision and Administrative Fees, and that the Chairman sign the order to this effect.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

4. §§195.71 – .78, Testing for Controlled Substances Relating to Parole

Ms. Bozarth stated that the amendments to the rule were published in the February 25, 2011, issue of the Texas Register. No comments were received during the public comment period. Ms. Bozarth requested the board adopt the amendments to the rule as presented.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the TBCJ adopt Title 37 Texas Administrative Code Sections 195.71-.78, as published in the Texas Register, regarding Testing for Controlled Substances Relating to Parole, and that the Chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Land Transactions**

1. Request for Electrical Transmission Line Easement at the Dalhart Unit in Hartley County, Dalhart, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, noted that the request from Xcel Energy was discussed at the Business and Financial Operations Committee meeting. The easement at the Dalhart Unit is for the installation of a new electrical transmission line, which is necessary to meet the increased demand for electricity by the City of Dalhart and surrounding communities. Based on the appraised value, Xcel Energy has agreed to pay \$2,905 for the easement for a ten-year term.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the TBCJ approve the request for an electrical transmission line easement at the Dalhart Unit in Hartley County, Dalhart, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Renewal of Valve Site Easement at the Montford Unit in Lubbock County, Lubbock, Texas

Mr. Demny stated that MarkWest Power Tex, L.L.C. requests to renew an existing easement on the Montford Unit for continued use as a pipeline valve site. He reviewed the easement's history. Based on the TDCJ's fee schedule, MarkWest Power Tex, L.L.C. has agreed to pay \$1,000 for this valve site with a five-year term.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ approve the request for renewal of a valve site easement at the Montford Unit in Lubbock County, Lubbock, Texas, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

3. Request for Renewal of Cathodic Protection Site and Electrical Line Easements at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny noted that as discussed in the Business and Financial Operations Committee, Phillips Texas Pipeline, Ltd., requests to renew two existing easements on the Ramsey Unit. These easements will be for continued use as a pipeline cathodic protection site and its supporting electrical service line. Based on the TDCJ's fee schedule and appraised land value, Phillips Texas Pipeline, Ltd. has agreed to pay \$1,500 for these easements, both with a ten-year term.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the TBCJ approve the request for the renewal of cathodic protection site and electrical line easements at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Facilities Division Construction Projects

1. Request to Install High Mast Lighting at the Coffield Unit in Anderson County, Tennessee Colony, Texas

Frank Inmon, Director of the Facilities Division, stated that he detailed at the Business and Financial Operations Committee the request to install the high mast lighting at the Coffield Unit. He requested the board's approval for the project for a total cost of \$3,140,700.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the TBCJ approve a not to exceed budget of \$3,140,700 to install high mast lighting at the Coffield Unit in Anderson County, Tennessee Colony, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to vote.

2. Request to Replace Locking System at the Ferguson Unit in Madison County, Midway, Texas

Mr. Inmon noted that he had briefed the Business and Financial Operations Committee regarding the replacement locking system request at the Ferguson Unit. He requested the board's approval for the project for a total cost of \$2,099,000.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the TBCJ approve a not to exceed budget of \$2,099,000 to replace the locking system at the Ferguson Unit in Madison County, Midway, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Replace Fire Alarm System at the Garza West Unit in Bee County, Beeville, Texas

Mr. Inmon stated that the Business and Financial Operations Committee received a briefing on the request to replace the fire alarm system at the Garza West Unit. He requested the board's approval for the project for a total cost of \$1,030,200.

Chairman Bell inquired if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the TBCJ approve a not to exceed budget of \$1,030,200 to replace the fire alarm system at the Garza West Unit in Bee County, Beeville, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

As mentioned earlier in the meeting, no registration cards for public comments were received. No public comments were heard.

Chairman Bell thanked all in attendance and invited them to attend the 16th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony at 1:00 p.m.

Chairman Bell announced that the next meeting of the board would be June 9-10, 2011, at the Doubletree Hotel in Austin, Texas.

Chairman Bell declared that the 154th meeting of the Texas Board of Criminal Justice would adjourn until 1:00 p.m; it was 12:25 p.m.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 154

The Texas Board of Criminal Justice (TBCJ) reconvened in regular session on Friday, April 8, 2011, at 1:04 p.m., at the Crowne Plaza Hotel, Austin, Texas, adjourned into executive session at 2:05 p.m., and finally adjourned at 3:22 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBER ABSENT:

Eric Gambrell

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell
Melinda Bozarth
Matt Demny
Jackie Edwards
C.F. Hazlewood
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Madeline Ortiz
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Major Chris Flanagan, Area Commander, Salvation Army Greater Houston Area Command; Angela Isaack, Legislative Budget Board; the Honorable Carol Vance, former TBCJ chairman; Debbie Roberts, Superintendent, Windham School District; and members of the media.

Reconvene Texas Board of Criminal Justice

Chairman Oliver Bell reconvened the 154th Meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, April 8, 2011, at 1:04 p.m. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register. Chairman Bell noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode.

16th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all honored guests joining the TBCJ for this important ceremony. He emphasized that the individuals recognized at this event represent the dedication and commitment of thousands of volunteers who turn lives around on a daily basis. Volunteers give unselfishly by helping offenders and their families have an opportunity for a better life. Chairman Bell read a greeting from Governor Rick Perry, who could not be present for the ceremony due to the many demands on his schedule. (*Attachment D – Letter from Governor Perry*)

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests to the 16th Annual Governor's Criminal Justice Volunteer Service Awards. He expressed his gratitude to the volunteers for their service to the TDCJ. He personally thanked the volunteers for entering into a partnership with the TDCJ to benefit the offender population. Mr. Livingston noted that the volunteers' gracious contributions of time, energy, and experience deeply affect thousands of offenders in addition to TDCJ employees. TDCJ's enormous task would be difficult without the dedicated assistance of volunteers. He noted that more than 18,500 volunteers contributed over 500,000 hours of time that could have been spent elsewhere. Volunteers have played an enormous part in the success of the TDCJ's reentry component. Mr. Livingston credited the volunteer effort in helping the TDCJ maintain one of the lowest recidivism rates in the country. He acknowledged that during these challenging economic times volunteers will be called upon more than before to help in any way possible. The rehabilitation, reentry, and educational components are areas that can flourish with additional partnerships and assistance from volunteers. Mr. Livingston highlighted how the volunteer workforce has become an integral part of the TDCJ and its role in making Texas a safer place to live. He expressed his gratitude to each volunteer for filling the critical need in this area. Mr. Livingston acknowledged that volunteers promote positive change in those offenders presently incarcerated and in those who have been released to their communities. He praised the volunteers who give selflessly to the state of Texas; TDCJ is grateful for their gracious generosity and contributions to the mission of the agency.

Chairman Bell commented that the 500,000 hours donated by the volunteers is priceless. He introduced the keynote speaker for the ceremony, Major Chris Flanagan, Area Commander, Salvation Army Greater Houston Area Command. Chairman Bell extended a warm welcome to Major Flanagan and thanked him for attending the ceremony for the criminal justice volunteers.

Major Flanagan related that success in the lives of offenders means that they will not return to prison. It is through the work of the volunteers that give these offenders the hope and spiritual guidance to return to society. Transitioning into society is the greatest test these spiritually challenged men and women will ever face. Major Flanagan told a story from *Samuel II, Old Testament*, in which a crippled, outcast boy was accepted at King David's table, never to be an outcast again. Volunteers provide the warmth, light, experience, and knowledge that help these individuals gain the skills to reenter their communities. He compared this training as preparation for acceptance at "King David's table." Major Flanagan stated that it was a great honor to work with the TDCJ volunteers to help transition offenders into their communities as productive men and women.

Chairman Bell presented Major Flanagan with the Chairman's Coin in recognition of the Salvation Army's volunteer work with the TDCJ. Applause followed.

Chairman Bell yielded the floor to Leo Vasquez, Master of Ceremonies. Mr. Vasquez thanked everyone for attending the ceremony. He noted that the Governor's Volunteer Awards was his favorite meeting of the year, since it highlighted the numerous inspirational aspects within the TDCJ. Mr. Vasquez praised volunteers whose work lighten the burden of offenders, give them hope, provide them an opportunity for a better life, and help them strengthen family relationships. Volunteer assistance includes helping staff, teaching criminal justice professionals, and improving communities throughout the state. Mr. Vasquez acknowledged the Rehabilitation Programs Division staff (Madeline Ortiz, Becky Price, Debbie Van Dyke, Lisa Langley, and Marvin Dunbar) and the TBCJ office staff (Susan McHenry) who worked collectively on this ceremony to honor the volunteers. Applause followed. The individuals recognized in the ceremony are the epitome of volunteerism, whose service unselfishly exceeds all expectations. Mr. Vasquez stated that it was his honor to read the names of the award recipients. The following individuals and organizations were recognized:

Jordan Chapel Builders, *Chaplaincy Department*
Robert Crenshaw, *Correctional Institutions Division*
Kenneth "Ken" Hale, *Private Facility Contract Monitoring and Oversight Division*
Ministry of the Third Cross, *Nancy Hees Award, Parole Division*
Robert Magott, *Religious Service*
Edna Walker, *Religious Service*
A.C.T.S., *Substance Abuse Treatment Program*
Lana Norris, *Pathfinder Award, Victim Services Division*
Judith Dullnig, *Judy Burd Award, Windham School District*
Donna Haggard, *Restorative Justice*
Patriot Paws, *Susan Cranford Award, Female Offender Program*
RUTH, *Most Innovative Program*
The ARKGroup, Inc., *Community Service*

Texas SKIP, *Best Family Program*
Paula Alwin, *Leonard Davis Award for Most Hours Served*
Hazel Crivelli, *Extensive Travel*
Richard Lopez, *TDCJ Employee Volunteer*
Wilhelmenia S. Howard, *Criminal Justice Administrator*

Mr. Vasquez yielded the floor to Mr. Vance, former TBCJ chairman, who presented John “Zeke” Young with the *Carol S. Vance Volunteer of the Year Award for 2010*.

Mr. Vasquez closed the award ceremony by recognizing and honoring the families of award recipients. Applause followed.

Chairman Bell thanked the honored guests, their families, and loved ones for attending the ceremony.

(Attachment E – Program for 16th Annual Governor’s Criminal Justice Volunteer Service Awards. Editor’s note: Within program, correct spelling for Robert Maggot is Magott and “are ex-felons who” should be omitted from narrative for Ministry of the Third Cross.)

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice into executive session at 2:05 p.m. The TBCJ finally adjourned at 3:22 p.m.

*

*

Chairman

Secretary

*Signature on File

Note: Referenced attachments for the approved minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
155th Meeting



Minutes

June 10, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Doubletree Hotel
6505 North IH-35
Austin, Texas 78752
Phoenix North**

**June 10, 2011
12:00 – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

- A. Recognitions
- B. Discussion, Consideration, and Possible Action Regarding Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
 - 4. 154th TBCJ Meeting Minutes
 - 5. Excused Absences
- C. Election of Officers
- D. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)
- E. Report from the Chairman, Judicial Advisory Council (JAC)
 - 1. Fiscal Years 12-13 Appropriations
 - 2. Community Supervision Outcomes
 - 3. Collaboration with Community Supervision Stakeholders
- F. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on the 82nd Legislative Session
- G. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC) – Update on the Second Quarter FY 2011 Financial Report

- H. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)
- I. Report from the Chairman, TBCJ
 - 1. Update on Board Member Visits to Probation, Parole, and Prison Facilities
 - 2. Budget and Good Stewardship
 - 3. Chairman's Fitness League
- J. Internal Audit Status Report for Fiscal Years 2010-2011
- K. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- L. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code Section 163.40, Substance Abuse Treatment
- M. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Oxygen Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas
 - 2. Request for Two Acre Compressor Site Lease at the Eastham Unit in Houston County, Lovelady, Texas
 - 3. Request for Gas Pipeline Easement at the Eastham Unit in Houston County, Lovelady, Texas
 - 4. Request for Fiber Optic Cable Easement at the Jester Unit in Fort Bend County, Richmond, Texas
- N. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Structural Framework in Cellblocks at the Darrington Unit in Brazoria County, Rosharon, Texas

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 155

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, June 10, 2011, at 12:17 p.m. at the Doubletree Hotel, Austin, Texas. The meeting adjourned into executive session at 1:38 p.m. and finally adjourned at 2:29 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBER ABSENT:

Janice Harris Lord

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Michelle Lyons
Mike Bell
Jerry McGinty
Melinda Bozarth
Susan McHenry
Celeste Byrne
John Moriarty
Matt Demny
Madeline Ortiz
Jackie Edwards
Raymond Pyeatt
C. F. Hazlewood
Ron Steffa
Frank Inmon
Kim Vernon
Sherry Koenig
Carey Welebob
Lannette Linthicum, M.D. Dee Wilson

OTHERS PRESENT:

Chelsea Buchholtz, Advisor, Office of the Governor; Marsha McLane, Office of Representative Madden; Angela Isaack, Legislative Budget Board; the Honorable Dale Sturgeon, Jones County Judge; the Honorable Sharon Keller, Texas Court of Criminal Appeals; David Gutierrez, Board of Pardons and Paroles member; Mary Anne Wiley, Deputy General Counsel, Office of the Governor; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 155th meeting of the TBCJ on Friday, June 10, 2011, at 12:17 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the TBCJ would conduct business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Advisor-Budget, Planning, and Policy, Office of the Governor; Marsha McLane, Office of Representative Madden; Angela Isaack, Legislative Budget Board; and the Honorable Dale Sturgeon, Jones County Judge.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ did not hear public presentations on posted agenda topics.

Recognitions

Noting Ms. Lord's absence, Chairman Bell requested a moment of silence for Dick and Janice Lord and their family during a sad and tiring time. The Lord's daughter-in-law has been terminally ill and has just recently taken a turn for the worse.

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), who recognized Lannette Linthicum, M.D., Director of the Health Services Division as the recipient of the E.R. Cass Award, the American Correctional Association's (ACA) most prestigious award. Dr. Linthicum will officially receive the award at the ACA's Summer Convention. Additionally, Dr. Linthicum is the recipient of an award from the Coalition of Correctional Health Authorities (CCHA), an adjunct association of the ACA. The CCHA consists of all 50 states and their directors of health services. Dr. Linthicum recently received the CCHA award for outstanding leadership by a correctional health authority. The CCHA also chose to designate this award in future years as the Lannette Linthicum Outstanding Leadership Award to a correctional health authority. Mr. Livingston congratulated Dr. Linthicum on receiving these honors, noting her hard work, diligence, excellence in the best correctional health care practices, and the highest professional standards. Mr. Livingston yielded the floor to Dr. Linthicum. Dr. Linthicum thanked Mr. Livingston for his kind words and confidence in her. She also thanked her Savior, Jesus Christ, for these blessings and for her labor of love in the agency for the past 25 years. Dr. Linthicum expressed her feelings about her patients, stating she will always advocate for a better health care delivery system for them. She also expressed her gratitude for the recognition given to her at the meeting. Applause followed. Chairman Bell thanked Dr. Linthicum for her leadership and professionalism within the TDCJ.

Chairman Bell recognized Mr. Livingston as the recipient of the State of Texas 20 Year Service Award. He highlighted Mr. Livingston's career in state government, noting that he has just completed his fourth legislative session with the TDCJ. Chairman Bell expressed the TBCJ's gratitude for Mr. Livingston's strong solid leadership that has guided the TDCJ through a challenging legislative session, which resulted in a budget that is operationally sound with all mission essential components in place. Chairman Bell presented Mr. Livingston with his 20 Year Service Award. Applause followed.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of April and May 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

Chairman Bell stated the board's final recognition, the presentation of the Promotion of Positive (POP) Mental Health Award, would be deferred until later in the meeting.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 154th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted that the proposed consent items include the excused absence of Carmen Villanueva-Hiles who was unable to attend the February 2011 meeting, and Eric Gambrell who was unable to attend the April 2011 meeting. Both absences were due to personal business. He asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and as there are personal property donations from the food bank brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Election of Officers

Chairman Bell yielded the floor to Terrell McCombs for a motion.

Mr. McCombs made a motion that the TBCJ approve the nomination of Tom Mechler as the Vice-Chairman of the TBCJ.

He further moved that the TBCJ approve the nomination of Leopoldo Vasquez, III, as the Secretary of the TBCJ.

Chairman Bell noted that with the election of officers every two years, the TBCJ does have the option to continue with the officers in place. Mr. McCombs has come forward with a motion on the floor to continue with officers in place. Chairman Bell called for a second.

David Nelson seconded the motion, which prevailed unanimously when called to a vote.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, BPP presiding officer, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

- 1. Fiscal Years 12-13 Appropriations**
- 2. Community Supervision Outcomes**
- 3. Collaboration with Community Supervision Stakeholders**

Chairman Bell related that Judge Mary Anne Bramblett, JAC Chairman, was unable to attend the board meeting. He noted that Judge Bramblett had sent a letter expressing her commitment to community corrections as well as her appreciation to the board and to Mr. Livingston for their support during these tough economic times.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Update on the 82nd Legislative Session

Mr. Livingston provided an update on the 82nd Legislative Regular Session, which adjourned at the end of May. He noted the legislature was meeting in special session at the current time, which could affect some budgetary decisions concerning the TDCJ. He assured the board that his expectations were that the budget decisions the legislature made for the TDCJ and other

agencies would most likely stand through the special session. Mr. Livingston noted the board had received a detailed handout of the budget decisions from the chief financial officer. The board would also receive a detailed summary of legislation affecting the TDCJ. Mr. Livingston stated that his review would highlight a few of the budgetary items, which follow below:

As the TDCJ moved into the 82nd legislative session last fall, the fiscal circumstances were bleak. Agencies were directed by the state's leadership to decrease their spending and reduce their budgets. When the session began, the TDCJ's recommended budget was \$500 plus million below current spending levels, which was obviously a starting point. Staff worked with the state leadership and the other stakeholders to understand the needs of the TDCJ within the criminal justice community for the upcoming biennium. The funding for the 2012-2013 biennium is approximately \$100 million less than the current biennium funding levels; the most significant reduction is in the correctional managed health care, which accounts for \$75 million of that \$100 million. It is important to note a couple of things about the process. Some of the biggest issues dealt with an over \$225 million proposed reduction to correctional managed health care. Also, the proposed budget in the House of Representatives left unfunded roughly 4,000 beds within the TDCJ's capacity and in total would have significantly reduced TDCJ's ability to manage the incarceration, health care, probation, parole, and treatment functions. As the TDCJ has moved through the process, it is both fair and appropriate to say that all of the agency's functions are funded at a level that is appropriate and operationally sound.

Mr. Livingston emphasized that there was an obligation and an opportunity to continue the effective management and leadership of this agency and its functions. Mr. Livingston stressed that the staff will monitor spending with respect to the key elements of the agency, in terms of treatment, probation, parole, diversion programs, and security. He assured the board that the TDCJ was in good shape to face the new biennium. It is fair to say the decisive steps that TDCJ management took early in this process to ensure the fiscal year (FY) 2011 budget would work, helped this biennium process be successful. This success was based on the willingness to be innovative, to be focused on the commitment to change where change made sense, and to never sit back and rest on one's laurels. There is a lot to be pleased with on the funding levels, but there is an immense responsibility surrounding it. Mr. Livingston stated this responsibility was significant and the TDCJ leadership team was ready to implement all the decisions the legislature made. Mr. Livingston advised the board that he was extremely proud of his senior team for a number of reasons, especially for how each of them stepped up during a very difficult legislative session and fiscally challenging time. He stated his belief that the TDCJ is emerging stronger and more resilient. Mr. Livingston noted one of the key areas of challenge going forward is health care. The legislature approved an overall budget that is \$100 million below current funding levels, \$75 million of that number is health care. The legislature has taken several steps to clarify and solidify the partnership TDCJ has with the universities. Staff is working with the universities in terms of scoping the services to ensure there is a responsible health care system that delivers health care to the offender population and one that does so within the funding levels, which is consistent with the clear message that the TDCJ and the universities received during session.

Based on legislative action, the TDCJ will be closing the Central Unit this summer. Mr. Livingston noted when stabilizing or decreasing offender populations allow the policy makers

the ability to close a unit, it is an indicator that the diversion programs (incarceration, probation, and parole) are working. Implementation of a plan to reassign offenders from that facility has been initiated. Mr. Livingston stated the Central Unit correctional staff would have the opportunity to transfer to vacancies in nearby units.

Mr. Livingston informed the board that the budget is not without some challenge and some pain and that tough decisions will have to be made in the coming weeks. A significant amount of the “heavy lifting” on those difficult decisions has been made. Mr. Livingston stated he would be pleased to answer any questions.

Chairman Bell asked if there were any questions. There were none.

Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)
Update on the Second Quarter FY 2011 Financial Report

David McNutt, CMHCC Chief Financial Officer, provided an update on the Second Quarter FY 2011 Financial Report. He reviewed the population indicators. The number of offenders in the service population age 55 or older increased by 8% from one year ago. The overall HIV population remained stable at 1.57% of the population served. The two mental health caseload measures remained relatively stable.

Mr. McNutt reviewed the health care costs through the second quarter of FY 2011, which were \$268.1 million. This amount was above overall revenues earned by the university providers by \$13.3 million or 5.21%. The University of Texas Medical Branch’s (UTMB) total revenue was \$201.6 million. Their expenditures totaled \$213.2 million resulting in a loss of \$11.6 million. UTMB earned \$9.14 in revenue per day but expended \$9.66 resulting in a net loss of \$0.52 per offender per day. Texas Tech University Health Sciences Center (TTUHSC) total revenue was \$53.2 million. Expenditures totaled \$54.9 million resulting in a net loss of \$1.7 million. TTUHSC earned \$9.30 in revenue per day but expended \$9.60 in resulting in a net loss of \$0.30 per offender per day. The total cost per offender per day for all health care services through the second quarter of FY 2011 was \$9.65. The cost per day for FY 2010 was \$9.88.

Chairman Bell asked if there were any questions or comments. There were none.

Report from the Chairman,
Advisory Committee on Offenders with
Medical or Mental Impairments (ACOOMMI)

John Bradley, ACOOMMI Chairman, had no report.

Chairman Bell noted he would like, at this time, to proceed with the presentation of the Promotion of Positive (POP) Mental Health Award. This award is given to those individuals or

group of individuals who promote or establish programs to address mental health issues for offenders under TDCJ's supervision and to insure they receive proper treatment and housing. Dee Wilson, the Director of the Reentry and Integration Division, recognized this year's POP Mental Health Award recipient, the Chief Justice Led Mental Health Task Force, established by the Honorable Sharon Keller, Presiding Judge, Texas Court of Criminal Appeals. This task force led the nation in developing the first identification system for the mentally ill upon entry into the criminal justice system. Present for the award were task force members Judge Keller, David Gutierrez, BPP member, and Mary Anne Wiley, Deputy General Counsel, Office of the Governor. Judge Keller thanked the members of the task force, and Ms. Wilson who did invaluable amounts of work in supporting the task force's efforts. She also thanked Dr. Tony Fabelo, Council of State Government, and the late Jason Brill for the role they played in assisting the task force. Chairman Bell presented the POP Mental Health Award to Judge Keller, Mr. Gutierrez and Ms. Wiley. Applause followed.

Mr. Nelson commented that it was his pleasure to have known Ms. Wiley and Mr. Gutierrez when they were residents of Lubbock County. He praised them as professionals of unequalled stature in their respective fields.

Report from the Chairman, TBCJ

1. Update on Board Member Visits to Probation, Parole, and Prison Facilities

Chairman Bell stated that in June 2009 the TBCJ had met its goals to visit all prison facilities. The board expanded its visitations to community supervision and correction departments (CSCDs) and parole offices. These visits give the TBCJ insight into the day-to-day operations of the agency as well as heighten morale among the employees and gives them an opportunity to share thoughts and concerns with the TBCJ. The TBCJ has logged 188 visits to prison facilities, 27 visits to parole facilities, and 21 CSCD visits. The Chairman stated that in the past month he has visited facilities in Brownwood, Snyder, Dalhart, Amarillo, Pampa, and Bridgeport, with all visits unannounced. These board member visits include talking with staff and offenders, inspecting programs and equipment as well as visiting medical facilities and treatment programs. Chairman Bell encouraged TBCJ members to continue visiting TDCJ facilities in their area of responsibility. He noted that Mr. McCombs leads the TBCJ in visiting the prison, parole and CSCD facilities in his area of responsibility.

Chairman Bell stated that he had recently visited the Jordan Unit and spoke at the unit's chapel dedication. The chapel was made possible by a coordinated volunteer effort. The Jordan Chapel Builders envisioned the building's existence 10 years ago. It was through community spirit and hard work that a chapel was constructed for offenders as a place to come for worship and education. Chairman Bell expressed his pride in being part of the criminal justice system and a citizen of Texas.

2. Budget and Good Stewardship

Chairman Bell stated that all state agencies are being challenged fiscally. The legislature has provided funding that will allow TDCJ to continue to be operationally sound. These resources will be managed well. Chairman Bell recognized Mr. Livingston for his proactive, future focused leadership in management as he leads for both the long term and the short term. Mr. Livingston and his staff examine every operational, personnel, and fiscal issue that must be dealt with before going forward. They are humble and carry on these activities away from the lime light without bringing attention to themselves. The staff's normal business routine examines the TDCJ's needs in security, health care, training, industry, agriculture, faith based programs, reentry programs, rehabilitation programs, probation programs, and parole programs. Mr. Livingston as the current executive director provides long-term leadership and focus on the future due to his extensive history and senior leadership positions in the agency and his tenure as executive director. As Mr. Livingston already has a future focused management structure in place, it is appropriate to acknowledge it. The proactive and decisive operational steps Mr. Livingston and his team took during these challenging fiscal times set the stage for the TDCJ's future success. Chairman Bell stated that he was aware that Mr. Livingston did not view these steps as one-time events. He emphasized that no activity was sacred in terms of how it must operate, noting that everything is open to review and restructuring if and when it makes sense. The activities must be done well, but how TDCJ structures them, analyzes their cost, and evaluates their effectiveness are (and shall be) an ongoing way of management. In some cases, agency leadership will clearly determine the current approaches are best practices as many other states have when looking at Texas' criminal justice system. In other areas of operations, TDCJ will change because that is what will make the agency stronger, more cost efficient, and guarantee the success of the TDCJ's mission. Mr. Livingston will insure that the agency will remain responsive to the governor, legislature, and the people of Texas. TDCJ will continue to look at how the agency performs its number one operation, which is security. The Correctional Institutions Division (CID) continually provides input on how the agency should operate, what can be changed, and how TDCJ can improve the prison facilities' security measures. Security is by no means TDCJ's only contribution to public safety but it is one of the agency's most visible and direct contributions and as such must continue to remain second to none in terms of staff's priorities. TDCJ will examine health care operations. The recent changes enacted by the legislature provide TDCJ a more active role and enhanced monitoring and reporting requirements. Some of the activities are already in place, but now there is a more formal structure to reinforce some of these activities. As the agency moves forward over the next two years, the delivery of health care to the offender population will be an ongoing challenge. The funding levels of health care will demand ongoing innovation. The TDCJ, CMHCC, and the university partners are committed to making the health care delivery system work. Clearly, the TDCJ has a challenge with health care costs. However, the TDCJ's partners at UTMB and TTUHSC oversee one of the lowest cost and most effective care delivery models for correctional health care programs in the country. The TDCJ and the CMHCC will have to look for more opportunities to create an even more cost efficient system in the long run. Working with the health care partners, the TDCJ will determine if the current mix of services is affordable or if better options are available within the appropriated funding levels. The agency is very fortunate to have Dr. Linthicum with her leadership and experience in correctional health care as part of the TDCJ team.

Other core functions such as reentry initiatives and rehabilitation programs passed in the previous session continue to evolve. There is extensive cooperation between TDCJ divisions and public and private entities to improve offender reentry efforts. Chairman Bell stated that the TDCJ has done an exceptional job in these areas, noting his comments serve three purposes. First, to thank staff for their work to date; second, to increase staff's awareness of these forward management practices that have been implemented under Mr. Livingston's leadership; and lastly, to remind staff these efforts are not out of the ordinary. Forward planning, alternative evaluations, and contingency planning are ingrained qualities in the TDCJ. Chairman Bell expressed his interest in the periodic updates from all areas within the TDCJ on various activities and the opportunity to identify the agency's future best practices whether they are a continuation of existing activities or a complete departure from these activities as the TDCJ seeks to improve. He also voiced this board's interest in working within the TBCJ committees and the TDCJ by interacting with its partners to seek solutions. Staff and the TBCJ will continue to concentrate on core functions and essential business keeping efficiency and cost effectiveness on the forefront while maintaining a safe and sound criminal justice system.

3. Chairman's Fitness League

Chairman Bell reported that the Chairman's Fitness League for the Third Quarter Challenge concluded in May 2011. The top ranking teams in each division are as follows: (1) Division One: Championship-Texas Board Pardons and Paroles with 7,858 points, 2nd Place-Specialized Programs, Parole Division, and 3rd Place-TBCJ; (2) Division Two: Championship-State Counsel for Offenders with 15,832, 2nd Place-Accounting and Business Services, 3rd Place-Contracts and Procurement; (3) Division Three: Championship-Walker Sayle Unit with 38,619 points, 2nd Place-Ft. Stockton Unit, and 3rd Place-Glossbrenner Unit; (4) Division Four: Championship-Hobby Unit with 47,772, 2nd Place-Central Unit, and 3rd Place-C. Moore Unit; (5) Division Five: Championship-Jester IV Unit with 33,368 points, 2nd Place-Parole Division Region III, and 3rd Place-Manufacturing and Logistics Division; and (7) Division Seven: Championship-WSD Administration with 9,369 points. Chairman Bell extended his congratulations to all the ranking teams and to the challenge participants. The fourth quarter challenge, which began June 6, will be a five-week physical activity program similar to the past quarter with the activities being logged and converted into miles.

Internal Audit Status Report for Fiscal Years 2010 – 2011

Raymond Pyeatt, director of the Internal Audit Division, stated there were no changes to the internal audit status report.

Chairman Bell asked if there were any questions or comments. There were none.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the following purchases and contracts over \$1 million:

- Items 1-10: Increases to current year contracts. Notably Items 5 (bulk fuel), 8 (food), 9 (food), and 10 (food) have a 10% variance in contract price.
- Items 11-18: Contract renewals for agribusiness operations. Items 15 (pork trimming) and 16 (beef trimmings) have a 10% variance in contract price.
- Items 19-25: FY 2012 contract renewals for Texas Correctional Industries Operations. Item 24 (bulk fuel) has a 10% variance in contract price.
- Item 26: FY 2012 contract renewal for food service at the Hamilton Unit.
- Item 27: FY 2012 contract renewal for operation of in prison therapeutic community (IPTC) and substance abuse treatment program services at the Havins Unit.
- Items 28-29: FY 2012 contract renewals for services at the East Texas Treatment Facility.
- Items 30-36: FY 2012 contract renewals for IPTC and substance abuse felony punishment services on seven units (Estelle, Hackberry, Jester I, Glossbrenner, Halbert, Kyle, and Sayle units).
- Items 37-38: FY 2012 contract renewals for information technology support services.
- Item 39: FY 2012 contract for commissary items, which is approximately a 2.5% increase from the FY 2011 contract.
- Item 40: FY 2012 contract for coffee and cappuccino to be sold in the commissaries. This has a 10% variance in contract price.
- Items 41-42: FY 2012 new contracts for Texas Correctional Industry use.
- Item 43: FY 2012 food contract for Kegans State Jail.
- Item 44: Calendar Year (CY) 2012 contract for electricity for 49 units, which has a 10% price variance in contract price.
- Items 45-50: FY 2012-2013 contract renewals for halfway house services for the placement of parolees lacking residential resources.
- Items 51-73: FY 2012-2013 contract renewals for residential and outpatient substance abuse treatment services.
- Items 74-78: FY 2012-2013 contract renewals of five of the seven correctional centers (private prisons). The dollar amounts of some may appear to be larger than the others, such as on Item 74 and Item 75, which are 1,000 bed facilities compared to the three other facilities, which are 520 bed facilities.
- Items 79-80: FY 2012-2013 contract renewals for electronic monitoring services.
- Food Purchases: All items require a 10% variance in contract price.
- Item 81: FY 2012 contract renewal for the operation of the state jail substance abuse program at six state jails.
- Items 82-84: FY 2012-2012 contract to West Texas/Brownfield for the operation and management of an intermediate sanction facility, Minerals Wells for the operations and management of a pre-parole transfer facility, and Bridgeport for the operation and management of the pre-parole transfer facility.

(Attachment B – Handout Purchases Over \$1 Million Items 81-84)

Chairman Bell opened the floor for questions. Judge Gist asked if the outcomes of the rehabilitative programs such as the substance abuse felony punishment programs are considered in the contracting process. Mr. McGinty responded affirmatively, noting that the TDCJ works closely with the Legislative Budget Board regarding the recidivism rates of offenders who complete the substance abuse and IPTC programs. Judge Gist inquired if the studies reflect which vendors may have a higher recidivism rate than others. Mr. McGinty stated that recidivism impact is looked at on a global level. He assured the TBCJ that staff from the Rehabilitation Programs Division and the Private Facility Contract Monitoring and Oversight Division will ensure that the quality of programming is met contractually and is consistent among all the facilities. Judge Gist stated that his question about the quality of the programming is “is it working?” Mr. McGinty said he could provide Judge Gist with additional information regarding the agency’s monitoring of the substance abuse treatment program.

Chairman Bell asked if there were any further questions. Seeing none, he called for a motion and a second.

Tom Mechler made a motion that the TBCJ approve the purchases and contracts over \$1 million to include a 10% price variance for food items, bulk fuels, and electricity, as presented.

Carmen Villanueva-Hiles seconded the motion.

Chairman Bell asked if there were any conflicts.

Mr. Vasquez stated that he wished to abstain from the vote on the purchases and contracts over \$1 million, as one of the commissary items listed is coffee/cappuccino. He currently has an affiliation with the coffee industry and to prevent the slightest suggestion of impropriety he respectfully abstained from voting on this item.

Mr. Gambrell stated that he would also abstain from voting on the purchases and contracts over \$1 million as his firm represents Jacobs Engineering Group, Inc., 3M Corp., Corrections Corporation of America, and Cornell Companies, Inc.

Chairman Bell called for a vote.

The motion passed unanimously when called to a vote (Mr. Vasquez and Mr. Gambrell abstained from voting).

**Discussion, Consideration, and Possible Action Regarding
Proposed Amendments to Title 37 Texas Administrative Code
Section 163.40, Substance Abuse Treatment**

Melinda Bozarth, TDCJ General Counsel, stated that the proposed amendments to Section 163.40, Substance Abuse Treatment, have been reviewed by the JAC and the Probation Advisory Council. Ms. Bozarth reviewed the substantive revisions, noting changes were being recommended to the definition of “Counselor Intern” with a similar revision to the definition of “Graduate.” She further noted that under section (p)(2) a clarification was proposed regarding the criteria for removing an offender who has been inappropriately placed in a program or who is unable to participate in a program. A new section, (x)(10), is also proposed that provides an offender’s progress in treatment shall be assessed regularly by the clinical staff to help determine the length and intensity of the program.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the TBCJ approve for publication in the Texas Register, the proposed amendments to Board Rule 163.40, regarding Substance Abuse Treatment, to receive public comment, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action
Regarding Land Transactions**

1. Request for Oxygen Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas

Matt Demny, Director for Agribusiness, Land and Minerals Department, stated the Business and Financial Operations Committee had received a briefing on the four following easements earlier in the day.

Mr. Demny reported that HSC Pipeline Partners Limited, LLC has requested an easement at the Darrington Unit for the installation of one new gas pipeline. The easement will be 30 feet wide and approximately 5.2 miles (27,488.67 feet) long. The request includes several temporary workspaces totaling 39.04 acres of land for use during pipeline construction and installation. HSC Pipeline Partners Limited, LLC has agreed to pay \$181,198 for this easement with a 10-year term. Mr. Demny mentioned that all the easements presented today include the “most favored nation” clause to insure that the state is receiving the best deal possible.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the TBCJ approve the request for an oxygen pipeline easement at the Darrington Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Two Acre Compressor Site Lease at the Eastham Unit in Houston County, Lovelady, Texas

Mr. Demny reviewed the request from Navidad Resources, LLC for a surface lease at the Eastham Unit. The easement consists of 2.0 acres of land to locate and operate a compressor and accessory equipment to facilitate the collection of natural gas from both state and off site sources. Navidad Resources, LLC has agreed to pay \$8,000 per year for this surface lease with a 10-year term.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the TBCJ approve the request for a two acre compressor site lease at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

3. Request for Gas Pipeline Easement at the Eastham Unit in Houston County, Lovelady, Texas

Mr. Demny stated that Navidad Resources, LLC has requested an easement at the Eastham Unit for a new gas pipeline. The easement will consist of two segments, each being 20 feet wide and totaling approximately 6,478.01 feet in length. It includes a temporary workspace of 2.88 acres for use during pipeline construction and installation. Navidad Resources, LLC has agreed to pay \$45,020 for this easement for a 10-year term.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the TBCJ approve the request for a gas pipeline easement at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

4. Request for Fiber Optic Cable Easement at the Jester Unit in Fort Bend County, Richmond, Texas

Mr. Demny stated that Southwestern Bell Telephone Company requested an easement at the Jester Unit totaling 1.189 acres. The easement, consisting of two segments both being 10 feet in width and adding up to approximately 5,186 feet in length, will be used for the installation of a 4" fiber optic cable. Based on appraised value, Southwestern Bell Telephone Company has agreed to pay \$46,460.64 for the easement with a 10-year term.

Mr. Vasquez made a motion that the TBCJ approve the request for a fiber optic cable easement at the Jester Unit in Fort Bend County, Richmond, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Structural Framework in Cellblocks at the Darrington Unit in Brazoria County, Rosharon, Texas

Frank Inmon, Director of the Facilities Division, noted that the Business and Financial Operations Committee had received a briefing of the proposed construction project at the Darrington Unit earlier in the day. The project is to replace structural framework in 36 shower cells, in cellblocks A, B, C, D, E, and F of the Darrington Unit. Mr. Inmon explained the responsibilities for the contractor, which included the removal of the existing shower cell fronts, shower cell doors, frames, and locks. One bid was received and negotiated for this project. If approved, the work will be performed by The Nay Company, with a portion of the work being completed by Texas Correctional Industries. The project cost is \$2,165,600.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the TBCJ approve a not to exceed budget of \$2,165,600 to replace structural framework in cellblocks at the Darrington Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice into executive session at 1:38 p.m. The TBCJ finally adjourned at 2:29 p.m.

*

*

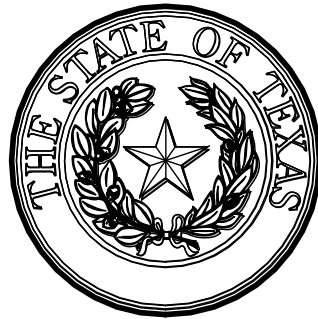
Chairman

Secretary

*Signature on file.

Note: Referenced attachments for the approved minutes are available upon request from the Office of Executive Services.

Texas Board of Criminal Justice
156th Meeting



Minutes

August 19, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel
6121 North IH-35
Austin, Texas 78752
Salons E-H**

**August 19, 2011
11:00 AM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 155th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Payment of Insurance Premiums by the Community Supervision and Corrections Departments
2. Collaboration Efforts Involving Homeland Security and Community Corrections
3. Statewide Assessment Instrument

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

1. Update on the Central Unit Closing
2. Update on Correctional Managed Health Care

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

- H. Report from the Chairman, TBCJ
 - 1. Leadership Accountability
 - 2. Change Management
- I. Discussion, Consideration, and Possible Action Regarding Selection of the Inspector General
- J. Discussion, Consideration, and Possible Action Regarding Selection of the Director of the Internal Audit Division
- K. Discussion, Consideration, and Possible Action Regarding Selection of the Director of the State Counsel for Offenders
- L. Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2012 Annual Audit Plan
- M. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- N. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2012 Proposed Operating Budget
- O. Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Section 163.40, Substance Abuse Treatment
- P. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Transfer of Land at the Wynne Unit in Walker County, Huntsville, Texas
 - 2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
- Q. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request for Kitchen Renovations at the Pack Unit in Grimes County, Navasota, Texas
 - 2. Request to Replace Roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas
 - 3. Request to Upgrade Light Fixtures in Cell Blocks at the Huntsville Unit in Walker County, Huntsville, Texas
- R. Public Comments

Adjourn

The TBCJ may discuss and take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 156

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, August 19, 2011, at 9:14 a.m. at the Crowne Plaza in Austin, Texas. The meeting adjourned immediately into executive session, reconvened in regular session at 11:26 a.m., and finally adjourned at 1:06 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBER ABSENT:

Leopoldo (Leo) Vasquez, III, Secretary

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Matt Demny
Jackie Edwards
C.F. Hazlewood
Frank Inmon
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons
Angie McCown
Jerry McGinty
Susan McHenry
John Moriarty
Madeline Ortiz
Raymond Pyeatt
Ron Steffa
Rick Thaler
Jan Thornton
Kim Vernon
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Chelsea Buchholtz, Office of the Governor; Angela Isaack, Legislative Budget Board; Mike Meyer, Senate Finance Committee; the Honorable Dale Spurgin, Jones County Judge; the Honorable Mary Anne Bramblett, Chairman, Judicial Advisory Council; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 156th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, August 19, 2011, at 9:14 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session which is closed in accordance with Texas Government Code Sections 551.071, 551.074, and 551.076, the *Open Meetings Act*.

Reconvene the Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 156th meeting of the TBCJ on Friday August 19, 2011, at 11:26 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Office of the Governor; Angela Isaack, Legislative Budget Board; and the Honorable Dale Spurgin, Jones County Judge.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Chairman Bell noted that speaker registration cards were only received for the public comments portion of the meeting and as such he would review the requirements for speaker registration at that time.

Recognitions

Chairman Bell recognized the Honorable Mary Anne Bramblett as the chairman of the Judicial Advisory Council (JAC). The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals appointed Judge Bramblett. In addition to her duties as the JAC chairman, Judge Bramblett serves as the district judge of the 41st District Court, a position she has held since January 1989. She is a strong advocate for the use of sentencing alternatives and a friend to the Texas Department of Criminal Justice (TDCJ). Chairman Bell expressed his confidence that under Judge Bramblett's leadership the strong working relationship established by Judge Gist will continue to flourish between the JAC and the board. Judge Bramblett stated that she was honored by Chairman Bell's kind words.

Chairman Bell recognized the Office of Inspector General's (OIG) Information Systems Division (ISD). The division has maintained a close working relationship with the Texas Fusion Center, which is an intelligence gathering operation run by the Department of Public Safety to track criminal and homeland security related activity that impacts Texas. Additionally, the OIG-ISD maintains a close working relationship with the United States Department of Homeland Security.

This relationship has allowed the TDCJ to expand its scope of gathering and sharing of information between the OIG and other departments and agencies. For instance, through this program, the OIG has established a pilot project with Webb County Jail by which data related to gang activity is shared electronically. Information about incoming offenders is shared with OIG who in turn passes it to the TDCJ while gang information on parolees is provided to Webb County. This sharing of information facilitates the management of the offender population on both ends. In addition to gang intelligence, information on contraband can also be shared. For example, a Webb County officer found an offender designing a homemade handcuff key. As TDCJ uses the same type of handcuffs, the intelligence on this case provided the OIG the opportunity to minimize potential security risks. This past spring the United States Department of Homeland Security recognized the OIG-ISD program on information gathering and sharing with other departments and agencies as a best practice. Additionally, Janet Napolitano, the Secretary for the Department of Homeland Security, recommended the Texas OIG model be used for other states. Through close working relationships with outside law enforcement organizations, such as the Texas Fusion Center and the Department of Homeland Security, the OIG continues to be a premier organization in the criminal law enforcement arena. Chairman Bell thanked John Moriarty, Inspector General, and his staff for their outstanding work. Mr. Moriarty credited Bruce Toney, Deputy Director of the OIG-ISD, for the excellent outcome of the pilot program and the best practices award.

Mr. Moriarty recognized Danny Stoltz, who is a retired 30-year veteran of the United States Marshals Service, as the new commander over the OIG Fugitive Task Forces. Mr. Stoltz thanked the board and Mr. Moriarty for the opportunity to serve the agency in this capacity. Chairman Bell welcomed Mr. Stoltz to his position.

Kim Vernon, Director of the State Counsel for Offenders (SCFO), recognized Barbara Corley as the new chief of the Civil Commitment Section. Ms. Corley stated that she was thrilled to be working for the agency in her new position.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of June and July 2011. The TBCJ, along with Brad Livingston, TDCJ Executive Director, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Chairman Bell recognized and welcomed Mike Meyer, staff member of the Senate Finance Committee.

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 155th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and Wal-Mart and as there are personal property donations from both being brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

Ms. Rissie Owens, BPP Presiding Officer, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

- 1. Payment of Insurance Premiums by the Community Supervision and Corrections Departments (CSCDs)**

Judge Bramblett reported that the JAC met on July 14 - 15, 2011, and one of the discussions concerned funding issues for the CSCDs. Probation has a total net loss of 3.5% from the previous biennium. Money is being prioritized. She advised the board that two facilities did not receive funding and were closed due to substandard performance evaluations from a recent audit. Judge Bramblett acknowledged that one of these facilities was in her district, noting that the Community Justice Assistance Division (CJAD) had to make hard decisions. Judge Bramblett expressed her support for CJAD and its performance based evaluations. Regarding the insurance premiums, Representative Sylvester Turner has requested an interim charge from the Speaker of the House, in order to gather information and guidance on this issue. Currently, funds for the insurance premiums for county CSCD employees are taken out before monies are distributed to the CSCDs, thereby limiting the amount of funds available for the diversion programs.

- 2. Collaboration Efforts Involving Homeland Security and Community Corrections**

The JAC received a presentation from the Immigration and Customs Enforcement (ICE) pilot program in North Texas, the Enforcement and Removal Operation. Homeland security is working with the CSCDs to target deported criminal aliens.

3. Statewide Assessment Instrument

Judge Bramblett further reported on the future implementation of an improved assessment tool to enhance the public safety model by placing the appropriate person on probation with the appropriate services for rehabilitation. She voiced her hopes that if the assessment tool is validated it could be implemented for all components of the criminal justice system.

Following Judge Bramblett's comments, Chairman Bell reemphasized the importance of the homeland security mission in the probation arena and its relevance to the public safety mission.

Report from the Executive Director, Texas Department of Criminal Justice

1. Update on the Central Unit Closing

Mr. Livingston briefed the board on the closure of the Central Unit. He stated this was a tremendous opportunity for the state of Texas to close a prison unit. To a large extent, it can be attributed to the success of the treatment programs and the diversion initiatives that the legislative leadership and the Office of the Governor put in place in the past legislative sessions. The fact the TDCJ's populations are somewhat stable provided policy makers the opportunity to make those decisions, is a remarkable success story. It supports the decisions they made in the most recent legislative session to close the Central Unit and to continue funding the treatment and diversion programs at substantially similar levels to where they are at today. As mentioned during the Business and Financial Operations Committee meeting on August 18, 2011, the state's leadership came through big for criminal justice during this past legislative session. The TDCJ is in solid shape as it moves forward.

Mr. Livingston provided some of the logistical details involving the closure of the Central Unit. As of August 5, 2011, the offender population was transferred from the Central Unit to other units, which have been able to absorb the offenders. Staff is working to wind down auxiliary operations at the unit. The Correctional Institutions Division (CID), Human Resources Division (HR), and a number of other divisions have been engaged in activities related to closure of the Central Unit. The CID and HR met with each Central Unit employee. The majority of the correctional staff was able to take advantage of vacant correctional officer positions within that same region. Mr. Livingston reported the winding down operations at the Central Unit have been a success, and noted the highly motivated cooperation among the divisions. Some logistical activities will continue to transition. The TDCJ has received some funding to transition the warehousing functions and the mechanical shop functions, whose operations will be transferred to other locations. Mr. Livingston acknowledged the closure of the Central Unit is a success story that the TDCJ can tout.

2. Update on Correctional Managed Health Care

Mr. Livingston stated the management and delivery of offender health care involves the cooperation of several divisions and partnerships. The funding levels present a challenge within the upcoming biennium. The following are highlights from his briefing:

- The composition of the Correctional Managed Health Care Committee was reduced from nine members to five voting members and one ex-officio member, the state Medicaid director.
- TDCJ has the authority to conduct a biennial review concerning expenditures within correctional managed health care.
- TDCJ is the contracting entity with health care providers within this area.
- TDCJ can contract with other entities specifically with other university providers who may have an interest in providing health care to the offender population.
- There are specific rate structures that TDCJ must work within for hospital services. These rates can be negotiated with the various providers currently in place and to other providers who can be added.
- The hospital and clinical services line item is approximately 28% below the current levels. Mr. Livingston noted that the legislative leadership sent a clear message that the TDCJ and its university health care partners must work together to provide the best health care delivery system possible at the most affordable cost possible for offender health care.
- The funding for unit and psychiatric care is approximately 12% below the current levels. The pharmacy funding is approximately 7.5% below current funding levels.
- The university health care partners will make further staff reductions. The University of Texas Medical Branch (UTMB) began its staff reductions for unit based care earlier in the summer.

Mr. Livingston stated it was his expectation to develop a system of health care partnerships to facilitate health care delivery within the 2012-2013 funding levels. The TDCJ will utilize all the statutory authority it has at its disposal to make certain that this is a working system, expanding partnerships where it makes sense, and continuing dialogue with the TDCJ's current university health care partners.

Chairman Bell commented that the closure of the Central Unit has been a positive story and stated he was pleased the current trends have allowed the board and the TDCJ to be able to close a unit. The Central Unit has been studied for closure for the last six to eight years. Crime rates are down and offender populations are relatively flat. If the trends continue, Chairman Bell stated it might be possible more prisons could close in the future.

With regard to correctional managed health care, Chairman Bell characterized what Mr. Livingston and his staff were experiencing as a transition of the contracting responsibilities and management from the CMHCC to the TDCJ executive team. The amount of planning in this endeavor is the key to a positive outcome. He praised Mr. Livingston and his team for their planning and willingness to work with the correctional managed health care university partners, while exploring all available options to provide service to the largest health care system in Texas.

Terrell McCombs noted that legislation reads university health care partners are to be used unless there is some area of health care, which they cannot adequately provide care. He asked if staff foresees any medical need that the university health care partners may not be able to provide. Mr. Livingston responded it was too early to know how extensive some of the changes may be. He explained that for years both university health care partners have relied on outside partners to deliver significant components of correctional managed health care. Texas Tech University Health Sciences Center (TTUHSC) has used this approach more than the UTMB. The TDCJ will open dialogues with other entities and explore all avenues of operations within the perimeters of its authority. Mr. Livingston mentioned that one of the items for discussion later on the agenda is an extension of the current health care contract, which will have the necessary safeguards in place by September 1, 2011.

David Nelson stated it was important for the TDCJ to maintain the relationship with the current correctional managed health care partners. Statutorily the health care partners are required to provide health care delivery services to offenders. While it is not an exclusive provision of those services, they should stand ready to provide them. Mr. Nelson further stated on two separate occasions the board was notified in writing by one of the university partners that it did not intend to continue unit based health care unless there was an increase in funding. He noted that unfortunately, there has been a decrease in funding. Mr. Nelson said the board and the agency must examine and explore potential eventuality and be prepared to fill in if that correctional managed health care partner chooses not to fulfill its statutory obligation.

**Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)**

The Honorable Allen Hightower, Executive Director of the CMHCC, had no report.

**Report from the Chairman, Advisory Committee on Offenders
with Medical or Mental Impairments (ACOOMMI)**

John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Leadership Accountability

Chairman Bell stressed the relevance of leadership at all levels from the executive director to the employees. With leadership comes accountability. Strong effective leaders take accountability for the performance within their divisions and departments. Being accountable is doing the right thing for the right reason. It is also doing a good job and having pride in what one does. An effective leader provides ways to motivate the employees and keep them engaged. Keeping the employees engaged is the challenge. The value of leadership has no price tag. The TDCJ's accountability for leadership begins at the front line supervisor, and extends to the executive

director's office. Chairman Bell commented that the TDCJ has excellent succession planning in place. He credited Mr. Livingston with this leadership planning. He also commended the OIG, SCFO, and the Internal Audit Division for their succession planning. Chairman Bell praised the TDCJ for its forward leadership planning.

2. Change Management

Chairman Bell acknowledged that personnel in three key management positions were retiring at the end of August. Change management is a process by which a structured approach is put in place to develop individuals, to help them to shift on objectives, help the team develop, help the organization develop, and to examine one's current and future state. Through proper management, the transition in staff in management or any operational area of an organization will mean growth and advancement. Chairman Bell commented that the current budget is a change management operation, which is an opportunity to reevaluate, push forward, and deliver the best effort possible. Change management is the responsibility of all employees at all levels. Chairman Bell stressed it needs to be embraced and supported. The vision of tomorrow will be created by the new leaders of today.

3. Chairman's Fitness League

Chairman Bell reviewed the Chairman's Fitness League post season training which concluded in July. The following were the top three ranking teams in each division:

- Division I - Championship: Houston VI-Parole Office, 1,906 points; 2nd Place: Parole Division Specialized Programs; 3rd Place: Houston III-Parole Office
- Division II - Championship: SCFO, 2,599 points; 2nd Place: Administrative Review and Risk Management Division; 3rd Place: Facilities Division
- Division III - Championship: Halbert Unit, 1,116 points; 2nd Place: Information Technology Division; 3rd Place: Human Resources Administration
- Division IV - Championship: Hobby Unit, 6,842 points; 2nd Place: Scott Unit; 3rd Place: Cole State Jail
- Division V - Championship: Lychner and Kegan Unit Complex, 3,496 points; 2nd Place: Huntsville Unit; 3rd Place: Manufacturing and Logistics Division
- Division VI - Championship: Bridgepoint Correctional Center, 5,600 points
- Division VII - Championship: Windham School District, 1,585 points

Discussion, Consideration, and Possible Action Regarding Selection of the Inspector General

Chairman Bell stated that Mr. Moriarty announced his retirement effective August 31, 2011. The selection process began in June. He noted that two very good candidates came forward. The Internal Audit Committee was responsible for leading the interviews. The candidates also spent time with the executive director and the TBCJ chairman.

Chairman Bell called for a motion and a second for the selection of the Inspector General.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve the selection of Bruce Toney as the Inspector General, to be effective September 1, 2011.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell welcomed Mr. Toney as the newly selected Inspector General. Mr. Toney thanked the board for the opportunity to serve the agency as the Inspector General.

Discussion, Consideration, and Possible Action Regarding Selection of the Director of the Internal Audit Division

Chairman Bell stated Raymond Pyeatt was retiring effective August 31, 2011. An internal search was conducted, with one candidate emerging.

Chairman Bell called for a motion and a second for the selection of the director of the Internal Audit Division.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the selection of Scott Hornung, as the Director of the Internal Audit Division, to be effective September 1, 2011.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell welcomed Mr. Hornung to his position as the director for Internal Audit. Mr. Hornung thanked the board for their confidence in his abilities. He also thanked Mr. Pyeatt for his leadership as well as his friendship.

Discussion, Consideration, and Possible Action Regarding Selection of the Director of the State Counsel for Offenders

Chairman Bell stated there were three candidates who applied for the position of director of the SCFO. All were qualified and well spoken. He praised Ms. Vernon as a strong leader who has reshaped and refocused the SCFO into a team of legal experts respected by the judiciary and district attorneys throughout the state.

Chairman Bell called for a motion and a second for the selection of the director of the State Counsel for Offenders.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the selection of Rudolph Brothers, as the Director of the State Counsel for Offenders, to be effective September 1, 2011.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell welcomed Mr. Brothers to his new position. Mr. Brothers stated he was honored to be selected to be the SCFO director, thanking Ms. Vernon for her support.

Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2012 Annual Audit Plan

Raymond Pyeatt, Director of Internal Audit Division, noted he briefed the Audit and Review Committee on August 18, 2011, on the Fiscal Year (FY) 2012 Annual Audit Plan. He stated he would be pleased to answer questions the board may have.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2012 and authorize the internal audit director to perform audit work outside of the audit plan if deviations are warranted in the judgment of the internal audit director, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Items 1-7 are FY 2012-2013 contract renewals for Texas Correctional Office on Offenders with Medical and Mental Impairments for mental health services. Item 8 is the FY 2012-2013 contract for after care treatment for offenders that are released from the substance abuse felony punishment facility program. Item 9 is the FY 2012-2016 lease for copier equipment. Item 10 is the FY 2012 contract for the installation of the security surveillance system at the McConnell Unit. Item 11 is the FY 2012-2013 contract for natural gas, which has a 10% variance, for approximately 40 TDCJ units. An additional item is the extension to the current correctional managed health care contract. The intent is to extend the FY 2010-2012 contracts with the universities for up to six months, which should allow the TDCJ time to deal with the complex issues as previously discussed. Controls concerning price rates will be in place by September 1, 2011, as mandated by the legislature.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and second.

Ms. Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2012 Proposed Operating Budget

Mr. McGinty stated that the Business and Financial Operations Committee met August 18, 2011, and received an in-depth briefing on the FY 2012 Proposed Operating Budget. He said he would be pleased to answer questions from the board.

Chairman Bell asked if there were any questions or comments. Mr. McCombs complimented Mr. McGinty and his staff on their incredible work.

Chairman Bell asked if there were any further comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2012 Operating Budget as presented and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Section 163.40, Substance Abuse Treatment

Melinda Bozarth, General Counsel, reported that this rule was posted in the June 24, 2011, issue of the Texas Register for public comment. Prior to posting, the staff at the Texas Register noted that in section (a)(26)(I) the name of the Board of Nurse Examiners had been changed to the Board of Nursing, and that under section (f), questioned whether the series should be joined by an “or” or an “and.” Ms. Bozarth also advised the board that the rule that was previously approved should have clarified that under section (a)(10), the reference to department should have specified the Texas Department of State Health Services and that all further references should reflect DSHS. All noted revisions were incorporated into the rule before posting in the Texas Register.

Chairman Bell asked if there were any comments or questions. Mr. Nelson inquired if there was any obligation to repost or republish in the Texas Register. Ms. Bozarth responded no, that the

rule as posted in the Texas Register was correct. Mr. Mechler asked Ms. Bozarth to explain the rule review process. Ms. Bozarth explained that state agencies are required to review their rules every four years. Executive Services initiates the review process through the TDCJ proponent and then distributes the rule to other divisions for comment. The review is finalized through the executive director's office for the TBCJ's approval for publication in the Texas Register for the public comment period. Comments from the public, if any, are considered and incorporated as appropriate.

Chairman Bell asked if there were any further comments. Seeing none, he called for a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.40, regarding Substance Abuse Treatment, as presented and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Land Transactions**

1. Request for Transfer of Land at the Wynne Unit in Walker County, Huntsville, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, reviewed the transfer of 2.536 acres of land at the Wynne Unit to the Board of Regents of the Texas A&M University System not later than January 1, 2012. This transfer is in accordance with House Bill 2518 as passed by the 82nd Legislature and signed by the governor. This land will be for the use and benefit of the Texas Forest Service. This property is currently leased to the Texas Forest Service and serves as the site of their district office.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve the request for the transfer of land at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Demny stated the Business and Financial Operations Committee received a detailed briefing on the gas pipeline easement at the Stiles Unit as requested by TransCanada Keystone Pipeline,

L.P. TransCanada has agreed to pay \$208,691 for this easement with a 30-year primary term. The easement includes an option for subsequent terms at defined renewal rates.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects

1. Request for Kitchen Renovations at the Pack Unit in Grimes County, Navasota, Texas

Frank Inmon, Director of the Facilities Division, stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$5,250,000.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,250,000 for kitchen renovations at the Pack Unit in Grimes County, Navasota, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Replace Roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas

Mr. Inmon stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$2,237,900.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,237,900 to replace roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Upgrade Light Fixtures in Cell Blocks at the Huntsville Unit in Walker County, Huntsville, Texas

Mr. Inmon stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$1,387,200.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,387,200 to upgrade light fixtures in cell blocks at the Huntsville Unit in Walker County, Huntsville, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well as public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Noting that five speaker registration cards were received for the public comments portion of the meeting, Chairman Bell stipulated that each speaker would be given three minutes to address the board. He reviewed the rules for public presentations and comments. Chairman Bell called Gloria Rubac.

Ms. Rubac voiced her concerns about the use of isolation in administrative segregation, solitary confinement, and death row and how it affects the health of offenders assigned to these areas. She listed the negative effects attributed to long-term isolation. Ms. Rubac compared isolation to torture. With respect to death row offenders, Ms. Rubac requested information as to why a death row offender is classified as an administrative segregation offender but does not receive the benefits that a regularly classified administrative segregation offender receives. She also inquired why the Death Row Plan is not being used and why death row is permanently isolated. Chairman Bell advised Ms. Rubac that the three minutes was over and permitted her to conclude her comments. Ms. Rubac accused the correctional officers of cruelty toward death row offenders with respect to the shakedowns and lockdowns. She said offenders' personal and legal

property are unnecessarily destroyed. Chairman Bell advised Ms. Rubac to give her comments and questions in writing to the board staff and she would be sent a written response.

Robert Gartner spoke to the health issues of death row offenders due to the permanent isolation conditions at the Polunsky Unit. He related his concerns about the architectural designs of the cells, as well as the policies and standards concerning solitary confinement constitute extreme and unusual punishment. Mr. Gartner expressed his belief that isolation causes trauma and that individuals suffer more gravely from its effects than studies have shown.

A.S. Agapetus stated her concerns that solitary confinement adversely affects the mental health of the offenders. She said that offenders, who have been in solitary confinement for an extended period and then released, are extremely paranoid and dangerous to others. Ms. Agapetus provided evidence that other states' correctional departments have discontinued the use of solitary confinement as a useful tool. She recited various incidents of self-abuse that occur on death row and administrative segregation. Ms. Agapetus said the Death Row Plan (Rev. 2004) allows offenders to work. She requested the board consider reinstating the portion of the Death Row Plan that allows offenders to work and occupy their time usefully.

Terri Been stated she was a family member of a Texas death row offender, Jeff Wood. She noted that he was factually innocent of murder but was convicted under the Texas law of parties. According to Ms. Been, her brother was not present when the murder took place and the offender who committed the crime has been executed. Ms. Been advised the board that her brother has tried to commit suicide within the past year because of the conditions in isolation. Specifically, Offender Wood has lost personal and legal property during shakedowns. Ms. Been alleged that damage to personal property by a correctional officer during a shakedown has affected Offender Wood's sanity. She asked the board to request a review of the policy that requires damaged property (a radio in this case) be withheld for six months, and that it be changed to a more reasonable time limitation.

Allison Dieter talked about craft items denied to death row offenders. She held up a dream catcher that was crafted by a death row offender from shoelaces and colored pencils obtained from the unit commissary. Ms. Dieter alleged that an offender was stripped searched in below freezing temperatures. She provided copies of six grievances from the offender. Ms. Dieter mentioned other offenders' complaints such as privacy issues, the reduction of substantive food items for meals, lack of communication, lack of availability to use telephones, and experienced correctional officers being replaced by less experienced correctional officers to ease the budget crisis and the money used to deny the offenders' access to media publications.

Chairman Bell thanked all presenters for their comments, which have been noted and recorded. Agency staff will address the issues raised at the meeting in written form. If the speakers wish to receive a copy of these responses, they must leave their name and contact information on the follow-up sheet located at the speaker's registration table.

Chairman Bell thanked everyone for attending and announced that the next meeting of the TBCJ will be October 14, 2011, at the Doubletree Hotel, in Austin.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice at 1:06 p.m.

*

Chairman

*

Secretary

*Signature on file.

Note: Referenced attachments for the approved minutes are available upon request from the Office of Executive Services..

Texas Board of Criminal Justice
157th Meeting



Minutes

October 14, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Doubletree Hotel – Phoenix South
6505 North IH-35
Austin, Texas 78752**

**October 14, 2011
2:30 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 156th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Texas BPP

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Introduction of the JAC Members
2. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting
3. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”
4. Planned SKILLS Conference Webinars
5. Planned Regional Sentencing Conference Meetings

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

- H. Report from the Chairman, TBCJ
 - 1. Review of Alternatives for Providing Offender Health Care
 - 2. Standards of Ethics and Integrity
 - 3. Chairman's Fitness Challenge
- I. Internal Audit Status Reports for Fiscal Years 2011 and 2012
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders Memorandum of Understanding
- L. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas
 - 2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
 - 3. Request Sale of 2,200 Acres at the Ramsey Unit in Brazoria County, Rosharon, Texas

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 157

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, October 14, 2011, at 12:57 p.m. at the Doubletree Hotel in Austin, Texas. The meeting adjourned immediately into executive session, reconvened in regular session at 2:59 p.m., adjourned into executive session at 3:40 p.m. The board finally adjourned at 4:24 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Melinda Bozarth Jerry McGinty
Rudolph Brothers Susan McHenry
Matt Demny Ron Steffa
Jackie Edwards Rick Thaler
Scott Hornung Carey Welebob
Frank Inmon Dee Wilson
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons

OTHERS PRESENT:

Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; Chloe Lieberknecht, Sunset Advisory Commission; the Honorable Dale Spurgin, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 157th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, October 14, 2011, at 12:57 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session, which is closed in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene the Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 157th meeting of the TBCJ on Friday October 14, 2011, at 2:59 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; and Chloe Lieberknecht and staff from the Sunset Advisory Commission, thanking them for their interest in the board.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics during the meeting.

Recognitions

Chairman Bell recognized John Moriarty, former Inspector General, on his retirement after serving the state of Texas for 22 years. Chairman Bell highlighted Mr. Moriarty's illustrious career in law enforcement and thanked him for his years of service. On the board's behalf, he presented Mr. Moriarty with a Resolution of Commendation. Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ) commended Mr. Moriarty for his years of excellence in the field of law enforcement and his contributions to the agency. Mr. Moriarty thanked the board and Mr. Livingston for the gracious words. He related it had been his pleasure to work for the board, whose support made his job easier. Applause followed and photographs were taken.

Chairman Bell recognized Kim Vernon, former Director of State Counsel for Offenders (SCFO), on her retirement after serving the state of Texas for 20 years. He highlighted Ms. Vernon's career with the Board of Pardons and Paroles (BPP) and TDCJ noting her excellent legal and managerial skills. Mr. Livingston expressed his sincere appreciation for Ms. Vernon's service as the Director of SCFO, recognizing that through her efforts SCFO is a model department within

the agency. Ms. Vernon thanked the board and Mr. Livingston for their support, saying it was a pleasure and honor to serve and work with them. Chairman Bell presented Ms. Vernon with a Resolution of Commendation. Applause followed and photographs were taken.

Mr. Livingston recognized and presented Dr. Lannette Linthicum, Director of Health Services, with her 25-year state of Texas Service Award.

Chairman Bell recognized and presented Ralph Bales, Prison Rape Elimination Act (PREA) Ombudsman, with his 25-year state of Texas Service Award.

Chairman Bell presented Scott Hornung, Internal Audit Director, and Rudolph Brothers, SCFO Director, with their director's badges.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of August and September 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action **Regarding Consent Items**

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 156th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed Consent Items as presented. David Nelson proposed pulling Item 1 Hazardous Duty Pay Authorizations for discussion following the approval of the other Consent Items. Chairman Bell asked if there was a specific area with regard to that topic for discussion. Mr. Nelson responded the designation of the positions entitled to hazardous duty pay. Eric Gambrell called the amendment on the floor to question. He noted that the item, which was posted as a Consent Item, might have to be posted as a regular item at a separate meeting as opposed to adding it to the current schedule. Chairman Bell deferred to Melinda Bozarth, TDCJ General Counsel, for procedural advice. Ms. Bozarth recommended the Hazardous Duty Pay Authorizations be removed from the Consent Items and delayed until a future meeting where it can be posted for discussion.

Mr. Gambrell suggested language for a motion removing the Hazardous Duty Pay Authorization Requests from the Consent Items. Mr. Nelson concurred with the suggestion. Chairman Bell called for a motion and a second.

Mr. Nelson made a motion that the Hazardous Duty Pay Authorizations Requests be removed for consideration from the Consent Items.

Janice Lord seconded the motion. The motion failed when called to a vote (three nays, two yeas, and two abstaining).

Chairman Bell explained that the format for the action on the floor should have been an objection to Item 1; therefore, the Consent Items stand approved with the exception of the Hazardous Duty Pay Authorizations, which will be revisited.

**Report from the Presiding Officer,
Texas Board of Pardons and Paroles (BPP)**

Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

The Honorable Mary Anne Bramblett, Chairman of the JAC, had no report.

**Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)**

Brad Livingston, TDCJ Executive Director, had no report.

**Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)**

The Honorable Allen Hightower, Executive Director of the CMHCC, had no report.

**Report from the Chairman, Advisory Committee on Offenders
with Medical or Mental Impairments (ACOOMMI)**

John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Review of Alternatives for Providing Offender Health Care

Chairman Bell stated that with the legislative changes to the CMHCC functions, contracting responsibilities have been transferred to the TDCJ. TDCJ staff is working to secure health care services that meet the biennial funding reductions and all of the operational requirements mandated by the legislature. To date, efforts have included obtaining interim agreements with the two current university providers; negotiations with the current university providers to potentially continue all or a portion of their current service; reaching out to and meeting with other university providers to determine their interest in providing services; and having discussion with several local hospitals where there are clusters of TDCJ units to determine the hospitals' ability to expand their current services level.

The University of Texas Medical Branch (UTMB) requested a meeting with representatives of the LBB to discuss additional funding for offender health care as well as the potential for UTMB to transition out of the health care delivery partnership with TDCJ. Agency staff is working to facilitate the LBB meeting. Chairman Bell expressed his confidence that in the event a transition plan must be implemented, TDCJ and UTMB will work together to phase out the university's participation in such a way it would not negatively impact the delivery of health care to the offender population. Dr. Linthicum will provide the Health Care Committee an update at the December board meeting. Chairman Bell thanked Mr. Livingston, Dr. Linthicum, and all of their staff for their hard work. He conveyed the board's confidence that at the end of this process everyone will be proud of the resulting offender health care model.

2. Standards of Ethics and Integrity

Chairman Bell reviewed the standards for ethics and integrity, noting that the board and senior staff continue to emphasize the TDCJ's public integrity initiatives. He acknowledged that the overwhelming majority of TDCJ staff meet and exceed these expectations while only a handful of employees continue to test TDCJ's resolve. The TDCJ goal is to be the best correctional system in the nation. Chairman Bell thanked those individuals who are walking the right path. He reminded those individuals who continue to challenge their peers and leadership that the Office of the Inspector General is vigilant. Chairman Bell emphasized the importance of ethics and integrity in the criminal justice arena, whose employees as public servants must be beyond reproach, or they can negatively impact the safety of fellow employees, the offenders, and the citizens of Texas.

3. Chairman's Fitness Challenge

Chairman Bell announced that the Fiscal Year (FY) 2012 Chairman's Fitness Challenge will have an Olympic theme to complement the new statewide fitness incentive "Get Fit Texas State Agency Challenge." The first quarter of the Chairman's Fitness Challenge will be "Training for the Gold," a five-week event designed to encourage employees to engage in physical fitness activities and promote team participation. Top leaders in each division will be awarded gold,

silver, and bronze medals. Registration for the first quarter will begin October 24, 2011, with the challenge commencing on October 31, 2011.

Internal Audit Status Reports for Fiscal Years 2011 and 2012

Mr. Hornung provided the following revisions to the handout of the Internal Audit Status Report for the Fiscal Years 2011 and 2012:

- **1115 - Human Resources Division, Correctional Officer Application Processing:** The draft report was issued on October 13, 2011.
- **1116 – Manufacturing and Logistics Division, Freight Transportation:** The draft report was issued on October 13, 2011. An initial exit conference is scheduled for October 26, 2011.

Chairman Bell asked if there were any questions or comments. There were none.

(Attachment B – Internal Audit Status Reports for Fiscal Years 2011 and 2012)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million, which include increases to existing contracts for the FY 2012-2013 biennium. The first contract increases the services at the halfway house facility in Houston by 81 beds, which are currently being used as part of the aftercare component for the substance abuse and in-prison therapeutic community programs. The second contract increases the services at the halfway house in Austin by 110 beds. The third contract increases the services at a transitional treatment center in Houston by 54 beds, which will be used for residential and outpatient substance abuse treatment.

Chairman Bell asked if there were any questions or comments. Mr. Gambrell stated he wished to abstain from the vote on this item as his firm represents Cornell Companies, Inc. Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote (Mr. Gambrell abstained).

**Discussion, Consideration, and Possible Action Regarding
Proposed Repeal of Title 37 Texas Administrative Code Section 159.17,
Employment Referral Services for Offenders Memorandum of Understanding**

Ms. Bozarth, TDCJ General Counsel, advised the board that the purpose of the rule's repeal is to rescind the memorandum of understanding between the TDCJ, the Texas Workforce Commission, and the Texas Youth Commission, as there was no funding appropriated for the Project Reintegration of Offenders (Project RIO) by the 82nd Legislature. She requested that the board move forward with the proposed repeal.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders Memorandum of Understanding, to receive public comment, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action
Regarding Land Transactions**

1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, stated the Business and Financial Operational Committee received detailed briefings on the land transactions earlier in the day. He reviewed the request from Chevron Phillips Chemical Company, LP to renew an existing pipeline easement at the Clemens Unit consisting of 2.6425 acres of land being 10 feet in width by 11,510.73 feet (697.62 rods) in length. He noted that the original lease was granted on November 9, 2001. Chevron Phillips Chemical Company, LP has agreed to pay \$244,167 for this easement with a 10-year term.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Terrell McCombs made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Demny presented the request for an easement by Air Products, LLC at the Stiles Unit consisting of 1.22 acres being 15 feet in width by approximately 3,538.51 feet (214.45 rods) for use in the installation of a gas pipeline. The request includes several temporary workspaces totaling 3.85 acres for use during pipeline construction and installation. Air Products, LLC has agreed to pay \$107,740 for this easement with a 10-year term. Mr. Demny noted that the TDCJ has received the most favored nation clause in the contract.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. Request Sale of 2,200 Acres at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny advised the board that House Bill 2004 as passed by the 82nd Legislature directs the TBCJ to sell 2,200 acres located in Brazoria County. Additionally, this legislation requires the sale to exclude the mineral interests in and under the subject property, and the deed to contain a provision reserving the state's interest in and right to remove all minerals in and under the property. Mr. Demny reviewed Texas Government Code §496.0021, which allows the General Land Office to negotiate and close a transaction on behalf of the TBCJ using procedures set forth in the Texas Natural Resources Code §31.158(c). The proceeds from this transaction shall be deposited in the Texas capital trust fund.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve the sale of 2,200 acres at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell announced that the next meeting of the board will be December 9, 2011, at the Crowne Plaza Hotel, in Austin.

Adjournment

At 3:40 p.m., Chairman Bell adjourned the Texas Board of Criminal Justice into executive session, which is closed in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*. The TBCJ finally adjourned at 4:24 p.m.

*

*

Chairman

Secretary

*Signature on file.

Note: Attachments for the approved minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
158th Meeting



Minutes

December 9, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Crowne Plaza Hotel – Salons A-D
6121 North IH-35
Austin, Texas 78752

December 9, 2011
2:30 PM

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 157th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Board of Pardons and Paroles

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting
2. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”
3. Summary of the Assessment Validation Project for Probation

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

1. Sunset Update
2. Central Unit Update
3. Staffing Update
4. Health Care Update

- F. Report from the Chairman, TBCJ
 - 1. Update on Offender Health Care
 - 2. Chairman's Fitness Challenge Encouragement
 - 3. Board Member Site Visitation
 - 4. Holiday and End of the Year Message
- G. Internal Audit Status Report for Fiscal Years 2011-2012
- H. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- I. Discussion, Consideration, and Possible Action Regarding Contracts for Offender Health Care
- J. Discussion, Consideration, and Possible Action Regarding the Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters
- K. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, "Investment Policy," and Resolution Adopting the Investment Policy
- L. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders/Memorandum of Understanding
- M. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding
 - 2. 195.81, Temporary Housing Assistance
 - 3. Chapter 152 Subchapter A, Missions and Admissions
 - 4. Chapter 152 Subchapter B, Correctional Capacity
- N. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rules, Title 37 Texas Administrative Code
 - 1. 152.29, Standards for Functional Areas
 - 2. 152.31-152.37, Addition to Unit Capacities
- O. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Pipeline Easement at the Eastham and Ferguson Units in Houston and Madison Counties

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 158

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, December 9, 2011, at 12:46 p.m. at the Crowne Plaza Hotel in Austin, Texas, and adjourned immediately into executive session. The board reconvened in regular session at 2:50 p.m. and finally adjourned at 4:05 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Rudolph Brothers
Matt Demny
Scott Hornung
Frank Inmon
Sherry Koenig
Lannette Linthicum, M.D.
Angie McCown
Jerry McGinty
Susan McHenry
Ron Steffa
Rick Thaler
Bruce Toney
Carey Welebob
Dee Wilson

OTHERS PRESENT:

The Honorable Mary Anne Bramblett, Chairman, Judicial Advisory Council; Rissie Owens, Presiding Officer, Texas Board of Pardons and Paroles; Candace Nolte, Office of the Lieutenant Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 158th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, December 9, 2011, at 12:46 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 158th meeting of the TBCJ on Friday December 9, 2011, at 2:50 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized John Newton, Legislative Budget Board (LBB) and the Honorable Dale Spurgin, Jones County Judge, thanking them for their interest in the board.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics during the meeting.

Recognitions

Chairman Bell recognized Raymond Pyeatt, former director of the Internal Audit Division who retired in August 2011 after serving the state of Texas for 27 years. He highlighted Mr. Pyeatt's career, which is marked with honor and distinction. Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), thanked Mr. Pyeatt for his dedication, invaluable insight, and his ability to work with senior staff for the effective and efficient use of state resources. He appreciated Mr. Pyeatt's leadership of the Internal Audit Division as a team that assists senior staff in achieving the best possible management of TDCJ's functions. Chairman Bell asked Tom Mechler, former chairman of the Audit and Review Committee, if he would like to say a few words. Mr. Mechler stated it was a delight to work with Mr. Pyeatt whose honesty and straight forwardness was refreshing. He noted that Mr. Pyeatt's leadership of the Internal Audit Division allowed TDCJ to excel in all areas. Mr. Mechler stated it had been his privilege to work with Mr. Pyeatt. Leo Vasquez, present chairman of the Audit and Review Committee, concurred with Mr. Mechler's comments, adding that Mr. Pyeatt's insights always instilled confidence. Chairman Bell presented Mr. Pyeatt with a Resolution of Commendation, while photos were taken. Mr. Pyeatt thanked the board and Mr. Livingston for their kind and generous words. He noted that under the leadership of Scott Hornung, Division Director, and his deputy Linda Brackett, the Internal Audit Division is in excellent hands.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Chairman Bell recognized Candace Nolte, Office of the Lieutenant Governor, and thanked her for attending the meeting.

Chairman Bell stated that the agenda format for the meeting had been adjusted to reflect only those standing reports that will actually be presented at the meeting. This practice will be continued for future meetings.

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 157th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items, which included an excused absence for Mr. Vasquez for the August 2011 meeting due to personal business. Eric Gambrell stated that as his firm represents the San Antonio Food Bank and Wal-Mart, and as there are personal donations from both entities, he would abstain from taking part in the approval of the consent items. Chairman Bell asked if there were any other objections or amendments. Seeing none, he stated the consent items were approved, noting that the record should reflect Mr. Gambrell abstention.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Board of Pardons and Paroles

Rissie Owens, Presiding Officer of the BPP, presented an overview of the BPP's Annual Report for Fiscal Year (FY) 2011. Ms. Owens reviewed the mission of the BPP, its organizational structure, and the function of the parole panels. The types of release, mandatory supervision, and discretionary mandatory supervision were also discussed. The parole review process, voting factors, and voting options were highlighted. Ms. Owens stated that the BPP considered 77,406 cases for parole in FY 2011 with 24,092 releases granted. A ten-year review of parole considerations was provided. The BPP reviewed 20,878 discretionary mandatory supervision

considerations in FY 2011 with 10,149 releases granted. A ten-year review of discretionary mandatory supervision considerations was included. Ms. Owens also discussed the actions the parole panel may take during the revocation process. Approximately 23,000 cases were reviewed during the revocation process. The executive clemency activity was also reviewed. Ms. Owens paused for questions.

Mr. Mechler asked Ms. Owens how the recent law regarding incarcerated illegal aliens has impacted the BPP. Ms. Owens responded that the BPP, the TDCJ, and the United States Immigration and Customs Enforcement (ICE) are continuing to conduct meetings on the recent changes in the law regarding illegal aliens. She noted that she and Bryan Collier, Deputy Executive Director, had met with Representative Jerry Madden concerning this area. ICE is working to ensure that the BPP has final orders of deportation before it considers the offender for release. Once the procedure is in place, the BPP can move forward with imposing that special condition. Mr. Mechler asked if the law applied to only nonviolent illegal alien offenders. Ms. Owens responded that the law mandated conditions be placed on all foreign-born illegal offenders releasing from the TDCJ prison system. If the offender is not being released and returned to his country of origin, he is revoked and returned to prison.

Referring to slide 12, Terrell McCombs asked how the BPP factored in letters of support when considering the parole file of an offender. Ms. Owens responded that it depended on the content of the letter, explaining that the letters carried more weight if the writer includes how they can help the offender achieve success in the community, such as offering the offender employment. Mr. McCombs asked if it was common to receive letters from victims asking for parole or release of offenders and if so, do those letters have extra influence. Ms. Owens responded that the BPP does receive letters of support from the victims, and the amount of influence depends on what the victim has to say. Each offender case is considered on a case by case basis; the board must consider the elements of the offense along with many other factors.

Chairman Bell asked if there were any more questions for Ms. Owens. Seeing none, Chairman Bell thanked Ms. Owens and the BPP for their diligence and hard work.

(Attachment B – BPP Presentation, December 9, 2011)

Report from the Chairman, Judicial Advisory Council (JAC)

1. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting

The Honorable Mary Anne Bramblett, JAC Chairman, reported that probation chiefs along with Texas Representatives Jerry Madden and Susan King, and TBCJ Vice Chairman Tom Mechler, attended the West Texas CSCD Chiefs meeting. She noted that this was an excellent opportunity for attendees to exchange ideas and information regarding probation to benefit Texas.

2. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”

Judge Bramblett stated that at the October JAC meeting, Dr. Tony Fabelo from the Justice Center updated the JAC on the model called “A 10-Step Guide to Transforming Probation Department to Reduce Recidivism,” which is being used at the Bexar County CSCD. She explained Dr. Fabelo’s research, its methodology, and assessment strategies, noting that the judiciary and the district attorney’s office were thoroughly briefed on the tools available.

3. Summary of the Assessment Validation Project for Probation

Judge Bramblett advised that with the Justice Center’s assistance, there has been some improvement in the recidivism numbers. However, it was too early for the hard data to be made available for a conclusive projection. She noted that other states, such as New York and Pennsylvania, have contacted the Justice Center about using this guide for their probation departments.

Judge Bramblett advised that a skills conference to be held in Austin is in the planning stages. It will also be available as a webinar to help facilitate participation by those unable to attend due to financial considerations. Judge Bramblett mentioned that the JAC is also considering holding regional sentencing conferences to help with the budget constraints of many counties throughout the state.

Chairman Bell asked if there were any questions. There were none. He thanked Judge Bramblett and the JAC for their support and wished them all happy holidays.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

1. Sunset Update

Mr. Livingston reviewed the Sunset Advisory Commission’s mission and composition. The Sunset review of TDCJ began in the summer of 2011. Thus far, commission staff has been provided a wide range of documents in addition to meeting with senior staff, front line staff and other officials. The Sunset team will also be seeking the board’s insight and input. In April 2012, the Sunset team will issue staff recommendations to the Sunset Advisory Commission. The Sunset Advisory Commission will adopt a version of the recommendations that will later be included in proposed legislation during the next legislative session. Mr. Livingston encouraged the board’s participation in the Sunset review process.

2. Central Unit Update

Mr. Livingston stated that the Central Unit was closed August 31, 2011, as required by legislative mandate. The ability to close the unit was due to the success of the TDCJ’s treatment programs and the fairly flat offender populations. The offenders assigned to the Central Unit

were transferred to a range of TDCJ facilities. The beds (bunks) from the Central Unit were also transferred to those units. Melinda Bozarth, TDCJ General Counsel, will be presenting an item later on the agenda that will establish the necessary procedures to adjust the capacity at a variety of other units. Regional support functions located at the Central Unit, such as freight transportation, will remain in operation pending their relocation. Mr. Livingston expressed his pride that TDCJ had the opportunity to respond confidently to the legislative decision to close the Central Unit.

3. Staffing Update

Mr. Livingston noted that during FY 2007, TDCJ had a correctional officer (CO) vacancy of over 4,000. Currently, the CO vacancy level is slightly over 2,000, which is a manageable level. The Human Resources, Business and Finance, and Correctional Institutions divisions have been working together to expedite CO recruitment, and employment offers, in addition to recruitment bonuses on units where CO vacancies are critical. Mr. Livingston noted that the senior staff is committed to working through these challenges to keep the CO vacancies at a manageable level.

4. Health Care Update

Mr. Livingston advised the board that health care contracts are on the agenda for consideration later in the meeting. Since Dr. Linthicum presented an update on the contracts to the Health Care Committee earlier in the day, he stated he would not spend much time going over the contracts. TDCJ has reached contract agreements with both health care partners. The contract with the University of Texas Medical Branch (UTMB) will cover FY 2012 while the Texas Tech University Health Sciences Center (TTUHSC) will cover the biennium. With respect to the UTMB contract, TDCJ will begin to finalize contracts with a number of other hospitals and providers that will allow the TDCJ to diversify the treatment delivery at a number of other locations in the biennium. Mr. Livingston expressed his confidence that this was another opportunity to reduce expenditures while continuing to deliver appropriate health care to the offender population.

Report from the Chairman, TBCJ

1. Update on Offender Health Care

Chairman Bell reported that at the Health Care Committee meeting earlier in the day, Dr. Linthicum updated the board as to the progress of health care discussion with the two university partners and state leadership. He stated it was his pleasure to report that finalized agreements have been reached with both university partners. With TTUHSC, the offender health care agreement with TDCJ will be through the biennium of FY 2012-2013. The agreement with UTMB will be for the remainder of FY 2012. Consistent with the provisions in the UTMB contract, TDCJ has requested the LBB's approval to use FY 2013 funds for health care in the current fiscal year. If approved by the LBB, UTMB and TDCJ staff will reconcile expenses quarterly in determining the allocation of these funds. As previously mentioned by Mr. Livingston and Dr. Linthicum, TDCJ staff have begun the process to develop separate contracts

for hospital and clinical care with other state medical schools and established hospitals to maximize the use of these entities and in an effort to reduce expenditures.

Chairman Bell praised Mr. Livingston and his staff in finalizing these agreements that will be on the agenda for approval later in the meeting. He stated the board looks forward to receiving updates at future board meetings on the progress in ensuring appropriate offender health care for FY 2012 and beyond.

2. Chairman's Fitness Challenge Encouragement

Chairman Bell stated that the first quarter of the 2012 Chairman's Fitness Challenge "Training for the Gold" ends on December 11, 2011. He remarked that he looked forward to announcing the top category winners. Chairman Bell expressed his appreciation to the participating staff. The second quarter challenge, "Winter Olympic Games," will soon kick-off. This quarter will focus on inside physical activity and team sports. He encouraged the board and staff to support and participate in this fitness endeavor.

3. Board Member Site Visitation

Chairman Bell reviewed the board member site visitation initiative, which began in 2008. He related that these visits are valuable tools in helping members understand front line operations surrounding the supervision of offenders. They also provide an avenue for suggestions to be expressed back to leadership, and show support and appreciation to the staff. Mr. McCombs made the most recent visits of the initiative, to the CSCDs in Pecos and Val Verde counties.

Chairman Bell encouraged members to take the time to make announced or unannounced site visits to any unit, parole office, or local CSCD and visit with the staff. He emphasized that it was important that the board listen to what staff have to say and that the members let them know the board appreciates their hard work.

4. Holiday and End of the Year Message

Chairman Bell noted that this past year was a challenge for state government, both fiscally and operationally. Through decisive, innovative steps and careful fiscal planning, the TDCJ was able to maintain a sound, operational level that will sustain its mission within reduced appropriation levels. The TDCJ leadership team and TDCJ staff are dedicated public servants who are committed to making a difference. Chairman Bell expressed his pride in their work and efforts. Each employee, from the front line staff to the TDCJ's leadership team, works as one to keep TDCJ on the forefront.

Chairman Bell remarked that with the holiday season near, he wished to express the board's respect and appreciation to all TDCJ employees, thanking each of them for their service. He also recognized the members of the board for their service and hard work. Chairman Bell extended the board's best wishes for the Holiday Season and for the New Year ahead.

Internal Audit Status Report for Fiscal Years 2011-2012

Mr. Hornung provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 and 2012:

FY 2011 Internal Audit Status Report:

- **1107 – Information Technology Division, Telecommunications Network:** Management responses to the draft report are due the week of December 13, 2011.
- **1109 – Facilities Division, Maintenance:** The proposed final report will be released on December 12, 2011.
- **1115 – Human Resources Division, Correctional Officer Application Processing:** The final report was released on December 5, 2011.
- **1117 – Business and Finance Division, Agribusiness, Land and Minerals; Correctional Institutions Division, Food Services:** The proposed final report is being prepared for release.

FY 2012 Internal Audit Status Report:

- **1219 – Parole Division, Warrants Section:** The audit has moved into fieldwork.

(Attachment C – Internal Audit Status Reports for Fiscal Years 2011 and 2012)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Bell stated there were no items to present.

Discussion, Consideration, and Possible Action Regarding Contracts for Offender Health Care

Jerry McGinty, Chief Financial Officer, referred to the handout with the health care contracts. Item 1 is the health care contract with UTMB for the remaining nine months of FY 2012. Item 2 is the health care contract with TTUHSC for the remaining 21 months of the biennium. The dollar amounts are representative of those appropriated to TDCJ for those purposes. Item 1 includes \$45 million, of the FY 2013 Health Care Appropriations, which is subject to the LBB's approval. Mr. McGinty said he would be pleased to answer any questions.

Mr. Mechler praised Mr. McGinty, his staff, and Dr. Linthicum for their excellent efforts, noting it was some of the finest work that he has seen in the six years he has been on the board. Chairman Bell asked if there were any other comments. Seeing none, he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the health care contracts, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

(Attachment D – Handout for Health Care Contracts)

Discussion, Consideration, and Possible Action
Regarding the Resolution Authorizing a Request for Financing
with the Texas Public Finance Authority, Authorizing
a Financing Agreement and Other Matters

Mr. McGinty explained the request for financing through the Texas Public Finance Authority, totaling \$50,000,000 for the repair and rehabilitation of TDCJ facilities, as appropriated by the 82nd Legislature.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the resolution ratifying a request for financing with the Texas Public Finance Authority, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Annual Review of Board Policy (BP) 14.01, “Investment Policy,”
and Resolution Adopting the Investment Policy

Mr. McGinty reviewed the revisions to BP-14.01, “Investment Policy,” which primarily related to the reporting of investments; however, these revisions did not change the TDCJ investments reporting and processes. The TBCJ receives the Investment Report in the Informational Section of the board agenda.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 14.01, "Investment Policy" and approve the resolution adopting the investment policy, as presented and that the chairman and secretary sign the resolution adopting the policy.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Adoption of Repeal of Title 37 Texas Administrative Code
Section 159.17, Employment Referral Services for
Offenders/Memorandum of Understanding

Melinda Bozarth, TDCJ General Counsel, advised this rule was posted in the October 28, 2011, issue of the Texas Register. The 30-day comment period has passed with no comments being received. Ms. Bozarth requested that the TBCJ adopt the repeal of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Eric Gambrell made a motion that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders/Memorandum of Understanding, as published in the Texas Register, and that the Chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Amendments to Board Rules,
Title 37 Texas Administrative Code

1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding

Ms. Bozarth noted that the proposed amendments to this rule are pursuant to Texas Government Code §2001.039, which require rule review every four years. The proposed amendments are necessary to delete an unnecessary legal reference and adopt a new memorandum of understanding. She requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 159.13, Educational Services to Released Offenders/Memorandum of Understanding, to receive public comment, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. §195.81, Temporary Housing Assistance

Ms. Bozarth stated that the revisions to Section 195.91, Temporary Housing Assistance were pursuant to legislation passed by the 82nd Legislature in House Bill 1770. Subsection (b) Criteria for Temporary Housing Assistance was added. Subsections (c)(2)(F) and (G), containing language listing kitchens, cooking utensils, food, and hygiene items as factors to consider regarding halfway houses not under contract with the TDCJ, were deleted. Subsection (d) regarding payment for temporary housing assistance was deleted as it is mentioned in state law. Ms. Bozarth requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Texas Administrative Code Section 195.81, Temporary Housing Assistance, to receive public comment, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

3. Chapter 152 Subchapter A, Missions and Admissions

Ms. Bozarth stated there were two revisions to note in Chapter 152 Subchapter A, Missions and Admissions. Under subsection (h)(5), language was added that offenders may be placed in a state jail serving a county other than their county of residence if alternative placement is necessary to provide medical or psychiatric care to the offender. An updated map was also included in the rule to reflect changes in CSCD configurations. Ms. Bozarth noted that Edwards County is in Region 6 and Crockett and Sutton counties are in Region 9. She requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

David Nelson made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Chapter 152 Subchapter A, Missions and Admissions, to receive public comment, as presented.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

4. Chapter 152 Subchapter B, Correctional Capacity

Ms. Bozarth reviewed proposed amendments within Chapter 152, Subchapter B. In Section 152.21, Purpose, subsections (a)-(e) were deleted because they appear in law and were unnecessary. In Section 152.23, Definitions, the definition of de minimus increase in capacity was revised to reflect maximum rated unit capacity and to clarify the addition of 2% or fewer beds to the capacity of a unit on a one-time basis.

In Section 152.25, Maximum Rated Capacity of Individual Units, additions to capacity were categorized using three methods. (1) Increases previously approved by the TBCJ, such as the 34-bed increase to the Skyview Unit in 2006. (2) The de minimus rule was applied representing 2% or less of a capacity increase. (3) The House Bill 124 Capacity Process was applied, which requires TDCJ to conduct a functional analysis of 15 different areas of prison operations. Staff recommendations to increase capacity are proposed within this rule for approval. The LBB is required to prepare cost estimates of the proposed increases. If the TBCJ approves the increases, the governor and attorney general must approve the capacity increases. The TDCJ completed a functional analysis to add 378 beds at 21 units. During that analysis, it was determined 63 showers needed to be added at a cost of \$137,000. On December 11, 2011, the LBB indicated that the additional beds would not significantly impact the TDCJ's operational costs.

The law also requires that offenders receive notice of these proposed increases to capacity and have the opportunity to comment on the revisions. Ms. Bozarth and Mr. Thaler will review any offender comments received. Ms. Bozarth noted that on page 81, the Michael Unit, the number 3,221 should appear as a strike through format.

Chairman Bell asked if there were any questions. Mr. Mechler asked about the Marlin Unit capacity. Ms. Bozarth responded that the Marlin Unit was previously approved by the TBCJ when TDCJ assumed responsibility of the unit; she noted the repeal of Section 152.29, to be presented next, would eliminate any problems or redundancies.

Chairman Bell asked if there were any further questions. Seeing none, he asked for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Chapter 152 Subchapter B, Correctional Capacity, to receive public comment, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Repeal of Board Rules,
Title 37 Texas Administrative Code

1. 152.29, Standards for Functional Areas

Ms. Bozarth stated that this rule was proposed for repeal because it was a restatement of state law. She requested that the board authorize staff to publish the proposed repeal in the Texas Register.

Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Section 152.29, Standards for Functional Areas, to receive public comment, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. 152.31-152.37, Addition to Unit Capacities

Ms. Bozarth explained that as proposed amendments to Section 152.25 incorporated these approved additions to capacities, Sections 152.31-152.37 are now obsolete. She requested that the board authorize staff to publish the proposed repeal in the Texas Register.

Chairman Bell asked if there were any questions. Ms. Lord asked about reference to the Texas Youth Commission (TYC). Ms. Bozarth responded that the repeal of the rules would eliminate any need to reference TYC or the Juvenile Justice Department.

Chairman Bell asked if there were any further questions. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Sections 152.31-152.37, Addition to Unit Capacities, to receive public comment, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding a Proposed Land Transaction for a Pipeline Easement at the
Eastham and Ferguson Units in Houston and Madison Counties

Matt Demny, Director of Agribusiness, Land and Minerals Department, presented the request from Navidad Resources, LLC for an easement at the Eastham and Ferguson units consisting of 18.76 acres of land being 20 feet in width by approximately 40,849.70 feet in length to be used for the installation of a gas pipeline. The request includes a temporary workspace totaling 46.89 acres for use during pipeline construction and installation. Navidad Resources, LLC has agreed to pay \$506,942 for the easement with a ten-year term.

Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Eastham and Ferguson units in Houston and Madison counties, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending the meeting, and announced that the next meeting of the TBCJ will be February 9-10, 2012, at the Crowne Plaza Hotel, in Austin.

Adjournment

There being no further business, the 158th meeting of the Texas Board of Criminal Justice adjourned at 4:05 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Attachments for the minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
159th Meeting



Minutes

February 10, 2012
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel – Salons E-H
6121 North IH-35
Austin, Texas 78752**

**February 10, 2012
2:00 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 158th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on Offender Health Care

D. Report from the Chairman, TBCJ

1. Update on Offender Health Care
2. Importance of Employee Engagement
3. Chairman's Olympic Fitness Challenge

E. Internal Audit Status Report for Fiscal Years 2011-2012

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy – 03.46, “Standards for the Use of Force”

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to the TDCJ Use of Force Plan

- I. Discussion, Consideration, and Possible Action Regarding Adoption of Board Rules Title 37 Texas Administrative Code
 - 1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding
 - 2. 195.81, Temporary Housing Assistance
 - 3. Chapter 152 Subchapter A, Missions and Admissions
 - 4. Chapter 152 Subchapter B, Correctional Capacity

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Repeals Title 37 Texas Administrative Code
 - 1. 152.29, Standards for Functional Areas
 - 2. 152.31 – 152.37, Addition to Unit Capacities

- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 151.3, Texas Board of Criminal Justice Operating Procedures
 - 2. 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice
 - 3. 155.31, Establishing Procedures for Resolving Contract Claims and Disputes

- L. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Roof on Main Building at the Eastham Unit in Houston County, Lovelady, Texas
 - 2. Request to Replace Fire Alarm System at the Duncan Unit in Angelina County, Diboll, Texas

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 159

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, February 10, 2012, at 2:34 p.m. at the Crowne Plaza Hotel in Austin, Texas, and adjourned at 3:52 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
J. David Nelson

TBCJ MEMBERS ABSENT:

Terrell McCombs
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Rudolph Brothers
Jackie Edwards
Scott Hornung
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Angie McCown
Jerry McGinty
Susan McHenry
Madeline Ortiz
Ron Steffa
Rick Thaler
Bruce Toney
Carey Welebob
Dee Wilson

OTHERS PRESENT:

The Honorable Dale Spurgin, Jones County Judge; Chelsea Buchholtz, Office of the Governor; Chloe Lieberknecht, Sunset Commission staff; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 159th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, February 10, 2012, at 2:34 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized the Honorable Dale Spurgin, Jones County Judge, Chelsea Buchholtz, Office of the Governor, and Chloe Lieberknecht, Sunset Commission staff, thanking them for their interest in the board. Chairman Bell introduced his sister, Ms. Olivia Bell and his mother, Ms. Rosetta Bell.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics during the meeting.

Recognitions

Chairman Bell recognized Janice Harris Lord as the recipient of the 2011 inaugural Pettigrew Award bestowed by the Trauma Support Services of North Texas. The presentation of this award acknowledges Ms. Lord as a special leader and honors her for her philanthropic service to North Texas. The award is named for Robert Pettigrew, a successful wheat farmer whose legacy has benefited the Trauma Support Services Organization. He was also Ms. Lord's father. After Mr. Pettigrew's passing, Ms. Lord honored her father by donating part of his legacy to create the Trauma Support Services of North Texas. The receipt of this award speaks to the humbleness and unpretentiousness of Ms. Lord's nature. Ms. Lord thanked Chairman Bell for his kind words. She stated that the award was really about the services for trauma survivors, which was possible through the contributions of her father.

Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ), recognized Jerry McGinty, Chief Financial Officer (CFO), on obtaining 20 years service with the state of Texas. Mr. Livingston presented Mr. McGinty with his 20-year service award. Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of December 2011 and January 2012. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
4. **158th TBCJ Meeting Minutes**
5. **Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that as his firm represents Wal-Mart, and as there are personal donations from Wal-Mart, he would abstain from taking part in the approval of the consent items. Chairman Bell asked if there were any other objections or amendments. Seeing none, he stated the consent items were approved, noting that the record should reflect Mr. Gambrell's abstention.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Update on Offender Health Care

Mr. Livingston stated that there is continuing dialogue with the University of Texas Medical Branch in Galveston (UTMB) concerning the health care contract. Involved in those discussions are the other health care partners, the Office of the Governor, and the offices of the state's legislative leadership. Staff continues to work through outstanding issues with the health care contract for Fiscal Year (FY) 2013, which begins September 1, 2012. The TDCJ made a commitment to the state's leadership and UTMB to expedite those discussions in order to have the FY 2013 contract resolved by January 31, 2012. Mr. Livingston advised the board that the contract is not finalized. He assured the board there is time to have the contract in place before FY 2013 begins. He stated his belief that it is best to get the contract right the first time rather than try to meet an artificial deadline. Mr. McGinty will be presenting the Huntsville Memorial Hospital contract for approval later today. The contract is consistent with the dialogue and discussion that staff has had with the board over the last several months. It represents a change with respect to the agency partnership composition. TDCJ staff continues to explore other opportunities while staying in constant dialogue with the state's leadership. Mr. Livingston paused for questions. There were no comments or questions from the board.

Report from the Chairman, TBCJ

1. Update on Offender Health Care

Chairman Bell stated that TDCJ staff has been in the process of developing separate, direct contracts for hospital and clinical care. Utilizing some established hospitals in a regionalized concept, TDCJ can maximize their use while reducing health care expenditures to the state.

Mr. McGinty will be presenting an item under the purchases over \$1 million for the board's consideration, which represents the first of these contract services, a contract for hospital services with Huntsville Memorial Hospital. This is the first of several such contracts that the board will see from TDCJ staff. Chairman Bell expressed his confidence in the ongoing efforts taken by the agency, the university providers, and the state's leadership that will ensure effective and appropriate health care continues to be provided to the incarcerated offender population.

2. Importance of Employee Engagement

Chairman Bell stressed that engaged active leadership requires that supervisors be in touch with the perspective and opinions of their employees. TDCJ, with a workforce of nearly 40,000 is a large agency by any standard. The staff and leadership make it strong.

All TDCJ employees have recently been asked to participate in the Survey of Employee Engagement, a survey conducted every two years to help measure TDCJ employees' assessment of the working climate within TDCJ. Self-evaluation is an important tool in the continued strength and refinement of the agency. Chairman Bell encouraged all employees to participate in the survey and let their opinions count.

3. Chairman's Olympic Fitness Challenge

Chairman Bell noted that "Training for Gold," the first quarter of the FY 2012 Chairman's Olympic Fitness Challenge was a great success. Within TDCJ, the following department and units achieved the top three ranks:

Division 1 – the Board of Criminal Justice/Austin Executive Administration earned the gold. The Parole Division Specialized Program department earned the silver, and Security Systems Operations for the Correctional Institutions Division (CID) earned the bronze.

Division 2 – the Internal Audit Division received the gold medal. The Office of General Counsel received the silver. The Parole Division Region III Office received the bronze.

Division 3 – the gold medal was awarded to the Facilities Division. The silver medal was awarded to the Houston III District Parole Office. The bronze medal was awarded to the Administrative Review and Risk Management Division.

Division 4 – the Havins Unit earned the gold medal, the Glossbrenner Unit earned the silver medal, and the Fort Stockton Unit earned the bronze medal.

Division 5 – the Cole State Jail received the gold medal, Classification and Records earned the silver medal, and the Hobby Unit received the bronze medal.

Division 6 – the gold medal was awarded to the Lyncher and Kegans State Jail Complex, the silver medal was awarded to the Manufacturing and Logistics Division, and the Garza West Unit earned the bronze medal.

Within the Windham School District, the North Texas Region reigned, receiving their division's gold medal.

Chairman Bell congratulated all winning departments and units. He advised that the second quarter of the FY 2012 Fitness Challenge "Winter Olympics" kicked off February 6, 2012. Chairman Bell encouraged all employees to continue to incorporate some physical activity into the daily schedule, which has proven to help promote a healthier mind and body.

Internal Audit Status Report for Fiscal Years (FY) 2011-2012

Scott Hornung, Director of the Internal Audit Division, provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 and 2012:

- **1112 Correctional Institutions Division, Unit Mailrooms:** The exit meeting was held February 3, 2012. Staff responses to the report are pending.
- **1113 Parole Division, Restitution and Supervision Fees:** The exit meeting was held February 8, 2012. Staff responses to the report are pending.

Chairman Bell asked if there were any questions or comments. There were none.

(Attachment B – Internal Audit Status Report for Fiscal Years 2011-2012)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Mr. McGinty reviewed the purchases and contracts over \$1 million. Items 1 and 2 are extensions to two service contracts for design professional services, which are used for facility projects such as roofing and fire alarm installations. These are increases to the current contracts, since both are anticipated to be utilized with the FY 2012-2013 bond appropriation. Items 3-5 are term contract increases to food items, which include a price index increase of 10%. Item 6 is an increase to a current contract for modular panel systems installed by Texas Correctional Industries. Item 7 is the health services contract with Huntsville Memorial Hospital for medical services for offenders. The contract is for three and one-half years for \$13.4 million per year for a total contract amount of \$46,830,000. This will allow for nine inpatient beds within the facility, emergency room services at the hospital, imaging, and day surgery procedures. It also includes physicians services provided through the hospital. Mr. McGinty stated that he would be pleased to answer any questions.

Chairman Bell asked if there were any questions or comments. Leo Vasquez inquired about the length of the contract for Item 7. Mr. McGinty responded that the contract would begin as soon as it is signed and would run through the end of the 2014-2015 biennium. Seeing no more questions, Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

David Nelson seconded the motion.

Mr. Nelson petitioned the chair for the floor. Chairman Bell yielded the floor to Mr. Nelson. Mr. Nelson stated that the approval of the health care contract with Huntsville Memorial Hospital will reduce the cost of health care to those offenders incarcerated in the TDCJ, and represents a landmark decision for the taxpayers of Texas. He explained the significance of the board's decision to allow a private health care provider to deliver health care to offenders. This contract will save money, engages health care providers, and expands the pool of health care providers. It will benefit the agency, those offenders being provided the health care, and the taxpayers of this state. Mr. Nelson encouraged staff to bring more of these contracts to the board extending them to the full array of offender health care. Chairman Bell thanked Mr. Nelson for his comment. He called for a vote on the motion.

The motion prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy – 03.46, “Standards for the Use of Force”

Melinda Bozarth, TDCJ General Counsel, stated that the authority section of the policy has been updated.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.46, “Standards for the Use of Force,” as presented.

Janice Harris Lord seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to the TDCJ Use of Force Plan

Ms. Bozarth provided a historical perspective of the “TDCJ Use of Force Plan,” and she reviewed the some of the substantive revisions to the plan. There will no longer be a distinction between major and minor use of force. All investigations will be conducted using the same protocol regardless of the level of force used. Language has been revised concerning hand restraints for pregnant offenders pursuant to legislation passed in the 81st Legislative session. Language concerning reporting procedures for privately operated units has been added. In section III.B.3, language has been added to include the current requirement to attempt to de-

escalate a hostile situation between an offender and a staff member. Ms. Bozarth noted that in section III.D.4. the sentence will be corrected to read “Excessive pressure shall not be applied.” Language stating that some injuries do not require the reporting of a use of force has been added. Language concerning the decontamination of an individual when chemical agents have been deployed has been added. A use of force can be referred to the Office of Inspector General at any point if there is a violation of policy. Ms. Bozarth noted there is a handout, Employee Participant Statement, which replaces page 78 of the board packet.

Chairman Bell asked if there were any questions or comments. He thanked Rick Thaler, CID Director, for his leadership in this area. Chairman Bell called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the proposed amendments to the Texas Department of Criminal Justice Use of Force Plan, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Board Rules Title 37 Texas Administrative Code

1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding

Ms. Bozarth stated that the amendments to 159.13, Educational Services to Released Offenders/Memorandum of Understanding were published in the December 23, 2011, issue of the Texas Register for public comment. No comments were received. Ms. Bozarth recommended that the board proceed with the final adoption of this rule.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 159.13, regarding Educational Services to Released Offenders/Memorandum of Understanding as presented, and that the chairman sign the order to this effect.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

2. 195.81, Temporary Housing Assistance

Ms. Bozarth stated that the amendments to 195.81, Temporary Housing Assistance were published in the December 23, 2011, issue of the Texas Register for public comment. No comments were received. Ms. Bozarth recommended that the board proceed with the final adoption of this rule.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 195.81, regarding Temporary Housing Assistance as presented, and that the chairman sign the order to this effect.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

3. Chapter 152 Subchapter A, Missions and Admissions

Ms. Bozarth noted that the amendments to Chapter 152 Subchapter A, Missions and Admissions were published in the December 23, 2011, issue of the Texas Register for public comment. No comments were received. Ms. Bozarth recommended that the board proceed with the final adoption of this rule.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Chapter 152 Subchapter A, Missions and Admissions as presented, and that the chairman sign the order to this effect.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

4. Chapter 152 Subchapter B, Correctional Capacity

Ms. Bozarth noted that the amendments to Chapter 152 Subchapter B, Correctional Capacity were published in the December 23, 2011, issue of the Texas Register for public comment, and were posted on the units affected by the changes in capacity. Comments were received from 132 offenders, eight citizens, four petitions with 374 offender signatures, and two anonymous letters. Ms. Bozarth reviewed the primary concerns of the offenders and the citizens, noting the concerns and agency responses could be found in the Adoption Amendment Preamble. Ms. Bozarth also reviewed some of the suggestions, which involved early parole of offenders to help capacity issues, of which neither the TBCJ nor the TDCJ has authority to approve. Ms. Bozarth recommended that the final adoption of the amendments to the rule be approved as published, with one exception. She noted that at the last board meeting there had been an error in the rule to the Estelle Unit capacity, which should be 3,144.

Chairman Bell asked if there were any comments or questions. Ms. Lord inquired if the increase to any of the units required an increase to the number of health care staff. Ms. Bozarth responded negatively. It was the opinion of the Health Services Division that the units would not be adversely impacted by the increases to capacity. Chairman Bell asked if there were any other questions. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Chapter 152 Subchapter B, Correctional Capacity as presented, and that the chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeals Title 37 Texas Administrative Code

1. 152.29, Standards for Functional Areas

Ms. Bozarth stated that the notice of the proposed repeal of 152.29, Standards for Functional Areas, was published in the December 23, 2011, issue of the Texas Register for public comment. No comments were received. She recommended that the board proceed with the final adoption of the repeal of the rule.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Section 152.29, Standards for Functional Areas, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

2. 152.31 – 152.37, Addition to Unit Capacities

Ms. Bozarth noted that the notice of the proposed repeal of sections 152.31 – 152.37, Addition to Unit Capacities, was published in the December 23, 2011, issue of the Texas Register for public comment. No comments were received. She recommended that the board proceed with the final adoption of the repeal of the four rules.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Sections 152.31 – 152.37, Addition to Unit Capacities, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.3, Texas Board of Criminal Justice Operating Procedures

Ms. Bozarth reviewed the proposed amendments to 151.3, Texas Board of Criminal Justice Operating Procedures, pursuant to the state law that requires each state agency to review rules every four years. The proposed amendments are necessary to clarify existing procedures. Section b(2) adds that the chairman or secretary may execute any necessary documents. In section c(2), language was added concerning video conferencing. Ms. Bozarth paused to answer any questions.

Chairman Bell asked if there were any questions or comments. Mr. Nelson inquired if the amendments to section c(4), dealing with the agenda for committee meetings, changes who makes the agenda for the committee meetings. Ms. Bozarth responded the proposed revision to this particular paragraph incorporates the existing process. Under the existing process, the TBCJ chairman approves committee agenda items and items for the full board meeting. Mr. Nelson asked if there had been an expression of a compelling necessity for this change. Chairman Bell responded that the amendment is not a change; it complies with the current practice.

Ms. Lord said she was unaware that the chairman approved committee agendas. Chairman Bell acknowledged that while they may never have spoken on the topic, he would confer with the board committee chair if he had concerns. If he had no concerns, he would approve the agenda.

Mr. Mechler spoke in support of the amendment, stating that he had always followed the proposed procedure during his six years on the board. Mr. Nelson expressed his dissatisfaction with the current practice, which he stated can limit open discussion among the board especially in committee.

Following further discussion, Chairman Bell called for a motion and a second.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 151.3, regarding Texas Board of Criminal Justice Operating Procedures, to receive public comment, as presented.

Mr. Vasquez seconded the motion.

Mr. Nelson called for a point of order. He moved to amend the motion.

Mr. Nelson moved that revisions to c(4) not be incorporated.

Mr. Nelson noted the proposed changes would prevent the discussion of topics that may be vital to the purpose of the committee and the board, and have the potential to unnecessarily restrict discussion of important issues by the department and the board.

If an amendment has been made, Chairman Bell noted a second was needed on that amendment.

Ms. Lord seconded the amendment.

Mr. Nelson continued to explain his concerns, stating the importance of having a free exchange of ideas and discussion rather than a potential ban on relevant issues that come before a committee. He noted the board chair already appoints the chairpersons for these committees and has control over items placed on the full board agenda, and that the proposal could limit individual member's contributions to the board and their freedom of speech. Mr. Nelson recommended the passage of the amendment and with the amendment the passage of the main motion, saying the current language has worked for years and there is no urgent necessity to change it.

Mr. Vasquez moved to the previous question.

Chairman Bell called for a vote on the amendment.

The amendment was defeated by a majority vote (four votes in opposition and two votes in favor).

Chairman Bell called for a vote on the original motion.

The motion passed with a majority vote (four votes in favor and two votes in opposition).

Chairman Bell thanked everyone for their comments. He reminded the board that the public comment period is open to anyone who wishes to express concerns regarding the rule.

2. 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice

Ms. Bozarth noted that the significant addition to 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice, was f(5) which denotes signs and placards shall not be carried or displayed in the meeting room.

Chairman Bell asked if there were any comments or questions. Ms. Lord asked if this kind of incident had ever happened. Ms. Bozarth responded yes, that is why the statement was added to the rule. Chairman Bell called for a motion and a second.

Ms. Lord made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 151.4, regarding Public Presentations and Comments to the Texas Board of Criminal Justice, to receive public comment, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

3. 155.31, Establishing Procedures for Resolving Contract Claims and Disputes

Ms. Bozarth stated that the proposed amendments to 155.31, Establishing Procedures for Resolving Contract Claims and Disputes were non-substantive in nature. The four year review is pursuant to state law.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 155.31, regarding Establishing Procedures for Resolving Contract Claims and Disputes, to receive public comment, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Facilities Division Construction Projects**

1. Request to Replace Roof on Main Building at the Eastham Unit in Houston County, Lovelady, Texas

Frank Inmon, Director of the Facilities Division, noted that the Business and Financial Operations Committee received a detailed status briefing of the roofing project on the main building at the Eastham Unit in Houston County, Lovelady, Texas. He recommended that the board approve the project for \$2,757,000.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,757,000 to replace roof on main building at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Replace Fire Alarm System at the Duncan Unit in Angelina County, Diboll, Texas

Mr. Inmon reminded the board that the Business and Financial Operations Committee received a thorough update on the replacement of the fire alarm system project at the Duncan Unit. He recommended that the board approve the project budget for \$1,070,500.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,070,500 to replace fire alarm system at the Duncan Unit in Angelina County, Diboll, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending the meeting, and announced that the next meeting of the TBCJ will be April 19-20, 2012, at the Crowne Plaza Hotel, in Austin.

Adjournment

There being no further business, the 159th meeting of the Texas Board of Criminal Justice adjourned at 3:52 p.m.

*

Chairman

*

Secretary

****Signature on File***

Note: Attachments for the minutes are available upon request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
160th Meeting



Minutes

April 19, 2012
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel
6121 North IH-35
Austin, Texas 78752
Salons E - H**

**April 20, 2012
9:00 AM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 159th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Chairman, Judicial Advisory Council (JAC)

1. *Texas Progressive Interventions and Sanctions Bench Manual*
2. Officer of the Year Awards
3. Overview of "Effective Supervision Strategies" by Dr. Jason Clark-Miller

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Strategic Planning and Budget Process

E. Report from the Chairman, TBCJ

1. Crime Victims' Rights Week
2. Importance of Risk Management
3. Chairman's Fitness Challenge Update

F. Internal Audit Status Report for Fiscal Years 2011 and 2012

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 03.81, “Offender Access to the Courts, Counsel, and Public Officials Rules”
- I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to “Disciplinary Rules and Procedures for Offenders”
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. 151.52, Sick Leave Pool
 - 2. 155.23, Site Selection Process for the Location of Additional Facilities
 - 3. 163.25, Community Justice Councils, Task Forces and Plans
 - 4. 163.42, Substantial Noncompliance
- K. Discussion, Consideration, and Possible Action Regarding Readoption of Board Rule Title 37 Texas Administrative Code Section 151.25, Texas Department of Criminal Justice Tobacco Policy
- L. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. 151.3, Texas Board of Criminal Justice Operating Procedures
 - 2. 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice
 - 3. 155.31, Establishing Procedures for Resolving Contract Claims and Disputes
- M. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas
 - 2. Request for Pipeline Valve Site Easement at the Montford Unit in Lubbock County, Lubbock, Texas
- N. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project to Install a Fire Alarm System at the Scott Unit in Brazoria County, Angleton, Texas
- O. Public Comments

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 160

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, April 19, 2012, at 11:03 a.m. at the Crowne Plaza Austin, in Austin, Texas, and adjourned at 12:13 p.m. The board reconvened in regular session on Friday, April 20, 2012, at 9:07 a.m. at the Crowne Plaza Austin, and finally adjourned at 10:15 a.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Judge Larry Gist
Terrell McCombs
Carmen Villanueva-Hiles

BOARD MEMBERS ABSENT: Eric Gambrell
Janice Harris Lord
J. David Nelson

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Mike Bell	Jerry McGinty
Melinda Bozarth	Susan McHenry
Matt Demny	Madeline Ortiz
C.F. Hazlewood	Ron Steffa
Scott Hornung	Rick Thaler
Stuart Jenkins	Bruce Toney
Sherry Koenig	Dee Wilson

OTHERS PRESENT: The Honorable Carol Vance, former TBCJ chairman; Grove Norwood, Founder and Chief Executive Officer of The Heart of Texas Foundation; Debbie Roberts, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 160th meeting of the Texas Board of Criminal Justice (TBCJ or board) on Thursday, April 19, 2012 at 11:03 a.m. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register. Chairman Bell noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode.

17th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all honored guests joining the TBCJ for the 17th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He read a quote from Dr. Martin Luther King, Jr. "Everybody can be great because anybody can serve. You don't have to have a college degree to serve. You don't have to make your subject and verb agree to serve. You don't have to know the second theory of thermal dynamics in physics to serve. You only need a heart full of grace, a soul generated by love." Chairman Bell added that the volunteers being recognized have that heart and that soul, praised their dedication and commitment and said they help the offenders and their families have a chance for a better life, impacting generations to come. Chairman Bell read a greeting from Governor Rick Perry, who could not be present for the ceremony due to the many demands on his schedule, and a statement from the Honorable Joe Straus, III, Speaker of the House of Representatives. (*Attachment A – Letter from Governor Perry and Statement from Representative Straus*)

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests and expressed his gratitude to the volunteers for their service to the agency. He said the volunteer workforce has become an essential component of the TDCJ's rehabilitative program, and noted that the partnership between TDCJ and the volunteers has positively impacted the recidivism rate. Mr. Livingston acknowledged that volunteers support the TDCJ mission and stated his vision for future partnerships is that volunteers will accept the challenge to pioneer in many other exciting volunteer positions. He also recognized the importance and success of the volunteer effort in chaplaincy and the faith based programs, and extended an invitation to all present to build volunteer programs in other key areas and continue to leverage the relationship of energy, innovation, and success that volunteers bring to the table.

Additionally, Mr. Livingston recognized the Texas Board of Criminal Justice as a special group of volunteers serving this state and the TDCJ. He concluded by saying volunteerism and the service mind set is what makes this state and nation great and said TDCJ volunteers have the agency's highest respect and admiration for their efforts.

Chairman Bell introduced Grove Norwood, Founder and Chief Executive Officer of The Heart of Texas Foundation, as the keynote speaker. He described how the Heart of Texas took the lead in

establishing a four year fully accredited seminary at a Texas maximum security prison. Chairman Bell extended a warm welcome to Mr. Norwood and thanked him for attending the ceremony for the criminal justice volunteers.

Mr. Norwood thanked Chairman Bell for his kind invitation to participate as the keynote speaker for the award ceremony honoring the criminal justice volunteers. Mr. Norwood spoke about grace and forgiveness regardless of the deeds of the individual, and said volunteers of the faith based ministries teach and demonstrate unconditional love, forgiveness, charity, and hope to those people in need of divine grace.

Chairman Bell thanked Mr. Norwood for his remarks, commenting the volunteers show unconditional love to the offenders.

Chairman Bell yielded the floor to Terrell McCombs, Master of Ceremonies. Mr. McCombs stated that the individuals being recognized are tireless and dedicated, representing the high caliber of volunteers who make a difference in the lives of those individuals that the TDCJ supervise. He said their assistance is wide reaching and includes helping staff, teaching criminal justice professionals, and improving communities throughout the state. Mr. McCombs acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony to honor the volunteers. Mr. McCombs stated that it was his honor to read the names of the award recipients and then advised them of the award procedures. The following individuals and organizations were recognized:

Rodney and Jean Still, *Chaplaincy Department*
Eugenia Rust, *Correctional Institutions Division*
Stephanie E. McComb, *Private Facility Contract Monitoring/Oversight Division*
Reverend Albert Lucio, *"Nancy Hees" Award-Parole Division*
Narvin "Butch" Waller, *Religious Service*
Golden Eagle Ministries, *Religious Service*
Gordon Don Zercher, *Substance Abuse Treatment Program*
Michaela Burns, *"Pathfinder" Award-Victim Services Division*
Carolyn Fox, *"Judy Burd" Award-Windham School District*
C.O.O.L. Ministries, *Restorative Justice*
The Grace House, *"Susan Cranford" Award-Female Offender Program*
Operation Rebound, *Most Innovative Program*
Austin/Travis County Reentry Roundtable, *Community Service*
Day with Dad, *Best Family Program*
Lawrence Alwin, *Leonard Davis Award for Most Hours Served*
Roger Reno, *Extensive Travel*
Vernell Houska, *TDCJ Employee Volunteer*
Brenda Chaney, *Criminal Justice Administrator*

Mr. McCombs yielded the floor to Mr. Vance who presented Doris Zercher with the "*Carol S. Vance" Volunteer of the Year Award for 2012.*

Mr. McCombs closed the award ceremony by honoring the award recipients and the thousands of volunteers who help enrich lives.

Chairman Bell presented Mr. Norwood with a Chairman's Coin, thanking him for his attendance.

Chairman Bell noted that National Volunteer's Week is May 14-20, 2012, and this year's theme is "Volunteers – Everyone Counts." He stated that every volunteer makes an invaluable contribution to the betterment of our community. Chairman Bell quoted from *Corinthians, Holy Bible*, "The eye hath not seen, the ear hath not heard, nor has it entered into the heart of man what God has prepared for those that love Him."

There being no further business at this time, Chairman Bell adjourned the 160th meeting of the TBCJ. He advised that the board would reconvene in committee meetings and continue with regular business beginning at 1:30 p.m. The time was 12:13 p.m.

(Attachment B – Program for 17th Annual Governor's Criminal Justice Volunteer Service Awards)

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 160

The Texas Board of Criminal Justice (TBCJ or board) reconvened in regular session on Friday, April 20, 2012, at 9:07 a.m. at the Crowne Plaza Austin, Austin, Texas, and finally adjourned at 10:15 a.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

BOARD MEMBERS ABSENT: Eric Gambrell

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell Jerry McGinty
Melinda Bozarth Susan McHenry
Rudolph Brothers Ron Steffa
Jason Clark Rick Thaler
Matt Demny Bruce Toney
Scott Hornung Carey Welebob
Frank Inmon Dee Wilson
Sherry Koenig

OTHERS PRESENT: The Honorable Mary Anne Bramblett, Chair of the Judicial Advisory Council; the Honorable Dale Spurgin, Jones County Judge; Bryan Grimes, Mayor, City of Anson; Keith Gilbert, Mayor Pro-Tem, City of Anson; Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; Joseph Reed, Sunset Commission; and members of the media.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 160th meeting of the TBCJ on Friday April 20, 2012, at 9:07 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode.

He recognized the Honorable Dale Spurgin, Jones County Judge; Bryan Grimes, Mayor of the City of Anson; Keith Gilbert, Mayor Pro-Tem, City of Anson; Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; and Joseph Reed from the Sunset Advisory Commission, thanking them for their interest in the board.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He stated that two speaker registration cards had been received for public comment. The review of the rules for presentations and comments to the board would take place before the public comment portion of the meeting.

Recognitions

Chairman Bell recognized the Texas Department of Criminal Justice (TDCJ) employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of February and March 2012. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment C – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 159th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell called for any amendments or objections to the proposed consent items. Seeing none, the consent items were approved as posted for this meeting's agenda.

Report from the Chairman, Judicial Advisory Council (JAC)

1. *Texas Progressive Interventions and Sanctions Bench Manual*

Judge Mary Anne Bramblett, Chairman of the JAC, stated that the *Texas Progressive Interventions and Sanctions Bench Manual* has been delayed for an inclusion of a chapter on the interstate compact rules.

2. Officer of the Year Awards

Judge Bramblett reported that line officer awards were given to probation officers in five community supervision and corrections departments (CSCD). The line officer awards recipients are Joshua Paul, Travis County CSCD; Jody Lang, Kerr County CSCD; Lisa Paige, Angelina County CSCD; Jennifer Forrest, Denton County CSCD; and Katie Bliss, Comal County CSCD.

3. Overview of “Effective Supervision Strategies” by Dr. Jason Clark-Miller

Judge Bramblett stated that the study in Tarrant County supported the theory that the number of probation officers that supervise an offender over his probation term affects revocation rates. The correlation is that the higher the turnover of probation officers assigned to an offender during his probation term, the higher the likelihood of revocation. Conversely, when fewer or constant probation officers are assigned to an offender, there are good probation outcomes. Judge Bramblett suggested that an improved working environment and enhanced incentives to stabilize the probation officer workforce will positively affect probation outcomes.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Strategic Planning and Budget Process

Mr. Livingston reported that the Office of the Governor and the Legislative Budget Board have issued instructions regarding the state agency strategic plans. The state’s goal in implementing a strategic planning and budgeting process focuses on the relationships between funding and performance, and between spending and results. He informed the board that the agency’s strategic focus is investment in the probation and parole systems in addition to continued and expanded reentry initiatives and treatment programs within the incarcerated setting. The strategic focus also includes technology within the security systems and the delivery of offender healthcare within the TDCJ. Mr. Livingston said his remarks represented a brief big picture summary of the strategic plan which will eventually be used in developing the TDCJ’s legislative appropriation request for fiscal years (FY) 2014-2015.

Report from the Chairman, TBCJ

1. Crime Victims' Rights Week

Chairman Bell stated that next week is National Crime Victims' Rights Week, April 30-May 5, 2012. He said this year's theme, "Extending the Vision: Reaching Each Victim" celebrates the vision behind the nation's progress in advancing victims' rights and the vision to serve every victim of crime. He reviewed the importance of the observance of this week, which is the understanding of the realities of crime victimization and the importance of supporting crime victim's rights and services. Chairman Bell encouraged all employees to join in this national observation by attending a memorial service or a local event.

2. Importance of Risk Management

Chairman Bell noted that in addition to public safety, one of the agency's highest priorities is staff and offender safety. He reviewed the mission of the TDCJ Risk Management, which helps provide a safe and healthful work environment for staff and offenders through identifying hazards, assessing risks, and establishing effective methods for accident prevention. Chairman Bell commended the TDCJ risk managers and agency staff on working together to provide the safest work environment possible.

3. Chairman's Fitness Challenge Update

Chairman Bell reported that the second quarter of the 2012 Chairman's Fitness Challenge has concluded. The top three leaders in each divisional category are as follows:

- **Division 1:** TBCJ/Executive Administration placed first; Parole Division Central Headquarters placed second; and Parole Division Specialized Programs placed third.
- **Division 2:** Internal Audit Division placed first; Office of the General Counsel placed second; and the Houston V Parole Office placed third.
- **Division 3:** Facilities Division placed first; Houston VII Parole Office placed second; and Houston III Parole Office third.
- **Division 4:** Havins Unit placed first; Tulia Unit placed second; and Information Technology Division placed third.
- **Division 5:** Cole State Jail placed first; Stevenson Unit placed second; and Classification and Records placed third.
- **Division 6:** Lychner-Kegans State Jail placed first; Huntsville Unit placed second; and Goree Unit placed third.
- **Division 7:** Windham School District North Texas Region placed first.

Chairman Bell noted that the third quarter of the Chairman's 2012 Olympic Fitness Challenge began earlier in the week. He encouraged all employees to incorporate physical activity into their daily lifestyle.

Internal Audit Status Report for Fiscal Years 2011 – 2012

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 and 2012:

- **1206 – Parole Division, Billing Section:** The proposed final report has been prepared for release within the next five to 10 business days.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Mr. McGinty reviewed the purchases and contracts over \$1 million. He explained the items as follows. Items 1-2 are increases to current contracts. Items 3-17 are term contract increases to food items, which include a variance increase of 10%. Item 18 is a term contract increase, which also include a 10% variance for boots, shoes, and clothing through the commissary for offenders. Items 19-23 are renewals of existing contracts. Items 24-25 are FY 2013 contracts for the agriculture operations. Item 26 is a FY 2013 contract for modular panel systems that are used by the Texas Correctional Industries for resale. Item 27 is a FY 2013 contract with a 10% variance for pork trimmings. Item 28 is calendar year 2013 contract to provide electricity services to various units, in deregulated market areas. Item 29 is a FY 2013-14 contract renewal for 200 halfway house beds in El Paso for placement of parolees lacking residential resources.

Mr. McGinty paused for questions. Chairman Bell asked if there were any questions or comments. David Nelson inquired about the use of wind farms to help defray the cost of utilities. Mr. McGinty explained that the electricity contract is procured through the Council on Competitive Government. Mr. Nelson encouraged staff to investigate the use of wind farms to save money and Mr. McGinty agreed to do so. Terrell McCombs stated that it was his understanding that at this point of development, wind farms are not as profitable a venture as coal or natural gas. Mr. McGinty responded that contracts established with the Council on Competitive Government are based on bids from different vendors and the lowest qualified provider wins the bid, regardless of the source. Chairman Bell noted that wind farm vendors have approached the TDCJ for placement of wind farm equipment on TDCJ property, noting that there were many variables that would need to be considered before any agreement could be reached. Chairman Bell stated that the best price was the best option regardless of the vendor.

On a recent trip to units in south Texas, Chairman Bell related how he observed the preservation process of donated food items and items from the unit gardens, which included herbs and spices. He added that all these efforts help lower the food costs throughout the prison system.

Seeing no other questions or comments, Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Revisions to Board Policy 03.81,
“Offender Access to the Courts, Counsel, and Public Officials Rules”**

Melinda Bozarth, General Counsel, reviewed substantive changes within the policy. Section I.A.1. adds language referencing the Intra-Law Library Loan Program. Section V.A. adds language that a warden may extend an attorney visit past 5:00 p.m. in cases where there is a compelling circumstance. Section V.C. states that the employees of the Office of the Attorney General do not have to complete the form required for attorneys needing to access a prison. Section V.K. clarifies the procedures that an offender must use to access a consular official in his native country, clarifying it with forms and phone numbers to assist the unit to ensure that contact occurs.

Judge Gist asked if terminals with Westlaw computer disks (CDs) were available for use in prison law libraries. Ms. Bozarth responded that the use of Westlaw technology has been implemented in unit law libraries.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.81, “Offender Access to the Courts, Counsel, and Public Officials Rules,” as presented.

David Nelson seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Revisions to “Disciplinary Rules and Procedures for Offenders”**

Ms. Bozarth reviewed the addition of violation 5.0, Court Prohibited Contact with a Victim, to the TDCJ “Disciplinary Rules and Procedures for Offenders.” House Bill 1028, which passed in the 82nd Legislative Session, allows a judge to impose as part of the sentence that the offender is prohibited from having contact with the victim. If that has been entered in the judgment and the sentence and the offender contacts the victim, it is a rule violation and the offender will be subject to a loss of good time. Ms. Bozarth requested that the board approve this modification to the Disciplinary Rules as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez made a motion that the Texas Board of Criminal Justice approve the revisions to “Disciplinary Rules and Procedures for Offenders,” as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Amendments to Board Rules,
Title 37 Texas Administrative Code

1. 151.52, Sick Leave Pool

Ms. Bozarth stated that one revision was being added to 151.52, Sick Leave Pool, that proposes no limitation for the frequency of donations to the sick leave pool. She requested that the board approve the rule for publication in the Texas Register to receive public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 151.52, Sick Leave Pool, to receive public comment, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. 155.23, Site Selection Process for the Location of Additional Facilities

Ms. Bozarth stated that the revision in 155.23, Site Selection Process for the Location of Additional Facilities, was the deletion of section (c)(4)(E-G), to conform to state law. She requested that the board approve the rule for publication in the Texas Register to receive public comment.

Chairman Bell asked if there were any questions or comments. Mr. Vasquez inquired if the list was limiting the scope of the consideration of the site selection. Ms. Bozarth responded it was not a limited list but reflects the intent of the legislature. Seeing no further questions or comments, Chairman Bell called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 155.23, Site Selection Process for the Location of Additional Facilities, to receive public comment, as presented.

Mr. Mechler seconded the motion which prevailed unanimously when called to a vote.

3. 163.25, Community Justice Councils, Task Forces and Plans

Ms. Bozarth noted that the revisions to 163.25, Community Justice Councils, Task Forces and Plans are in response to House Bill 3691 passed during the 82nd Legislative Session. Section (c) (1)(C) and (D) add language that the community justice plan shall include a description of the programs and services the CSCD provides or intends to provide. On October 13, 2011, the proposed revisions were reviewed by the JAC, which recommended that the TBCJ move forward with the revisions. Ms. Bozarth requested that the board approve the rule for publication in the Texas Register to receive public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 163.25, Community Justice Councils, Task Forces and Plans, to receive public comment, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

4. 163.42, Substantial Noncompliance

Ms. Bozarth stated that revisions to 163.42, Substantial Noncompliance were not substantive in nature. The JAC reviewed the revisions at their October 13, 2011, meeting and recommended that the TBCJ move forward with the revisions. Ms. Bozarth requested that the board approve the rule for publication in the Texas Register to receive public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Carmen Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 163.42, Substantial Noncompliance, to receive public comment, as presented.

Judge Gist seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Readoption of
Board Rule Title 37 Texas Administrative Code Section 151.25,
Texas Department of Criminal Justice Tobacco Policy**

Ms. Bozarth stated there were no revisions to the rule, which was posted in the Texas Register on February 3, 2012. No comments were received as a result of that notice. Ms. Bozarth requested that the TBCJ move forward with readopting this rule as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code Section 151.25 regarding the Texas Department of Criminal Justice Tobacco Policy, and that the chairman sign the order to this effect.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Adoption of Title 37 Texas Administrative Code
Section 151.3, Texas Board of Criminal Justice Operating Procedures**

1. 151.3, Texas Board of Criminal Justice Operating Procedures

Ms. Bozarth advised the board that proposed amendments to 151.3, Texas Board of Criminal Justice Operating Procedures were posted in the Texas Register on February 24, 2012. No comments were received regarding the amendments. Ms. Bozarth recommended that the board adopt the amendments as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.3, regarding Texas Board of Criminal Justice Operating Procedures as published in the Texas Register, and that the chairman sign the order to this effect.

Ms. Lord seconded the motion, which prevailed when called to a vote (six votes in favor and one vote in opposition).

2. 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice

Ms. Bozarth stated that proposed amendments to 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice were posted in the Texas Register on February 24, 2012.

She advised the board that staff suggested that in subsections c.5., d.3., and d.7, the word “where” be changed to “when.”

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.4, regarding Public Presentations and Comments to the Texas Board of Criminal Justice as presented, and that the chairman sign the order to this effect.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

3. 155.31, Establishing Procedures for Resolving Contract Claims and Disputes

Ms. Bozarth stated that amendments to 155.31, Establishing Procedures for Resolving Contract Claims and Disputes were published in the Texas Register on February 24, 2012. No comments were received regarding the amendments. Ms. Bozarth recommended that the TBCJ move forward with the final adoption of the rule as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 155.31 regarding Establishing Procedures for Resolving Contract Claims and Disputes as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Proposed Land Transactions**

1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Matt Demny, Director for Agribusiness, Land and Minerals, reviewed the request for a pipeline easement at the Clemens Unit in Brazoria County by Chevron Phillips Chemical Company, LP. This is a renewal on an existing pipeline easement on a combined area of 3.32 acres of land which was granted in June 1992. Chevron Phillips Chemical Company, LP has agreed to pay \$180,000 for this easement with a 10 year term.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Pipeline Valve Site Easement at the Montford Unit in Lubbock County, Lubbock, Texas

Mr. Demny noted that as discussed in the Business and Financial Operations Committee, the MarkWest Pinnacle, LLC is requesting to renew an existing easement at the Montford Unit consisting of .028 acre of land. The current surface easement was granted in May 2007 with a five year term. MarkWest Pinnacle, LLC has agreed to pay \$11,600 for this easement for a 10 year term.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Hiles made a motion that the Texas Board of Criminal Justice approve the request for a pipeline valve site easement at the Montford Unit in Lubbock County, Lubbock, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project to Install a Fire Alarm System at the Scott Unit in Brazoria County, Angleton, Texas

Frank Inmon, Director of Facilities Division, stated that the fire alarm system installation project at the Scott Unit in Brazoria County was discussed during the Business and Financial Operations Committee meeting on Thursday, April 19, 2012. He requested that the board approve a total project cost of \$1,053,300.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,053,300 to install a fire alarm system at the Scott Unit in Brazoria County, Angleton, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*.

Chairman Bell called Brent Justice from Via Transco Support Services. Mr. Justice noted he was speaking to the TBCJ at the direction of Senator Whitmire and his staff regarding problems with the TDCJ bus voucher process. Mr. Justice outlined his business dealings with TDCJ and Greyhound over the past 20 years. He said he lost his market share when TDCJ began issuing bus vouchers exclusively with the Greyhound Bus Company. Mr. Justice petitioned the board to review his request to participate in the market share of transporting offenders being released from prison.

Chairman Bell called Lance Lowry from American Federation of State, County, and Municipal Employees (AFSCME). Mr. Lowry spoke about correctional employee stress. He noted that according to his research the life expectancy of a correctional officer is 58 years old and correctional officers have the highest suicide rate and the highest divorce rate. Mr. Lowry suggested several ways the TDCJ could reduce stress as an occupational hazard, including psychological screening and overhauling the disciplinary and grievance processes. Ms. Lord asked Mr. Lowry what were the citations for his statistics. Mr. Lowry responded his statistics were from actuary tables from Metropolitan Life and studies from the Department of Justice. Mr. Lowry stated he would provide his citations and reports to the board office.

Chairman Bell requested that Mr. Lowry give his regards to Brian Olsen and Toby Tobias of AFSCME. He told Mr. Lowry the board would review and consider his information.

Chairman Bell thanked everyone for coming to the meeting and announced that the next meeting of the TBCJ will be June 15, 2012, at the Radisson Hotel & Suites, in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 160th meeting of the Texas Board of Criminal Justice at 10:15 a.m.

Chairman

Secretary

Texas Board of Criminal Justice
161st Meeting



Minutes

June 15, 2012
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Meeting Schedule June 15, 2012

**Radisson Hotel & Suites – Austin Room
111 Cesar Chavez at Congress
Austin, Texas 78701**

**Phone (512) 478-9611
Facsimile (512) 478-3227**

10:30 – 11:00 AM	Health Care Committee
11:00 – 11:30 AM	Management Information Systems Committee
11:30 AM – 12:15 PM	Business and Financial Operations Committee
12:15 – 12:45 PM	Windham School District Board of Trustees – Regular Session
12:45 – 2:00 PM	Texas Board of Criminal Justice Executive Session – <i>Old Pecan Room</i>
2:00 PM	Texas Board of Criminal Justice – Regular Session

TEXAS BOARD OF CRIMINAL JUSTICE

**Radisson Hotel & Suites
111 Cesar Chavez at Congress
Austin, Texas 78701
Austin Room**

**June 15, 2012
2:00 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
 - 4. 160th TBCJ Meeting Minutes
 - 5. Excused Absences
- C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
 - 1. Managed Access
 - 2. Update on Sunset Process
- D. Report from the Chairman, TBCJ
 - 1. Sunset Advisory Commission Staff Report on TDCJ
 - 2. Ohio Risk Assessment System for Community Supervision
 - 3. Chairman's Fitness Challenge
- E. Internal Audit Status Report for Fiscal Years 2011 – 2012
- F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- G. Discussion, Consideration, and Possible Action Regarding the 2013 Health Care Contract

- H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. 151.52, Sick Leave Pool
 - 2. 155.23, Site Selection Process for the Location of Additional Facilities
 - 3. 163.25, Community Justice Council and Plans
 - 4. 163.42, Substantial Noncompliance

- I. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Sale of Approximately 325.74 Acres at the Central Unit in Fort Bend County, Sugar Land, Texas
 - 2. Request for Sale of Approximately 16.37 Acres at the Mineral Wells Unit in Parker County, Mineral Wells, Texas
 - 3. Request for Roadway and Utility Easement at the Goree Unit in Walker County, Huntsville, Texas
 - 4. Request for Conveyance of Beneficial Interest at the Houston Regional Parole Office in Harris County, Houston, Texas

- J. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Fire Alarm System at the Estelle Unit in Walker County, Huntsville, Texas
 - 2. Request to Repair Roof at the Snyder Distribution Center at the Daniel Unit in Scurry County, Snyder, Texas
 - 3. Request to Upgrade HVAC Medical In-Take at the Garza West Unit in Bee County, Beeville, Texas
 - 4. Request to Upgrade Food Service Ventilation at the Huntsville Unit in Walker County, Huntsville, Texas
 - 5. Request for Renovation of Meat Packing Plant Refrigeration at the Michael Unit in Anderson County, Tennessee Colony, Texas
 - 6. Request to Relocate Freight Transportation & Distribution Warehouse at the Terrell Unit in Brazoria County, Rosharon, Texas

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 161

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, June 15, 2012 at 12:15 p.m. at the Radisson Hotel and Suites in Austin, Texas. The meeting adjourned immediately into executive session, reconvened in regular session at 2:15 p.m., adjourned at 3:37 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Rudolph Brothers
Celeste Byrne
Jason Clark
Matt Demny
Jackie Edwards
C.F. Hazlewood
Scott Hornung
Frank Inmon
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Jerry McGinty
Susan McHenry
Rick Thaler
Bruce Toney
Carey Welebob
Dee Wilson

OTHERS PRESENT:

The Honorable Sharon Keller, Presiding Judge, Texas Court of Criminal Appeals; Candace Nolte, Office of the Lieutenant Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 161st meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, June 15, 2012, at 12:15 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session, which is closed in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 161st meeting of the TBCJ on Friday, June 15, 2012, at 2:15 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized Presiding Judge Sharon Keller, Texas Court of Criminal Appeals; the Honorable Dale Spurgin, Jones County Judge; Candace Nolte, Office of the Lieutenant Governor; and John Newton, Legislative Budget Board, thanking them for their interest in the board.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no registrations cards were received, no public comments were heard.

Recognitions

Chairman Bell acknowledged the importance of the Promotion of Positive (POP) Mental Health Initiatives Award. He yielded the floor to Dee Wilson, Reentry and Integration Division Director, who recognized John Bradley as the recipient of the POP award for his efforts in leading positive mental health. Mr. Bradley thanked the TBCJ for this honor. Chairman Bell presented Mr. Bradley with his award.

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), recognized Celeste Byrne, Private Facility Contract Monitoring and Oversight Division Director, on receiving her 25-year service award with the state of Texas. Chairman Bell and Mr. Livingston presented Ms. Byrne with her award.

Mr. Livingston recognized Stuart Jenkins, Parole Division Director, on receiving his 30-year service award with the state of Texas. Chairman Bell and Mr. Livingston presented Mr. Jenkins with his award.

Mr. Livingston recognized Ms. Wilson, Reentry and Integration Division Director, on receiving her 25-year service award with the state of Texas. Chairman Bell and Mr. Livingston presented Ms. Wilson with her award.

Jerry McGinty, Chief Financial Officer, recognized Billy Sanders as the Contracts and Procurement Department Director, and Erica Minor as the Contracts and Procurement Department Deputy Director, Business and Finance Division.

Mr. Jenkins recognized Denine Johnson as the Support Operations Deputy Director and Lana Rhodes as the Region IV Director, Parole Division.

Chairman Bell recognized the Texas Department of Criminal Justice (TDCJ) employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of April and May 2012. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 160th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell called for any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and Wal-Mart and as there are personal property donations from both being brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

1. Managed Access

Mr. Livingston reviewed the contract amendments for the offender telephone contract, which will provide managed access solutions at the Stiles and McConnell units. He explained that managed access is the active management of cellular calls within a specified boundary, allows authorized calls and 911 calls to be accepted, but prevents unauthorized calls from going through the perimeter block. This technology provides another tool in the TDCJ's policy of zero tolerance regarding cell phone usage in correctional facilities.

2. Update on Sunset Process

Mr. Livingston thanked the members for attending the Sunset Advisory Commission (Sunset) hearing on June 5, 2012. He noted that the hearing covered the staff recommendations as published in the report, including recommendations regarding TDCJ's reentry component, health care and the Correctional Managed Health Care Committee (CMHCC), and probation. The commission will meet in September and make decisions regarding the report's recommendations. These decisions will be incorporated into bills introduced during the legislative session.

Report from the Chairman, TBCJ

1. Sunset Advisory Commission Staff Report on TDCJ

Chairman Bell referenced the Sunset Staff Report on TDCJ that was released in May. Reviewed in conjunction with TDCJ were the CMHCC, the Windham School District (WSD), and the Board of Pardons and Paroles. Of significance, the Sunset staff recommended that the TBCJ and the TDCJ be continued in its current structure for another 12 years. This recommendation recognizes that the TDCJ provides the support and structure necessary to securely confine incarcerated offenders, to properly supervise offenders on probation, and to directly supervise offenders on parole.

Chairman Bell mentioned that the Sunset staff made recommendations concerning reentry strategies; implementing a systemwide risk and needs assessment for use in managing offenders on probation, parole, and in prison; expanding the offender Individual Treatment Plan; the leveraging of existing resources for case management; and expanding the membership of the reentry task force.

The Sunset staff recommended the TDCJ strengthen community supervision by requiring the Community Justice Assistance Division (CJAD) to establish standard grant processes and to study the use of performance based funding formulas and report its findings to the legislature.

The recommendation in the Sunset report regarding correctional health care was that TDCJ's authority to contract with any provider for offender health care, to include but not be limited to, specifically named university providers be clarified. Additionally, the report recommended that the CMHCC be restructured as a committee of the board instead of an independent state agency.

In regards to WSD, Sunset staff recommended a biennial program evaluation be required to measure its role in reducing recidivism and in meeting the WSD's other statutory goals.

Chairman Bell noted the TBCJ and the TDCJ's appreciation to the Sunset staff whose review and recommendations will improve efficiency and effectiveness throughout the TDCJ.

2. Ohio Risk Assessment System for Community Supervision

With one of the Sunset report's recommendations touching on risk and needs assessment for use in managing offenders, Chairman Bell highlighted some work being spearheaded by the CJAD. CJAD staff has been looking for a new risk and needs assessment instrument that will help identify all of an offender's needs and risks, to include cognitive behaviors, and can be easily interpreted to develop individual case management plans for the offenders.

In their search, staff found a public domain instrument from the University of Cincinnati, known as the Ohio Risk Assessment System. This instrument maps on the latest generation of risk assessment tools and provides a measure of an offender's risk at every phase of the criminal justice system – from pretrial through parole or reentry. It has the ability to enable staff to create comprehensive case plans based on risk assessment scores and to provide a central hub to monitor and track risk assessment data throughout the system. CJAD is currently working to validate a version of the Ohio Risk Assessment System that has been customized for community supervision in Texas.

As to the future, a CJAD steering committee is working with the University of Cincinnati and the 121 CSCDs in Texas to develop a comprehensive implementation plan. A grant proposal to the United States Department of Justice has also been submitted to obtain grant funding to help with the training and implementation of this unified evidence-based assessment.

The state's transition to this new risk and needs assessment system will support the development of assessment-derived, research-based offender profiles that will help assess and define the programming and resources best suited for the offender.

3. Chairman's Fitness Challenge

Chairman Bell announced the winners of the Third Quarter Challenge:

- Division 1 – The Internal Audit Division placed first, the TBCJ and Austin Executive Administration came in second, and Laundry, Food Service and Supply placed third.
- Division 2 – The Office of the General Counsel achieved first, the Houston 5 Parole Office second, and the Support Operations placed third.

- Division 3 – The Houston 7 Parole Office obtained first place, the Health Services Division second, and the Parole Division Hearing Section third.
- Division 4 – The Tulia Unit placed first, the Havins Unit second, and the Facilities Division came in third.
- Division 5 – The Cole State Jail came in first place, the Parole Region I Office second, and the Lopez and Segovia Complex placed third.
- Division 6 – The Manufacturing and Logistics Division placed first with the most points overall, the Stiles Unit second, and the Lychner and Kegans Complex third.
- Division 7 – The North Texas Region of the Windham School District placed first.

Chairman Bell thanked all participants for their hard work and dedication.

He stated that the fourth quarter challenge, “Summer Olympic Games” will begin in July. This five week challenge will again focus on outdoor physical activity and team sports. To all employees, Chairman Bell expressed his appreciation for their continued support of this fitness endeavor and challenged each participant to strive to increase the participation numbers during the upcoming Summer Olympic Games.

Internal Audit Status Report for Fiscal Years 2011 – 2012

Scott Hornung, Director for Internal Audit, provided the following revision to the handout of the Internal Audit Status Report for the FY 2011 and 2012:

- **1217 Business and Finance Division, Agribusiness, Land and Minerals Department:** The final report has been issued.

(Attachment B – Internal Audit Status Report for Fiscal Years 2011 – 2012)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Mr. McGinty provided a review of the purchases and contracts over \$1 million. Items 1-7 are increases to current contracts. Items 8-19 are new contracts or renewals of contracts. Items 1, 2, 3, 4, 8, 14, 16 and 17 include a variance increase of 10%. Mr. McGinty reviewed the fiscal year (FY) 13 food purchases, which are based on current quantities being used by the Food Service Department. These items require a variance increase of 10%. He then reviewed the items on the handout, which included the contract for Data Center Services. Mr. McGinty announced the awarding of Items 2-11, substance abuse treatment contracts, to the Gateway Foundation and Item 12, state jail substance abuse treatment program contract, to Turning Point. Items 13 and 14 are for comprehensive surveillance systems for the Coffield and Connally units.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second. Mr. Gambrell stated that he respectfully abstained from the voting on this item as his firm represents 3M Corporation and Truman Arnold Companies. Leo Vasquez stated that he respectfully abstained from the voting on this item as he is affiliated with a coffee processing company, noting one of the commissary items listed is coffee and cappuccino. Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

J. David Nelson seconded the motion, which prevailed unanimously when called to a vote (with two abstains).

(Attachment C – Purchases Over \$1 Million for Board Approval, Handout)

Discussion, Consideration, and Possible Action **Regarding the 2013 Health Care Contract**

Mr. McGinty reviewed the 2013 health care contract. He explained the drafting process of the 2013 health care contract, which covers the same care and services as the 2012 health care contract. It covers a nine month period, and allows for an extension through August 31, 2013, if the legislature approves specific direction and funding in that regard. The amount in the contract is \$85 million a quarter, and is the funding that would have been given based on the original appropriations. There are no increases and the contract contains specific language that requires prior approval by the Legislative Budget Board (LBB) or the legislature's approval in order to pay above the amount provided in the contract.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Chairman Bell extended the board's thanks to Mr. Livingston, Dr. Linthicum, and Mr. McGinty and his staff for their extraordinary efforts regarding the health services contracts. He also thanked the Office of the Governor, the LBB staff, and the health care partners, the University of Texas Medical Branch and the Texas Tech University Health Sciences Center for their efforts.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the 2013 Health Care Contract, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

(Attachment D – Offender Health Care Contracts for Board Approval, Handout)

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules, Title 37 Texas Administrative Code

1. 151.52, Sick Leave Pool

Melinda Bozarth, TDCJ General Counsel, advised the board that proposed amendments to 151.52, Sick Leave Pool, were posted in the Texas Register on May 4, 2012. As no comments were received regarding the amendments, Ms. Bozarth recommended that the board adopt the amendments as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 151.52, Sick Leave Pool, as published in the Texas Register, and that the chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

2. 155.23, Site Selection Process for the Location of Additional Facilities

Ms. Bozarth stated that the proposed amendments to 155.23, Site Selection Process for the Location of Additional Facilities, were posted in the Texas Register on May 4, 2012. No comments were received regarding amendments. Ms. Bozarth recommended that the board adopt the amendments as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 155.23, Site Selection Process for the Location of Additional Facilities, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. 163.25, Community Justice Council and Plans

Ms. Bozarth noted that the proposed amendments to 163.25, Community Justice Council and Plans, were posted in the Texas Register on May 4, 2012. As no comments were received regarding the amendments, Ms. Bozarth recommended that the board move forward with the adoption of the amendments as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.25, Community Justice Council and Plans, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

4. 163.42, Substantial Noncompliance

Ms. Bozarth advised that the proposed amendments to 163.42, Substantial Noncompliance, were posted in the Texas Register on May 4, 2012. No comments were received regarding the amendments. Ms. Bozarth recommended that the board adopt the amendments as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.42, Substantial Noncompliance, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Land Transactions**

1. Request for Sale of Approximately 325.74 Acres at the Central Unit in Fort Bend County, Sugar Land, Texas

Matt Demny, Director of Agribusiness, Land and Minerals, stated the Business and Financial Operations Committee received a comprehensive review of the sale of the 325.74 acres at the Central Unit. He recommended that the board approve and authorize the General Land Office to market and negotiate the sale of the Central Unit, in accordance with Texas Government Code Section 496.0021.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez commented that the board should take time to reflect on this historic vote that was about to take place. He noted that it was the culmination of the successful efforts of many parts of state government, in addition to the TDCJ. It is the first time in recent history that Texas has

closed a prison unit, and sold it to benefit the state. Mr. Vasquez applauded the win-win efforts of staff and other members past and present. Chairman Bell echoed Mr. Vasquez's sentiments, noting this was an important and historical TBCJ action.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the sale of approximately 325.74 acres at the Central Unit in Fort Bend County, Sugar Land, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Sale of Approximately 16.37 Acres at the Mineral Wells Unit in Parker County, Mineral Wells, Texas

Mr. Demny reviewed the request for sale of the 16.37 acres at the Mineral Wells Unit in Parker County, Mineral Wells, Texas. He noted that the request had been presented to the Business and Financial Operations Committee. After explaining that the land had been received from the federal government in 1990 for use as a correctional facility, Mr. Demny stated it was later determined that the reclamation and development of this property was cost prohibitive. Consequently, its use as a correctional facility never occurred. Mr. Demny informed the board that all pre-existing conditions regarding the sale of this land have been abrogated allowing the sale of the property to proceed. In June 2011, the GLO appraised the property at \$500. As required, revenue received from the sale of this property shall be deposited in the Texas capital trust fund. Mr. Demny requested the board approve the request as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the sale of approximately 16.37 acres at the Mineral Wells Unit in Parker County, Mineral Wells, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

3. Request for Roadway and Utility Easement at the Goree Unit in Walker County, Huntsville, Texas

Mr. Demny stated that the Facilities Division determined that the waste water disposal system at the Goree Unit located in Huntsville, Texas, is in immediate need of repair due to deteriorating lagoon resources. He noted that request had been presented to the Business and Financial Operations Committee. Engineering staff has recommended discontinued use of the lagoon system in favor of direct discharge into the City of Huntsville sewer system. To facilitate this upgrade, the city will be required to accelerate planned construction of additional infrastructure at an estimated cost of \$256,500 of which \$42,176 is directly related to sewer enhancements and

other services requested by the TDCJ. In place of payment for these enhancements, the city has agreed to accept a permanent easement along the northern boundary of the Goree Unit property for a roadway expansion and use as a utility corridor. This tract encompasses 3.89 acres with an appraised value of \$21,395. Mr. Demny recommended that this request be approved as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve the roadway and utility easement at the Goree Unit in Walker County, Huntsville, Texas, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

4. Request for Conveyance of Beneficial Interest at the Houston Regional Parole Office in Harris County, Houston, Texas

Mr. Demny noted this request had been presented to the Business and Financial Operations Committee. He stated that in 2001, the legislature directed the Department of Public Safety (DPS) to transfer beneficial interest in property and facilities owned by the TDCJ to the TBCJ for the purpose of using the facilities as office space for the Houston Regional Parole Office. This property is located adjacent to U.S. 290 in the City of Houston. The Texas Department of Transportation is seeking to purchase approximately 0.1503 of an acre of this property from the DPS to facilitate the widening of U.S. 290. Based on an independent appraisal, they have offered \$113,214 for this parcel. To complete the sale, the TBCJ must transfer its beneficial interest in this portion of the property. The DPS has agreed to equally divide the proceeds of this sale thereby allowing the TDCJ compensation of \$56,607. Mr. Demny recommended that the board approve the request as presented.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the conveyance of beneficial interest at the Houston Regional Parole Office in Harris County, Houston, Texas, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

Facilities Division Construction Projects

1. Request to Replace Fire Alarm System at the Estelle Unit in Walker County, Huntsville, Texas

Frank Inmon, Director of the Facilities Division, stated the Business and Financial Operations Committee had received a detailed briefing on the fire alarm system at the Estelle Unit earlier in the day. He requested that the board approve a budget amount of \$3,236,900.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$3,236,900 to replace the fire alarm system at the Estelle Unit in Walker County, Huntsville, Texas, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Repair Roof at the Snyder Distribution Center at the Daniel Unit in Scurry County, Snyder, Texas

Mr. Inmon reviewed the project to repair the roof at the Snyder Distribution Center at the Daniel Unit. This project was also briefed earlier in the day before the Business and Financial Operations Committee. He requested that the board approve a budget amount of \$1,365,804.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,365,804 to repair the roof at the Snyder Distribution Center at the Daniel Unit in Scurry County, Snyder, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Upgrade HVAC Medical In-Take at the Garza West Unit in Bee County, Beeville, Texas

Mr. Inmon stated that this project was presented to the Business and Financial Operations Committee, and involved upgrading the heating ventilation and air conditioning system at the Medical In-Take at the Garza West Unit. He requested that the board approve a budget amount of \$3,030,900.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$3,030,900 to upgrade the HVAC medical in-take at the Garza West Unit in Bee County, Beeville, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

4. Request to Upgrade Food Service Ventilation at the Huntsville Unit in Walker County, Huntsville, Texas

Mr. Inmon noted that the Business and Financial Operations Committee received a complete briefing on the upgrades to the food service ventilation project at the Huntsville Unit. He requested that the board approve the budget amount of \$1,974,000.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,974,000 to upgrade the food service ventilation at the Huntsville Unit in Walker County, Huntsville, Texas as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

5. Request for Renovation of Meat Packing Plant Refrigeration at the Michael Unit in Anderson County, Tennessee Colony, Texas

Mr. Inmon stated that as with the other projects, the renovations to the meat packing plant refrigeration system at the Michael Unit were reviewed at the Business and Financial Operations Committee meeting. He requested that the board approve the budget amount of \$5,218,900.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,218,900 for renovation of the meat packing plant refrigeration at the Michael Unit in Anderson County, Tennessee Colony, Texas as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

6. Request to Relocate Freight Transportation & Distribution Warehouse at the Terrell Unit in Brazoria County, Rosharon, Texas

Mr. Inmon noted that during the discussion of the relocation of the freight transportation and distribution warehouse to the Terrell Unit at the Business and Financial Operations Committee, he was asked the square footage of the new facility once completed. He advised the board that the new warehouse will be 148,000 square feet. Mr. Inmon requested that the board approve the budget of \$5,782,100 for the project.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,782,100 to relocate the freight transportation and distribution warehouse at the Terrell Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 161st meeting of the Texas Board of Criminal Justice at 3:37 p.m.

*

Chairman

*

Secretary

*Signature on File

Attachments for the minutes can be obtained from the Office of Record, Executive Services.

Texas Board of Criminal Justice
162nd Meeting



Minutes

August 23, 2012
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Meeting Schedule August 23, 2012

**Sheraton Austin Hotel
701 East 11th Street
Austin, Texas 78701**

**Phone (512) 478-1111
Facsimile (512) 479-6458**

Thursday, August 23, 2012

9:30 – 10:15 AM	Windham School District Board of Trustees <i>Executive Session – Bonnell Room</i>
10:15 – 11:00 AM	Windham School District Board of Trustees <i>Regular Session – Capitol Ballroom D</i>
11:00 AM – 12:30PM	Texas Board of Criminal Justice <i>Executive Session – Bonnell Room</i>
12:30 – 1:30 PM	Audit and Review Committee <i>Capitol Ballroom D</i>
1:30 – 2:15 PM	Business and Financial Operations Committee <i>Capitol Ballroom D</i>
2:15 PM	Texas Board of Criminal Justice <i>Regular Session – Capitol Ballroom D</i>

TEXAS BOARD OF CRIMINAL JUSTICE

**Sheraton Austin Hotel – Capitol Ballroom D
701 East 11th Street
Austin, Texas 78701**

**August 23, 2012
2:15 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 161st TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2013 Annual Audit Plan

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding the Texas Department of Criminal Justice Fiscal Year 2013 Proposed Operating Budget and Fiscal Years 2014-2015 Legislative Appropriations Request

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 13.69, "State Counsel for Offenders"

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule, Title 37 Texas Administrative Code Section 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property
- J. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction to Amend Water Line Easement at the Ellis Unit in Walker County, Huntsville, Texas
- K. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Water Lines Distribution System at the Chase Field Unit in Bee County, Beeville, Texas
 - 2. Request to Construct Replacement Agriculture Facility at the Luther Unit in Grimes County, Navasota, Texas
 - 3. Request to Replace Fire Alarm System at the Lynaugh Unit in Pecos County, Fort Stockton, Texas
 - 4. Request to Replace Fire Alarm System at the Roach Unit in Childress County, Childress, Texas
 - 5. Request to Install High Mast Lighting at the Skyview Unit in Cherokee County, Rusk, Texas
- L. Public Comments

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 162

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, August 23, 2012, at 11:15 a.m. at the Sheraton Austin in Austin, Texas. The board met in executive session, reconvened in regular session at 2:41 p.m., and adjourned at 3:44 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Rudolph Brothers
Jason Clark
Matt Demny
Scott Hornung
Frank Inmon
Stuart Jenkins
Sherry Koenig
Angie McCown
Jerry McGinty
Susan McHenry
Ron Steffa
Rick Thaler
Bruce Toney
Carey Welebob
Dee Wilson

OTHERS PRESENT:

Dallas Reed, Office of the Governor; Candace Nolte, Office of the Lieutenant Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; Bryan Grimes, City of Anson; the Honorable Joe Heflin, former state representative; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 162nd meeting of the Texas Board of Criminal Justice (TBCJ or board) on Thursday, August 23, 2012, at 11:15 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. The board conducted executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 162nd meeting of the TBCJ on Thursday, August 23, 2012, at 2:41 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized the Honorable Dale Spurgin, Jones County Judge; Dallas Reed, Office of the Governor; Candace Nolte, Office of the Lieutenant Governor; John Newton, Legislative Budget Board; Bryan Grimes, City Manager, City of Anson; and the Honorable Joe Heflin, former state representative, thanking them for their interest in the board's activities. Chairman Bell recognized Kelsey Hiles, Carmen Villanueva-Hiles' daughter, and presented her with a Chairman's Coin to commemorate her visit.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He noted that seven speaker registration cards had been received for public comment, and that a review of the rules for comments to the board would take place before the public comment portion of the meeting.

Recognitions

Chairman Bell recognized the Texas Department of Criminal Justice (TDCJ or agency) employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of June and July 2012. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
4. **161st TBCJ Meeting Minutes**
5. **Excused Absences**

Chairman Bell asked if there were any amendments or objections to the consent items as presented. Eric Gambrell stated that as his firm represented Wal-Mart and the San Antonio Food Bank and both entities provided personal property donations for approval, he would abstain from taking action on the consent items. Seeing no other objections or abstentions, Chairman Bell stated the consent items stand approved as posted in the meeting agenda. Chairman Bell requested that Mr. Gambrell's abstention be noted for the record.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Correctional Staffing Update

Brad Livingston, TDCJ Executive Director, provided an update on correctional staffing. He reported that correctional officer (CO) vacancies have increased in recent months. The staffing challenge is related to the booming oil business in the west and south Texas regions. The staffing vacancies were approximately 2,750 at the end of July, which reflects 89.5% of CO positions filled. In the fall of 2007 when the staff challenges were at their peak, the CO vacancies were approximately 4,000. The difference between 2007 and the present is that in 2007, 20 to 24 of the units were substantially short of correctional staff. At the present time, seven to eight units are most affected by the staffing challenges and shortages. Mr. Livingston noted that as Jerry McGinty, Chief Financial Officer, reported in the Legislative Appropriations Request briefing in the Business and Financial Operations Committee meeting, the TDCJ is seeking funding for the construction of bachelor officers quarters (BOQs) dormitories. He stated the departure of correctional staff to jobs in the oil field presents multiple challenges, part of which is monetary. The CO recruitment bonus in these areas has been increased to \$3,000. Overtime has been authorized and is being utilized. Housing is also difficult to obtain and is expensive. The requested BOQ dormitories will help offset the cost in some measure. The staffing strategies in Region 4 and 5 developed by Human Resources (HR) and the Correctional Institutions Division (CID) have shown some success. Mr. Livingston recognized the outstanding efforts of these two divisions for their resourceful and insightful recruiting techniques and management of the current staffing challenges. He noted that the legislature will face significant fiscal challenges in the upcoming session. Mr. Livingston expressed his hope that the legislators will consider a pay raise for state employees. He pledged his and the senior staff's commitment to continue to work for the benefit of TDCJ employees through the next session. Mr. Livingston mentioned that at times, trends will work in the TDCJ's favor, noting that the offender population trends have been flat and offender populations are reduced in some areas. The agency has had the ability to soften some of the staffing challenges by closing several dormitories at the Connally Unit. This has freed many staffing posts and mitigates some of the

staffing challenges in that area. Senior staff continue to observe these trends and apply appropriate options as needed. Mr. Livingston emphasized that his staff is focused and committed to resolving these challenges to correctional staffing as much now as they were in 2007. He expressed his pride in the outstanding manner the HR and CID staff are stepping in and managing these challenges.

Chairman Bell mentioned that as the board members are traveling to the units they are speaking with the regional directors and wardens, who are being creative in terms of staffing. He noted that these individuals ensure that the critical functions are maintained and necessary adjustments are made for operations to be carried out. Chairman Bell thanked Mr. Thaler, CID Director, and his staff for their focus and dedication regarding the staffing challenges.

Report from the Chairman, TBCJ

1. Review of Victim Services' Notification Processes

Chairman Bell reviewed the Victim Services' notification process. In providing direct, personal service, the TDCJ Victim Services Division continues to evaluate and advance its notification process to serve victims, surviving family members, witnesses, and other concerned citizens.

Victim Services, through the Victim Notification System (VNS), provides comprehensive written notifications to crime victims regarding offenders in TDCJ custody or on parole supervision. Those individuals who register to participate in the system can elect to receive these notifications by letter, e-mail, or both. There are over 80 points of possible notification regarding several phases of the offender's incarceration and supervision, including the parole review process. With the close of fiscal year (FY) 2011 more than 159,000 individuals were registered with the division's VNS.

There is a Victim Services toll-free number to assist crime victims Monday through Friday. Victim Services representatives are available to discuss with crime victims their rights and how to exercise those rights. In addition to the comprehensive written notification and toll-free number, VNS registrants also have the option of utilizing automated telephone services.

The call-in feature provides an automated telephone system that is accessible to registrants of the VNS, 24-hours a day, and seven days a week in both English and Spanish. During fiscal year 2011, more than 10,800 calls were received from the system's registrants.

The call-out feature, available upon request, provides VNS registrants with an automated telephone notification when an offender is being processed for release from the agency by direct discharge or on parole or mandatory supervision. During FY 2011, 788 call-outs were made to the system's registrants.

Further information on these notification processes and how to register to receive notice, in writing or by telephone, is available through the TDCJ website or by contacting the agency's Victim Services Division.

2. Chairman's Fitness Challenge

Chairman Bell reported that the fourth quarter of the 2012 Chairman's Fitness Challenge – "Summer Olympic Games" concluded August 12th. During this quarter, participating staff earned more than 7.8 million exercise points.

Chairman Bell announced the following fourth quarter winners:

- Division 1 – First Place: the Board and Austin Executive Administration; Second Place: Laundry, Food Services and Supply; and Third Place: the Dayton Parole Office.
- Division 2 – First Place: the Office of General Counsel; Second Place: the Internal Audit Division; Third Place: Business and Finance Division.
- Division 3 – First Place: the Houston 3 Parole Office; Second Place: the Administrative Review and Risk Management Division; and Third Place: the Houston 7 Parole Office.
- Division 4 – First Place: the Walker Sayle Unit; Second Place: the Havins Unit; and Third Place: the Facilities Division.
- Division 5 – First Place: the Travis County State Jail; Second Place: Cole State Jail; and Third Place: the Parole Division Region 1 Office.
- Division 6 – First Place: the Manufacturing and Logistics Division; Second Place: the Huntsville Unit; and Third Place: the Henley and Plane State Jails.
- Division 7 – Windham School District: First Place: North Texas Region.

Chairman Bell thanked all TDCJ participants for their hard work and dedication. . Chairman Bell advised that details on the 2013 Chairman's Fitness Challenge were being finalized and would be released in the near future.

Discussion, Consideration, and Possible Action Regarding The Fiscal Year 2013 Annual Audit Plan

Scott Hornung, Internal Audit Director, reported that the Audit and Review Committee received an in depth briefing on the Fiscal Year 2013 Annual Audit Plan earlier in the afternoon. He stated that he would be pleased to answer any questions.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leopoldo Vasquez moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for fiscal year 2013 and authorize the internal audit director to perform audit

work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

David Nelson seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Mr. McGinty provided a briefing on the purchases and contracts over \$1 million. These included an increase to a FY 2012 food contract for Kegans State Jail, a contract for correctional laundry and food services equipment, and a FY 2013 food services contract for the Hamilton Unit.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Tom Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Texas Department of Criminal Justice Fiscal Year 2013 Proposed Operating Budget and Fiscal Years 2014-2015 Legislative Appropriations Request

Mr. McGinty noted that at the Business and Financial Operations Committee meeting, the board received a briefing that highlighted the operating budget and the proposed Legislative Appropriations Request (LAR). The FY 2013 budget is \$3,093 billion. The proposed requested amount for FY 2014-2015 is approximately \$3.2 billion a year, which includes the 12 exceptional items.

Mr. Livingston thanked Mr. McGinty's staff and the senior staff for their dedication in preparing the budget and the LAR, and said the budget request reflects the path that key policy makers put in place in the agency for a number of years. He said the budget request continues to highlight and prioritize funding for community corrections, parole supervision, rehabilitation, and reentry programs. Mr. Livingston noted that many states are looking to Texas for its success with respect to the treatment programs and stable offender populations. Chairman Bell added that even though Texas has had growth, the TDCJ offender population has remained stable and the crime rate in Texas has decreased.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2013 Operating Budget and Fiscal Years 2014-2015 Legislative Appropriations Request as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Mr. Vasquez seconded the motion.

Mr. Nelson expressed his concern regarding the exceptional item regarding health care. He requested Mr. Livingston provide the board with additional information to support the \$141 million health care exceptional item by the next board meeting. Mr. Livingston responded that Mr. McGinty and his staff would gather the information and meet with Mr. Nelson at his convenience.

Chairman Bell called for a vote.

The motion prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to
Board Policy 13.69, “State Counsel for Offenders”

Melinda Bozarth, TDCJ General Counsel, reviewed the proposed revisions to Board Policy 13.69, “State Counsel for Offenders.” Section II.A contains a new paragraph, which was relocated from section I. The policy contains no procedural revisions.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 13.69, “State Counsel for Offenders,” as presented.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Amendments to
Board Rule, Title 37 Texas Administrative Code
Section 151.55, Disposal of Surplus Agricultural Goods and
Agricultural Personal Property

Ms. Bozarth noted that the only substantive revision to the rule was in section (c)(2) which revises the method by which a report is sent to the Chief Financial Officer; the report is sent by e-mail instead of fax.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Carmen Villanueva-Hiles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 151.55, regarding Disposal of Surplus Agricultural Goods & Agricultural Personal Property, to receive public comment, as presented.

Mr. Mechler seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding
a Proposed Land Transaction to Amend Water Line Easement
at the Ellis Unit in Walker County, Huntsville, Texas

At the Business and Financial Operations Committee meeting, Matt Demny, Agribusiness, Land and Minerals Department Director, stated, the board received a report on a request to amend the water line easement at the Ellis Unit in Walker County. Riverside Water Supply Corporation has agreed to pay \$5,250 for the amended easement, which adds approximately one acre of land to the current easement. All other terms and provisions of this easement will remain in effect.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Nelson moved that the Texas Board of Criminal Justice approve to amend the water line easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Facilities Division Construction Projects**

1. Request to Replace Water Lines Distribution System at Chase Field in Bee County, Beeville, Texas

Frank Inmon, Facilities Division Director, advised a briefing on this project was provided during the Business and Financial Operations Committee meeting earlier in the afternoon. He requested that the board approve a program budget of \$4,586,200 to replace the water lines distribution system at the Chase Field in Bee County.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Janice Harris Lord moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$4,586,200 to replace the water lines distribution system at Chase Field in Bee County, Beeville, Texas, as presented.

Mr. Nelson seconded the motion which prevailed unanimously when called to a vote.

2. Request to Construct Replacement Agriculture Facility at the Luther Unit in Grimes County, Navasota, Texas

Mr. Inmon stated that members received a briefing on this project during the Business and Financial Operations Committee meeting earlier in the afternoon. He requested that the program budget of \$1,794,900 to construct the replacement agriculture facility at the Luther Unit in Grimes County be approved.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,794,900 to construct a replacement agriculture facility at the Luther Unit in Grimes County, Navasota, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Replace Fire Alarm System at the Lynaugh Unit in Pecos County, Fort Stockton, Texas

Mr. Inmon stated a briefing was provided during the Business and Financial Operations Committee meeting on this request to replace the fire alarm system at the Lynaugh Unit. He requested that the program budget of \$1,656,000 for this project be approved.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,656,000 to replace the fire alarm system at the Lynaugh Unit in Pecos County, Fort Stockton, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

4. Request to Replace Fire Alarm System at the Roach Unit in Childress County, Childress, Texas

Mr. Inmon stated a briefing was provided during the Business and Financial Operations Committee meeting on the request to replace the fire alarm system at the Roach Unit. He requested that the program budget of \$1,729,700 for this project be approved.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,729,700 to replace the fire alarm system at the Roach Unit in Childress County, Childress, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

5. Request to Install High Mast Lighting at the Skyview Unit in Cherokee County, Rusk, Texas

Mr. Inmon stated the board received a briefing during the Business and Financial Operations Committee meeting on this request to install a new high mast lighting system along the perimeter fence at the Skyview Unit. He requested that the program budget of \$1,282,600 for this project be approved.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,282,600 to install high mast lighting at the Skyview Unit in Cherokee County, Rusk, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. Seven registration cards were received.

Angie Agapetus spoke in reference to the negative effects of solitary confinement. She mentioned that 4% of all incarcerated individuals are in solitary confinement. Ms. Agapetus requested that the board interview offenders in solitary confinement.

David Wright stated he was an ex-offender who had been assigned to administrative segregation. He asserted that while in administrative segregation he was not fed and he was assaulted and that living in administrative segregation constituted cruel and unusual punishment. He requested that the board review his TDCJ file and look at his complaints. Mr. Wright stated that he wanted the board to know that offenders just want better treatment while in administrative segregation. Chairman Bell asked Mr. Wright to give staff his TDCJ number to help facilitate his request.

Gloria Rubac expressed her concerns about the effects of isolation on offenders on death row in Texas. She noted that these negative issues of solitary confinement among offenders have become an issue of national interest. Ms. Rubac gave examples of offenders who self mutilated due to their confinement in isolation. She urged the board to visit and talk with offenders on death row and administrative segregation.

Alison Dieter spoke about conditions on death row. She requested that the board review the files of Christopher Wilkins, Charles Flores, Louis Perez, Billy Mason, Jeff Woods, and Hank Skinner regarding various concerns such as confiscated or damages property. Ms. Dieter asked if the 90 day lock down procedure was necessary. Additionally, she questioned the frequency of cell moves and bed checks. Ms. Dieter requested that the board consider supplying offenders access to craft materials and telephones.

Joanne Gavin addressed the abuses of solitary confinement, which she said has evolved from a short term punishment phase imposed infrequently for violating prison rules to a routine form of prison management. She noted that tens of thousands of offenders in American prisons are held in prolonged isolation in small windowless cells for up to 23 hours per day. Ms. Gavin stated that many studies point to findings that long term isolation can lead to suffering and may lead to mental illness and suicide. Ms. Gavin noted that the state of Mississippi has instituted some reforms regarding isolation in its prisons, which have resulted in lower incidents of staff and offender assaults. Ms. Gavin stated the first step in Texas would be to petition the legislature for clear standards to minimize this form of punishment.

Lynn Slater addressed the board to protest the improper punishment offenders receive on death row at the Polunsky Unit. Mr. Slater noted a law suit filed by the offenders on death row concerning their living conditions and suggested the law suit could be used as a management tool. He said he had prepared a paper for distribution among the board members. Mr. Slater

requested that the board protect the offenders who have filed the law suit from retaliation by correctional staff.

Chairman Bell called for Sandra Cook, who had pre-registered, to address the board. Ms. Cook was not present to speak.

Chairman Bell thanked everyone for coming to the meeting and announced that the next meeting of the TBCJ will be November 29-30, 2012, at the Crowne Plaza Hotel, in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 162nd meeting of the Texas Board of Criminal Justice at 3:44 p.m.

*

*

Chairman

Secretary

*Signature on File

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
163rd Meeting



Minutes

November 30, 2012
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons E-H
6121 North IH-35
Austin, Texas 78752**

**November 30, 2012
2:15 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 162nd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles FY 2012 Annual Report

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

1. Message to Employees Providing Public Safety during the Holidays
2. Upcoming 83rd Legislative Session
3. FY 2013 Chairman's Fitness Challenge Update

F. Internal Audit Status Report for Fiscal Years 2011 – 2013

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

H. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, "Investment Policy," and Resolution Adopting the Investment Policy

- I. Discussion, Consideration, and Possible Action Regarding Readoption of Board Rules Title 37 Texas Administrative Code
 - 1. 151.6, Petition for the Adoption of a Rule
 - 2. 151.71, Marking of State Vehicles of the Department of Criminal Justice
 - 3. 151.73, Texas Department of Criminal Justice Vehicle Assignments
 - 4. 155.21, Naming of a Texas Department of Criminal Justice Owned Facility
 - 5. 163.5, Waiver to Standards

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property

- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 151.8, Advisory Committees
 - 2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death
 - 3. 152.61, Emergency Response to Municipal, County, State or Federal Law Enforcement Agencies and Non-Agent Private Prisons/Jails
 - 4. 163.33, Community Supervision Officers
 - 5. 163.35, Supervision
 - 6. 163.38, Sex Offender Supervision

- L. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Renewal of Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas
 - 2. Request for Renewal of Pipeline Easement at the Beto Unit in Anderson County, Palestine, Texas
 - 3. Request for Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas, and the Scott Unit, in Brazoria County, Angleton, Texas

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 163

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, November 30, 2012, at 1:11 p.m. at the Crowne Plaza Hotel in Austin, Texas. The board met in executive session, reconvened in regular session at 2:46 p.m., and adjourned at 4:08 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Janice Harris Lord
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBERS ABSENT:

Judge Larry Gist
Terrell McCombs

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Madeline Ortiz
Rudolph Brothers Ron Steffa
Matt Demny Rick Thaler
Jackie Edwards Jan Thornton
Scott Hornung Carey Welebob
Sharon Felfe Howell April Zamora
John Hurt
Frank Inmon
Stuart Jenkins
Sherry Koenig
Angie McCown
Jerry McGinty
Susan McHenry

OTHERS PRESENT:

Jared Staples, Office of the Governor; Heather Hill, Office of the Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; Rissie Owens, Presiding Officer, Board of Pardons and Paroles; Debbie Roberts, WSD Superintendent; and members of the media.

Call to Order

Chairman Oliver Bell convened the 163rd meeting of the Texas Board of Criminal Justice (TBCJ or board) on Friday, November 30, 2012, at 1:11 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. The board conducted executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 163rd meeting of the TBCJ on Friday, November 30, 2012, at 2:46 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized the Honorable Dale Spurgin, Jones County Judge; Heather Hill and Jared Staples, Office of the Governor; and John Newton, Legislative Budget Board.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He noted that since no speaker registration cards were received, there would be no public comments.

Recognitions

Chairman Bell recognized Melinda Hoyle Bozarth on her retirement after 29 years of service to the state of Texas. He read a resolution of commendation highlighting Ms. Bozarth's career and achievements while serving the state. Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ or agency), commented that Ms. Bozarth was the epitome of what a general counsel should be. Chairman Bell presented Ms. Bozarth with her resolution of commendation. Ms. Bozarth thanked the board and Mr. Livingston for their gracious comments. She stated that it had been her honor and privilege to serve them as general counsel. A standing ovation followed.

Chairman Bell recognized Dee Wilson on her retirement after 27 years of service to the state of Texas. He read a resolution of commendation highlighting Ms. Wilson's career and achievements in state government. Mr. Livingston thanked Ms. Wilson for her tireless energy, dedication, and loyalty to the TDCJ. Chairman Bell presented Ms. Wilson with her resolution of commendation. Ms. Wilson thanked Chairman Bell, the board and Mr. Livingston for their kind words, noting her achievements were the accumulated hours of many individuals with whom it had been her honor and pleasure to work. A standing ovation followed.

Chairman Bell yielded the floor to Christina Melton Crain, former TBCJ chairman, who recognized Ms. Bozarth and Ms. Wilson as dedicated professionals making a lasting impression upon the Texas criminal justice system. Ms. Crain wished them well in their future endeavors.

Mr. Livingston recognized Madeline Ortiz, Rehabilitation Programs Division Director, on receiving her 20 year service award with the state of Texas. Chairman Bell and Mr. Livingston presented Ms. Ortiz with her service award. Applause followed.

Mr. Livingston recognized Sharon Felfe Howell as the TDCJ general counsel. He welcomed Ms. Howell to her new position. Ms. Howell thanked Mr. Livingston for the opportunity to serve as general counsel.

Mr. Livingston recognized April Zamora as the Reentry and Integration Division director. Ms. Zamora thanked Mr. Livingston and the board for the opportunity to serve in this position.

Mr. Livingston recognized John Hurt as the Public Information director. He also presented Mr. Hurt with his 20 year service award with the state of Texas. Applause followed.

Jan Thornton, Human Resources director, recognized Eve Shelly as the Employee Relations Section manager.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of August, September, and October 2012. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 162nd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the consent items as presented. Eric Gambrell stated that as his firm represented Wal-Mart and the San Antonio Food Bank and both entities provided personal property donations for approval, he would abstain from taking action on the consent items. Seeing no other objections or abstentions, Chairman Bell stated the consent items stand approved as presented. Chairman Bell requested that Mr. Gambrell's abstention be noted for the record.

Report from the Presiding Officer, Texas Board of Pardons and Paroles
Overview of the Texas Board of Pardons and Paroles (BPP)
FY 2012 Annual Report

Rissie Owens, BPP Presiding Officer, provided an overview of the BPP's FY 2012 Annual Report. She reviewed the BPP's structure, its role and function, and highlighted certain key statistics, to include the number of parole and discretionary mandatory supervision cases, revocation cases, and clemency recommendation decisions handled by the BPP during FY 2012. Ms. Owens also reviewed the parole approval rates from FY 2003 through FY 2012. Ms. Owens discussed the revocations occurring during FY 2012, and pointed out that there were only 639 technical revocations. There were no questions.

Ms. Owens recognized Timothy McDonnell, BPP Administrator, and Harry Baskin, BPP Public Information Officer.

(Attachment B – Overview of the BPP - FY 2012 Annual Report)

Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)

Mr. Livingston had no report.

Report from the Chairman, TBCJ

- 1. Message to Employees Providing Public Safety during the Holidays**
- 2. Upcoming 83rd Legislative Session**
- 3. FY 2013 Chairman's Fitness Challenge Update**

Chairman Bell delivered his holiday message to TDCJ employees. He thanked the dedicated TDCJ employees for their public service throughout the year, and especially those whose jobs require them to work while many of others enjoy time off with family and friends. He also requested that all others give thanks for their blessings, and join with the board in expressing appreciation to the thousands of dedicated TDCJ employees who help ensure public safety.

Chairman Bell acknowledged that not only are TDCJ employees dedicated public servants, they are also generous individuals whose compassion for those less fortunate is evident all year long. He thanked TDCJ employees for their contributions to the State Employee Charitable Campaign and for their participation in many other charitable efforts.

Noting that the holidays can also be a time of stress and other challenges to personal health, Chairman Bell urged all employees to maintain their personal well being by continuing to participate in an active wellness program throughout the season, and encouraged employees to

contact the agency's Employee Assistance Program if stress or other issues are of particular concern during the holidays.

Chairman Bell stated he looked forward to working with TDCJ staff to meet challenges in the coming year. He advised that the 83rd Texas Legislature will convene on Tuesday, January 8, 2013. He noted several actions the board has already taken relative to the legislative session, to include approving a fiscally responsible Legislative Appropriations Request (LAR) participating in the Sunset Review process. Citing these actions and an experienced and highly respected executive director prepared to lead the agency, he said the TDCJ is well poised to provide accurate and timely information to facilitate the decision-making process. Chairman Bell expressed the board's confidence in Mr. Livingston and his senior staff, as well as the board's appreciation for their service. Chairman Bell expressed his personal gratitude and appreciation to his fellow board members, who are sometimes asked to rearrange their busy schedules to attend a particular committee meeting.

Chairman Bell noted that the first quarter of the FY 2013 Chairman's Fitness Challenge ended this past Sunday. As results are still being collected, the top participating teams will be announced in the near future. He thanked all those who participated in the challenge and congratulated those who made or exceeded the goal of 225 points per week. He also acknowledged the individuals who participated in the Chairman's Special Platinum Challenge. This year's second quarter challenge will begin December 17th and run through January 13th. Chairman Bell thanked the employees for their continued support of this fitness endeavor.

Internal Audit Status Report for Fiscal Years 2011 – 2013

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 - 2013:

- **1122 – Rehabilitation Programs Division, Substance Abuse Treatment Programs:** The final report is being prepared.
- **1210 – Information Technology Division, Offender Telephone System:** The draft report has been issued.
- **1218 – Rehabilitation Programs Division, Volunteer Services:** The final report has been released.
- **1305 – Manufacturing and Logistic Division, Warehousing and Supply, Reliability of the Inventory Management System:** The audit has been assigned.
- **1311 – Business and Finance Division, Cashier Services' Processing of Receipts:** The audit has been assigned.

Chairman Bell asked if there were any questions. There were none.

**Discussion, Consideration, and Possible Action Regarding
Purchases and Contracts Over \$1 Million**

As no action was required, this item was passed.

**Discussion, Consideration, and Possible Action Regarding
Annual Review of Board Policy 14.01, “Investment Policy,”
and Resolution Adopting the Investment Policy**

Jerry McGinty, Chief Financial Officer, noted that there were no changes to Board Policy 14.01, “Investment Policy.” He stated that the statute requires that the board review the policy annually. Mr. McGinty further noted that the board was provided a handout to replace one of the informational items, the Investment Report, which had a printing error in the agenda booklet.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

After completing the annual review of Board Policy 14.01, Tom Mechler moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy, as presented and that the chairman and secretary sign the resolution adopting the policy.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Readoption of Board Rules Title 37 Texas Administrative Code**

1. 151.6, Petition for the Adoption of a Rule

Ms. Howell reviewed 151.6, Petition for the Adoption of a Rule, pursuant to the statute that rules be reviewed every four years. There were no proposed amendments to the rule. The proposed rule was published in the July 27, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Janice Harris Lord moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code section 151.6 regarding petitions for the adoption of a rule, and that the chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion which prevailed unanimously when called to a vote.

2. 151.71, Marking of State Vehicles of the Department of Criminal Justice

Ms. Howell remarked that the TDCJ had no proposed amendments to 151.71, Marking of State Vehicles of the Department of Criminal Justice. The proposed rule was published in the July 27, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code section 151.71 regarding marking of state vehicles of the Department of Criminal Justice, and that the chairman sign the order to this effect.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

3. 151.73, Texas Department of Criminal Justice Vehicle Assignments

Ms. Howell noted that the TDCJ had no proposed amendments to 151.73, Texas Department of Criminal Justice Vehicle Assignments. The proposed rule was published in the August 24, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Villanueva-Hiles moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code section 151.73 regarding Texas Department of Criminal Justice vehicle assignments, and that the chairman sign the order to this effect.

Mr. Mechler seconded the motion which prevailed unanimously when called to a vote.

4. 155.21, Naming of a Texas Department of Criminal Justice Owned Facility

Ms. Howell advised that the TDCJ staff had no proposed amendments to 155.21, Naming of a Texas Department of Criminal Justice Owned Facility. The proposed rule was published in the August 31, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code section 155.21 regarding the naming of a Texas Department of Criminal Justice owned facility, and that the chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

5. 163.5, Waiver to Standards

Ms. Howell stated that the TDCJ staff had no proposed amendments to 163.5, Waiver to Standards. The proposed rule was published in the July 27, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code section 163.5 regarding waivers to standards, and that the chairman sign the order to this effect.

Mr. Mechler seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property

Ms. Howell advised that the proposed amendments to 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property were published in the September 14, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 151.55, regarding the disposal of surplus agricultural goods

and agricultural personal property, as published in the Texas Register, and that the chairman sign the order to this effect.

Ms. Lord seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.8, Advisory Committees

Ms. Howell stated the proposed amendments to 151.8, Advisory Committees, are to provide more opportunities for a committee to report to the board and to extend the abolishment dates for advisory committees.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 151.8, regarding advisory committees, to receive public comment, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death

Ms. Howell noted that the proposed amendments to 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death, are necessary to establish that a witness must be 18 years of age or older. The amendments increase the number of victim witnesses and permit surviving victim witnesses under certain circumstances.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 152.51, regarding authorized witnesses to the execution of an offender sentenced to death, to receive public comment, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

3. 152.61, Emergency Response to Municipal, County, State or Federal Law Enforcement Agencies and Non-Agent Private Prisons/Jails

Ms. Howell stated that the proposed amendments to 152.61, Emergency Response to Municipal, County, State or Federal Law Enforcement Agencies and Non-Agent Private Prisons and Jails, are necessary to include university, campus, and school district police departments in the group of law enforcement agencies to whom TDCJ can provide emergency response assistance.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Villanueva-Hiles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 152.61, regarding emergency response to municipal, county, state or federal law enforcement agencies and non-agent private prisons/jails, to receive public comment, as presented.

Ms. Lord seconded the motion which prevailed unanimously when called to a vote.

4. 163.33, Community Supervision Officers

Ms. Howell stated that amendments to 163.33, Community Supervision Officers, are to update the requirements for and training of community supervision officers.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.33, regarding community supervision officers, to receive public comment, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

5. 163.35, Supervision

Ms. Howell reviewed the amendments to 163.35, Supervision, noting they were necessary to revise the intrastate transfer process and to provide a specific definition of absconder.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code

section 163.35, regarding the supervision of probationers, to receive public comment, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

6. 163.38, Sex Offender Supervision

Ms. Howell stated that the amendments to 163.38, Sex Offender Supervision, were necessary to add clarity and conform to state law.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.38, regarding sex offender supervision, to receive public comment, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Land Transactions

1. Request for Renewal of Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Matt Demny, Agribusiness, Land and Minerals Department Director, stated at the Business and Financial Operations Committee meeting, the board received a report on a request to renew one waste water pipeline easement and to acquire two new easements for the installation of two petroleum pipelines at the Clemens Unit in Brazoria County, Brazoria, Texas. Phillips 66 Company has agreed to pay \$622,470 for the three easements, each with a ten year term.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second. Mr. Gambrell noted that as his firm represents Phillips 66 Company, he would be abstaining from voting on this item.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve the renewal of a pipeline valve site easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote (Mr. Gambrell abstained).

2. Request for Renewal of Pipeline Easement at the Beto Unit in Anderson County, Palestine, Texas

Mr. Demny noted that this item was also discussed at the Business and Financial Operations Committee. Anadarko Petroleum Corporation is requesting to renew an existing natural gas pipeline easement at the Beto Unit in Anderson County, Palestine Texas. They have agreed to pay \$7,636 for the easement with a ten year term.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second. Mr. Gambrell noted that as his firm represents Anadarko Petroleum Company, he would be abstaining from voting on this item.

Ms. Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the renewal of a pipeline easement at the Beto Unit in Anderson County, Palestine, Texas, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote (Mr. Gambrell abstained).

3. Request for Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas, and the Scott Unit, in Brazoria County, Angleton, Texas

Mr. Demny advised the board the Business and Financial Operations Committee received a briefing on the request from Seaway Crude Pipeline Company LLC for two easements at the Clemens and Scott units for the installation of two petroleum pipelines. The company has agreed to pay \$1,734,672 for the two easements, each with a ten year term.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the request for pipeline easements at the Clemens Unit in Brazoria County, Brazoria, Texas, and the Scott Unit, in Brazoria County, Angleton, Texas, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending the meeting and announced that the next meeting of the TBCJ will be January 11, 2013, at the Radisson Hotel and Suites, in Austin, Texas.

Adjournment

There being no further business, Chairman Bell adjourned the 163rd meeting of the Texas Board of Criminal Justice at 4:08 p.m.

*

*

Chairman

Secretary

* Signature on File

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
164th Meeting



Minutes

January 11, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Radisson Hotel – Austin Room
111 Cesar Chavez at Congress
Austin, Texas 78701**

**January 11, 2013
12:15 – 12:45 AM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 163rd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on 2013 Legislative Session

D. Report from the Chairman, TBCJ

1. Monitoring of Community Supervision
2. Parole Supervision
3. Chairman's Fitness Challenge

E. Internal Audit Status Report for Fiscal Years 2012 – 2013

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Readoption of Community Justice Assistance Division Standards, Board Rules Title 37 Texas Administrative Code

1. 163.3, Objectives
2. 163.31, Sanctions, Programs, and Services
3. 163.36, Mentally Impaired Offender Supervision

H. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Cost Increase to a Kitchen Renovation Project at the Pack Unit in Grimes County, Navasota, Texas

Recess

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 164

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, January 11, 2013, at 12:52 p.m. at the Radisson Hotel in Austin, Texas. The board adjourned at 1:35 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell
Rudolph Brothers
C.F. Hazlewood
Scott Hornung
Sharon Felfe Howell
Frank Inmon
Sherry Koenig
Dr. Lannette Linthicum
Susan McHenry
Oscar Mendoza
Ron Steffa
Rick Thaler
Bruce Toney
Carey Welebob
April Zamora

OTHERS PRESENT:

John Newton, Legislative Budget Board; Veronica Casanova, WSD Interim Superintendent; and members of the media.

Call to Order

Chairman Bell convened the regular session of the 164th meeting of the TBCJ on Friday, January 11, 2013, at 12:52 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized John Newton, Legislative Budget Board staff representative.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He noted that since no speaker registration cards were received, there would be no public presentations.

Recognitions

Chairman Bell recognized Jackie Edwards on his retirement after 28 years of service to the state of Texas. He read a resolution of commendation highlighting Mr. Edwards's career and achievements while serving the state. Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ or agency), commented that Mr. Edward's strong leadership would be missed. Mr. Edwards thanked the board and Mr. Livingston for their generous comments. He stated that it had been an honor to serve the TDCJ. Mr. Edwards introduced his youngest daughter, Jada. Applause followed.

Mr. Livingston recognized C.F. Hazlewood, Director, Manufacturing and Logistics Division, on receiving his 30 year service award with the state of Texas. Chairman Bell and Mr. Livingston presented Mr. Hazlewood with his service award. Applause followed.

Bruce Toney, Inspector General, recognized Chris Stallings, Deputy Director, Office of Inspector General, who is retiring after 20 years of service on January 31, 2013. Mr. Stallings thanked the board and Mr. Livingston for the recognition, stating it was an honor to work for such a highly motivated professional organization. Chairman Bell and Mr. Livingston presented Mr. Stallings with his 20 year service award. Applause followed.

Mr. Livingston recognized Oscar Mendoza as the director of the Administrative Review and Risk Management Division. Mr. Mendoza stated it was an honor to move forward in his role as part of Mr. Livingston's senior management team.

April Zamora, Director, Reentry and Integration Division (RID), recognized B.J. Wagner as the RID's deputy director. Ms. Wagner expressed her gratitude for the opportunity to work for the agency in her expanded position. Chairman Bell welcomed Ms. Wagner, noting that the board has high expectations of newly promoted staff.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, and 35 plus years of service with the state of Texas during the months of November and December, 2012. The TBCJ,

along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 163rd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the consent items as presented. Seeing none, Chairman Bell stated the consent items stand approved as presented.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) Update on 2013 Legislative Session

Mr. Livingston provided an update on the 83rd Legislative Session. To date, two major bills have not been filed, the Sunset Legislation Bill and the General Appropriations Bill. Mr. Livingston promised to keep the board apprised of legislation significant to the agency.

Mr. Livingston advised that fiscal restraint will continue throughout the session. He expressed his confidence that at the end of the session the TDCJ will have sufficient funding to allow the progress and momentum in criminal justice programs to continue.

Chairman Bell advised that staff should provide legislators, many of whom are new to the legislature, the most accurate and forthright answers possible should they or their staff call for information. Mr. Livingston assured the board that his senior staff was focused and ready to work with the legislators and their staff.

Report from the Chairman, TBCJ

- 1. Monitoring of Community Supervision**
- 2. Parole Supervision**
- 3. Chairman's Fitness Challenge**

Chairman Bell recognized the Community Justice Assistance Division (CJAD) and the local community supervision and corrections departments (CSCDs) for notable successes regarding the supervision of offenders in the community. He mentioned the recent *Report to the Governor*

and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds prepared by CJAD, and how it documented the expansion of supervision and treatment programs made possible by increased appropriations resulted in decreasing revocation to TDCJ, decreasing technical revocations, increasing early termination from community supervision, and increasing use of treatment services to reduce risk. Chairman Bell recognized the CSCDs for their achievements and applauded the legislature for its substantial investment in community corrections. Chairman Bell commended CJAD for their efforts to implement the state leadership's strategy of reducing caseloads, increasing the availability of substance abuse treatment options, promoting evidence-based progressive sanctions models, and providing community sentencing options.

Chairman Bell stated that at the last board meeting the Board of Pardons and Paroles (BPP) Presiding Officer Rissie Owens noted during her overview of the BPP Fiscal Year annual report the continued decline in revocations, especially technical revocations. He expressed his opinion that the continued decline in technical revocations is due both to the BPP and the Parole Division emphasizing the use of graduated sanctions as they address violations of supervision. Ms. Owens had advised that TDCJ's pre-release programs have influenced parole board members to approve release contingent upon successful completion of rehabilitation programming. Chairman Bell praised the BPP, the Parole Division, and the Rehabilitation Programs Division for effectively working together to benefit the offenders and the public.

Chairman Bell noted that the first quarter results of the fitness challenge were released last week. He commended the employees on their tremendous success. The challenge theme this year is "Our steps to 13 in 2013" with a goal to achieve 13 million points by the end of the fiscal year. During the first quarter participating employees accumulated over 15 million points. Chairman Bell thanked everyone for their great work and continued support of the initiative.

Internal Audit Status Report for Fiscal Years 2012 – 2013

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 - 2013:

- **1122 – Rehabilitation Programs Division, Substance Abuse Treatment Programs:** The final report has been released.
- **1216 – Information Technology Division, Information System Security:** The draft report has been released.

Chairman Bell asked if there were any questions; there were none.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Ron Steffa, Deputy Chief Financial Officer, reviewed the contract over \$1 million which is an increase to the FY 13 contract for soybean meal in the amount of \$1,363,428 from the amount

previously approved at the June 2012 board meeting. The contract increase is due to an increase in the product's market price.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Tom Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Readoption of Community Justice Assistance Division Standards, Board Rules Title 37 Texas Administrative Code

1. 163.3, Objectives

Sharon Felfe Howell, General Counsel, reviewed the proposed readoption of 163.3, Objectives, pursuant to the statute that rules be reviewed every four years. Being there were no proposed amendments to the rule, the rule was published in the November 2, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice readopt Community Justice Assistance Division Standards, Board Rule Title 37 Texas Administrative Code section 163.3 regarding Objectives, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. 163.31, Sanctions, Programs, and Services

Ms. Howell stated that 163.31, Sanctions, Programs, and Services, was being proposed for readoption pursuant to the statute that rules be reviewed every four years. Being there were no proposed amendments to the rule, the rule was published in the November 2, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice readopt Community Justice Assistance Division Standards, Board Rule Title 37 Texas Administrative Code section 163.31 regarding Sanctions, Programs, and Services, and that the chairman sign the order to this effect.

David Nelson seconded the motion, which prevailed unanimously when called to a vote.

3. 163.36, Mentally Impaired Offender Supervision

Ms. Howell noted that 163.36, Mentally Impaired Offender Supervision, was proposed for readoption pursuant to the statute that rules be reviewed every four years. Being there were no proposed amendments to the rule, the rule was published in the November 2, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Nelson moved that the Texas Board of Criminal Justice readopt Community Justice Assistance Division Standards, Board Rule Title 37 Texas Administrative Code section 163.36 regarding Mentally Impaired Offender Supervision, and that the chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Cost Increase to a Kitchen Renovation Project at the Pack Unit in Grimes County, Navasota, Texas

Frank Inmon, Facilities Division Director, advised that earlier in the day the Business and Financial Operations Committee received a detailed briefing on the cost increase to the kitchen renovation project at the Pack Unit. He requested that the board approve the request for a program budget of \$6,118,600.

Mr. McCombs moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$6,118,600 for kitchen renovations at the Pack Unit in Grimes County, Navasota, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

For the record, Chairman Bell stated the executive session as posted in the Texas Register was cancelled.

Adjournment

There being no further business, Chairman Bell adjourned the 164th meeting of the Texas Board of Criminal Justice at 1:35 p.m.

*

*

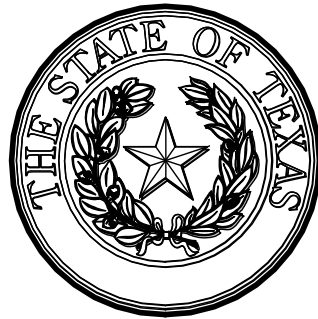
Vice Chairman

Secretary

*Signature on File

Note: Attachment to the minutes are available upon written request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
166th Meeting



Minutes

April 5, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons D and E
6121 North IH-35
Austin, Texas 78752**

**April 5, 2013
1:45 – 2:45 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 164th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2012 – 2013

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.8, Advisory Committees
2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death
3. 152.61, Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails
4. 163.33, Community Supervision Officers
5. 163.35, Supervision
6. 163.38, Sex Offender Supervision

- H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.1 – Substance Abuse Felony Punishment Facilities Eligibility Criteria (*pages 40-41*)
- I. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas (*pages 42-43*)
- J. Public Comments

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 166

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, April 5, 2013, at 9:34 a.m. at the Crowne Plaza Austin, Austin, Texas, and then recessed into executive session. Following executive session, at 10:02 a.m., the board recessed until 11:07 a.m., when it reconvened in regular session. The board recessed at 12:16 p.m., reconvened in regular session at 1:45 p.m., and adjourned at 2:42 p.m.

BOARD MEMBERS PRESENT: Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
J. David Nelson
Terrell McCombs
Carmen Villanueva-Hiles

BOARD MEMBERS ABSENT: Oliver Bell, Chairman

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell Jerry McGinty
Rudolph Brothers Susan McHenry
Matt Demny Oscar Mendoza
C.F. Hazlewood Madeline Ortiz
Scott Hornung Ron Steffa
Sharon Felfe Howell Rick Thaler
John Hurt Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora
Angie McCown

OTHERS PRESENT: The Honorable Don Willett, Texas Supreme Court Justice; Carol Vance, former TBCJ chairman; Veronica Casanova, Interim Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Vice Chairman Tom Mechler convened the 166th meeting of the TBCJ on Friday, April 5, 2013, at 9:34 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He recessed the board into executive session which is closed to the public in accordance with Texas Government Code, Section 551.076.

Reconvene Texas Board of Criminal Justice

Mr. Mechler reconvened the 166th meeting of the TBCJ on Friday, April 5, 2013, at 11:07 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

18th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Mr. Mechler welcomed all honored guests for joining the TBCJ for the 18th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He recognized the importance of the criminal justice volunteers and their positive impact on the criminal justice system, and explained that due to the demand of the legislative session and other commitments, the Honorable Rick Perry, Governor of Texas, was unable to attend the ceremony. The recipients viewed a video from Governor Rick Perry, who thanked them for their service.

Mr. Mechler yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests, thanked the volunteers for their partnership with TDCJ, and said the honorees represent the 21,000 volunteers who are every day heroes. Mr. Livingston acknowledged that the TDCJ volunteers receive the agency's highest respect and admiration for their efforts.

Mr. Mechler introduced the Honorable Don R. Willett, Justice of the Supreme Court of Texas, as the keynote speaker.

Justice Willett thanked the board for their invitation to speak at the award ceremony. He noted that the volunteers of the faith based ministries teach and demonstrate unconditional compassion, tough love, morality, charity, and hope to those people in need of divine grace. He said their ministries bring about a transformation in offenders into individuals, and praised programs such as INNERCHANGE and the Sycamore Tree Project, which depend on volunteer efforts, for being invaluable to the successful reentry of offenders into their communities. Justice Willett expressed his gratitude for the faithful and devoted service of each of the honorees.

Mr. Mechler thanked Justice Willett for his remarks and presented him with a key chain as a token of the board's appreciation for his support.

Mr. Mechler yielded the floor to Carmen Villanueva-Hiles, Master of Ceremonies. Ms. Hiles stated that the individuals being recognized represent the high caliber of volunteers who make a difference in the lives of those individuals who are in the custody of or supervised by the TDCJ. Volunteers give offenders hope, strength, and the desire to become a better person; they also help reinforce offenders' relationships with their families. Ms. Hiles also acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony. Ms. Hiles stated that it was her honor to read the names of the award recipients. The following individuals and organizations were recognized:

Barry Wilmore, *Chaplaincy Department*
JB and Bethel Walker, *Correctional Institutions Division*
Emmett Gagnard, *Private Facilities Contract Monitoring/Oversight Division*
Donna Haggard, *"Nancy Hees" Award-Parole Division*
Brenda Harris, *Religious Service*
Keith Norman, *Religious Service*
Terry McGhee, *Substance Abuse Treatment Program*
Mark Ross, *"Pathfinder" Award-Victim Services Division*
Judith Dullnig, *"Judy Burd" Award-Windham School District*
FEXO Program of Goodwill, *Reentry and Integration Division*
Connie Hilton, *Restorative Justice*
Overcomers Recovery Support Program, *"Susan Cranford" Award-Female Offender Program*
Bible Basics Administrative Segregation Program, *Most Innovative Program*
Program Path Finder, *Community Service*
Day with Mom, *Best Family Program*
Patrick McGee, *Leonard Davis Award for Most Hours Served*
James Bank, *Extensive Travel*
Carl C. Spencer, *TDCJ Employee Volunteer*
Charles Bell, *Criminal Justice Administrator*

Ms. Hiles yielded the floor to Carol Vance who presented James Reed with the "*Carol S. Vance" Volunteer of the Year Award for 2013.*

Ms. Hiles closed the awards ceremony by honoring the award recipients and the thousands of volunteers who help enrich lives with their service. Applause followed.

Mr. Mechler noted that National Volunteer's Week is April 21-27, 2013, and this year's theme is "Celebrating People in Action."

There being no further business at this time, Mr. Mechler recessed the 166th meeting of the TBCJ. He advised the board would reconvene in committee meetings and continue with regular business beginning at 1:30 p.m. The time was 12:16 p.m.

(Attachment A – Program for 18th Annual Governor's Criminal Justice Volunteer Service Awards)

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 166

The Texas Board of Criminal Justice (TBCJ or board) reconvened in regular session at 1:45 p.m., at the Crowne Plaza Austin, Austin, Texas, and adjourned at 2:42 p.m.

BOARD MEMBERS PRESENT: Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
J. David Nelson
Terrell McCombs
Carmen Villanueva-Hiles

BOARD MEMBERS ABSENT: Oliver Bell, Chairman

STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Angie McCown
Mike Bell	Jerry McGinty
Rudolph Brothers	Susan McHenry
Matt Demny	Oscar Mendoza
C.F. Hazlewood	Madeline Ortiz
Scott Hornung	Ron Steffa
Sharon Felfe Howell	Rick Thaler
John Hurt	Bruce Toney
Frank Inmon	Carey Welebob
Stuart Jenkins	April Zamora

OTHERS PRESENT: The Honorable Dale Spurgin, Jones County Judge; Veronica Casanova, Interim Superintendent of Windham School District; and members of the media.

Reconvene Texas Board of Criminal Justice

Vice Chairman Mechler reconvened the regular session of the 166th meeting of the TBCJ on Friday April 5, 2013, at 1:45 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Mr. Mechler recognized the Honorable Dale Spurgin, Jones County Judge, thanking him for his interest in the agency.

Mr. Mechler stated that the TBCJ is committed to providing the opportunity for public comment and public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He stated that registration cards had been received for public comment. The review of the rules for comments to the board would take place before the public comment portion of the meeting.

Recognitions

Marvin Dunbar, Manager of Support Services, Rehabilitation Programs Division, recognized Chaplain Vance Drum as the president of the American Correctional Chaplains Association, which is an affiliate of the American Corrections Association. Mr. Dunbar also recognized Chaplain Michael Rutledge as the assistant director of the Chaplaincy Department.

Rick Thaler, Director of the Correctional Institutions Division (CID), recognized Michael Upshaw as the deputy director of the CID Management Operations. Mr. Upshaw thanked the board, Mr. Livingston, and Mr. Thaler for the opportunity to work in this new capacity.

Sharon Felfe Howell, General Counsel, recognized Carla Willis as the director of Legal Affairs.

Mr. Mechler recognized the TDCJ employees who have achieved 25, 30, and 35 plus years of service with the state of Texas during the months of January, February, and March, 2013. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment B – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 164th and 165th TBCJ Meeting Minutes**
- 5. Excused Absences**

Mr. Mechler presented the consent items which included excused absences for Judge Larry Gist and Terrell McCombs both of whom were unable to attend the November 2012 meeting due to personal business. Mr. Mechler asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that as his firm represents Wal-Mart and San Antonio Food Bank on a pro bono basis, and there are personal property donations from both entities before the board, he would abstain from any action taken on the consent items. Mr. Mechler asked if there were any other objections. Seeing none, the consent items stand approved as presented.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on the 83rd Legislative Session

Brad Livingston, TDCJ Executive Director, reported that the full senate passed Senate Bill 213 known as the Sunset Bill. House Bill 2289, the House of Representatives' version of the Sunset Bill will soon be heard in the House Corrections Committee. The Senate and House have both approved their version of the General Appropriations Bill. In both bills, the TDCJ's major operations have been funded, in addition to a five percent pay raise for correctional officers. The differences in the two versions will be reconciled over the upcoming weeks.

Report from the Chairman, TBCJ

- 1. Support of the National Center for Missing and Exploited Children "Take 25" Program**
- 2. Crime Victims' Rights Week – April 21-27, 2013**
- 3. Chairman's Fitness Challenge**

Mr. Mechler noted that in honor of May 25th, National Missing Children's Day, the National Center for Missing and Exploited Children created the Take 25 program. Take 25 is a child safety campaign that encourages parents and guardians to talk to their children about safety issues. He stated that the board and the TDCJ actively support the center's Take 25 campaign, and encouraged everyone to take 25 minutes out of their day to discuss child safety practices.

Mr. Mechler recognized National Crime Victims' Rights Week will be held April 21-27, 2013, in communities throughout the nation. Texas Victim Services organizations will open the week in Austin with a memorial tree planting at the state capitol in honor of Suzanne McDaniel, a crime victims' rights advocate pioneer. More information on Crime Victims' Rights Week events can be obtained through the TDCJ's Victim Services Division or the agency website www.tdcj.state.tx.us.

Mr. Mechler announced the third quarter results for the 2013 Chairman's Fitness Challenge. Participating employees earned almost 15.9 million points during the quarter. The divisional top three placements for the quarter are as follows:

Division 1: Internal Audit-first place, the board and Austin Executive Administration-second place, and Management Operations (CID)-third place.

Division 2: Office of the General Counsel-first place, Victim Services Division-second place, and Business and Finance Division-third place.

Division 3: Houston 7 Parole Office-first place, Administrative Review and Risk Management Division-second place, Board of Pardons and Paroles-third place.

Division 4: Glossbrenner Unit-first place, Sayle Unit-second place, Information Technology Division-third place.

Division 5: Boyd Unit-first place, Hobby Unit-second place, and Travis County State Jail-third place.

Division 6: Jester IV Unit-first place, Huntsville Unit-second place, and Manufacturing and Logistic Division-third place.

Division 7: Windham School District: West Texas Region-first place.

Internal Audit Status Report for Fiscal Years 2012 – 2013

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the Fiscal Years (FY) 2012 - 2013:

- **1208 - Parole Division, District Parole Officer Training Academy:** The final report will be released on April 8, 2013.

Mr. Mechler asked if there were any questions. There were none.

(Attachment C – Internal Audit Status Report, Fiscal Years 2012-2013)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He noted that most items are either renewals to existing contracts for materials used by the Texas Correctional Industries (TCI) or FY 2014 contracts for materials for use by TCI. Mr. McGinty noted that the item on the handout is an increase to a FY 2013 contract for medical services by the University of Texas Medical Branch (UTMB).

David Nelson asked if the medical contract was based on the same rates that have been paid for the last nine months. Mr. McGinty responded affirmatively.

Mr. Mechler asked if there were any further comments or questions. Seeing none, he called for motion and a second.

Mr. Gambrell noted he would abstain from voting on this item as his firm represents 3M Corporation.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote (Mr. Gambrell abstained.)

(Attachment D – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.8, Advisory Committees

Ms. Howell reported the proposed adoption of amendments to 151.8, Advisory Committees, was necessary to extend the abolishment dates for the advisory committees. The rule was published in the December 14, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Nelson moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 151.8, regarding advisory committees, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death

Ms. Howell stated that the proposed amendments to 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death, establish that a witness must be 18 years of age or older, increase the number of victim witnesses, and allow the surviving victim to witness under certain circumstances. The rule was published in the December 21, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 152.51, regarding authorized witnesses to the execution of an offender sentenced to death, as published in the Texas Register, and that the chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion which prevailed unanimously when called to a vote.

3. 152.61, Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails

Ms. Howell noted that the proposed amendments to 152.61, Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons, are necessary to include university, campus, and school district police departments in the group of law enforcement agencies to which the TDCJ may provide emergency response assistance. The rule was published in the December 21, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Hiles moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 152.61, regarding emergency response to law enforcement agencies or departments and non-agent private prisons/jails, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion which prevailed unanimously when called to a vote.

4. 163.33, Community Supervision Officers

Ms. Howell explained that the proposed amendments to 163.33, Community Supervision Officers, were necessary to update the requirements for and training of community supervision officers. The rule was published in the December 21, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Janice Lord moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.33, regarding community supervision officers, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Gist seconded the motion which prevailed unanimously when called to a vote.

5. 163.35, Supervision

Ms. Howell stated that the proposed amendments to 163.35, Supervision, are necessary to revise the intrastate transfer process and to provide a specific definition of absconder. The rule was published in the December 21, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.35, regarding the supervision of probationers, as published in the Texas Register, and that the chairman sign the order to this effect.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

6. 163.38, Sex Offender Supervision

Ms. Howell explained that the proposed amendments to 163.38, Sex Offender Supervision, are necessary to add clarity and to conform to state law. The rule was published in the December 21, 2012, issue of the Texas Register for public comment. The 30 day comment period has passed with no comments received. Ms. Howell recommended that the board move forward with the final adoption.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.38, regarding sex offender supervision, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 159.1 – Substance Abuse Felony Punishment
Facilities Eligibility Criteria**

Ms. Howell reviewed the proposed amendments to 159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria. The rule has been updated pursuant to standards imposed by the federal prison rape elimination act. These amendments are necessary to ensure that probationers and parolees under the age of 18 are not eligible to participate in a substance abuse felony punishment facility.

Mr. Mechler asked if there were any questions or comments. Ms. Lord inquired if there were any programs for offenders under age 18. Ms. Howell responded that usually these youthful offenders were not assigned to TDCJ and were placed in programs by the presiding judge as part of an offender's probation. Mr. Mechler inquired if the proposed amendment was to comply with federal law. Ms. Howell responded affirmatively. Mr. Nelson asked if a youthful offender could get these services in TDCJ. Ms. Howell responded that through the Youthful Offender Program these same services were available.

Mr. Mechler asked if there were any further questions or comments. Seeing none he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 159.1, regarding substance abuse felony punishment facilities eligibility criteria, to receive public comment, as presented.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

(Attachment E - 159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria)

**Discussion, Consideration, and Possible Action Regarding
a Proposed Land Transaction for a Pipeline Easement
at the Stiles Unit in Jefferson County, Beaumont, Texas**

Noting that the Business and Financial Operations Committee had received a briefing on the transaction earlier in the day, Matt Demny, Director of the Agribusiness, Land and Minerals Department briefly reviewed the request by Seaway Crude Pipeline Company LLC for an easement to install a petroleum pipeline at the Stiles Unit. Seaway Crude Pipeline Company LCC has agreed to pay \$137,078 for this easement for a ten-year term. A most favored nation's clause is included in the agreement to ensure the state receives the best contract negotiations possible.

Mr. Mechler asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Mr. Mechler stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. Each speaker was allowed three minutes for remarks.

Madelyan Johnson, spoke on behalf of her daughter Erica Sheppard, an offender. Ms. Johnson requested the board's assistance on four issues. (1) On the women's death row, there are small storage units but the women offenders are only allowed to use the front part of the storage area. (2) By policy, death row offenders may call family members every three months, but she has not received a phone call from her daughter in over three months. (3) Ms. Johnson addressed her daughter's health concerns which involve paralysis in her legs. She requested the board consider her daughter's request to be moved to another unit. (4) Ms. Johnson advised that during a medical run her daughter was unable to exit the vehicle that transported her to a medical examination, which resulted in a use of force. Ms. Johnson requested a copy of the video of the use of force.

Petra De Yong addressed the conditions on death row. She spoke about the effects of isolation and the size of the cells being too small. Ms. De Yong asked the board to reconsider the policies regarding the treatment of death row offenders.

Gloria Rubac requested that the board investigate the cost and conditions of every death row prisoner and based on the findings, issue a report. She encouraged all the board members to visit death row, reinstate piddling, allow some socializing among the death row offenders.

Angie Agapatus spoke about trauma caused by solitary confinement. She said solitary confinement damages brains, causes depression and anger issues, and other serious problems such as self mutilation, and cited some Supreme Court findings on solitary confinement.

Joanne Gavin read a letter from an anonymous offender who is serving a life sentence. He wrote that he is a victim of a corrupt judicial and penal system and was placed in administrative segregation without harming another human being. The offender enumerates the conditions of isolation in a small cage.

Mr. Mechler thanked all speakers for their comments. To obtain written response, he asked they leave their contact information with staff at the reception table outside of the meeting room.

Mr. Mechler announced that the next meeting of the TBCJ will be June 20-21, 2013, at the Crowne Plaza Hotel, Austin, Texas.

Adjournment

There being no further business for the regular session, Mr. Mechler adjourned the 166th meeting of the Texas Board of Criminal Justice at 2:42 p.m.

Chairman

Secretary

*Signature on File

Note: Attachments to the minutes are available upon written request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
167th Meeting



Minutes

June 21, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons A-D
6121 North IH-35
Austin, Texas 78752**

**June 21, 2013
12:00 – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-8*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 166th TBCJ Meeting Minutes
5. Excused Absences

C. Election of Officers

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2012 – 2013

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*pages 9-18*)

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.1 – Substance Abuse Felony Punishment Facilities Eligibility Criteria (*pages 19-21*)

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (*pages 22-27*)
- J. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of a Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas (*pages 28-29*)
- K. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects (*pages 30-39*)
 - 1. Request to Replace Fire Alarm System at the Beto Unit in Anderson County, Palestine, Texas
 - 2. Request to Replace Fire Alarm System at the Hodge Unit in Cherokee County, Rusk, Texas
 - 3. Request to Replace Locking Systems at the Jester IV Unit in Fort Bend County, Richmond, Texas
 - 4. Request Kitchen Renovations at the Luther Unit in Grimes County, Navasota, Texas
 - 5. Request to Replace Roofs at the Telford Unit in Bowie County, New Boston, Texas

Recess TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 167

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, June 21, 2013, at 12:09 p.m. at the Crowne Plaza Austin, Austin, Texas, and then recessed at 1:26 p.m. The TBCJ reconvened at 2:13 pm, immediately went into executive session, and then adjourned the 167th meeting at 2:47 pm.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Terrell McCombs
Carmen Villanueva-Hiles
Tom Wingate

BOARD MEMBERS ABSENT: Judge Larry Gist
Janice Harris Lord

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Sherry Koenig
Rudolph Brothers Dr. Lannette Linthicum
Matt Demny Jerry McGinty
C.F. Hazlewood Susan McHenry
Scott Hornung Ron Steffa
Sharon Felfe Howell William Stephens
John Hurt Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora

OTHERS PRESENT: Jared Staples, Office of the Governor; the Honorable Judge Dale Spurgin, Jones County; John Newton, Legislative Budget Board (LBB); Lesley French, House Corrections Committee; Veronica Casanova, Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 167th meeting of the TBCJ on Friday, June 21, 2013, at 12:09 p.m. in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. Noting a quorum was present, Chairman Bell declared the meeting open and stated the board would be conducting business as posted in the Texas Register.

Chairman Bell acknowledged guests in the audience: the Honorable Judge Dale Spurgin, from Jones County; Lesley French, from the House Corrections Committee; John Newton from the LBB; and Jared Staples, from the Governor's Office.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public comment and public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no registration cards were received, no public presentations were heard at this meeting.

Recognitions

Chairman Bell welcomed the newest board member, Thomas Wingate. He highlighted the experience and expertise Mr. Wingate brings to the board. Mr. Wingate thanked the chairman, the board, and the staff for their warm welcome.

Stressing the importance of promoting and establishing mental health programming for offenders to ensure they receive proper treatment and housing, Chairman Bell yielding the floor to April Zamora, Reentry and Integration Division Director, for the presentation of the annual *Promotion of Positive (POP) Mental Health Initiatives Award*. Ms. Zamora introduced this year's recipient, Brandon Wood, Executive Director of the Texas Commission on Jail Standards. Mr. Wood was selected for this award because of his leadership and dedication to the implementation of systems targeted to address mental health issues. Mr. Wood expressed his gratitude, recognizing his research specialist, Diana Spiller, and thanking Ms. Zamora and B.J. Wagner, Deputy Director for the Reentry and Integration Division, for their assistance.

Chairman Bell recognized Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), as the 2013 recipient of the *TPEA Administrator of the Year Award*. Noting this is the third time Mr. Livingston has been chosen for the award, Chairman Bell acknowledged Mr. Livingston's focus on leadership development, to ensure talent is in the ranks to grow and lead in the future.

Mr. Livingston recognized Rick Thaler upon his retirement from TDCJ, with over 33 years. Describing his movement through many positions, he commented on Mr. Thaler's strong leadership, work ethic, team building, and shaping of future leaders. Chairman Bell added that Mr. Thaler has consistently set an example of good leadership and support to the board. Mr. Thaler thanked Chairman Bell and Mr. Livingston for the kind words and support over the years. Chairman Bell presented him with a framed Resolution of Commendation.

Mr. Livingston recognized William Stephens as the new director of the Correctional Institutions Division (CID). Mr. Stephens thanked Mr. Livingston for the honor to serve as CID director. He noted the division has a fantastic leadership team and thanked Mr. Thaler for the leadership he provided during his tenure in the position.

Mr. Stephens recognized three new CID regional directors: Richard Alford, Region I, charged with supervision of 13 facilities in the Huntsville area; Cody Ginsel, Region IV, responsible for 16 units in south and west Texas; and Eric Guerrero, Region VI, responsible for 18 facilities, primarily in central Texas. Chairman Bell congratulated all three gentlemen, noting the board will be visiting all the facilities in the coming months and they look forward to meeting and visiting the unit staff.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 plus years of service with the state of Texas during the months of April and May 2013. On behalf of the board and the director, he thanked them for their unwavering loyalty and dedication to the citizens of Texas. The names of the employees were submitted for inclusion in the official minutes of the board meeting.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 166th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell presented the consent items and asked if there were any amendments, objections, or abstentions. Eric Gambrell stated that as his firm represents Wal-Mart and San Antonio Food Bank on a pro bono basis and there are personal property donations from both entities before the board, he would abstain from taking action on the consent items. Chairman Bell asked for any further amendments, objections, or abstentions. Seeing none, the consent items stand approved as presented. Chairman Bell requested Mr. Gambrell's abstention be noted for the record.

Election of Officers

Chairman Bell, citing Board Rule 151.3, "Texas Board of Criminal Justice Operating Procedures," announced the board must elect a vice chairman and secretary each odd numbered year. Since the last election of officers was June 2011, he asked if there was a motion on the election of officers.

Carmen Villanueva-Hiles moved that the board approve the nomination of Tom Mechler as vice-chairman and that the board approve the nomination of Leo Vasquez as secretary of the Texas Board of Criminal Justice.

Mr. Gambrell seconded the motion which prevailed unanimously when called to a vote.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)-Summary of the 83rd Legislative Session

Mr. Livingston identified the Sunset Bill as the single most important bill to the TDCJ during this legislative session. The Sunset Commission acknowledged and recognized the positive direction of the TDCJ, including its continued expansion of reentry through a variety of mechanisms. With respect to health care, the Sunset Bill expanded the membership of the Correctional Managed Health Care Committee (CMHCC) to include additional medical schools and mental health providers, and revised the role and responsibilities of TDCJ and the CMHCC.

Another significant piece of legislation addressed employee benefits. The legislature considered ways to stabilize the fiscal elements within the state pension plans. While keeping retirement benefits and eligibility criteria for current state employees, there will be slight changes for new employees. Employee contribution to the fund will increase as will contributions from the state agencies. With these decisions, the course is set for sustained strength and health of the retirement system for a number of years.

The budget for the biennium reflected \$48 million in additional funding within the probation system, for increased operating cost. Parole was fully funded to reflect the growing parole population. TDCJ also received \$6 million in additional funding for mental health services in the community. Due to reduction in the prison population, the Texas legislature reduced the TDCJ budget by \$97 million through their decision to reduce contract capacity. The agency also received 75 additional reentry coordinator positions throughout the system. Correctional staff received a 5% pay raise, effective in September. All other state employees received a 1% pay raise (with a \$50 monthly minimum) in the first year of the biennium, then an additional 2% raise in the second year. TDCJ received \$50 million in repairs funding for our facilities, \$13.8 million in vehicle capital, \$6.9 million in computer replacement and information technology funding, and just under \$13 million for an Electronic Document Management System (EDMS).

Chairman Bell asked if there were any comments. Mr. Mechler complimented the agency's leadership for their hard work. He noted that Texans are seeing history in the closing of facilities. Last year, the Central Unit closed, and now, two more facilities are scheduled to be closed. This kind of success takes a tremendous amount of effort. In regards to the two scheduled closings, Chairman Bell acknowledged that although vendors are losing business, those vendors have the opportunity to gain new business with the state by bidding on future contracts.

Mr. McCombs commented that Texas is growing by 1,000 new citizens per day, and has one of the lowest recidivism rates in America. Much of this is due to leadership; not only that of Mr.

Livingston, but also at the regional and divisional levels. The legislature also showed wisdom several years ago, by going to treatment and diversion programs. The results of those decisions are evident.

Report from the Chairman, TBCJ

1. National Probation, Parole and Community Supervision Week

Chairman Bell noted this year's National Probation, Parole and Community Supervision Week, is scheduled for the week of July 21. He encouraged recognition and appreciation of probation and parole officers as well as managerial staff for the work they do. To coincide with National Probation, Parole and Community Supervision Week, the TDCJ Community Justice Assistance Division will host its 23rd SKILLS for Effective Intervention Conference. Chairman Bell thanked Carey Welebob, Director of the Community Justice Assistant Division, and Stuart Jenkins, Director of the Parole Division, for their work, asking them to pass on the board's appreciation to their staff for a job well done.

2. Board Member Facility Tour Initiative

Chairman Bell commented on the board member facility tour initiative he launched in 2008. His goal was for every TDCJ facility to be visited by at least one member within a year's time. It was an enlightening experience for the members, and it was a well received, positive morale boost for the staff. He announced the next tour initiative, with the goal to visit every facility by the end of June 2014, and his plans to expand that goal to include visits to parole offices.

Internal Audit Status Report for Fiscal Years 2012-2013

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the Fiscal Years (FY) 2012-2013:

- **1213 – Correctional Institutions Division, *Fleet Data Management***: The audit is complete. This is the final audit from the FY 2012 plan.
- **1304 – Manufacturing and Logistics Division, *Texas Correctional Industries, Graphics Division – Print Shop Operations***: The exit briefing was conducted, with audit responses due by June 24.
- **1311 – Business and Finance Division, *Cashier Services' Processing of Receipt***: A draft report was issued on June 13, exit conference is pending.
- **1320 – Private Facility Contract Monitoring/Oversight Division, *Substance Abuse Services Payments***: The audit has been assigned and work is proceeding.

Chairman Bell asked if there were any questions. There were none.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Referring to materials in the board packet, Jerry McGinty, TDCJ Chief Financial Officer, explained that in June there are typically a large number of purchases presented to the board in preparation for the upcoming fiscal year. For presentation purposes, similar items were grouped together in the provided materials. The first eight items are purchases for the current biennium. Beginning with item 9, purchases are for FY 2014 and in some cases, for the FY 2014-15 biennium. Mr. McGinty reviewed all purchases.

Chairman Bell asked if there were any questions or comments. There were none. Chairman Bell remarked on the value of the substance abuse treatment programs for offenders. TDCJ's current recidivism rate is between 22-23%, which is the lowest in the country. For those programs, when aftercare is provided, the recidivism rate for this cohort drops to 7%, without the treatment however it rises above 40%.

Chairman Bell asked if there was a motion. Mr. Gambrell responded with a request to abstain from voting on this item as his law firm represents some of the companies listed. His abstention was acknowledged.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Vasquez noted his need to abstain due to his affiliation with coffee companies and one of the commissary items listed is coffee/cappuccino. Chairman Bell noted the two abstentions.

Terrell McCombs seconded the motion which resulted in four votes in the affirmative. (Mr. Gambrell and Mr. Vasquez abstained)

With the absence of two members and two members abstaining, Chairman Bell voted in the affirmative, providing a majority vote and allowing the motion to pass.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.1-Substance Abuse Felony Punishment Facilities Eligibility Criteria

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 159.1 "Substance Abuse Felony Punishment Facilities Eligibility Criteria." At the last meeting, the board authorized the publication of proposed revisions to the rule in the Texas Register, and they appeared in the April 29, 2013 issue. Thirty days have passed and no comments were

received, therefore, Ms. Howell recommended the board proceed forward with final adoption of the rule.

Chairman Bell asked if there were any questions. Seeing none, He asked for a motion.

Mr. Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 159.1, regarding substance abuse felony punishment facilities eligibility criteria, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Mechler seconded the motion which unanimously prevailed when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines

Ms. Howell presented proposed amendments to Board Rule 151.51 “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines.” This rule has been updated pursuant to requirements in state law that rules be reviewed every four years. The proposed amendments are necessary to clarify and update custodial officer certification and hazardous duty pay eligibility.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 151.51, regarding custodial officer certification and hazardous duty pay eligibility guidelines, to receive public comment, as presented.

Mr. Wingate seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of a Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Matt Demny, Director of Agribusiness, Land, and Minerals Department, presented the Cameron Highway Oil Pipeline Company’s request to renew an existing crude oil pipeline easement at the Stiles Unit. They have agreed to pay \$252,518 for the easement with a 10 year term.

Chairman Bell asked if there were any questions. Seeing none, he asked for a motion.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for a renewal of a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Facilities Division
Construction Projects Request to Replace the Fire Alarm System at the
Beto Unit in Anderson County, Palestine, Texas**

Frank Inmon, Director of the Facilities Division, presented the job scope to replace the fire alarm system at the Beto Unit in Anderson County, Palestine, Texas. He asked for board approval, for a total program cost of \$4,346,300.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Wingate moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$4,346,300 to replace the fire alarm system at the Beto Unit in Anderson County, Palestine, Texas, as presented.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Facilities Division
Construction Project to Replace the Fire Alarm System at the Hodge Unit in
Cherokee County, Rusk, Texas**

Mr. Inmon presented the job scope to replace the fire alarm system at the Hodge Unit. He asked for board approval, for a total program cost of \$1,005,200.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Mechler moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,005,200 to replace the fire alarm system at the Hodge Unit in Cherokee County, Rusk, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Locking Systems at the Jester IV Unit in Fort Bend County, Richmond, Texas

Mr. Inmon presented the job scope to replace locking systems at the Jester IV Unit in Fort Bend County, Richmond, Texas. He asked for board approval, for a total program cost of \$1,612,900.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,612,900 to replace locking systems at the Jester IV Unit in Fort Bend County, Richmond, Texas, as presented.

Carmen Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project for Kitchen Renovations at the Luther Unit in Grimes County, Navasota, Texas

Mr. Inmon presented the job scope for kitchen renovations at the Luther Unit in Grimes County, Navasota, Texas. He asked for board approval, for a total program cost of \$5,278,500.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. McCombs moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,278,500 for kitchen renovations at the Luther Unit in Grimes County, Navasota, Texas, as presented.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Roofs at the Telford Unit in Bowie County, New Boston, Texas

Mr. Inmon presented the job scope to replace roofs at the Telford Unit in Bowie County, New Boston, Texas. He asked for board approval, for a total program cost of \$6,684,100.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Ms. Hiles moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$6,684,100 to replace roofs at the Telford Unit in Bowie County, New Boston, Texas, as presented.

Mr. Wingate seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending the meeting and announced that the next meeting of the TBCJ will be Friday, August 23, 2013, at the Wyndam Garden Hotel, in Austin.

Chairman Bell recessed the 167th meeting of the board at 1:26 p.m., noting the board would reconvene to conduct executive session following the Windham School District Board of Trustees meeting. The board reconvened at 2:13 p.m.

Adjournment

There being no further business, Chairman Bell adjourned the 167th meeting of the Texas Board of Criminal Justice at 2:47 p.m.

*

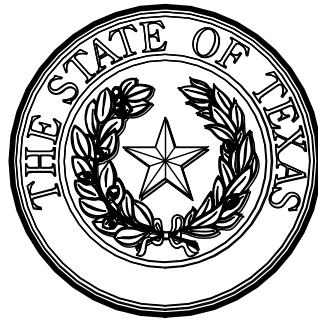
Chairman

*

Secretary

*Signature on File

Texas Board of Criminal Justice
168th Meeting



Minutes

August 23, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel – Highland Lakes Ballroom
3401 South IH-35
Austin, Texas 78741**

**August 23, 2013
12:45 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 167th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2014 Annual Audit Plan

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 8*)

G. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2014 Proposed Operating Budget

H. Discussion, Consideration, and Possible Action Regarding the Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters (*pages 9-14*)

I. Discussion, Consideration, and Possible Action Regarding the Salary for the TDCJ Executive Director

- J. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies (*pages 15-35*)
 - 1. BP-02.43, “Equal Employment Opportunity”
 - 2. BP-03.91, “Uniform Offender Correspondence Rules”

- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code (*pages 36-52*)
 - 1. 159.19, Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded
 - 2. 195.51, Sex Offender Supervision

- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions (*pages 53-56*)
 - 1. Sale of 183.174 Acres at the Scott Unit, Brazoria County, Angleton, Texas
 - 2. Transfer of 78.823 Acres at the Wynne Unit in Walker County, Huntsville, Texas

- M. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects (*pages 57-60*)
 - 1. Request to Replace HVAC System at the Estelle Unit in Walker County, Huntsville, Texas
 - 2. Request to Replace Roofs at the Darrington Unit in Brazoria County, Rosharon, Texas

- N. Public Comments

Recess TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 168

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, August 23, at 1:11 p.m. The meeting was held at the Wyndham Garden Hotel, Austin, Texas.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
Carmen Villanueva-Hiles
Thomas Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Ralph Bales
Mike Bell
Rudolph Brothers
Matt Demny
Scott Hornung
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Bobby Lumpkin
Angie McCown
Jerry McGinty
Susan McHenry
Oscar Mendoza
Ron Steffa
William Stephens
Bruce Toney
Carey Welebob
April Zamora

OTHERS PRESENT:

Jared Staples, Office of the Governor; Kyle Kamrath, Office of the Governor; Kimberly Schmid, Office of the Lt. Governor; John Newton, Legislative Budget Board (LBB); Alma Johnson, Office of Representative Toni Rose; Lesley French, House Corrections Committee; Meagan Smith, Office of Representative Tan Parker; Rahul Sreenivasan, Office of Representative Armando Walle; Terry Franks, Office of Senator Charles Schwertner; The Honorable Mary Ann Bramblett, Judicial Advisory Council; Rissie Owens, Presiding Officer, Texas Board of Pardons and Paroles (TBPP); Romulo Chavez, (TBPP); Juanita Gonzalez, Board Member (TBPP); David Gutierrez, Board Member (TBPP); James LaFavers, Board Member (TBPP); Michelle Skyrme, Board Member (TBPP); Cynthia Tauss, Board Member (TBPP); Timothy McDonnell, Administrator, (TBPP); Bettie Wells, General Counsel, (TBPP).

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 168th meeting of the TBCJ on Friday, August 23, at 1:11 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the TBCJ would conduct business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized the special guests in the audience: Jared Staples, Office of the Governor; Kyle Kamrath, Office of the Governor; Kimberly Schmid, Office of the Lt. Governor; John Newton, Legislative Budget Board (LBB); Alma Johnson, Office of Representative Toni Rose; Lesley French, House Corrections Committee; Meagan Smith, Office of Representative Tan Parker; Rahul Sreenivasan, Office of Representative Armando Walle; Terry Franks, Office of Senator Charles Schwertner.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda or public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He postponed further explanation of requirements for speaker registration, until the end of the meeting, noting that several cards had been submitted for public presentation; however, only for the public comment period.

Recognitions

Chairman Bell recognized members of the Texas Board of Pardons and Paroles, inviting the chair and presiding officer, Rissie Owens, to introduce the members of the board. Ms. Owens introduced Mr. Romulo Chavez, Board Member, Huntsville Board Office; Ms. Juanita Gonzalez, Board Member, San Antonio Board Office; Mr. David Gutierrez, Board Member, Gatesville Board Office; Mr. James LaFavers, Board Member, Amarillo Board Office; Ms. Michelle Skyrme, Board Member, Palestine Board Office; and Ms. Cynthia Taus, Board Member, Angleton Board Office. She also introduced Mr. Timothy McDonnell, Board Administrator, Austin, and Ms. Bettie Wells, Board General Counsel, Austin. Chairman Bell expressed appreciation for their loyalty and dedication and presented each member with a Chairman's coin. Ms. Owens thanked Chairman Bell and the TBCJ.

Brad Livingston, Texas Department of Criminal Justice Executive Director, recognized William Stephens, Correctional Institutions Division Director, as this year's recipient of the American Correctional Association (ACA) "Best of the Business" Award. He congratulated Mr. Stephens and noted that Mr. Stephens possesses the qualities most valued by the ACA. Mr. Stephens thanked the board and Mr. Livingston.

Mr. Stephens presented to the board Robert J. Eason, the Correctional Institutions Division Deputy Director of Prison and Jail Operations. Mr. Eason thanked the board for the opportunity to serve.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the State of Texas during the months of June and July, 2013. He cited 54 employees with 25 years of service, 22 employees with 30 years of service, 4 employees with 35 years of service, 2 employees with 40 years of service, and one employee with 45 years of service. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 167th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted that the proposed consent items include the excused absences for himself, for the April meeting, as well as for Judge Larry Gist and Janice Harris Lord from the June 2013 meeting, as they were unable to attend due to personal business. He asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm represents Walmart, and does pro bono work for the San Antonio Food Bank, and as there are personal property donations from both entities brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Employee Wellness

Brad Livingston, TDCJ Executive Director, discussed new initiatives regarding employee wellness. He thanked Mr. Mechler and Chairman Bell for their leadership and vision on this issue. An initiative to enhance staff and supervisor training will add to training already in place, specifically, how employees and supervisors recognize signs of employee stress, including post traumatic stress disorder, and take appropriate steps to assist in time of need. Mr. Livingston discussed plans to strengthen employee peer support, namely, the Crisis Response Intervention Support Program (CRISP). The CRISP curriculum is being updated, with plans for new classes to begin this fall. New trainees will join the ranks of more than 1,800 employees to assist in time of need. The wellness initiatives will also promote healthy habits, and share strategies for managing stress.

Mr. Livingston asked if there were any questions. Mr. Mechler thanked Mr. Livingston and the senior staff for their work. Chairman Bell asked for further questions or comments. Seeing none, he thanked the staff for their help.

Report from the Chairman, TBCJ

1. National Preparedness Month

Chairman Bell announced September 2013 marks the 10th National Preparedness Month, when activities across the country will raise awareness and educate the public about preparing for emergencies, including natural disasters. He stated that with hurricane season upon us, readiness for potential disasters is essential to our operations and for safety of the individuals we supervise. He reviewed the schedule of preparedness activities, including administrative command center exercises, meetings and preparedness activities conducted with the State of Texas Emergency Management Council, staff trainings, and orientation. He described the command center's technology for hurricane tracking, noting that keeping people informed will save lives.

2. Fiscal Management and Good Stewardship

Chairman Bell discussed fiscal management and good stewardship, stating that over the last couple of weeks, each board member spent time with the agency's finance leaders, reviewing the details of the fiscal year 2014 budget. He mentioned the past legislative session's increase in agency funding for vehicles and personal computers, a much needed provision. He acknowledged Jerry McGinty and the Business and Finance Division staff for their focused stewardship, and a job well done.

3. Chairman's Fitness Challenge

Chairman Bell reported the fourth quarter results for the 2013 Chairman's Fitness Challenge. Participating employees earned over 18.4 million points during the quarter. He noted that this year, staff members far exceeded the goal of 13 million points in 2013 by reporting 18.4 million points during the quarter, and about 60 million points in 2013. He congratulated all those who participated.

The divisional top three placements for this quarter are as follows:

Division 1	1st Place:	Internal Audit Division
	2nd Place:	Parole Division Central Headquarters
	3rd Place:	Board Office and Austin Executive Administration
Division 2	1st Place:	Office of the General Counsel
	2nd Place:	Reentry and Integration Division
	3rd Place:	Parole Region III

- | | | |
|---|------------|--|
| Division 3 | 1st Place: | Houston 7 Parole Office |
| | 2nd Place: | Administrative Review and Risk Management Division |
| | 3rd Place: | Huntsville Institutional Parole Office |
| Division 4 | 1st Place: | Correctional Training Administration |
| | 2nd Place: | Glossbrenner Unit |
| | 3rd Place: | Sayle Unit |
| Division 5 | 1st Place: | Hobby Unit |
| | 2nd Place: | LeBlanc Unit |
| | 3rd Place: | Travis County State Jail |
| Division 6 | 1st Place: | Manufacturing & Logistics Division
(Most overall points – over 734,000) |
| | 2nd Place: | Huntsville Unit |
| | 3rd Place: | Jester IV Unit |
| Division 7 (dedicated to the Windham School District) | 1st Place: | West Texas Region. |

For the Chairman’s Special Platinum Challenge, 112 employees earned at least 2,500 points for each week of the quarter. 169 individuals completed the gold challenge, earning at least 1,000 points per week. He congratulated all those who participated.

Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2014 Annual Audit Plan

Scott Hornung, Director for the Internal Audit Division, presented the proposed annual audit plan to the board, which was discussed in detail during the Audit and Review Committee meeting. Chairman Bell asked for questions, and seeing none, he asked for a motion and a second.

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2014 and authorize the internal audit director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Mr. McCombs seconded the motion, which prevailed unanimously when put to a vote.

(Attachment B – Internal Audit Division Fiscal Years 2012 through 2013 Status Report as of 07/19/13)

**Discussion, Consideration, and Possible Action Regarding
Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, presented the purchases, identifying increases to the current contracts related to services, and new FY 2014-15 purchases which were based on funding decisions by the legislature. Chairman Bell asked if there were questions. Mr. McCombs commended Mr. McGinty for a job well done on this year's budget, noting the increase per legislative decision for vehicles. He noted that, while there was an increase in funding for Correctional Managed Health Care, this did not include funding for Correctional Health Care Committee staff. While the committee will continue to function, roles and responsibilities intact, their support will come from TDCJ staff.

Chairman Bell asked if there were any questions. Mr. McCombs expressed approval of the increase for correctional health care services, stating he favors more private sector care in the future. Chairman Bell asked if there were any further comments or questions. Seeing none, he voiced his gratitude to the legislature for the pay increase for correctional staff. Seeing no further questions, he called for a motion and a second. Mr. Mechler, before making the motion, applauded the funding for the data center consolidation services.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding
The TDCJ Fiscal Year 2014 Proposed Operating Budget**

Mr. McGinty presented the proposed operating budget, as discussed in the Business and Financial Operations Committee meeting. Chairman Bell asked if there were questions. Seeing none, he commented on the evolution of health care management over the last year or so, stating that the increases will help the agency to accomplish what is expected.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2014 Operating Budget as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Mr. Wingate seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding the Resolution
Authorizing a Request for Financing with the Texas Public Finance
Authority, Authorizing a Financing Agreement and Other Matters**

Jerry McGinty presented the resolution to the board for \$50 million in general obligation bonds for the FY 2014-15 biennium. He explained the approval process and mentioned that the LBB has already provided their approval. Chairman Bell asked if there were questions. Seeing none, he asked for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the resolution ratifying a request for financing with the Texas Public Finance Authority, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding the Salary for the
TDCJ Executive Director**

Mr. McGinty explained that this item is in line with the 83rd legislative session's General Appropriations Act, authorizing a new amount of \$260,000 for the salary of the Executive Director of the TDCJ.

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve the salary of the Executive Director of the Texas Department of Criminal Justice, as provided by the 83rd Legislature, in the amount of \$260,000.00, with an effective date of September 1, 2013.

Judge Gist seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Revisions to Board Policy, 02.43, "Equal Employment Opportunity"**

Sharon Howell, TDCJ General Counsel, presented revisions to Board Policy 02.43, "Equal Employment Opportunity." Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Ms. Hiles made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 02.43, "Equal Employment Opportunity," as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when put to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy, 03.91, “Uniform Offender Correspondence Rules”

Sharon Howell reviewed the proposed revisions to Board Policy 03.91 “Uniform Offender Correspondence Rules.” She highlighted the following three revisions: the definition for ‘altered photo’ was revised, which will help prevent the introduction of pornographic images into prison units; the required time to process mail was changed from 24 hours to two business days, the ACA standard, which will relieve pressure from the mail room staff, allowing them to perform their duties in a timely fashion; and offenders will be required to obtain stationery supplies from the commissary rather than through the mail, which will prevent the introduction of contraband. Mr. Mechler, referring to the policy, asked for the definition of ‘e-message.’ Ms. Howell explained that family members can pay to send an email to an offender. Emails are printed, processed through the mail room security, and delivered to the offender. Mr. Bell asked for further questions. Seeing none, he asked for a motion and second.

Ms. Lord made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.91, “Uniform Offender Correspondence Rules,” and with respect to the new stationery provisions, and further move that they become effective February 2014, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when put to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.19, Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded

Sharon Howell presented the proposed amendments to Board Rule 159.19 “Continuity of Care and Service Program for Offenders with Physical Disabilities, the Elderly, the Significantly or Terminally Ill and the Mentally Retarded.” She explained the revisions were necessary to make statutory confirmations and to attach the new proposed Memorandum of Understanding (MOU), which has been signed by all parties except the TDCJ. Upon TBCJ approval, TDCJ can execute the MOU. Mr. Bell asked if there were any questions. Seeing none, he asked for a motion and second.

Mr. Wingate made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 159.19, regarding continuity of care and service program for offenders with physical disabilities, the elderly, the significantly or terminally ill and the mentally retarded, to receive public comment, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Amendments to Board Rule Title 37 Texas Administrative Code
Section 195.51, Sex Offender Supervision**

Sharon Howell presented Board Rule 195.51 “Sex Offender Supervision,” noting minor grammatical revisions. Mr. Bell asked if there were any questions. Seeing none, he asked for a motion and second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 195.51, regarding sex offender supervision, to receive public comment, as presented.

Ms. Lord seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Land Transaction for the sale of 183.174 Acres
at the Scott Unit, Brazoria County, Angleton, Texas**

Matt Demny, Director of Agribusiness, Land, and Minerals Department, presented the legislative directive to sell 183.174 acres at the Scott Unit, as discussed in the Business and Financial Operations Committee. Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the sale of 183.174 acres at the Scott Unit, Brazoria County, Angleton, Texas, as presented.

Mr. Wingate seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Land Transaction for the transfer of 78.823 Acres
at the Wynne Unit, Walker County, Huntsville, Texas**

Mr. Demny presented the proposed land transaction for the transfer of 78.823 acres at the Wynne Unit, as discussed during the Business and Financial Operations Committee Meeting. Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the transfer of 78.823 acres at the Wynne Unit, Walker County, Huntsville, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding a
Facilities Division Construction Project to replace HVAC System
at the Estelle Unit, Walker County, Huntsville, Texas**

Frank Inmon, Director of the Facilities Division, presented the construction project to replace the HVAC system at the Estelle Unit, as discussed in the Business and Financial Operations Committee Meeting. Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and second.

Mr. Vazquez made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,936,500 to replace HVAC System at the Estelle Unit in Walker County, Huntsville, Texas, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when put to a vote.

**Discussion, Consideration, and Possible Action Regarding a
Facilities Division Construction Project to replace roofs at the
Darrington Unit, Brazoria County, Rosharon, Texas**

Frank Inmon presented the construction project to replace roofs at the Darrington Unit, as discussed in the Business and Financial Operations Committee Meeting. Chairman Bell asked for questions, and seeing none, he asked for a motion and second.

Mr. Wingate made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$6,064,200 to replace roofs at the Darrington Unit, Brazoria County, Rosharon, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when put to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. Each speaker was allowed three minutes for remarks.

Dana Fearn spoke on behalf of her cousin, Bob Leach, an offender who was moved to a unit located eight hours away from Ms. Fern. She stated that she is the only family member who visits him. She had been visiting three times per month, but now is able to visit him only once a month. Due to her juvenile diabetes, her doctor advised her not to travel. She asked the board to reconsider the hardship request which was denied by the Ombudsman. The Ombudsman told her that since he is not an immediate family member, and because of his classification in Administrative Segregation, the request did not meet the criteria for approval. She noted that the

Coffield and the Allred unit staff were professional and kind to her. She submitted documentation to the board. Chairman Bell thanked her.

Donna Jackson, Dana Fearn's mother, also spoke on behalf of Bob Leach. She stated that the stress related to Bob Leach's move to a different unit has caused Ms. Fearn's condition to get worse. Due to Ms. Fearn's limitations, Ms. Jackson asked the board to reconsider the hardship request. Mr. Bell thanked Ms. Jackson.

Gloria Rubac spoke on behalf of death row offenders and offenders in solitary confinement. She told the board that several offenders she visited on death row questioned when suspended programming will be reinstated, such as piddling, the work program, and religious programs. She spoke against the requirement for offenders to purchase their stationery supplies from the commissary, saying the prices are notably higher than office supply store prices. Ms. Rubac expressed concern regarding the conditions of death row and solitary confinement, claiming offenders are being isolated, which is torture. She spoke in favor of group recreation, programs with human interaction, and ways for the offenders to apologize to their victims and spend time with their families. She stated that research has shown solitary confinement to cause physical and psychological problems. She quoted an ex-warden from San Quentin Prison in California, in favor of using solitary confinement only if the offender's behavior is severe. Mr. Bell thanked her for coming.

Joanne Gavin spoke against offenders being housed in long term solitary confinement. She read a description of the experience of being in solitary confinement, written by an offender serving time in a New York state prison facility. She left the description with the board. Mr. Bell thanked her for coming.

Cheryl Tripp spoke on behalf of her son, an offender assigned to the Estelle Unit. She reported there was no air conditioning, and that her son was inappropriately classified to share a cell with a person charged with murder, whereas her son's charge was burglary of an empty habitat. She stated the Estelle staff was unprofessional and condescending, and asked for additional offender programming, to help them succeed once released. She said TDCJ needs a facelift. Mr. Bell thanked her for coming and asked her to leave her documentation with the board, so they could provide her a written response.

Sandrine Ageorges Skinner spoke about lack of offender family access to medical information and medical staff when an offender is transferred to Galveston hospital. She stated that her husband, an offender on death row, was transferred from death row to Galveston hospital three weeks ago. The unit did not inform her when it happened. When she arrived for visitation, she was told very little, despite having a medical release on file. She said it took more than 5 days to get a return call from the unit, and then, the unit staff told her only the condition which required hospitalization. The family has a liaison number for relaying information using voice mail. Instead of the return call within 24-48 hours, it took three attempts every other day to get a return call. Since then, she has been trying to contact the doctor, without success. She offered to mail a detailed account of these events, with suggestions for improvement on sharing offenders' medical information with family members. Mr. Bell encouraged her to send the documents.

Chairman Bell thanked all the speakers for taking the time to give their comments.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice at 2:22 p.m.

*

Chairman

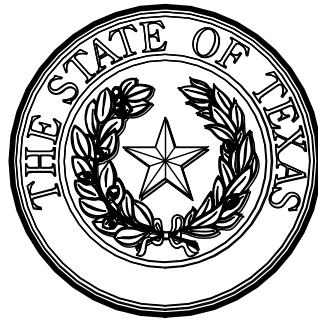
*

Secretary

*Signature on file

Note: Attachment to the minutes are available upon written request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
169th Meeting



Minutes

October 10, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons E-H
6121 North IH-35
Austin, Texas 78752**

**October 10, 2013
11:45 AM – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 168th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2013 – 2014

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 7*)

H. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, "Investment Policy," and Resolution Adopting the Investment Policy (*pages 8-33*)

I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy, 10.05, "Delegation of Authority for Facility Projects" (*pages 34-38*)

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (*pages 39-43*)
- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code (*pages 44-54*)
 - 1. Section 159.9, Firearms Proficiency Training for Supervision Officers
 - 2. Section 163.43, Funding and Financial Management

Recess TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 169

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, October 10, 2013, at 11:49 a.m. at the Crowne Plaza Austin, in Austin, Texas and adjourned at 1:00 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
Carmen Villanueva-Hiles
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Leopoldo (Leo) Vasquez, III, Secretary

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Rudolph Brothers
Jason Clark
Marie Freeland
Patty Garcia
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Dr. Lannette Linthicum
Bobby Lumpkin
Angie McCown
Jerry McGinty
Oscar Mendoza
Ron Steffa
William Stephens
Bruce Toney
April Zamora

OTHERS PRESENT:

Jared Staples Office of the Governor; Lesley French, Office of the Governor; John Newton, Legislative Budget Board; Tulsi Oberbeck, Senate Finance Committee; Sam Carlson, Office of Senator Joan Huffman; Rissie Owens, Presiding Officer, Texas Board of Pardons and Paroles; the Honorable Judge Dale Spurgin, Jones County; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 169th meeting of the Texas Board of Criminal Justice (TBCJ or board) on Thursday, October 10, at 11:49 a.m., noted a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized Jared Staples, Office of the Governor; Lesley French, Office of the Governor; John Newton, Legislative Budget Board; Tulsı Oberbeck, Senate Finance Committee; Sam Carlson, Office of Senator Joan Huffman; and the Honorable Judge Dale Spurgin, Jones County.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no speaker registrations cards were received, no public comments on the posted agenda topics were heard.

Recognitions

Chairman Bell recognized Susan McHenry and presented her with a resolution of commendation, for her 28 years of service to the state of Texas, spent primarily as the assistant to the board chairman. Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ or agency), echoed words of gratitude and best wishes, followed by kind words from each board member. Ms. McHenry thanked them, stating she was proud to work with the board and the TDCJ staff.

Mr. Livingston recognized C.F. Hazlewood on his retirement after 30 years of service to the state of Texas. He presented a resolution of commendation highlighting Mr. Hazlewood's career and achievements while serving the state. Chairman Bell, Mr. Mechler, Mr. McCombs, and Ms. Lord added personal commendations. Mr. Hazlewood returned thanks to the board and Mr. Livingston, for the opportunity to advance to positions of leadership during his career.

Mr. Livingston recognized Jan Thornton on her retirement after 28 years of service to the state of Texas, presenting her with a resolution of commendation. Ms. Thornton thanked the board, especially for the appointment as division director, stating it was the highlight of her career.

Mr. Livingston recognized Bobby Lumpkin and introduced him as the new director of the Manufacturing and Logistics Division. Mr. Lumpkin thanked Mr. Livingston and the board for the opportunity to advance.

Mr. Livingston recognized Patty Garcia and introduced her as the new director of the Human Resources Division. Ms. Garcia thanked Mr. Livingston and the board for the opportunity to serve as director.

Mr. Livingston recognized and introduced Jason Clark as the new public information officer. He expressed appreciation for Mr. Clark's patience and willingness to step into the role. Mr. Clark thanked the board, Chairman Bell, and Mr. Livingston.

Chairman Bell voiced the enthusiasm of the board as they observe the emergence of new leaders.

William Stephens, Correctional Institutions Division (CID) Director, introduced two new directors within the CID. Paul Morales promoted to Deputy Director of Management Operations, overseeing the functional areas of Security Threat Group Management Office, the Fusion Center, the Safe Prisons and PREA Compliance Office, as well as Correctional Training and Staff Development. Lori Davis advanced to Director of Correctional Training and Staff Development.

Mr. Stephens also presented two new CID regional directors. Kelvin Scott promoted to director of Region II, comprised of 13 units in the northeast area of the state, and Leonard Echessa promoted to director of Region III, located predominately in southeast Texas.

Stuart Jenkins presented three new administrators in the Parole Division. Ervin Toliver moved to the position of Deputy Director of Management Operations; Lisa Howard promoted to the position of Deputy Director of Support Operations, and Marcus Ramirez became the Parole Division Region III Director.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of August and September 2013. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 168th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, objections, or abstentions to the consent items as presented. Seeing none, the consent items stand approved as posted in the meeting agenda.

Report from the Presiding Officer, Texas Board of Pardons and Paroles, (BPP)

Rissie Owens, Presiding Officer of the BPP, reviewed the annual report, explaining the voting options and noting ratios on parole considerations to releases. Chairman Bell questioned whether

the discretionary mandatory considerations were a subset of the total parole considerations. Ms. Owens explained that the mandatory supervision considerations were in addition to the parole considerations. Following the presentation, Ms. Owens introduced the following guests from the BPP: Tim McDonnell, Board Administrator, Kyle Britt, Budget Director, and Harry Battson, Public Information Director. Chairman Bell thanked Ms. Owens for the presentation.

Chairman Bell announced the omission of the customary report from the executive director.

Report from the Chairman, TBCJ

1. Public Awareness Corrections Today (PACT) Conference

Chairman Bell discussed the PACT conference held on Saturday, October 5, 2013. He defined the purpose of the recurring day-long public information event, stating that it is coordinated by the TDCJ Ombudsman Office and hosted by the Sam Houston State University's George J. Beto Criminal Justice Center. The event brought together agency staff, offender families, volunteers, and advocates for a series of presentations on agency operations, policies, and procedures. Chairman Bell thanked the TDCJ staff for their participation and congratulated them for the success of the event.

2. State Employee Charitable Campaign (SECC)

Chairman Bell stated the 19th Annual SECC began in September and will continue through the end of October. Last year, agency staff donated more than \$900,000. He voiced appreciation for the agency's outstanding workforce, and their willingness to give generously to others.

Internal Audit Status Report for Fiscal Years 2013-2014

Lynda Brackett, TDCJ Internal Audit Deputy Director, reviewed the October 2, 2013, Internal Audit Division status report, noting the following updates:

- **1318 - Correctional Institutions Division**, *Tool Control Follow Up: Audit has been issued as a draft report.*
- **1402 - Business and Finance Division**, *Windham School District, Public Funds Investment Act: Audit has been assigned.*

(Attachment C – Internal Audit Status Report, Fiscal Years 2013-2014, Status as of 10/02/13)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, TDCJ Chief Financial Officer, provided a briefing on the purchases and contracts over \$1 million. These included a blanket purchase order by the comptroller's office for furniture parts and accessories at \$9 million for manufacturing through Texas Correctional Industries production, and a security surveillance system consisting of approximately 1,100

cameras installed at the Allred Unit for \$3.3 million. Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Annual Review of Board Policy 14.01, “Investment Policy,” and
Resolution Adopting the Investment Policy**

Mr. McGinty presented the proposed revision to BP-14.01, “Investment Policy,” and resolution to adopt, noting that it closely mirrors Chapter 2256 of the Public Funds Investment Act which requires the agency to have a board policy regarding investments, and also requires an annual review. Although no substantive changes were made to the policy, the authority section was revised to include the Texas Administrative Code.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy, as presented, and that the chairman and secretary sign the resolution adopting the policy.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed Revisions
to Board Policy, 10.05, “Delegation of Authority for Facility Projects”**

Sharon Howell, TDCJ General Counsel, presented the proposed revision to BP-10.05, “Delegation of Authority for Facility Projects,” noting only one substantive change. Texas law requires each job task or purchase order exceeding \$500,000 that relates to a construction project procured by the job order method be approved by the governing body of the government agency. Although the TDCJ does not use the job order method, a statement requiring board approval was added, to ensure compliance should the method ever be used.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 10.05, “Delegation of Authority for Facility Projects,” as presented.

Judge Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rule Title 37 Texas Administrative Code
Section 151.51, Custodial Officer Certification and Hazardous Duty Pay
Eligibility Guidelines**

Ms. Howell presented Board Rule 151.51, “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines,” noting that it had been posted as required in the Texas Register for review, with only one comment, which was resolved by consulting state law.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code**

1. 159.9, Firearms Proficiency Training for Supervision Officers

Chairman Bell, confirming with Ms. Howell, announced that discussion of Board Rule 159.9 “Firearms Proficiency Training for Supervision Officers” would be postponed.

2. 163.43, Funding and Financial Management

Ms. Howell presented Board Rule 163.43 “Funding and Financial Management,” indicating only grammatical and formatting changes.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.43, regarding Funding and Financial Management, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.43, regarding Funding and Financial Management, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending and announced the next meeting of the Texas Board of Criminal Justice will be December 12, 2013, at the Crowne Plaza Hotel in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 169th meeting of the Texas Board of Criminal Justice at 1:00 p.m.

*

Chairman

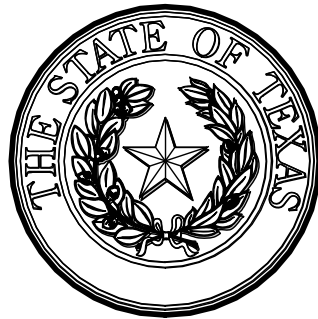
*

Secretary

*Signature on file

Note: Attachments to the minutes are available upon written request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
170th Meeting



Minutes

December 12, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Crowne Plaza Austin – Salons A-D
6121 North IH-35
Austin, Texas 78752

December 12, 2013
12:30 – 1:30 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 169th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2013 – 2014

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 7*)

G. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code (*pages 8-22*)

1. Section 159.19, Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses
2. Section 163.43, Funding and Financial Management
3. Section 195.51, Sex Offender Supervision

H. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction to Amend a Utility Easement at the Scott Unit in Brazoria County, Angleton, Texas (*pages 23-24*)

Recess

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 170

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, December 12, 2013, at 12:54 p.m. at the Crowne Plaza Austin, in Austin, Texas and adjourned at 1:28 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
Carmen Villanueva-Hiles
Thomas P. Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Rudolph Brothers Sherry Koenig
Celeste Byrne Bobby Lumpkin
Jason Clark Angie McCown
Matt Demny Oscar Mendoza
Marie Freeland Madeline Ortiz
Scott Hornung Ron Steffa
Sharon Howell William Stephens
Frank Inmon Bruce Toney
Stuart Jenkins Carey Welebob
April Zamora

OTHERS PRESENT:

John Newton, Legislative Budget Board; Jared Staples, Office of the Governor; the Honorable Judge Dale Spurgin, Jones County; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 170th meeting of the TBCJ on Thursday, December 12, 2013, at 12:54 p.m. He noted a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized the following guests: John Newton, Legislative Budget Board; Jared Staples, Office of the Governor; and the Honorable Judge Dale Spurgin, Jones County.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no speaker registrations cards were received, no public comments on the posted agenda topics were heard.

Recognitions

Chairman Bell recognized J. David Nelson for his dedicated service to the state of Texas as a member of the TBCJ for six years. He presented him with a resolution of commendation and a wooden shield from the state of Texas. Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ or agency), commended Mr. Nelson for his service and offered best wishes. Ms. Hiles, Mr. McCombs, Mr. Mechler, and Ms. Lord added their expressions of gratitude for the honor of working with him. Mr. Nelson thanked Chairman Bell, the board, the staff of Windham, and the TDCJ, stating he was honored to serve with them.

Mr. Livingston recognized Carey Welebob for 25 years of service to Texas state government, especially her excellent leadership as director of the Community Justice Assistance Division. He noted that her unique talent and skills played a major role in building solid programs and a stronger working relationship between the TDCJ and probation departments.

Celeste Byrne, Director of the Private Facility Contract Monitoring and Oversight Division, introduced and presented the division's two new deputy directors: Kenneth Gaston, Director of Operations, and Stephen Fox, Director of Programs.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2013. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the dedicated service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 169th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted the excused absence of Leo Vasquez from the October meeting, due to personal business. He asked if there were any amendments or objections to the other consent items as presented. Seeing none, the consent items stand approved as presented.

Report from the Executive Director, Texas Department of Criminal Justice

Mr. Livingston discussed the Veterans' Reentry Initiative. Due to recent legislation, the TDCJ will receive access to the Federal Veterans Administration database through the Department of State Health Services. This will help the agency accurately identify and serve all veterans in TDCJ custody. Approximately 11,000 offenders within the TDCJ claim past military service. Historically the TDCJ has facilitated visits from representatives of the Veterans Integrated Service Network. During the intake process, offenders will view a new video including an overview of Veterans Administration services for incarcerated offenders. Mr. Livingston reported current discussions with volunteer groups to provide programming and support for incarcerated veterans. As part of the ongoing expansion of services for release planning, veterans will receive assistance in obtaining copies of discharge papers and other military records, as well as medical and educational records. The TDCJ will connect veterans to opportunities for higher education by linking the offender to the veteran representative at the college of choice.

Chairman Bell thanked Mr. Livingston for the presentation, voicing approval of ongoing programming and support for veterans.

Report from the Chairman, TBCJ

Chairman's Fitness Challenge

Chairman Bell commended the employees of the TDCJ for the success of the first quarter of the 2014 Chairman's Fitness Challenge. The points accumulated so far exceed 18 million, reflecting an increase of three million from the first quarter of last year. Chairman Bell encouraged participating staff to continue surpassing personal goals, and for all staff to consider some level of participation. The challenge's theme this year is "Getting Fit Along the Road to Sochi 2014" with a goal of 200 points per week minimum, 1,000 points per week for the Gold Challenge, and 2,500 points weekly for the Platinum Challenge.

Internal Audit Status Report for Fiscal Years 2013-2014

Scott Hornung, TDCJ Internal Audit Division Director, reviewed the December 4, 2013, Internal Audit Division status report, noting the following updates:

- **1318 - Correctional Institutions Division, Tool Control Follow Up: Audit status moved to a proposed final.**

Mr. Hornung also reported a change in the Fiscal Year 2014 plan regarding audits for the Texas Board of Pardons and Paroles (BPP). By agreement, the Internal Audit Division has been serving as auditor for the BPP; two audits were scheduled in the 2014 plan, with TBCJ approval last August. In October, 2013, the BPP voted not to have any audits performed. Mr. Hornung said he will remove them from the plan and no longer include them in the status reports. Mr. Bell asked if there were questions. Mr. McCombs asked what would be the next step. Mr. Hornung replied that he reports progress of audits to the state auditor's office annually, and he must notify them of any modifications to the approved plan throughout the year. Now that the board has been informed, he will send them notification. Mr. McCombs thanked Mr. Hornung. for his answer.

(Attachment B – Internal Audit Status Report, Fiscal Years 2013-2014, Status as of 12/04/13

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Ron Steffa, TDCJ Deputy Chief Financial Officer, provided a briefing on the purchases and contracts over \$1 million. He presented two items for consideration: a \$300,000 increase to an existing contract, funded through a grant from the Criminal Justice Division of the Governor's Office, to provide increased reentry services in Dallas County, for a total of \$1,200,000. He also presented a new \$2,690,865 purchase for installation of a comprehensive video security surveillance system at the Telford Unit in New Boston.

Chairman Bell asked if there were any questions or comments. Mr. Mechler asked for confirmation that the increase reflected grant funding. Mr. Steffa assured him it was an increase in the grant, to provide more services. Seeing no other questions, he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rules Title 37 Texas Administrative Code
Section 159.19, Continuity of Care and Service Program for Offenders who
are Elderly and Offenders with Physical Disabilities or Significant or
Terminal Illnesses**

Sharon Howell, TDCJ General Counsel, presented Board Rule 159.19, “Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses,” noting that, as approved at the August meeting, the proposed revisions of the rule were posted in the Texas Register. After thirty days, no public comments were received. Ms. Howell recommended the board adopt the rule.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 159.19, regarding Continuity of Care in Service Programs for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.43, Funding and Financial Management**

Ms. Howell presented Board Rule 163.43, “Funding and Financial Management,” noting that it had been posted as required in the Texas Register for review, with no public comment within the 30 day time frame. She recommended the board adopt the rule.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.43, regarding Funding and Financial Management, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Mechler seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 195.51, Sex Offender Supervision**

Ms. Howell presented Board Rule 195.51 “Sex Offender Supervision” for adoption, noting that the board approved revision was posted in the Texas Register, with no public comments.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Hiles moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 195.51, regarding Sex Offender Supervision, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Proposed Land
Transaction to Amend a Utility Easement at the Scott Unit in Brazoria
County, Angleton, Texas**

Matt Demny, Director of the TDCJ Agribusiness, Land, and Minerals Department, presented one land transaction for consideration. CenterPoint Energy Houston Electric, LLC is requesting to amend an existing utility easement at the Scott Unit by adding 1.27 acres of land to expand an electrical substation. The original easement, granted August 27, 1952, was 40’ by 40.’ The new easement would total 1.31 acres. The company has agreed to pay \$9,550 for the easement while all other terms and provisions of the easement will remain in full force and effect.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request to amend a utility easement at the Scott Unit in Brazoria County, Angleton, Texas, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending, wished all a happy holiday, and announced the next meeting of the TBCJ will be February 21, 2014, at the Crowne Plaza Hotel in Austin, Texas.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 170th meeting of the Texas Board of Criminal Justice at 1:28 p.m.

*

Chairman

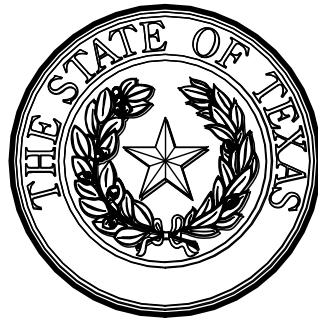
*

Secretary

*Signature on file

Note: Attachments to the minutes are available upon written request from the Office of Record, Executive Services.

Texas Board of Criminal Justice
171st Meeting



Minutes

February 21, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Crowne Plaza Austin – Salons A-D
6121 North IH-35
Austin, Texas 78752

February 21, 2014
1:30 – 2:45 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-8*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 170th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2013 – 2014

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies
(*pages 9-80*)

1. BP-03.85, “Offender Visitation” and the “Offender Visitation Plan”
2. BP-14.02, “Internal Audit Policy Statement”
3. BP-15.01, “Public Interaction with the TDCJ on the Internet”

Recess

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 171

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, February 21, 2014, at 1:43 p.m. at the Crowne Plaza Austin, in Austin, Texas and adjourned at 1:55 p.m.

TBCJ MEMBERS PRESENT:

Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Janice Harris Lord
Terrell McCombs
Carmen Villanueva-Hiles
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Oliver Bell, Chairman
Judge Larry Gist

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Rudolph Brothers
Jason Clark
Marie Freeland
Scott Hornung
Sharon Howell
Frank Inmon
Angie McCown
Jerry McGinty
William Stephens
Bruce Toney
April Zamora

OTHERS PRESENT:

John Newton, Legislative Budget Board (LBB); The Honorable Judge Dale Spurgin, Jones County; Caitlin Styrsky, Office of Senator Charles Schwertner; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Vice-Chairman Tom Mechler convened the 171st meeting of the TBCJ on Friday, February 21, 2014, at 1:43 p.m. He noted a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Vice-Chairman Mechler recognized the following guests: John Newton, Legislative Budget Board (LBB); The Honorable Judge Dale Spurgin, Jones County; Caitlin Styrsky, Office of

Senator Charles Schwertner, Tatiana Oria, Office of Representative Toni Rose; and Dr. Clint Carpenter, Superintendent of the Windham School District.

Vice Chairman Mechler stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no speaker registrations cards were received, no public comments on the posted agenda topics were heard.

Recognitions

Vice-Chairman Mechler recognized the Texas Department of Criminal Justice (TDCJ or agency) employees who have dedicated 25, 30, 35, and 40 or more years of service with the state of Texas during the months of December 2013 and January 2014. The TBCJ, along with Mr. Livingston, Executive Director TDCJ, expressed their deepest gratitude for the dedicated service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 170th TBCJ Meeting Minutes**
- 5. Excused Absences**

Vice-Chairman Mechler asked if there were any amendments, objections, or abstentions to the proposed consent items. Mr. Gambrell stated that his firm represents several of the entities listed in the personal property donations brought before the board for approval; therefore, he abstained from voting. Vice-Chairman Mechler asked for further comments. Seeing none, the consent items stand approved as posted in the meeting agenda, with the abstention of Mr. Gambrell.

Internal Audit Status Report for Fiscal Years 2013-2014

Scott Hornung, TDCJ Internal Audit Division Director, reviewed the February 14, 2014, Internal Audit Division status report, noting the following updates:

- **1406 – Business and Finance Division**, *Performance Measure Reporting: Audit has been assigned.*
- **1408 – Community Justice Assistance Division**, *Risk Assessment Process: Audit has been assigned.*

Vice-Chairman Mechler opened the floor for questions. Seeing none, he thanked Mr. Hornung for the report.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy 03.85,
“Offender Visitation,” and the “Offender Visitation Plan”

Sharon Howell, TDCJ General Counsel, presented the proposed revisions to Board Policy 03.85, “Offender Visitation,” noting grammatical changes, only to the authority section. She reviewed highlights of the summary of changes to the “Offender Visitation Plan,” explaining they reflect current practices, with the exception of one statutory change related to acceptable forms of identification. Ms. Howell added that a visitation survey was conducted and would be complete in March.

Vice-Chairman Mechler asked if there were any questions or comments. He complimented Mr. Stephens, TDCJ Correctional Institutions Division (CID) Director and the CID for being proactive regarding hospitality to visitors during offender visitation. Seeing no other comments, he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.85, “Offender Visitation” and “Offender Visitation Plan,” as presented.

Mr. McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy 14.02,
“Internal Audit Division Policy Statement”

Ms. Howell presented the proposed revisions to Board Policy 14.02, “Internal Audit Division Policy Statement.” She noted there were no substantive changes, except for the mention of a couple of internal audit governing boards, one with new standards. The statement acknowledges the new standards.

Vice-Chairman Mechler asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 14.02, “Internal Audit Policy Statement,” as presented.

Ms. Lord seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy 15.01,
“Public Interaction with the TDCJ on the Internet”

Ms. Howell presented the proposed revisions to Board Policy 15.01, “Public Interaction with the TDCJ on the Internet.” Since the board has a statutory duty under the law to have an internet presence through which the public can interact with the agency, this policy governs the agency website. Only grammatical changes have been made. Vice-Chairman Mechler complimented the TDCJ website, and asked if there were any questions or comments. Mr. McCombs confirmed with Ms. Howell that the policy received only grammatical changes. Ms. Howell responded that was correct. Seeing no further questions, Vice-Chairman Mechler called for a motion and a second.

Judge Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 15.01, “Public Interaction with the TDCJ on the Internet,” as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

Vice-Chairman Mechler thanked Ms. Howell, and thanked everyone for attending, and announced the next meeting of the TBCJ will be Thursday, April 17, 2014, at the Radisson Hotel and Suites in Austin, Texas. For the record, he noted that the Executive Session, as posted in the Texas Register, has been cancelled.

Adjournment

There being no further business, Vice-Chairman Mechler adjourned the 171st meeting of the Texas Board of Criminal Justice at 1:55 p.m.

* _____
Chairman

* _____
Secretary

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

**Signature on file*

Texas Board of Criminal Justice
172nd Meeting



Minutes

April 17, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Radisson Hotel & Suites – Riverside South
111 Cesar Chavez at Congress
Austin, Texas 78701**

**April 17, 2014
11:00 AM – 12:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Recess

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 172

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, April 17, 2014, at 11:04 a.m. at the Radisson Hotel & Suites, Austin, Texas. The board recessed at 12:10 p.m., reconvened in regular session at 2:22 p.m., and adjourned at 3:25 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
Thomas P. Wingate

BOARD MEMBERS ABSENT: Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Carmen Villanueva-Hiles

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell Sherry Koenig
Rudolph Brothers Angie McCown
Jason Clark Jerry McGinty
Matt Demny Paul Morales
Marie Freeland Madeline Ortiz
Patty Garcia Ron Steffa
Scott Hornung William Stephens
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: John Newton, Legislative Budget Board (LBB); Rachel Carerra, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 172nd meeting of the TBCJ on Thursday, April 17, 2014, at 11:04 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all honored guests joining the TBCJ for the 19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He recognized the importance of criminal justice volunteers and their positive impact on the criminal justice system, and read a letter of greeting from the Honorable Rick Perry, Governor of Texas.

Mr. Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests, and thanked them for their unique partnership with the TDCJ. He stressed that the selected honorees represent a force of more than 21,000 every day heroes who volunteered nearly 460,000 hours of their time this past year. Mr. Livingston gave his personal thanks to all the TDCJ volunteers for their valuable efforts.

Chairman Bell introduced the keynote speaker, the Honorable Cathy Cochran, of the Texas Court of Criminal Appeals. Judge Cochran thanked the board and credited volunteers for making an incredible difference in the criminal justice system. Judge Cochran explained that volunteers work in the redemption business, serving offenders, victims, and their families with restorative justice and rehabilitation programs. She briefly reviewed the history of the TDCJ volunteer services. She also applauded volunteers for their role in reducing recidivism, challenged volunteers to continue their work and thanked them for their commitment.

Chairman Bell thanked Judge Cochran for her remarks and presented her with a chairman's coin as a token of appreciation from the board.

Chairman Bell yielded the floor to Judge Gist, Master of Ceremonies, for the awards ceremony. Judge Gist greeted the audience and stated that the individuals being recognized represent the high caliber of volunteers who make a difference in the lives of those they serve. Volunteers offer a wide range of assistance to offenders by providing programs, which strengthen family relationships, improve life skills, and ensure successful reentry to the community. They also provide inspiration and assistance to TDCJ staff.

Judge Gist also acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony. The following individuals and organizations were recognized:

Barry Brown, *Chaplaincy Department*
Claude Sumrall, *Correctional Institutions Division*

AIDS Foundation Houston, *Health Services Division*
Thomas M. Webb, *Nancy Hees Award-Parole Division*
James McClurkin, *Private Facilities Contract Monitoring/Oversight Division*
Christ Church United Methodist, *Religious Service*
John Yaws, *Religious Service*
Edward S., *Substance Abuse Treatment Program*
Teresa 'Teri' Darby, *Pathfinder Award-Victim Services Division*
Literacy Highland Lakes, *Judy Burd Award-Windham School District*
Michael 'Tac' Buchanan, *Restorative Justice*
Carla Hooten, *Susan Cranford Award-Female Offender Program*
"Possum Talks", *Most Innovative Program*
Terry County Christian Association, *Community Service*
"My Dad Reads to Me Program," *Best Family Program*
Ronald Zifer, *Leonard Davis Award for Most Hours Served*
Jeremy Itz, *Extensive Travel*
Clint Morris, *TDCJ Employee Volunteer*
Lloyd Michael Warren, *WSD Employee Volunteer*
Joe Grimes, *Criminal Justice Administrator*

Judge Gist yielded the floor to Carol Vance, former chairman of the TBCJ, who presented Maxine Young with the *Carol S. Vance Volunteer of the Year Award for 2014*. Following words of enthusiasm for the extraordinary progress of the TDCJ volunteer services program, he highlighted Ms. Young's wide experience with a number of health education and peer led programs, many of which have expanded throughout the TDCJ. After presenting her with the award, he returned the floor to Judge Gist.

Judge Gist thanked all the guests for coming, gave special congratulations to all the winners, and yielded to Chairman Bell, who mentioned the timeliness of the ceremony, as National Volunteers Week occurred April 6-12, 2014. He congratulated the winners once more, thanked all the volunteers, and encouraged the audience to voice their gratitude to each other more often.

There being no further business at this time, Mr. Bell recessed the 172nd meeting of the TBCJ. He advised the board would reconvene in committee meetings and continue with regular business beginning at 1:30 p.m. The time was 12:10 p.m.

(Attachment A – Program for 19th Annual Governor's Criminal Justice Volunteer Service Awards)

TEXAS BOARD OF CRIMINAL JUSTICE

**Radisson Hotel & Suites – Riverside South
111 Cesar Chavez at Congress
Austin, Texas 78701**

**April 17, 2014
2:00 – 2:30 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 171st TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2013-2014

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Page 7*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.10, "Texas Board of Criminal Justice Recognition Program" (*Pages 8-11*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code (*Pages 12-21*)

1. Section 152.25, Maximum Rated Capacity of Individual Units
2. Section 163.41, Medical and Psychological Information

I. Discussion, Consideration, and Possible Action Regarding a Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas (*Page 22-23*)

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 172

The TBCJ reconvened in regular session at 2:22 p.m., at the Radisson Hotel & Suites, Austin, Texas, and adjourned at 3:25 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
Thomas P. Wingate

BOARD MEMBERS ABSENT: Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Carmen Villanueva-Hiles

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Stuart Jenkins
Mike Bell	Sherry Koenig
Rudolph Brothers	Angie McCown
Jason Clark	Jerry McGinty
Matt Demny	Paul Morales
Marie Freeland	Ron Steffa
Patty Garcia	William Stephens
Scott Hornung	Carey Welebob
Sharon Howell	April Zamora
Frank Inmon	

OTHERS PRESENT: John Newton, LBB; Rachel Carrera, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Representative Ruth Jones McClendon; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 172nd meeting of the TBCJ on Thursday, April 17, 2014, at 2:22 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell recognized John Newton and Rachel Carrera, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Representative Ruth Jones McClendon, and Tatiana Oria, Office of Representative Toni Rose.

Chairman Bell invited Representative Ruth Jones McClendon to address the board. She shared her concern about the impact of wrongful convictions and juveniles assigned to adult facilities. She acknowledged that neither the board nor TDCJ administrators issue verdicts or determine sentencing; however, she asked them to be a voice. Chairman Bell thanked her for coming, and recognized her staff in the audience.

Mr. Bell stated that the TBCJ is committed to providing the opportunity for public comment and public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He stated that five registration cards had been received for public comment, and the review of the rules for comments to the board would take place before the public comment portion of the meeting.

Recognitions

Chairman Bell gave the floor to Brad Livingston, Executive Director of the TDCJ. Mr. Livingston recognized Mike Bell, TDCJ Information Technology (IT) Division Director, on being named the Texas Chief Information Officer of the Year. Karen Robinson, Director of the Department of Information Resources, presented him with the award in October 2013. Mr. Livingston commended Mike for his energetic, innovative leadership, and for making the most of appropriated resources. He thanked Mr. Livingston, calling attention to the phenomenal support of the IT staff.

Mr. Livingston recognized Paul Morales, upon his promotion to director of the Administrative Review and Risk Management Division. He traced Mr. Morales' years of experience and congratulated him on his new position.

William Stephens, director of the Correctional Institutions Division (CID), recognized Lori Davis, upon her promotion to deputy director of CID Management Operations. He charted her advancement through the correctional structure and welcomed her to his team.

Chairman Bell recognized the TDCJ employees who achieved 25, 30, and 35 plus years of service with the state of Texas during the months of February and March 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 171st TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell presented the consent items which included excused absences for himself and Judge Gist, both of whom were unable to attend the February 2014 meeting due to personal business. Mr. Bell asked if there were any amendments or objections to the proposed consent items. Seeing none, the consent items were approved as presented.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – National Correctional Officers Week

Mr. Livingston announced that correctional officers will be honored during National Correctional Officers Week, May 4-10, 2014. He explained that correctional officers play a significant role in the safety of citizens, and expressed his appreciation and gratitude. He urged all to join in thanking them for their service. Mr. Livingston said the Annual Fallen Officers Memorial Service will be held in Huntsville on May 8, and that similar memorials to honor those who died in the line of duty, as well as employee appreciation events, will be held throughout the state.

Chairman Bell agreed that our staff does an exceptional job, and wished them days that start safe and end safe.

Report from the Chairman, TBCJ

National Crime Victims' Rights Week

Chairman Bell spoke about the week long campaign each April, to promote awareness of victims' rights and to extend compassion to those who have been harmed by crime. This year, during the week of April 6-12, the theme was "30 Years, Restoring the Balance of Justice." He encouraged participation and support in victim related observances throughout the year. He thanked the Victim Services Division for their dedication and work to ensure that every victim has a voice.

Internal Audit Status Report for Fiscal Years 2013 – 2014

Scott Hornung, Director for Internal Audit, provided the following revision to the handout of the April 10, 2014, Internal Audit Status Report for the Fiscal Years (FY) 2013 - 2014:

- **1404 - Information Technology, Data Management – Offender Information Management System:** The status has moved from control assessment to field work.

Chairman Bell asked if there were any questions. There were none.

(Attachment C – Internal Audit Status Report, Fiscal Years 2013-2014)

Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He identified the first three items as existing contracts which required an increase in funding. Items 4-16 are FY 2015 purchases, most of which were awarded through the comptroller's office and procured by them on behalf of the agency. Items 4-9 relate to Texas Correctional Industries while the remaining items 10-16 relate to agricultural operations. Mr. McGinty noted some contracts contain a 10% variance to allow for fluctuation in the market, which also allows for menu flexibility in response to changing prices.

Chairman Bell asked if there were questions. Mr. McCombs asked how long increased food prices were expected to continue, asking whether incremental increase should be considered. Mr. McGinty replied that prices were based on commodity, and explained that events such as drought would impact the market.

Chairman Bell added that animal sickness also impacts the price of food, such as a recent disease in swine. Mr. McCombs and Mr. Mechler both commended Mr. McGinty and his staff for their management skills. Seeing no further questions, Chairman Bell called for a motion and a second.

Tom Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

(Attachment D – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy 01.10,
“Texas Board of Criminal Justice Recognition Program”

Sharon Howell, TDCJ General Counsel, presented the proposed revisions to Board Policy 01.10, noting that changes were grammatical and formatting only.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Judge Thomas P. Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.10, "Texas Board of Criminal Justice Recognition Program," as presented.

Ms. Janice Harris Lord seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code

1. Section 152.25, Maximum Rated Capacity of Individual Units

Ms. Howell reported the proposed amendments to 152.25, Maximum Rated Capacity of Individual Units, were necessary to account for changes in law and to update or correct the capacity of certain units. The amendments did not result in any change in capacity. Ms. Howell recommended publication in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 152.25, regarding Maximum Rated Capacity of Individual Units to receive public comment, as presented.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

2. Section 163.41, Medical and Psychological Information

Ms. Howell presented the proposed amendments to 163.41, Medical and Psychological Information, stating this is a Community Justice Assistance Division standard which the board promulgates by rule. Amendments clarify existing practice and how the rule conforms to statutory requirements. She recommended publication in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.41, regarding Medical and Psychological Information to receive public comment, as presented.

Ms. Lord seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
a Request for Pipeline Easement at the Stiles Unit in
Jefferson County, Beaumont, Texas**

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request by Air Liquide Large Industries U.S. LP for an easement at the Stiles Unit consisting of two sections with a combined area of 4.21 acres of land for installation of a gas pipeline. The request includes temporary workspace totaling 8.72 acres. Air Liquide Large Industries U.S. LP has agreed to pay \$304,477.00 for this easement with a ten year term.

Chairman Bell asked if there were any questions or comments. Mr. Mechler commented on the substantial monetary benefit of pipeline easements. In response, Mr. Demny credited Mr. Mechler with the idea to include the most favored nation clause in the agreements.

Seeing no further comments, Chairman Bell called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Judge Wingate seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. Each speaker was allowed three minutes for remarks.

Karen Damico, widow of Samuel Damico, TDCJ offender #167220, spoke to the board regarding her husband, who passed away before he could receive early medical release. Her family's experience prompted her to start the advocacy group, "Inmate Assistance League." After extensive treatment and expensive testing, UTMB doctors recommended her husband for Medically Recommended Intensive Supervision (MRIS). About a month later, Mr. Damico passed away at the Michael hospice facility, before his MRIS release could be processed. Ms. Damico complained that some unit staff did not answer her inquiries and said the MRIS program was under-utilized and inefficient. Chairman Bell thanked Ms. Damico for coming, and asked her to submit further documentation of points in her presentation, so the appropriate staff could review and respond to her in writing.

Linda Pugh, an advocate with the "Inmate Assistance League," stated that she was working to abolish bad medical practices and experimental medicine on Texas prisoners. She suggested higher salaries for correctional officers and a higher standard of medical care for Texas prisoners. She reported that at one particular unit, the UTMB staff members told offenders that any 'as needed' medications will be administered as if they were scheduled medications. Chairman Bell invited her to provide documentation for her concerns, for review by the board.

Pat Hartwell, member of the Texas Death Penalty Abolition Movement, spoke about letters received by the organization. She cited several complaints received about mail room practices impacting death row offender at the Polunsky unit, such as delays in delivery, refusal to deliver mail from someone not on the offender's visiting list, and, final goodbye letters being returned as 'not deliverable, inmate refused' after the offender was executed. Ms. Hartwell said when she called the Polunsky Unit mail room regarding the complaints; she was told the mail is being handled correctly according to TDCJ policy. Chairman Bell asked Ms. Hartwell to provide documentation to the board, so staff could investigate and respond to her.

Angelyn Agapetus addressed the board regarding solitary confinement and the grievance protocol. She submitted research materials to the board regarding the adverse effects of solitary confinement on offenders and staff. She also asked whether the TDCJ removed all mentally ill offenders from administrative segregation in 2002. In regards to the grievance protocol, she voiced concern about extended waiting times for offenders who file a grievance, particularly for those on death row. She added her objection to cell restriction and commissary restriction for offenders on death watch. Chairman Bell asked her to provide any additional information to the board for their review.

Cindy Eigler, policy specialist at the "Texas Inter Faith Center for Public Policy," addressed the board on behalf of the faith community, regarding the TDCJ Death Row Plan. She said members of the center had sent letters to the TDCJ and the board, requesting that the department implement a formal classification system enabling the men on death row to work toward increasing privileges based on good behavior. The letters also included a request to move toward practices that recognize the inherent dignity and worth of all people. She said they believe their suggestions will enhance rather than compromise security. Ms. Eigler thanked Chairman Bell and the board for the opportunity to speak. Chairman Bell thanked her, and asked her to submit documentation of her presentation for review by the board.

Chairman Bell thanked all speakers for their comments, and invited them to submit any documentation of information they shared, in order to allow proper investigation. To obtain written response, he asked they leave their contact information with staff at the reception table outside of the meeting room.

Chairman Bell thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, June 5, 2014, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 172nd meeting of the Texas Board of Criminal Justice at 3:25 p.m.

*

Chairman

*

Secretary

**Signature on file. Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.*

Texas Board of Criminal Justice
173rd Meeting



Minutes

June 5, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel and Suites – Phoenix North Ballroom
6505 IH 35 North
Austin, Texas 78752
Austin Room**

**June 5, 2014
12:45 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-4*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 172nd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2013 – 2014

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*pages 5-8*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Executive Directive 03.32, “Offender Access to Telephones” (*pages 9-18*)

H. Discussion, Consideration, and Possible Action Regarding Repeal of Board Rule Title 37 Texas Administrative Code Section 151.21, Weapons Policy (*pages 19-22*)

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 1. 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes (*pages 23-25*)
 2. 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (*pages 26-29*)
 3. 163.35, Supervision (*pages 30-34*)

- J. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction for a Pipeline Easement at the Wynne Unit in Walker County, Huntsville, Texas (*pages 35-36*)

Recess TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 173

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, June 5, 2014, at 1:10 p.m. at the DoubleTree Hotel and Suites, Austin, Texas. The board adjourned at 2:14 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Judge Larry Gist
Carmen Villanueva-Hiles
Janice Harris Lord
Terrell McCombs
Thomas P. Wingate

BOARD MEMBER ABSENT: Tom Mechler, Vice Chairman
Eric Gambrell

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Jason Clark
Matt Demny
Marie Freeland
Patty Garcia
Scott Hornung
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Dr. Lannette Linthicum
Bobby Lumpkin
Angie McCown
Jerry McGinty
Oscar Mendoza
Paul Morales
Ron Steffa
William Stephens
Carey Welebob
April Zamora

OTHERS PRESENT: John Newton, Legislative Budget Board (LBB); Ryan Hecker, Office of the Lt. Governor; Mario Cicconetti, Office of Senator Joan Huffman; Kaden Norton, Office of Senator Charles Schwertner; Harrison Blair, Office of Representative James White; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 173rd meeting of the TBCJ on Thursday, June 5, 2014, at 1:10 p.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

Chairman Bell recognized John Newton, LBB; Ryan Hecker, Office of the Lieutenant Governor; Mario Cicconetti, Office of Senator Joan Huffman; Kaden Norton, Office of Senator Charles Schwertner; Harrison Blair, Office of Representative James White; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registrations cards were received, no public comments were heard.

Recognitions

Chairman Bell recognized the *Military Veteran Peer Network*, and presented its representatives with the annual *Promotion of Positive (POP) Mental Health Initiatives Award*, for their assistance to veterans housed at Travis and Dominguez State Jails.

Chairman Bell recognized Scott Hornung, Director of the Internal Audit Division, for completing 25 years of service with the state of Texas. He highlighted Mr. Hornung's career, commended him for improving agency internal controls, and thanked him for his excellent leadership.

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), recognized Oscar Mendoza for his promotion to director of the Private Facility Contract Monitoring and Oversight Division (PFCMOD). Mr. Livingston described him as a leader of tremendous energy and experience and presented him with a plaque for 35 years of service with the state of Texas.

Mr. Mendoza, Director of the PFCMOD, recognized Billy Hirsch as the division's new deputy director. He reviewed Mr. Hirsch's career and welcomed him to the PFCMOD leadership team. Mr. Hirsch thanked the board.

Paul Morales, Director of the Administrative Review and Risk Management (ARRM) Division, recognized Carol Eugene Monroe on his promotion to deputy director of the ARRM Division. He reviewed Mr. Monroe's career and said he was honored to have him join the division's leadership team. Mr. Monroe thanked the board.

William Stephens, Director of the Correctional Institutions Division (CID), recognized Cody Ginsel as the director for Correctional Training and Staff Development. He reviewed Mr. Ginsel's career and stated he was pleased to have him join the management team. Mr. Ginsel thanked the board.

Mr. Stephens recognized Joe Grimes as the Region IV Director, with responsibility over 16 units in the south and west. He reviewed Mr. Grimes' career and stated his positive leadership style will help him meet staffing challenges in the more remote units of that region. Mr. Grimes thanked the board.

Stuart Jenkins, Director of the Parole Division, recognized Julie Morales as the director of the Parole Region IV, in the San Antonio area. He reviewed her career with the Parole Division, and told the board he was delighted to see her accept the new challenge. Ms. Morales thanked the board and TDCJ administration, and said she was looking forward to working with the people in Region IV.

Chairman Bell commented that he enjoys seeing new leaders bring their creativity and innovation to the table.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of April and May 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 172nd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, abstentions, or objections to the proposed consent items. Seeing none, the consent items stand approved.

Report from the Executive Director, Texas Department of Criminal Justice

Mr. Livingston provided an update on the House committee hearings. He reported that TDCJ administrators recently participated and provided testimony in three committee meetings. The House Corrections Committee met to discuss the supervision, treatment, and care of mentally ill offenders during incarceration, release, and community supervision. Next, the House Appropriations Subcommittee and the House Corrections Committee met together to discuss offender health care, such as cost drivers, and oversight of the contracts with the university providers. A separate meeting with the House Corrections Committee highlighted topics such as intake, reentry, administrative segregation, visitation, temperature extremes, rehabilitation programming, and procurement. Chairman Bell asked if there were questions. There were none.

Report from the Chairman, TBCJ

Fiscal Stewardship

Chairman Bell commended the TDCJ staff for their extraordinary collaborations to find the best solution to fiscal and other challenges. He gave the example of the rising food costs, and explained how staff from Agribusiness, Transportation, Correctional Institutions, and Business and Finance have been meeting monthly to develop strategies for operating effectively within the budget. He expressed appreciation to the TDCJ staff and encouraged further collaborations for achieving success.

Internal Audit Status Report for Fiscal Years 2013 – 2014

Scott Hornung, Director for Internal Audit, provided the following updates to the handout of the May 27, 2014, Internal Audit Status Report for the Fiscal Years (FY) 2013 - 2014:

- **1405 - Correctional Institutions Division, Compliance with the Administrative Segregation Placement and Review Procedures; Health Services Division, Monitoring Health Evaluations of Offenders in Segregation:** The status has moved from report writing to draft report.
- **1406 - Business and Finance Division, Performance Measure Reporting:** The status has moved from draft report to complete.
- **1416 - Information Technology Division, Follow Ups to Telecommunication Networks and Offender Telephone System:** Status has moved from unassigned to background.
- **1417 - Business and Finance Division, Grant Administration:** Status has moved from unassigned to background.
- **1418 - Human Resource Division, Position Classification Review:** Status has moved from unassigned to background.

Chairman Bell asked if there were any questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2013-2014)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million, including an additional hand out. He explained that typically, during June, a significant number of purchases are required in preparation for the next fiscal year. He identified which items represent current year increases to contracts and which are FY 2015 procurements. He noted that for all food items the agency seeks a 10% variance, to allow for fluctuation in the market. He explained that several items represent an increased cost due to an increase in services. He said items 8–17 all relate to substance abuse programming, to include renewed funding for state jail substance abuse programming. He noted that, for items 18-23, the contracts were procured through the comptroller's office; therefore, the comptroller's office determined whether to renew

the existing contract or negotiate a new one and that items 20-22 represent the purchase of raw materials for use by Texas Correctional Industries (TCI). Item 23 is a contract for bulk fuel purchases that includes the 10% variance, as does item 24, a food contract. The item 25 contract replaced a contract set to expire, and will fund existing services, for about the same amount as the previous award, through FY 2018.

Mr. McGinty directed his review to the list of FY 2015 food purchases, which require board review and approval. Procured through the comptroller's office, the contracts reflect extensive collaboration of staff from multiple divisions. He assured that staff will work with the comptroller's office to finalize the awards well in advance of FY 2015. Referring to the hand out, he discussed contracts for electronic monitoring of parolees, which were negotiated at a slightly lower price than the prior year awards. The expiring contract for substance abuse programming at East Texas Treatment Facility gave another opportunity for extensive staff collaboration, resulting in a new service contract at the same location.

In closing, Mr. McGinty discussed the contract for the new electronic document management system for classification and offender records. The technology involves document imaging, archiving, retrieval, and integration of the electronic information systems. Mr. McGinty invited questions.

Chairman Bell asked if there were questions. Board Member Judge Larry Gist commented on the value of outcome studies of substance abuse and other treatment programs. He told the board that such evaluations were in the works and would assist by providing valid comparisons of vendors and programs.

Board Member Terrell McCombs noted inflation of food prices over the past 18 months, while over the past four or five years, the offender population has declined. He asked for Mr. McGinty's thoughts on impact of the two factors. Mr. McGinty gave examples of cost containment strategies that keep food prices down, and then discussed the importance of the timing of contract renewals and purchases, availability of needed items, and the competitive nature of the market. He added that the agricultural operations and transportation logistics of distributing food to units required significant staff coordination and planning.

Mr. McCombs acknowledged that a majority of the food contracts are controlled by the comptroller's office. He mentioned the goal of cost savings through improved staff coordination and planning, so food is not wasted. Mr. McGinty responded that food services staff became more proactive regarding the quantity of food prepared, and therefore less food has been wasted. Mr. McCombs thanked Mr. McGinty for his excellent work and staff.

Board Member Leo Vasquez asked Mr. McGinty about the three year contract for substance abuse programming at East Texas Treatment Facility, and noted that the FY 2015 contract amount is slightly lower than the FY 2014 contract. Mr. Vasquez asked if the increase in services from this year's contract and subsequent request for increased funds would likely happen again by the end of FY 2015. Mr. McGinty explained that the new contract had more favorable rates, and therefore a lower cost; however, if additional treatment services at the

facility were needed, an increase could be required. Mr. Vasquez asked if the new bid included the new services. Mr. McGinty replied yes.

Board Member Judge Thomas Wingate asked if the vendor had this contract in FY 2013. Mr. McGinty replied that they did, at the same location with the same number of beds, and that the prior contract had incremental increases built in. Judge Wingate asked if this would be a trend. Mr. McGinty replied that the goal is to get the best value for the state.

Chairman Bell asked if there were more questions.

Mr. Vasquez abstained from voting to approve the purchases and contracts over \$1 million, due to his company's extensive involvement with coffee and cappuccino sales.

Seeing no further questions, Chairman Bell called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Janice Harris Lord seconded the motion which prevailed unanimously when called to a vote.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Executive Directive 03.32,
“Offender Access to Telephones”

Sharon Howell, TDCJ General Counsel, presented the proposed revisions to Executive Directive 03.32, “Offender Access to Telephones,” noting there were a number of changes, mostly to clarify existing processes. She explained that the policy was revised to allow eligible offenders housed in the infirmary to have access to the Offender Telephone System (OTS). The requirement was removed that an offender must be engaged in full time work, school, or treatment program in order to use the OTS. Finally, the automatic suspension of telephone privileges for an offender accused of a major disciplinary violation was removed and suspensions left to the discretion of the disciplinary hearing officer.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Carmen Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the revisions to Executive Directive 03.32, “Offender Access to Telephones” as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Repeal of Board Rule Title 37 Texas Administrative Code 151.21, “Weapons Policy”

Ms. Howell presented the proposed repeal of 151.21, Weapons Policy, stating the rule is being reviewed pursuant to the state law requirement that rules be reviewed periodically, to assess, among other things, whether an existing rule is no longer necessary and should be repealed. Ms. Howell explained that the TDCJ has a detailed weapons policy that outlines duties and administrative sanctions for violation of the policy. The rule is duplicative of, but not required by, state law.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed repeal of Board Rule Title 37 Texas Administrative Code Section 151.21, Weapons Policy, to receive public comment, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments of Board Rules Title 37 Texas Administrative Code

1. Section 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes

Ms. Howell presented the rule, noting its amendment to clarify that donated buildings shall be used by offenders, to participate in programs with religious and other volunteers, the TDCJ Chaplaincy staff, and other programmatic personnel.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Janice Harris Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes, to receive public comment, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

2. Section 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding

Ms. Howell presented the rule, under periodic review, and accompanied by a memorandum of understanding (MOU) which had expired on its own terms. Ms. Howell explained that this

particular MOU, by state law, must be adopted by the board. The rule itself has been amended to reflect the change in the name of the contracting state agency, from the Texas Commission on Law Enforcement Officer Standards and Education, to the Texas Commission on Law Enforcement. The MOU updates language to reflect the change in name, but is otherwise substantively the same.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.9, regarding Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding, to receive public comment, as presented.

Carmen Villanueva-Hiles seconded the motion which prevailed unanimously when called to a vote.

3. Section 163.35, Supervision

Ms. Howell presented the rule, which is under periodic review. She explained that it is one of the Community Justice Assistance Division (CJAD) standards that must be adopted by the board, and it governs the supervision of adult probationers. The rule has been amended to update language to include risk assessment concepts based on criminogenic needs.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.35, regarding Supervision, to receive public comment, as presented.

Judge Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding a Request for a Pipeline Easement at the Wynne Unit in Walker County, Huntsville, Texas

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request by Copano Pipelines/Upper Gulf Coast, L.P. for an easement at the Wynne Unit consisting of an area of 0.999 acres of land being 1,450.30 feet long by 30 feet wide for installation of a new gas pipeline. Copano Pipelines/Upper Gulf Coast, L.P. has agreed to pay

\$50,985.00 for this easement with a ten year term. Mr. Demny recommended that the board approve the request.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Demny for his presentation.

Chairman Bell thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, August 22, 2014, at the Crowne Plaza Hotel in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 173rd meeting of the Texas Board of Criminal Justice at 2:14 p.m.

*

Chairman

*

Secretary

** Signature on file*

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
174th Meeting



Minutes

August 22, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons A – D
6121 North IH-35
Austin, Texas 78752**

**August 22, 2014
12:45 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 173rd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2015 Annual Audit Plan

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 9*)

G. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2015 Proposed Operating Budget and Fiscal Years 2016-2017 Legislative Appropriations Request

- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives
 - 1. PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees” (*pages 10-93*)
 - 2. PD-29, “Sexual Misconduct with Offenders” (*pages 94-102*)
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code Section 151.21, Weapons Policy (*pages 103-107*)
- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 152.25, Maximum Rated Capacity of Individual Units (*pages 108-113*)
 - 2. 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes (*pages 114-116*)
 - 3. 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (*pages 117-121*)
 - 4. 163.35, Supervision (*pages 122-127*)
 - 5. 163.41, Medical and Psychological Information (*pages 128-131*)
- K. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code Section 151.77, Purchasing and Contracting with Historically Underutilized Businesses (*pages 132-133*)
- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions (*pages 134-137*)
 - 1. Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas
 - 2. Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
- M. Discussion, Consideration, and Possible Action Regarding Roof Replacement at the Wynne Unit in Walker County, Huntsville, Texas (*pages 138-139*)
- N. Public Comment

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 174

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, August 22, 2014, at 1:00 p.m. at the Crowne Plaza Hotel, Austin, Texas. The board adjourned at 2:05 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Terrell McCombs
Thomas P. Wingate

BOARD MEMBER ABSENT: Janice Harris Lord
Carmen Villanueva-Hiles

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Sherry Koenig
Mike Bell Bobby Lumpkin
Rudolph Brothers Jerry McGinty
Jason Clark Oscar Mendoza
Matt Demny Paul Morales
Marie Freeland Ron Steffa
Patty Garcia William Stephens
Scott Hornung Bruce Toney
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: John Newton, Legislative Budget Board (LBB); Andrea Winkler, LBB; The Honorable Judge Dale Spurgin, Jones County; Taylor Borer, Office of Senator Charles Schwertner; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 174th meeting of the TBCJ on Friday, August 22, 2014, at 1:00 p.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

Chairman Bell recognized John Newton, LBB; Andrea Winkler, LBB; The Honorable Judge Dale Spurgin, Jones County; Taylor Borer, Office of Senator Charles Schwertner; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He stated that seven registration cards were received for the public comment period; therefore, the review of the rules for comments to the board would take place at that time.

Recognitions

Chairman Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), for a special presentation. Mr. Livingston displayed the *Golden Eagle* award, received from the American Correctional Association (ACA) during its summer conference. ACA bestows the *Golden Eagle*, their most prestigious award, only to jurisdictions that have achieved full accreditation, which encompasses every facility and every operation. Mr. Livingston commended past and present TDCJ administrators and staff, and praised their commitment to professionalism in corrections, noting only a few jurisdictions in the nation have received the award. Chairman Bell recalled the days when the TDCJ was nearing full accreditation, and congratulated all the TDCJ staff, as well as the contract staff which includes other important services such as offender health care.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of June and July 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 173rd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, abstentions, or objections to the proposed consent items, which included excused absences of Leo Vasquez, Eric Gambrell, and Carmen Villanueva-Hiles from the April 2014 meeting, and Tom Mechler and Eric Gambrell from the June 2014 meeting, due to personal business. Seeing none, the consent items stand approved.

Report from the Executive Director, Texas Department of Criminal Justice

Mr. Livingston discussed the Legislative Appropriations Request (LAR), which would be presented for board consideration later in the meeting. He stressed the importance of the request that frontline correctional officers and parole staff receive a pay increase of 10%, and explained how it would help fill positions and prevent officer turnover. He also highlighted the requests for increased investment in probation, as they reflect the agency's ongoing commitment to diversion and treatment programs. Mr. Livingston said the next legislature would thoroughly review the Legislative Appropriations Request and he was very hopeful the members would give it favorable consideration. Chairman Bell asked if there were questions. There were none.

Report from the Chairman, TBCJ

Fiscal Management and Good Stewardship

Chairman Bell echoed Mr. Livingston's points regarding the LAR as he assured the board's commitment to fiscal stewardship. He said the request for a pay raise to staff was timely, and wished increases for more state employees. He noted that participation in diversionary programs, with completion of the aftercare component, can reduce recidivism to single digit rates, as shown by evidence based practices. Chairman Bell reported that he and the board members spent countless hours reviewing the FY 2015 budget and the FY 2016-2017 LAR with Mr. McGinty and his staff, to produce a document that reflects the state's ongoing criminal justice priorities. He said the board supports the request, and they look forward to hearing Mr. McGinty's presentation.

Chairman's Fitness Challenge

Chairman Bell reported that during the fourth quarter, participating employees earned over 21 million points. He noted that historically, every set goal had been surpassed early in the year, and the number for this quarter was about three times the number of the goal set for the entire first year. He recognized the winning departments and individuals for the quarter, thanked all the participants, and encouraged their continued support.

Tour Initiative

Chairman Bell discussed the board's initiative to visit every facility by the end of June. He said the goal evolved to include parole offices, satellite offices, and treatment centers. The visits allowed board members to convey personal interest, gain a deeper understanding and appreciation of day to day operations of the agency, heighten staff morale, and discuss shared thoughts and concerns. He stated that he and the board received exceptional professionalism and courtesy from staff at every visit. He thanked fellow board members for their support.

**Discussion, Consideration, and Possible Action Regarding the
Proposed Fiscal Year 2015 Annual Audit Plan**

Scott Hornung, Internal Audit Division Director, reminded the board of his presentation during the Audit and Review Committee meeting, and asked the board if they had further questions for him regarding the proposed FY 2015 audit plan. He added if they had no questions, he recommended board approval.

Chairman Bell asked if there were any questions. Seeing none, he asked for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2015 and authorize the internal audit director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2013 and 2014 Status Report as of 08/15/14)

(Attachment C – Texas Department of Criminal Justice Internal Audit Division Proposed Fiscal Year 2015 Annual Audit Plan)

**Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. The first was a blanket order, processed through the comptroller's office, for \$5 million in furniture parts for manufacturing related to Texas Correctional Industries sales. The other, related to information technology, was ordered and awarded through the Texas Department of Information Resources, for a lease of copiers throughout the agency over the next five years, at \$1,857,501.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Tom Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding the TDCJ
Fiscal Year 2015 Proposed Operating Budget and Fiscal Years
2016-2017 Legislative Appropriations Request**

Mr. McGinty reminded the board of his committee presentation of the FY 2015 proposed operating budget of \$3,148,399,483, and the FY 2016-2017 LAR. He mentioned that prior to the presentation, he and his staff had individual briefings with each board member. He reviewed the operating budget, and noted the 12 exceptional items, which represent an additional \$546 million. He explained that the largest portion of that funding represented the 10% pay increase for correctional officers and parole officers. He asked if the board had any questions.

Chairman Bell asked if there were questions. Seeing none, he thanked Mr. McGinty for his briefing in the committee. He called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2015 Operating Budget and Fiscal Years 2016-2017 Legislative Appropriations Request as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

(Attachment D: Texas Department of Criminal Justice Fiscal Year 2015 Operating Budget, Fiscal Years 2016-2017 Legislative Appropriations Request, August 22, 2014)

**Discussion, Consideration, and Possible Action Regarding
Proposed Revisions to Personnel Directives**

1. PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees

Sharon Howell, TDCJ General Counsel, reviewed PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees. She highlighted three of the proposed revisions. The first revision would improve the timeliness of pre-hearing investigations, the second would revise the list of activities considered employee misconduct, in order to comply with the Prison Rape Elimination Act (PREA) standards. The third would clarify violations related to drug possession, to exclude as a defense, any drug related activity in states where it is legal. She asked if there were any questions.

Chairman Bell asked if there were questions. Seeing none, he asked for a motion and second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve the proposed revisions to Personnel Directive, PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," as presented.

Eric Gambrell seconded the motion, which prevailed unanimously when called to a vote.

2. PD-29, Sexual Misconduct with Offenders

Ms. Howell presented PD-29, Sexual Misconduct with Offenders. She explained that the proposed revisions were made to conform the policy language to the definitions and standards established by PREA. Ms. Howell asked if there were any questions.

Chairman Bell acknowledged the challenge as well as the value of merging federal and state policy language, and asked if there were questions. Seeing none, he asked for a motion and second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the proposed revisions to Personnel Directive, PD-29, "Sexual Misconduct with Offenders," as presented.

Judge Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Title 37 Texas Administrative Code 151.21, "Weapons Policy"

Ms. Howell presented the proposed repeal of Board Rule 151.21, Weapons Policy, stating the rule was duplicative and therefore, no longer needed. The board approved the repeal for publication in the Texas Register. It was published in the June 20, 2014 issue of the register, and 30 days passed, with no comments received from the public. Ms. Howell asked the board to move forward with final adoption of the repeal.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Section 151.21, Weapons Policy, as published in the Texas Register, and that the Chairman sign the order to this effect.

Tom Mechler seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 152.25, Maximum Rated Capacity of Individual Units

Ms. Howell presented Board Rule 152.25, Maximum Rated Capacity of Individual Units. She reminded the board of their approval to publish the revisions to the rule in the Texas Register for public comment. The rule was published in the May 2, 2014 issue, and 30 days passed, with no

comments received from the public. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 152.25, regarding Maximum Rated Capacity of Individual Units, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

2. Section 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes

Ms. Howell presented Board Rule 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes. She reminded the board of their approval to publish the amended rule in the Texas Register for public comment. The revised rule appeared in the June 20, 2014 issue, and 30 days passed, with no comments received from the public. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Tom Mechler moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

3. Section 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding

Ms. Howell presented Board Rule 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding. She reminded the board of their approval to publish the amended rule in the Texas Register for public comment. The revisions appeared in the June 20, 2014 issue, and 30 days passed, with no comments received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 159.9, regarding Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding, as published in the Texas Register, and that the chairman sign the order to this effect.

Eric Gambrell seconded the motion which prevailed unanimously when called to a vote.

4. Section 163.35, Supervision

Ms. Howell presented Board Rule 163.35, Supervision. She reminded the board of their approval to publish the amended rule in the Texas Register for public comment. The revisions appeared in the June 20, 2014 issue, and 30 days passed, with no comments received from the public. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.41, regarding Medical and Psychological Information, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

5. Section 163.41, Medical and Psychological Information

Ms. Howell presented the proposed amendments to Board Rule 163.41, Medical and Psychological Information. She reminded the board of their approval to publish the amended rule in the Texas Register for public comment. The rule appeared in the May 2, 2014 issue, and 30 days passed, with no comments received from the public. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.35, regarding Supervision, as published in the Texas Register, and that the chairman sign the order to this effect.

Tom Mechler seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Title 37 Texas Administrative Code Section 151.77, Purchasing and Contracting with Historically Underutilized Businesses

Ms. Howell presented the proposed revisions to Board Rule 151.77, Purchasing and Contracting with Historically Underutilized Businesses. She indicated the amendments were pursuant to the state requirement for periodic review, and were non-substantive and formatting only. She asked the board if they had questions.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 151.77, regarding Purchasing and Contracting with Historically Underutilized Businesses, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

Matt Demny, Agribusiness, Land, and Minerals Department Director, reviewed the request from Phillips 66 Pipeline, LLC, for five easements, for the installation of five new natural gas pipelines at the Clemens unit, on 36.82 acres of land. The request includes a temporary workspace totaling 28.03 acres for use during construction and installation. Phillips 66 has agreed to pay \$2,455,551.00 for the easements, all with a ten year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions or comments. Eric Gambrell stated that his firm represents Phillips 66, therefore he must abstain from taking action on this item. Chairman Bell acknowledged his abstention and asked if there were any further questions. Seeing none, he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve the request for pipeline easements at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

2. Pipeline Easements at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny reviewed the request from Phillips 66 Pipeline, LCC, for an easement at the Ramsey unit, for the installation of one new natural gas pipeline with two valve sites, consisting of an area of 21.61 acres. The request includes a temporary workspace of 57.13 acres for use during installation and construction. Phillips 66 has agreed to pay \$1,487,185.00 for the easement over a ten year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions or comments. Eric Gambrell stated that his firm represents Phillips 66, therefore he must abstain from voting on this item. Chairman Bell acknowledged his abstention and asked if there were any further questions. Seeing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Roof Replacement at the Wynne Unit in Walker County, Huntsville, Texas

Frank Inmon, Facilities Division Director, reviewed the job scope and proposed budget for the replacement of approximately 40,000 square feet of roofing material on the main building at the Wynne unit. Referring to his briefing in the committee meeting, he asked for board approval for a total cost of \$2,261,300.00.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,261,300 for Roof Replacement at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Judge Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Inmon for his presentation.

Public Comments

Chairman Bell resumed discussion regarding the seven speakers who submitted registration cards for the public comment period. He explained the format and rules of conduct.

Ms. Maria Reyes requested to give her comments in Spanish. Chairman Bell agreed and assured her that the message would be translated for the record. She explained that her son was on parole,

but was now being kept in a small room for up to 24 hours. She said in her heart as a mother she feels there is no justice in Texas. She asked the board to make a change.

Yancy Escobar spoke on behalf of her husband, who was assigned to the Polunsky unit. She expressed her grief and concern that the conditions were inhumane, explaining that he is confined to his cell 23 hours a day. She asked for humane treatment such as phone privileges and a television provided by the family.

Angie Agapetus spoke on the issue of solitary confinement. She cited research which claims it causes permanent damage to the brain and psyche. She asked the board to reconsider solitary confinement as a method of housing offenders, as it is inhumane and expensive.

Pat Hartwell spoke to the board regarding the conditions on death row. She read an offender's list of complaints, such as extremely hot water and mold in the showers, no make-up for recreation time lost due to bad weather, and the deprivation of sleep, religious services, and proper mail delivery. Ms. Hartwell asked the board to investigate the complaints.

Joanne Gavin spoke her concern about the cruelty of offenders being placed on death watch as soon as an execution date is determined. She asked that offenders not be placed on death watch until all legal avenues have been exhausted, as current practice can result in multiple placements of an offender, for months at a time.

Allison Deter voiced her concern that death row offenders are moved to a different cell every six months, which prevents friendships. Officers conduct shakedowns every 90 days, confiscating hot pots, typewriters, fans, and law books. Ms. Deter asked the board to investigate that process, and requested the state pay the yearly medical fee rather than taking it from the offender's account.

Gloria Rubac stated her opposition to solitary confinement. She asked that offenders on death row receive special leniency on their visitor's list, and to decrease the time offenders spend on death watch. She reported that a racist offender was mentally torturing a black offender, with encouragement from the correctional officer, and that she received mean treatment from officers working visitation at the Polunsky unit.

Chairman Bell thanked all the speakers for their comments, and assured them that the issues raised were recorded and would be addressed by staff in written form.

Chairman Bell thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, October 9, 2014, at the Radisson Hotel, in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 174th meeting of the Texas Board of Criminal Justice at 2:05 p.m.

*

Chairman

*

Secretary

**Signature on file*

Referenced attachments are available upon request from Executive Services, the office of record.

Texas Board of Criminal Justice
175th Meeting



Minutes

October 9, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Radisson Hotel – Riverside South
111 Cesar Chavez at Congress
Austin, Texas 78701**

**October 9, 2014
11:45 AM – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-5*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 174th TBCJ Meeting Minutes
5. Excused Absences

C. Election of Officers

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2013 - 2015

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 6*)

H. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, "Texas Department of Criminal Justice Investment Policy," and Resolution Adopting the Investment Policy (*pages 7-32*)

- I. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities” *(pages 33-47)*
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, “GO KIDS” *(pages 48-50)*
- K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives
 - 1. PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature” *(pages 51-76)*
 - 2. PD-31, “Discrimination in the Workplace” *(pages 77-102)*
- L. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to the “TDCJ Offender Visitation Plan” *(pages 103-155)*
- M. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of Valve Site and Electrical Easement at the Scott Unit in Brazoria County, Angleton, Texas *(pages 156-157)*

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 175

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, October 9, 2014, at 11:48 a.m. at the Radisson Hotel, Austin, Texas. The board adjourned at 12:47 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Carmen Villanueva-Hiles
Janice Harris Lord
Terrell McCombs
Larry Miles
Thomas P. Wingate

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Rudolph Brothers Sherry Koenig
Jason Clark Dr. Lannette Linthicum
Matt Demny Angie McCown
Marie Freeland Jerry McGinty
Patty Garcia Ron Steffa
Scott Hornung William Stephens
Sharon Howell Bruce Toney
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 175th meeting of the TBCJ on Thursday, October 9, 2014, at 11:48 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

Chairman Bell recognized The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no registration cards were received by board staff, no comments were heard.

Recognitions

Chairman Bell introduced the newest board member, Pastor Larry Miles, from Amarillo. Governor Rick Perry appointed Pastor Miles to serve a term to expire February 1, 2017, filling the position previously held by Thomas Mechler.

Chairman Bell recognized Ralph Bales for his career with the Texas Department of Criminal Justice (TDCJ or agency), noting he was the first person to serve as the ombudsman for the Prison Rape Elimination Act compliance. He presented Mr. Bales with a Resolution of Commendation and thanked him for his service to the TDCJ and to the board. Mr. Livingston commended Mr. Bales for 28 years of service to the state and wished him well. Mr. Bales thanked the board members, Mr. Livingston, and the staff of the TDCJ.

Chairman Bell recognized Thomas Mechler for his remarkable accomplishments as a member of the TBCJ, and expressed appreciation for his high level of support as vice-chairman, especially as a sounding board for new ideas. He assured Mr. Mechler he will be missed. Ms. Carmen Villanueva-Hiles, Ms. Janice Harris Lord, and Mr. Terrell McCombs shared their sentiments and wished him well in his future endeavors. Brad Livingston, Executive Director of the TDCJ thanked Mr. Mechler for his excellent support. Mr. Mechler thanked the board, TDCJ administration, and staff for their excellence and commitment to faith based initiatives, which positively impact prison culture through spiritual transformation.

Chairman Bell recognized Judge Larry Gist as the annual recipient of the Judicial Lifetime Achievement Award, given in September by the judicial section of the state bar of Texas, for his life time commitment to judicial excellence. Historically, the award has been given only to chief justices. Chairman Bell congratulated Judge Gist and stated it was an honor to have a gentleman of this caliber on the board.

Mr. Livingston recognized Dr. Lannette Linthicum, TDCJ Health Services Division Director, and president elect of the American Correctional Association (ACA). She voiced her gratitude to the board and the TDCJ for their support, and admitted she was honored to be the first medical director, in the ACA's 144 year tradition, to be elected president. Chairman Bell congratulated Dr. Linthicum.

Sharon Howell, TDCJ General Counsel, recognized Carla Willis as the new deputy general counsel. Ms. Willis thanked the board for the challenge. Chairman Bell welcomed Ms. Willis.

April Zamora, Reentry and Integration Division Director, recognized Lisa Howard as the new deputy director for the Reentry and Integration Division. Ms. Howard thanked Ms. Zamora and the board for the opportunity to serve.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of August and September 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 174th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, objections, or abstentions to the proposed consent items. Seeing none, the consent items stand approved.

Election of Officers, TBCJ

Chairman Bell announced that in accordance with Board Rule 151.3, “Texas Board of Criminal Justice Operating Procedures,” the board elects a vice-chairman, who presides in the chairman’s absence. With the resignation of Mr. Mechler in August, the TBCJ must elect a new vice-chairman. He asked for a nomination. Ms. Lord nominated Terrell McCombs. Chairman Bell asked if there were any comments. Seeing none, he asked for a motion and second.

Ms. Lord moved that the board approve the nomination of Mr. Terrell McCombs as vice-chairman of the Texas Board of Criminal Justice.

Judge Gist seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell congratulated Mr. McCombs and acknowledged he was looking forward to working with the new vice-chairman. Mr. McCombs thanked the board and said he was honored to serve.

Report from the Chairman, TBCJ

Chairman’s Fitness Challenge

Chairman Bell announced the FY 2015 theme, “From Touchdown to World Series.” He said the theme for the first two quarters would be related to football, and for the third and fourth quarters, baseball themes were chosen. For successful completion of each quarter, participants must earn a minimum of 200 points per week, for six weeks. He invited employees to meet the chairman’s special platinum challenge by achieving 2,500 points per week, or the chairman’s gold challenge

with the goal of 1,000 points per week. He thanked last year's participants, encouraged their continued support, and mentioned he enjoyed receiving special reports of fitness activities during the challenges.

State Employees' Charitable Campaign

Chairman Bell recognized the TDCJ workforce for their participation in the State Employees' Charitable Campaign since 1993, and for their generosity in donating more than \$9 million to charities during 2013. He noted last year was the 20th year of the campaign and encouraged employees to continue this year in their commitment to help others.

Internal Audit Status Report for Fiscal Years 2013 - 2015

Scott Hornung, Internal Audit Division Director, noted one change to the list of audits for FY 2013 – 2015. The audit of diversion program grants for the Community Justice Assistance Division was assigned and the project was placed in the background phase.

Chairman Bell asked if there were any questions. Seeing none, he thanked Mr. Hornung for his presentation.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2013-2015 Status Report as of 10/02/14)

Discussion, Consideration, and Possible Action Regarding the Annual Review of Board Policy BP-14.01, "Texas Department of Criminal Justice Investment Policy," and Resolution Adopting the Investment Policy

Jerry McGinty, Chief Financial Officer, explained that the TDCJ is required to review the investment policy each year. This year, the policy was reviewed and no changes were recommended.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Mr. Vasquez acknowledged completion of the annual review of Board Policy 14.01, and moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy as presented, and that the chairman and secretary sign the resolution adopting the policy.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities”

Ms. Howell presented proposed revisions to BP-01.01, “Texas Board of Criminal Justice Responsibilities.” She explained the addition of one duty, required by legislature, which calls for the board to approve construction projects exceeding \$500,000 if they were procured through the job order method. Although that method has not been used in years, the language was added, should the method be used in the future. She stated the revised policy contains improved formatting for clarity, but no changes in procedure.

Chairman Bell noted that Ms. Howell had discussed the policy’s formatting with him, and there were no substantive changes in procedure. He asked if there were questions. Seeing none, he asked for a motion and second.

Judge Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.01, “Texas Board of Criminal Justice Responsibilities,” as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, “GO KIDS”

Ms. Howell presented the proposed amendment to Board Rule 159.15, GO KIDS, stating the only change was an update to the current web address.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendment to Board Rule Title 37 Texas Administrative Code Section 159.15, regarding “GO KIDS,” to receive public comment, as presented.

Judge Wingate seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives

1. PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature”

Ms. Howell presented PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature.” She stated this is the policy that governs how the agency processes complaints regarding gender discrimination, including sexual harassment. The revised policy clarified

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve the revisions to the TDCJ Offender Visitation Plan, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of Valve Site and Electrical Easement at the Scott Unit in Brazoria County, Angleton, Texas

Matt Demny, Agribusiness, Land and Minerals Director, presented the SouthTex 66 Pipeline Company's request to renew an existing easement for continued use as a valve site and electrical line at the Scott Unit. The company agreed to pay \$4,000.00 for this easement with a 10 year term. Mr. Demny recommended board approval of the request.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for a renewal of valve site and electrical easement at the Scott Unit in Brazoria, County, Angleton, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Demny for his presentation.

Chairman Bell thanked everyone for attending, and announced the next meeting of the Texas Board of Criminal Justice would be Friday, December 5, 2014, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 175th meeting of the Texas Board of Criminal Justice at 12:47 p.m.

*

*

Chairman

Secretary

**Signature on file*

Referenced attachments are available upon request from Executive Services, the office of record.

Texas Board of Criminal Justice
176th Meeting



Minutes

December 5, 2014
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel Austin – Phoenix North
6505 IH-35 North
Austin, Texas 78752**

**December 5, 2014
1:30 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-4*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 175th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2013 Annual Review

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Discussion, Consideration, and Possible Action Regarding the Selection of the Prison Rape Elimination Act Ombudsman

G. Internal Audit Status Report for Fiscal Years 2014 – 2015

H. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.77, Purchasing and Contracting with Historically Underutilized Businesses (*page 5-6*)

- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.37, Reports and Records *(pages 7-11)*

- K. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transactions
 - 1. Request to Amend and Combine Electrical Line Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas *(page 12-13)*
 - 2. Request Electrical Line Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas *(page 14-15)*
 - 3. Request Pipeline Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas *(pages 16-17)*

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 176

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, December 5, 2014, at 1:38 p.m. at the DoubleTree Hotel, Austin, Texas. The board adjourned at 2:13 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Carmen Villanueva-Hiles
Janice Harris Lord
Larry Miles

BOARD MEMBERS ABSENT: Terrell McCombs
Thomas P. Wingate

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Sherry Koenig
Rudolph Brothers Angie McCown
Jason Clark Jerry McGinty
Matt Demny Ron Steffa
Marie Freeland William Stephens
Patty Garcia Bruce Toney
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 176th meeting of the TBCJ on Friday, December 5, 2014, at 1:38 p.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, “Public Presentations and Comments to the Texas Board of Criminal Justice.” As no registration cards were received by board staff, no comments were heard.

Recognitions

Brad Livingston, executive director of the Texas Department of Criminal Justice (TDCJ or agency) recognized Jeff Baldwin for his 30 years of service with the TDCJ. He acknowledged Mr. Baldwin’s experience with the Texas Legislature and thanked him for his sound advice. Chairman Bell added comments regarding Mr. Baldwin’s remarkable professionalism. Mr. Baldwin thanked them for their kind words.

Chairman Bell recognized Mr. Livingston for his 10 years of excellent leadership as the executive director of the TDCJ. He said Mr. Livingston has promoted staff development, fiscal stewardship, operational effectiveness, treatment and diversion programming, and has been honored by his peers. Judge Gist added thanks on behalf of the criminal judiciary and community supervision corrections departments of Texas, for providing them with necessary resources for success. Mr. Livingston returned appreciation to the board for their support, and recognized the quality leadership team and employees of the TDCJ.

Sharon Howell, General Counsel, recognized Tracy Dingman as the new director of legal affairs. She summarized Ms. Dingman’s experience and stated she was pleased to have her. Ms. Dingman thanked Ms. Howell for the opportunity.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of October and November 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 175th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted the excused absences of Carmen Hiles and Janice Lord from the August meeting. He asked if there were any amendments, objections, or abstentions to the proposed consent items. Mr. Gambrell abstained from the vote due to his firm’s representation of the San Antonio Food Bank. He asked if there were any further objections or abstentions. Seeing none, the consent items stand approved.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Upcoming Legislative Session

Mr. Livingston reported, since the November 2014 elections, members of the legislature have been filing bills for consideration by committees. He explained the executive administration will closely monitor any bills impacting the TDCJ, adding that legislative committees are usually assembled by late January or early February, with the major focus being on the appropriations process. Mr. Livingston said the 84th Legislative Session begins January 13, 2015, and the TDCJ staff stands prepared.

Chairman Bell encouraged board members to contact the appropriate staff member directly with any questions during the session.

Report from the Chairman, TBCJ

1. Holiday and End of Year Message

Chairman Bell expressed the board's support for the dedicated TDCJ employees, with respect and appreciation for all they do. He wished them all happy holidays, and all the best for the coming year.

2. Chairman's Fitness Challenge

Chairman Bell reported the 2015 "First Quarter Football Frenzy" was a great success. The next challenge, "Countdown to the Super Bowl," will begin after the first of the year, and will emphasize continued health maintenance and exercise. Chairman Bell invited participants to meet the Chairman's platinum challenge of 2,500 points per week, and urged all employees to commit to regular physical activity for improved overall health.

3. Upcoming Legislative Session

Chairman Bell echoed Mr. Livingston's message on the upcoming 84th Legislative Session. He stated the board approved a fiscally responsible Legislative Appropriations Request at the August meeting, which would facilitate the budget and policy-making process. Chairman Bell thanked the staff for providing accurate and timely information to legislators as they make decisions that will shape the future of Texas.

Discussion, Consideration, and Possible Action Regarding the Selection of the Prison Rape Elimination Act Ombudsman

Chairman Bell introduced Ms. Lynne Sharp, the chosen candidate for the position of Prison Rape Elimination Act (PREA) Ombudsman. He explained the board's selection process, and highlighted Ms. Sharp's work experience, noting her role in bringing the agency to compliance with PREA standards. Ms. Sharp thanked the board for the opportunity.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve the selection of Lynne Sharp, as the Prison Rape Elimination Act Ombudsman, as presented.

Pastor Miles seconded the motion, which prevailed unanimously when called to a vote.

Internal Audit Status Report for Fiscal Years 2014 – 2015

Lynda Brackett, Internal Audit Deputy Division Director, reviewed the Internal Audit Status Report for Fiscal Years 2014 – 2015. She provided the following updates:

- **1411 – Correctional Institutions Division, Correctional Training and Staff Development:** Status has moved from draft report to a proposed final report.
- **1412 – Parole Division, Release Certificates:** Status has moved to draft report.

Chairman Bell asked if there were questions. Seeing none, he thanked Ms. Brackett for her presentation.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2014-2015 Status Report as of 11/25/14)

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.77, Purchasing and Contracting with Historically Underutilized Businesses

Ms. Howell, presented the proposed amendments to Board Rule 151.77, Purchasing and Contracting with Historically Underutilized Businesses, stating that during the August board meeting the board authorized the rule to be published in the *Texas Register*. It was published in the September 5, 2014, issue and received no public comments. Ms. Howell asked the board to move forward with formal adoption.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Mr. Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 151.77, regarding Purchasing and Contracting with Historically Underutilized Businesses, as published in the Texas Register, and that the chairman sign the order to this effect.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.37, Reports and Records**

Ms. Howell presented the proposed amendments to Board Rule 163.37, Reports and Records. She explained this rule falls under the Community Justice Assistance Division's standards and was reviewed as required periodically by state law. She reviewed the proposed changes, which clarify certain procedures regarding the creation and submission of reports. Ms. Howell asked the board for authorization to publish the changes in the *Texas Register*.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 163.37, regarding Reports and Records, to receive public comment, as presented.

Ms. Lord seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

**Discussion, Consideration, and Possible Action Regarding
Proposed Land Transactions**

1. Request to Amend and Combine Electrical Line Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas

Matt Demny, Agribusiness, Land and Minerals Director, presented the request from Houston County Electric Cooperative, Inc. (HCEC) to amend an existing electrical easement at the Eastham Unit. HCEC requested to add an area of 8.02 acres of land, for installation of an electrical line to connect two existing lines serving Eastham and Ferguson units, to provide a secondary power source. Additionally, they requested to replace three existing electrical easements located on Eastham and Ferguson by combining them with this easement as amended. They have agreed to pay \$16,040.00 for the amendment with all other terms and provisions of the easement to remain in effect. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Ms. Hiles moved that the Texas Board of Criminal Justice approve the request to amend and combine electrical line easements at the Eastham Unit in Houston County, Lovelady, Texas, and the Ferguson Unit in Madison County, Midway, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

2. Request Electrical Line Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas

Mr. Demny presented the request from SEM Operating Company, LLC, for easements at the Eastham and Ferguson units, for a combined area of 83.85 acres to install 17 separate electrical lines servicing 40 SEM well sites. SEM agreed to pay \$167,700.00 for the easement, each with a 10 year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Ms. Lord moved that the Texas Board of Criminal Justice approve the request for utility easements at the Eastham Unit in Houston County, Lovelady, Texas, and the Ferguson Unit in Madison County, Midway, Texas, as presented.

Judge Gist seconded the motion which prevailed unanimously when called to a vote.

3. Request Pipeline Easements at the Eastham/Ferguson units in Houston/Madison Counties, Lovelady/Midway, Texas

Mr. Demny presented the request from SEM Operating Company, LLC, to install a new oil pipeline at the Eastham and Ferguson units. SEM requested 31.25 acres and agreed to pay \$1,100,028.00, with a 10 year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Pastor Miles moved that the Texas Board of Criminal Justice approve the request for pipeline easements at Eastham Unit in Houston County, Lovelady, Texas, and the Ferguson Unit in Madison County, Midway, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Demny for his presentations.

Chairman Bell thanked everyone for attending, and announced the next meeting of the TBCJ would be Friday, February 20, 2015, at the Omni Hotel Downtown in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 176th meeting of the Texas Board of Criminal Justice at 2:13 p.m.

*

Chairman

*

Secretary

** Signature on file*

Referenced attachments are available upon request from Executive Services, the office of record.

Texas Board of Criminal Justice
177th Meeting



Minutes

February 20, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel Downtown Austin – Lone Star Room
700 San Jacinto Street
Austin, Texas 78701**

**February 20, 2015
1:15 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 176th TBCJ Meeting Minutes
5. Excused Absences

C. Election of Officers

D. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2014 Annual Review

E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

F. Report from the Chairman, TBCJ

G. Discussion, Consideration, and Possible Action Regarding Selection of the Director of the Internal Audit Division

H. Internal Audit Status Report for Fiscal Years 2014 – 2015

I. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to GR-106, Disciplinary Rules and Procedures for Offenders (*Pages 7-55*)

- K. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-02.08, “Policy Statement of Internal Controls” *(Pages 56-62)*

- L. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code *(Pages 63-69)*
 - 1. 159.15, GO KIDS Initiative
 - 2. 163.37, Reports and Records

- M. Discussion, Consideration, and Possible Action Regarding a Request for Pipeline Easements at the Clemens Unit in Brazoria County, Texas *(Pages 70-71)*

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 177

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, February 20, 2015, at 1:22 p.m. at the Omni Hotel Downtown, Austin, Texas. The board adjourned at 2:24 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Carmen Villanueva-Hiles
Janice Harris Lord
Terrell McCombs
Larry Miles
Thomas P. Wingate

BOARD MEMBERS ABSENT: Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Sherry Koenig
Mike Bell Bobby Lumpkin
Rudolph Brothers Angie McCown
Christopher Cirrito Jerry McGinty
Jason Clark Madeline Ortiz
Matt Demny Ron Steffa
Marie Freeland William Stephens
Patty Garcia Bruce Toney
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 177th meeting of the TBCJ on Friday, February 20, 2015, at 1:22 p.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Chairman Bell stated the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. As no registration cards were received by board staff, no comments were heard.

Recognitions

Chairman Bell recognized Scott Hornung upon his retirement from the position of Internal Audit Division Director, thanked him for 25 years of excellent service to the TDCJ, and presented him with a resolution of commendation. Brad Livingston, Texas Department of Criminal Justice (TDCJ) Executive Director, echoed commendations and appreciation, joined by Mr. Terrell McCombs, Judge Thomas Wingate, Ms. Carmen Villanueva-Hiles, and Ms. Janice Harris Lord. Mr. Hornung thanked the board and TDCJ staff for the honor of working with them.

Mr. Livingston recognized Angie McCown, Victim Services Division Director, as this year's recipient of the Joe Kegans Award for Victim Services in Probation and Parole, from the American Probation and Parole Association. He acknowledged her exemplary services to victims of crime, and commended her for a job well done. Ms. McCown thanked Mr. Livingston.

Madeline Ortiz, Rehabilitation Programs Division Director, introduced Marvin Dunbar as the new deputy director of the Rehabilitation Programs Division. She described his career and accomplishments with the TDCJ, and said he is an asset to the division. Mr. Dunbar thanked the board for the opportunity to serve.

Sharon Howell, General Counsel, introduced Kamilla Stokes as the new director of litigation support for the Office of General Counsel. She summarized Ms. Stokes' career, including experience in the attorney general's office, cited her expertise with medical cases, and stated she was pleased to have her serve in this capacity. Ms. Stokes thanked Ms. Howell and the board for the opportunity.

Stuart Jenkins, Parole Division Director, introduced Kimberli Campbell as the new director of parole region three, which encompasses Houston and the surrounding area. He described her career path and expressed his confidence in her success. Ms. Campbell thanked the board.

Jerry McGinty, Chief Financial Officer, recognized Ron Steffa, deputy director of the Business and Finance Division, for attaining 25 years of service to the TDCJ.

Mr. McGinty recognized Matt Demny, Agribusiness, Land and Minerals Director, and congratulated him for 30 years of service to the TDCJ.

Chairman Bell recognized the TDCJ employees who have attained 25, 30, and 35 plus years of service with the state of Texas during the months of December 2014 and January 2015. The TBCJ, along with Mr. Livingston, voiced their deepest gratitude for the dedicated service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 176th TBCJ Meeting Minutes
5. Excused Absences

Chairman Bell asked if there were any amendments, objections, or abstentions to the proposed consent items. Seeing none, the consent items stand approved.

Election of Officers

Chairman Bell explained the requirement for election of a vice-chairman and secretary, each odd numbered year, in accordance with Board Rule 151.3. He asked for a motion.

Ms. Hiles moved that the board approve the nomination of Terrell McCombs as vice-chairman and that the board approve the nomination of Leo Vasquez as secretary of the Texas Board of Criminal Justice.

Judge Wingate seconded the motion, which prevailed unanimously when called to a vote.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2014 Annual Review

Rissie Owens, the presiding officer of the Texas BPP presented the FY 2014 annual review. She introduced the following BPP members: Board Administrator Timothy McDonnell; General Counsel Betty Wells; and Budget Director Kyle Britt. Chairman Bell commended the BPP for the low rate of technical violations. Judge Wingate inquired if the technical revocation percentages could be reported separately for those who committed a new felony, from those who committed a new misdemeanor. Ms. Owens assured him she would look into it and follow up with a response. Mr. McCombs asked why more offenders with a severe chronic illness were not granted a medical release. Ms. Owens explained that the BPP review for early release, according to statutory guidelines, must be limited to specified offense categories. Chairman Bell thanked Ms. Owens for her presentation.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Update on the 84th Legislative Session

Mr. Livingston reported the 84th Legislative Session is more than 25% complete, with the committees chosen and discussions underway. He named the committees of primary interaction

with the TDCJ, and said he had already attended a House Appropriations Subcommittee hearing which began discussing the exceptional budget items presented to the Texas Board of Criminal Justice last August. Agency priorities continue to be: compensation for correctional officer and parole staff; pension fund stability for state employees; infrastructure; and treatment and diversion programs. Upcoming meetings pertaining to the TDCJ include a budget hearing with the Senate Finance Committee, and an overview meeting with the House Committee on Corrections. Mr. Livingston said that throughout the appropriations process there will be an opportunity to discuss and highlight the priority and exceptional items contained in the FY 2016-2017 Legislative Appropriations Request.

Condolences - January 14, 2015, Offender Transportation Vehicle Accident

Mr. Livingston offered condolences to the family, friends, and co-workers of those involved in the tragic accident on January 14, 2015, when two officers and eight offenders were killed, and one officer and four offenders were seriously injured. Mr. Livingston wished a full recovery for all who were injured, and recognized the officers and all TDCJ staff for sacrifices made daily, in the line of duty, as they risk their safety to protect the public. He assured the board that correctional officers Davis and Garcia would be honored in the Fallen Officers Memorial Ceremony.

Chairman Bell expressed the board's deepest sympathies and condolences to the families of the correctional officers and offenders who died in the accident, and wished a speedy recovery for those who survived.

Report from the Chairman, TBCJ

Focus on Leadership

Chairman Bell commented that, due to the legislative session, additional demands may be placed on staff. He acknowledged the exceptional performance of the TDCJ executive administration, in keeping abreast of legislative activities, and preparing for future operational, personnel, and fiscal needs. Mr. Livingston and the management team routinely examine areas of the agency such as security, health care, training, industry, agriculture, faith based programs, rehabilitation programs, probation programs, and parole programs. As an ongoing effort, leaders analyze cost, evaluate effectiveness, and review the structure for ways to improve. Chairman Bell commended them for their continued excellence.

Discussion, Consideration, and Possible Action Regarding the Selection of the Director of the Internal Audit Division

Chairman Bell announced the selection of Christopher Cirrito, as the new director of the Internal Audit Division. He explained the board's selection process, the duties of the director, and highlighted Mr. Cirrito's career experience. Mr. Cirrito thanked the board for the opportunity.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the selection of Christopher Cirrito as the Director of the Internal Audit Division, to be effective February 1, 2015.

Pastor Miles seconded the motion, which prevailed unanimously when called to a vote.

Internal Audit Status Report for Fiscal Years 2014 – 2015

Mr. Cirrito reviewed the Internal Audit Status Report for Fiscal Years 2014 – 2015. He provided the following update:

- **1503 – Business and Finance Division, Agribusiness Land and Minerals Economist:** Status has moved from control assessment to field work.

Chairman Bell asked if there were questions. Seeing none, he thanked Mr. Cirrito for his presentation.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2014-2015 Status Report as of 2/12/15)

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to GR-106, Disciplinary Rules and Procedures for Offenders

Ms. Howell presented the proposed amendments to GR-106, Disciplinary Rules and Procedures for Offenders, stating most of the revisions involved grammar and formatting. She said the definition of sexual abuse was revised to conform to Prison Rape Elimination Act standards, and noted suspension of telephone privileges was placed under minor penalties as a discretionary option.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. McCombs moved that the Texas Board of Criminal Justice approve amendments to the Texas Department of Criminal Justice Disciplinary Rules and Procedures for Offenders, as presented.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 02.08, Policy Statement of Internal Controls

Ms. Howell presented the proposed revisions to Board Policy 02.08, Policy Statement of Internal Controls. Although sections were rearranged for grammar, formatting, and clarity, there were no substantive procedural revisions.

Ms. Hiles moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 02.08, Policy Statement of Internal Controls, as presented.

Judge Wingate seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

Section 159.15, GO KIDS

Ms. Howell stated the board, at the October meeting, authorized publication of the amended Board Rule 159.15, GO KIDS, in the *Texas Register*. It was published October 31, 2014, and after 30 days, no public comments were received; therefore, Ms. Howell asked the board to adopt the amended rule.

Ms. Lord moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 159.15, GO KIDS, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

Section 163.37, Reports and Records

Ms. Howell stated the board, at the December meeting, authorized publication of the amended Board Rule 163.37, Reports and Records, in the *Texas Register*. The rule appeared in the December 26, 2014, issue. After 30 days, no public comments were received; therefore, Ms. Howell asked the board to adopt the amended rule.

Chairman Bell asked if there were any questions or comments. Seeing none he called for a motion and a second.

Judge Wingate moved that Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 163.37, Reports and Records, as published in the Texas Register, and that the chairman sign the order to this effect.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding A Request for Pipeline Easements at the Clemens Unit in Brazoria County, Texas

Mr. Demny presented the request from Phillips 66 Pipeline, LLC, for six easements, to install natural gas liquids pipelines at the Clemens Unit, in Brazoria County. For the combined easements, encompassing 11.15 acres of land, they agreed to pay \$750,117.00, with a 10 year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Pastor Miles moved that the Texas Board of Criminal Justice approve the request for pipeline easements at the Clemens Unit in Brazoria County, Texas, as presented.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Demny for his presentation.

Chairman Bell thanked everyone for attending, welcomed all the new leaders in the 84th Legislative Session, and announced the next meeting of the TBCJ would be Friday, April 17, 2015, at the Omni Hotel Downtown in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 177th meeting of the Texas Board of Criminal Justice at 2:24 p.m.

*

Chairman

*

Secretary

** Signature on file*

Referenced attachments are available upon request from Executive Services, the office of record.

Texas Board of Criminal Justice
178th Meeting



Minutes

April 17, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel Downtown Austin – Lone Star Room
700 San Jacinto Boulevard
Austin, Texas 78701**

**April 17, 2015
11:00 AM – 12:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

20th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Recess

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel Downtown Austin – Lone Star Room
700 San Jacinto Boulevard
Austin, Texas 78701**

**April 17, 2015
1:15 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 177th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2014-2015

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Pages 8-9*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding (*Pages 10-11*)

H. Public Comments

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 178

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, April 17, 2015, at 11:00 a.m. at the Omni Hotel, Austin, Texas. The board recessed at 12:02 p.m., reconvened in regular session at 1:15 p.m., and adjourned at 1:55 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Carmen Villanueva-Hiles
Janice Harris Lord
Thomas P. Wingate

BOARD MEMBERS ABSENT: Larry Miles

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell Bobby Lumpkin
Rudolph Brothers Jerry McGinty
Christopher Cirrito Madeline Ortiz
Jason Clark Ron Steffa
Marie Freeland William Stephens
Patty Garcia Carey Welebob
Sharon Howell April Zamora
Sherry Koenig

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 178th meeting of the TBCJ on Friday, April 17, 2015, at 11:00 a.m. He noted a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

20th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Bell welcomed all honored guests joining the TBCJ for the 20th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He thanked the volunteer's generosity and then recognized those present to receive an award, as well as the thousands they represent. He introduced a video greeting from Governor Greg Abbott, who was unable to attend. Governor Abbott welcomed the volunteers, and acknowledged the partnership of their mission with that of the TDCJ. Volunteers encourage public safety by positively influencing offenders' behavior, by empowering them in their transition from confinement to the workforce and community, and by aiding and comforting victims. Those being honored represent a combined influence of more than 20,000 TDCJ volunteers, who contributed a total of more than 400,000 hours of service last year. On behalf of the first lady, the TBCJ, and the state of Texas, Governor Abbot extended heartfelt gratitude and blessing to volunteers for making Texas stronger and safer, and making a difference in the lives of Texans.

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency) welcomed the honored guests, and celebrated two decades of collaboration of volunteers and the TDCJ. He praised their passion, skills, experience, vision, leadership, and inspiration. Although backgrounds and life experiences vary, volunteers share a common willingness to give their time, the most valuable resource, and to engage those often overlooked. Their actions do not go unnoticed; their selfless contributions make a difference. Texas has one of the lowest recidivism rates in the country, approximately 21%. Mr. Livingston said this would not be possible without volunteers, and voiced the TDCJ's commitment to look for unique and creative ways to continue partnering with their efforts. He thanked them on behalf of the TDCJ and the state of Texas.

Chairman Bell introduced the keynote speaker, The Honorable Nathan L. Hecht, Chief Justice of the Supreme Court of Texas. Judge Hecht commended the volunteers for their wonderful service, and shared his personal experience of participating in a prison ministry. He conveyed the judiciary's concern regarding the way criminal defendants are treated in Texas. He highlighted the efforts of specialty courts in Texas, which have the option to consider a defendant for alternative sentencing, rather than automatic incarceration. He shared his passionate commitment to justice, one of our most fundamental values, and described the referral system designed to guarantee legal representation to the poor. He said a justice system that cannot be reached is not a justice system at all, and reported Texas lawyers donated two million hours, valued at approximately \$100 million, for legal services to those in need last year. He closed his remarks by acknowledging the greatness of the award recipients.

Chairman Bell thanked Judge Hecht for his remarks and presented him with a chairman's coin as a token of appreciation from the board.

Chairman Bell yielded the floor to Judge Thomas Wingate, Master of Ceremonies, for the awards ceremony. Judge Wingate greeted the audience and stated the individuals being recognized represent the high caliber of volunteers who make a difference in the lives of those they serve. Volunteers offer a wide range of assistance to offenders by providing programs which strengthen family relationships, improve life skills, and ensure successful reentry to the community. They also provide inspiration and assistance to TDCJ staff.

Judge Wingate also acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony. The listed individuals and organizations were chosen to receive the following awards:

Maureen Whiteside, *Chaplaincy Department*
John T. Thornbury, *Correctional Institutions Division*
Military Veteran Peer Network, *Reentry and Integration Division*
Ruby M. Woodward, *Nancy Hees Award-Parole Division*
Jessie Mojica, *Private Facility Contract Monitoring/Oversight Division*
Chainbreaker Ministry, *Religious Service*
Terry Theall-Jones, *Religious Service*
Martha "Marti" Martin, *Sex Offender Rehabilitation Programs*
Shirley Miller, *Substance Abuse Treatment Program*
Jessica Middleton, *Pathfinder Award-Victim Services Division*
Charles M. Fisk, *Judy Burd Award-Windham School District*
William "Bill" Kleiber, *Restorative Justice*
Alice Smith-San Saba Offender Choir, *Susan Cranford Award-Female Offender Program*
The Winning Edge, *Most Innovative Program*
Hospitality House of Huntsville, *Community Service*
"Honor Thy Father," *Best Family Program*
LaDonna Bell, *Leonard Davis Award for Most Hours Served*
Antonio Morga, *Extensive Travel*
George Nelson, *TDCJ Employee Volunteer*
James Jones, *Criminal Justice Administrator*
Tom Owens, *Carol S. Vance Volunteer of the Year*

Judge Wingate yielded the floor to Carol Vance, former chairman of the TBCJ, to present Tom Owens with the *Carol S. Vance Volunteer of the Year Award for 2014*. Tom's brother, John Owens, accepted the award on his behalf.

Judge Wingate thanked Mr. Vance for his continued support, and commended the exceptional group of volunteers.

Chairman Bell thanked the volunteers and board staff, and mentioned all the board members are also volunteers. There being no further business at this time, Mr. Bell recessed the 178th meeting of the TBCJ. He advised the board would reconvene in regular session at 1:15 p.m.,

with the Business and Financial Operations Committee meeting scheduled for 1:00 pm. The time was 12:02 p.m.

(Attachment A – Program for 20th Annual Governor’s Criminal Justice Volunteer Service Awards)

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 178

The Texas Board of Criminal Justice (TBCJ or board) reconvened in regular session on Friday, April 17, 2015, at 1:15 p.m. at the Omni Hotel Downtown, Austin, Texas.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Carmen Villanueva-Hiles
Janice Harris Lord
Thomas P. Wingate

BOARD MEMBERS ABSENT: Larry Miles

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell Sherry Koenig
Rudolph Brothers Bobby Lumpkin
Christopher Cirrito Jerry McGinty
Jason Clark Oscar Mendoza
Matt Demny Paul Morales
Marie Freeland Ron Steffa
Patty Garcia William Stephens
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Stuart Jenkins

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell reconvened the 178th meeting of the TBCJ on Friday, April 17, 2015, at 1:15 p.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Chairman Bell stated the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, Public Presentations and Comments to the TBCJ. As two registration cards were received by board staff, Chairman Bell postponed further instructions until the public comment period listed later on the agenda.

Recognitions

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency) recognized April Zamora, Reentry and Integration Division Director, for her 20 years of service to the state. He highlighted her career, through the Texas Youth Commission, the TDCJ, beginning with the Parole Division, and most recently, the Reentry and Integration Division. He commended her dedication and leadership in innovative programming.

Mr. Livingston recognized Bryan Collier for 30 years of excellent service to the TDCJ, cited his many positions, and attested Mr. Collier's wide experience enabled him to resolve complicated issues and therefore provide excellent support as the deputy director.

Chairman Bell echoed commendations of April Zamora and Bryan Collier, and voiced appreciation for Mr. Collier's remarkable ability to communicate and coordinate with staff throughout the agency.

Chairman Bell recognized the TDCJ employees who have attained 25, 30, and 35 plus years of service with the state of Texas during the months of February and March 2015. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the dedicated service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 177th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell noted the excused absences of Terrell McCombs and Thomas Wingate from the December 2014 TBCJ meeting due to personal business, and the excused absences of Leo Vasquez, Larry Gist, and Eric Gambrell from the February 2015 meeting, due to personal business. He asked if there were any amendments, objections, or abstentions to the proposed consent items. Seeing none, the consent items stand approved.

Report from the Executive Director

Update on the 84th Legislative Session

Mr. Livingston reported that both the House and Senate had taken action on their version of the appropriations bill. Mr. Livingston highlighted the approved budget items relating to TDCJ, such as infrastructure repairs, pay raises for correctional officers and parole staff, reentry and diversion program funding, and employee retirement packages. Final decisions for all the requested budget items must be made during the remaining 45 days of the session. He also mentioned that unlike the legislative session two years ago, the 84th Legislative Session did not include any Sunset legislation impacting the agency.

Chairman Bell asked if there were any questions, and mentioned that any members of the board traveling to Austin need only contact the executive office if they wish to attend any of the hearings or meetings during the remainder of the session. There were no questions.

Report from the Chairman, TBCJ

National Crime Victims' Rights Week April 19-25, 2015

Chairman Bell featured National Crime Victims' Rights Week, which, every April, promotes awareness of victims' rights, and compassion to those impacted by crime. This year's theme, "Engaging Communities, Empowering Victims," challenges the entire community to take a greater role of support by empowering victims to direct their own recovery. He said the board and agency have committed to assist victims throughout the criminal justice system, and not leave them at the crime scene. He recommended visiting the TDCJ website to obtain detailed information regarding community resources, networks, and further assistance throughout the year.

Chairman's Fitness Challenge

Chairman Bell reported the conclusion of the second quarter of the 2015 Chairman's Fitness Challenge and named the top three winning departments in each of the seven divisions. Chairman Bell announced the third quarter challenge, "Play Ball" from April 13th to May 24th, and encouraged staff to continue participating in the challenges and incorporating physical activity into their daily lifestyle.

Internal Audit Status Report for Fiscal Years 2014-2015

Christopher Cirrito, Internal Audit Division Director, presented the TDCJ Internal Audit Division Fiscal Years 2014-2015 Status Report, and provided the following updates.

- **1505 – Parole Division, *Absconder Identification***: Status has moved from unassigned to background.
- **1507 – Rehabilitation Programs Division, *DNA Collection***: Status has moved from control assessment to field work.
- **1510 – Information Technology Division, *Video Conferencing***: Status has moved from unassigned to background.

- **1511 – Community Justice Assistance Division, Fiscal Management – CSCD Insurance:** Status has moved from unassigned to delayed, and will be assigned at a later date.
- **1515 – Rehabilitation Programs Division, Individual Treatment Plan:** Status has moved from unassigned, to assigned.

Chairman Bell asked if there were questions. Seeing none, he thanked Mr. Cirrito for his presentation.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2014-2015 Status Report as of 4/7/15)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the 21 purchases and contracts over \$1 million. He commented April and June board meetings typically see longer lists as they include purchases for operations in the new fiscal year. The first two items, related to the FY2015 budget, allow response to a request from the Department of Motor Vehicles for additional license plates. He discussed the new purchases related to Texas Correctional Industries (TCI), primarily raw materials for products to be sold to the state and other agencies, such as traffic signs, license plates, modular panels, furniture, and cardboard boxes. Within the agency, agriculture and textile purchases provide offender food, sheets, and clothing. Mr. McGinty explained the items with a 10% variance allow for market fluctuations. Item #20 renews the contract for programming system support and database administration. The final item, a \$75 million contract for electricity services at various facilities, covers the 2017, 2018, and 2019 calendar years. The negotiation takes advantage of the deregulated market, similar to the earlier contract for 2014, 2015, and 2016.

Chairman Bell called for questions. Mr. McCombs asked if item #3, (John Deere tractor parts), was purchased locally, and whether out of state or national companies are eligible for contracts with the TDCJ. Mr. McGinty responded yes, the tractor parts were purchased in Texas due to the best discount price. The procurement process does include out of state bids; for example, a company from Mexico obtained a contract for canning. He explained when the state is the purchaser, the comptroller's office awards contracts on behalf of the TDCJ; however, as in the selection of John Deere tractor parts, the comptroller may defer to the expertise of the TDCJ for final award.

Mr. McCombs asked if multiple bids are typical. Mr. McGinty responded yes. Chairman Bell added the procurement practices reflect a healthy mix between the comptroller's office and the TDCJ.

Chairman Bell asked for further questions. Mr. Gambrell abstained from voting as his firm represents 3M and John Deere Tractors. Seeing no further questions, he called for a motion and second, noting the abstention of Mr. Gambrell.

Mr. McCombs noted the abstention of Mr. Gambrell, and moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding

Sharon Howell, General Counsel, presented the proposed amendment to Board Rule 163.45, Distribution of Community Corrections Funding, to spell out the acronym, “Texas Department of Criminal Justice.”

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice approve amendments to Board Rule Title 37 Texas Administrative Code section 163.45, Distribution of Community Corrections Funding, as presented.

Judge Wingate seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentation.

Public Comment Period

Chairman Bell presented the format for receiving public comments. The first speaker, Lanesia Wheeler, prefaced her comments with praise for the volunteer awards ceremony, stating it gave her hope that people care. Ms. Wheeler reported disrespectful treatment in visiting her husband who is incarcerated at the Michael Unit. She asked that TDCJ policies be enforced, and requested a phone number to report abuse of power and misconduct of staff, including the warden, who did not return her calls. Chairman Bell urged her to submit her documents to the board staff, in order to receive an official response, and suggested she may be able to speak to a staff member before leaving Austin, such as William Stephens, Correctional Institutions Division Director. Ms. Wheeler replied she had spoken with him before the meeting. Chairman Bell acknowledged the initiation of the process and wished her safe travels, and Ms. Wheeler thanked the board.

The second speaker, Frances Vaughn, said her husband, housed in administrative segregation at the Allred Unit, complained of severe pain, but was not moved to the infirmary for 24 hours, resulting in a ruptured appendix, gangrene, kidney failure, and pneumonia. After three weeks in a free world hospital, he was returned to the unit for a few days, then returned to the hospital. Ms. Vaughn complained of difficulty getting return calls or information about her husband’s health, and disrespectful, rude treatment by the warden and assistant warden. She sent emails to Dr. Lannette Linthicum, Robert Eason, and Jason Heaton, and they agreed to look into the

matter. Chairman Bell acknowledged the process had been initiated and Ms. Vaughn thanked the board.

Chairman Bell thanked everyone for attending, and announced the next meeting of the TBCJ would be Wednesday, June 10, 2015, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 178th meeting of the Texas Board of Criminal Justice at 1:55 p.m.

*

*

Chairman

Secretary

**Signature on file*

Note: Referenced attachments for approved minutes are available upon request from Executive Services, the Office of Record.

Texas Board of Criminal Justice
179th Meeting



Minutes

June 10, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Wyndham Garden Hotel – Highland Lakes Ballroom
3401 South IH-35
Austin, Texas 78741

June 10, 2015
12:45 – 1:15 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 178th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2014 – 2015

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.25, Texas Department of Criminal Justice Tobacco Policy
2. 151.75, Standards of Conduct for Financial Advisors
3. 154.1-.12, Private Sector Prison Industries Programs

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-02.09, “Prison Rape Elimination Act Ombudsman Policy Statement”

I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Water Pipeline Easement at the Briscoe Unit in Frio County, Dilley, Texas
2. Request for Valve Site Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 179

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Wednesday, June 10, 2015, at 1:10 p.m. at the Wyndham Garden Hotel, Austin, Texas. The board adjourned at 2:09 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Terrell McCombs, Vice-Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Carmen Villanueva-Hiles
Janice Harris Lord
Larry Miles
Thomas P. Wingate

BOARD MEMBER ABSENT: Judge Larry Gist

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Rudolph Brothers Angie McCown
Christopher Cirrito Jerry McGinty
Jason Clark Oscar Mendoza
Matt Demny Paul Morales
Marie Freeland Ron Steffa
Sharon Howell Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora
Bobby Lumpkin

OTHERS PRESENT: Libby Elliott, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 179th meeting of the TBCJ on Wednesday, June 10, 2015, at 1:10 p.m. He noted a quorum was present, declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He added that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized Libby Elliott, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Chairman Bell recognized Andrea Richardson as the 2015 recipient of the *Promotion of Positive (POP) Mental Health Initiatives Award*. On behalf of the Texas Department of Criminal Justice (TDCJ or agency), April Zamora, Reentry and Integration Division Director, introduced Ms. Richardson, of the Bluebonnet Trails Community Service Center. Ms. Richardson introduced her staff, and thanked the board for the honor.

Chairman Bell presented Christopher Cirrito with his 20 year service award from the TDCJ. He highlighted Mr. Cirrito's career and commended him for his valuable contributions. Mr. McCombs agreed and acknowledged his splendid leadership as the Internal Audit Division Director. Mr. Cirrito thanked the board.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of April and May 2015. He noted also Bryan Collier, Deputy Executive Director, obtained 30 years of service with the TDCJ, and had received a special honor prior to the meeting. On behalf of the board and Mr. Livingston, he expressed deepest gratitude for the continued service of these employees.

Chairman Bell announced the May 5th passing of former board member, Patsy Day. He enumerated her contributions to the board, the community, and humanitarian and victims' rights causes, and asked for a moment of silence in her memory.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 178th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, abstentions, or objections to the proposed consent items. Mr. Gambrell abstained due to his firm's representation of Walmart. Chairman Bell acknowledged the abstention and, seeing no further questions, the consent items stand approved.

Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)

Summary of the 84th Legislative Session

Mr. Livingston thanked TDCJ staff for their dedication and diligence regarding the 84th Legislative Session, and recognized Bryan Collier, Jerry McGinty, Jeff Baldwin, Sherry Koenig, Gina Sweetin, and Angela Moore, for their loyal and excellent support. He discussed legislative actions pertaining to the TDCJ. House Bill 2, the supplemental appropriations bill, provides additional funding for agencies to meet needs for the current biennium; the TDCJ received \$42.5 million to address the shortfall in correctional managed health care. House Bill 9 provides for the actuarial soundness of the state pension system, and required a 2.5% increase in employee contributions; however, in order to offset the cost, the legislature also passed a 2.5% pay raise for all state employees. Senate Bill 20 addressed contracting challenges, by requiring state agencies to implement a range of accountability procedures, most of which the TDCJ already practices. House Bill 1546 created an additional mechanism for state jail offenders to receive diligent participation credit to offset sentence length. Senate Bill 1697 created an additional exception in the Public Information Act, helping to ensure continued confidentiality regarding certain aspects of the execution process. Senate Bill 746 revised the civil commitment process for violent sex offenders after release, but did not change the TDCJ's role during pre-release, which includes legal representation through the State Counsel for Offenders Division.

The General Appropriations Act granted a remarkable 8% pay raise for correctional officers and parole officers, a significant benefit to the agency for recruiting and retaining front line staff. The TDCJ also received \$60 million for renovation and repair of facilities, \$10 million for comprehensive video surveillance, \$144 million for offender health care operations, including pay raises for health care staff (5% annually for the biennium) and additional direct care medical positions at units. In addition, the TDCJ received \$6 million for the Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI), funding for five additional OIG positions, 50 additional reentry coordinators, 500 additional treatment slots for the DWI program, funding to provide treatment in all the Intermediate Sanction Facility beds, 125 additional halfway house beds, and \$2 million for reentry pilot programs in the Houston and Dallas areas. Community Corrections received funding for health insurance for employees and retirees and \$13 million for probation supervision. Mr. Livingston referred to the Legislative Appropriations Request as previously presented to the TBCJ by Mr. McGinty and expressed thanks to the governor, legislative leadership, and all Texas legislators for their recognition of the importance of the criminal justice system, the treatment program and TDCJ staff.

Chairman Bell asked if there were any questions. Mr. McCombs commended Mr. Livingston and the leadership of the TDCJ for their efforts throughout the 84th Legislative Session. Chairman Bell echoed appreciation for the leadership of TDCJ administrators, the governor and staff, and legislators, for their commitment to public safety and attention to the key fiscal and policy items as presented by Mr. Livingston.

Report from the Chairman, TBCJ

Father's Day – Maintaining Family Ties

Chairman Bell discussed the ways the TDCJ strives to help offenders maintain family ties during incarceration. The TDCJ promotes successful reentry by encouraging and facilitating visitation. Enhanced training regarding visitation is provided for TDCJ staff. Children receive activity sheets, crayons, and books for family members and their children during visits. Also, the website was recently updated to allow friends and family to verify an offender's eligibility for visits prior to making the trip. The website also offers several videos for first time visitors to know what to expect upon arrival. The Day with Dad program continues to provide periodic opportunities for extended visits with children. In addition, the Windham School District offers a parenting and family wellness program which is a communication based interactive program that supports development of healthy family relationships. The GO KIDS Initiative supports the parent child relationship and connects the offender's family with valuable community resources. Chairman Bell wished everyone a happy Fathers' Day.

Pretrial, Probation, and Parole Supervision Week

During the week of July 12-18th, the TDCJ will join with other state and local agencies across the nation in recognizing parole and community supervision officers for their dedication and public service. Probation and parole officers provide guidance and direction for positive behavior, to help individuals help themselves. They accept risk in a challenging work environment, to keep communities safe, promote successful reentry, and provide taxpayers with a cost effective alternative to incarceration. On behalf of the TBCJ, Chairman Bell voiced appreciation of the men and women who supervise offenders in the community, and encouraged their recognition during Pretrial, Probation, and Parole Supervision Week this July.

Internal Audit Status Report for Fiscal Years 2014 – 2015

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the June 2, 2015, Internal Audit Status Report for the Fiscal Years (FY) 2014 - 2015:

- **1414 – Correctional Institutions Division, *Laundry Operations***: Status has moved from report writing to draft report.
- **1510 – Information Technology Division, *Video Conferencing***: Status has moved from background to control assessment.
- **1517 – Correctional Institutions Division, *Heat-Related Precautions***: Status has moved to deferred for future consideration.

Chairman Bell asked if there were any questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2014-2015)

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented the list of items, grouped according to similar services or circumstances. Items 1-11 represent FY2014-2015 contracts for TCOOMMI services at various facilities, which received funding for additional services during the 83rd Legislative Session. Item 12 represents an increase of \$186,071.00 for additional cans & lids due to an increase of agricultural production at the Terrell Unit cannery in Rosharon. The comptroller's office procured this contract on behalf of the TDCJ. Likewise, for item 13, the Department of Information Resources procured the AT&T contract for increased services in FY2015. Item 14, a renewal of the contract for bulk fuel, includes a 10% variance to allow for fluctuation in the market. Item 15 renewed the contract with ARAMARK Correctional Services, LLC, to provide food services at the Hamilton Unit. Item 16, a continued inter-local \$1.6 million contract with Harris County, provides food services at the Kegans Unit. Items 17 and 18 list the contracts for FY2016 commissary items for which a 10% variance is provided. Dollar amounts are consistent with FY2015 expected expenditures. Item 19 represents the FY2016 AT&T contract for cellular services. Item 20, an inter-agency contract with the Texas Department of State Health Services, provides services for obtaining offender birth certificates. Items 21-26 represent contract renewals for FY2016 halfway house services. Items 27-35, for Substance Abuse Felony Punishment (SAFP) and In Prison Therapeutic Community (IPTC) services, list the contract renewal amounts by facility, and include three new DWI treatment locations. Item 36 renews the substance abuse treatment contract at five state jails, and items 37-38 represent FY2016-2017 renewals with Management and Training Corporation (MTC) for operation and management of the Bridgeport and Kyle Correctional Centers. Item 39 renews the contract with Gateway Foundation for Substance Abuse Treatment services at the South Texas Intermediate Sanction Facility (ISF) in Houston, and items 40 and 41 renew the contracts with MTC for operations and management of both South Texas ISF and West Texas ISF. Items 42-45 renew contracts with Corrections Corporation of America (CCA) for operations and management of privately operated state jails. Item 46 renews the existing contract services at the pre-parole transfer facility in Bridgeport.

Items 47-69 were the renewal contracts for Transitional Treatment Center (TTC) facilities which provide residential, outpatient, or a combination of services for offenders who received SAFP or IPTC programming prior to release. Mr. McGinty noted many TTC facilities provide the Substance Abuse Counseling Program (SACP) which is also available for parole offenders, for relapse prevention. Item 70 lists the FY2016-2017 \$4 million inter-agency contract to match state Medicaid funds with TCOOMMI services provided at local Mental Health Mental Retardation offices. Item 71 renews the existing inter-agency contract with the Texas General Land Office, for natural gas at 40 TDCJ units.

Mr. McGinty discussed item 72, the contract to install video surveillance at the Robertson and Michael units. Last March, the agency released a Request for Proposals which closed in April, for contracts at two additional units. Staff from the Private Facilities Contract Monitoring and Oversight Division (PFCMOD) and the Correctional Institutions Division (CID) reviewed bids from prospective vendors. Sigma Surveillance was again selected as the best value for the

agency. Items 73-77 represent new contracts for the operation and management of the Moore, Cleveland, Diboll, Estes, and Lockhart units. Since the existing contract was scheduled to expire in August, 2015, with no further renewals contained in the agreement, the TDCJ assembled technical and cost teams from the PFCMOD and CID staff. The teams carefully evaluated prospective vendors and are prepared to award contracts for the five facilities, to MTC at roughly the same, and slightly below, current rates.

Mr. McGinty reviewed FY2016 food purchases. He explained the coordination between agricultural, correctional, laundry and food service, warehousing and transportation, budget and procurement operations of the TDCJ, to estimate food needs for the next year. He noted food items are primarily purchased through the comptroller's office, and that the 10% variance compensates for market fluctuation to allow successful negotiation.

Mr. McCombs and the audience applauded Mr. McGinty for Business and Finance Division's expert negotiations with vendors. Chairman Bell echoed appreciation for a job well done, especially regarding the TDCJ's excellent procurement process, and asked if there were any questions. Mr. Gambrell abstained due to his firm's representation of multiple entities on the list. Mr. Vasquez abstained due to his affiliation with coffee traders. Chairman Bell noted both abstentions and, seeing no further questions, called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Judge Thomas Wingate seconded the motion which prevailed when called to a vote.

Chairman Bell thanked Mr. McGinty for his presentation.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.25, Texas Department of Criminal Justice Tobacco Policy

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 151.25, Texas Department of Criminal Justice Tobacco Policy. She noted the rule was updated to include vapor products as equivalent to tobacco, the definition of designated areas was specified as 'outdoor,' and roles of authority and responsibility were clarified to protect the comfort and safety of all employees. Ms. Howell requested the board approve the amended rule for publication in the *Texas Register*.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Janice Harris Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.25, regarding Texas Department of Criminal Justice Tobacco Policy, to receive public comment, as presented.

Carmen Villanueva-Hiles seconded the motion which prevailed unanimously when called to a vote.

2. Section 151.75, Standards of Conduct for Financial Advisors

Ms. Howell presented the proposed amendments to BR-151.75, Standards of Conduct for Financial Advisors. She described amendments to the rule as minor formatting only, and asked the board to approve posting in the *Texas Register* for public comment.

Chairman Bell asked if there were questions. Judge Wingate asked if these standards were required in all state offices. Ms. Howell replied yes, and state governing boards are required to adopt the standards.

Seeing no further questions, Chairman Bell called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.75, regarding Standards of Conduct for Financial Advisors, to receive public comment, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

3. Section 154.1-.12, Private Sector Prison Industries Programs

Ms. Howell presented proposed amendments to BR-154.1-.12, Private Sector Prison Industries Programs. She discussed the 12 rules as a group, and explained the TDCJ was required to adopt standards for operation of the Prison Industry Enhancement Certification Program (PIE). She noted formatting changes; for example, all references to the Texas Youth Commission were updated to the Texas Juvenile Justice Department. She requested board approval to post in the *Texas Register*, for public comment

Chairman Bell asked if there were questions. Judge Wingate sought confirmation there were no substantive changes to the rules. Ms. Howell assured him there were none. Janice Harris Lord asked which units currently have the PIE Program. Ms. Howell replied there were two locations for PIE, both at the Lockhart unit.

Seeing no further questions, Chairman Bell called for a motion and a second.

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code sections 154.1-.12, regarding Private Sector Prison Industries Programs, to receive public comment, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy BP-02.09,
“Prison Rape Elimination Act Ombudsman Policy Statement”

Ms. Howell presented the first revision of BP-02.09, “Prison Rape Elimination Act (PREA) Ombudsman Policy Statement.” She noted the definitions were revised for consistency with the PREA standards. She added there would be no impact on operations, since agency policies were previously updated for compliance with the PREA standards.

Chairman Bell asked if there were questions.

Carmen Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 02.09, “Prison Rape Elimination Act Ombudsman Policy Statement,” as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding Proposed
Land Transactions

1. Request for a Water Pipeline Easement at the Briscoe Unit in Frio County, Dilley, Texas

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request from the city of Dilley, Texas, for an easement allowing one water pipeline at the Briscoe Unit. The city of Dilley agreed to pay \$4,049.00 for an area of 1.437 acres of land, with a 10 year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Thomas Wingate moved the Texas Board of Criminal Justice approve the request for a water pipeline easement at the Briscoe Unit in Frio County, Dilley, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

2. Request for Valve Site Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Demny presented the Phillips 66 Pipeline, LLC request for an easement at the Clemens Unit in Brazoria County, consisting of 0.797 acres of land for road access and a valve site, for \$10,000.00 with a 10-year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions or comments. Eric Gambrell, due to his firm's representation of Phillips 66, abstained from voting. Seeing no further questions, Chairman Bell acknowledged Mr. Gambrell's abstention and called for a motion and a second.

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve the request for a valve site easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Judge Thomas Wingate seconded the motion which prevailed when called to a vote.

Chairman Bell thanked Mr. Demny for his presentation.

Chairman Bell thanked everyone for coming, and announced the next meeting of the TBCJ will be Friday, August 7th, 2015, at the Omni Hotel Downtown in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 179th meeting of the Texas Board of Criminal Justice at 2:09 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Referenced attachments for approved minutes are available upon request from Executive Services, the Office of Record.

Texas Board of Criminal Justice
180th Meeting



Minutes

August 7, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel Downtown Austin – Lone Star Room
700 San Jacinto
Austin, Texas 78701**

**August 7, 2015
1:45 – 3:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 179th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2016 Annual Audit Plan

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Pages 7-8*)

G. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2016 Proposed Operating Budget

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding (*Pages 9-11*)

I. Discussion, Consideration, and Possible Action Regarding Readoption of Board Rule Title 37 Texas Administrative Code Section 195.61, Method of Payment for Parole Supervision & Administrative Fees (*Pages 12-14*)

- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice *(Pages 15-19)*

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions *(Pages 20-27)*
 - 1. Request for Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas
 - 2. Request for Gas Pipeline and Electrical Easements at the Ellis and Estelle Units in Walker County, Huntsville, Texas
 - 3. Request to Amend Electrical Easement (1) at the Scott Unit in Brazoria County, Angleton, Texas
 - 4. Request to Amend Electrical Easement (2) at the Scott Unit in Brazoria County, Angleton, Texas

- L. Discussion, Consideration, and Possible Action Regarding Proposed Facility Division Construction Projects *(Pages 28-41)*
 - 1. Request to Install Fire Alarm System at the Luther Unit in Grimes County, Navasota, Texas
 - 2. Request to Replace Roofs at the Powledge Unit in Anderson County, Palestine, Texas
 - 3. Request to Replace Roofs at the Clements Unit in Potter County, Amarillo, Texas
 - 4. Request to Replace Door Controls at the Bridgeport Unit in Wise County, Bridgeport, Texas
 - 5. Request to Replace Door Controls at the Michael Unit in Anderson County, Tennessee Colony, Texas
 - 6. Request to Replace Locking System at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 7. Request to Replace Locking System at the Stringfellow Unit in Brazoria County, Rosharon, Texas

M. Public Comment

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 180

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, August 7, 2015, at 1:49 p.m. at the Omni Hotel Downtown, Austin, Texas. The board adjourned at 3:03 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Terrell McCombs
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Larry Miles
Thomas P. Wingate

BOARD MEMBERS ABSENT: Carmen Villanueva-Hiles

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Dr. Lannette Linthicum
Mike Bell Bobby Lumpkin
Christopher Cirrito Angie McCown
Jason Clark Jerry McGinty
Matt Demny Oscar Mendoza
Marie Freeland Ron Steffa
Patty Garcia William Stephens
Sharon Howell Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora
Sherry Koenig

OTHERS PRESENT: The Honorable Judge Dale Spurgin, Jones County; Libby Elliott, Office of the Governor; Dr. Clint Carpenter, Superintendent of the Windham School District (WSD); and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 180th meeting of the TBCJ on Friday, August 7, 2015, at 1:49 p.m. He noted a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized Libby Elliott, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Dr. Clint Carpenter, Superintendent of the Windham School District (WSD); and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He noted three registration cards were received for the public comment period later; therefore, the review of the rules for comments to the board would take place at that time.

Recognitions

Chairman Bell introduced Gary Anderson, from the Texas Public Employees Association (TPEA). Mr. Anderson presented a plaque to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), honoring him as the recipient, for the fourth time, of the *Agency Administrator of the Year Award for TPEA*. He explained the role of the TPEA and expressed appreciation to Mr. Livingston for his broad range of experience, excellent leadership, and invaluable advice, especially during the legislative sessions. Chairman Bell, Terrell McCombs, and Janice Harris Lord echoed gratitude to Mr. Livingston for the unique set of skills he brought to the office of the executive director.

Mr. Livingston acknowledged the significant contribution of the TDCJ staff and accepted the award on behalf of the TDCJ.

Jerry McGinty, Chief Financial Officer, recognized and congratulated Sherry Koenig for 30 years of excellent service to the TDCJ, eight of which she has been budget director.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of June and July 2015. On behalf of the TBCJ and Mr. Livingston, he expressed deepest gratitude for their unwavering loyalty and dedication to the citizens of Texas.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 179th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items, which included excused absences for Pastor Larry Miles, from the April 17th meeting, and Judge Larry Gist, from the June 10th meeting, both due to personal business.

Eric Gambrell stated his firm represents several entities listed on the personal property donations for board approval; therefore he would abstain from taking action on the consent items. Pastor Miles acknowledged his affiliation with Trinity Fellowship Church, which donated items presented for consideration, and stated he would abstain from taking action on the consent items. Chairman Bell asked if there were any other objections or amendments. Seeing none, the consent items stand approved, with abstentions from Mr. Gambrell and Pastor Miles.

Report from the Executive Director, TDCJ

Mr. Livingston discussed the FY 2016 pre-service and in-service training curriculum. He stated the correctional officer training curriculum undergoes ongoing review and revision; for example, minor modifications were recently made to ensure officers' full compliance with the standards of the Prison Rape Elimination Act (PREA). Beginning in FY 2016, additional mental health and crisis intervention training will be administered to all correctional officers, and will cover all units. The mental health and crisis intervention component is patterned after the training required for officers who work on units with mentally ill offenders treated in inpatient programs. In order to incorporate the training, duration of the officer pre-service training will expand from 216 hours to 240 hours, while in-service training will dedicate eight additional hours to mental health and crisis intervention. Mr. Livingston stressed the importance of addressing mental health issues of those incarcerated, and said the training will raise the bar in correctional training and provide necessary tools for officers to be even more positive and productive.

Mr. Livingston noted that it has been three weeks since Officer Timothy Davison lost his life in the line of duty at the Telford Unit. He said he visited the unit the day after the tragedy, and witnessed the enormous outpouring of support as everyone who works for the TDCJ felt the impact. He affirmed this was a startling reminder of the danger and daily risk associated with the role of correctional officers. Mr. Livingston offered condolences to Officer Davison's family, friends, and peers.

Report from the Chairman, TBCJ

Fallen Officer Timothy Davison

Chairman Bell offered words of encouragement to the colleagues, family, and friends of Officer Davison, and said he was able to attend the funeral and speak to the family. He described the funeral services, which included an outflow of support from the local community, a color guard from about 14 states, representatives from different law enforcement branches, and many others who came to show their support. Chairman Bell offered a petition for divine care of the fallen, the family, and the communities.

Partnering with Kairos and Other Volunteer Organizations

Chairman Bell shared his experience attending a Kairos event as a guest speaker. He commended the faith based volunteer initiative for its valuable partnership with the TDCJ, and called Kairos volunteers excellent representatives of their faith, who inspire by putting their faith

into action. He emphasized the importance of all the volunteers' contribution to the mission of the TDCJ, and welcomed more volunteers to bring hope and positive influence.

Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2016 Annual Audit Plan

Christopher Cirrito, Internal Audit Division Director, referred to his committee presentation of the proposed FY 2016 annual audit plan. He asked the board if they had any questions or concerns, and if none, he recommended board approval.

Chairman Bell asked if there were questions. Seeing none, he asked for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2016 and authorize the internal audit director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Attachment B – Texas Department of Criminal Justice Internal Audit Division Fiscal Years 2014-2015 Status Report as of 07/27/15

Attachment C – Texas Department of Criminal Justice Internal Audit Division Proposed Fiscal Year 2016 Annual Audit Plan

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty reviewed the purchases and contracts over \$1 million. Item one was an annual contract for bleaching and preshrinking TDCJ-produced fabric. Items two and three were FY 2016-2017 contract renewals for aftercare residential and outpatient substance abuse treatment at two locations. Mr. McGinty grouped items 4-16, the contracts for Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to provide continuity of care and case management at local mental health authorities throughout the state. These contracts include additional legislative funding to increase the number of mental health services to offenders in the community. Items 17 and 18 were based on state funding to establish contracts with community based reentry services in Houston and Dallas. Item 19, an FY 2016-2017 contract renewal for vehicles, at essentially the same cost as FY 2014-2015, focused on freight and offender transportation. Item 20 renewed the \$25 million two-year contract with the Department of Information Resources, funded by the legislature to provide data consolidation services to TDCJ. Item 21 related to the \$5 million, for FY 2015 purchases of laundry and food service equipment, and items 22-25 pertained to Correctional Managed Health Care. Item 22 listed the FY 2014-2015 contract, which provided additional authority and an increase of \$66.7 million to cover increased medical services. Items 23 and 24 consisted of the FY 2016-2017 contracts for

offender medical and mental health care, through Texas Tech University and the University of Texas. Item 25 renewed the contract with Huntsville Memorial Hospital through the Walker County hospital district.

Chairman Bell asked if there were any questions.

Judge Larry Gist referred to the evaluation process established by Bryan Collier, Deputy Executive Director, to measure the success of substance abuse programs. He said this evaluation would be applied to all the substance abuse programs, and hoped to see follow up reports in the future.

Chairman Bell added it is nice to hear a philosophical concept; however, when a program can show measureable results, it gives assurance that money has been spent wisely.

Chairman Bell asked if there were any more questions. Seeing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Janice Harris Lord seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2016 Proposed Operating Budget

Mr. McGinty referred to the earlier presentation during the Business and Financial Operations Committee meeting of the FY 2016 proposed operating budget. He said the \$3.374 billion budget represents an approximate five percent increase compared to FY 2015 spending. He assured the salary increases, treatment programs, reentry initiatives, and additional funding to probation were accounted for, and pledged his staff will work to process the funds promptly and appropriately.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2016 Operating Budget as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Pastor Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding

Sharon Howell, General Counsel, presented Board Rule 163.45, Distribution of Community Corrections Funding. She referenced the board's approval last April to publish the rule in the *Texas Register*, for public comment. Since it appeared in the May 1, 2015, issue and no comments were received, she recommended adoption.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.45, Distribution of Community Corrections Funding, as published in the Texas Register, and that the Chairman sign the order to this effect.

Judge Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Readoption of Board Rule Title 37 Texas Administrative Code 195.61, Method of Payment for Parole Supervision & Administrative Fees

Ms. Howell presented Board Rule 195.61, Method of Payment for Parole Supervision & Administrative Fees. She explained the rule was due for periodic review; however, no proposed amendments were necessary. It appeared in the May 8, 2015, *Texas Register* with no public comments received. Ms. Howell recommended adoption.

Chairman Bell asked if there were questions. Seeing none, he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code Section 195.61, Method of Payment for Parole Supervision & Administrative Fees, as published in the Texas Register, and that the Chairman sign the order to this effect.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice

Ms. Howell presented proposed revisions to Board Rule, 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. She stated the rule was reviewed and conformed to legislation of the 184th Legislative Session, which prohibits the possession of

firearms by anyone other than law enforcement at an open meeting. She recommended publication in the *Texas Register*.

Chairman Bell asked if there were questions. Seeing none, he asked for a motion and second.

Janice Harris Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding a Request for a Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas

Matt Demny, Agribusiness, Land and Minerals Director, presented the easement request from Lone Star NGL Pipeline LP. As discussed earlier in the meeting of the Business and Financial Operations Committee, the company requests to install a natural gas pipeline at the Boyd Unit, consisting of an area of 0.73 acres of land, with an additional temporary workspace. They agreed to pay \$15,556.00 for this easement with a 10 year term. Mr. Demny recommended board approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Boyd Unit in Freestone County, Teague, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Request for a Gas Pipeline and Electrical Easements at the Ellis and Estelle Units in Walker County, Huntsville, Texas

Mr. Demny presented the request, as discussed earlier in committee, from Lone Star NGL Pipeline LP, for two easements at the Ellis and Estelle units, consisting of two tracts of land with a combined area of 4.68 acres, and an additional temporary workspace. The company will install one natural gas pipeline, and one electrical transmission line. For these easements, they have agreed to pay \$108,641.00, both with a 10 year term.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the request for a gas pipeline and electrical easements at the Ellis and Estelle units in Walker County, Huntsville, Texas, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a
Request to Amend Electrical Easement (1) at the Scott Unit in Brazoria
County, Angleton, Texas**

Mr. Demny presented the request from CenterPoint Energy Houston Electric, LLC to amend an existing electrical easement at the Scott Unit by adding 10.913 acres. As discussed earlier in committee, the expansion will accommodate a new electrical substation. The company has agreed to pay \$81,763.00 for this easement amendment with all other terms and provisions remaining in full force and effect. Mr. Demny recommended board approval.

Chairman Bell asked if there were any questions. Eric Gambrell abstained due to his firm's representation of CenterPoint Energy. Seeing no further questions, and noting Mr. Gambrell's abstention, Chairman Bell called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request to amend electrical easement (1) at the Scott Unit in Brazoria County, Angleton, Texas, as presented.

Judge Thomas Wingate seconded the motion which prevailed when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a
Request to Amend Electrical Easement (2) at the Scott Unit in
Brazoria County, Angleton, Texas**

Mr. Demny presented the request, as discussed earlier in committee, from Texas New Mexico Power, to amend an existing electrical easement at the Scott Unit by adding 6.64 acres, to extend an electrical transmission line to the site of an electrical switching station. They have agreed to pay \$49,749.00 for this easement amendment, with all terms and provisions remaining intact.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the request to amend electrical easement (2) at the Scott Unit in Brazoria County, Angleton, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Mr. Demny for his presentations.

**Discussion, Consideration, and Possible Action Regarding a Facilities
Division Construction Project to Install Fire Alarm System at the
Luther Unit in Grimes County, Navasota, Texas**

Frank Inmon, Facilities Division Director, reviewed the job scope and proposed budget, as discussed earlier in the Business and Financial Operations Committee, for the installation of a new unit wide fire alarm system at the Luther Unit, at a cost of \$1,710,500.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,710,500.00 to install a fire alarm system at the Luther Unit in Grimes County, Navasota, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Facilities
Division Construction Project to Replace Roofs at the Powledge Unit in
Anderson County, Palestine, Texas**

Mr. Inmon reviewed the job scope and proposed budget, as presented earlier in committee, for the replacement of 91,204 square feet of deteriorated roofing at the Powledge Unit Industry Building, at a cost of \$1,827,700.00. Mr. Inmon recommended board approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,827,700.00 to replace roofs at the Powledge Unit in Anderson County, Palestine, Texas, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a
Facilities Division Construction Project to Replace Roofs at the
Clements Unit in Potter County, Amarillo, Texas**

Mr. Inmon reviewed the job scope and proposed budget, as discussed earlier in the Business and Financial Operations Committee, for replacement of deteriorated roofing on buildings of the Clements Unit, at a cost of \$8,924,900.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Janice Harris Lord moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$8,924,900.00 to replace roofs at the Clements Unit in Potter County, Amarillo, Texas, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Facilities
Division Construction Project to Replace Door Controls at the
Bridgeport Unit in Wise County, Bridgeport, Texas**

Mr. Inmon reviewed the job scope and proposed budget, as discussed earlier in committee, for replacement of door controls at the Bridgeport Unit, at a cost of \$2,011,000.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,011,000.00 to replace door controls at the Bridgeport Unit in Wise County, Bridgeport, Texas, as presented.

Judge Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Facilities Division
Construction Project to Replace Door Controls at the Michael Unit in
Anderson County, Tennessee County, Texas**

Mr. Inmon reviewed the job scope and proposed budget, as discussed earlier in committee, for replacement of door controls at the Michael Unit, at a cost of \$6,549,500.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$6,549,500.00 to replace door controls at the Michael Unit in Anderson County, Tennessee Colony, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Locking system at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Inmon reviewed the job scope and proposed budget, as discussed earlier in committee, for replacement of the locking system at the Ramsey Unit, at a cost of \$2,608,800.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,608,800.00 to replace the locking system at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Locking System at the Stringfellow Unit in Brazoria County, Rosharon, Texas

Mr. Inmon reviewed the job scope and proposed budget, as discussed earlier in committee, for replacement of the locking system at the Stringfellow Unit, at a cost of \$1,227,766.00. Mr. Inmon recommended approval.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,227,766.00 to replace the locking system at the Stringfellow Unit in Brazoria County, Rosharon, Texas, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell commended Mr. Inmon for his presentations in the committee as well as the regular session.

Public Comments

Chairman Bell reviewed the rules concerning public comments.

Yancy Escobar asked for the rules for death row inmates to be changed to allow phone privileges, to keep them from feeling alienated from family. She stressed the importance of staying in contact with incarcerated loved ones. Ms. Escobar stated the holidays are difficult for the family. She asked for consideration of more humane housing.

Pat Hartwell, spoke about the conditions at the Polunsky Unit. She complimented the Polunsky mail room for their improvement, and commended Warden Harris for his sincere efforts to address complaints. Ms. Hartwell asked for a copy of the final inspection report of a cell which she was told had not been properly cleaned from the previous occupant, and had a closed vent due to a leak in the air system. Regarding the visitation room, she said the address posted for the American Correctional Association (ACA) was outdated, and the unit's vending machines were often inoperable, and had over-priced, outdated food. Ms. Hartwell stated she would submit a copy of a detailed letter of her presentation, as well as a letter she received from an offender, listing other issues.

Hepsibah Hoffman Rogers introduced herself as president of the Friends of Paws in Prison Charity, dedicated to supporting the Paws in Prison Program at the Lockhart Unit. Ms. Hoffman explained the program brings shelter dogs into the facility to be trained by female inmates, then the dogs are adopted into the community. She stated she has been a volunteer trainer for the program since its inception seven years ago, with the GEO Group managing the unit. When the contract was awarded recently to Management and Training Corporation (MTC), Ms. Rogers began meeting with MTC regarding program continuation. Although community support covers operational cost, the program director's salary is in question. Ms. Rogers attested a full time director is necessary to the success of the program. She urged the board to construct a process of bidding contracts that involves providers of existing programs. She listed benefits of rehabilitation programs involving animals, and urged the TDCJ to promote them. She offered a signed petition of community supporters for the program.

Chairman Bell thanked all the public speakers and urged them to submit any documentation associated with their topic in order to ensure a written response from the board.

Chairman Bell thanked everyone for attending, and announced the next meeting of the TBCJ would be Thursday, October 15, 2015, at the Courtyard Marriott Downtown, in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 180th meeting of the TBCJ at 3:03 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Referenced attachments for approved minutes are available upon request from Executive Services, the Office of Record.

Texas Board of Criminal Justice
181st Meeting



Minutes

October 15, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Courtyard & Residence Inn Marriott – Rio Ballroom
300 East 4th Street
Austin, Texas 78701**

**October 15, 2015
12:00 – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 180th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2014 – 2016

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 8*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-14.01, "Investment Policy" (*page 9-34*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy (*page 35-104*)

1. TDCJ *Offender Visitation Plan*
2. BP-01.04, "Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice"
3. BP-11.76, "Texas Department of Criminal Justice Benefit Policy"

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

- I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code (*page 105-129*)
 - 1. 151.25, Texas Department of Criminal Justice Tobacco Policy
 - 2. 151.75, Standards of Conduct for Financial Advisors and Service Providers
 - 3. 154.1-9, Private Sector Prison Industries Programs
 - 4. 154.11, Program Compliance

- J. Discussion, Consideration, and Possible Action Regarding Readoption of Amendments to Board Rules Title 37 Texas Administrative Code (*130-136*)
 - 1. 154.10, Cost Accounting Centers Policies and Procedures
 - 2. 154.12, Compliant Investigations

Recess/Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 181

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, October 15, 2015, at 12:00 p.m. at the Courtyard & Residence Inn Marriott, in Austin, Texas and adjourned at 1:13 p.m.

TBCJ MEMBERS PRESENT:

Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Eric Gambrell
Judge Larry Gist
Larry Miles
Derrellynn Perryman
Thomas P. Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Rudolph Brothers
Christopher Cirrito
Jason Clark
Marie Freeland
Patty Garcia
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Bobby Lumpkin
Angie McCown
Jerry McGinty
Oscar Mendoza
Madeline Ortiz
Ron Steffa
William Stephens
Bruce Toney
Carey Welebob
April Zamora

OTHERS PRESENT:

Mike Goldman, Office of the Governor; David Gutierrez, Presiding Officer, Texas Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Dr. Clint Carpenter, Windham School District Superintendent; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 181st meeting of the Texas Board of Criminal Justice (TBCJ or board) on Thursday, October 15, 2015, at 12:00 p.m., noted a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open*

Meetings Act. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Wainwright recognized Mike Goldman, Office of the Governor; David Gutierrez, Presiding Officer, Texas Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Dr. Clint Carpenter, Windham School District Superintendent; and members of the media.

Chairman Wainwright stated the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no speaker registrations cards were received, no public comments on the posted agenda topics were heard.

Recognitions

Chairman Wainwright introduced himself, Tom Fordyce, and Derrellynn Perryman, the new board members recently appointed by Governor Abbott, to replace Oliver Bell, Carmen Villanueva-Hiles, and Janice Harris Lord, respectively. He conveyed well wishes from the former chairman, Oliver Bell. Each new member expressed enthusiasm for the honor and opportunity to serve.

Chairman Wainwright recognized former board member, Carmen Villanueva-Hiles, for her outstanding leadership and dedicated service to the TBCJ and the state of Texas. He presented her with a resolution of commendation. Terrell McCombs stated it was an honor to serve with Carmen, and that she added a human touch to the board touching many lives, including offenders and TDCJ staff. Judge Wingate agreed Carmen offered her compassion and her professionalism to the board. Carmen thanked them for the kind words, and called serving on the TBCJ an amazing experience.

Chairman Wainwright recognized former board member, Janice Harris Lord, for her excellent leadership and devoted service to the TBCJ and the state of Texas, especially her innovation in victim services operations. He presented her with a resolution of commendation. Mr. McCombs expressed appreciation for Janice's expertise in victim services and offender medical care. Judge Gist echoed best wishes and gratitude to Janice for bringing the issue of victims' rights to the foreground. Larry Miles thanked both Carmen and Janice for their warm welcome when he was appointed to the TBCJ. Ms. Lord thanked the board for the kind words, and voiced confidence for the continued success of victim services in the TDCJ, with Angie McCown as Victim Services Division Director, and with Derrellynn Perryman serving on the TBCJ.

Chairman Wainwright recognized Brad Livingston, Executive Director, Texas Department of Criminal Justice (TDCJ or agency), for excellence as a corrections administrator. In August, 2015, he received the 2015 *Edward R. Cass Correctional Achievement Award*, from the American Correctional Association. In September, 2015, he received the *Michael Francke Award*, from the Association of State Correctional Administrators. Both prestigious national awards constitute the organization's highest honor bestowed for innovative, excellent, professional leadership. Chairman Wainwright congratulated Mr. Livingston for a job well

done. Mr. Livingston thanked the board and credited the TDCJ team of quality executive administrators, directors, and staff, for their integral role.

Mr. Livingston presented Bobby Lumpkin with his 25 year service award, and recognized him for his outstanding senior leadership traits. He traced Mr. Lumpkin's career path and commended him for the willingness to respond to challenges across a wide scope of responsibility.

Chairman Wainwright recognized Lynne Sharp, PREA Ombudsman, for 25 years of service. He listed her accomplishments and career steps, and thanked her for her commitment and dedicated service to the TDCJ and to the state of Texas.

William Stephens, Correctional Institutions Division (CID) Director, recognized Lori Davis, Cody Ginsel, and Tracy Bailey, for recent promotions within the CID management team. Mr. Stephens introduced Ms. Davis as the new Deputy Director of CID Support Operations, recounting her education and career path through security and management. He introduced Cody Ginsel as the new Deputy Director of Management Operations, tracing his education and career path through security ranks and management positions. He introduced Tracy Bailey as the new Director of Correctional Training and Staff Development, tracing her education and promotions through security and management. He listed their new areas of responsibility and commended all three for their dedication and commitment to the TDCJ.

Chairman Wainwright recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of August and September 2015. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 180th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Wainwright asked if there were any amendments, objections, or abstentions to the consent items as presented. Eric Gambrell stated his firm represents several entities listed on the personal property donations list; therefore, he must abstain from taking action on the consent items. Chairman Wainwright acknowledged Mr. Gambrell's abstention. Pastor Larry Miles stated items for donation by Trinity Fellowship Church appear on the personal property donations list; therefore, he would abstain from taking action on the consent items. Chairman Wainwright acknowledged Pastor Miles' abstention and, seeing no further questions, stated the consent items stand approved, with abstentions from Mr. Gambrell and Pastor Miles.

Report from the Executive Director, TBCJ

Prison Rape Elimination Act (PREA) Audits Update

Mr. Livingston reported the status of the audit process for PREA standards in TDCJ facilities. He explained that TDCJ's efforts to prevent, detect, and respond to sexual abuse in a correctional setting predate the 2012 establishment of the 265 PREA standards and sub-standards; however, a few necessary operational changes were implemented for full compliance. Youthful offenders within state jails were placed in dedicated housing areas; opposite gender staff must "knock and announce" their presence as they enter housing areas; and every jurisdiction's secure confinement facilities must be audited every three years by independent auditors certified by the U.S. Department of Justice. Currently, 37 TDCJ facilities have completed the PREA audit process, and met or exceeded the standards. Two units have auditors on site this week, seven additional facilities are pending receipt of the final report, and four facilities have been scheduled for audits by the end of the year, bringing the total to 50. Mr. Livingston voiced his expectation of all remaining TDCJ units successfully completing PREA audits over the next 2 years, with full compliance. He added PREA audit findings are posted on the agency website, and the workforce is updated on the progress of the audits. Mr. Livingston acknowledged the hard working and dedicated staff on all the facilities, who keep the prison environment safe.

Public Awareness - Corrections Today (PACT) Conference Update

Mr. Livingston reported the PACT conference was held Saturday, October 3, 2015, at Sam Houston State University. The event, coordinated by the TDCJ Ombudsman Office, offers opportunities for offenders' families to visit directly with TDCJ staff, volunteers, and advocates, to answer questions and offer informative presentations on aspects of agency operations, policies, procedures, offender health, and rehabilitation programs. Offenders' families have often expressed their appreciation for the PACT conference. In attendance this year were more than 250 participants, as well as approximately 200 TDCJ staff members, including division directors and deputy division directors. Mr. Livingston thanked the Ombudsman's Office, other TDCJ staff, and the Texas Board of Pardons and Paroles for their participation.

Chairman Wainwright asked if there were any questions. Seeing none, he thanked Mr. Livingston for his report.

Report from the Chairman, TBCJ

Chairman's Fitness Challenge

Chairman Wainwright conveyed his enthusiasm for the former chairman's WIN Fitness Challenges, and shared plans to continue the pace. He announced the kick-off theme for the FY 2016 first quarter challenge for TDCJ and WSD employees, "Commit to be Fit." The challenge began Monday, October 5th, and ends Sunday, November 15th. Successful completion of this challenge requires 200 points per week, reported to the WIN representative. Administrative leave is awarded to every employee that completes the challenge. Chairman Wainwright challenged himself to start with 1,000 points per week, but welcomed employees, and fellow

board members, to the platinum challenge of 2,500 points per week. He stated he looked forward to working with board members and department employees for improved overall health, and hopefully many years of service with the TDCJ.

Internal Audit Status Report for Fiscal Years 2014-2016

Christopher Cirrito, TDCJ Internal Audit Division Director, reviewed the October 6, 2015, Internal Audit Division status report, noting the following updates:

- **1511 – Community Justice Assistance Division, Fiscal Management-CSCD Insurance:** *Audit has moved to report writing.*
- **1516 - Community Justice Assistance Division, Financial Management Reporting:** *Audit has moved to control assessment.*
- **1519 – Administrative Review and Risk Management, Use of Force Review Follow Up:** *Audit has moved to field work.*

Mr. Cirrito asked if there were any questions. Mr. McCombs noted the number of audits and asked Mr. Cirrito if the staff was managing the workload. Mr. Cirrito replied yes, the division was fully staffed, except for a deputy director, for which interviews were conducted and selection is under consideration. Mr. McCombs commended Mr. Cirrito and the internal audit staff for a job well done, and Chairman Wainwright thanked him for the update.

(Attachment B – Internal Audit Status Report, Fiscal Years 2014-2016, Status as of 10/06/15)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, Chief Financial Officer, provided a briefing on the purchases and contracts over \$1 million. In response to FY 2016-2017 legislative appropriations of \$60 million for major repair of facilities, the first three items were increases to current contracts, for design professional services at facilities, to add services and extend construction through FY 2016. The fourth item increased the FY 2015 contract with the Department of State Health Services (DSHS) to provide offender birth certificates, due to the need for more birth certificates. The fifth item, a contract for FY 2016-2021, was to lease printing equipment to the Hobby Unit Printing Facility. The contract cost is expected to be recovered through product sales to other agencies. The last two contracts relate to additional funds received from the legislature to extend treatment to all offenders in Intermediate Sanction Facilities (ISF) and expand Driving While Intoxicated Recovery Program (DWI) treatment by 500 slots. By way of these two contracts to be awarded to the Management and Training Corporation, and modification of existing contracts, 1,000 additional ISF offenders will receive needed cognitive or substance abuse programming, and 500 additional slots for DWI will be added.

Chairman Wainwright asked Mr. McGinty to elaborate on the increase for offender birth certificates. Mr. McGinty provided a brief history of the agency's efforts to provide every offender with proper identification upon their departure. After receiving funds for an estimated

50,000 birth certificates, Reentry and Integration Division was able to process approximately 55,000 by the end of FY 2015, slightly more than expected.

Mr. McCombs asked for the average cost of providing a birth certificate and state ID to one offender. Mr. McGinty stated each birth certificate costs \$22; however, there is no significant cost for a Social Security card, or for a state ID, since the equipment was acquired through a grant from the governor's office.

Mr. McCombs inquired if the first three items fall under the oversight and budget of the Facilities Division. Mr. McGinty confirmed it does. Judge Gist asked if the vendors awarded for the ISF treatment and DWI treatment had history with the TDCJ, and if their success had been evaluated by the criteria developed with Bryan Collier. Mr. McGinty assured yes, and their past performance was considered when choosing them.

Chairman Wainwright asked if there were any more questions or comments, and seeing none, called for a motion and a second. Eric Gambrell abstained from taking action, due to his firm's representation of Jacobs Engineering Group.

Chairman Wainwright acknowledged the abstention from Mr. Gambrell.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Thomas Wingate seconded the motion, which, except for the abstention of Eric Gambrell, prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Annual Review of Board Policy 14.01, "Investment Policy," and
Resolution Adopting the Investment Policy**

Mr. McGinty presented the proposed revision to BP-14.01, "Texas Department of Criminal Justice Investment Policy," and resolution to adopt, noting that it closely mirrors Chapter 2256 of the Public Funds Investment Act which requires the agency to have a board policy regarding investments, and also requires an annual review. Although no substantive revisions were made to the policy, the signature was updated and minor grammatical and formatting changes were made.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez moved that the TBCJ approve the resolution adopting the investment policy, as presented, and that the chairman and secretary sign the resolution adopting the policy.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to the TDCJ Offender Visitation Plan

Sharon Howell, General Counsel, presented proposed revisions to the TDCJ *Offender Visitation Plan*, made in response to House Bill 634 from the last legislative session. The bill required a legal guardian to be permitted to visit an offender even if the guardian was not on the offender's visitation list. Additionally, some of the definitions and charts were clarified, as well as language regarding the recognition of marriages by proxy that are performed in other states.

Chairman Wainwright asked Ms. Howell to explain the issue with marriages by proxy. Ms. Howell replied Texas no longer allows offenders to be married by proxy; however, TDCJ upholds marriages already performed by any of the four states where it is still recognized. Chairman Wainwright asked if it was due to the full faith and credit clause. Ms. Howell confirmed it was.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the revisions to the TDCJ Offender Visitation Plan, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy-01.04, "Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice"

Ms. Howell presented the proposed revisions to BP-01.04, "Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice." The policy was revised pursuant to Senate Bill 20 from the last legislative session. Although TDCJ was already compliant with the most of the bill, the policy was updated to include a new requirement that board members and certain agency staff sign a form disclosing their financial interests. The policy was also updated to reflect the statutory language regarding financial conduct.

Chairman Wainwright asked if there were any questions. Mr. Wingate asked Ms. Howell specifically how much financial information was required regarding the spouse of a family member. Ms. Howell acknowledged the language was broad, and offered to follow up with a legal interpretation.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.04, "Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice," as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy-11.76, "Texas Department of Criminal Justice Benefit Policy"

Ms. Howell presented BP-11.76, "Texas Department of Criminal Justice Benefit Policy." She noted House Bill 3978 required state agencies to have a strict policy if they permit employee tuition reimbursement. TDCJ does not offer tuition reimbursement, therefore a statement to that effect was added to the employee benefit policy.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 11.76, "Texas Department of Criminal Justice Benefit Policy," as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.25, Texas Department of Criminal Justice Tobacco Policy

Ms. Howell presented Board Rule 151.25, Texas Department of Criminal Justice Tobacco Policy. The amendments were approved at the June 2015 board meeting, and authorized to be published in the *Texas Register* for public comment. They appeared in the July 3, 2015, issue. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Judge Gist moved that the Texas Board of Criminal Justice adopt the amendments to Board Rule Title 37 Texas Administrative Code Section 151.25, Texas Department of Criminal Justice Tobacco Policy, as published in the Texas Register, and that the Chairman sign the order to this effect.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rule Title 37 Texas Administrative Code Section
151.75, Standards of Conduct for Financial Advisors and Service Providers**

Ms. Howell presented Board Rule 151.75, Standards of Conduct for Financial Advisors and Service Providers. The amendments were approved at the June 2015 board meeting, and authorized to be published in the *Texas Register* for public comment. They appeared in the July 3, 2015 issue. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt the amendments to Board Rule Title 37 Texas Administrative Code Section 151.75, Standards of Conduct for Financial Advisors and Service Providers, as published in the Texas Register, and that the Chairman sign the order to this effect.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rules Title 37 Texas Administrative Code Section
154.1-9, Private Sector Prison Industries Programs**

Ms. Howell presented Board Rules 151.1-9, Private Sector Prison Industries Programs. The amendments were approved at the June 2015 board meeting, and authorized to be published in the *Texas Register* for public comment. They appeared in the July 3, 2015 issue. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with final adoption of the rules.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice adopt the amendments to Board Rules Title 37 Texas Administrative Code Section 154.1-9, Private Sector Prison Industries Programs, as published in the Texas Register, and that the Chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 154.11, Program Compliance

Ms. Howell presented Board Rule 154.11, Program Compliance. The amendments were approved at the June 2015 board meeting, and authorized to be published in the *Texas Register* for public comment. They appeared in the July 3, 2015, issue. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt the amendments to Board Rule Title 37 Texas Administrative Code Section 154.11, Program Compliance, as published in the Texas Register, and that the Chairman sign the order to this effect.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Readoption of Board Rule Title 37 Texas Administrative Code Section 154.10, Cost Accounting Centers Policies and Procedures

Ms. Howell presented Board Rule 154.10, Cost Accounting Centers Policies and Procedures. The rule was published in the June 26, 2015, issue of the *Texas Register*, with no suggested amendments. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with readoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Mr. McCombs asked Ms. Howell if the internal accounting procedures were in accordance with generally accepted accounting principles. Ms. Howell referred the question to Mr. McGinty, who replied certainly.

Seeing no further questions, Chairman Wainwright called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code Section 154.10 regarding the Cost Accounting Centers Policies and Procedures, as presented, and that the Chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Readoption of Board Rule
Title 37 Texas Administrative Code Section 154.12, Compliant Investigations**

Ms. Howell presented Board Rule 154.12, Compliant Investigations. The rule was published in the June 26, 2015, issue of the *Texas Register*, with no suggested amendments. Thirty days passed, with no public comments received. Ms. Howell asked the board to move forward with readoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code Section 154.12 regarding Compliant Investigations, as presented, and that the Chairman sign the order to this effect.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked Ms. Howell for her presentations.

Chairman Wainwright thanked everyone for attending and announced the next meeting of the TBCJ will be Thursday, December 10, 2015, at the Courtyard & Residence Inn Marriott, in Austin.

Adjournment

There being no further business for the regular session, Chairman Wainwright recessed the 181st meeting of the TBCJ at 1:13 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Referenced attachments for approved minutes are available upon request from Executive Services, the Office of Record.

Texas Board of Criminal Justice
182nd Meeting



Minutes

December 10, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Courtyard & Residence Inn Marriott – Rio Ballroom, Pecos Room
300 East 4th Street
Austin, Texas 78701

December 10, 2015
12:15 – 2:45 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Rio Ballroom

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-8*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 181st TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2016

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 9*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies (*pages 10-30*)

1. BP-01.01, “Texas Board of Criminal Justice Responsibilities”
2. BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice”
3. BP-02.06, “Request for Attorney General Opinions”
4. BP-03.77, “Offender Grievances”

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code (*pages 31-37*)

1. 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender
2. 195.71, Drug and Alcohol Testing

- I. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rules Title 37 Texas Administrative Code (*pages 38-45*)
 - 1. 195.72, Admission of Use Form
 - 2. 195.73, Drug and Alcohol Testing
 - 3. 195.74, Training
 - 4. 195.75, Chain of Custody
 - 5. 195.76, Safety
 - 6. 195.77, Data Collection
 - 7. 195.78, Procedural Manual

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code BR-151.4, Public Presentations and Comments to the Texas Board of Criminal Justice (*pages 46-51*)

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions (*pages 52-59*)
 - 1. Request to Renew Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 2. Request to Renew Sanitary Sewer Line Easement at TDCJ Headquarters Complex in Walker County, Huntsville, Texas
 - 3. Request to Renew Gas Pipeline Easements at the Boyd Unit in Freestone County, Teague, Texas
 - 4. Request Transfer of Land at the Jester Unit in Fort Bend County, Richmond, Texas

- L. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects (*pages 60-63*)
 - 1. Request to Replace Door Controls at the Billy Moore Unit in Rusk County, Overton, Texas
 - 2. Request to Replace Roofs at the Robertson Unit in Jones County, Abilene, Texas

II. Executive Session – Pecos Room

- A. The TBCJ may convene into Executive Session.

- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).

- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

Chairman Wainwright stated the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no speaker registrations cards were received, no public comments on the posted agenda topics were heard.

Recognitions

Christopher Cirrito, Internal Audit Division Director, introduced and recognized Larry Douglas, Internal Audit Deputy Division Director. He highlighted Mr. Douglas's education, career experience, accomplishments, and certifications, then expressed his enthusiasm to have him join the team. On behalf of the board, Chairman Wainwright welcomed him.

Chairman Wainwright recognized the Texas Department of Criminal Justice (TDCJ or agency) employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2015. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the dedicated service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 181st TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Wainwright noted the excused absence of Carmen Villanueva Hiles from the August 7, 2015 TBCJ meeting. He asked for any amendments or objections to the other consent items as presented. Eric Gambrell stated he must abstain from taking action due to his firm's representation of entities listed in the personal property donations. Chairman Wainwright acknowledged the abstention of Mr. Gambrell and, hearing nothing further, the consent items stand approved as posted in the meeting agenda.

Report from the Executive Director, TDCJ

Brad Livingston, Executive Director, applauded the efforts and generosity of the TDCJ staff, not only during the holiday season, but throughout the year. He provided an overview of the State Employee Charitable Campaign (SECC), which gives employees the annual opportunity, during September and October, to view a wide variety of non-profit organizations, and donate to the charity of their choice. He reported that in 2015, for the first time in the 22 year history of SECC, TDCJ employee contributions exceeded \$1 million dollars through a combination of payroll deduction, fundraising events, or cash donations. Mr. Livingston thanked all the employees, including those in correctional facilities, district parole offices, and administrative

offices in Huntsville and Austin, for their public spirited giving, their acts of kindness, and for representing the agency and the state with distinction.

Chairman Wainwright thanked Mr. Livingston for the report and echoed thanks to all TDCJ employees for their outstanding effort.

Report from the Chairman, TBCJ

Highlights of the TDCJ

Chairman Wainwright highlighted history and accomplishments of the TDCJ. He traced the shift from the focus of punishment only, to the emergence of innovative rehabilitation, diversion, education, treatment, and reentry programs, along with more than 20,000 volunteers actively serving in faith based and other supportive organizations. He reported over the past few years: the offender population decreased such that three correctional facilities were closed; the number of offenders housed in administrative segregation decreased by 40%; a graduated sanctions policy reduced the number of parole revocations for technical violations; a safe prisons program was established in response to the Prison Rape Elimination Act (PREA); and the Texas Risk Assessment System implemented custom case management for offenders. As agency rehabilitation and reentry programs expanded, community partnerships with universities and local businesses were built. Chairman Wainwright reported the recidivism rate for Texas, currently 21.4%, is among the lowest in the nation. He added, the 10.5% increase last September for correctional and parole officer salaries, marked a 57% increase since 2004 for entry level correctional officers, and nearly a 40% increase to the maximum officer salary. Furthermore, in August, 2014, the TDCJ, having achieved agency-wide accreditation from the American Correctional Association (ACA), received ACA's prestigious *Golden Eagle Award*. Finally, independent auditors have so far visited 41 Texas facilities in connection with the PREA program, and the TDCJ has met or exceeded the national standards pursuant to the PREA at all of the facilities. Chairman Wainwright acknowledged the relentless commitment of the leadership and staff of the TDCJ to improve, plan, innovate, and achieve.

On behalf of the board, Chairman Wainwright thanked Mr. Livingston, the 38,000 dedicated staff of the TDCJ and volunteers, and expressed appreciation for a job well done. He conveyed warm holiday wishes and urged each TDCJ employee to take the opportunity to take time to enjoy family and friends.

Chairman's Fitness Challenge

Chairman Wainwright commended the employees of the TDCJ for the success of the first quarter of the 2016 Chairman's Fitness Challenge, "Commit to be Fit." He announced winners of each division and challenged fellow board members and all staff to pledge their commitment to the goal of a healthier lifestyle. The second quarter challenge, "One Step at a Time, Stay Focused," will require a minimum of 225 points per week, and will begin after the holidays.

Internal Audit Status Report for Fiscal Years 2015-2016

Christopher Cirrito, TDCJ Internal Audit Division Director, reviewed the December 1, 2015, Internal Audit Division status report, and provided the following updates:

- **1512 - Parole Division**, *Detainers: Audit status moved to draft report.*
- **1513 - Correctional Institutions Division**, *Security Threat Group: Audit status moved to draft report.*
- **1518 - Parole Division**, *Sex Offender Caseload: Audit status moved to background.*
- **1519 - Administrative Review and Risk Management**, *Use of Force Review Follow Up: Audit status moved to report writing.*
- **1604 - Facilities Division**, *Employee Licensing and Certification: Audit status moved to background.*

Chairman Wainwright asked if there were questions. Hearing none, he thanked Mr. Cirrito for his report.

(Attachment B – Internal Audit Status Report, Fiscal Years 2015-2016, Status as of 12/01/15)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Jerry McGinty, TDCJ Chief Financial Officer, discussed the purchases and contracts over \$1 million. The first item provides a \$3.2 million increase to an existing two year contract with 3M Electronic Monitoring, Inc. for increased use of services. Items two and three relate to legislatively approved funding received for cognitive intervention treatment at Intermediate Sanction Facilities (ISF). South Texas ISF, Houston, will receive treatment funding for 100 additional offenders, through a modified treatment contract with Gateway Foundation; and West Texas ISF, in Brownfield, will receive funding for 275 offenders through a modified contract with Management and Training Corporation (MTC), to operate and manage treatment. This funding will allow every ISF offender in these two facilities to receive either substance abuse or cognitive intervention treatment. The fourth item, in response to legislative funding, will help meet the agency goal of updating agency computers. Mr. McGinty stated readiness, upon approval, to purchase 2,800 computers by soliciting vendors from the DIR vendor list, and the state procurement posting website.

Chairman Wainwright thanked Mr. McGinty for the report and asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities”

Chairman Wainwright announced the discussion of Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities” would occur at the next TBCJ meeting.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice”

Sharon Howell, General Counsel, presented Board Policy BP-01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice.” She indicated the policy was due for periodic review and reported only grammatical, signature, and formatting updates, with no substantive revisions.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.03, “Delegation of Authority to Manage and Administer the Texas Department of Criminal Justice,” as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-02.06, “Request for Attorney General Opinions”

Ms. Howell presented Board Policy BP-02.06, “Request for Attorney General Opinions.” She noted the periodic review required only grammatical, signature, and formatting updates, with no substantive revisions to the policy.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 02.06, “Request for Attorney General Opinions,” as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-03.77, “Offender Grievances”

Ms. Howell presented Board Policy BP-03.77, “Offender Grievances.” She indicated the periodic review required minimal revisions, none substantive.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.77, “Offender Grievances,” as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender

Ms. Howell presented the proposed amendments to Board Rule 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender. She stated the periodic review required only minimal amendments, none substantive.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 156.1, regarding Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender, to receive public comment, as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 195.71, Drug and Alcohol Testing

Ms. Howell presented proposed amendments to Board Rule 195.71, Drug and Alcohol Testing. She explained in reviewing chapter 195, the set of rules, 195.71-195.78 were consolidated into one rule, 195.71, to govern the drug and alcohol testing program administered by the Parole Division. Substantive changes include the addition of a new purpose statement and the addition of language indicating drugs involved in the testing program would not be listed in the rule, but

would be identified by the Board of Pardons and Paroles. Ms. Howell explained the suggested amendments eliminate the need for the remaining rules in the chapter; therefore, a request to repeal those rules would follow discussion of this rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 195.71, regarding Drug and Alcohol Testing, to receive public comment, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rules Title 37 Texas Administrative Code Sections 195.72-.78, Concerning Drug and Alcohol Testing of Offenders Under Supervision of the Texas Department of Criminal Justice Parole Division.

Ms. Howell presented the proposed repeal of Board Rules 195.72-.78, concerning Drug and Alcohol Testing of Offenders Under Supervision of the TDCJ Parole Division. She referred to the discussion of the previous rule, and recommended repeal of the remaining rules in the chapter as they are no longer necessary.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed repeal of Board Rules Title 37 Texas Administrative Code Sections 195.72-.78, concerning drug and alcohol testing of offenders under supervision of the Texas Department of Criminal Justice Parole Division, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice

Ms. Howell presented proposed amendments to Board Rule 151.4, Public Presentations and Comments to the Texas Board of Criminal Justice. She stated approval of the proposed minutes occurred at the August TBCJ meeting, and the amended rule appeared in the August 21, 2015

issue of the *Texas Register*. Thirty days passed, with no public comments received; therefore, she recommended final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 151.4, regarding Public Presentations and Comments to the Texas Board of Criminal Justice, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request to Renew Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request from Lusk Nominee Trust, to renew an existing electrical easement with another 10-year term, at the Ramsey Unit in Rosharon, Texas. They have agreed to pay \$2,019. Mr. Demny recommended the board approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the renewal of an electrical easement at the Ramsey Unit in Brazoria County, Rosharon, Texas.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request to Renew Sanitary Sewer Line Easement at TDCJ Headquarters Complex in Walker County, Huntsville, Texas

Mr. Demny presented the City of Huntsville request to renew, with another 10-year term, a sanitary sewer line at the TDCJ Headquarters Complex, to continue to provide service to rest areas located on Interstate 45, north of Huntsville. They have agreed to pay \$3,217 for an area equivalent to 0.372 acre. Mr. Demny referred to the board's discussion during the Business and Financial Operations Committee meeting, and recommended they approve the request.

Chairman Wainwright recalled the committee discussion and asked Terrell McCombs to share his comments regarding negotiations with the City of Huntsville. Mr. McCombs commended Mr. Demny and the Agribusiness, Land and Minerals Department staff, for their professionalism, and for securing full value for the agency.

Chairman Wainwright asked if there were questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the renewal of a sanitary sewer line easement at TDCJ headquarters complex in Walker County, Huntsville, Texas, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request to Renew Gas Pipeline Easements at the Boyd Unit in Freestone County, Teague, Texas

Mr. Demny presented the request from Trend Gathering and Treating, LLC, to renew two existing natural gas pipeline easements at the Boyd Unit, in Teague, Texas, each with another 10-year term. They have agreed to pay \$125,735 for an area of 5.94 acres. Mr. Demny recommended the board approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the renewal of gas pipeline easements at the Boyd Unit in Freestone County, Teague, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request for Transfer of Land at the Jester Unit in Fort Bend County, Richmond, Texas

Mr. Demny presented the request that the TDCJ donate certain tracts of land at the Jester Unit to Fort Bend County, in accordance with HB 2547, passed by the 84th Legislature. The county may use the 17.82 acres only for a public road and utility right-of-way, or ownership automatically reverts to the TDCJ. The bill includes constructive provisions addressing the conversion of agency owned utilities, agency access to facilities, and agency required easements. Mr. Demny recommended the board approve the transfer.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the transfer of land at the Jester Unit in Fort Bend County, Richmond, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Door Controls at the Billy Moore Unit in Rusk County, Overton, Texas

Frank Inmon, Facilities Division Director, referred to his briefing during the Business and Financial Operations Committee meeting, and asked the board to approve the project to replace door controls at the Billy Moore Unit, in Overton, Texas, for a total cost of \$2,481,500.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,481,500 to replace door controls at the Billy Moore Unit in Rusk County, Overton, Texas, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Roofs at the Robertson Unit in Jones County, Abilene, Texas

Mr. Inmon referred to his briefing during the Business and Financial Operations Committee meeting, and asked the board to approve the project to replace roofs at the Robertson Unit, in Abilene, Texas, for a total cost of \$10,259,700.

Chairman Wainwright acknowledged this was a large job, and asked how many offenders are housed at the Robertson Unit. Mr. Inmon replied it was one of the larger units, and houses at least 2,500.

Hearing no further questions, Chairman Wainwright called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$10,259,700 to replace roofs at the Robertson Unit in Jones County, Abilene, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for attending, wished all a happy holiday, and announced the next meeting of the TBCJ will be Friday, February 19, 2016, at the Omni Downtown in Austin, Texas.

Adjournment

There being no further business for the regular session, Chairman Wainwright adjourned the 182nd meeting of the TBCJ at 12:59 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
183rd Meeting



Minutes

February 19, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Omni Hotel Downtown Austin – Longhorn Room, Executive Board Room
700 San Jacinto Street
Austin, Texas 78701

February 19, 2016
11:30 AM – 1:30 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Longhorn Room

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-8*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 182nd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2015 Annual Review

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2015 – 2016

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*page 9*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property (*pages 10-13*)

I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code (*pages 14-20*)

1. 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender
2. 195.71, Drug and Alcohol Testing Program

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Board Rules Title 37 Texas Administrative Code (*pages 21-29*)
 - 1. 195.72, Admission of Use Form
 - 2. 195.73, Drug and Alcohol Tests
 - 3. 195.74, Training
 - 4. 195.75, Chain of Custody
 - 5. 195.76, Safety
 - 6. 195.77, Data Collection
 - 7. 195.78, Procedural Manual

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions (*pages 30-33*)
 - 1. Request to Renew Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas
 - 2. Request for Electrical Easement at the Connally Unit in Karnes County, Kenedy, Texas

II. Executive Session – Executive Board Room

- A. The TBCJ may convene into Executive Session.

- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).

- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 183

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, February 19, 2016, at 11:41 a.m. at the Omni Hotel Downtown, Austin, Texas and adjourned at 12:36 p.m.

TBCJ MEMBERS PRESENT:

Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Eric Gambrell
Larry Gist
Larry Miles
Derrelynn Perryman
Thomas P. Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Christopher Cirrito
Jason Clark
Matt Demny
Marie Freeland
Patty Garcia
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Bobby Lumpkin
Angie McCown
Jerry McGinty
Oscar Mendoza
Madeline Ortiz
Ron Steffa
William Stephens
Bruce Toney
April Zamora

OTHERS PRESENT:

Mike Goldman, Office of the Governor; Kelsey Vela, Legislative Budget Board (LBB); David Gutierrez, Presiding Officer of the Texas Board of Pardons and Paroles (BPP); Ed Robertson, Member, BPP; Fred Solis, Member, BPP; Timothy McDonnell, Administrator, BPP; The Honorable Judge Dale Spurgin, Jones County; Joseph Halbert, General Counsel for Senator Charles Schwertner; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 183rd meeting of the TBCJ on Friday, February 19, 2016, at 11:41 a.m. He noted a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright paused for an invocation by Pastor Larry Miles. Chairman Wainwright recognized the following public officials: Mike Goldman, Office of the Governor; Kelsey Vela, LBB; David Gutierrez, BPP; Ed Robertson, Member, BPP; Fred Solis, Member, BPP; Timothy McDonnell, Administrator, BPP; The Honorable Judge Dale Spurgin, Jones County; Joseph Halbert, General Counsel for Senator Charles Schwertner; and members of the media.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As one speaker registration card was received, Chairman Wainwright suspended explanation of the rules regarding public comments, until the appropriate time for that topic on the agenda.

Recognitions

Frank Inmon, Facilities Division Director, recognized David Sweetin as the new Facilities Division Deputy Director. He provided an overview of Mr. Sweetin's thirty year career path with the Texas Department of Criminal Justice (TDCJ or agency) and said he will be an asset to the division.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 or more years of service with the state of Texas during the months of December 2015 and January 2016. He expressed deepest gratitude on behalf of the TBCJ and Mr. Livingston, for the dedicated service of these employees who represent the commitment of the TDCJ's staff.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 182nd TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Wainwright asked if there were any amendments, objections, or abstentions to the proposed consent items. Pastor Larry Miles stated he would abstain from taking action due to property donations from members of Trinity Fellowship Church. Eric Gambrell stated that his firm represents several of the entities listed in the personal property donations brought before the TBCJ for approval; therefore, he abstained from voting. Chairman Wainwright asked for further comments. Hearing none, the consent items stand approved as posted in the meeting agenda, noting the abstentions of Pastor Miles and Mr. Gambrell.

Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2015 Annual Review

Chairman Wainwright introduced David Gutierrez, Presiding Officer of the Texas Board of Pardons and Paroles (BPP), who thanked the TBCJ for the opportunity to present his first annual report. He recognized members of the BPP, Ed Robertson and Fred Solis, both recently appointed by Governor Abbott, and Tim McDonnell, Board Administrator. He presented an overview of the FY 2015 Annual Review of the Texas BPP. He acknowledged the essential roles of the TDCJ and the Windham School District (WSD) in preparing offenders for a successful transition from incarceration back to their communities. Mr. Gutierrez expressed gratitude for treatment, reentry, integration, and victim services programming. He stressed the importance of working together, not independently. Mr. Gutierrez explained the role of the BPP staff, and highlighted the rise of parole considerations and approvals over the last decade. He noted improved collaboration with the TDCJ in program placement, and reported during FY 2015, over 82,000 total parole considerations, with an approval rate of 35.12%. For Discretionary Mandatory Supervision considerations, of the 19,000 heard, 47.88% received approval. He noted the decline over the past decade in revocations due to technical violations, and credited the graduated sanctions options within programming which provide alternatives to revocation.

Chairman Wainwright applauded Mr. Gutierrez' enthusiasm for coordinating with the TBCJ. Terrell McCombs thanked him for the refreshing report. Leo Vasquez echoed thanks and stated although we are independent agencies, we don't want to work independently of each other. Mr. Gutierrez returned thanks and recognized the BPP members and staff for their excellent work.

(Attachment B – Texas Board of Pardons and Paroles, Presentation by David Gutierrez, Presiding Officer, February, 2016)

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – Update on Correctional Officer Staffing

Brad Livingston, Executive Director of the TDCJ, reported positive trends regarding the filling of correctional officer positions. He commended William Stephens, Correctional Institutions Division Director, unit wardens, and staff for working overtime and excellent management of overtime issues and other staffing challenges. He explained that nine months ago, there were approximately 3,700 vacant positions, but, since then, that number has been reduced by about 1,000 positions. He suggested the improvement could be attributed to the legislature's recent 10.5% pay raise and strategy for stabilizing the correctional officer pension fund, extensive agency efforts to recruit and retain officers, and declines in the oil industry.

Chairman Wainwright thanked Mr. Livingston for his report.

Report from the Chairman, TBCJ – Gatesville Tour – Woodman, Hughes and Mountain View Units

Chairman Wainwright visited three Gatesville area units to observe WSD educational programming. At the Woodman and Hughes units, he was joined by senior administrators Bryan Collier, William Stephens, Jerry McGinty, and April Zamora; with Region VI administrators; WSD Superintendent, Dr. Carpenter; presiding officer of the Texas BPP, David Gutierrez; and representatives from the governor's office. Chairman Wainwright expressed appreciation to the three unit wardens, James Werner, Patricia Walker, and Melody Nelson. Chairman Wainwright reported excellent cooperation between WSD and unit security staff, and described the facilities as efficient and clean. At the Mountain View Unit, the Braille program, provided through Texas Correctional Industries, offers certification as a Braille transcriber, equipping offenders with a rewarding and marketable skill after release. Chairman Wainwright thanked all the unit staff and those who joined him in the tour, and stated he planned more visits to units in the future.

Public Testimony

Chairman Wainwright invited the one registered public speaker to address the TBCJ. Ms. Frances Vaughn stated her loved one had been in Administrative Segregation at the Hughes Unit, but was to be moved. She wanted to thank Warden Werner and the entire unit staff for their wonderful cooperation and professional excellence, and urged the TBCJ to grant Warden Werner any items or funding he may request for the unit as it transitions to a mental health facility. Chairman Wainwright thanked Ms. Vaughn for her kind words.

Internal Audit Status Report for Fiscal Years 2015-2016

Christopher Cirrito, TDCJ Internal Audit Division Director, recognized Kristy Hail, Audit Manager of the Internal Audit Division. Chairman Wainwright welcomed her to the position. Mr. Cirrito reviewed the February 19, 2016, Internal Audit Division status report, noting the following updates:

- **1506 – Correctional Institutions Division, Release Functions:** *Audit is moved to a draft report.*
- **1603 – Manufacturing and Logistics Division, Marketing:** *Audit has moved to field work.*
- **1605 – Parole Division, Interstate Compact:** *Audit has moved to background.*
- **1608 – Windham School District, Information Security - Access Controls:** *Audit has moved to background.*

Chairman Wainwright opened the floor for questions or comments. Mr. McCombs commended the report and called Mr. Cirrito and the Internal Audit Division central and essential to the performance of the TDCJ. Hearing no further questions, Chairman Wainwright thanked Mr. Cirrito for the report.

(Attachment C – Internal Audit Status Report, Fiscal Years 2015-2016, Status as of 2/19/16)

**Discussion, Consideration, and Possible Action Regarding
Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, introduced the new format for the TBCJ document, "Purchases Over \$1 Million for Board Approval," which now includes a special statement at the bottom of the page, certifying all procurement rules were followed, and any questions or challenges during the solicitation process were reported to the TBCJ. He referred to Senate Bill 20, which required state agencies to place checks and balances ensuring compliance to financial standards, and explained the statement was added pursuant to the bill which required such assurance for all contracts above \$5 million. Mr. McGinty stated most of the new requirements were already the practice of the TDCJ, and all procurement rules have been and would continue to be followed, regardless of dollar amount. Mr. McGinty presented one item over \$1 million for TBCJ approval. It was a halfway house contract awarded from funding by the 84th Legislative Session. For the remainder of the biennium, it provides halfway house services in Edinburg to parolees lacking residential resources, with two subsequent options to renew.

Chairman Wainwright verified the contract contained an initial term with the flexibility to renew and asked if this gave the TDCJ opportunity for evaluation of the program prior to each renewal. Mr. McGinty replied yes, and assured him the TDCJ uses this strategy for all large private contracts. He noted Edinburg's location within South Texas will answer the need for services to that area. Chairman Wainwright thanked him and asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code Section
151.55, Disposal of Surplus Agricultural Goods and
Agricultural Personal Property**

Sharon Howell, General Counsel, reviewed the proposed amendments to Board Rule 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property. She stated the rule was scheduled for periodic review and noted one substantive change: TBCJ approval will no longer be required for disposition of surplus items. Therefore, if the rule is approved, the document would appear at the back of the agenda packet as an information item. She recommended the TBCJ move forward and approve the amended rule to be published in the *Texas Register*, for public comment.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 151.55, regarding Disposal of Surplus Agricultural Goods and Agricultural Personal Property, to receive public comment, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender

Ms. Howell reviewed Board Rule 156.1, Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender. After the TBCJ approved the amended rule for publication in the *Texas Register*, it appeared in the December 25, 2015 issue, with no public comments received after 30 days. Ms. Howell recommended the TBCJ move forward with adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 156.1, regarding Investigations of Allegations of Abuse, Neglect, or Exploitation of an Elderly or Disabled Offender, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 195.71, Drug and Alcohol Testing Program

Ms. Howell reviewed Board Rule 195.71, Drug and Alcohol Testing Program. Upon TBCJ approval at the December meeting, the amended rule appeared in the December 25, 2015 issue of the *Texas Register*, and after 30 days, no public comments were received. She recommended final adoption of the rule.

Chairman Wainwright asked if there were questions of comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 195.71, regarding Drug and Alcohol Testing Program, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Board Rules Title 37 Texas Administrative Code Sections 195.72-.78, concerning Drug and Alcohol Testing of Offenders Under Supervision of the Texas Department of Criminal Justice Parole Division

Ms. Howell reviewed the proposed repeal of Board Rules 195.72-.78, concerning drug and alcohol testing of offenders under supervision of the TDCJ Parole Division. The rules were published in the December 25, 2015 Texas Register, and after 30 days, no public comments were received. She explained these were the rules no longer necessary since they had been consolidated and placed under Board Rule 195.71, and recommended the TBCJ adopt the repeal.

Larry Miles moved that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Section 195.72-.78, concerning drug and alcohol testing of offenders under supervision of the Texas Department of Criminal Justice Parole Division, as published in the Texas Register, and that the chairman sign the order to this effect.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked Ms. Howell for her presentations.

Chairman Wainwright recused himself from taking action on the next two items on the agenda, due to his firm's representation of the companies involved in both land transactions. Terrell McCombs, Vice Chairman, served as chair.

Discussion, Consideration, and Possible Action regarding a Proposed Land Transaction Request to Renew Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas

Matt Demny, Agribusiness, Land, and Minerals Division Director, presented the request to renew an existing gas pipeline easement of approximately 13.05 acres at the Boyd Unit. Energy Transfer Fuel, L.P. has agreed to pay \$230,880 for the easement with another 10 year term. Mr. Demny recommended approval. Mr. McCombs verified there was a favored nations clause in the agreement. Mr. Demny assured him that is standard for all of these types of pipeline transactions. Hearing no further comments or questions, Mr. McCombs called for a motion and second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the renewal of a gas pipeline easement at the Boyd Unit in Freestone County, Teague, Texas.

Judge Larry Gist seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Proposed
Land Transaction Request for Electrical Easement at the
Connally Unit in Karnes County, Kenedy, Texas**

Mr. Demny reviewed the request for a new electrical easement at the Connally Unit in Karnes County. AEP Texas Central Company has agreed to pay \$160,700 for 18.56 acres for one electrical transmission line, over the next 10 years. Mr. Demny recommended approval.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request for an electrical easement at the Connally Unit in Karnes County, Kenedy, Texas.

Pastor Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for attending, and announced the next meeting of the TBCJ will be Friday, April 15, 2016, at the Crowne Plaza Hotel in Austin, Texas.

Adjournment

There being no further business, Chairman Wainwright adjourned the 183rd meeting of the TBCJ at 12:36 p.m.

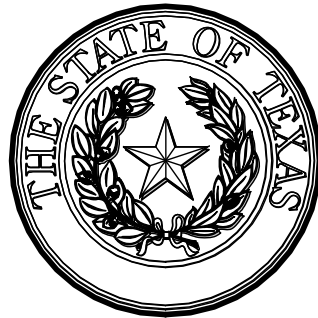
Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

**Texas Board of Criminal Justice
184th Meeting**



Minutes

**April 15, 2016
Austin, Texas**

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel – Salons E-H, Austin Room
6121 North IH-35
Austin, Texas 78752**

**April 15, 2016
1:15 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Salons E-H

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 183rd TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2016

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Administrative Directives

1. AD-04.80, Good Time Policy
2. AD-04.81, Review Process for Promotion in Time-Earning Class

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities”

I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.55, Disposal of Surplus Agricultural Goods and Agricultural Personal Property

J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 155.41, Procedures for Resolving Vendor Protests

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions – Request for Electrical Easement at the Bradshaw Unit in Rusk County, Henderson, Texas
- L. Public Comments

II. Executive Session – Austin Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

Convene Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 184th meeting of the TBCJ on Friday, April 15, 2016, at 11:02 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the TBCJ would conduct business from the agenda posted in the *Texas Register*.

21st Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Wainwright welcomed all honored guests joining the TBCJ for the 21st Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He recognized the importance of criminal justice volunteers and their positive role within the criminal justice system. A video greeting followed, from the Honorable Greg Abbott, Governor of Texas. He thanked the volunteers for their dedication, kindness, and life transforming work.

Vice Chairman Terrell McCombs echoed Governor Abbott's message, and commended TDCJ volunteers, on behalf of the TBCJ for their selfless compassion and common commitment to help offenders obtain a better life.

Chairman Wainwright introduced the program speaker, Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ). Mr. Livingston, in recognition of National Volunteers Week, voiced appreciation to TDCJ volunteers for their immense contribution to the lives of offenders, and by extension, to the state of Texas. He acknowledged their significant role, which he described as permanently woven into the fabric of the TDCJ, and offered the following statistics: During 2015, approximately 22,000 volunteers donated more than 362,000 hours of service. Texas experienced a 25% decrease in crime rates over the last decade, with one of the lowest recidivism rates in the nation. He also illustrated the lasting impact of volunteers through inspiring successes from several innovative initiatives, and thanked all volunteers, including TBCJ members, past and present, for their time generously spent, calling it the most valuable gift which can never be regained.

Chairman Wainwright welcomed Pastor Larry Miles as the master of the ceremony. Pastor Miles announced awards to the following individuals and organizations:

Gordon Lindley, *Religious Service*
Texas Baptist Men Retiree Builders, *Correctional Institutions Division*
One Man's Treasure, *Reentry and Integration Division*
Rickie Bradshaw, *Nancy Hees Award-Parole Division*
James Duncan, *Private Facility Contract Monitoring/Oversight Division*
Marleah Baird, *Religious Service*
Deborah Hartman, *Chaplaincy Department*
Michael Lynn Selzer, *Health Services Division*
James S., *Substance Abuse Treatment Program*
Jennifer Gilbert, *Pathfinder Award-Victim Services Division*
Garrett Stanley, *Judy Burd Award-Windham School District*

Welcome Back Tarrant County, *Restorative Justice*
Trae Kendrick, *Susan Cranford Award-Female Offender Program*
Alcohol Chemical Treatment Series (A.C.T.S.), *Most Innovative Program*
Freedom in Jesus Ministry, *Community Service*
Central Texas Hospitality House, *Best Family Program*
Thomas Crouch, *Leonard Davis Award for Most Hours Served*
Robert Harcrow, *Extensive Travel*
Travis Morris, *TDCJ Employee Volunteer*
Tommie Haynes, *Criminal Justice Administrator*
Bill Shehee, *Carol S. Vance Volunteer of the Year*

Chairman Wainwright and Mr. Livingston presented the awards to each recipient.

Pastor Miles introduced Carol Vance, former TBCJ Chairman and strong advocate for volunteers in the TDCJ, who presented the last award. Mr. Vance commended the progress of TDCJ volunteer services, and explained how volunteers create a positive force in society, saving taxpayers millions of dollars. By restoring offenders and rebuilding their families, volunteers prevent returns to prison, further crimes, and immeasurable emotional damage.

Pastor Miles thanked Mr. Vance for his continued support to the betterment of the TDCJ. He called for one final round of applause for all the award recipients, and the thousands of dedicated volunteers throughout the TDCJ.

Chairman Wainwright expressed appreciation for all who attended, and for all volunteers and staff serving all year. There being no further business, Chairman Wainwright recessed the 184th meeting of the TBCJ. He advised the TBCJ would reconvene in committee meetings and continue with regular business beginning at 1:15 p.m. The time was 12:08 p.m.

(Attachment A – Program for 21st Annual Governor’s Criminal Justice Volunteer Service Awards)

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 184

The TBCJ reconvened in regular session at 1:15 p.m., at the Crowne Plaza Hotel, Austin, Texas, and adjourned at 2:15 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Larry Gist
Larry Miles
Derrellynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Eric Gambrell

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Mike Bell
Rudolph Brothers
Christopher Cirrito
Jason Clark
Matt Demny
Marie Freeland
Patty Garcia
Sharon Howell
Frank Inmon
Stuart Jenkins
Sherry Koenig
Dr. Lannette Linthicum
Angie McCown
Jerry McGinty
Oscar Mendoza
Paul Morales
Ron Steffa
William Stephens
Carey Welebob
April Zamora

OTHERS PRESENT:

Mike Goldman, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened the regular session of the 184th meeting of the TBCJ on Friday, April 15, 2016, at 1:15 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright recognized Mike Goldman, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; and members of the media.

Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 183rd TBCJ Meeting Minutes
5. Excused Absences

Chairman Wainwright announced the excused absence of Judge Larry Gist from the December 10th TBCJ meeting, due to personal business, and asked if there were any amendments or objections to the proposed consent items. Hearing no further concerns, the consent items were approved as presented, noting for the record, Mr. Eric Gambrell was absent and did not participate, and would formally abstain from this item.

Recognitions

Chairman Wainwright recognized the TDCJ employees who achieved 25, 30, and 35 plus years of service with the state of Texas during the months of February and March 2016. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

(Attachment B – Employee Names)

Report from the Chairman, TBCJ

Tour of McConnell Unit in Beeville

Chairman Wainwright described his experience visiting the McConnell Unit in Beeville. Although arriving unannounced, he was quickly met outside by two security officers who treated him with courtesy, and after brief questioning, escorted him to the warden's office for his tour. Chairman Wainwright commended the officers, the warden, and the unit for excellence and professionalism.

Chairman's Fitness Challenge – 2nd Quarter Results

Chairman Wainwright reported the second quarter challenge, “One Step at a Time, Stay Focused,” was a great success, with a total of 6,884 participants collectively earning 22,356,317 points, by participating in a physical activity over a duration of time. He named the winners and encouraged everyone to continue with the third quarter challenge, “Too Fit to Quit,” designed to encourage employees to pursue a healthy, active life style. Chairman Wainwright emphasized the value of fitness, because it benefits employees, their departments, and the state.

National Crime Victim Rights Week – April 10-16, 2016

In recognition of National Crime Victim Rights Week, Chairman Wainwright traced the history of crime victims' rights. He explained in the early 1970s, most victim support groups were initiated by victims and survivors of crime. The criminal justice system focused on offenders, and victims had few rights. As the crime victims' movement, now called the Victim Services field, gained momentum nationally, the Victims of Crime Act (VOCA), 1984, initiated funding of victim services, using offender fines, fees, and penalties. Texas followed by passing laws establishing laws for crime victims' rights, such as the Victim Bill of Rights, which assured victims the right to restitution; information about the conviction, sentence, imprisonment, and release of the accused; reasonable protection; and the right to be treated with fairness, respect, dignity, and privacy. Chairman Wainwright commended the progress of victim services in Texas.

Internal Audit Status Report for Fiscal Years 2015 – 2016

Christopher Cirrito, Director for Internal Audit, provided the following revision to the handout of the April 10, 2016, Internal Audit Status Report for the Fiscal Years 2015 - 2016:

- **1615 - Office of the Inspector General, Evidence Control Follow-up:** The status has moved from unassigned to background.
- **1617 - Texas Department of Criminal Justice, Internal Audit Division – Self Study:** The status has moved from field work to peer review preparation.
- **1619 - Walk Throughs, Various Divisions, Information Technology Division – Business Continuity:** The status has moved from on-going to complete.

Chairman Wainwright thanked Mr. Cirrito for the update and asked if there were any questions. There were none.

(Attachment C – Internal Audit Status Report, Fiscal Years 2015-2016)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Wainwright passed the gavel to Vice Chairman Terrell McCombs, stating he must abstain from taking action on the next item as his firm represents one of the entities listed. Jerry McGinty, Chief Financial Officer, presented the list of purchases and contracts, and stated that

many of the procurements are for the upcoming fiscal year. He reviewed increases to FY 2016 contracts, FY 2017 contract renewals, and new FY 2017 contracts. The first two items represent an increase to a current contract for raw materials to produce highway signs, in response to an increase in quantity ordered.

FY 2017 contract renewals include: Texas Department of State Health Services, for offender birth certificates prior to release; a food contract for the Hamilton Unit; agribusiness contracts, such as John Deere tractor parts for maintenance and repair of TDCJ farm equipment, isolated soy protein for processing beef and pork products for offender consumption, and supplies for canning of agribusiness-produced vegetables for offender consumption; modular panel systems parts and components, for Texas Correctional Industry manufacturing of office panel systems for resale; and reflective specialty sheeting and equipment for manufacturing of license plates. Security surveillance systems will be installed at Clements, Ferguson, and Hughes units, pursuant to legislatively appropriated funds for FY 2016. The list also includes one FY 2016-2017 contract, to install network cabling for Information Technology.

FY 2017 contracts include: agribusiness contracts, for soybean meal to produce feed for the TDCJ's livestock, beef and pork trimmings to produce meat products for offender consumption, and ammonia nitrate to fertilize field and vegetable crops to maximize production; contracts for raw materials such as reflective sheeting and aluminum sign blanks for the manufacturing of traffic signs, reflective specialty sheeting and equipment and metal aluminum coils for manufacturing of license plates; a food contract for services to offenders and staff at Kegans State Jail; an Information Technology contract for copier equipment, maintenance, and supplies; and a contract for the cloth used to manufacture offender sheets, pillowcases, and clothing undergarments. Mr. McGinty noted some contracts, usually related to food, contain a 10% variance to allow for fluctuation in the market, which also allows for menu flexibility in response to changing prices.

Mr. McCombs asked if there were questions. Hearing none, Mr. McCombs called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Tom Fordyce seconded the motion which prevailed when called to a vote, with the abstention of Chairman Wainwright and the absence of Eric Gambrell.

Mr. McCombs confirmed that Chairman Wainwright and Eric Gambrell took no action on the item, and returned the chairman's gavel.

Chairman Wainwright acknowledged 16 individuals signed up to address the TBCJ during the public comment period. Due to the unusually large number, and since multiple speakers chose the same topic, Chairman Wainwright requested groups sharing the same topic to elect a spokesperson for their topic, in the interest of efficiency and effectiveness. He suspended discussion of the rules for speakers until reaching that item on the agenda.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Administrative Directives

1. AD-04.80, Good Time Policy
2. AD-04.81, Review Process for Promotion in Time-Earning Class

Sharon Howell, TDCJ General Counsel, stated both AD-04.80 and AD-04.81 revisions were presented to the TBCJ for annual review, as required by Texas Code 498.005; however, she explained no TBCJ action was required. Both policies relate to the manner in which offenders are classified and reclassified, the manner in which good conduct time is awarded, and the manner in which good conduct time is awarded retroactively to offenders who have been reclassified. In the past, calculation of good conduct time was driven by population management protocols; however, by legislative direction and TBCJ vote, offender population issues are no longer addressed through offender classification. The policies were restructured to clarify references to related historical legislation, but the revisions had no impact on the last 15 years of offender classification practice regarding processing of good conduct time and promotion in time earning class.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.01, “Texas Board of Criminal Justice Responsibilities”

Ms. Howell presented the proposed revisions to BP-01.01, noting that changes were pursuant to Senate Bill 20, during the 84th Legislature. The bill requires any presentation to the TBCJ on a contract over \$1 million to include information on potential issues that may arise in the solicitation, purchasing, or contractor selection process. Although Mr. McGinty, Chief Financial Officer, already informs the TBCJ of all contracts over \$1 million, the statement was added to the policy as ongoing notice of the statutory requirement. Minor adjustments include moving the “Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property” from the consent portion to the review portion of the meeting agenda.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.01, “Texas Board of Criminal Justice Responsibilities,” as presented.

Derrelyn Perryman seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 151.55, Disposal of Surplus Agricultural Goods
and Agricultural Personal Property**

Ms. Howell reported the amended rule, previously approved by the TBCJ, appeared in the March 4, 2016 publication of the *Texas Register*, and 30 days passed with no public comments received. She recommended adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt Board Rule Title 37 Texas Administrative Code Section 151.55, regarding Disposal of Surplus Agricultural Goods and Agricultural Personal Property, as published in the Texas Register, and that the chairman sign the order to this effect.

Larry Gist seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 155.41, Procedures for Resolving Vendor Protests**

Ms. Howell presented the proposed amendments to BR-155.41, Procedures for Resolving Vendor Protests. She noted the rule serves as the TDCJ's internal form of alternative dispute resolution for resolving vendor protests regarding contracts. Only grammatical and formatting updates were made. Ms. Howell recommended publication in the *Texas Register* for public comment.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 155.41, regarding Procedures for Resolving Vendor Protests, to receive public comment, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request for an Electrical Easement at the Bradshaw Unit in Rusk County, Henderson, Texas

Chairman Wainwright passed the gavel to Vice Chairman McCombs and stated he must abstain from taking action due to his firm representing Southwestern Electric Power Company.

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request by Southwestern Electric Power Company, for a permanent electrical easement at the Bradshaw Unit. As discussed in the Business and Financial Operations Committee, the easement would allow electric lines to be rerouted around the newly built chapel, to provide electrical service to the unit, for the sole benefit of the TDCJ. Mr. Demny recommended approval of the grant, to be made without compensation, in accordance with §496.004(b), Government Code.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve the request for an electrical easement at the Bradshaw Unit in Rusk County, Henderson, Texas.

Leo Vasquez seconded the motion which prevailed when called to a vote.

Mr. McCombs confirmed that Chairman Wainwright took no action on the item, and returned the gavel.

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. He referred to the earlier arrangement regarding speakers and invited the spokesperson to address the TBCJ regarding solitary confinement.

Freddy Porras read a portion from the book, "Hell is a Very Small Place, Voices from Solitary Confinement," and offered a copy to each TBCJ member. The book cited the first use of solitary confinement was in Philadelphia, in 1790, as a compassionate alternative to humiliating punishments such as public flogging, giving the offender the humane opportunity to contemplate the crime committed and become penitent. He called for the cessation of solitary confinement. Chairman Wainwright thanked him for his comments.

Jane Nguyen spoke regarding the TDCJ social media policy. She stated that information from offenders is communicated on the internet, websites are advocating for offenders, and friends and family are posting related comments on their social media accounts; therefore, offenders should not be forbidden to have social media accounts, unless they were found to be selling

products or posed a physical threat. She said it infringes on the rights of persons who are not incarcerated. Chairman Wainwright thanked Ms. Nguyen for her comments.

Pat Hartwell stated she sent 15 questions to the TDCJ about rule number four, regarding social media, but felt the response she received from the Ombudsman was incomplete. She quoted Jason Clark, Public Information Officer, as saying the rule was specific to active social media accounts such as FaceBook, Twitter, and Instagram; however, private websites do not have a mechanism to request they be taken down and could not be forced to comply. She asked if websites, pen pal sites, and traditional blog sites were included as social media, and asked what could happen to offenders who contribute to websites that advocate for them. She gave examples of offenders exonerated as a result of websites set up on their behalf, and asked the TBCJ to respond to her 15 questions. Chairman Wainwright thanked Ms. Hartwell for her comments.

Angie Agapedus spoke on behalf of death row offenders receiving phone privileges, as they have families, and should be able to communicate with them. She mentioned the copies of the book, "Hell is a Very Small Place," and stated nine copies were brought, one for each TBCJ member. She cited the Association of State Correctional Administrators as promoting the reduction of solitary confinement and quoted a 2011 article in the Houston Chronicle stating there are 9,000 offenders in solitary confinement at any given time, 97% of which will be released, and 5,000 offenders in long term solitary confinement, 97% of which will be released. Chairman Wainwright thanked her for her comments.

Cathy Habermas voiced concern about the 20 day lockdown on death row. She explained adequate food was not provided during the lockdown and there are offenders who cannot afford commissary and did not receive any outside help. She listed the food provided and stated the meals did not meet the state and federal guidelines of 2,400-2,700 total calories per day. She said the typical breakfast consisted of one or two biscuits with peanut butter and no drink, lunch was two peanut butter sandwiches on white bread with one dried prune and no drink, and dinner was one peanut butter sandwich and one meatloaf sandwich, on white bread, with one dried prune, and no drink. She stated the sandwiches were kept in the refrigerator and some had mold. Ms. Habermas requested the meals meet caloric guidelines and health standards. Chairman Wainwright thanked Ms. Habermas for her comments.

Gloria Rubac explained the inconvenience of having to return to her vehicle between visits of two offenders, as she was not allowed to bring \$50 at a time into the facility. She also discussed offenders in solitary confinement, and defined it as a violation of the eighth amendment, giving examples of offender reactions, such as a high rate of suicide and self-torture. Furthermore, Ms. Rubac spoke against the policy of punishing a whole group for the actions of a few, and requested that social media accounts be allowed for those who did not abuse the privilege. Chairman Wainwright thanked Ms. Rubac for her comments.

Danielle Allen reported the warden at the Hightower Unit systematically set up her loved one to fail and provided a list of actions by the warden, to be investigated by the TBCJ. She requested a response in writing. Chairman Wainwright thanked her for her comments.

Alison Dieter stated she has been visiting offenders on death row for eight years. She listed the following risk factors and safety violations: water running down the walls of a cell for one year, recreation time was cut to two or three days a week, instead of the one hour out of every 24, offenders must put on their shoes with their hands in handcuffs, which has caused one offender to break his ankle and be permanently disabled, and no seat belts on the transportation vans, to protect from sudden starts and stops. Finally, Ms. Dieter asked that, for prisoners who leave a facility or come to the end of their parole or probation, the TDCJ inform them when their right to vote is restored. She submitted a handout on medical issues for an offender, and asked for help. Chairman Wainwright thanked Ms. Hartwell for her comments.

Laura Jenkins asked for clarity on the TDCJ website, as she was trying to address the Texas Board of Pardons and Paroles. Her concern was for her son, who was denied parole on March 31. The rationale on his denial didn't match who he was as a person, and she was concerned about his safety, but not from the Roach Unit staff, who were supportive. Chairman Wainwright thanked her for her comments.

Rhett Smith discussed the issue of minors in custody. He suggested the transition between childhood and adulthood should be extended, to give time for minors to gain skills in interacting with public officials acting under authority of the state. Mr. Smith stated he wishes to build a better world, and would like everyone to consider ways to implement a more peaceful society. Chairman Wainwright thanked him for his comments.

Chief Two Bears expressed his concern about the state of Texas chemically altering children's minds with psychotropic drugs in the Texas foster care system. He stated this is the cause for mass incarceration in America. He called for the end of altering the minds of children under the umbrella of the state. Chairman Wainwright thanked him for his comments.

Sarah Garcia spoke on behalf of her son, who has had multiple mental issues as a child. He spent two and a half years in a juvenile facility, where he was given psychotropic medication. Once sentenced, he was transferred to the TDCJ. Six months after arriving, he was placed in solitary confinement for not returning to his cell, where he spent two more years. In July, he returned home, but after only four months, he was returned to the TDCJ for 15 years. She asked for him to receive help for his mental issues, so he wouldn't become another statistic. She submitted a medical record of all the mental health treatments he received prior to incarceration. Chairman Wainwright thanked her for her poignant comments.

Kenneth Koym stated he was a psychotherapist and certified mediator, and reported that some of the visitors today called him to come together to remove the problem in the TDCJ of the chemical freezing of minds through wrong medication. He urged everyone to work together. Chairman Wainwright thanked Mr. Koym for his comments.

Chairman Wainwright thanked all speakers for their comments in writing and assured them their concerns would be addressed. He asked them to leave their contact information in order to receive a written response from the TBCJ.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, June 24, 2016, at the Embassy Suites Hotel in Austin at IH-35 and Highway 290.

Adjournment

There being no further business for the regular session, Chairman Wainwright adjourned the 184th meeting of the Texas Board of Criminal Justice at 2:15 p.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
186th Meeting



Minutes

June 24, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Embassy Suites Hotel – Longhorn Room, Austin Room
5901 North IH 35
Austin, Texas 78723

June 24, 2016
10:45 – 11:45 AM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Longhorn Room

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 184th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2016

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.39, Residential Services

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 155.41, Procedures for Resolving Vendor Protests

I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Sale of 8.00 Acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas
2. Request for Renewal of Lease of 13.407 Acres at the Wynne Unit in Walker County, Huntsville, Texas
3. Request for Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

J. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project to Replace Roofs at the Polunsky Unit in Polk County, Livingston, Texas

K. Discussion, Consideration, and Possible Action Regarding the Selection of the Executive Director of the Texas Department of Criminal Justice

II. Executive Session – Austin Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 186**

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, June 24, 2016, at 11:00 a.m. at the Embassy Suites Hotel, Austin, Texas. The TBCJ adjourned at 1:24 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Thomas Fordyce
Judge Larry Gist
Larry Miles
Eric Gambrell
Derrelynn Perryman
Thomas P. Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Dr. Lannette Linthicum
Mike Bell	Bobby Lumpkin
Rudolph Brothers	Angie McCown
Christopher Cirrito	Jerry McGinty
Jason Clark	Oscar Mendoza
Lorie Davis	Paul Morales
Matt Demny	Madeline Ortiz
Marie Freeland	Ron Steffa
Sharon Howell	Bruce Toney
Frank Inmon	Carey Welebob
Stuart Jenkins	April Zamora
Sherry Koenig	

OTHERS PRESENT:

Anna Barnett, Senator Birdwell's office; Terra Willett, Senator Kacal's office; Saul Mendoza, Senator White's office; David Gutierrez, Chairman of the Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Tom Mechler, former TBCJ member; Oliver Bell, former chairman of the TBCJ, and his wife Stacy Bell.

Convene Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 186th meeting of the TBCJ on Friday, June 24, 2016, at 11:00 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the TBCJ would conduct business from the agenda posted in the *Texas Register*.

Chairman Wainwright recognized Anna Barnett, Senator Birdwell's office; Terra Willett, Senator Kacal's office; Saul Mendoza, Senator White's office; David Gutierrez, Chairman of the Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Tom Mechler, former TBCJ member; Oliver Bell, former chairman of the TBCJ, and his wife Stacy Bell.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Chairman Wainwright recognized former TBCJ Chairman Oliver Bell. First, he presented a certificate from Governor Gregg Abbott in recognition and appreciation for Mr. Bell's years of meritorious service to the state of Texas. Next, Chairman Wainwright shared his own thoughts outlining Mr. Bell's accomplishments in his career with the U.S. Army, creation of his own company, and service as a TBCJ member and chairman. He highlighted many contributions Mr. Bell made during his tenure with the TBCJ, especially his outstanding leadership skills and commitment to the people. Texas Department of Criminal Justice (TDCJ) Executive Director Brad Livingston, former TBCJ member Tom Mechler, and other TBCJ members spoke as well, thanking him and indicated what an honor it was to serve with him noting his leadership skills. Mr. Bell acknowledged everyone and spoke about many fond memories over the past 11 years.

Chairman Wainwright recognized Executive Director Brad Livingston for his 25 years of service with the state of Texas. He highlighted Mr. Livingston's career and commended him for his valuable contributions. He noted several awards Mr. Livingston received from various associations and thanked him for his service. Mr. Livingston expressed his gratitude to Chairman Wainwright.

Mr. Livingston recognized Patty Garcia, Human Resources Division Director, for 20 years of service with the state of Texas. He acknowledged her strong career and willingness to grow as a leader. He highlighted the various roles Ms. Garcia had during her tenure with TDCJ that contributed to the effective and efficient operation of the Human Resources Division.

Mr. Livingston recognized William Stephens, former Correctional Institutions Division (CID) director, for 35 years of service to the state of Texas. He highlighted Mr. Stephens' career and commended him for his valuable contributions. He expressed his appreciation for Mr. Stephens'

exemplary leadership and explained the major impact it had on others throughout TDCJ. Mr. Stephens' thanked Mr. Livingston, the TBCJ, and other division directors for their support.

Mr. Livingston presented Lorie Davis as the new CID director. He highlighted her career with TDCJ noting that she has served in every security position, in various tough positions, throughout the state of Texas. He acknowledged her strong leadership skills and hard work. Ms. Davis was thankful to Mr. Livingston for the kind words.

Ms. Davis presented Leonard Echessa as the new deputy director for Support Operations. She recognized him for 24 years of service with TDCJ. She presented Billy Hirsch as the new deputy director for Prison and Jail Operations. She recognized him for 29 years of service with the TDCJ. She highlighted their careers and educational background, and acknowledged the exemplary leadership team in CID.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service with the state of Texas during the months of April and May 2016. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Livingston, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 184th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Mr. Gambrell abstained from taking action due to his firm representing the San Antonio Food Bank listed on the personal property donations list. Mr. Miles abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Chairman Wainwright stated he would facilitate the handling of this matter but also abstained from taking action. Chairman Wainwright acknowledged the abstentions and, seeing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Update on Recent Flooding and Unit Evacuations

Mr. Livingston reported when areas of southeast Texas received a significant amount of rain within a short period of time in May 2016, the State Operations Center was activated in Austin and the TDCJ participated in that process. The TDCJ opened a command center and began making plans for the evacuation of offenders from certain units. The TDCJ evacuated approximately 2,600 offenders from the Stringfellow and Terrell units and another 1,700 offenders from the Ramsey Unit. Over the next several weeks, offenders from those three units were housed temporarily in 19 other host units across the state and were then repopulated to the Stringfellow, Terrell, and Ramsey units. Mr. Livingston stated that while it is easy and quick to outline evacuations and repopulation of three units, in reality it is a monumental task involving every division and function within the TDCJ. He stated staff was committed, focused, operationally driven, and worked as a team. He acknowledged the leadership displayed in the command center. He mentioned the importance of the safety of the offenders and staff. He stated he was very impressed with the operational and leadership strengths the team displayed. He then stated there was minimal damage even though there was significant flooding. The main housing areas within those units escaped flood damage; however, there was flood damage in the out buildings and agriculture facilities. The Terrell Unit trusty camp sustained minor flood damage. It will be some time before TDCJ can reoccupy that trusty camp as well as the Region III training department.

Report from the Chairman, TBCJ

Pretrial, Probation, and Parole Supervision Week

Chairman Wainwright stated during the week of July 17-23, 2016, the TDCJ will join other state and local agencies across the nation in recognizing and honoring pretrial, probation, parole, and community supervision officers for their dedication and public service. He stated in Texas, more than 4,600 probation and parole staff work tirelessly to supervise nearly 330,000 offenders each and every day. This may take the form of interviewing, home contacts, drug testing, making sure offenders attend counseling sessions, or helping find suitable housing and employment. Officers must be on the cutting edge of supervision and technology because of changes in a fast paced society. Pre-trial, probation, and parole staff commit to a task which is very challenging. Each officer is responsible for decision points which impact the lives of offenders under supervision and affect the safety of the public. On behalf of the TBCJ, Chairman Wainwright voiced appreciation of the men and women who supervise offenders in the community and recognized their efforts.

Internal Audit Status Report for Fiscal Years 2015 – 2016

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the June 16, 2016, Internal Audit Division Status Report for the Fiscal Years (FY) 2015 - 2016:

- **1518 – Parole Division, Sex Offender Caseload:** Audit has moved to report writing.
- **1603 – Manufacturing and Logistics Division, Marketing:** Audit has moved to draft report.
- **1604 – Facilities Division, Employee Licensing and Certification:** Audit has moved to draft report.
- **1605 – Parole Division, Interstate Compact:** Audit has moved to report writing.
- **1608 – Windham School District, Information Security – Access Controls:** Audit has moved to report writing.

Chairman Wainwright asked if there were any questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2015-2016)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Wainwright abstained from participating in the discussion, consideration, and action regarding purchases and contracts over \$1 million due to his firm representing AT&T which is a party to one of the contracts coming up for consideration, and handed the gavel to Vice Chairman Terrell McCombs.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented the list of items, grouped according to similar services or circumstances. Item 1 is a renewal of a current contract FY 2015-2016 which also adds treatment for 64 additional substance abuse felony punishment beds at the Henley Unit. Item 2 is a renewal item for FY 2016-2017 bulk fuel contracts that is utilized at 29 different units where fueling depots allow for use of bulk fuel. Additional costs are avoided by buying it in bulk. A 10% variance is being requested. Items 3-9 are renewals for FY 2016-2017 for TDCJ halfway house contracts. Items 10-18 are renewals for FY 2016-2017 for substance abuse felony punishment (SAFP) and In Prison Therapeutic Community (IPTC) contracts. Item 19 is a renewal for FY 2016-2017 for the State Jail Substance Abuse Treatment program. Item 20 is a renewal for FY 2017-2018 for electronic monitoring of offenders that are on parole, to include GPS and radio frequency monitoring. Item 21 is for FY 2017 for cellular equipment and service. Items 22 and 23 are for FY 2017 for commissary items. He then reviewed the FY 2017 food purchases requiring board approval for 53 different food items. He noted that beginning with item 37 the purchases are less than \$1 million, and noted the TBCJ reviews any purchase of food items over half a million. Historically, the TBCJ has approved a 10% variance on food items.

Judge Larry Gist asked if the SAFF/ITC vendors for renewals are evaluated in regards to the outcome they achieved. Mr. McGinty answered yes it is part of the renewal review as well as any new contract evaluations.

Mr. McCombs noted the abstentions of Mr. Gambrell, Mr. Vasquez, and Chairman Wainwright. Seeing no further questions, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Tom Fordyce seconded the motion which prevailed when called to a vote.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 163.39, Residential Services

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 163.39, Residential Services. She explained the proposed amendments were necessary to add clarity, conform the rule to current practice, and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.39, regarding Residential Services, to receive public comment, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

2. Section 155.41, Procedures for Resolving Vendor Protests

Ms. Howell presented the adoption of amendments to Board Rule 155.41, Procedures for Resolving Vendor Protest. She stated the TBCJ approved the proposed amendments presented at the April 15, 2016, TBCJ meeting, and the rule was posted in the *Texas Register* for comments, which none were received.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt the amendments to Board Rule Title 37 Texas Administrative Code section 155.41, regarding Procedures for Resolving Vendor Protests, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Sale of 8.00 Acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the resolution request to authorize the General Land Office to sell, on behalf of the TBCJ in accordance with § 496.0021 of the Government Code, an 8.00 acre tract of land formerly known as the Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request for the sale of 8.00 acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

2. Request for Renewal of Lease of 13.407 Acres at the Wynne Unit in Walker County, Huntsville, Texas

Mr. Demny presented the request for renewal of the lease of 10.303 acres of land to Pilot and 3.104 acres of land to TTT Hope, Inc., totaling 13.407 acres located at the Wynne Unit in Walker County, Huntsville, Texas. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the request for renewal of lease of 13.407 acres at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

3. Request for Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny presented the request from Sage Energy Company for an electrical easement at the Ramsey Unit located in Brazoria County, Rosharon, Texas. The easement requested is for a power source encompassing an area equivalent to 1.176 acres of land consisting of two segments together being 2,561.2 feet long and 20 feet wide with a total payment of \$2,653 for a ten-year term.

Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the request from Sage Energy Company for an electrical easement at the Ramsey Unit located in Brazoria County, Rosharon, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Request to Replace Roofs at the Polunsky Unit, Polk County, Livingston, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for consideration requesting to replace roofs at the Polunsky Unit located in Polk County, Livingston, Texas. The project includes replacement of over 500,000 square feet of roofing material, removing the existing roof system, and insulation and flashing. If approved, the work will be performed by Texas Liqua Tech Services, Inc. out of Houston, a HUB vendor, with a projected cost of \$9,068,466.00. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$9,068,466.00 to replace roofs at the Polunsky Unit located in Polk County, Livingston, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Selection of the Executive Director of the Texas Department of Criminal Justice

Chairman Wainwright stated Mr. Livingston announced his retirement at the end of August 2016. He stated Texas Government Code § 492.013 makes it the responsibility of the TBCJ to appoint the executive director to serve as the administrator of the TDCJ. He named an executive director search committee composed of himself, Vice Chairman Terrell McCombs, Secretary Leo Vasquez, and TBCJ member Eric Gambrell. He mentioned the position was posted for 15 days, the committee selected qualified candidates, and interviewed the candidates on May 24, 2016. Further discussion among the committee members occurred on June 1, 2016, and on June 7, 2016, the committee presented its findings to the full TBCJ for the discussion of this personnel matter during executive session emphasizing the selection of the executive director would not occur until the June 24, 2016, TBCJ meeting in open session. He asked for a motion.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the selection of Bryan Collier as the Executive Director of the Texas Department of Criminal Justice to be effective August 1, 2016.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright asked Bryan Collier to approach the podium and was pleased to announce that Mr. Collier would serve as the next executive director of TDCJ. He expressed the TBCJ was confident in Mr. Collier’s ability to serve and lead. Mr. Collier thanked them and stated he was honored. Chairman Wainwright acknowledged Jerry McGinty, Chief Financial Officer, as another highly qualified candidate and thanked him for applying. He thanked everyone for coming, and announced the next meeting of the TBCJ will be Thursday, August 18th, 2016, at the Omni Austin Hotel at Southpark.

Adjournment

There being no further business, Chairman Wainwright adjourned the 186th meeting of the Texas Board of Criminal Justice at 1:24 p.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
187th Meeting



Minutes

August 18, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel at Southpark – Ballrooms D, E, F
4140 Governor’s Row
Austin, Texas 78744**

**August 18, 2016
10:00 – 11:15 AM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 186th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2017 Annual Audit Plan

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2017 Proposed Operating Budget and Fiscal Years 2018-2019 Legislative Appropriations Request

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.39, Residential Services

I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.3, TBCJ Operating Procedures
2. 151.52, Sick Leave Pool

J. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request to Renew Gas Pipeline Easement at the Connally Unit in Karnes County, Kenedy, Texas

K. Public Comment

II. Executive Session – Southpark Room

A. The TBCJ may convene into Executive Session.

B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).

D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

Convene Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 187th meeting of the TBCJ on Thursday, August 18, 2016, at 10:08 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the TBCJ would conduct business from the agenda posted in the *Texas Register*.

Chairman Wainwright recognized Representative James White; the Honorable Judge Dale Spurgin, Jones County; Terra Tucker, Senator Whitemire's office; Mike Goldman, Governor's Abbott's office; and Josh Finkenbinder, Representative Tony Tinderholt's office.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics, as well as, public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Speaker registration cards were received only for public comments.

Recognitions

Chairman Wainwright announced a special recognition of retiring Texas Department of Criminal Justice (TDCJ or agency) Executive Director Brad Livingston and asked TBCJ Vice-Chairman Terrell McCombs to conduct the recognition. Mr. McCombs thanked Chairman Wainwright for the honor.

Mr. McCombs recognized retiring TDCJ Executive Director Brad Livingston for serving the state of Texas with distinction. He discussed his first impression of Mr. Livingston and how he knew they would get along well. Mr. McCombs noted Mr. Livingston's excellent skills with numbers and people, and unique leadership and management style. He mentioned Mr. Livingston received many awards, including one recognizing him for being the best by national standards, and continually strived to be a better leader. He thanked Mr. Livingston for all his hard work and making the state of Texas a safer place.

Mr. McCombs outlined the various positions Mr. Livingston served in the TDCJ; Deputy Director of the Financial Services Division in 1997, appointed Chief Financial Officer (CFO) in 2001, Interim Executive Director in 2004, and formerly appointed Executive Director in 2005. He noted during Mr. Livingston's tenure as administrator the TDCJ employed nearly 39,000 employees, almost 40% of the total state employment, had an operating budget over \$3 billion, and had many notable accomplishments. Mr. McCombs stated more would be said about that and asked TBCJ Secretary Leo Vasquez to say a few words. Mr. Vasquez stated Mr. Livingston is a world-class manager and his legacy will continue in the TDCJ.

Bryan Collier, newly appointed TDCJ Executive Director, continued in recognizing Mr. Livingston. He stated Mr. Livingston frequently taught others to develop an agency-wide enterprise focus, proactively made agency improvements, and worked tirelessly to build

significant credibility with legislative leaders allowing the agency to successfully navigate six legislative sessions. Mr. Collier acknowledged Mr. Livingston as a strategic master fostering an atmosphere that allowed the TDCJ to remain nimble and creative. He spoke highly of Mr. Livingston's commitment to building leadership capacity in others, leaving the agency well respected and strong.

Representative James White expressed gratitude for Mr. Livingston's leadership, stewardship, and compassion to the state of Texas. Mr. McCombs added more comments about Mr. Livingston's outstanding leadership.

Chairman Wainwright closed by quoting Winston Churchill, "Now this is not the end. It is not even the beginning of the end, but perhaps the end of the beginning." He highlighted numerous accomplishments and awards Mr. Livingston earned during his tenure as executive director. Mr. Livingston thanked Chairman Wainwright, Mr. Collier, and the TBCJ for the honor of serving the state of Texas.

Mr. Collier presented Oscar Mendoza as the new Deputy Executive Director. He stated Mr. Mendoza has 37 years of service with the state of Texas. Mr. Collier highlighted Mr. Mendoza's career with the TDCJ and his educational background. He acknowledged Mr. Mendoza's substantial experience and strong operational perspective. Mr. Mendoza thanked Mr. Collier for his support and stated it is an honor to serve as the deputy executive director.

Mr. Collier presented Pam Thielke as the new Parole Division Director. He stated Ms. Thielke has 27 years of service to the state of Texas. Mr. Collier highlighted her career with the TDCJ and her educational background. He acknowledged her creativity and strong operational oversight. Ms. Thielke thanked Mr. Collier, Chairman Wainwright, and the TBCJ members.

Mr. Collier presented Cody Ginsel as the new Private Facility Contract Monitoring/Oversight Division Director. He stated Mr. Ginsel has over 25 years of service to the state of Texas. Mr. Collier highlighted Mr. Ginsel's career with the TDCJ and his educational background. He acknowledged Mr. Ginsel's experience and strong operational background. Mr. Ginsel thanked Mr. Collier, Chairman Wainwright, and the TBCJ.

Mr. Collier presented Kelvin Scott as the new Administrative Review and Risk Management Division Director. He stated Mr. Scott has over 29 years of service to the state of Texas. Mr. Collier highlighted Mr. Scott's career with the TDCJ and his educational background. He acknowledged Mr. Scott's strong operational background and attention to detail. Mr. Scott thanked Mr. Collier, Chairman Wainwright, and the TBCJ.

Lorie Davis, Correctional Institutions Division (CID) Director, presented Tracy Bailey as the new deputy director for Management Operations. She recognized Ms. Bailey for 24 years of service with the TDCJ and highlighted her career. Ms. Davis presented John Werner as the new Region III Director. She recognized him for 24 years of service with the TDCJ and highlighted his career.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service with the state of Texas during the months of June and July 2016. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 186th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Mr. Gambrell abstained from taking action due to his firm representing entities listed on the personal property donations list. Mr. Miles also abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Chairman Wainwright acknowledged the abstentions and, seeing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

Discussion of Legislative Appropriations Request for 2018-2019 Biennium

Mr. Collier expressed gratitude to the Chairman and TBCJ members for individually discussing the Legislative Appropriations Request (LAR) for 2018-2019 Biennium in detail. He thanked Jerry McGinty, CFO; Ron Steffa, Deputy CFO; Sherry Koenig, Budget Director; and Jennifer Gonzales, Budget Deputy Director, for the numerous hours spent working on this project. He acknowledged the lengthy process and expressed confidence in working with legislators on the issues of the next legislative session.

Remarks on Transition to Executive Director

Mr. Collier updated Chairman Wainwright and the TBCJ members on the transition to executive director by stating the transition is complete. He stated the leadership team is in place. Chairman Wainwright commented that it was a quick transition and thanked Mr. Collier.

Condolences to Officer Mari Anne Johnson's Family

Mr. Collier spoke regarding Correctional Officer Mari Anne Johnson who was tragically murdered on July 16, 2016, while working at the Robertson Unit in Abilene, Texas. He stated Officer Johnson had been an exceptional correctional officer since beginning employment with the agency in 2009. Mr. Collier acknowledged she was a strong mother, grandmother, daughter,

and sister to her family. She was taken at much too young of an age, as was mentioned at the celebration of her life on July 22, 2016, in Mansfield, Texas. Several hundred people attended the celebration, including those representing other state correction departments. Mr. Collier said her death is a harsh reminder of what the TDCJ staff face each day as they work to keep the public safe. He asked to keep Ms. Johnson's family and coworkers in our thoughts and prayers as they continue to deal with her loss. Mr. Collier commended the staff at the Robertson Unit for their performance immediately following the incident. Unit staff continued to perform their critical responsibilities while at the same time dealing with the loss of Officer Johnson.

Report from the Chairman, TBCJ

Fallen Officer Mari Anne Johnson

Chairman Wainwright commented on the dedication of TDCJ employees to protect the citizens of Texas and noted the job is not easy. He stated Mari Anne Johnson impacted many lives, never hesitating to extend a hand or help anyone in need. Chairman Wainwright stated in recognition of Officer Johnson's ultimate sacrifice while carrying out duties in service of the great state of Texas, the TBCJ recognized and honored her memory by playing Taps followed by a moment of silence.

Fiscal Management and Good Stewardship

Chairman Wainwright stated he agreed with Mr. Collier's comments regarding the LAR for the FY 2018-2019 Biennium and reaffirmed TBCJ's continued commitment to good fiscal stewardship. He thanked Mr. McGinty, Mr. Collier, and staff for the time taken to provide detailed briefings to each TBCJ member individually. Chairman Wainwright confirmed, as Mr. McGinty presented in committee, the TDCJ funding request is consistent with instructions from state leadership and seeks continued funding for items critical to the stability and successful accomplishment of TDCJ's mission. He fully supports the request and looks forward to working with the 85th Legislature.

Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2017 Annual Audit Plan

Christopher Cirrito, Director for Internal Audit, requested approval of the Proposed FY 2017 Annual Audit Plan as presented in committee.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he asked if there was a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for FY 2017 and authorize the internal audit director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

(Attachment B – Internal Audit Plan for Fiscal Year 2017)

**Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented one purchase item for approval. Item 1 is a renewal of an existing contract at the Ney Unit in Hondo, Texas, for 512 treatment slots for Substance Abuse Felony Punishment (SAFP), In-Prison Therapeutic Community (IPTC), and Driving While Intoxicated (DWI) substance abuse treatment programs.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

**Discussion, Consideration, and Possible Action Regarding the
TDCJ Fiscal Year 2017 Proposed Operating Budget and
Fiscal Years 2018-2019 Legislative Appropriations Request**

Jerry McGinty, Chief Financial Officer, requested the approval of the TDCJ Fiscal Year 2017 Proposed Operating Budget totaling \$3.4 billion and Fiscal Years 2018-2019 Legislative Appropriations Request (LAR) with \$607 million in exceptional items as presented in committee.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2017 Operating Budget and Fiscal Years 2018-2019 Legislative Appropriations Request as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Larry Miles seconded the motion which prevailed unanimously when called to a vote.

(Attachment D – Texas Department of Criminal Justice Fiscal Year 2017 Operating Budget, Fiscal Years 2018-2019 Legislative Appropriations Request, August 18, 2016)

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 163.39, Residential Services

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule 163.39, Residential Services, as proposed and authorized at the June 24, 2016, TBCJ meeting. She explained the amendments appeared in the July 8, 2016, issue of the *Texas Register*. The rule published was slightly different than what was authorized. It was discovered by the *Texas Register* staff, three additional words in section (a) (2) second sentence, “supervisions and corrections department,” were added at the end of the sentence. It didn’t change the meaning of the sentence and wouldn’t alter the public’s understanding of the rule. The words were removed, and 30 days have passed and no comments were received.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.39, Residential Services, as published in the Texas Register, and that the Chairman sign the order to this effect.

Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

2. Section 151.3, TBCJ Operating Procedures

Ms. Howell presented the proposed amendments to Board Rule 151.3, TBCJ Operating Procedures. She explained the proposed amendments are necessary to provide clarification of Open Meetings requirements and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 151.3, regarding TBCJ Operating Procedures, to receive public comment, as presented.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

3. Section 151.52, Sick Leave Pool

Ms. Howell presented the proposed amendments to Board Rule 151.52, Sick Leave Pool. She explained the proposed amendments are necessary to clarify the intent of the rule and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 151.52, regarding Sick Leave Pool, to receive public comment, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

Chairman Wainwright abstained from taking action due to his firm representing Centerpoint Energy. Eric Gambrell abstained from taking action due to his firm representing Centerpoint Energy as well. Vice-chairman Terrell McCombs facilitated the handling of this matter.

1. Request to Renew Gas Pipeline Easement at the Connally Unit in Karnes County, Kenedy, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request by Centerpoint Energy to renew a gas pipeline easement at the Connally Unit in Karnes County, Kenedy, Texas. Centerpoint Energy has agreed to pay \$500.00 for the renewal of the easement with another ten year term. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Connally Unit in Karnes County, Kenedy, Texas, as presented.

Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There were four registration cards received prior to the established deadline for public comments within the jurisdiction of the TBCJ but not items posted on the agenda. The time limit set was three minutes per individual.

Jennifer Erschabek, Executive Director of the Texas Inmate Family Association, spoke on the topics of flooding, heat, and visitation. She stated they are celebrating 20 years of being in existence and working with the agency. She congratulated Mr. Collier, Mr. Mendoza, and Ms. Davis on their promotions. In regards to flooding, Ms. Erschabek commended the TDCJ on a wonderful job moving offenders and keeping them safe. Many family members panicked during this situation, however TDCJ did a great job of communicating and assisting the association in keeping family members informed. She expressed concern for the physical infrastructure of TDCJ and heat related issues. Ms. Erschabek stated it not only affects incarcerated family members but the correctional staff as well. She also voiced concern for visitation issues, specifically rule interpretation and wait times, and stated she looked forward to working with Mr. Collier on that issue.

Gloria Rubac spoke on diabetes care. First, she spoke about her adopted son Michael Gonzales, TDCJ #999174, who has diabetes. Ms. Rubac conveyed he is not getting adequate treatment. She requested this issue be looked into. Then, Ms. Rubac expressed concern about her son-in-law Nanon Williams, TDCJ #1306434. She stated his mother lives in California and made arrangements to visit him on the weekend of his birthday at the Ramsey Unit. His mother was told she couldn't see him because they were on lockdown. Ms. Rubac said this was unacceptable and asked this issue be looked into as well. Finally, she spoke about permanent isolation on death row. Ms. Rubac read a passage from Charles Flores' book regarding his experience of suicides and suicidal thoughts of offenders on death row. She closed by asserting solitary confinement is wrong, expensive, and unnecessary.

Joanne Gavin spoke on prisoner medical and mental health. She stated the medical and mental health of prisoners is an important issue in Texas prisons and could be remedied by the TBCJ. She accused the TDCJ of unlawfully abridging the right of the people to peaceably assemble and petition the government for redress of grievances, as granted under the First Amendment of the United States Constitution. Ms. Gavin asserted this has been done by public comments being restricted to two meetings per year and then arbitrarily abridged at those meetings by cutting time allotted after people have spent time preparing to address an issue.

Elizabeth Marie Brignac spoke on the topic of rehabilitation and families. She stated she has one family member and several friends incarcerated in the TDCJ. As a survivor of violence, Ms. Brignac expressed concern for the current conditions in TDCJ. She stated conditions are unacceptable and detrimental. Ms. Brignac mentioned a recent study by the Alliance for Safety and Justice that found crime victims agree with shorter sentences and more focus on rehabilitation. She stated prisoners are part of families and communities, and most will return to those communities. She suggested in order to reduce the causes of crime in our state there needs to be more focus on education, rehabilitation, and retaining ties to families in communities. She demanded Texas drastically reduce solitary confinement, implement better policies, provide additional educational classes and rehabilitation programs inside all Texas prisons, and increase health care of offenders. She claimed the system is not supposed to be an industry and demanded an end to the exploitation of prisoners and their families.

Chairman Wainwright thanked everyone and assured them the comments were noted. He stated the issues raised today will be addressed by agency staff in written form and to please provide a name and contact information on the follow up sheet to request a copy of the written response.

Adjournment

There being no further business, Chairman Wainwright adjourned the 187th meeting of the Texas Board of Criminal Justice at 11:29 a.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
188th Meeting



Minutes

October 18, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Embassy Suites Hotel – Longhorn Room, Austin Room
5901 North IH 35
Austin, Texas 78723**

**October 18, 2016
11:30 AM – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ) at 11:30 AM for Executive Session

Reconvene TBCJ at 1:00 PM for Regular Session

I. Regular Session – Longhorn Room

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 187th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2017

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Page 8*)

G. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and Resolution Adopting the Investment Policy (*Pages 9-33*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code (*Pages 34-48*)

1. 151.6, Petition for the Adoption of a Rule
2. 155.21, Naming of a Texas Department of Criminal Justice Owned Facility
3. 161.21, Role of the Judiciary Advisory Council
4. 163.5, Waiver to Standards

- I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 1. Request to Amend Right of Way Easement at the Eastham Unit in Houston County, Lovelady, Texas
(Pages 49-50)
 2. Request for Water Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas
(Pages 51-52)

II. Executive Session – Austin Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 188**

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Tuesday, October 18, 2016, at 11:32 a.m. at the Embassy Suites Hotel, Austin, Texas. The TBCJ met in executive session, reconvened in regular session at 1:01 p.m., and adjourned at 1:48 p.m.

TBCJ MEMBERS PRESENT: Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Eric Gambrell
Larry Miles
Derrellynn Perryman
Thomas P. Wingate

TBCJ MEMBER ABSENT: Judge Larry Gist

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:** Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jeff Baldwin Bobby Lumpkin
Rudolph Brothers Angie McCown
Christopher Cirrito Jerry McGinty
Jason Clark Madeline Ortiz
Lorie Davis Kelvin Scott
Matt Demny Ron Steffa
Marie Freeland Pam Thielke
Cody Ginsel Bruce Toney
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Sherry Koenig

OTHERS PRESENT: Honorable Judge Dale Spurgin, Jones County; and Preston Streufert, Governor Abbott's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 188th meeting of the TBCJ on Tuesday, October 18, 2016, at 11:32 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. The board conducted executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074, 551.076, and 551.071, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened the regular session of the 188th meeting of the TBCJ on Tuesday, October 18, 2016, at 1:01 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Wainwright recognized the Honorable Judge Dale Spurgin, Jones County, and Preston Streufert, Governor Abbott's office.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics, as well as, public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Chairman Wainwright announced a special recognition of former Parole Division Director Stuart Jenkins and asked TDCJ Executive Director Bryan Collier to conduct the recognition. Mr. Collier thanked Chairman Wainwright for the honor.

Mr. Collier stated Mr. Jenkins served the TDCJ for over 34 years in virtually every supervisory role within the Parole Division and retired in July, 2016. He mentioned Mr. Jenkins had several tough assignments to include serving as a parole regional director in the Houston area for about 10 years and later served as parole division director for 9 years, setting an agency record for the longest tenure of a parole division director. Mr. Collier recognized Mr. Jenkins for his accountability, sharp operational focus, and solid leadership that helped to mentor countless others in leadership roles. He stated Mr. Jenkins has a track record of constantly improving public safety throughout his career and Texas is safer because of his service. Mr. Collier congratulated Mr. Jenkins and wished him the very best as he enters the next phase of his life.

Chairman Wainwright stated Mr. Jenkins was promoted to the parole director in September 2007, beginning his career in July 1982 as a parole case worker and advanced through the ranks serving in various management positions including hearings analyst, regional director, section director, and deputy director. He mentioned Mr. Jenkins knows the Parole Division from bottom to top and ran it admirably. Chairman Wainwright noted Mr. Jenkins was instrumental in the

Parole Division receiving full accreditation from the American Corrections Association and obtaining pay raises for parole officers through the Texas Legislature. He stated Mr. Jenkins' strong leadership allowed the Parole Division to implement the Texas Risk Assessment System, enhanced the training to parole staff, improved offender drug testing procedures, and increased the number of halfway house beds. Chairman Wainwright acknowledged Mr. Jenkins for providing outstanding leadership during his tenure and noted his dedication to the TDCJ will have a positive lasting impact.

Vice-Chairman Terrell McCombs stated Mr. Jenkins held one of the most difficult positions in the TDCJ and did it well, with a tenure longer than anyone in recent memory. He acknowledged Mr. Jenkins did an admirable job in keeping Texans safe, and for that all Texans owe him gratitude.

Mr. Jenkins thanked Chairman Wainwright, Mr. Collier, and the Board Members. He stated there were challenges, however, the support from the TBCJ during the entire time was unbelievable. He expressed that his wife Judy was a tremendous support too. He stated any accomplishments were the result of the team effort. He mentioned he was most proud of the positions overseeing the city of Houston and the entire Parole Division and thanked everyone for their support.

Lorie Davis, Correctional Institutions Division (CID) Director, presented Eric Guerrero as the new director for Correctional Training and Staff Development, and highlighted his career. Next, she presented Tony O'Hare as the new Region I director, and highlighted his career. Then Ms. Davis introduced Matt Barber as the new Region II director, and highlighted his career. Lastly, she introduced Melodye Nelson as the new Region VI director, and highlighted her career. Ms. Davis stated this completes the CID leadership team.

Pamela Thielke, Parole Division Director, introduced Jennifer Robinson as the new deputy director of Field Operations, and highlighted her career and educational background. Next, she introduced Kerry Gaddis as the new deputy director of Support Operations, and highlighted his career and educational background. Then Ms. Thielke introduced Robert Kimbro as the new Region V director, and highlighted his career and educational background. Lastly, she introduced Nikki Nation director of Review and Release Processing, and highlighted her career.

Cody Ginsel, Private Facilities Contract Monitoring/Oversight Division Director, introduced Allison Dunbar as new deputy director for Private Facilities Contract Monitoring/Oversight Division, and highlighted her career and educational background.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service with the state of Texas during the months of August and September 2016. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 187th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing entities listed on the personal property donations list. Board Member Larry Miles also abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Chairman Wainwright acknowledged the abstentions and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

Female Cognitive Pre-release program at the Marlin Unit

Mr. Collier stated a new female cognitive pre-release program was implemented at the Marlin Unit and began accepting offenders in September. The program has a capacity of 112 offenders and will serve over 200 offenders each year. The six month program was developed from existing resources by the Rehabilitation Programs Division (RPD) to address the need for an additional mid-level female pre-release program expressed by the Board of Pardons and Paroles Chairman David Gutierrez. The program will receive offenders who have been approved for release to parole, contingent on successful completion of the program. It provides intensive cognitive behavioral programming combined with curriculum on family relationships, anger management, domestic violence awareness, personal budgeting, and substance abuse education. Mr. Collier commended the staff of the RPD for the creativity and work designing this program and CID for facilitating the program. He also thanked Chairman Gutierrez and the Board of Pardons and Paroles for working with the TDCJ to provide this program.

Report from the Chairman, TBCJ

New Ombudsman Visitation Hotline

Chairman Wainwright stated the TDCJ website and Twitter accounts communicate information to the public. He thanked Jason Clark, Public Information Office Director, and the Information Technology Division staff for administering the website and social media account. Chairman Wainwright expressed the importance of maintaining offender family relationships during incarceration. Mr. Clark recently informed the TDCJ Twitter followers about the new visitation hotline administered by the Ombudsman's office. Operation hours are on Saturdays and Sundays from 8 a.m. to 5 p.m., and provides the public another source of information regarding offender location and visitation policy. Chairman Wainwright stated the staff on correctional facilities can answer these questions; however, it is helpful to have one number to call as well. He complimented Mr. Collier and Kelvin Scott, Administrative Review & Risk Management

Division Director, for implementing the hotline. Chairman Wainwright also thanked Mr. Collier, Ms. Davis and her senior staff, the wardens, and every TDCJ employee that strives to provide a positive experience for the offenders' families and friends.

Internal Audit Status Report for Fiscal Years 2015 - 2017

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the October 7, 2016, Internal Audit Division Status Report for the Fiscal Years (FY) 2015 - 2016:

- **1602 – Correctional Institutions Division, Unit Supply:** Audit has moved to draft report.
- **1608 – Windham School District, Information Security – Access Controls:** Audit is complete.
- **1614 – Information Technology Division, Software Licensing:** Audit has moved to report writing.
- **1616 – Reentry and Integration Division, Verification and Identification Processing Follow up:** Audit has moved to draft report.
- **1701 – Parole Division, Restitution Collection Follow up:** Audit is in field work.
- **1702 – Windham School District, Recreation Programs Follow up:** Audit is in field work.
- **1703 – Business and Finance Division, Victim Restitution System:** Audit has been assigned and is in background.
- **1718.01 – Walk Through, Data Systems Identification:** Audit has been assigned.

Chairman Wainwright asked if there were any questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2015-2017)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing several counties included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented two purchase items for approval. Item 1 is an increase of \$200,000 to an existing Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) Contract for Case Management and Continuity of Care – Bastrop, Burnet, Caldwell, Fayette, Gonzales, Guadalupe, Lee and Williamson Counties for Bluebonnet Trails Community Mental Health Mental Retardation Center. Item 2 is to replace the existing contract for TCOOMMI Contract for Case Management and Continuity of Care – Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall Counties for the North Texas Behavioral Health Authority.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and Resolution Adopting the Investment Policy

Mr. McGinty presented BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and resolution to adopt, in accordance with Chapter 2256 of the Public Funds Investment Act which requires the agency to have a board policy regarding investments, and also requires an annual review. No revisions were made to the policy.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy as presented, and that the Chairman sign the resolution adopting the policy.

Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.6, Petition for the Adoption of a Rule

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 151.6, Petition for the Adoption of a Rule. She explained the proposed amendments are necessary to conform the language of the rule to state statute and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.6, Petition for the Adoption of a Rule, to receive public comment, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

2. Section 155.21, Naming of a Texas Department of Criminal Justice Owned Facility

Ms. Howell presented the proposed amendments to Board Rule 155.21, Naming of a Texas Department of Criminal Justice Owned Facility. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 155.21, regarding Naming of a Texas Department of Criminal Justice Owned Facility, to receive public comment, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

3. Section 161.21, Role of the Judiciary Advisory Council

Ms. Howell presented the proposed amendments to Board Rule 161.21, Role of the Judiciary Advisory Council. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 161.21, regarding Role of the Judiciary Advisory Council, to receive public comment, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

4. Section 163.5, Waiver to Standards

Ms. Howell presented the proposed amendments to Board Rule 163.5, Waiver to Standards. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 163.5, regarding Waiver to Standards, to receive public comment, as presented.

Thomas Wingate seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

Chairman Wainwright abstained from taking action on the next two agenda items due to his firm representing the Texas Department of Transportation and Brazosport Water Authority. Mr. McCombs facilitated the handling of both agenda items.

1. Request to Amend Right-of-Way Easement at the Eastham Unit in Houston County, Lovelady, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request from the Texas Department of Transportation in cooperation with the TDCJ to amend an existing right-of-way easement at the Eastham Unit in Houston County, Lovelady, Texas. The amendment will correct an oversight created in the original easement granted in April 1960 for construction of state FM 230. The amendment will add an approximate 3.35 acres of land to extend the right-of-way easement to common boundaries of neighboring properties. All other terms and provisions of this easement will remain in full force and effect. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request to amend the right of way easement at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

2. Request for Water Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas

Mr. Demny presented the request from the Brazosport Water Authority for an easement at the Darrington Unit in Brazoria County, Rosharon, Texas, for the installation of one water pipeline to provide water to customers. The total length of the easement is 21,236.42 feet long by 30 feet wide and encompasses 14.626 acres of land. The request also includes 9.75 acres of land for a temporary workspace used during pipeline construction and installation. They have agreed to pay \$36,834.00 for the easement, which will also include an option for the agency to purchase water to serve the Darrington Unit at a reduced rate. The requested term for the easement is 30 years. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the request for a water pipeline easement at the Darrington Unit in Brazoria County, Rosharon, Texas, as presented.

Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, December 9, 2016, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 188th meeting of the Texas Board of Criminal Justice at 1:48 p.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
189th Meeting



Minutes

December 9, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel Austin – Phoenix South, Robertson Room
6505 North IH 35
Austin, Texas 78752**

**December 9, 2016
11:45 AM – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix South

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 188th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2017

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Revisions to Board Policy BP-03.85, “Offender Visitation”

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees”

I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.71, Marking of State Vehicles of the Department of Criminal Justice
2. 151.73, Texas Department of Criminal Justice Vehicle Assignments
3. 155.23, Site Selection Process for the Location of Additional Facilities
4. 163.21, Administration

- J. Discussion, Consideration, and Possible Action Regarding Readoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.46, Allocation Formula for Community Corrections Program

- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 151.3, Texas Board of Criminal Justice Operating Procedures
 - 2. 151.6, Petition for the Adoption of a Rule
 - 3. 151.52, Sick Leave Pool
 - 4. 155.21, Naming of a Texas Department of Criminal Justice Owned Facility
 - 5. 161.21, Role of the Judiciary Advisory Council
 - 6. 163.5, Waiver to Standards

- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request to Renew Gas Pipeline Easement at the Coffield Unit in Anderson County, Tennessee Colony, Texas
 - 2. Request for Electrical Easement at the Eastham Unit in Houston County, Lovelady, Texas

II. Executive Session – Robertson Room

- A. The TBCJ may convene into Executive Session.

- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).

- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 189**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, December 9, 2016, in regular session at 11:45 a.m. in the Phoenix South room at the DoubleTree Hotel, Austin, Texas. The TBCJ recessed from regular session at 12:57 p.m., reconvened in executive session in the Robertson room at 1:24 p.m., and adjourned at 2:14 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Larry Miles
Derrellynn Perryman

TBCJ MEMBERS ABSENT:

Tom Fordyce
Judge Larry Gist
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Rudolph Brothers Sherry Koenig
Christopher Cirrito Dr. Linthicum
Jason Clark Bobby Lumpkin
Lorie Davis Angie McCown
Matt Demny Jerry McGinty
Patty Garcia Madeline Ortiz
Marie Freeland Kelvin Scott
Cody Ginsel Ron Steffa
Sharon Howell Pam Thielke
Frank Inmon Bruce Toney
Carey Welebob

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; and Preston Streufert, Governor Abbott's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 189th meeting of the TBCJ on Friday, December 9, 2016, at 11:45 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Wainwright recognized the Honorable Judge Dale Spurgin, Jones County, and Preston Streufert, Governor Abbott's office.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Bryan Collier, TDCJ Executive Director, recognized Dr. Lannette Linthicum for 30 years of service with the TDCJ. She began her career with the TDCJ in 1986, came here through the United States Public Health Service after graduating medical school, and had a 4 year commitment. However, she chose to stay as she had a passion for working in corrections. She has served as medical director of the TDCJ Health Services Division since 1998. She is board certified in internal medicine and has an advanced certificate in correctional health care. She is a fellow of the American College of Physicians and serves on the board of directors for several correctional associations including the American Correctional Health Services Association and the Society of Correctional Physicians. She is also the president elect of the American Correctional Association (ACA) and will be sworn into office in January 2017. She has received numerous prestigious awards: Best in the Business by American Correctional Association, ER Cass Achievement Award, and the John Phillips Award presented by the trustees of the Phillips Exeter Academy in New Hampshire. Mr. Collier stated we are fortunate to have someone of her caliber, expertise, and passion.

Dr. Linthicum thanked God for her journey with the TDCJ. Dr. Linthicum stated she was proud of the tremendous work done in the TDCJ, especially the premier health care system, and it was a collaborative effort of all the division directors and colleagues that led to all of the accomplishments. She expressed gratitude to have the opportunity to serve in the capacity as medical director for the TDCJ.

Chairman Wainwright asserted that Dr. Linthicum is probably the premier expert in the health care system in corrections. He conveyed the TBCJ is fortunate and pleased to have her as the TDCJ medical director.

Vice-Chairman Terrell McCombs expressed that it is monumental for Dr. Linthicum to be president of the ACA, and the TBCJ is very proud.

Mr. Collier recognized Kelvin Scott, Administrative Review and Risk Management (ARRM) Division Director, for 30 years of service with the TDCJ. He highlighted Mr. Scott's career and educational background, and stated he is a key member of the executive leadership team.

Mr. Collier recognized Angela Moore for 29 years of service with the TDCJ. She served as the senior executive assistant in the executive director's office since 2004 and has been directly involved in every board meeting for the last 15 years. Mr. Collier stated she is a very strong leader and helped ensure the office of the executive director ran effectively each and every day. He highlighted her career with the TDCJ and made special mention of the 19 years spent working for Mr. Livingston, the former TDCJ executive director. Mr. Collier expressed gratitude for her dedication, loyalty, and constantly going above and beyond the call of duty to serve the agency. He congratulated her on a well-deserved retirement.

Lorie Davis, Correctional Institutions Division (CID) Director, recognized Billy Hirsch, Deputy Director for Prison and Jail Operations, for 30 years of service to the TDCJ. She highlighted his career as he promoted through the ranks in the CID. Ms. Davis stated he is one of the most well respected leaders in the field and has a keen sight for detail.

Mr. Collier congratulated Mr. Hirsch, and stated Mr. Hirsch has one of the toughest jobs in the TDCJ. He expressed gratitude to Mr. Hirsch for doing a fantastic job.

Dr. Lannette Linthicum introduced Dr. Daniel Krall as the new director of mental health monitoring and liaison for the Health Services Division, and highlighted his career and educational background. She stated Dr. Krall's extensive experience in adult and child psychology and his leadership skills will serve the TDCJ well.

Cody Ginsel, Private Facility Contract Monitoring/Oversight Division (PFCMOD) Director, introduced Sheila Moore as new deputy director of compliance monitoring for the Private Facility Contract Monitoring/Oversight Division, and highlighted her career and educational background.

Pamela Thielke, Parole Division Director, introduced Lela Smith as the new director for the Warrants section of the Parole Division, and highlighted her career and educational background.

Kelvin Scott, ARRM Division Director, introduced Rene Hinojosa as the new deputy director for ARRM Division, and highlighted his career and educational background. Mr. Scott introduced Cassandra McGilbra as the new ombudsman V coordinator for the ARRM Division, and highlighted her career with the TDCJ.

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 188th TBCJ Meeting Minutes**

4. Excused Absences

Chairman Wainwright stated there is an excused absence for Judge Larry Gist due to personal business. He asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing two entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

PREA Audit Update

Mr. Collier presented an update on the progress of the TDCJ's Prison Rape Elimination Act (PREA) audit process. The PREA audit began in 2014 and includes prison units, intermediate sanction facilities (ISF), halfway houses, and community residential treatment centers. Since 2014, a total of 95 facilities have been through the PREA audit process, of which 90 have completely passed the PREA audit. The remaining five facilities have completed their audits and are awaiting the final report. It is expected these locations will pass their audit. During calendar year 2017, the first PREA audit cycle will be completed and it is expected that all facilities will be completely PREA compliant. Mr. Collier thanked Lorie Davis and CID staff, Cody Ginsel and PFCMOD staff, and Kelvin Scott and ARRM staff for all the work that was done before and during the audit to ensure compliance with requirements.

85th Legislative Session Preparations

Mr. Collier stated the 85th Legislative Session preparations have begun. Over the past few months, the TDCJ has had several productive meetings with legislative offices to discuss the upcoming session, our agency budget, and the agency's needs over the 2018 and 2019 biennium. The pre-filing of bills began on November 14, 2016. Jeff Baldwin, Chief of Staff, and his staff have been monitoring that process. The session will officially begin on January 10, 2017, and will continue for 140 days until May 29, 2017. The TDCJ is looking forward to working with legislative leadership over the next few months and are committed to continue the TDCJ's successful track record in the legislative process.

Mr. Collier wished all TDCJ families a safe and happy holiday season. He asked everyone, as we enjoy time with family over the holiday season, to take time to reflect on the many blessings received and to remember there will be thousands of TDCJ employees who are on the job dedicated to providing public safety. He expressed appreciation for the hard work and dedication those TDCJ employees provide every day.

Thank you and Merry Christmas!

Report from the Chairman, TBCJ

TBCJ - Diversity

Chairman Wainwright stated the Merriam Webster dictionary defines diversity as the condition of having or being composed of different elements, especially the inclusion of different types of people, different races, and different cultures in a group or organization. He explained that the TDCJ is committed to equal employment opportunity, operates with a zero tolerance policy against all forms of discrimination and has a diversity policy which is predicated on more than just compliance with state or federal law. He said the TBCJ recognizes that diversity within the workplace is a valuable asset because it enhances the TDCJ's ability to accomplish its mission and enriches employees both professionally and personally, and that while the TDCJ's policy predates his appointment to the TBCJ, its founding principle that diversity contributes to the success of the agency as well as the growth of the individual is very much in line with his own views on the subject. Chairman Wainwright added that we often we talk about diversity as a goal to be obtained, when it is actually a way to accomplish the goals the TDCJ wishes to achieve. When people from different backgrounds, genders, and races come together to solve problems, they bring with them different information, different opinions, and different perspectives. This diversity allows the TDCJ to benefit from the wide range of experiences and perspectives employees bring to the workplace, and it improves the TDCJ's ability to deal with the multitude of different challenges encountered every day. The workforce diversity also benefits individual employees who learn and grow from gaining new insights and different perspectives from interacting with coworkers. Individuals who have experience dealing with diversified ideas and opinions are better prepared to meet the challenges they encounter in the workplace and other facets of their lives. He said the task before all state servants is to govern in a manner worthy of this great state, and thanked Executive Director Bryan Collier, senior staff, and every TDCJ employee for striving to make an already challenging work environment more positive for everyone. He stated the TDCJ does its job well, however, we are not treading water and still seeking to improve every day.

Internal Audit Status Report for Fiscal Years 2015 - 2017

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the November 29, 2016, Internal Audit Division Status Report for the Fiscal Years (FY) 2015 - 2017:

- **1609 – Administrative Review and Risk Management Division, Offender Grievance:** Audit has moved to report writing.
- **1614 – Information Technology Division, Software Licensing:** Audit has moved to draft report.
- **1704 – Human Resources Division, Position Classification Review Follow up:** Audit is complete.
- **1705 – Information Technology Division, Information Systems Security – Texas Administrative Code Chapter 202:** Audit has been assigned.
- **1706 – Executive Administration, Ethics Programs:** Audit has been assigned.

- **1707 – Reentry and Integration Division, Continuity of Care:** Audit has been assigned.

Vice-Chairman Terrell McCombs asked if the Internal Audit Division was now fully staffed. Mr. Cirrito replied yes.

Chairman Wainwright asked if there were any other questions. There were none.

(Attachment A – Internal Audit Division Status Report, Fiscal Years 2015-2017)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing 3M included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented seven purchase items for approval. Item 1 is an increase to an existing electronic monitoring contract for an increase in services. Items 2 through 6 are FY16-17 increases to existing contracts for Residential and/or Outpatient Substance Abuse Treatment services due to an increase in services. Item 7 is an increase to an existing contract for Substance Abuse Felony Punishment Facility/In-Prison Therapeutic Community/Driving While Intoxicated at the Ney Unit.

Leo Vasquez asked to confirm these were due to changes in volume, and not rates. Mr. McGinty confirmed that it was due to additional services at different locations and the rates were the same.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Revisions to Board Policy BP-03.85, “Offender Visitation”

Sharon Howell, TDCJ General Counsel, presented BP-03.85, “Offender Visitation,” for periodic review. The proposed changes are non-substantive, except for the signature authority and addition of citations in the authority section.

Vice-Chairman Terrell McCombs asked what prompts the change for grammatical effect. Ms. Howell replied it is to have consistency, accuracy, and clarity within all policies.

Chairman Wainwright asked Ms. Howell to provide a general overview of the process when the policies are reviewed. Ms. Howell replied that it used to be all policies were reviewed every 2 years, however, it is not necessary from a legal standpoint. She explained the policies are staffed out from Executive Services, every 4-5 years, to every division within the TDCJ. Each policy has a proponent, however, every division replies with comments. The policy is then prepared for review by executive management and the TBCJ chairman. Ms. Howell explained board rules must be reviewed every 4 years per statute.

Chairman Wainwright stated after that process, policies and rules are submitted to him 2-3 weeks before the board meeting containing approvals and modifications from executive management. He stated that if he has questions, it goes back for further consideration, otherwise it will go on the board agenda. Chairman Wainwright stated all of the material comes out before the board meeting so board members have a chance to look at it ahead of time to be prepared to ask questions and vote on it.

Chairman Wainwright asked if there were any other questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 03.85, "Offender Visitation," as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"

Sharon Howell, TDCJ General Counsel, presented PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," proposed revisions. She explained there are small substantive changes and a big substantive change. The big substantive change provides a section that identifies the charging officials' responsibilities when preparing an employee offense report. Previously, all the guidance contained in the new section was scattered throughout the policy and, therefore, made the charging official responsible for looking in a number of different places to figure out what their duties are when preparing an employee offense report. Now it is consolidated in one place, providing the charging official with guidance for charging an employee with a single violation or multiple violations arising out of a single incident.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.71, "Marking of State Vehicles of the Department of Criminal Justice"

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 151.71, "Marking of State Vehicles of the Department of Criminal Justice." She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.71, regarding Marking of State Vehicles of the Department of Criminal Justice, to receive public comment, as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

2. Section 151.73, "Texas Department of Criminal Justice Vehicle Assignments"

Ms. Howell presented the proposed amendments to Board Rule 151.73, "Texas Department of Criminal Justice Vehicle Assignments." She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 151.73, regarding Texas Department of Criminal Justice Vehicle Assignments, to receive public comment, as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. Section 155.23, “Site Selection Process for the Location of Additional Facilities”

Ms. Howell presented the proposed amendments to Board Rule 155.23, “Site Selection Process for the Location of Additional Facilities.” She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 155.23, regarding Site Selection Process for the Location of Additional Facilities, to receive public comment, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

4. Section 163.21, “Administration”

Ms. Howell presented the proposed amendments to Board Rule 163.21, “Administration.” She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Section 163.21, regarding Administration, to receive public comment, as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Readoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.46, “Allocation Formula for Community Corrections Program”

Sharon Howell, TDCJ General Counsel, presented Board Rule 163.46, “Allocation Formula for Community Corrections Program.” The rule was published in the November 4, 2016 issue of the

Texas Register, with no suggested amendments. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with readoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice readopt Board Rule Title 37 Texas Administrative Code Section 163.46 regarding Allocation Formula for Community Corrections Program, as presented, and that the Chairman sign the order to this effect.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.3, “Texas Board of Criminal Justice Operating Procedures”

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule 151.3, “Texas Board of Criminal Justice Operating Procedures,” as proposed and authorized at the August 18, 2016, TBCJ meeting. She explained the amendments appeared in the September 2, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.3, regarding Texas Board of Criminal Justice Operating Procedures, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Section 151.6, “Petition for the Adoption of a Rule”

Ms. Howell requested the adoption of amendments to Board Rule 151.6, “Petition for the Adoption of a Rule,” as proposed and authorized at the October 18, 2016, TBCJ meeting. She explained the amendments appeared in the November 4, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.6, regarding Petition for the Adoption of a Rule, as published in the Texas Register, and that the chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. Section 151.52, “Sick Leave Pool”

Ms. Howell requested the adoption of amendments to Board Rule 151.52, “Sick Leave Pool,” as proposed and authorized at the August 18, 2016, TBCJ meeting. She explained the amendments appeared in the September 2, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.52, regarding Sick Leave Pool, as published in the Texas Register, and that the chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

4. Section 155.21, “Naming of a Texas Department of Criminal Justice Owned Facility”

Ms. Howell requested the adoption of amendments to Board Rule 155.21, “Naming of a Texas Department of Criminal Justice Owned Facility,” as proposed and authorized at the October 18, 2016, TBCJ meeting. She explained the amendments appeared in the November 4, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 155.21, regarding Naming of a Texas Department of Criminal Justice Owned Facility, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

5. Section 161.21, “Role of the Judicial Advisory Council”

Ms. Howell requested the adoption of amendments to Board Rule 161.21, “Role of the Judicial Advisory Council,” as proposed and authorized at the October 18, 2016, TBCJ meeting. She explained the amendments appeared in the November 4, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 161.21, regarding the Role of the Judicial Advisory Council, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

6. Section 163.5, “Waiver to Standards”

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule 163.5, “Waiver to Standards,” as proposed and authorized at the October 18, 2016, TBCJ meeting. She explained the amendments appeared in the November 4, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.5, regarding Waiver to Standards, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

Chairman Wainwright abstained from taking action on the next agenda item due to his firm representing Enbridge Pipelines (East Texas), L.P. Mr. McCombs facilitated the handling of this agenda item.

1. Request to Renew Gas Pipeline Easement at the Coffield Unit in Anderson County, Tennessee Colony, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request from Enbridge Pipelines (East Texas), L.P. to renew an easement at the Coffield Unit in Anderson County, Tennessee Colony, Texas, in order to continue to provide transportation of natural gas liquids. The easement is comprised of three segments totaling 33.61 acres of land being a combined area of 29,248 feet long by 50 feet wide. The original easement was granted in December 2006. Enbridge Pipelines (East Texas), L.P. has agreed to pay \$354,524.00 for the renewal with another ten-year term. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request to renew the gas pipeline easement at the Coffield Unit in Anderson County, Tennessee Colony, Texas, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright resumed facilitating the handling of the remaining agenda items.

2. Request for Electrical Easement at the Eastham Unit in Houston County, Lovelady, Texas

Mr. Demny presented the request from Houston County Electric Cooperative, Inc. for an easement at the Eastham Unit in Houston County, Lovelady, Texas, in order to provide a power source to customers in the area. The easement consists of an area of 0.91 acre of land being approximately 2,471.25 feet long by 16 feet wide for one electrical transmission line. They have agreed to pay \$1,820.00 for the easement with a ten-year term. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the request for an electrical easement at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked the staff in the chairman's office for putting together materials for the meetings and all the work they do. He thanked everyone for coming, and announced that

the next meeting of the TBCJ will be Friday, February 10, 2017, at the DoubleTree Hotel in Austin.

The TBCJ recessed from regular session at 12:57 p.m. and reconvened in executive session at 1:24 p.m.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened in the executive session of the 189th meeting of the TBCJ on Friday, December 9, 2016, at 1:24 p.m., which is closed to the public in accordance with Texas Government Code Sections 551.074, 551.076, and 551.071, the *Open Meetings Act*.

Adjournment

There being no further business, Chairman Wainwright adjourned the 189th meeting of the Texas Board of Criminal Justice at 2:14 p.m.

Chairman*

Secretary*

*Signature on File

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.

Texas Board of Criminal Justice
190th Meeting



Minutes

February 10, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel Austin – Phoenix South, Robertson Room
6505 North IH 35
Austin, Texas 78752**

**February 10, 2017
11:30 AM – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix South

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 189th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2016 Annual Review

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2016 – 2017

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders” (*Pages 8-15*)

I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification & Hazardous Duty Pay Eligibility Guidelines (*Pages 16-21*)

J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code (*Pages 22-40*)

1. 151.71, Marking of Texas Department of Criminal Justice Vehicles
2. 151.73, Texas Department of Criminal Justice Vehicle Assignments
3. 155.23, Site Selection Process for the Location of Additional Facilities
4. 163.21, Administration

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction – Request for Sale of South Texas Intermediate Sanction Facility, Harris County, Houston, Texas (*Pages 41-42*)

Recess

II. Executive Session – Robertson Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 190**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, February 10, 2017, in regular session at 11:32 a.m. in the Phoenix South room at the DoubleTree Hotel, Austin, Texas. The TBCJ recessed from regular session at 12:39 p.m., reconvened in executive session in the Robertson room at 1:03 p.m., and adjourned at 2:05 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Eric Gambrell
Larry Miles
Derrellynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Judge Larry Gist

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)**

Bryan Collier, Executive Director

STAFF PRESENT:

Rudolph Brothers	Frank Inmon
Christopher Cirrito	Dr. Linthicum
Jason Clark	Bobby Lumpkin
Lorie Davis	Angie McCown
Matt Demny	Madeline Ortiz
Marie Freeland	Kelvin Scott
Patty Garcia	Ron Steffa
Cody Ginsel	Pam Thielke
Sharon Howell	Carey Welebob

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; and David Gutierrez, Presiding Officer, Board of Pardons and Paroles.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 190th meeting of the TBCJ on Friday, February 10, 2017, at 11:32 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Wainwright recognized the Honorable Judge Dale Spurgin, Jones County, and David Gutierrez, Presiding Officer, Board of Pardons and Paroles.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." One speaker registration card was received by staff prior to the deadline. Ms. Frances Vaughn stated she attended the American Correctional Association (ACA) Conference and toured the Dominguez Unit. She spoke highly of Warden Troy Selman, who conducted the tour, and said he represented the state very well and the tour was informative. Ms. Vaughn thanked the agency for setting it up. Chairman Wainwright thanked her for the compliment.

Recognitions

Lorie Davis, Correctional Institutions Division (CID) Director, recognized Leonard Echessa, Deputy Director for Support Operations, for 25 years of service to the TDCJ. She highlighted his career as he promoted through the ranks in the CID. Ms. Davis stated he has a calm and analytical approach and has done a wonderful job.

Bryan Collier, TDCJ Executive Director, stated Mr. Echessa is an outstanding leader and is a strong member of the CID team. He congratulated Mr. Echessa for doing a great job.

Ms. Davis recognized Tracy Bailey, Deputy Director for Management Operations, for 25 years of service to the TDCJ. She highlighted her career as she promoted through the ranks in the CID. Ms. Davis stated Ms. Bailey has done amazing things with correctional staff and is very focused on leadership.

Mr. Collier stated Ms. Bailey is an outstanding leader and always does a fantastic job for the agency. He congratulated her for a job well done.

Pamela Thielke, Parole Division Director, introduced Sherri Cogbill as the new Manager III for the Parole Division that oversees the Interstate Compact Office, and highlighted her career. Ms. Thielke stated Ms. Cogbill's determination, reliability, responsiveness, and passion for work in the criminal justice field has made her a sound fit for this position.

Patty Garcia, Human Resources Division Director, introduced Charlene Maresh as the new Human Resources Deputy Division Director, and highlighted her career with the TDCJ. Ms. Garcia expressed her enthusiasm for having Ms. Maresh in this new position.

Angie McCown, Victim Services Division Director, introduced Mary McCaffity as the new Victim Services Deputy Division Director, and highlighted her career and educational background. Ms. McCown stated Ms. McCaffity brings experience and proven leadership to the position that will allow her to serve well in this position.

Frank Inmon, Facilities Division Director, introduced Kim Farguson as the new director of facilities maintenance, and highlighted his career. Mr. Inmon stated Mr. Farguson has over 30 years experience in the maintenance field, 20 of which has been with the TDCJ.

Eric Gambrell, TBCJ member, stated when a TDCJ employee passes, the Chairman writes a letter of condolence to the family. Mr. Gambrell read a letter that was received from the mother of former TDCJ Lewis Unit employee, Jeff Bailey. She expressed sincere gratitude for the Chairman's heartfelt letter which was received at a time of tremendous loss and sorrow. She described Jeff's battle with cancer and although he lost this battle, he loved the work he did and he respected the people he worked with.

Chairman Wainwright recognized Dr. Lannette Linthicum for being an exceptional leader. She was recently honored by the ACA. He stated he was privileged to witness the swearing in ceremony of the 105th ACA National President Dr. Lannette Linthicum, the first physician to preside over the ACA. Chairman Wainwright and Mr. Collier presented Dr. Linthicum with a framed memorial keepsake for her dedication and outstanding performance in criminal justice.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of October, November, December 2016, and January 2017. During this time, 100 employees attained 25 years of service, 48 employees attained 30 years of service, 15 employees attained 35 years of service, and 5 employees attained 40 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 189th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing three entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Presiding Officer, Texas Board of Pardons and Paroles

Overview of the Texas Board of Pardons and Paroles Fiscal Year 2016 Annual Review

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2016 Annual Review. He stated the BPP has seven board members and 14 parole commissioners. Mr. Gutierrez explained they consider individual offenders eligible for parole and discretionary mandatory supervision, and set conditions upon those individuals considered for release. He stated they also determine revocation matters throughout the state for those individuals who allegedly violated a condition(s) of parole and recommend clemency matters to the Governor. In FY 2016, the BPP considered over 101,000 cases. The approval rate was slightly above 34% and the discretionary mandatory review was slightly over 42%. Mr. Gutierrez attributed the rising trends to rehabilitation programming. He stated treatment programs are essential for the voters to consider release. In FY 2016, over 20,000 preliminary and revocation hearings were conducted. Slightly over 5,900, out of a parole population of 87,000, were revoked. An additional 7,000-8,000 were placed in intermediate sanction facilities. Mr. Gutierrez stated they utilize the graduated sanction approach for revocation hearings. They look at the pattern, work closely with the Parole Division, and determine if other conditions or other levels of supervision should be added in lieu of revocation. He stated Texas is the model when it comes to the low number of revocations and utilizing the graduated sanction approach.

Derrellynn Perryman, TBCJ member, spoke about the opportunity she had to observe a class in a SAFF program in one of the women's facilities in Gatesville. She asked the group of 40-50 offenders what they were getting out of the programing that was going to be beneficial to them after they are released. Ms. Perryman expressed how impressed she was that they were all very excited about what they were learning and how they had a chance to rethink their lives.

Mr. Gutierrez agreed and attributed the accomplishments achieved in treatment programs to the close working relationship with the TDCJ.

Chairman Wainwright stated he was not surprised by the collaboration that has been exhibited.

Terrell McCombs, TBCJ member, expressed gratitude to Mr. Gutierrez for doing an outstanding job and asked what has been the biggest challenge?

Mr. Gutierrez responded by stating the biggest challenge has been the tremendous responsibility the voters have in making the decision to release someone and hoping that person does not do harm to another. He explained that they hired a new victim's liaison who will work in conjunction with victim services in an effort to aid with the challenges faced in making the decision to release an offender.

Mr. Collier, on behalf of division directors and Windham School District, thanked Mr. Gutierrez for working together with them. He stated many people have said it is a pleasure working with Mr. Gutierrez and the BPP.

Report from the Executive Director, Texas Department of Criminal Justice

Closure of South Texas Intermediate Sanction Facility and Repurposing of the Kegans State Jail

Mr. Collier stated it was announced in August that the South Texas Intermediate Sanction Facility in Houston will be closed and the Kegans State Jail also located in Houston will be repurposed into an intermediate sanction facility. Initially, the plan was to complete this transition in the summer of 2017. After discussions with the operating vendor for the South Texas facility, it was determined that the transition could occur earlier. The transition was initiated and completed in December. The benefits of an earlier closure allow a reduction in operating costs for 2017 and will also prevent any potential staffing problems which could have occurred as a result of the facility being identified for closure. Mr. Collier stated an additional 200 intermediate sanction facility beds opened due to this transaction. Today's vote for the request for the sale of the South Texas Intermediate Sanction Facility will be the final action on this transition. Mr. Collier recognized Cody Ginsel, Lorie Davis, and Jerry McGinty and their respective teams for all of their work which has helped to ensure a seamless transition.

Update of Activities Related to the 85th Legislative Session

Mr. Collier presented an update on the 85th Legislative Session. He stated much of the activity in the past few weeks has focused on the Senate, which began budget hearings earlier this month. The TDCJ appeared before the Senate Finance Committee on February 1st to provide an overview of offender health care and appeared before a Senate sub-committee on health care on the 3rd. The TDCJ presented the agency budget to the Senate Finance Committee on Wednesday February 8, 2016. The TDCJ's base budget in both the House and Senate restored the 4% items requested and gave a good starting point in beginning budget discussions. The TDCJ is seeking funding for 10 exceptional items and are concentrating efforts on those areas at this time. The House has not named committees, however, it will be in the very near future. The House budget hearings will be held in the next few weeks. Jeff Baldwin and his team are monitoring filed legislation that has an impact on the agency and hearings on bills will begin in a few weeks. Legislative session is still in the early stages and has 108 days left. Mr. Collier assured the TBCJ members that the TDCJ team is fully engaged in working through the session.

Division Realignment

Mr. Collier announced that the Agribusiness, Land and Minerals Department is moving into the Manufacturing and Logistics Division, which is being renamed as the Manufacturing, Agribusiness and Logistics Division. These two areas share many similar functions such as logistics, mechanical shops, and offender job training. Agricultural operations provide raw materials utilized in factories, and freight transportation serves both areas. The merging of these two functions will allow the leveraging of resources to improve both areas and strengthen the agribusiness, and manufacturing and logistics operations. There are no negative personnel actions resulting from this change. The combination of these two important areas will have long-

lasting benefits. Mr. Collier commended Matt Demny and Bobby Lumpkin for their assistance on making this transition successful.

Report from the Chairman, TBCJ

American Correctional Association Conference

Chairman Wainwright discussed the American Correctional Association's 2017 Winter Conference in San Antonio. He stated the highlight was witnessing Dr. Lannette Linthicum being sworn in as president of the Association. Chairman Wainwright spoke about the many members of the TDCJ family that were there including Executive Director Bryan Collier who serves on the ACA Board of Directors, and Dr. Clint Carpenter, Windham School District Superintendent, and Christopher Cirrito, Internal Audit Division Director. He stated many TDCJ senior staff gave presentations during the conference because they are recognized experts in their respective fields. Chairman Wainwright thanked them for helping make the conference a success, and also thanked the many other TDCJ staff who made important contributions. He also expressed one activity of particular significance was the accreditation, or reaccreditation in the case of TDCJ, of facilities and functions that, if successful, leads to agency-wide accreditation. The Texas Department of Criminal Justice achieved agency-wide accreditation in 2014, and the accomplishment was recognized by the Association through the presentation of the prestigious golden eagle award. Maintaining agency-wide accreditation requires each unit and function to continually demonstrate excellence. During the 2017 winter conference, 16 facilities and the Parole Division were successfully reaccredited and none of our units were not reaccredited. Chairman Wainwright thanked Lorie Davis, Cody Ginsel, and Pam Thielke for the hard work and outstanding performance that was recognized by the Association.

Internal Audit Status Report for Fiscal Years 2016 - 2017

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the February 01, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2016 - 2017:

- **1606 - Rehabilitation Programs Division, *Post-Secondary Education Programs***: Audit is complete.
- **1607 - Correctional Institutions Division, *Offender Off-Unit Transports***: Audit has moved to draft report.
- **1611 - Rehabilitation Programs Division, *Civil Commitment***: Audit is complete.
- **1705 - Information Technology Division, *Information Systems Security–Texas Administrative Code Chapter 202***: Audit is in field work phase.
- **1708 - Windham School District, *Application Processing***: Audit has moved to field work.
- **1718.01 - Walk Through, *Data Systems Identification***: Audit is complete.

Vice-Chairman Terrell McCombs asked if there is a single parameter that stands out as a cautionary flag, regardless of the department, that comes up often.

Mr. Cirrito replied that the issues tend to differ from audit to audit. He stated the audit plan is designed to give a wide coverage to all the functions of the agency.

Chairman Wainwright asked if there were any other questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2016-2017)

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders”

Sharon Howell, TDCJ General Counsel, presented PD-29, “Sexual Misconduct with Offenders,” proposed revisions. She stated this was a periodic review that includes small changes made to the policy. Ms. Howell explained a definition for “intern” was included in the policy and conforming changes were made to acknowledge that interns could possibly have interactions with offenders that should be regulated under the policy. She stated citations to pre-regulations were included to clarify that a person reporting a violation of this policy may report it to the PREA Ombudsman without having to go through the chain of command.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders,” as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines”

Ms. Howell presented the proposed amendments to Board Rule 151.51, “Custodial Officer Certification and Hazardous Duty Pay.” She explained the proposed amendments do not change any procedures but are necessary to reconcile and use consistent language among the rule and various policies, including PD-85, “Custodial Officer Certification, Hazardous Duty Pay, and Longevity Pay.” Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas

Administrative Code section 151.51, regarding Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines, to receive public comment, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.71, “Marking of Texas Department of Criminal Justice Vehicles”

Ms. Howell requested the adoption of amendments to Board Rule 151.71, “Marking of Texas Department of Criminal Justice Vehicles,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.71, regarding Marking of Texas Department of Criminal Justice Vehicles, as published in the Texas Register, and that the chairman sign the order to this effect.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

2. Section 151.73, “Texas Department of Criminal Justice Vehicle Assignments”

Ms. Howell requested the adoption of amendments to Board Rule 151.73, “Texas Department of Criminal Justice Vehicle Assignments,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.73, regarding Texas Department of Criminal Justice Vehicle Assignments, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

3. Section 155.23, “Site Selection Process for the Location of Additional Facilities”

Ms. Howell requested the adoption of amendments to Board Rule 155.23, “Site Selection Process for the Location of Additional Facilities,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 155.23, regarding Site Selection Process for the Location of Additional Facilities, as published in the Texas Register, and that the chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

4. Section 163.21, “Administration”

Ms. Howell requested the adoption of amendments to Board Rule 163.21, “Administration,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.21, regarding Administration, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction Request for Sale of South Texas Intermediate Sanction Facility, Harris County, Houston, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request for sale of South Texas Intermediate Sanction Facility in Harris County, Houston, Texas, as authorized by §496.0021, Government Code. The facility has been determined to be surplus to the agency’s current and projected needs and, as such, is subject to sale. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if it is just the building and the property upon which it sits or if it includes the parking lot or other land. Mr. Demny responded it is only the building.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for sale of South Texas Intermediate Sanction Facility in Harris County, Houston, Texas, as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, April 6, 2017, at the DoubleTree Hotel in Austin and will be held in conjunction with the Governor's Criminal Justice Volunteer Service Awards Ceremony.

The TBCJ recessed from regular session at 12:39 p.m. and reconvened in executive session at 1:03 p.m.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened in the executive session of the 190th meeting of the TBCJ on Friday, December 9, 2016, at 1:03 p.m., which is closed to the public in accordance with Texas Government Code Sections 551.074, 551.076, and 551.071, the *Open Meetings Act*.

Adjournment

There being no further business, Chairman Wainwright adjourned the 190th meeting of the Texas Board of Criminal Justice at 2:05 p.m.

Chairman*

Secretary*

*Signature on file

Texas Board of Criminal Justice
191st Meeting



Minutes

April 6, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel – Phoenix Central, DeWitt Room
6505 North IH-35
Austin, Texas 78752**

**April 6, 2017
11:00 – 1:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix Central

A. 22nd Annual Governor’s Criminal Justice Volunteer Service Awards Ceremony

Recess for Business and Financial Operations Committee Meeting

B. Recognitions

C. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 190th TBCJ Meeting Minutes
4. Excused Absences

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2016 – 2017

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-02.43, “Equal Employment Opportunity”

I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives

1. PD-12, “Equal Employment Opportunity”
2. PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature”
3. PD-31, “Discrimination in the Workplace”

J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to the TDCJ *Use of Force Plan*

- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification & Hazardous Duty Pay Eligibility Guidelines
- L. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 195.81, Temporary Housing Assistance Program
- M. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction – Request to Amend Electrical Line Easements at the Eastham and Ferguson Units in Houston and Madison Counties, in Lovelady and Midway, Texas
- N. Public Comments

II. Executive Session – DeWitt Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 191**

The Texas Board of Criminal Justice (TBCJ) convened on Thursday, April 6, 2017, in regular session at 11:01 a.m. in the Phoenix Central room at the DoubleTree Hotel, Austin, Texas. The TBCJ recessed at 11:47 a.m., reconvened in regular session at 1:15 p.m., and adjourned at 2:14 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Judge Larry Gist
Derrellynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Eric Gambrell
Larry Miles

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Mike Bell
Rudolph Brothers
Christopher Cirrito
Jason Clark
Lorie Davis
Marie Freeland
Patty Garcia
Cody Ginsel
Sharon Howell
Frank Inmon
Bobby Lumpkin
Jerry McGinty
Madeline Ortiz
Ron Steffa
Pam Thielke
Bruce Toney
April Zamora

OTHERS PRESENT:

Hon. Sharon Keller

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 191st meeting of the TBCJ on Thursday, April 6, 2017, at 11:01 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

22nd Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Wainwright welcomed all honored guests joining the TBCJ for the 22nd Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He thanked all volunteers for selflessly giving to others and providing extraordinary services, making Texas a better and safer place for generations to come. A video greeting followed, from the Honorable Greg Abbott, Governor of Texas. He thanked the volunteers for their hard work and dedication. He stated volunteers are essential in assisting the TDCJ in accomplishing the critical mission of successful rehabilitation and reentry of offenders back into the community.

Vice Chairman Terrell McCombs echoed Governor Abbott's message, and commended TDCJ volunteers, on behalf of the TBCJ, for their selfless compassion and service to help offenders turn their lives around. He stated all of the thousands of volunteers are hometown heroes and acknowledged the significant impact they have on the state of Texas and providing public safety. He thanked them for their dedication, compassion, and service.

Chairman Wainwright introduced the keynote speaker, Sharon Keller, Presiding Judge of the Texas Court of Criminal Appeals. Judge Keller expressed the significance of volunteers giving their time to assist in the rehabilitative efforts of the TDCJ. She acknowledged the TDCJ for providing and supporting the framework for the volunteers. She spoke about how there are many volunteers that feed the hungry and clothe those that are in need, but there are not many that visit prisons and selflessly volunteer time to change the hearts and lives of those incarcerated. She stated the lives impacted by volunteers extends beyond the bars to the children, victims, and communities of offenders. She thanked them for spreading goodness and being an example for all of us.

Chairman Wainwright welcomed Tom Fordyce as the master of the ceremony. Mr. Fordyce announced awards to the following individuals and organizations:

Kay McHaney, *Chaplaincy Department*
Wayne Fillingim, *Correctional Institutions Division*
His Father's Heart, *Nancy Hees Award-Parole Division*
Anne Marie Ray, *Private Facility Contract Monitoring/Oversight Division*
Reentry First-Stop for Tarrant County, *Reentry and Integration Division*
Discipleship Unlimited, *Religious Service*
Standing in Faith Ministries, *Religious Service*
Michael D., *Substance Abuse Treatment Program*
Tiffany Ross, *Health Services Division*

Jacqueline Taylor, *Pathfinder Award-Victim Services Division*
Deb Olin Unferth, *Judy Burd Award-Windham School District*
Kairos of Texas, *Restorative Justice*
Life Restoration, *Susan Cranford Award-Female Offender Program*
Pure Life Ministries, *Most Innovative Program*
Southeast Texas Area (SETA) 67 Correctional Facilities Committee, *Community Service*
Girl Scouts Beyond Bars, *Best Family Program*
Thomas Riedmueller, *Leonard Davis Award for Most Hours Served*
Roger Daniel, *Extensive Travel*
Debbie Dunn, *TDCJ Employee Volunteer*
Jeffrey Catoe, *Criminal Justice Administrator*
John Sage, *Carol S. Vance Volunteer of the Year*

Chairman Wainwright and Mr. Collier presented the awards to each recipient.

Mr. Fordyce introduced Carol Vance, former TBCJ Chairman and strong advocate for volunteers in the TDCJ, who presented the last award. Mr. Vance commended the volunteers for their commitment and ministry.

Mr. Fordyce thanked Mr. Vance for his continued support and service to the betterment of the TDCJ. He called for one final round of applause for all the award recipients, and the thousands of dedicated volunteers throughout the TDCJ.

Chairman Wainwright expressed appreciation for all who attended, and for all volunteers and staff serving throughout the year. There being no further business, Chairman Wainwright recessed the 191st meeting of the TBCJ. He advised the TBCJ would reconvene in committee meetings and continue with regular business beginning at 1:15 p.m. The time was 11:47 a.m.

(Attachment A – Program for 22nd Annual Governor’s Criminal Justice Volunteer Service Awards)

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened the regular session of the 191st meeting of the TBCJ on Thursday, April 6, 2017, at 1:15 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Speaker registration cards were received only for public comments.

Recognitions

Bryan Collier, TDCJ Executive Director, recognized Sharon Howell, General Counsel, for 30 years of service. He highlighted her career with the state of Texas and thanked her for her dedication.

Mr. Collier recognized Jerry McGinty, Chief Financial Officer, for 25 years of service to the TDCJ. He highlighted his career and thanked Mr. McGinty for his loyalty.

Chairman Wainwright stated Ms. Howell and Mr. McGinty represent the best and brightest that serve the state and make the TBCJ and TDCJ proud. He thanked them for their service.

Bruce Toney, Inspector General, recognized John West, General Counsel for OIG, for 45 years of service to the state of Texas. He highlighted his career and thanked him for his commitment.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of March and April 2017. During this time, 54 employees attained 25 years of service, 31 employees attained 30 years of service, 8 employees attained 35 years of service, 1 employee attained 40 years of service, and 1 employee attained 45 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment B – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 190th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Hearing none, the consent items were approved.

Report from the Executive Director, **Texas Department of Criminal Justice**

Update on 85th Legislative Session

Mr. Collier presented an update on the 85th Legislative Session. He stated we are now past the mid-point in the 85th Legislative Session. Committee hearings are in full swing. When we submitted our Fiscal Year 2018-19 legislative appropriations request, we were required to reduce general revenue funding by 4% compared to current funding levels. In January 2017, when the house and senate budgets were introduced, both bills established funding for the majority of the Texas Department of Criminal Justice (TDCJ) operations at current levels, largely restoring the 4% reductions. During the past couple of months, the senate and house have considered our requests for exceptional items. Additionally, considering the offender population projections prepared by the Legislative Budget Board (LBB), both chambers have made funding decisions that require unit closures. The first facility identified for closure is the Ware Unit. The Ware Unit is a 916 bed male facility with 408 idled beds due to staffing issues. The majority of staff from the Ware Unit will be placed at the Wallace Unit, which is located on the same property. This will allow the Wallace Unit, with a capacity of 1,448 male offenders to be fully staffed and populated. There are 376 beds at Wallace that have been idled due to staffing challenges. Staff that cannot be offered positions at the Wallace Unit will be offered positions at other units in the area. The second facility identified for closure is the West Texas Intermediate Sanctions Facility (ISF). The 275 bed male facility, privately owned and operated in Brownfield, Texas, will close. The Rudd Facility will be repurposed into an ISF as a 612 bed male facility, in Brownfield, Texas, gaining 337 ISF beds. The third facility identified for closure is the Bridgeport Female Pre-Parole Transfer Facility, a privately owned and operated 200 bed female facility. The population will be absorbed into existing capacity. The fourth facility identified for closure is the Bartlett State Jail, a state owned but privately operated 1,049 bed male facility in Bartlett, Texas, with its population being absorbed into other agency units. TDCJ will work with the private vendors involved in the closures to recruit staff from those units to correctional officer vacancies where available. Although the budget and legislative process are still ongoing, it is fully anticipated the TDCJ's needs will be met.

Volunteer Appreciation

Mr. Collier stated the Governor's Criminal Justice Volunteer Service Awards ceremony held this morning is a special day that recognizes and honors the dedicated efforts of TDCJ volunteers. Their work is impactful and helps make Texas a safer state. He recognized another special group of volunteers; the members and Chairman of the Texas Board of Criminal Justice. These special volunteers are recognized for giving their time and expertise to leading one of the state's largest agencies, providing strong guidance and support to our staff, and providing support to the TDCJ Executive Director. Mr. Collier thanked them for all that they do.

National Correctional Officers and Employees Week

Mr. Collier announced that each year, the first full week in May, is recognized as National Correctional Officers and Employees Week. This week commemorates the contributions of those who serve as correctional officers and personnel who work in jails, prisons, and community corrections across the country. The TDCJ takes time during this week to recognize the efforts of these staff and to honor the memory of all correctional staff across the nation who have given their lives in the line of duty. This year Correctional Officer Mari Anne Johnson, who was murdered in July 2016, will be honored. During the week of May 7-13, all TDCJ units will hold memorial services and an agency memorial service will be held in Huntsville on Friday, May 5, 2017, beginning at 10:30 a.m. at the Prison Museum.

Report from the Chairman, TBCJ

National Crime Victims' Rights Week

Chairman Wainwright expressed appreciation of the volunteer services with the TDCJ. He stated the volunteers are a vital element to the success of the TDCJ's mission of providing public safety, promoting positive change in offender behavior, reintegrating offenders into society, and assisting victims of crime. His report focused on the assistance given to victims of crime. According to a recent survey conducted by the United States Bureau of Justice Statistics, more than five million individuals were victims of violent crime last year, and many more were victimized by property crimes. In commemoration of National Crime Victims' Rights Week, which this year occurs April 2-8, the TDCJ Victim Services Division, as well as other Victim Services organizations across the state of Texas, are hosting special events and programs to raise awareness about crime victims' issues and rights and introduce the community to the important resources and services available. This year's nationwide theme—Strength. Resilience. Justice.—emphasizes the importance of multidisciplinary responses and building the capacity of individuals, service providers, and communities to respond to crime and support the ongoing healing of victims and survivors. The theme also supports the United States Office for Victims of Violent Crimes and their Vision 21 Initiative to encourage research, address emerging issues, and build the capacity of victim service organizations by increasing the use of technology and training. On behalf of the TBCJ, he thanked Texas victim services professionals for their commitment to innovative practices and their steadfast support for all victims of violent crime.

Internal Audit Status Report for Fiscal Years 2016 - 2017

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the March 27, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2016 - 2017:

- **1602 - Correctional Institutions Division, Unit Supply:** Audit is complete.
- **1607 - Correctional Institutions Division, Offender Off-Unit Transports:** Audit is complete.

- **1609 - Administrative Review and Risk Management Division, Offender Grievance:** Audit will be complete tomorrow.
- **1710 - Correctional Institutions Division, Unit Entry and Search Procedures:** Audit has been assigned and is in background.
- **1711 - Victim Services Division, Victim Impact Statements:** Audit has been assigned and is in background.
- **1718.01 - Walk Through, Data Systems Identification:** Audit is complete.

Chairman Wainwright asked Mr. Cirrito to explain audit 1711, Victim Impact Statements, and what it concerns. Mr. Cirrito replied the statements come in to TDCJ from various avenues and the audit is to ensure the statements get to where they need to be.

Chairman Wainwright asked Mr. Cirrito to give a summary of audit 1718.01. Mr. Cirrito replied walk throughs allow the Internal Audit Division to update risk assessment. In this walk through, an IT auditor went to several divisions looking at the various information systems or information products used simply to increase their knowledge of things such as stand-alone databases.

Terrell McCombs stated audit 1713, Business and Finance Division eCommDirect, is unassigned, and asked Mr. Cirrito to explain what eCommDirect means. Mr. Cirrito explained it is the electronic system that allows offender family members to make deposits into offender trust fund in order for the offender to buy things in commissary.

Leo Vasquez asked Mr. Cirrito to summarize where things stand on the FY 2016 audits. Mr. Cirrito explained audit 1609 would be complete the following day. He also stated there is one remaining audit from FY 2016 that is in draft report and would be completed soon.

Chairman Wainwright asked if there were any other questions. There were none.

(Attachment C – Internal Audit Division Status Report, Fiscal Years 2016-2017)

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts over \$1 Million**

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing 3M included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented 16 purchase items for approval. Items 1 through 2 are increases to current contracts for additional raw materials for the manufacturing of license plates for the Department of Motor Vehicles. Items 3 through 4 are FY18 contracts for the manufacturing of license plates. Items 5 through 6 are FY18 contracts for the manufacturing of highway and traffic signs. Items 7 through 8 are FY18 contracts for other items manufactured within Texas Correctional Industries. Items 9 through 16 are FY18 contracts for agricultural operations.

Mr. McCombs stated we are buying a lot of ammonia nitrate and asked how it is secured. Mr. McGinty replied it is properly stored at approximately 10 different units across the state and added that this compound is not combustible or poisonous. Mr. McCombs asked for clarification that it is different from standard fertilizer. Mr. McGinty confirmed it is different.

Tom Wingate asked why the vendor is listed on some but not others. Mr. McGinty replied that most of these are ordered by the comptroller and they may not have made a final award.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy-02.43, “Equal Employment Opportunity”

Sharon Howell, TDCJ General Counsel, presented BP-02.43, “Equal Employment Opportunity,” proposed revisions. She stated revisions do not change any practice or procedure. The revisions place responsibilities in the appropriate roles and places. The details associated with state statutory requirements were removed and placed in Personnel Directive PD-12, “Equal Employment Opportunity,” administered by the executive director.

Tom Wingate stated changes were made from the word “shall” to “does.” He asked the reason. Ms. Howell stated it is more appropriate to make the change to sentences that are not a command.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy BP-02.43, “Equal Employment Opportunity,” as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives

1. PD-12, “Equal Employment Opportunity”

Ms. Howell presented the proposed revisions to PD-12, “Equal Employment Opportunity.” She explained the executive director has issued the policy statement required of him by state law

outlining the practice of Equal Employment Opportunity. There are many additions, which do not change anything the TDCJ is doing, but instead collect into one place the objectives and responsibilities placed upon the TDCJ by state statute and federal law. Some of what was added came from BP-02.43. Some duties and procedures that require equal employment opportunity are found elsewhere, such as in PD-31, "Discrimination in the Workplace," which is the core written policy statement the agency has with regard to EEO.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve the revisions to PD-12, "Equal Employment Opportunities," as presented.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

2. PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature"

Ms. Howell presented the proposed revisions to PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature." She explained revisions include a definition for intern and remove references to Infopac, the mainframe system on which reports and policies were stored, as Infopac is no longer used for that purpose. The reports and policies that were there are available elsewhere. Interns have begun receiving more protection under federal law than previously and the addition of this definition ensures they receive protection under the policy. Additionally, the definition of discrimination is being revised among all of the personnel directives, for consistency to a single standard that collectively refers to the protected persons and protected class. Otherwise there are a number of adjustments to syntax, grammar, and language of a relatively minor nature.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the revisions to PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature," as presented.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. PD-31, "Discrimination in the Workplace"

Chairman Wainwright stated PD-31, "Discrimination in the Workplace," will be passed and taken up at a later time.

**Discussion, Consideration, and Possible Action Regarding
Proposed Revisions to the TDCJ Use of Force Plan**

Ms. Howell presented the proposed revisions to the *TDCJ Use of Force Plan*. She explained TDCJ has recently acquired a new restraint called stun cuffs for the limited purpose of transporting the highest risk offenders to and from court and for other limited reasons. They may only be used at the discretion of the CID director or her designee. The proposed revisions are solely to authorize the use of these restraints. The plan is otherwise being prepared for regular staffing and additional proposed revisions that will be presented at some point in the future.

Tom Wingate moved that the Texas Board of Criminal Justice approve the proposed revisions to the TDCJ Use of Force Plan, as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 151.51 Custodial Officer Certification
& Hazardous Duty Pay Eligibility Guidelines**

Ms. Howell requested the adoption of amendments to Board Rule 151.51, “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines,” as proposed and authorized at the February 10, 2017, TBCJ meeting. She explained the amendments appeared in the February 24, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.51, regarding Custodial Officer Certification & Hazardous Duty Pay Eligibility Guidelines, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 195.81, “Temporary Housing Assistance Program”**

Ms. Howell presented the proposed amendments to Board Rule 195.81, “Temporary Housing Assistance Program.” She explained the substantive changes to the rule have been made to account for current practice in evaluating an offender’s eligibility for temporary housing assistance, how a provider may apply to provide temporary housing for an offender, and to remove a requirement that an onsite manager be available 24/7. The rest of the changes are grammatical and formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 195.81, regarding Temporary Housing Assistance Program, to receive public comment, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed Land
Transaction Request to Amend Electrical Line Easements at the
Eastham and Ferguson Units, Houston and Madison Counties,
in Lovelady and Midway, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness, and Logistics Division, presented the request to amend electrical line easements at the Eastham and Ferguson Units, Houston and Madison Counties, Lovelady and Midway, Texas. He stated SEM Operating Company, LLC is requesting to amend existing electrical easements by adding a combined area of 5.21 acres of land being approximately 7,564.92 feet long by 30 feet wide for two electrical easement transmission lines to provide service to newly developed SEM well sites. SEM operating Company, LLC has agreed to pay \$10,420.00 for these easement amendments. All other terms and provisions of these easements will remain in full force and effect. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request to amend electrical line easements at the Eastham and Ferguson Units in Houston and Madison Counties, in Lovelady and Midway, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There were three registration cards received prior to the established deadline for public comments within the jurisdiction of the TBCJ but not items posted on the agenda. The time limit set was three minutes per individual.

Rosalia Ovalle stated the purpose of her speaking is to advocate for her brother, offender Juan M. Ovalle TDCJ #890154. She spoke about a situation that took place in 2011 and presented TBCJ members with correspondence from a state representative sent to Deborah Booker, Ombudsman. Her brother was transferred to the Briscoe Unit so his parents could visit him more often and he could have better educational resources. He received two degrees while being incarcerated. She recalled a visit she had with her brother on July 16, during which he reported concerns for his safety. He told her, and the warden on site, that he had received threats by known gang members for being a snitch. He reported to the family that he was singled out by investigators due to having small lacerations on his hands. Her brother reported the lacerations were brought on because he was passing water to a neighbor inmate who had no access to water in the unit. She alleged these claims were never investigated by the TDCJ. She added her brother was cleared of any wrong doing by the stabbing victim, however, he was still labeled a snitch by other offenders at the unit, which put his safety at risk. She stated she met with a state representative who sent correspondence to Deborah Booker requesting safer housing. She followed up with the Ombudsman's Office and was told he would be transferred. She alleged when he was transferred to the McConnell Unit he was with other inmates from the Briscoe unit. At the McConnell Unit, he got into an altercation with his cellmate and the offender lost his life. She alleged this altercation could have been avoided if staff followed proper TDCJ procedures by notifying the transferring unit of the events that had taken place at the Briscoe Unit. Now his new charge and sentence has caused a tremendous hardship on her family and the family of the offender who lost his life. She asked they consider an early parole on his first charge so that he can begin his second term. She asked for answers because he is dying and she feels this could have all been avoided.

Chairman Wainwright expressed concern for Ms. Ovalle, since she was visibly upset. He stated offender families are important to the TBCJ. He stated for the record, the TBCJ members received a copy of the letter dated August 4, 2011, from Deborah Booker, assistant Ombudsman coordinator for TDCJ to Honorable Jose Menendez in the Texas House of Representatives. He thanked her for appearing and sharing comments with the TBCJ.

Ann Putnam stated her comments relate to concerns regarding inmates and facilities. She thanked the TBCJ for the privilege of appearing. She stated she was here on behalf of her husband, an offender incarcerated at the Lindsey State Jail facility. She expressed great appreciation for the outstanding warden, Ms. Brandon, at that facility. She stated Ms. Brandon

deserves commendation. She spoke about the excellent staff and how they make her visits to her husband very pleasant. She stated her husband is in a Faith-Based program, which she believes is the only program at that facility. They are required to get a GED but aside from that the Faith-Based program is the only other rehabilitative program. She expressed a need for additional programs that will help inmates assimilate back into society and reduce the high recidivism rate. She feels rehabilitative programs are greatly neglected and too much money is going into incarcerating these guys over and over again. She stated the other issue is a huge disparity between TDCJ and state jail inmates regarding the good time they are allowed to have. She stated the judge is in total control of state jail inmates, and if he chooses not to be part of the new diligence program, even if they complete the program with no problems and are on excellent behavior, state jail inmates are not given a chance for good time behavior. She feels it is a great disservice for judges to not participate.

Frances Vaughn was not present when called.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, June 30, 2017, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 191st meeting of the Texas Board of Criminal Justice at 2:14 p.m.

Chairman *

Secretary

*Signature on File

Texas Board of Criminal Justice
192nd Meeting



Minutes

June 30, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel Austin – Phoenix South, Robertson Room
6505 North IH 35
Austin, Texas 78752**

**June 30, 2017
2:00 – 3:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix South

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 191st TBCJ Meeting Minutes
4. Excused Absences

C. Election of Officers

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2016 – 2017

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-31, “Discrimination in the Workplace”

I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. 151.8, Advisory Committees
2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death
3. 152.61, Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails
4. 159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria

- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 195.81, Temporary Housing Assistance Program

- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 2. Request to Renew Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 3. Request to Amend Electrical Easement at the Scott Unit in Brazoria County, Angleton, Texas

- L. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Install a Fire Alarm System at the Goree Unit in Walker County, Huntsville, Texas

Recess

II. Executive Session – Robertson Room

- A. The TBCJ may convene into Executive Session.

- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).

- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 192**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, June 30, 2017, in regular session at 2:01 p.m. in the Phoenix South room at the DoubleTree Hotel, Austin, Texas, and adjourned at 3:31 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Eric Gambrell, Secretary
E.F. Mano DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrelynn Perryman
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director	
Oscar Mendoza, Deputy Executive Director	
Jeff Baldwin	Sherry Koenig
Rudolph Brothers	Bobby Lumpkin
Christopher Cirrito	Jerry McGinty
Jason Clark	Madeline Ortiz
Lorie Davis	Kelvin Scott
Marie Freeland	Ron Steffa
Patty Garcia	Pam Thielke
Cody Ginsel	Bruce Toney
Sharon Howell	Carey Welebob
Frank Inmon	April Zamora

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; David Gutierrez, Presiding Officer, Board of Pardons and Paroles; and Preston Streufert, Governor Abbott's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 192nd meeting of the TBCJ on Friday, June 30, 2017, at 2:01 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." One speaker registration card was received by staff prior to the deadline. The presentation will be heard later in the meeting.

Recognitions

Chairman Wainwright recognized Governor Abbott's appointments of new board members. He congratulated Pastor Larry Miles on his reappointment. Chairman Wainwright commended Pastor Miles for his work with TDCJ and WSD staff to enhance agency operations, and his skillful leadership.

Chairman Wainwright introduced two new members. E.F. "Mano" DeAyala from Houston replaced Leo Vasquez, whose term expired. Mr. DeAyala's law practice consists primarily of complex commercial litigation, dispute resolution, and contract negotiation. He has achieved the highest possible peer rating, AV Pre-eminent, by *Martindale-Hubbell*, for his business litigation practice. He has been named one of the top Texas business litigators by *Texas Super Lawyers* every year since 2011. He has also been recognized by Best Lawyers in Houston, *H Texas Magazine* and *Best Lawyers in America*. He is a Fellow of the Houston Bar Foundation and Texas Bar Foundation. Patrick O'Daniel of Austin replaced Judge Larry Gist, whose term also expired. Mr. O'Daniel is a partner at the law firm of Norton Rose Fulbright US LLP and an adjunct professor at the University of Texas School of Law, as well as a certified public accountant. He clerked for United States Supreme Court Justice Clarence Thomas. He is former president of Catholic Charities of Central Texas and general counsel for Texas Review of Law and Politics. He is a member of the American Bar Association, National Association of Board Lawyers, and Texas Society of Certified Public Accountants.

E.F. "Mano" DeAyala thanked Chairman Wainwright and relayed his excitement to serve on the TBCJ.

Patrick O'Daniel stated if he could be half the board member that his friend Greg Coleman was then he would consider it a very successful term.

Chairman Wainwright recognized Judge Larry Gist for his valuable contributions and leadership while serving on the TBCJ and outlined his remarkable career. Judge Gist will long be remembered for his integrity, charisma, and a steadfast passion for criminal justice.

Judge Gist thanked Chairman Wainwright and welcomed the new board members. He stated serving on the TBCJ has been one of the best experiences of his life. He expressed appreciation for the members he served with and spoke highly of the individuals from TDCJ that he worked with. Judge Gist stated he will continue to serve the state of Texas in his own way.

Chairman Wainwright recognized Leo Vasquez for serving the TBCJ with distinction and commitment, and his noteworthy accomplishments. He will be remembered for his commitment, profound intellect, and analytical approach in addressing matters brought before the TBCJ. He will also be remembered for his witty comments and endearing personality.

Leo Vasquez thanked Chairman Wainwright for the kind words. He stated he gained invaluable perspectives and experience that relatively few Texans have the opportunity to access. Mr. Vasquez welcomed the new members and expressed gratitude for the amazing people at the TDCJ who make Texas a better place to live.

Chairman Wainwright recognized Madeline Ortiz, former TDCJ Rehabilitation Programs Division Director, and outlined her prestigious career. On behalf of the TBCJ, Chairman Wainwright thanked her for her loyalty, commitment, and dedication to serving the great state of Texas.

Bryan Collier, TDCJ Executive Director, recognized Ms. Ortiz for her hands-on role in creating every treatment program within the agency. He noted the impact Ms. Ortiz has made on so many lives through the work she has done and thanked her for all that she has accomplished and contributed to the TDCJ.

Pastor Miles also thanked Ms. Ortiz for her service and stated it has been an honor to work with her.

Mr. Collier recognized Frank Inmon, Director of the Facilities Division, for 20 years of service to the TDCJ. He highlighted his career and thanked Mr. Inmon for his loyalty.

Terrell McCombs thanked Mr. Inmon for his commitment and dedication, as his job is vital to the agency.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, and 35 years of service to the state of Texas during the months of May and June 2017. During this time, 74 employees attained 25 years of service, 28 employees attained 30 years of service, and 10 employees attained 35 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 191st TBCJ Meeting Minutes
4. Excused Absences

Chairman Wainwright asked for any amendments, abstentions, or objections to the proposed consent items. Eric Gambrell abstained from taking action due to his firm representing the San Antonio Food bank listed on the personal property donations list. Pastor Miles abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Patrick O'Daniel abstained from taking action due to his firm representing the Salvation Army listed on the personal property donations list. Chairman Wainwright acknowledged the abstentions and, hearing no further questions, the consent items were approved.

Election of Officers

Chairman Wainwright stated in accordance with Board Rule 151.3, Texas Board of Criminal Justice Operating Procedures, the TBCJ shall elect a vice-chairman and secretary each odd numbered year. The Governor appoints the board members and selects the chairman. The vice-chairman shall preside over meetings in the chairman's absence. The chairman or the secretary shall execute any necessary documents. He called for board member nominations for vice-chairman and secretary.

Derrellynn Perryman nominated Terrell McCombs as vice-chairman and Eric Gambrell as secretary.

Chairman Wainwright asked if there was a motion.

Larry Miles moved that the Texas Board of Criminal Justice approve the nomination of Terrell McCombs as vice-chairman and the nomination of Eric Gambrell as secretary of the Texas Board of Criminal Justice.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Report from the Executive Director, Texas Department of Criminal Justice

Update on 85th Legislative Session

Mr. Collier presented an update on the 85th Legislative Session. In January 2017, when the house and senate budgets were introduced, both bills established funding for the majority of TDCJ operations at current levels, largely restoring the 4% reductions the agency had been required to propose in the fall of 2016. The highlights of the budget are:

- Total TDCJ funding for the 2018-2019 biennium is approximately \$6.6 billion.
- \$129 million transfer of state contributions for probation employee health insurance from TDCJ to ERS. This transfer means the TDCJ will not have to request funding for this item in the future as it will be incorporated into the ERS request.
- Closure of Ware Unit, Bartlett State Jail, Bridgeport Pre-Parole Transfer Facility and the West Texas Intermediate Sanction Facility. The state-owned Ware and Bartlett facilities will be maintained by agency staff for potential future use, if necessary. Staff from the Ware Unit have been offered positions at the neighboring Wallace Unit and other nearby facilities.
- Funding for core treatment and diversion programs was maintained at current levels, with a \$4.8 million increase to fund pretrial diversion programs.
- \$40.0 million (funded through the state's Economic Stabilization Fund) for major repair and renovation projects, a \$20.0 million decrease from 2016–2017 biennial levels.
- Capital equipment, including vehicles, agricultural, industries, and laundry/food services equipment, was funded at our current levels.
- Funding for installation of comprehensive video surveillance systems at additional units was not approved.
- TDCJ received an \$80 million supplemental appropriation for the 2016-2017 biennium to cover shortfalls in offender healthcare. Funding for offender healthcare was decreased by \$70.4 million from the 2016–2017 biennium, which included the \$80 million supplemental appropriation.

There were also several cost containment strategies in healthcare funding, to include:

- A \$60.9 million increase in funding for adding unit-based positions to expand infirmary coverage hours, increasing infirmary capacity at Telford and Jester III units, and retaining unit-based nursing staff with competitive salaries.
- UTMB Hospital Galveston's reimbursement rates are changing from the Tax Equity and Financial Responsibility Act (TEFRA) methodology to a modified Standard Dollar Amount (SDA) methodology, to include an add-on for continued Graduate Medical Education funding. Indirect administrative costs were capped at 2.75% for UTMB and Texas Tech University Health Sciences Center.
- Funding was provided that will extend discharge medication for releasing offenders from 10 to 30 days.

There are four new bills that will have a positive impact on the TDCJ and neighboring communities. The first is a bill providing the necessary statutory authority for the transfer of funding for probation employee health insurance to ERS. The second is a bill making it a misdemeanor to fly a drone directly over a correctional facility. The third is a bill requiring the TBCJ to sell a 296-acre tract of land for the purpose of widening the Oyster Creek at the Ramsey Unit that will help mitigate flooding in the area. The fourth is a bill, subject to constitutional amendment, that will allow residential homestead exemptions for the surviving spouse of a first responder, which includes many TDCJ employees.

Mr. Collier thanked Oscar Mendoza, Jerry McGinty, Jeff Baldwin, Ron Steffa, Sherry Koenig, Britteny Skains, Cherie Miller, Gina Sweeten, and Tina Rodriguez for their hard work during this session.

National Pre-Trial, Probation, and Parole Supervision Week

Mr. Collier stated the week of July 16-22, 2017, is designated as National Pre-trial, Probation, and Parole Supervision Week. During this week, we honor the work of community supervision officers in Texas and across the United States. The work of these officers in our communities has a significant impact on improving public safety and their efforts in helping offenders make positive changes is something we are all very proud to celebrate.

Report from the Chairman, TBCJ

Former Board Member Gregory S. Coleman Honored

Chairman Wainwright discussed an honor bestowed on a former TBCJ member in June of 2017, when Texas Attorney General Ken Paxton named the Office of Solicitor General's fellowship program after the late Gregory S. Coleman, who was tragically killed in a plane crash in 2010. The chairman enumerated Mr. Coleman's numerous contributions to the state of Texas, as well as his reputation of integrity and professionalism.

Recidivism

Chairman Wainwright discussed the reduction of recidivism as one of the most fundamental challenges in criminal justice. A study recently published by The Council of State Governments found, in Texas, the rate of people returning to prison within three years of release decreased 25 percent between 2004 and 2013. The rate of people returning to prison within three years of release dropped from 28 percent to 21 percent. That reduction is an impressive achievement because the Texas recidivism rate has long been one of the lowest if not the lowest in the nation. To achieve this success the TDCJ has worked closely with the legislature, which chose to invest in substance abuse treatment, intermediate sanction facilities, and other treatment and diversion programs. Counties have also been encouraged to create progressive sanctions for effective responses on probation. The TDCJ remains responsive to the governor, legislature, and people of Texas. Chairman Wainwright thanked everyone for the exceptional work done in this area.

Internal Audit Status Report for Fiscal Years 2016 - 2017

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the June 20, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2016 - 2017:

- **1708 – Windham School District, Application Processing:** Audit is complete.
- **1713 – Business and Finance Division, eCommDirect:** Audit has been assigned and is in background.
- **1714 – Information Technology Division Office of Incident Management, Continuity of Operations Planning:** Audit has been assigned and is in background.
- **1715 – Parole Division, Absconder Identification Follow-up:** Audit will be assigned on July 5, 2017.
- **1716 – Facilities Division, Unit Maintenance:** Audit has been assigned and is in background.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2016-2017)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing CoreCivic, Inc. and Harris County included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Items 1 through 6 are increases to current contracts. Item 7 is to renew the bulk fuel contact for FY18 with a 10% variance to allow for market fluctuations. Item 8 is commissary items for FY18 with a 10% variance. Item 9 is AT&T cellular services for FY18. Item 10 is the food contract for Kegans Intermediate Sanction Facility. Item 11 is a renewal contract for natural gas for FY18-19. Items 12 through 19 are renewals to existing contracts for halfway house services. Items 20 through 24 are renewal contracts for five of the correctional centers for FY18-19. Item 25 is a renewal contract to provide treatment services for the East Texas Treatment Facility. Items 26 through 27 are renewal contracts for treatment programs at the Hamilton Unit and Lockhart facility for FY18-19. Items 28 through 48 are renewal contracts for residential and outpatient substance abuse treatment programs. Item 49 is a renewal of services for the cognitive intervention program at Baten Intermediate Sanction Facility for FY18-19. Items 50 through 64 are contracts for TCOOMMI mental health services for FY18-19. Item 65 is for food service items for FY18. Items 66 through 67 are contracts for operation and management of Bridgeport Correctional Center and Kyle Correctional Center for FY18-19. Items 68 through 70 are contracts for operation and management of Bradshaw State Jail, Lindsey State Jail, and Willacy State Jail for FY18-19. Items 71 and 72 are contracts for operation of state jail substance abuse programs for FY18-19. Items 73 through 82 are contracts for operation of Substance Abuse Felony Punishment Facility (SAFPF)/In-Prison Therapeutic Community (IPTC) treatment programs for FY18-19.

Mr. McCombs asked for any questions, comments, or abstentions. Eric Gambrell abstained from taking action due to his firm representing multiple companies listed. Patrick O'Daniel abstained from taking action due to his firm representing several companies listed.

Mr. McCombs acknowledged the abstentions and, hearing no further questions, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-31, "Discrimination in the Workplace"

Sharon Howell, TDCJ General Counsel, presented PD-31, "Discrimination in the Workplace," proposed revisions. She stated revisions were made to conform the definition of discrimination to have a single standard used in all PDs; use the collective term "protected class" when referencing discrimination claims, instead of listing each federally protected class; remove reference of a report that is no longer produced; and update language for clarification.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the revisions to PD-31, "Discrimination in the Workplace," as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.8, "Advisory Committees"

Ms. Howell presented the proposed amendments to Board Rule 151.8, "Advisory Committees." She explained the proposed amendments are necessary to update formatting to conform consistency in all policies and rules. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.8, regarding Advisory Committees, to receive public comment, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Section 152.51, “Authorized Witnesses to the Execution of an Offender Sentenced to Death”

Ms. Howell presented the proposed amendments to Board Rule 152.51, “Authorized Witnesses to the Execution of an Offender Sentenced to Death.” She explained the changes to the rule have been made to remove the definition of the term “adult” that appears in the middle of the rule since it is already defined in the first paragraph. The rest of the changes are grammatical and formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 152.51, regarding Authorized Witnesses to the Execution of an Offender Sentenced to Death, to receive public comment, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

3. Section 152.61, “Emergency Responses to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails”

Ms. Howell presented the proposed amendments to Board Rule 152.61, “Emergency Responses to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails.” She explained the proposed amendments are necessary to update formatting to conform consistency in all policies and rules. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Patrick O’Daniel moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 152.61, regarding Emergency Responses to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails, to receive public comment, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

4. Section 159.1, “Substance Abuse Felony Punishment Facilities Eligibility Criteria”

Ms. Howell presented the proposed amendments to Board Rule 159.1, “Substance Abuse Felony Punishment Facilities Eligibility Criteria.” She explained the changes to the rule are necessary to clarify offenders with an ICE detainer are not eligible to participate in a SAFFP program and to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.1, regarding Substance Abuse Felony Punishment Facilities Eligibility Criteria, to receive public comment, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 195.81 Temporary Housing Assistance Program

Ms. Howell requested the adoption of amendments to Board Rule 195.81, “Temporary Housing Assistance Program,” as proposed and authorized at the April 6, 2017, TBCJ meeting. She explained the amendments appeared in the April 21, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 195.81, regarding Temporary Housing Assistance Program, as published in the Texas Register, and that the chairman sign the order to this effect.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Land Transactions

1. Request for Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Ramsey Unit, Brazoria County, Rosharon, Texas. He stated Lavaca Pipe Line Company is requesting an easement consisting of a combined area of approximately 9.628 acres of land being 13,979.38 feet long by 30 feet wide for installation of one natural gas liquid pipeline. It includes a temporary workspace totaling 22.211 acres for use during pipeline construction and installation. Lavaca Pipe Line Company has agreed to pay \$640,543.00 for this easement with a 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Ramsey Unit in Brazoria County, in Rosharon, Texas, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright, Eric Gambrell, and Patrick O'Daniel abstained from taking action on the next two agenda items. Vice-chairman Mr. McCombs facilitated the handling of these agenda items.

2. Request to Renew Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Lumpkin presented the request to renew gas pipeline easement at the Ramsey Unit, Brazoria County, Rosharon, Texas. He stated Houston Pipe Line Company is requesting to renew an easement at the Ramsey Unit consisting of a 0.0009 acre meter site and an area containing a two-inch pipeline extending approximately 3,884.27 feet to a CenterPoint Energy valve site for the single purpose of delivering natural gas to service the Ramsey Unit. The original easement was granted in April 2002 and renewed in 2007. Houston Pipe Line Company has agreed to pay \$16,000.00 for this easement with another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the request to renew gas pipeline easement at the Ramsey Unit in Brazoria County, in Rosharon, Texas, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Amend Electrical Easement at the Scott Unit in Brazoria County, Angleton, Texas

Mr. Lumpkin presented the request to amend electrical easement at the Scott Unit, Brazoria County, Angleton, Texas. He stated CenterPoint Energy Houston Electric, LLC is requesting to amend an existing electrical easement by adding 0.126 acre of land for the installation of a culvert at the site of an electrical switching station currently under construction. CenterPoint Energy Houston Electric, LLC has agreed to pay \$3,000.00 for this easement amendment. All other terms and provisions of this easement will remain in full force and effect. Mr. Lumpkin recommended the TBCJ approve the request.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve the request to amend electrical easement at the Scott Unit in Brazoria County, in Rosharon, Texas, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright resumed facilitating the handling of the remaining agenda items.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Install a Fire Alarm System at the Goree Unit in Walker County, Huntsville, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for consideration requesting to install a fire alarm system at the Goree Unit located in Walker County, Huntsville, Texas. The project includes installing new control panels, annunciators, smoke detectors, horns, and other components. The new system will comply with all current codes and standards. If approved, the work will be performed by A-1 Fire and Security Equipment Company, with a total cost of \$1,685,300. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any abstentions. Patrick O’Daniel abstained from taking action due to his firm representing HDR Architecture, Inc.

Chairman Wainwright asked if there were any questions or comments. Hearing no further questions, he called for a motion and a second.

E.F. "Mano" DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,685,300 to install a fire alarm system at the Goree Unit located in Walker County, Huntsville, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Chairman Wainwright presented the format for receiving public comments. The one speaker, Frances Vaughn, stated she was speaking as a wife of an offender, a citizen in the freeworld, and also as an alcoholic. She expressed how important the cognitive behavioral intervention programs and the spiritual programs are for rehabilitation. She gave an example of an offender, one with numerous incarcerations, who had assaulted her husband and was paroled five months later. She stated there is a good chance this person will end up back in prison again. She stated she noticed the units in the Huntsville area have several programs available to offenders; however, the outlying areas lack the same opportunities for cognitive and spiritual programs that address the underlying issue to what brought them to prison. She asked for the TBCJ to reevaluate the way the programs are allocated throughout the system.

Chairman Wainwright thanked Ms. Vaughn for her presentation.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, August 25, 2017, at the Omni Austin Hotel in Southpark.

Adjournment

There being no further business, Chairman Wainwright adjourned the 192nd meeting of the Texas Board of Criminal Justice at 3:31 p.m.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
193rd Meeting



Minutes

August 25, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel at Southpark – Ballrooms D, E, F, Southpark Room
4140 Governor’s Row
Austin, Texas 78744**

**August 25, 2017
12:00 – 2:45 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

- I. Regular Session – Ballrooms D, E, F
 - A. Recognitions
 - B. Consideration of Approval of Consent Items
 1. Hazardous Duty Pay Authorization Requests
 2. Personal Property Donations
 3. 192nd TBCJ Meeting Minutes
 4. Excused Absences
 - C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
 - D. Report from the Chairman, TBCJ – Closure of Four Correctional Facilities
 - E. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2018 Annual Audit Plan
 - F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
 - G. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2018 Proposed Operating Budget
 - H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 1. 151.8, Advisory Committees
 2. 152.51, Authorized Witnesses to the Execution of an Offender Sentenced to Death
 3. 152.61, Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails
 4. 159.1, Substance Abuse Felony Punishment Facilities Eligibility Criteria

- I. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction Request for Sale of 296 Acres at the Ramsey Unit in Brazoria County, Rosharon, Texas
- J. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Install Fire Alarm System at the Byrd Unit in Walker County, Huntsville, Texas
 - 2. Request to Replace Exterior Lighting at the Estelle Unit in Walker County, Huntsville, Texas
 - 3. Request to Replace Gas and Water Distribution Systems at the Scott Unit in Brazoria County, Angleton, Texas
 - 4. Request to Replace Service Entrance at the Terrell Unit in Brazoria County, Rosharon, Texas
- K. Public Comments

Reconvene TBCJ

II. Executive Session – Southpark Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 193**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, August 25, 2017, in regular session at 12:02 p.m. in Ballrooms D, E, F at the Omni Hotel at Southpark, Austin, Texas. The TBCJ recessed from regular session at 12:43 p.m., reconvened in executive session in the Southpark Room at 1:16 p.m., and adjourned at 3:02 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Eric Gambrell, Secretary
E.F. "Mano" DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrellynn Perryman
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)**

Bryan Collier, Executive Director

STAFF PRESENT:

Jeff Baldwin	Frank Inmon
Mike Bell	Sherry Koenig
Rudolph Brothers	Bobby Lumpkin
Christopher Cirrito	Angie McCown
Jason Clark	Jerry McGinty
Lorie Davis	Ron Steffa
Marie Freeland	Bruce Toney
Sharon Howell	Carey Welebob

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; and Janice Rankin, House Correction Committee Clerk, Representative James White's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 193rd meeting of the TBCJ on Friday, August 25, 2017, at 12:02 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Two speaker registration cards were received for public comments prior to the deadline. The presentations will be heard later in the meeting.

Recognitions

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, 40, and 45 years of service to the state of Texas during the months of July and August 2017. During this time, 93 employees attained 25 years of service, 38 employees attained 30 years of service, 17 employees attained 35 years of service, one employee attained 40 years of service, and one employee attained 45 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

Bryan Collier, TDCJ Executive Director, recognized Lorie Davis, Correctional Institutions Division Director, for 30 years of service. He highlighted her career with the state of Texas and thanked her for her dedication.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 192nd TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright abstained from taking action due to his firm representing items listed on the personal property donations list. Eric Gambrell abstained from taking action due to his firm representing the San Antonio Food Bank listed on the personal property donations list. Excused absences include Larry Miles and Eric Gambrell from the April 6, 2017, meeting due to personal business. Chairman Wainwright acknowledged the abstentions and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

TDCJ Budget Process

Mr. Collier discussed the complex process involved in compiling a proposed budget for an agency as large as the TDCJ. He thanked Jerry McGinty, Chief Financial Officer; Ron Steffa, Deputy Chief Financial Officer; Sherry Koenig, Budget Director; and Jennifer Gonzales, Budget Deputy Director, for the numerous hours spent working on this project. He expressed gratitude to the Chairman and TBCJ members for individually discussing the proposed budget and supporting the budget team throughout the process.

Report from the Chairman, TBCJ

Closure of Four Correctional Facilities

Chairman Wainwright discussed the historical significance of the 85th Legislature making the decision to close four facilities, bringing the total closures to eight over the past six years. He attributed the ability to close the facilities to legislative efforts made toward reducing the number of people who serve time, TDCJ efforts aimed at successful reentry, and falling crime rates. The Chairman commended everyone involved for their part in this monumental accomplishment for the state of Texas and significant operational achievement for the TDCJ.

Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2018 Annual Audit Plan

Christopher Cirrito, Internal Audit Division Director, referred to his committee presentation of the proposed FY 2018 Annual Audit Plan. He asked the board if they had any questions or concerns, and if none, he recommended board approval.

Chairman Wainwright asked if there were questions. Seeing none, he asked for a motion and a second.

Patrick O’Daniel moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2018 and authorize the internal audit director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Proposed Fiscal Year 2018 Annual Audit Plan)

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts over \$1 Million**

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing Texas Tech University and the University of Texas included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He stated all six contracts are biennial contracts. Item 1 is a renewal contract for residential and outpatient substance abuse treatment services for FY18-19. Item 2 is an interagency contract through the Department of Information Resources to provide data center services. Item 3 is for vehicles to provide transportation needs. Item 4 is a renewal contract for hospital and medical services for offenders at Huntsville Memorial Hospital for FY18-19. Item 5 is for medical and mental health services for offenders at the University of Texas Medical Branch for FY18-19. Item 6 is for medical and mental health services for offenders at Texas Tech University Health Sciences Center for FY18-19.

Mr. McCombs asked for any questions, comments, or abstentions. Patrick O’Daniel abstained from taking action due to his firm representing University of Texas and Texas Tech.

Mr. McCombs acknowledged the abstentions and, hearing no further questions, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2018 Proposed Operating Budget

Mr. McGinty referred to the earlier presentation during the Business and Financial Operations Committee meeting of the FY 2018 Proposed Operating Budget. He stated the overall budget is \$3.302 billion and reaffirmed the TDCJ will remain in communication with the LBB regarding funding, if unforeseen needs arise.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2018 Operating Budget as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 151.8, “Advisory Committees”

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule 151.8, “Advisory Committees,” as proposed and authorized at the June 30, 2017, TBCJ meeting. She explained the amendments appeared in the July 21, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.8, regarding Advisory Committees, as published in the Texas Register, and that the chairman sign the order to this effect.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

2. Section 152.51, “Authorized Witnesses to the Execution of an Offender Sentenced to Death”

Ms. Howell requested the adoption of amendments to Board Rule 152.51, “Authorized Witnesses to the Execution of an Offender Sentenced to Death,” as proposed and authorized at the June 30, 2017, TBCJ meeting. She explained the amendments appeared in the July 21, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 152.51, regarding Authorized Witnesses to the Execution of an Offender Sentenced to Death, as published in the Texas Register, and that the chairman sign the order to this effect.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

3. Section 152.61, “Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails”

Ms. Howell requested the adoption of amendments to Board Rule 152.61, “Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails,” as proposed and authorized at the June 30, 2017, TBCJ meeting. She explained the amendments appeared in the July 21, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 152.61, regarding Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

4. Section 159.1, “Substance Abuse Felony Punishment Facilities Eligibility Criteria”

Ms. Howell requested the adoption of amendments to Board Rule 159.1, “Substance Abuse Felony Punishment Facilities Eligibility Criteria,” as proposed and authorized at the June 30,

2017, TBCJ meeting. She explained the amendments appeared in the July 21, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.1, regarding Substance Abuse Felony Punishment Facilities Eligibility Criteria, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction Request for Sale of 296 Acres at the Ramsey Unit, Brazoria County, in Rosharon, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for the sale of 296 acres at the Ramsey Unit, Brazoria County, Rosharon, Texas. He stated HB 3402, as passed by the 85th Legislature, directs the TBCJ to sell 296 acres of land located in Brazoria County for the fair market value of the property. The legislation requires the sale to exclude the mineral interests in and under the subject property. Additionally, the deed must contain a provision reserving the state's interest in and right to remove all minerals in and under the property. As authorized by state law, the TBCJ may sell state owned real property under the TBCJ's management and control, and the General Land Office negotiates and closes a transaction on behalf of the TBCJ. Proceeds from this transaction shall be deposited consistent with the statutory requirements. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for the sale of 296 acres at the Ramsey Unit in Brazoria County, in Rosharon, Texas, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Facilities Division Construction Projects

1. Request to Install Fire Alarm System at the Byrd Unit in Walker County, Huntsville, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration requesting to install a fire alarm system at the Byrd Unit, Walker County, Huntsville, Texas. The project includes installing new control panels, annunciators, smoke detectors, horns, and other components. The new system will comply with all current codes and standards. If approved, the work will be performed by A-1 Fire and Security Equipment Company, with a total cost of \$2,107,900. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$2,107,900 to install a fire alarm system at the Byrd Unit located in Walker County, Huntsville, Texas, as presented.

Tom Wingate seconded the motion which prevailed unanimously when called to a vote.

2. Request to Replace Exterior Lighting at the Estelle Unit in Walker County, Huntsville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace exterior lighting at the Estelle Unit, Walker County, Huntsville, Texas. The project includes installing an LED lighting system to include 21 high mast towers, 118 exterior wall fixtures, and a standby generator to provide emergency power during outages. If approved, the work will be performed by C.F. McDonald Electric, Inc., with a total cost of \$3,639,800. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$3,639,800 to replace exterior lighting at the Estelle Unit located in Walker County, Huntsville, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

3. Request to Replace Gas and Water Distribution Systems at the Scott Unit in Brazoria County, Angleton, Texas

Mr. Inmon presented a new project for board consideration requesting to replace gas and water distribution systems at the Scott Unit, Brazoria County, Angleton, Texas. The project includes replacing approximately 25,434 linear feet of gas lines and 30,856 linear feet of water lines. The new distribution system will include new joint valves and fire hydrants. If approved, the work will be performed by Huff and Mitchell, Inc., with a total cost of \$4,533,700. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$4,533,700 to replace gas and water distribution systems at the Scott Unit located in Brazoria County, Angleton, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

4. Request to Replace Service Entrance at the Terrell Unit in Brazoria County, Rosharon, Texas

Mr. Inmon presented a new project for board consideration requesting to replace service entrance at the Terrell Unit, Brazoria County, Rosharon, Texas. The project includes replacing over 10,000 square yards of concrete pavement at the backgate and stabilization of the existing subgrade soil. Additionally, a new drainage system consisting of 110 linear feet of storm drain pipes and a 50 linear foot box culvert beneath the perimeter road will be installed. If approved, the work will be performed by Allbrite Constructors of Texas, Inc., with a total cost of \$2,197,864. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$2,197,864 to replace service entrance at the Terrell Unit located in Brazoria County, Rosharon, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Chairman Wainwright presented the format for receiving public comments. The first presenter was Ann Putnam regarding issues concerning inmates in TDCJ and the diligent participation program for state jail offenders. She thanked the TBCJ members for their time and stated she met with Tracy Bailey before the meeting, who will take care of several items on bullet points one and two from the email she sent. Chairman Wainwright interjected that Ms. Putnam provided written comments regarding her topic via email to the TBCJ prior to the meeting and all members now have a copy of the email. Ms. Putnam continued by stating she feels TDCJ needs to look at how inmates are being transported and moved around. Her husband spent approximately 15-21 days within a three week period of time on the road at 15 different facilities, allegedly for the purpose of seeking better medical treatment. This is one issue that was addressed and Ms. Bailey who will look into it and follow-up with Ms. Putnam. She stated she also had the opportunity to meet with Cassandra McGilbra before the meeting, who will address issues regarding her husband's personal property and other concerns about conditions at the Dominguez Unit. She stated she also has plans to meet with the warden there, who has had open communication with her. She expressed gratitude for the wardens who have been receptive to her concerns. The last thing she addressed, although possibly not in the TBCJ's jurisdiction, was that the TBCJ could probably close more facilities if something was done about encouraging judges to participate in the diligent participation program within state jail facilities.

Chairman Wainwright thanked her for her comments and called the next presenter, Frances Vaughn, who was not present.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, October 19, 2017, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 193rd meeting of the Texas Board of Criminal Justice at 3:02 p.m.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
194th Meeting



Minutes

October 19, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel – Lake Travis/Lake LBJ Room, Blanco Room
3401 South IH 35
Austin, Texas 78741**

**October 19, 2017
10:00 – 11:30 AM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 193rd TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2017 – 2018

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and Resolution Adopting the Investment Policy

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-72, “Employee Salary Administration”

I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

1. BP-01.01, “TBCJ Responsibilities”
2. BP-14.02, “Internal Audit Division Policy Statement”

- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.3, TBCJ Operating Procedures

Reconvene Texas Board of Criminal Justice (TBCJ)

II. Executive Session – Blanco Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 194**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, October 19, 2017, in regular session at 10:09 a.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas. The TBCJ recessed from regular session at 10:55 a.m., reconvened in executive session in the Blanco Room at 11:13 p.m., and adjourned at 11:55 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Tom Fordyce
Larry Miles
Patrick O’Daniel
Derrelynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Eric Gambrell, Secretary
E.F. “Mano” DeAyala

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jeff Baldwin
Rudolph Brothers
Christopher Cirrito
Jason Clark
Lorie Davis
Marie Freeland
Sharon Howell
Frank Inmon
Sherry Koenig
Bobby Lumpkin
Angie McCown
Jerry McGinty
Kelvin Scott
Ron Steffa
Bruce Toney

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; Kelsey Vela, Legislative Budget Board; and Janis Reinkin, House Corrections Committee Clerk, Representative James White’s office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 194th meeting of the TBCJ on Thursday, October 19, 2017, at 10:09 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public presentations prior to the deadline.

Recognitions

Lorie Davis, Correctional Institutions Division (CID) Director, presented Miguel Martinez as the new Region IV director, and highlighted his career. Next, she presented David Blackwell as the new Region V director, and highlighted his career.

Bryan Collier, TDCJ Executive Director, recognized Angie McCown, Victim Services Director, for 20 years of service. He highlighted her career with the state of Texas and thanked her for her dedication.

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented Ron Hudson as the new Deputy Director for the Manufacturing, Agribusiness and Logistics Division, and highlighted his career.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, 40, and 45 years of service to the state of Texas during the months of September and October 2017. During this time, 98 employees attained 25 years of service, 31 employees attained 30 years of service, 14 employees attained 35 years of service, and two employees attained 40 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 193rd TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright abstained from taking action due to his firm representing Nature Sweet listed on the personal property donations list. Hearing no further abstentions or questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

TDCJ Activities Related to Hurricane Harvey

Mr. Collier discussed the TDCJ activities as Hurricane Harvey developed. He stated the TDCJ command center operated 24 hours a day and staged resources, such as buses and staff, near impacted areas. Preparations were made to increase fuel, food, and water supplies to units in the affected areas as well. TDCJ evacuated community treatment centers in Corpus Christi and Victoria, as well as high risk parolees who did not have other residential options. All operational areas were closely monitored to ensure all needs were met. There were daily conference calls with the State Operations Center and State Hydrologist to help forecast possible flooding near many TDCJ facilities, which led to the evacuation of the Ramsey, Stringfellow, Terrell, Jester I, and Vance Units. Halfway houses and treatment centers in the Houston and Beaumont areas were evacuated as well. Overall, 6,700 offenders were evacuated. When the city of Beaumont lost water service for several days, TDCJ provided water tankers with portable water and a robust supply of bottled water at facilities in the area. Many TDCJ employees went above and beyond by staying on units for the duration of the storm to ensure adequate staff was on site. The warden of the Kegans Intermediate Sanction Facility (ISF) waded through water for approximately six miles to make it back to the unit. An employee hotline was created to assist employees with questions and needs. Information gathered from the hotline helped identify employees in need of assistance. Care packages, gift cards, and other items were collected from several divisions to help those employees with their respective needs. Updates were provided frequently via social media. Evacuated offenders have been returned to their facilities and repairs to damaged buildings and infrastructures are in progress. Mr. Collier thanked all staff for the phenomenal job ensuring public safety at all times.

Report from the Chairman, TBCJ

Department's Response to Hurricane Harvey

Chairman Wainwright discussed the prudent and attentive response by the TDCJ leadership team during Hurricane Harvey. During this catastrophic natural disaster, the TDCJ relocated offenders, provided drinking water and other necessities to affected units, continued effective

monitoring of offenders on street supervision, and provided assistance to meet the needs of staff. One example of an exemplary response noted was Warden Richard Babcock at the Kegans ISF who ended up stuck and unable to drive through the flood waters. He gathered supplies and walked through the flood waters for three and a half hours, approximately six miles, until he made it back to the facility. This is just one instance of perseverance pushing through difficult circumstances demonstrated by many TDCJ employees during the storm. He thanked Mr. Collier and the entire TDCJ leadership team for an excellent job remaining focused on security and safety.

Public Awareness – Corrections Today (PACT) Conference

Chairman Wainwright discussed the Public Awareness – Corrections Today (PACT) Conference that the TDCJ will be hosting on October 21, 2017, at the George J. Beto Criminal Justice Center at Sam Houston State University. Guest speakers include: Executive Director Bryan Collier, Deputy Executive Director Oscar Mendoza, Board of Pardons and Parole Chairman David Gutierrez, and several division directors. The purpose of the conference is to inform the public about TDCJ operations, answer questions, and provide material for community leaders, jail and prison ministries, and criminal justice volunteers.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the October 9, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1709 – Board of Pardons and Paroles, Hearings:** Audit is complete.
- **1710 – Correctional Institutions Division, Unit Entry and Search Procedures:** Audit is now a draft report.
- **1711 – Victim Services Division, Victim Impact Statements:** Audit is complete.
- **1713 – Business and Finance Division, eCommDirect:** Audit is in report writing.
- **1714 – Information Technology Division Office of Incident Management, Continuity of Operations Planning:** Audit is in field work.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing Canon Financial Services included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He stated there is one purchase on the list for approval. Item 1 is an increase for utilization to an existing contract for the lease of copier equipment for FY15-20.

Mr. McCombs asked for any questions, comments, or abstentions.

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, "Texas Department of Criminal Justice Investment Policy," and Resolution Adopting the Investment Policy

Mr. McGinty presented BP-14.01, "Texas Department of Criminal Justice Investment Policy," and resolution to adopt, in accordance with Chapter 2256 of the Public Funds Investment Act which requires the agency to have a board policy regarding investments, and also requires an annual review. He stated the changes to the policy clarified "non-authorized investments" in accordance with legislation recently passed.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy as presented, and that the Chairman sign the resolution adopting the policy.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-72, "Employee Salary Administration"

Sharon Howell, TDCJ General Counsel, presented proposed revisions to PD-72, "Employee Salary Administration." She explained the primary change is the inclusion of the Parole Division career ladder for parole officers. Previously, the Parole Division had their own policy, which has now been rescinded. It was placed into this personnel directive to have all salary administration in one place. Additionally, the reference to "unit pay differential" was removed. Initially, it was a legislative incentive to give more money to personnel working on units. Instead of calculating the 3% differential, it is currently part of the base pay. The rest of the changes are conforming changes to current practice.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-72, "Employee Salary Administration," as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Proposed Revisions to Board Policies**

1. BP-01.01, "Texas Board of Criminal Justice Responsibilities"

Sharon Howell, TDCJ General Counsel, presented proposed revisions to BP-01.01, "Texas Board of Criminal Justice Responsibilities." She stated statutory revisions by the 85th legislative session require purchasing only United States (U.S.) iron and steel products. An exemption will require board approval. The remaining revisions are to citations.

Mr. McCombs asked for clarification. Ms. Howell explained the 85th legislative session passed a bill requiring state agencies to purchase U.S. iron and steel products for structural projects. She further explained that if an exemption is needed, the board will have to make findings prior to purchasing these products outside the U.S.

Mr. McCombs asked if there is a price or cost ratio that must be met when choosing a project. Ms. Howell replied no and stated the requirement to purchase U.S. iron and steel products does not apply if the cost of the U.S. iron or steel will increase the total cost of the project by more than 20%.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the revisions to Board Policy BP-01.01, "Texas Board of Criminal Justice Responsibilities," as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

2. BP-14.02, "Internal Audit Division Policy Statement"

Ms. Howell presented proposed revisions to BP-14.02, "Internal Audit Division Policy Statement." She stated revisions include extensive reorganization of the policy; however, the reorganization does not change existing procedures or operations.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the revisions to Board Policy BP-14.02, "Internal Audit Division Policy Statement," as presented.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 151.3, "Texas Board of Criminal Justice Operating Procedures"**

Ms. Howell presented the proposed amendments to Board Rule 151.3, "Texas Board of Criminal Justice Operating Procedures." She explained the revisions to the rule are necessary to conform to HB 3047 from the 85th Legislative Session, which requires a governing body that convenes in open meetings via video conferencing to consider a member absent from the meeting if the connection is interrupted or disconnected. This could potentially affect the TBCJ's ability to have a quorum; however, since the board does not ordinarily meet via teleconferencing it does not directly affect the TBCJ members. The purpose of the proposed amendments is to ensure staying current with the law. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.3, regarding Texas Board of Criminal Justice Operating Procedures, to receive public comment, as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, December 15, 2017, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright recessed the 194th meeting of the Texas Board of Criminal Justice at 10:55 a.m. Chairman Wainwright stated the board would reconvene in the Blanco Room to conduct executive session at 11:00 a.m.

Chairman*

Secretary*

*Signature on file

Texas Board of Criminal Justice
195th Meeting



Minutes

December 15, 2017
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and Blanco Room
3401 South IH 35
Austin, Texas 78741**

**December 15, 2017
9:45 – 10:30 AM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 194th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- D. Report from the Chairman, TBCJ
- E. Internal Audit Status Report for Fiscal Years 2017 – 2018
- F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- G. Discussion, Consideration, and Possible Action Regarding Review of Board Policy BP-03.81, “Rules Governing Offender Access to the Courts, Counsel, and Public Officials”
- H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Section 163.42, Substantial Noncompliance
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 151.3, Texas Board of Criminal Justice Operating Procedures

- J. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request to Renew a Pipeline Easement at the Smith Unit in Dawson County, Lamesa, Texas
 - 2. Request to Amend a Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas

Reconvene TBCJ

II. Executive Session – Blanco Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 195**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, December 15, 2017, in regular session at 9:56 a.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas. The TBCJ recessed from regular session at 10:53 a.m., reconvened in executive session in the Blanco Room at 11:03 p.m., and adjourned at 1:07 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. "Mano" DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrellynn Perryman
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director

Jeff Baldwin	Frank Inmon
Rudolph Brothers	Bobby Lumpkin
Christopher Cirrito	Angie McCown
Jason Clark	Melvin Neely
Marie Freeland	Kelvin Scott
Patty Garcia	Ron Steffa
Cody Ginsel	Pam Thielke
Carey Green	Bruce Toney
Rene Hinojosa	April Zamora
Sharon Howell	

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County; Kelsey Vela, Legislative Budget Board; Preston Streufert, Governor Abbott's office; and Janis Reinken, House Corrections Committee Clerk, Representative James White's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 195th meeting of the TBCJ on Friday, December 15, 2017, at 9:56 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public presentations prior to the deadline.

Recognitions

Oscar Mendoza, TDCJ Deputy Executive Director, recognized the extraordinary efforts from TDCJ staff of all levels during the events of Hurricane Harvey. Dedicated employees from every corner of the state and every division converged to safely evacuate almost 6,000 offenders from five units and close to 1,000 parolees and probationers from halfway houses and treatment centers. TDCJ staff members worked around the clock in several command centers to facilitate the delivery of water, cots, mattresses, sandbags, and other vital resources to the affected areas, even as their own homes were being flooded.

Chairman Wainwright recognized the brave men and women who played a pivotal role in keeping our offenders and the public safe during Hurricane Harvey. He commended all these individuals and those they represent, along with division directors and deputies, for unselfish contributions made by the dedicated men and women of this agency. On behalf of the TBCJ and Mr. Collier, he expressed sincere appreciation to all employees for a job well done with the highest of professional standards.

Derrelynn Perryman expressed the deepest gratitude for these men and women, calling them heroes.

Bryan Collier, TDCJ Executive Director, introduced Jason Clark as the new Deputy Chief of Staff, and highlighted his career. He stated Mr. Clark has a strong agency knowledge base and routinely assists division directors and others with communication and media issues.

Mr. Collier introduced Melvin Neely as the new Information Technology Division Director, and highlighted his career. He stated with a strong operational oversight experience, combined with creativity and proven leadership, Mr. Neely will serve the agency well.

Mr. Collier introduced Rene Hinojosa as the new Rehabilitation Programs Division Director, and highlighted his career. He stated Mr. Hinojosa has a diverse background and strong leadership abilities, which will serve him well in this new position.

Kelvin Scott, Administrative Review and Risk Management (ARRM) Division Director, introduced Christopher Carter as the new Deputy Director of the ARRM Division, and

highlighted his career and education. He introduced Frances Gattis, also, as the new Deputy Director of the ARRM Division, and highlighted her career and education. Mr. Scott introduced Shannon Kersh as the new Ombudsman, and highlighted her career and education.

April Zamora, Reentry and Integration Division Director, introduced Stephen Fox as the new Reentry and Integration Deputy Division Director, and highlighted his career and education.

Pam Thielke, Parole Division Director, introduced Troy Johnson as the new Region IV Director for the Parole Division, and highlighted his career and education.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, and 35 years of service to the state of Texas during the months of November and December 2017. During this time, 73 employees attained 25 years of service, 27 employees attained 30 years of service, and 13 employees attained 35 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 194th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright stated there are excused absences for E.F. “Mano” DeAyala and Eric Gambrell from the October meeting due to personal business. He asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing multiple entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

50-State Summit on Public Safety

Mr. Collier discussed the 50-State Summit on Public Safety held in Washington, D.C. on November 13-14, 2017. The event was sponsored by the Association of State Correctional Administrators and the Council of State Governments, and included teams from each of the 50 states. The Texas team was composed of Mr. Collier, Chairman James White, who serves as the Chairman of the House Corrections Committee, Dennis Wilson, Sheriff of Limestone County, and Sonja Gains, who serves as the Associate Commissioner for Mental Health Coordination for the Texas Health and Human Services Commission. The summit focused on the intersections of law enforcement, mental health and corrections, and highlighted several states that have experienced positive outcomes in a wide variety of criminal justice reforms. Prior to the meeting, a book containing both national and state specific data was given to each team. Texas reflects very well in nearly every category of the report. Speakers at the summit included Kentucky Governor Matt Bevin, Deputy Attorney General Rod Rosenstein, and panel presentations from several states, to include Texas that reflected on successes in the areas of criminal justice and reform. The Texas team represented our state well and returned with plans to work on a variety of targeted strategies that would impact probation revocations, mental health services, and help to improve the criminal justice system in Texas.

Holiday Wishes

Mr. Collier extended his gratitude to everyone for their assistance in helping the TDCJ meet the challenges faced throughout the year. He recapped 2017: four prisons were closed while at the same time creating more beds targeting elderly offenders and diversion needs; the TDCJ became fully PREA compliant; another class of seminary field ministers graduated; 31 new pretrial programs in adult probation were added; a new Conroe District Parole office was opened; and we survived Hurricane Harvey. He thanked everyone for a great year, and thanked the TBCJ for

their time and support. Mr. Collier asked all to remember staff that will be on duty ensuring public safety during the holiday season.

Report from the Chairman, TBCJ

Volunteer and Faith-Based Organization Activities

Chairman Wainwright stated TDCJ staff will be providing the TBCJ with the annual update regarding the activities of volunteer and faith-based organizations in the TDCJ during the past fiscal year. The update focuses on programs serving offenders incarcerated, as well as active offenders on parole and probation supervision. The published report provides another public opportunity to recognize the contributions of the dedicated volunteers. Numerous organizations and more than 25,000 volunteers graciously spend their time helping those in need. Although there are many outstanding programs, the “Day with Dad” program is noteworthy. This program focuses on special events at facilities throughout the year where children can come in and spend an entire day with their father. Leading up to the event, offenders in the program meet with volunteer mentors who provide them with real-world tools they can utilize to be successful dads when released. A similar program for incarcerated mothers, Girls Embracing Mothers (GEM) is an innovative program happening at the Woodman State Jail. These two programs are just a sample of the outstanding work happening each day in TDCJ facilities across the state. The TBCJ is proud of volunteers and organizations who provide the TDCJ offender population with a vital public service. On behalf of the TBCJ and TDCJ, he thanked all volunteers.

Holiday Message to Employees

Chairman Wainwright expressed gratitude for the men and women who serve the state as employees of the TDCJ and commended them on a year that has been challenging and successful in almost equal measures. As Texas weathered the recent hurricane season, the TDCJ staff remained singularly focused on security and safety. While thousands of offenders were relocated, all staff and offenders were kept safe from harm. First responders knew their roles and performed them admirably. Additionally, the last twelve months were of historical significance as five TDCJ facilities were closed. This multi-faceted process of closing units and relocating offenders was an operational and logistical challenge requiring collaboration among multiple divisions. Once again, TDCJ employees were well-prepared and successfully met the challenge. Chairman Wainwright wished all TDCJ employees a Merry Christmas, happy holidays, and a happy New Year on behalf of the TBCJ.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the December 4, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1712 – Human Resource Division, Correctional Officer Application Processing:** Audit is now a draft report.

- **1714 – Information Technology Division Office of Incident Management, Continuity of Operations Planning:** Audit is now in report writing.
- **1715 – Parole Division, Absconder Identification Follow up:** Audit is now a draft report.
- **1716 – Facilities Division, Unit Maintenance:** Audit is in report writing.
- **1801 – Business and Finance Division Windham School District, Public Funds Investment:** Audit is in field work.
- **1806 – Business and Finance Division, Capital Assets Follow up;** Audit was assigned but is now deferred for future consideration due to the state auditor’s office announcing intent to audit this area.

Patrick O’Daniel stated change of this nature saves on state resources, and is not unusual.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)

**Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts over \$1 Million**

Ron Steffa, Deputy Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He stated there are two purchases on the list for approval. Item 1 is an increase for residential and outpatient treatment services in Brenham, Bryan, Caldwell, and Huntsville. Item 2 is an increase for outpatient services in Clarksville, Longview, Texarkana, and Tyler.

Chairman Wainwright asked if the increases bring the amount to the sums that are listed. Mr. Steffa affirmed.

Chairman Wainwright asked for any questions, comments, or abstentions.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Review
of Board Policy BP-03.81, “Rules Governing Offender Access
to the Courts, Counsel, and Public Officials”**

Sharon Howell, TDCJ General Counsel, presented BP-03.81, “Rules Governing Offender Access to the Courts, Counsel, and Public Officials.” She stated the changes to the policy are not substantive and do not consist of any significant change in practice.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the revisions to BP-03.81, Rules Governing Offender Access to the Courts, Counsel, and Public Officials as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.42, “Substantial Noncompliance”**

Ms. Howell presented the proposed amendments to Board Rule 163.42, “Substantial Noncompliance.” She explained the revisions include removing reference to the *Texas Open Meeting Act* because the requirements to finalize community supervision and corrections department budget are dictated by the local government code. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.42, regarding Substantial Noncompliance, to receive public comment, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 151.3, “Texas Board of Criminal Justice Operating Procedures”**

Ms. Howell requested the adoption of amendments to Board Rule 151.3, “Texas Board of Criminal Justice Operating Procedures,” as proposed and authorized at the October 19, 2017, TBCJ meeting. She explained the amendments appeared in the November 3, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.3, regarding Texas Board of Criminal Justice Operating Procedures, as published in the Texas Register, and that the chairman sign the order to this effect.

E.F. "Mano" DeAyala seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Proposed Land Transactions**

1. Request to Renew a Pipeline Easement at the Smith Unit in Dawson County, Lamesa, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request to renew a pipeline easement at the Smith Unit in Lamesa. He stated Fasken Oil and Ranch, Ltd. is requesting to renew a pipeline easement consisting of an area of approximately .29 acre of land being 423.1 feet long by 30 feet wide containing one three-inch pipeline used to transport crude oil from off-site production wells to a tank battery located on the Smith Unit. The original easement was executed in January 2008. Fasken Oil and Ranch, Ltd. has agreed to pay \$1,216.00 for the easement with another ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Eric Gambrell abstained from taking action due to his firm representing the applicant. Chairman Wainwright acknowledged the abstention and called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request to renew a pipeline easement at the Smith Unit in Dawson County, in Lamesa, Texas, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Amend a Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas

Mr. Lumpkin presented the request to amend a pipeline easement at the Darrington Unit in Brazoria County. He stated Brazosport Water Authority is requesting to amend an existing pipeline easement by adding 0.073 acre of land being approximately 107.2 feet long by 30 feet wide, to avoid an agency stock pond located in the path of the existing easement. All other terms and provisions of the easement will remain in full force and effect. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the request to amend a pipeline easement at the Darrington Unit in Brazoria County, in Rosharon, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, February 23, 2017, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright recessed the 195th meeting of the Texas Board of Criminal Justice at 10:53 a.m. Chairman Wainwright stated the board would reconvene in the Blanco Room to conduct executive session.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
196th Meeting



Minutes

February 23, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and Blanco Room
3401 South IH 35
Austin, Texas 78741**

**February 23, 2018
11:30 AM – 2:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 195th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2017 Annual Review
- D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- E. Report from the Chairman, TBCJ
- F. Internal Audit Status Report for Fiscal Years 2017 – 2018
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy 01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice”

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division
 - 1. Subchapter A, Mission and Admissions
 - 2. Subchapter B, Correctional Capacity
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.25, Community Justice Council and Plans
- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.42, Substantial Noncompliance
- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request for Right-of-Way Easements at the Clemens Unit in Brazoria County, Brazoria, Texas
- M. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project - Request to Replace Steam Lines at the McConnell Unit in Bee County, Beeville, Texas

Reconvene TBCJ

II. Executive Session – Blanco Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 196th meeting of the TBCJ on Friday, February 23, 2018, at 11:33 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public presentations prior to the deadline.

Recognitions

Bryan Collier, TDCJ Executive Director, introduced Jeremy Desel as the new Director of Public Information, and highlighted his career. He stated Mr. Desel has a wealth of media experience that he brings to the TDCJ.

Sharon Howell, TDCJ General Counsel, introduced Calysta Lantiegne as the new Deputy General Counsel, and highlighted her career. She introduced Erik Brown as the new Director of Legal Affairs, and highlighted his career.

Pam Thielke, Parole Division Director, introduced Ernestina Balandran as the new Director of Interstate Compact, and highlighted her career and education.

Cody Ginsel, Private Facility Contract Monitoring/Oversight Division Director, introduced Kirstie Legerski as the new Deputy Director of Operations Monitoring, and highlighted her career and education.

Bobby Lumpkin, Manufacturing, Agribusiness and Logistics Division Director, introduced Robert Cade as the new Deputy Director of Transportation and Supply, and highlighted his career and education. He introduced Kirk Moss as the new Deputy Director of Texas Correctional Industries, and highlighted his career and education.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of January and February 2018. During this time, 67 employees attained 25 years of service, 29 employees attained 30 years of service, 13 employees attained 35 years of service, 3 employees attained 40 years of service, and one employee attained 45 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 195th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing multiple entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Presiding Officer, Texas Board of Pardons and Paroles

Overview of the Texas Board of Pardons and Paroles Fiscal Year 2017 Annual Review

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2017 Annual Review. He stated the BPP has seven board members and 14 parole commissioners. Mr. Gutierrez explained they consider individual offenders eligible for parole and discretionary mandatory supervision, and set conditions upon those individuals considered for release. He stated they also determine revocation matters throughout the state for those individuals who allegedly violated a condition(s) of parole and recommend clemency matters to the Governor. In FY 2017, the BPP considered over 101,000 parole and mandatory supervision cases, and over 38,000 revocation and waiver cases. Out of 78,974 parole cases, only 27,595 were approved, reflecting a 34.9% rate. Out of 20,093 discretionary mandatory review cases, 10,301 were approved, reflecting a 51.3% rate. Out of 38,000 parole revocation cases, 6,830 were revoked.

Mr. Gutierrez discussed the audit conducted by the Texas Department of Criminal Justice Internal Audit Division to assess the institutional parole operations and hearing operations. In FY 2017, the recommendations from the results of the audit were implemented to enhance efficiency and create opportunities. The audit showed the institutional parole officer case summaries could be combined to be more efficient. Currently 30% of voting is done electronically. The BPP is working with the Information Technology Division to increase the percentage of voting done electronically and to reduce the amount of time it takes to make decisions. The audit also showed the opportunity to create a new department dedicated to training and auditing. A staff development director has been added to form a team to work on audit and training for quality control within the BPP. Regional training for board members and parole commissioners around the state has been implemented and the hearing officer training was strengthened. Additionally, a victim liaison position was created to work more closely with the TDCJ Victim Services Division to ensure accuracy of information provided, training for members on how to conduct interviews of victims, and how to establish consistency among board offices.

Terrell McCombs commended Mr. Gutierrez for doing a great job implementing the changes needed in the BPP and acknowledged those decisions are not easy to make.

Chairman Wainwright and Mr. Collier thanked Mr. Gutierrez for the fantastic job and great working relationship.

Report from the Executive Director, Texas Department of Criminal Justice

Lucy Webb Hayes Award

Mr. Collier discussed the Lucy Webb Hayes Award presented to the TDCJ at the American Correctional Association's (ACA) Winter Conference for agency-wide compliance with ACA accreditation standards and the federal *Prison Rape Elimination Act* standards. A small number of agencies receive this national recognition by the ACA. Receiving the award is the result of the cumulative efforts and hard work of many within the TDCJ. Mr. Collier thanked Lorie Davis, Cody Ginsel, Kelvin Scott, and Lynne Sharp for their individual and team efforts in helping the TDCJ receive this honor.

Recent Correctional Officer Salary Adjustment

Mr. Collier stated the TDCJ has faced a significant challenge with correctional officer staffing over the past year. One year ago, the TDCJ had 1,913 vacant correctional officer positions. Today, there are over 3,600 vacancies. This is attributed to several factors, to include a strong economy and historically low unemployment rates. Over 42% of officers hired leave the TDCJ within the first 12 months of employment. In the past several months, attempts to improve both recruiting and retention of correctional officers have been addressed. The number of units that qualify for a \$4,000 hiring bonus has been increased to 25 units. Creative and visible advertising has been introduced. The number of part time correctional officer positions was increased. The starting pay for correctional officers was increased from \$32,347 to \$36,238. This was accomplished by removing the first two tiers of the correctional officer career ladder, allowing the agency to hire at a higher starting salary and allow officers to progress through five more steps in the career ladder. Continued efforts to improve staffing numbers will remain a top priority of the TDCJ.

Report from the Chairman, TBCJ

Risk Management within the Department

Chairman Wainwright discussed the Risk Management Program and the proactive measures in place to eliminate or greatly reduce risk exposure. The program began in 1984 and was known as the Safety Department. Former plant maintenance officers were tasked with inspecting facilities and performing safety-related activities. As TDC became TDCJ and grew in both size and responsibility, the Safety Department evolved and became the Risk Management Program, which expanded to a comprehensive loss prevention and control system under the Administrative

Review and Risk Management (ARRM) Division. The mission of the program is to conform to the highest industry standards by conducting objective, honest, and timely inquiries into all perils and risks which expose the TDCJ to potential loss. Some of the most significant risk losses TDCJ has historically faced are claims for employee injuries and workers' compensation costs. Proactive steps and strategic development by the Risk Management Program team, along with TDCJ leadership, has led to an overall reduction in injuries and related expenses. Over the last 15 years, the cost of workers' compensation claims has been reduced by more than 50%. This was accomplished through dedicated management efforts and robust training initiatives. Each day across the system, risk managers are working diligently and collaboratively with divisions to educate and empower staff to integrate safety measures into their daily routines. The end product is a safer environment for offenders and employees. The TDCJ partners with the State Fire Marshal's Office and the State Office of Risk Management in safety efforts. Another important responsibility of the Risk Management Program is serving as the *American with Disabilities Act* (ADA) coordinator. The team organizes the TDCJ's efforts to carry out and comply with ADA responsibilities. Risk managers conduct routine assessments and work with the disabled offender population to promptly resolve issues. The Risk Management Program is working towards the Enterprise Risk Management concept. This is the process of planning, organizing, leading, and controlling the activities of an organization to minimize the effects of risk on its capital earnings. The practice of the Enterprise Risk Management will expand the process within the TDCJ to include not just risks associated with accidental losses but also financial, strategic, operational, and other risks. Chairman Wainwright thanked all for the team effort to reduce or eliminate risk where possible.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the February 12, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1706 – Executive Administration, Ethics Programs:** Audit is complete.
- **1707 – Reentry and Integration Division, Continuity of Care:** Audit is complete.
- **1710 – Correctional Institutions Division, Unit Entry and Search Procedures:** Audit is complete.
- **1804 – Board of Pardons and Paroles, Case Summaries Follow-up:** Audit is complete.
- **1805 – Facilities Division, Environmental Branch – Hazardous Materials Storage:** Audit is in field work.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He stated there is one purchase on the list for approval. Item 1 is an increase to a four-year contract in place for the photo and ID system. The increase is attributed to additional initiatives

implemented by the agency over the last four years. Things such as adding the true name to the ID cards to allow for us to expedite the delivery of ID cards to DPS is one example.

Chairman Wainwright asked if the ID cards are for employees or offenders. Mr. McGinty stated it was for both employee ID cards and offender ID cards.

Terrell McCombs asked about the reason for the increase. Mr. McGinty stated, as an example, several years ago TDCJ started adding the true name to the offender ID cards. Sometimes offenders are sentenced under one name, but the true name is verified via birth certificates and social security numbers. When that happens, the true name is added to the offender ID card.

Chairman Wainwright asked for any questions, comments, or abstentions.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Review
of Board Policy BP-01.04, “Standards of Conduct for the
Texas Board of Criminal Justice and the Executive Director
of the Texas Department of Criminal Justice”**

Ms. Howell presented BP-01.04, “Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice.” She stated the substantive change to the policy relates to the length of time a board member or executive director must wait before accepting employment from a person who has been involved in a procurement. It reflects the change to two years after the contract is signed or the procurement is terminated or withdrawn.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.04, Standards of Conduct for the Texas Board of Criminal Justice and the Executive Director of the Texas Department of Criminal Justice, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Chapter 152 Correctional Institutions Division**

1. Subchapter A, Mission and Admissions

Ms. Howell presented the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, "Mission and Admissions." She explained the proposed revisions consist of board rule 152.1 removing boot camp as a sentencing option, board rule 152.3 containing grammatical changes, and 152.5 re-designating 13 counties to different state jail regions. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, regarding Mission and Admissions, to receive public comment, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

2. Subchapter B, Correctional Capacity

Ms. Howell presented the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, "Correctional Capacity." She explained the revisions to 152.21 and 152.23 consist of grammatical changes and conforming language to *Texas Register* preference. Rule 152.25 contains the list establishing the maximum capacity for all existing state owned units. The capacity changes fall primarily in three categories: decreases in maximum rated capacity due to permanently shutting down part of a unit or construction, no actual overall capacity change, and capacity increases. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked to clarify if the feedback will be from offenders as well as the public. Ms. Howell affirmed that the feedback will consist of public comments from the *Texas Register* and offender comments from a separate notice that will be posted in the units.

Terrell McCombs asked if the state jail regions were already established or are new. Ms. Howell confirmed the regions were already established.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, regarding Correctional Capacity, to receive public comment, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.25, “Community Justice Council and Plans”

Ms. Howell presented the proposed amendments to Board Rule 163.25, “Community Justice Council and Plans.” She explained the revisions reflect a statutory focus on strategic planning by community supervision and corrections departments. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.25, regarding Community Justice Council and Plans, to receive public comment, as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.42, “Substantial Noncompliance”

Ms. Howell requested the adoption of amendments to Board Rule 163.42, “Substantial Noncompliance,” as proposed and authorized at the December 15, 2017, TBCJ meeting. She explained the amendments appeared in the December 29, 2017, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Patrick O’Daniel moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.42, regarding Substantial Noncompliance, as published in the Texas Register, and that the chairman sign the order to this effect.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Proposed Land Transactions

1. Request for Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Ellis Unit in Huntsville. He stated Grand Prix Pipeline, LLC is requesting an easement consisting of an area of approximately 3.34 acres of land being 2,909.6 feet long by 50 feet wide for installation of one natural gas liquids pipeline. This request includes temporary workspace totaling 6.16 acres for use during pipeline construction and installation. Grand Prix Pipeline, LLC has agreed to pay \$109,760.00 for the easement with a ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

E.F. "Mano" DeAyala seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Right-of-Way Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Lumpkin presented the request for right-of-way easements at the Clemens Unit in Brazoria County. He stated the Texas Department of Transportation is requesting right-of-way easements consisting of two tracts of land totaling 36.951 acres to facilitate the widening of Texas State Highway 36. The Texas Department of Transportation has agreed to pay \$222,182.00 for these easements. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Chairman Wainwright abstained from taking action due to his firm representing the Texas Department of Transportation, and called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for right-of-way easements at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action
Regarding Facilities Division Construction Projects –
Request to Replace Steam Lines at the McConnell Unit
in Bee County, Beeville, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration requesting to replace steam lines at the McConnell Unit, Bee County, Beeville, Texas. The work will consist of disconnecting the current underground pipe system and installing new steam and condensate lines above ground. If approved, the work will be performed by R.E.C. Industries, Inc. with a total cost of \$1,123,800. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,123,800 to replace steam lines at the McConnell Unit located in Bee County, Beeville, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, April 20, 2018, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright recessed the 196th meeting of the Texas Board of Criminal Justice at 12:44 p.m. Chairman Wainwright stated the board would reconvene in the Blanco Room to conduct executive session.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
198th Meeting



Minutes

April 20, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and San Gabriel Room
3401 South IH 35
Austin, Texas 78741**

**April 20, 2018
11:00 AM – 3:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

- A. 23rd Annual Governor’s Criminal Justice Volunteer Service Awards Ceremony

Recess

Reconvene TBCJ

II. Executive Session – San Gabriel Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Recess

Reconvene TBCJ – Regular Session

- B. Recognitions
- C. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 196th TBCJ Meeting Minutes
 - 4. Excused Absences
- D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- E. Report from the Chairman, TBCJ
- F. Internal Audit Status Report for Fiscal Years 2017 – 2018
- G. Discussion, Consideration, and Possible Action Regarding the Selection of the Inspector General
- H. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division
 - 1. Subchapter A, Mission and Admissions
 - 2. Subchapter B, Correctional Capacity
- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 163.25, Strategic Plan
- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction – Request for Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
- L. Public Comments

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 198**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, April 20, 2018, in regular session at 11:02 a.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas. The TBCJ recessed at 11:59 p.m., reconvened in regular session at 2:05 p.m., and adjourned at 3:05 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
E.F. 'Mano' DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrelynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Eric Gambrell

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director	
Oscar Mendoza, Deputy Executive Director	
Rudolph Brothers	Sherry Koenig
Christopher Cirrito	Dr. Lannette Linthicum
Jason Clark	Bobby Lumpkin
Lorie Davis	Angie McCown
Marie Freeland	Kelvin Scott
Patty Garcia	Ron Steffa
Cody Ginsel	Bruce Toney
Rene Hinojosa	April Zamora
Sharon Howell	

OTHERS PRESENT:

Hon. Jimmy Blacklock, Representative Tan Parker,
former TBCJ Chairman Carol Vance.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 198th meeting of the TBCJ on Friday, April 20, 2018, at 11:02 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

23rd Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

Chairman Wainwright welcomed all honored guests joining the TBCJ for the 23rd Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He thanked all volunteers for selflessly giving to others and providing extraordinary services, making Texas a better and safer place for generations to come. A video greeting followed, from the Honorable Greg Abbott, Governor of Texas. He thanked the volunteers for their commitment. He stated volunteers are essential in assisting the TDCJ in accomplishing the critical mission of successful rehabilitation and reentry of offenders back into the community.

Board Member Tom Wingate echoed Governor Abbott's message, and commended TDCJ volunteers, on behalf of the TBCJ, for their generosity and dedication to making tomorrow better than today. He stated all of the thousands of volunteers are community heroes and acknowledged the significant impact they have on the state of Texas and providing public safety. He thanked them for their compassion, kindness, and service.

Chairman Wainwright introduced the keynote speaker, Jimmy Blacklock, Texas Supreme Court Justice. Judge Blacklock expressed gratitude to all the volunteers for their vital role in helping the TDCJ achieve its mission. He stated, besides being essential to the mission of the TDCJ, the work the volunteers do is a blessing to the lives of the people they serve and is part of a collective effort to create a safe and just society allowing Texans to live peacefully and responsibly together in freedom. He acknowledged the selfless work the volunteers do is sometimes thankless but is noble and good work that has a positive impact on broken lives. He thanked them on behalf of the Texas Supreme Court and entire judiciary system of the state of Texas.

Chairman Wainwright welcomed Board Member Derrellynn Perryman as the master of the ceremony. Ms. Perryman announced awards to the following individuals and organizations:

Royce D. Clay, *Chaplaincy Department*
Tom Foran, *Correctional Institutions Division*
James Johnson, *Nancy Hees Award-Parole Division*
Reginald & Doris Johnson, *Private Facility Contract Monitoring/Oversight Division*
CrossWalk Center, *Reentry and Integration Division*
Henry "Creg" Istre, *Religious Service*
Michael Mitchell, *Religious Service*
Garry L., *Substance Abuse Treatment Program*
Patricia Crocker, *Health Services Division*

Andria Brannon, *Pathfinder Award-Victim Services Division*
Debra Taylor, *Judy Burd Award-Windham School District*
NewLife Behavior Ministries, *Restorative Justice*
Disciples 4 Christ Outreach, *Susan Cranford Award-Female Offender Program*
Veterans Helping Veterans, *Most Innovative Program*
Trinity Fellowship Church, *Community Service*
Loved Ones of Prisoners, *Best Family Program*
Thomas Crouch, *Leonard Davis Award for Most Hours Served*
Glenn Smith, *Extensive Travel*
Arnold Ortiz, *TDCJ Employee Volunteer*
Troy Simpson, *Criminal Justice Administrator*
Bill Glass Behind the Walls, *Carol S. Vance Volunteer of the Year*

Chairman Wainwright and Mr. Collier presented the awards to each recipient.

Ms. Perryman introduced Carol Vance, former TBCJ Chairman and strong advocate for volunteers in the TDCJ, who presented the last award which is named in his honor. Mr. Vance commended the volunteers for their commitment and ministry.

Ms. Perryman thanked Mr. Vance for his continued support and service to the betterment of the TDCJ. She called for one final round of applause for all the award recipients, and the thousands of dedicated volunteers throughout the TDCJ.

Chairman Wainwright expressed appreciation for all who attended, Justice Blacklock for taking time to be the keynote speaker, and for all volunteers and staff serving throughout the year. There being no further business, Chairman Wainwright recessed the 198th meeting of the TBCJ. He advised the TBCJ would reconvene in committee meetings at 1:15 p.m. and continue with regular session at 2:00 p.m. The time was 11:59 a.m.

(Attachment A – Program for 23rd Annual Governor’s Criminal Justice Volunteer Service Awards)

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 198**

The TBCJ reconvened in regular session at 2:05 p.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas, and adjourned at 3:05 p.m.

TBCJ MEMBERS PRESENT: Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
E.F. 'Mano' DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrelynn Perryman
Thomas P. Wingate

TBCJ MEMBERS ABSENT: Eric Gambrell

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:** Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jeff Baldwin Frank Inmon
Rudolph Brothers Sherry Koenig
Christopher Cirrito Dr. Lannette Linthicum
Jason Clark Bobby Lumpkin
Lorie Davis Angie McCown
Marie Freeland Kelvin Scott
Patty Garcia Ron Steffa
Cody Ginsel Bruce Toney
Rene Hinojosa April Zamora
Sharon Howell

OTHERS PRESENT: Honorable Judge Dale Spurgin, Jones County; Janis Reinken, House Corrections Committee Clerk, Representative James White's office; Kelsey Vela, Legislative Budget Board; and Fisher Reynolds, Governor Abbott's office.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened the regular session of the 198th meeting of the TBCJ on Thursday, April 20, 2018, at 2:05 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." One speaker registration card was received for public comment prior to the deadline and would be heard later in the meeting.

Recognitions

Terrell McCombs recognized former Board Member Mary Bacon, who recently passed away. He stated Judge Bacon was an ardent supporter of women and focused on employment and education for female offenders. Mr. McCombs asked for a moment of silence in remembrance of Mary Bacon's life and service to the state of Texas.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of March and April 2018. During this time, 50 employees attained 25 years of service, 22 employees attained 30 years of service, 15 employees attained 35 years of service, and 2 employees attained 40 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed his deepest gratitude for the continued service of these employees.

(Attachment B – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 196th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Hearing none, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

National Correctional Officers and Employees Week

Bryan Collier, TDCJ Executive Director, announced that National Correctional Officers and Employees Week will be observed May 6 - 12, 2018. This week recognizes the contributions of those who serve as correctional officers and personnel that work in jails, prisons, and community corrections across the country. This year the TDCJ will be honoring the life of Shana Tedder, Correctional Officer, who passed away on June 9, 2017, as a result of medical complications following a use of force incident. During this week, all TDCJ units will hold memorial services and an agency memorial service will be held in Huntsville on Friday, May 11, 2018, beginning at 10:30 a.m. at the Prison Museum. Mr. Collier cordially invited all to attend any service held that week.

National Crime Victims' Rights Week

Mr. Collier stated April 8 - 14, 2018, was designated as National Crime Victims' Rights Week. This year's theme was "Expand the Circle-Reach All Victims," which focused on the importance of inclusion in victim services. The theme addressed how the crime victims field can better ensure that every crime victim has access to services and support by professionals, organizations, and communities working together to reach all victims. The TDCJ Victim Services Division has worked hard to expand that circle in many ways. One initiative that has been well-received within the agency is a victim services training facilitated by the Regional Victim Service Coordinators which is provided at the regional level for correctional staff. The purpose of the training is to help correctional staff appreciate how the work they do in supervising offenders has a direct impact on the victims harmed by those offenders. Each day the TDCJ Victim Services Division works tirelessly to ensure victims are aware of their rights and understand how to exercise their rights. They also collaborate with victim services agencies across the state to expand their circle of reach so that all victims have access to services and support. This year marks the 20th anniversary of the TDCJ Victim Services Division. Mr. Collier thanked Angie McCown and her staff for their dedicated efforts to assist crime victims in Texas and for performing such a vital function contributing to the mission of the agency.

Police Chief Leadership Series

Mr. Collier mentioned that the Sam Houston State University Law Enforcement Management Institute of Texas recently hosted a Texas Major Police Chief's Leadership Series meeting in San Antonio, Texas, on April 5, 2018. The theme for the meeting was "Enhancing Public Safety through Corrections and Law Enforcement Partnerships." Presenters for the meeting included the Texas Juvenile Justice Department, the Board of Pardons and Paroles, the Texas Department of Criminal Justice, and the Office of the Inspector General. The training provided a full day of opportunity for the TDCJ to interact with the Chiefs of Police of Dallas, Houston, Austin, San Antonio, and several other cities. The TDCJ provided a comprehensive overview of the system

and exchanged ideas on areas of mutual interest. Mr. Collier thanked Bruce Toney, Lorie Davis, Pam Thielke, and Carey Green for their participation in the training, which proved to be very valuable.

Report from the Chairman, TBCJ

Governor's Criminal Justice Volunteer Service Awards

Chairman Wainwright stated the 23rd annual Governor's Criminal Justice Volunteer Service Awards ceremony was held earlier in the day to recognize some of the selfless servants who volunteer within the TDCJ. More than 23,000 individuals volunteered almost 396,000 hours of service in 2017. These volunteers exemplify an American idea that we can change things, make things better, and solve problems when we work together. The TDCJ and the TBCJ are committed to forging lasting partnerships and working together for the greater good of the state of Texas. He thanked all volunteers on behalf of the TBCJ and the TDCJ employees.

National Correctional Officers and Employees Week

Chairman Wainwright reiterated Mr. Collier's report on the National Correctional Officers and Employees Week by stating on May 11, 2018, the TDCJ will honor those employees who paid the ultimate sacrifice while serving the state of Texas. The ceremony will be held at the prison museum and is open to the public. He encouraged everyone to attend and thank a TDCJ employee for their service.

Memorial Day – Veterans – Recruiting

Chairman Wainwright spoke about Memorial Day coming up next month. Memorial Day is a time for Americans to stand up to remember those in the armed services who laid down their lives in service to our nation and say thank you. It is a brave and selfless act for a person to commit to military service. He asked any and all veterans in the room to stand to be recognized and applauded. Chairman Wainwright announced the TDCJ is actively working to recruit veterans. Currently, 14% of the TDCJ's workforce is made up of veterans. Efforts are being made to increase that number. Recruiters within the Human Resources Division are canvassing Texas and attending job fairs at military bases throughout the United States. In 2017, the TDCJ hired more than 1,200 veterans as correctional officers. Thus far in 2018, 807 veterans have applied for correctional officer positions. The application process for veterans has been streamlined, phone interviews are being conducted for service members stationed out of state, and the TDCJ added a veteran's liaison to assist former members of the military with applications and answering questions about employment.

He stated the TDCJ is not only focusing on recruiting and hiring veterans but is also focusing on the rehabilitation of veterans within the offender population. There are more than 10,000 inmates with past military service incarcerated in the TDCJ. Specialized programs to help address the specific needs of those who served our country have been implemented. An agreement with the Texas Veterans Commission, and the TDCJ Reentry and Integration Division helped open the

first ever Veterans Reentry Dorm at the Travis County State Jail to house offenders who have been identified with a service record and wish to participate in the program. It is designed to mimic the squadron structure familiar to veterans. Participation in the six-month program is completely voluntary and requires offenders to first take responsibility for the crimes that brought them to prison. As a veteran offender transitions from incarceration to communities, the TDCJ works to help eligible offenders file pension reinstatement claims, as well as veteran benefit applications. More than 400 veterans were served in 2017. Another program impacting lives of veterans and offenders is Patriot Paws. The program provides highly-trained dogs, cared for and trained by female offenders, at no cost to injured veterans. Chairman Wainwright expressed gratitude for organizations and volunteers who see a need for veterans and step up to make a difference.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the April 05, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1803 - Correctional Institutions Division, Food Services Follow up:** Audit is a draft report.
- **1812 - Executive Administrative Services, Information Technology Division, Correctional Institutions Division, Community Justice Assistance Division, Criminal Justice Information System Follow up:** Audit is in fieldwork.

Terrell McCombs inquired about the Internal Audit Division staffing vacancies. Mr. Cirrito stated there are two auditor vacancies posted currently and hopes to fill those within the next couple of weeks.

Chairman Wainwright asked if there were any other questions. There were none.

(Attachment C – Internal Audit Division Status Report, Fiscal Years 2017-2018)

Discussion, Consideration, and Possible Action Regarding the Selection of the Inspector General

Chairman Wainwright stated at the December board meeting Mr. Bruce Toney announced plans to retire in June. As outlined in board policy, the TBCJ appoints an inspector general who reports directly to the board. The inspector general is a licensed peace officer with extensive experience in training. The Office of the Inspector General (OIG) plays a vital role in protecting the citizens of Texas, TDCJ staff and volunteers, and offenders. The OIG is required to treat everyone with equality and fairness while monitoring compliance with laws, agency policies, and regulations in order to make recommendations for appropriate action to the TBCJ. Additionally, the OIG participates with other crime and fugitive federal task forces. A committee was formed to search for a new inspector general and consisted of Chairman Wainwright, Eric Gambrell, Tom Fordyce, and Larry Miles. The position posted and the committee selected a number of qualified candidates to interview. Interviews were held on March 21, 2018, and on April 6, 2018, the

committee presented a recommendation to the TBCJ in executive session. Chairman Wainwright asked if there are any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the selection of Cris Love as the Inspector General to be effective June 1, 2018.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Purchases and Contracts over \$1 Million**

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million.

Ron Steffa, Deputy Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented 16 purchase items for approval. Item 1 is an increase to a current contract for additional electronic monitoring services due to an increase usage in services. Item 2 is a renewal of \$2.5 million for John Deere tractor parts used for maintenance and repair of the tractor fleet for FY19. Items 3 through 5 are used to produce meat products for offender consumption for FY19. Item 6 is cans and lids used for canning of Agribusiness-produced vegetables for offender consumption for FY19. Item 7 is a replacement contract for ammonia nitrate for FY19. Item 8 is the soybean meal replacement contract for FY19. Item 9 is cattle feed for FY19. Items 10 through 14 are used in Texas Correctional Industries manufacturing; metal aluminum coils, reflective specialty sheeting, cloth blend greige sheeting, micro-prismatic reflective sheeting, and aluminum sign blanks. Item 15 is a replacement contract for an interagency agreement with the Texas Health and Human Services Commission for medication reimbursement for Texas Correctional Office on Offenders with Medical or Mental Impairments services provided for offenders' post-release. Item 16 is a replacement contract for the State Jail Substance Abuse program at Lychner State Jail.

Patrick O'Daniel abstained from taking action due to his firm representing three of the companies listed.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

*Tom Wingate seconded the motion, which prevailed when called to a vote.
Chairman Wainwright stated for the record both he and Patrick O'Daniel abstained from voting on this item.*

**Discussion, Consideration, and Possible Action Regarding Adoption of
Amendments to Board Rule Title 37 Texas Administrative Code
Chapter 152 Correctional Institutions Division**

1. Subchapter A, Mission and Admissions

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, "Mission and Admissions," as proposed and authorized at the February 23, 2018, TBCJ meeting. She explained the amendments appeared in the March 9, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter A, Mission and Admissions, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Subchapter B, Correctional Capacity

Ms. Howell requested the adoption of amendments to Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, "Correctional Capacity," as proposed and authorized at the February 23, 2018, TBCJ meeting. She explained the amendments appeared in the March 9, 2018, issue of the *Texas Register*. TBCJ also placed notices in offender housing areas at the affected units, so the offenders in those units had an opportunity to comment. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice adopt Board Rule Title 37 Texas Administrative Code Chapter 152 Correctional Institutions Division Subchapter B, Correctional Capacity, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.25 Strategic Plan**

Ms. Howell requested the adoption of amendments to Board Rule 163.25, "Strategic Plan," as proposed and authorized at the February 23, 2018, TBCJ meeting. She explained the amendments appeared in the March 9, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. 'Mano' DeAyala moved that the Texas Board of Criminal Justice adopt Board Rule Title 37 Texas Administrative Code Section 163.25, regarding Strategic Plan, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed Land
Transaction Request for Gas Pipeline Easement at the
Stiles Unit, Jefferson County, in Beaumont, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for gas pipeline easement at the Stiles Unit, Jefferson County, Beaumont, Texas. He stated Enterprise TE Products Pipeline Company, LLC is requesting an easement consisting of an area of approximately 4.25 acres of land being 6,174.82 feet long by 30 feet wide for installation of one natural gas liquids pipeline and an area of approximately .065 acre being 141.12 feet long by 20 feet wide to serve as an ingress/egress right-of-way. This request includes temporary workspace totaling 11.86 acres for use during pipeline construction and installation. Enterprise TE Products Pipeline Company, LLC has agreed to pay \$355,955.00 for the easement with a ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Patrick O'Daniel abstained from taking action on this item.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Stiles Unit in Jefferson County, in Beaumont, Texas, as presented.

Larry Miles seconded the motion, which prevailed when called to a vote.

Chairman Wainwright stated for the record Patrick O'Daniel abstained from voting on this item.

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There was one registration card received prior to the established deadline for public comment within the jurisdiction of the TBCJ but not items posted on the agenda. The time limit set was five minutes per individual.

David O'Neal stated he is speaking on behalf of the Texas Criminal Defense Lawyers Association (TCDLA). He stated the TCDLA submitted a letter to the TBCJ to enlist support for efforts to create an independent State Council for Offenders (SCFO) office. Mr. O'Neal served as the director of trial services at SCFO and resigned in 2000 due to ethical reasons. He claimed the SCFO organizational structure remains unchanged, as does the problems associated with it. He claimed SCFO is the only office in the country under such an arrangement. He stated the TCDLA and the state bar committee issued a review pointing out the many ethical problems stemming from the SCFO organizational structure. In 2000 and 2014, TCDLA passed resolutions calling for an independent SCFO established pursuant to the American bar association's 10 principles of a public defense system. The state bar committee findings include: 83.9% believe SCFO policy and rules hamper them in the zealous representation of clients; 70% of SCFO attorneys noted in the review did not believe they had sufficient discretion to adequately represent their clients; only 23.3% believed the ability, training, and experience of SCFO attorneys match the complexity of the cases; 93.3% strongly believe that SCFO does not receive equal resources and pay compared to prosecutors; and 81.7% believe they are not adequately funded to effectively represent their clients. He stated the TCDLA hopes to resolve the problem through legislation, modeling the structure after the Special Prosecution Office. Mr. O'Neal thanked the TBCJ members for the opportunity to speak.

Chairman Wainwright confirmed the report has been provided to all members of the TBCJ. He asked if the state bar of Texas or its board take the same position. Mr. O'Neal replied the review was authorized for publication, however, the state bar has not taken a position as they believe they are not in a position to take a stand on another state agency.

Chairman Wainwright asked if the main concern about the independence of SCFO is that the funding comes through the TDCJ. Mr. O'Neal stated that is part of the problem, however, the 10 principles delineated in the review found problems in all 10 areas.

Chairman Wainwright asked if Mr. O'Neal understands that SCFO reports directly to the TBCJ, and not to the TDCJ. Mr. O'Neal replied yes the problem is with the day-to-day contact with TDCJ personnel.

Chairman Wainwright commented that the federal public defender's office is funded by the federal government and asked how that was different. Mr. O'Neal replied it is different because

there is no organization in the country that is integrated into any criminal justice system as is SCFO. He provided the special prosecution office as an example of organizational independence. Chairman thanked Mr. O'Neal for his presentation and asked if there were any other questions or comments.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, June 29, 2018, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 198th meeting of the Texas Board of Criminal Justice at 3:05 p.m.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
199th Meeting



Minutes

June 29, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and Blanco Room
3401 South IH 35
Austin, Texas 78741**

**June 29, 2018
11:15 AM – 12:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 198th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Judicial Advisory Council – Overview of Community Supervision Activities
- D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- E. Report from the Chairman, TBCJ
- F. Internal Audit Status Report for Fiscal Years 2017 – 2018
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives
 - 1. PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees”
 - 2. PD-30, “Employee Grievance Procedures”

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 163.3, Objectives
 - 2. 163.38, Sex Offender Supervision
- J. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction - Request for a Gas Pipeline Easement at the Hughes Unit in Coryell County, Gatesville, Texas
- K. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Projects
 - 1. Request to Replace Agriculture Bulk Storage Facility at the Eastham Unit in Houston County, Lovelady, Texas
 - 2. Request to Replace Plumbing Controls and Fixtures at the Ellis Unit in Walker County, Huntsville, Texas
 - 3. Request to Replace Plumbing Controls and Fixtures at the Estelle Unit in Walker County, Huntsville, Texas

Reconvene TBCJ

II. Executive Session – Blanco Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Council for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 199**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, June 29, 2018, in regular session at 11:17 a.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas, and adjourned at 12:19 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. “Mano” DeAyala
Tom Fordyce
Larry Miles
Patrick O’Daniel
Derrelynn Perryman
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Frank Inmon
Rudolph Brothers Sherry Koenig
Christopher Cirrito Cris Love
Lorie Davis Bobby Lumpkin
Jeremy Desel Jerry McGinty
Marie Freeland Melvin Neely
Patty Garcia Kelvin Scott
Cody Ginsel Ron Steffa
Carey Green Pam Thielke
Rene Hinojosa April Zamora
Sharon Howell

OTHERS PRESENT:

David Gutierrez, Board of Pardons and Paroles Presiding Officer; Janis Reinken, House Corrections Committee Clerk, Representative James White’s office; Haylie Ewing, Intern with the House Corrections Committee; Judge Larry Gist, former TBCJ member; Justin Wood, Senate Committee on Criminal Justice; and Honorable Judge Dale Spurgin, Jones County.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 199th meeting of the TBCJ on Friday, June 29, 2018, at 11:17 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Recognitions

Chairman Wainwright recognized Jeff Baldwin, former TDCJ Chief of Staff, for 24 years of service with the Texas Department of Criminal Justice, noted his analytical skills, and outlined his education and prestigious career.

Bryan Collier, TDCJ Executive Director, recognized Mr. Baldwin for his hands-on role with 12 legislative sessions, managing executive services and media service branches, serving as an advisor to five executive directors, six board chairs, countless division directors, several board members and senior staff, and also serving as a senior editor on every high level document produced in the agency in the last 20 years. His wisdom has helped the agency weather many storms, and maneuver complicated politically sensitive policy issues over the years, and earned him the nickname of consigliere of the TDCJ.

Chairman Wainwright congratulated Mr. Baldwin for a remarkable career and stated his contributions will have a long lasting impact on the TDCJ. On behalf of the TBCJ, Chairman Wainwright thanked him for his loyalty, commitment, and dedication to serving the great state of Texas.

Mr. Collier introduced Jason Clark as the new Chief of Staff, and highlighted his education and career. He stated Mr. Clark has the right experience, temperament, energy, and focus to serve the agency well into the future.

Melvin Neely, TDCJ Information Technology Division Director, introduced Tina Clark as the new Information Technology Deputy Director, and highlighted her career.

Pam Thielke, Parole Division Director, introduced Chris Carlson as the new Parole Division Region I Director, and highlighted his education and career.

Cris Love, Inspector General, recognized Steven Zeller and Jill Blake for their heroic actions that saved the life of an applicant during the physical assessment testing. On April 17, 2018, a new applicant testing was being conducted in Huntsville when an applicant collapsed due to cardiac arrest. Zeller and Blake immediately responded and became the primary emergency caregivers. They performed CPR, applied an emergency AED, and continued to follow instructions given by the AED until the applicant regained consciousness. They continued to monitor the applicant until care was taken over by Walker County EMS personnel. The applicant later underwent an emergency procedure at Conroe Regional Medical center. Mr. Zeller and Ms. Blake's actions

saved the applicant's life. Mr. Love stated it is an honor to work with excellent staff and presented each with an award for their life saving actions.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of May and June 2018. During this time, 49 employees attained 25 years of service, 29 employees attained 30 years of service, 15 employees attained 35 years of service, one employee attained 40 years of service, one employee attained 45 years of service, and one employee attained 50 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. **Hazardous Duty Pay Authorization Requests**
2. **Personal Property Donations**
3. **198th TBCJ Meeting Minutes**
4. **Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing San Antonio Food Bank and Kairos listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Judicial Advisory Council

Overview of Community Supervision Activities

Judge Larry Gist, member of the judicial advisory council, former board member, and Presiding Judge of Jefferson County Drug Impact Court, presented an overview of community supervision activities. A few months ago a Chiefs' Conference was held and representatives from more than 100 probation departments across Texas attended the event. Chiefs from communities of all sizes discussed common issues they are facing and received feedback from each other on different methods used to address issues that arise. Bryan Collier, TDCJ Executive Director, was the keynote speaker, and stated he learned a great deal from listening to what the chiefs had to say. Much of the information and issues are being addressed because of the cooperation between JAC and the TDCJ.

Mr. Collier and Carey Green, TDCJ Community Justice Assistance Division (CJAD) Director, and others traveled to several places in the state and held meetings with judges and prosecutors to learn what issues and obstacles they faced, and what help was needed in order to improve the quality of work they performed. Prosecutors and judges defer sending people to prison, along with other techniques, to protect the public and fix problems, and they feel comfortable doing this due to the quality of the community corrections system. The great success of the community corrections system is something to take pride in, considering it involves three times the number of people incarcerated in prison and operates for little more than \$1 per day compared to around \$50 per day in the prisons.

Each chief is appointed by the local criminal judge. Every new chief is assigned a mentor, a senior probation chief from another area to work with them for at least a year to guide them through the process of developing a probation department. Judge Gist encouraged board members to visit a probation department to gain a wider perspective and thanked them for the opportunity to give this presentation.

Mr. McCombs thanked Judge Gist for the presentation and the accomplishment of the great work being done in the community supervision department.

Report from the Executive Director, Texas Department of Criminal Justice

Judicial Focus Group Meetings

During the month of May, Carey Green, TDCJ CJAD Director, and Mr. Collier spent a considerable amount of time traveling the state and conducting focus groups to learn more about their needs as preparations are made for the Legislative Appropriations Request for the 86th Legislative Session. These focus groups were conducted in Abilene, Amarillo, Dallas, Harlingen, Houston, and Jasper with judges, probation chiefs, and prosecutors from surrounding counties to discuss the needs and trends within adult probation. The direct input received is being used to help build a legislative request for adult probation that will reflect the needs of the field. Mr. Collier thanked Ms. Green for her work in planning and coordinating these meetings.

Correctional Officer Staffing

Mr. Collier stated for the past 18 months TDCJ correctional staffing has been declining. As a result, a number of progressive actions have been taken to address this critical issue. Some of the actions taken include significantly enhancing recruiting and retention efforts, increasing the starting pay for correctional officers by 12%, increasing the number of units with a sign on bonus to 29 units, increasing the amount of the bonus to \$5,000 on some units, creation of mobile recruiting stations, and additional strategies aimed at addressing this staffing shortage. In May 2018, over 800 correctional officers were hired, which decreased vacancy numbers from 3,930 to 3,772. Projections reflect hiring over 830 correctional officers in June, which could help in further decreasing the vacancy numbers. Although encouraging, this issue remains a top priority and the TDCJ will remain vigilant and focused on addressing the issue of recruiting and retaining correctional officers.

Hurricane Preparedness

Mr. Collier discussed the preparations the TDCJ is making for this year's hurricane season. The TDCJ has been successful in weathering many hurricanes in the past and continues to take steps to ensure staff are prepared and able to respond successfully this season. On June 18, 2018, the TDCJ held an annual hurricane drill to test practices and readiness for such an event. The leadership team and staff performed flawlessly during the drill. Mr. Collier stated with confidence the TDCJ is ready and fully capable of responding to a hurricane this season, should the need arise.

Report from the Chairman, TBCJ

Highlights of the Offender Debate Team

Chairman Wainwright discussed the highlights of the Offender Debate Team. The first ever prison debate team in Texas was formed at the Huntsville Unit. Lee College and the TDCJ began this unique venture in the spring of 2016. Adam Key and Jeremy Coffman, champion debaters,

came up with this idea after seeing the untapped potential within the TDCJ and thought that harnessing the ability and teaching the men to articulate a position could be a valuable skill not only while in prison but after their release. Huntsville Unit Warden James Jones was intrigued and embraced the idea. In October 2016, the first ever George Beto Invitational Debate was scheduled. One challenge they faced was finding another college team willing to debate prison inmates. Texas A&M University stepped up as the first opponent. For six weeks, the Lee College team trained as often as they could within the confines of their prison schedule. They huddled together on the recreation yard to sharpen their arguments, squeezed in extra practice during study hall in the unit's education area, and even debated their coaches. Neither team was given advance knowledge of the topic to be debated. Each were provided the same research materials 30 minutes prior to their turn at the podium with the topic: "*Was the President's Achilles' Heel Foreign Policy?*" In a stunning upset, the Lee College debate team beat the Aggies in a 3 to 2 decision.

In October 2017, the Lee College team took on their next opponent, the world-renowned debaters of Wiley College. This time the topic was "*Online Education Detracts from the College Experience.*" In another surprising upset, the Lee College team beat the Great Debaters in a 4 to 1 decision. Afterwards, one student from Wiley remarked that "there are few teams we are prouder of having lost a debate to than these talented men."

In about four months, the Lee College debate team will have a chance to defend their title. An invitation is pending and they hope to take on the Rice Owls. It took two men with a novel idea to make a difference. Our debaters and those around them know they can settle differences not with violence but with words. They are armed with ideas and sharpening their communication skills so they can effectively transition back into communities.

Chairman Wainwright thanked Lee College and the TDCJ for thinking outside the box and wished the debaters good luck.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the June 19, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1811 – Parole Division, Pre-release Placement Investigations:** Audit is in field work.

Mr. McCombs stated he spoke with Mr. Cirrito previously and is happy to report that the Internal Audit Division staff will be 100% filled within the next 10 days.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)

**Discussion, Consideration, and Possible Action
Regarding Purchases and Contracts over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Item 1 is an increase of \$3.5 million to an existing contract for UTMB correctional healthcare services provided at Hospital Galveston in FY16-17. Items 2 – 9 are increases to the current contracts for services that are used throughout the state for outpatient substance abuse treatment services for FY18-19. Item 10 is commissary purchases for FY19. Item 11 is an increase to the current contract for bulk fuel. Item 12 is a continuation of the food service contract with Harris County to provide food services to Kegans State Jail. Items 13 – 19 are renewals of halfway house contracts currently in place. Item 20 is a continuation of cellular services with AT&T. Item 21 is an increase for the electronic monitoring services provided for offenders that are under electronic monitoring supervision through active and passive GPS for FY19-20. Item 22 is the food purchases for FY19.

Chairman Wainwright, Eric Gambrell, and Patrick O’Daniel abstained from voting on this item as their firms represent multiple entities listed.

Chairman Wainwright asked for any questions, comments, or other abstentions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed by a majority when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Revisions to Personnel Directive PD-22, “General Rules of Conduct and
Disciplinary Action Guidelines for Employees”**

Sharon Howell, TDCJ General Counsel, presented PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.” She stated this PD is being revised to remove all references to dual supervision, including processes that were in place solely to address dually supervised employees. Other changes are primarily grammatical and formatting, along with revising some definitions for consistency with other personnel directives.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-30, “Employee Grievance Procedures”

Ms. Howell presented PD-30, “Employee Grievance Procedures.” She stated this PD is being revised to remove all references to dual supervision, including processes that were in place solely to address dually supervised employees. Other changes are primarily grammatical and formatting, along with clarification of aspects of the grievance process.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-30, Employee Grievance Procedures, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.3, “Objectives”

Ms. Howell presented the proposed amendments to Board Rule 163.3, “Objectives.” This rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive rearrangements of language to make all rules consistent with each other. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Patrick O’Daniel moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.3, regarding Objectives, to receive public comment, as presented.

Tom Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.38, “Sex Offender Supervision”**

Ms. Howell presented the proposed amendments to Board Rule 163.38, “Sex Offender Supervision.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are mostly non-substantive rearrangements of language to make the internal citations consistent with other rules. The proposed changes to the rule also include a clarification of appropriate case load size for specialized supervision of sex offenders by community supervision officers. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.38, regarding Sex Offender Supervision, to receive public comment, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Proposed Land
Transaction – Request for a Gas Pipeline Easement at the Hughes Unit in
Coryell County, Gatesville, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness, and Logistics Division, presented the request for a gas pipeline easement at the Hughes Unit in Gatesville. He stated Breviloba, LLC is requesting an easement consisting of an area of approximately 2.87 acres of land being 4,166.43 feet long by 30 feet wide for installation of one natural gas liquids pipeline. This request includes temporary workspace totaling 8.27 acres for use during pipeline construction and installation. Breviloba, LLC has agreed to pay \$142,795.00 for the easement with a ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright stated he had previously asked if indemnities were obtained in contracts entered into by TDCJ, and asked Mr. Lumpkin if there was an official answer for the record. Mr. Lumpkin stated all previous easement contracts included language that indemnifies the agency of any liability, and will continue to be used in future.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Hughes Unit in Coryell County, Gatesville, Texas, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Facilities Division Construction Projects**

1. Request to Replace Agriculture Bulk Storage Facility at the Eastham Unit in Houston County, Lovelady, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration requesting to replace the agriculture bulk storage facility at the Eastham Unit, Houston County, Lovelady, Texas. The work will consist of dismantling the current facility including repair of the foundation as needed. The new facility components will be assembled, attached to the existing foundation, and connected to the existing feed mill system. If approved, the work will be performed by Triple “S” Construction with a total cost of \$1,938,100. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,938,100 to replace the agriculture bulk storage facility at the Eastham Unit located in Houston County, Lovelady, Texas, as presented.

E.F. “Mano” DeAyala seconded the motion which prevailed unanimously when called to a vote.

2. Request to Replace Plumbing Controls and Fixtures at the Ellis Unit in Walker County, Huntsville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace plumbing controls and fixtures at the Ellis Unit, Walker County, Huntsville, Texas. The work will consist of installing 923 toilet valves, 161 shower valves, and 972 lavatory valves. The new valves will be electronically programmable to increase efficiency in order to control water consumption to lavatories, toilets, and showers. If approved, the work will be performed by TDCJ facility maintenance staff with a total cost of \$4,124,509. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Wingate moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$4,124,509 to replace plumbing controls and fixtures at the Ellis Unit located in Walker County, Huntsville, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

3. Request to Replace Plumbing Controls and Fixtures at the Estelle Unit in Walker County, Huntsville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace plumbing controls and fixtures at the Estelle Unit, Walker County, Huntsville, Texas. The work will consist of installing 1,953 toilet valves, 270 shower valves, and 1,932 lavatory valves. If approved, the work will be performed by TDCJ facility maintenance staff with a total cost of \$3,590,749. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$3,590,749 to replace plumbing controls and fixtures at the Estelle Unit located in Walker County, Huntsville, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, August 24, 2018, at the Omni Southpark Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 199th meeting of the Texas Board of Criminal Justice at 12:19 p.m.

Chairman*

Secretary*

Texas Board of Criminal Justice
200th Meeting



Minutes

August 24, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Omni Hotel at Southpark – Ballrooms D, E, F, Omni C
4140 Governor’s Row
Austin, Texas 78744**

**August 24, 2018
11:15 AM – 2:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Executive Session – Omni C

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Reconvene Texas Board of Criminal Justice (TBCJ)

II. Regular Session – Ballrooms D, E, F

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 199th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

- D. Report from the Chairman, TBCJ
- E. Discussion, Consideration, and Possible Action Regarding a Selection of the Division Director, State Counsel for Offenders
- F. Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2019 Annual Audit Plan
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2019 Proposed Operating Budget and Fiscal Years 2020-2021 Legislative Appropriations Request
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 163.3, Objectives
 - 2. 163.38, Sex Offender Supervision
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, GO KIDS Initiative
- K. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request to Replace Parking Lot and Perimeter Road at the Choice Moore Unit in Fannin County, Bonham, Texas
 - 2. Request to Replace the Roof on the Psychiatric Facility at the Jester IV Unit in Fort Bend County, Richmond, Texas
 - 3. Request to Replace Water Distribution Lines at the Mountain View Unit in Coryell County, Gatesville, Texas
 - 4. Request to Replace the Roof on the Box Beef Plant at the Neal Unit in Potter County, Amarillo, Texas
- L. Public Comments

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 200**

The Texas Board of Criminal Justice (TBCJ) reconvened on Friday, August 24, 2018, in regular session at 1:12 p.m. in Ballroom D, E, F at the Omni Hotel at Southpark, Austin, Texas, and adjourned at 2:34 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. “Mano” DeAyala
Tom Fordyce
Larry Miles
Patrick O’Daniel
Derrellynn Perryman
Hon. Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Frank Inmon
Rudolph Brothers Sherry Koenig
Christopher Cirrito Cris Love
Lorie Davis Dr. Lannette Linthicum
Jeremy Desel Bobby Lumpkin
Marie Freeland Angie McCown
Patty Garcia Jerry McGinty
Cody Ginsel Melvin Neely
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Pam Thielke
 April Zamora

OTHERS PRESENT:

David Gutierrez, Board of Pardons and Paroles Presiding Officer; and Honorable Judge Dale Spurgin, Jones County.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright reconvened the 200th meeting of the TBCJ on Friday, August 24, 2018, at 1:12 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Two speaker registration cards were received for public comments prior to the deadline. The presentations were heard later in the meeting.

Report from the Chairman, TBCJ

200th meeting of the Texas Board of Criminal Justice

Chairman Wainwright discussed the historical significance of this meeting as the 200th meeting of the TBCJ. As a result of landmark legislation, the Texas Department of Criminal Justice was created in 1989 to consolidate under one umbrella the state's prison, parole, and probation systems. With the establishment of the TDCJ, also came the evolution of the Texas Board of Corrections into the Texas Board of Criminal Justice. This month, with nearly 30 years in existence, the TBCJ is holding its 200th meeting.

On September 12, 1989, the TBCJ first met in Austin in the Senate Chambers of the State Capitol. Led by Chairman Charles T. Terrell, the meeting was held concurrently with the Legislative Criminal Justice Board. The central theme on the agenda was site selection for new prison facilities. Forty-six site proposals had been submitted for board consideration and only six facilities were to be built. Community delegations from across the state were in attendance to show their support or opposition for the proposals. In addition to the site selection, the TBCJ reviewed the agency's Furlough Program and took action to revise eligibility requirements to remove murder from the guidelines of offenders suitable for furlough.

Much has changed since that first meeting 30 years ago. The TBCJ and its efforts throughout history have been the foundation on which the staff has built to be one of the finest criminal justice systems in the world. To commemorate this meeting, Texas Correctional Industries prepared mementos, which included a plaque showing the meeting date and the TBCJ's membership, and leather coasters displaying the TBCJ 200th meeting.

Recognitions

Terrell McCombs, TBCJ Vice-Chairman, spoke regarding the recent passing of former TBCJ member J. David Nelson, who was appointed by Governor Rick Perry in 2008 and served one term until May 2013. Mr. Nelson served as the chair on the Health Care Committee and the Management Information Committee. He also served as a member of the Community Corrections Committee, Education Committee, and Legal Committee.

Mr. McCombs stated David Nelson was an advocate for the criminal justice system and was a wonderful board member, whom was respected by many. Mr. Nelson had a keen intellect, wry sense of humor, and excellent memory. Recently he was in a traffic accident while riding his motorcycle and, unfortunately, passed away on the way to the hospital. Mr. McCombs called for a moment of silence in remembrance of J. David Nelson.

Chairman Wainwright recognized Bruce Toney, former Inspector General, for 24 years of service to the state of Texas, noted his integrity and commitment to public service, and outlined his education and incredible career. He congratulated Mr. Toney for a remarkable career and stated his contributions will have a long lasting impact on the TDCJ. On behalf of the TBCJ, Chairman Wainwright thanked him for his commitment to promoting excellence, adhering to professional standards as Inspector General, and dedication to serving the great state of Texas.

Bryan Collier, TDCJ Executive Director, recognized Dr. Lannette Linthicum for 20 years of service as a division director with the Texas Department of Criminal Justice. He highlighted her career and thanked her for her dedication.

Mr. Collier recognized Carey Green, Community Justice Assistance Division Director, for 30 years of service with the state of Texas. He highlighted her career and thanked her for her commitment.

Jason Clark, TDCJ Chief of Staff, introduced Karen Hall as the new Deputy Chief of Staff, and highlighted her education and career.

Mr. Clark introduced Malika Te as the new Director of Governmental Affairs, and highlighted her education and career.

Cris Love, Inspector General, introduced Joseph Buttitta as the new Deputy Inspector General, and highlighted his education and career.

Chris Cirrito, Director of Internal Audit Division, introduced Renee Russell as the new Deputy Director of Audit Services, and highlighted her education and career.

Pam Thielke, Parole Division Director, introduced Alethea Robinson as the new Region II Director, and highlighted her education and career.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, 40, 45, and 50 years of service to the state of Texas during the months of July and August 2018. During

this time, 56 employees attained 25 years of service, 23 employees attained 30 years of service, eight employees attained 35 years of service, two employee attained 40 years of service, one employee attained 45 years of service, and one employee attained 50 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 199th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright stated there is an excused absence for Eric Gambrell from the April meeting due to personal business. He asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing the San Antonio Food Bank listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

Legislative Appropriations Request Process

Mr. Collier thanked each TBCJ member, Jerry McGinty, Ron Steffa, Sherry Koenig, Rebecca Waltz, and all staff for all the time and effort expended on the 2019 budget, and the 2020 and 2021 legislative appropriations request. He stated the request seeks additional funding for TDCJ in several key areas such as correctional and parole officer pay, additional specialized caseloads and services for probation, information technology system upgrades, and additional services to address our mental health and aging populations. He stated this is the beginning phase of a long process that begins in January and will not end until next May. The TDCJ is looking forward to working with the legislature and leadership throughout this process and will continue to keep the TBCJ updated.

American Correctional Association Accreditation

Mr. Collier stated the TDCJ is one of the few correctional agencies in the country that have attained full accreditation from the American Correctional Association (ACA). This indicates the TDCJ is in compliance with over 1,000 standards agency-wide. To maintain this accreditation, the TDCJ must undergo regular audits by the ACA with each unit or operational area being audited every three years. Recently at the ACA's Congress of Correction Conference, the TDCJ had 17 facilities that were up for reaccreditation. That process involved each facility to be audited by the ACA audit team and each of the wardens of these facilities had to appear before the accreditation panel at the summer conference. The wardens did an outstanding job presenting before the accreditation panels and each unit was granted reaccreditation. One of those units was the Terrell unit, which was audited only 84 days after Hurricane Harvey. Accreditation is not easy to attain or maintain, and requires a lot of hard work by countless staff. The dedication and attention paid to this process is evident by the high scores on each audit. Mr. Collier expressed gratitude to all staff involved, and thanked Lorie Davis, Cody Ginsel, and Kelvin Scott for all their hard work.

Report from the Chairman, TBCJ

Art Therapy in Rehabilitation with Offenders

Chairman Wainwright discussed the Creative Therapy Program at the Clements Unit in Amarillo, Texas. The program aims to rehabilitate offenders with mental illness. The program was the brainchild of Texas Tech employee Linda Podzemny, who is passionate about art. She is a professional artist who left her job as a high school teacher to become a counselor at the Clements unit. Soon after she began working at the Clements unit, she witnessed firsthand the creativity and artistic impression shown by some offenders. While making rounds cell side, they shared their works of art on handkerchiefs, boards, and paper products. Many days she found herself back in a teaching role, providing feedback and encouragement. The lifelong educator began to think about how she could utilize her love of art and make a difference at the prison. She presented a proposal to her supervisor, Kirby Sutterfield. Impressed with her ingenuity, they teamed up and the Creative Therapy Program was born. It is a simple idea that provides an outlet for creative self-expression for offenders who are progressing through the program. Throughout the week, offenders are gathered into small groups and use an array of art supplies like watercolors, pastels, and pencils to produce artwork. Only in operation since April 2018, the program is making a notable difference for the offenders and staff. Clinicians say it has improved morale and social interactions. Staff has noticed fewer behavior issues. Linda describes the program this way, "The process of making art enables the person to release emotions through the colors, lines, forms, and images of his work. The consequences of releasing emotions through making art are far more rewarding than the consequences of violence or emotional collapse." The Creative Therapy Program is tapping into the potential that exists and providing an outlet and therapy for those with mental illness. Chairman Wainwright thanked Linda, Kirby, the Texas Tech Team, and the TDCJ for continuing to effect new and creative ways to positively affect the lives of those with mental illness.

Discussion, Consideration, and Possible Action Regarding a Selection of the Division Director, State Counsel for Offenders

Chairman Wainwright stated the mission of the State Counsel for Offenders is to provide attorneys and legal staff, independent of the TDCJ, to represent or assist indigent offenders with legal problems. The current division director, Rudolph Brothers, announced plans to retire effective November 1, 2018. During the June TBCJ meeting, the Chairman appointed a State Counsel for Offenders search committee composed of Chair Thomas Wingate and members Patrick O'Daniel, Derrellynn Perryman, and Terrell McCombs. The position was posted for 15 days and the committee selected qualified candidates to interview. Interviews were held on Monday, August 6, 2018, and earlier today the committee presented its recommendation to the full TBCJ for discussion in executive session as a personnel matter. Thomas Wingate emphasized the selection of the new state counsel for offenders division director would not occur until the regular session of the meeting today. Chairman Wainwright asked if there are any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the selection of Giustina Persich as the Division Director for State Counsel for Offenders to be effective October 1, 2018.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Proposed Fiscal Year 2019 Annual Audit Plan

Christopher Cirrito, Internal Audit Division Director, referred to his committee presentation of the proposed FY 2019 Annual Audit Plan. He asked the board if they had any questions or concerns, and if none, he recommended board approval.

Chairman Wainwright asked if there were questions. Seeing none, he asked for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2019 and authorize the Internal Audit Director to perform audit work outside of the audit plan if the director deems deviations are warranted, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

(Attachment B – Texas Department of Criminal Justice Internal Audit Division Proposed Fiscal Year 2019 Annual Audit Plan)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Item 1 is a \$6 million contract for modular panel parts and components. It's an annual contract in place for Texas Correctional Industries to buy the parts and components, and resell them to other agencies as they install them. Item 2 is a contract for the offender telephone system. It is a revenue generating contract, however, none of the proceeds come to TDCJ. Instead the proceeds go towards the state. Specifically state law dictates many of the components within our offender telephone system such as a 7-year base contract with additional 2-year renewal options, a number of security features, and dictates that the first \$10 million from profits go into the Crime Victims Compensation and the remaining profits are split evenly into the fund and the state's general revenue fund. The previous contract has an average rate of about 26 cents per minute. All statutory components were included, as well as the requirement to refresh the current system and equipment. The recommendation is for the new contract to be awarded to CenturyLink starting September 1, 2018, with a rate of 6 cents per minute.

Chairman Wainwright and Patrick O'Daniel abstained from voting on this item as their firms represent entities listed.

Chairman Wainwright asked for any questions, comments, or other abstentions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Derrellynn Perryman seconded the motion, which prevailed by a majority when called to a vote.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2019 Proposed Operating Budget and Fiscal Years 2020-2021 Legislative Appropriations Request

Jerry McGinty, Chief Financial Officer, requested the approval of the TDCJ Fiscal Year 2019 Proposed Operating Budget totaling \$3,258.3 billion and Fiscal Years 2020-2021 Legislative Appropriations Request (LAR) with \$725.7 million in exceptional items as presented in committee.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2019 Operating Budget and Fiscal Years 2020-2021 Legislative Appropriations Request as presented, and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

(Attachment C – Texas Department of Criminal Justice Fiscal Year 2019 Operating Budget, Fiscal Years 2020-2021 Legislative Appropriations Request, August 24, 2018)

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 163.3, “Objectives”

Sharon Howell, TDCJ General Counsel, requested the adoption of amendments to Board Rule 163.3, “Objectives,” as proposed and authorized at the June 2018 TBCJ meeting. She explained the amendments appeared in the July 13, 2018, issue of the *Texas Register*. Thirty days passed

and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrellynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.3, regarding Objectives, as published in the Texas Register, and that the chairman sign the order to this effect.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

2. Section 163.38, “Sex Offender Supervision”

Ms. Howell requested the adoption of amendments to Board Rule 163.38, “Sex Offender Supervision,” as proposed and authorized at the June 2018 TBCJ meeting. She explained the amendments appeared in the July 13, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.38, regarding Sex Offender Supervision, as published in the Texas Register, and that the chairman sign the order to this effect.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, “GO KIDS Initiative”

Ms. Howell presented the proposed amendments to Board Rule 159.26, “GO KIDS Initiative.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are minor and provide more specific information regarding the location on the webpage to find links for the programs. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas

Administrative Code section 159.15, regarding GO KIDS Initiative, to receive public comment, as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Facilities Division Construction Projects**

1. Request to Replace Parking Lot and Perimeter Road at the Choice Moore Unit in Fannin County, Bonham, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration to replace the parking lot and perimeter road at the Choice Moore Unit located in Fannin County, Bonham, Texas. The work will consist of sealing all cracks, leveling and compacting potholes, installation of a prime coat and 2-inch layer of asphalt, removing gravel from the perimeter road and regrading it as needed. One bid was received for this project in June. If approved, the work will be performed by Richard Drake Construction CO. L.P., with a total cost of \$1,318,100. Mr. Inmon recommended the TBCJ approve the request.

Mr. McCombs commented that in this booming economy it is challenging to find vendors to bid on prison work.

Chairman Wainwright asked if there were any other questions or comments. Hearing none, he called for a motion and a second.

E.F. "Mano" DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,318,100 to replace the parking lot and perimeter road at the Choice Moore Unit located in Fannin County, Bonham, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

2. Request to Replace Roof on the Psychiatric Facility at the Jester IV Unit in Fort Bend County, Richmond, Texas

Mr. Inmon presented a new project for board consideration requesting to replace the roof on the psychiatric facility at the Jester IV Unit located in Fort Bend County, Richmond, Texas. The work will consist of removing the existing roofing system, insulation, and flashing. Installation includes a new PVC roofing system over insulation board. Bids were received for this project in June. If approved, the work will be performed by Texas Liqua Tech Services, Inc., with a total cost of \$8,908,800. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$8,908,800 to replace the roof on psychiatric facility at the Jester IV Unit located in Fort Bend County, Richmond, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

3. Request to Replace Water Distribution Lines at the Mountain View Unit in Coryell County, Gatesville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace the water distribution lines at the Mountain View Unit located in Coryell County, Gatesville, Texas. The work will consist of installing 34,406 linear feet of new PVC and iron pipe. Bids were received for this project in July. If approved, the work will be performed by B-Corp Utilities Inc., with a total cost of \$7,655,863. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

E.F. "Mano" DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$7,655,863 to replace the water distribution lines at the Mountain View Unit located in Coryell County, Gatesville, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

4. Request to Replace the Roof on the Box Beef Plant at the Neal Unit in Potter County, Amarillo, Texas

Mr. Inmon presented a new project for board consideration requesting to replace the roof on the box beef plant at the Neal Unit located in Potter County, Amarillo, Texas. The work will consist of removing the existing roofing system and insulation. Installation of a new roof includes a new Ballasted Kee and insulation board. Bids were received for this project in June. If approved, the work will also be performed by Texas Liqua Tech Services, Inc., with a total cost of \$4,857,900. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$4,857,900 to replace the roof on the box beef plant at the Neal Unit located in Potter County, Amarillo, Texas, as presented.

Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There were two registration cards received prior to the established deadline for public comment within the jurisdiction of the TBCJ but not items posted on the agenda. The time limit set was three minutes per individual.

Jennifer Erschbek with the Texas Inmate Families Association spoke regarding heat, tablets, and telephones. She thanked the Chairman, TBCJ members, and Mr. Collier for their time. She expressed gratitude for the reduction in the rates for the offender telephone system. She stated the reduction from 26 cents per minute to 6 cents per minute is fabulous and will help offender families greatly. She expressed the desire to open the door to introduce tablets into the units for rehabilitation and educational purposes. She thanked the TDCJ for the progress made regarding the heat-related issues that has been going on over the past couple years. She stated there is still a long way to go and many areas that can be further improved.

Charles McMurray spoke regarding community supervision and parole issues. He thanked the TBCJ for their time. He proposed four recommendations to address the issues community supervision officers and parole officers face to complete their job of ensuring public safety and rehabilitation of the offenders. First, training needs to be substantially increased. Second, a work measurement study needs to be conducted to establish evidence-based practices. Third, enhance technical resources and technical expertise to develop operational procedures such as how to conduct drug tests and resources for counseling specific to offender needs. Fourth, review and determine what it will take to recruit and retain community supervision officers and parole officers long-term.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, October 18, 2018, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 200th meeting of the Texas Board of Criminal Justice at 2:34 p.m.

Chairman*

Secretary*

*Signature on File

Texas Board of Criminal Justice
201st Meeting



Minutes

October 18, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and San Gabriel Room
3401 South IH 35
Austin, Texas 78741

October 18, 2018
11:30 AM – 1:00 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

- I. Regular Session – Lake Travis/Lake LBJ Room
 - A. Recognitions
 - B. Consideration of Approval of Consent Items
 1. Hazardous Duty Pay Authorization Requests
 2. Personal Property Donations
 3. 200th TBCJ Meeting Minutes
 4. Excused Absences
 - C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
 - D. Report from the Chairman, TBCJ
 - E. Internal Audit Status Report for Fiscal Years 2018 – 2019
 - F. Discussion, Consideration, and Possible Action Regarding the Creation of a TDCJ Training Division
 - G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
 - H. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, “Investment Policy,” and Resolution Adopting the Investment Policy

- I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-03.46, “Standards for the Use of Force”
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Sections
 - 1. 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding
 - 2. 159.19, Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses
 - 3. 159.21, Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill
- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, GO KIDS Initiative
- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request to Renew a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
 - 3. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Reconvene TBCJ

II. Executive Session – San Gabriel Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Council for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).
- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).
- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 201**

The Texas Board of Criminal Justice (TBCJ) convened on Thursday, October 18, 2018, in regular session at 11:30 a.m. at the Wyndham Garden Hotel, Austin, Texas, and adjourned at 12:20 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. “Mano” DeAyala
Tom Fordyce
Larry Miles
Patrick O’Daniel
Derrellynn Perryman
Hon. Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Sherry Koenig
Rudolph Brothers Cris Love
Christopher Cirrito Bobby Lumpkin
Marie Freeland Jerry McGinty
Patty Garcia Melvin Neely
Cody Ginsel Giustina Persich
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Malika Te
Frank Inmon April Zamora

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 201st meeting of the TBCJ on Thursday, October 18, 2018, at 11:30 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public comments prior to the deadline.

Recognitions

Chairman Wainwright recognized Rudolph Brothers, State Counsel for Offenders Division Director, for two decades of service to the state of Texas, noted his hard work and commitment, and outlined his education and incredible career. He congratulated Mr. Brothers for devoting 20 years to public service.

Bobby Lumpkin, Manufacturing, Agribusiness and Logistics Division Director, recognized Marvin Carter, Ellis Unit farm manager, for receiving the 2018 Billy Max Moore award presented by the National Association of Institutional Agribusiness. He highlighted Mr. Carter's career and congratulated him for his outstanding performance.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of September and October 2018. During this time, 996 employees attained 25 years of service, 23 employees attained 30 years of service, nine employees attained 35 years of service, and one employee attained 40 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 200th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Hearing none, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

TDCJ Video

Mr. Collier stated the Association of State Correctional Administrators (ASCA) is an association made up of all the state correctional directors in the United States. Members of ASCA were recently challenged with developing a short two-minute video highlighting their respective agency. Being the ASCA member representing the great state of Texas and an outstanding agency, Mr. Collier felt compelled to challenge Chief of Staff, Jason Clark, and Communications Director, Jeremy Desel, on meeting this challenge. The video that was the result of this challenge was shown to the audience and TBCJ members.

Training Division

Mr. Collier stated at the August 2018 TBCJ meeting, Oscar Mendoza, TDCJ Deputy Executive Director, provided a presentation of the TDCJ's request to create a training division. He stated the creation of this division would allow the consolidation of training sections or departments currently within the Community Justice Assistance Division, Correctional Institutions Division, Human Resources Division, and Parole Division. Although each of the training sections or departments provide excellent training to specific staff, the newly created division would allow for an enterprise-wide focus on staff training verses the silo-approach currently in place. The utilization of shared expanded resources provides an opportunity to improve the overall quality and availability of training offerings without diminishing the ability to customize training for specific divisions and needs. These independent training sections and divisions deliver training to nearly 150,000 participants each year. The volume of the training task combined with the critical mission of the TDCJ dictate that the training of employees is one of the most important core functions performed, and the creation of a training division would enhance and strengthen that function.

Report from the Chairman, TBCJ

Domestic Violence Awareness Month

Chairman Wainwright stated October is domestic violence awareness month and the Texas Council on Family Violence organizes an annual "Go Purple" day in recognition of the victims of domestic violence in an effort to end it. The TBCJ and TDCJ participated in this recognition by wearing purple ribbons. The number of American troops killed in Afghanistan and Iraq between 2001 and 2012 was 6,488. The number of American women who were murdered by current or former partners during that time was 11,766. That is nearly double the amount of casualties lost during war. This is a serious issue that touches so many Texans across the state. The TBCJ and TDCJ assist in addressing this problem by including meaningful programming to help stop the cycle of abuse and supporting the victims of these crimes. Whether it is anger management classes, battering intervention services geared specifically towards family violence

offenders, or programs for individuals who have been victimized by their partners, the agency is working to address some of the root causes of domestic violence and help end the cycle of abuse.

A Growing Success: Hydroponics within the TDCJ

Chairman Wainwright discussed hydroponics within the TDCJ. He stated the herb garden at the Michael Unit was suffering because the sun caused much of the ground's moisture to evaporate. Lieutenant Eric White began searching for a solution. He remembered hearing about a technique to grow plants without using soil. He mentioned this to fellow officer Michael McLeon and the idea to build a hydroponic garden on prison property was born. Hydroponics is a method of growing plants without soil, using a mineral rich water solution. This allows the plant to take in its food with very little effort as opposed to soil where the roots must search out the nutrients and extract them. The men thought this would be the perfect solution. Using supplies such as PVC pipes and water pumps, they constructed three new soilless gardens. The beds range from 60 to 120 square feet of growing space. Currently there are more than 500 plants that produce lettuce, tomatoes, cucumbers, peppers, and basil. The fresh vegetables are harvested and taken to the Michael Unit kitchen where they are served to offenders. The extra produce is donated to local charities. The project continues to grow as the prison is currently working to expand the gardens and double the number of plants. McLeon and White continue to come up with innovative ideas such as designing an aquaponic system in which fish and plants grow together in one integrated system. After the story was posted on TDCJ's social media channels, several other entities including Texas A&M University reached out to learn more about the project. Chairman Wainwright expressed appreciation to officer McLeon and Lieutenant White for their green thumbs and creativity.

Internal Audit Status Report for Fiscal Years 2018 - 2019

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the October 9, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1813 – Windham School District, *Financial Information*:** Audit is in report writing.
- **1904 – Rehabilitation Programs Division, *Volunteer Identification and Tracking*:** Audit is in control assessment.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2018-2019)

Discussion, Consideration, and Possible Action Regarding the Creation of a TDCJ Training Division

Mr. Collier stated the consolidation of the TDCJ training resources into a new training division would enhance the quality and accessibility of agency training for years to come. He requested the TBCJ consider a motion to create a new training division within the TDCJ, which would consolidate the training sections of the Community Justice Assistance Division, Correctional Institutional Division, Human Resources Division, and Parole Division.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the request to create a new training division within the Texas Department of Criminal Justice, as presented by Mr. Collier.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Chairman Wainwright stated the topic of Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million will not be discussed and passed on this agenda item.

Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and Resolution Adopting the Investment Policy

Mr. McGinty presented BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and resolution to adopt, in accordance with Chapter 2256 of the Public Funds Investment Act, which requires the agency to have a board policy regarding investments and also requires an annual review. He stated the changes to the policy are non-substantive.

Mr. McCombs asked if state law dictates this must be reviewed annually. Mr. McGinty affirmed.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy as presented, and that the Chairman sign the resolution adopting the policy.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-03.46, “Standards for the Use of Force”

Sharon Howell, TDCJ General Counsel, presented BP-03.46, “Standards for the Use of Force.” She stated the changes to the policy are not substantive and bring the policy in line with current agency policy standards.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the revisions to BP-03.46, "Standards for the Use of Force," as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 159.9, "Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding"

Ms. Howell presented the proposed amendments to Board Rule 159.9, "Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding." She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are minor and update the signature authority on the Memorandum Of Understanding. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.9, regarding Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding, to receive public comment, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Section 159.19, "Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illness"

Ms. Howell presented the proposed amendments to Board Rule 159.19, "Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illness." She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive stylistic changes and reflect structural changes to the Texas Health and Human Services Commission. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Mr. McCombs asked if the changes are because the agencies no longer exist, are no longer applicable to the change, or clarify language. Ms. Howell stated the departments are still there; however, they fall under the Texas Health and Human Services Commission, and it also clarifies language.

Chairman Wainwright asked if this continues a current relationship and Memorandum of Understanding that was in place in the past. Ms. Howell affirmed, and stated it does not change the nature of the relationships.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.19, regarding Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses, to receive public comment, as presented.

Eric Gambrell seconded the motion, which prevailed unanimously when called to a vote.

3. Section 159.21, “Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill”

Ms. Howell presented the proposed amendments to Board Rule 159.21, “Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive stylistic changes and provide an updated address of record. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if this continues a current program. Ms. Howell affirmed.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.21, regarding Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill, to receive public comment, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 159.15, “GO KIDS Initiative”**

Ms. Howell requested the adoption of amendments to Board Rule 159.15, “GO KIDS Initiative,” as proposed and authorized at the August 2018 TBCJ meeting. She explained the amendments appeared in the September 7, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.15, regarding GO KIDS Initiative, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action
Regarding Proposed Land Transactions**

1. Request to Renew a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness, and Logistics Division, presented the request to renew a gas pipeline easement at the Ellis Unit, in Walker County, Huntsville, Texas. He stated Oneok Arbuckle Pipeline, LLC is requesting to renew an easement consisting of an area of approximately 3.58 acres of land being 3,122.7 feet long by 50 feet wide for one natural gas liquids pipeline. The original easement was granted in November 2008. Oneok Arbuckle Pipeline, LLC has agreed to pay \$94,650.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright and Patrick O’Daniel abstained from action on this item due to their firms representing Oneok Arbuckle Pipeline, LLC.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Lumpkin presented the request to renew a gas pipeline easement at the Stiles Unit, in Jefferson County, Beaumont, Texas. He stated Enterprise TE Products Pipeline Company, LLC is requesting to renew an easement consisting of two tracts of land totaling 4.11 acres being 3,580.6 feet long by 50 feet wide for one natural gas liquids pipeline. The original easement was granted in November 2008. Enterprise TE Products Pipeline Company, LLC has agreed to pay \$162,555.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright and Patrick O'Daniel abstained from taking action on this item due to their firms representing Enterprise TE Products Pipeline Company, LLC.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

E.F. "Mano" DeAyala moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Tom Fordyce seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Lumpkin presented the request to renew a gas pipeline easement at the Stiles Unit, in Jefferson County, Beaumont, Texas. He stated HSC Pipeline Partnership, LLC is requesting to renew an easement consisting of two tracts of land totaling 4.11 acres being 3,580.6 feet long by 50 feet wide for one 12" natural gas liquids pipeline and one 6" natural gas liquids pipeline. The original easement was granted in November 2008. HSC Pipeline Partnership, LLC has agreed to pay \$325,845.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Patrick O'Daniel abstained from taking action on this item due to his firm representing HSC Pipeline Partnership, LLC.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, December 13, 2018, at the Crowne Plaza Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 201st meeting of the Texas Board of Criminal Justice at 12:20 p.m.


Chairman


Secretary

Texas Board of Criminal Justice
202nd Meeting



Minutes

December 13, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel – Salons E-H, Lone Star II & III
6121 North IH 35
Austin, Texas 78752**

**December 13, 2018
12:00 – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Executive Session – Lone Star II & III

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Reconvene Texas Board of Criminal Justice (TBCJ)

II. Regular Session – Salons E-H

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 201st TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

- D. Report from the Chairman, TBCJ
- E. Internal Audit Status Report for Fiscal Years 2018-2019
- F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies
 - 1. BP-07.03, "GO KIDS (Giving Offenders' Kids Incentive and Direction to Succeed)"
 - 2. BP-13.69, "State Counsel for Offenders"
- H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Section
 - 1. 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes
 - 2. 163.36, Mentally Impaired Offender Supervision
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Proposed Repeal of Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision
- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 159.9, Firearms Proficiency Training for Supervision Officers
 - 2. 159.19, Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness
 - 3. 159.21, Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly
- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request for a Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 3. Request for Gas Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 202**

The Texas Board of Criminal Justice (TBCJ) convened on Thursday, December 13, 2018, in executive session at 12:06 p.m. in the Lone Star II & III rooms at the Crowne Plaza Hotel, Austin, Texas. The TBCJ recessed from executive session at 12:55 p.m., reconvened in regular session at 1:04 p.m. in Salons E-H, and adjourned at 1:51 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. "Mano" DeAyala
Tom Fordyce
Larry Miles
Patrick O'Daniel
Derrellynn Perryman
Hon. Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Cris Love
Christopher Cirrito Bobby Lumpkin
Jeremy Desel Angie McCown
Marie Freeland Jerry McGinty
Patty Garcia Melvin Neely
Cody Ginsel Giustina Persich
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Malika Te
 Pam Thielke

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County, and David Gutierrez, Board of Pardons and Paroles Presiding Officer

Reconvene the Texas Board of Criminal Justice

Chairman Dale Wainwright reconvened the 202nd meeting of the TBCJ on Thursday, December 13, 2018, at 1:04 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." No speaker registration cards were received for public comments prior to the deadline.

Recognitions

Bryan Collier, TDCJ Executive Director, introduced David Yebra as the Director of the new Training Division, and highlighted his career. He stated Mr. Yebra has a wealth of solid education and experience that he brings to the TDCJ.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of November and December 2018. During this time, 79 employees attained 25 years of service, 24 employees attained 30 years of service, 10 employees attained 35 years of service, and four employees attained 40 years of service. He stated these individuals represent the strong commitment of TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 201st TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright stated there were no excused absences for board members from the August and October meetings. He asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing the San Antonio Food Bank and Kairos listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further objections, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

86th Legislative Session

Mr. Collier stated the 86th Legislative Session will begin on January 8, 2019. In preparation of the upcoming session, the TDCJ has been meeting with legislative leadership offices and committees, and reviewing pre-filed bills. The selection of Dennis Bonnen as Speaker of the House will help get the ball rolling quickly when session begins. It is anticipated that committees will begin to meet in early February. The TDCJ executive team is optimistic and ready for the challenge.

Holiday Message

Mr. Collier expressed gratitude to the TBCJ and all staff of the TDCJ for a successful year. There were challenges that were faced; however, the TDCJ has become stronger as a result. The offender population has remained stable. A settlement in on-going heat litigation was successfully navigated. Starting pay for correctional officer staffing was increased. Several key leadership positions were filled and will have a huge impact on the TDCJ for decades to come. He thanked all staff for a job well done and asked everyone to remember the staff that will be on duty Christmas and New Year's Day protecting the public. Mr. Collier wished everyone a merry Christmas and happy New Year.

Report from the Chairman, TBCJ

Telemedicine and Peer Education Initiatives

Chairman Wainwright stated he was the keynote speaker at the Coalition of Correctional Health Authorities Leadership Award Banquet held on November 15th. The list of guests included medical professionals from across the country and around the world. The TDCJ has many successful health initiatives that the state of Texas should be proud of. The size of the state alone makes it a logistical challenge to deliver care to offenders spread across the state, often at remote facilities hours away from medical centers. The TDCJ Health Services Division Director Dr. Lannette Linthicum and the Correctional Managed Health Care partners have developed a remarkable telehealth system to address this challenge. It uses technology to provide clinical health care from a distance. Between the University of Texas Medical Branch and the Texas Tech University Health Sciences Center, there are more than 75 telehealth providers who cover a wide range of healthcare services for offenders, such as primary care, mental health, internal medicine, and radiation therapy. In 2017, there were nearly 167,000 healthcare encounters using the telehealth system. This saves the state more than \$6 million a year. The managed health care partners continue to look for ways to expand its use, such as a current pilot project for tele-optometry and tele-dentistry technology. Besides technology, the advice of those who have lived the experiences are being utilized through the Peer Education Program. Through a rigorous selection process, offenders are chosen to become peer educators. They help educate other

offenders about preventative healthcare as it relates to HIV/AIDS, tuberculosis, diabetes, and a number of other topics. These peer educators are more likely to have firsthand knowledge about the risk factors common among fellow offenders, which gives them credibility concerning the issues. The educators are also more accessible as a constant source of information and support for other offenders. The project has grown significantly. Out of 104 units, 100 have active peer education programs. In 2018, more than 90,000 offenders attended classes led by peer educators. It is important to remember that these lessons will be carried well beyond the walls of prison and into at-risk communities as offenders reintegrate back into society. These are just a couple of examples of health care professionals thinking outside the box, working to find solutions, and striving to make a difference with a population that many would rather forget. Health care keeps pushing forward and improving. Chairman Wainwright thanked Dr. Linthicum, the entire staff of the Health Services Division, and the health care partners for running a race that matters.

Holiday Message

Chairman Wainwright reiterated Mr. Collier's comments from his holiday message. He urged each employee of the TDCJ to take time to relax and enjoy the holidays with family and friends. All should be proud of the accomplishments of the past year and the dedication that has built a strong and positive reputation. Chairman Wainwright thanked Mr. Collier for overseeing this section of public servants throughout the year. Guided by skillful leadership, the TDCJ continues to address the changing needs of the criminal justice system. The TDCJ leadership team did an excellent job meeting the challenges and overcoming difficulties in 2018. On behalf of the TBCJ, he wished all TDCJ employees a merry Christmas, happy holidays, and happy New Year.

Internal Audit Status Report for Fiscal Years 2018 - 2019

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the December 3, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1813 – Windham School District, *Financial Information*:** Audit is a draft report.
- **1814 – Information Technology Division, *Project Management*:** Audit is in report writing.
- **1815 – Facilities Division, *Contract Oversight*:** Audit is in report writing.
- **1907 – Manufacturing, Agribusiness and Logistics Division, *Pest Control*:** Audit is in field work.
- **1910 – Parole Division Board of Pardons and Paroles, *Parole Case File Movement Coordination Consultation*:** Audit changed to a consultation.

Mr. McCombs asked about the difference between an audit and a consultation. Mr. Cirrito stated an audit is more rigid, whereas a consultation allows a particular issue to be looked at and advice given in an informal matter.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2018-2019)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. There is only one item, which is the biennial purchase of computers. He stated state law requires the TDCJ to receive bids from at least six vendors for purchases of information technology equipment if the cost is between \$1 million and \$5 million; however, a total of 248 bids were solicited and the products were tested to ensure the needs of the TDCJ were met.

Chairman Wainwright stated he liked the process in place for getting additional bids and testing products.

Chairman Wainwright and Eric Gambrell abstained from voting on this item as their firms represent entities that submitted bids.

Chairman Wainwright asked for any questions, comments, or other abstentions. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Derrelynn Perryman seconded the motion, which prevailed by a majority when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

1. BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed)”

Sharon Howell, TDCJ General Counsel, presented BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed).” She stated the changes to the policy streamline language and are not substantive.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed),” as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. BP-13.69, “State Counsel for Offenders”

Ms. Howell presented BP-13.69, “State Counsel for Offenders.” She stated the changes to the policy are not substantive and do not change any current practice, serving only to streamline language and update citations. The proposed changes clarify that the SCFO director reports directly and only to the TBCJ.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the revisions to BP-13.69, “State Counsel for Offenders,” as presented.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 152.71, “Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes”

Ms. Howell presented the proposed amendments to Board Rule 152.71, “Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes do not affect any practice and clarify the responsibilities associated with donating buildings to the TDCJ. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes, to receive public comment, as presented.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

2. Section 163.36, “Mentally Impaired Offender Supervision”

Ms. Howell presented the proposed amendments to Board Rule 163.36, “Mentally Impaired Offender Supervision.” She stated this rule is being reviewed pursuant to the state law

requirement that rules be reviewed every four years. The proposed changes rearrange the title to person-first language, emphasizing the person and not the disability, and conform and streamline the language, using the definition of offender with mental impairment provided by the legislature and the Health and Safety Code. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.36, regarding Mentally Impaired Offender Supervision, to receive public comment, as presented.

Thomas Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rule Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision

Ms. Howell presented the proposed repeal of Board Rule 195.51, “Sex Offender Supervision.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The rule was reviewed to determine if there was a continuing need to retain it. The analysis determined there was no statutory provision requiring this rule and no continuing need for this rule. Ms. Howell recommended the TBCJ adopt the repeal.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed repeal of Board Rule Title 37 Texas Administrative Code Section 195.51, concerning Sex Offender Supervision, as presented.

Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 159.9, “Firearms Proficiency Training for Supervision Officers”

Ms. Howell requested the adoption of amendments to Board Rule 159.9, “Firearms Proficiency Training for Supervision Officers,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2, 2018, issue of the *Texas*

Register. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Patrick O’Daniel moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.9, regarding Firearms Proficiency Training for Supervision Officers, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrylynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

2. Section 159.19, “Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having Mental Illness”

Ms. Howell requested the adoption of amendments to Board Rule 159.19, “Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Thomas Fordyce moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.19, regarding Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness, as published in the Texas Register, and that the chairman sign the order to this effect.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

3. Section 159.21, “Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly”

Ms. Howell requested the adoption of amendments to Board Rule 159.21, “Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2,

2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.21, regarding Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly, as published in the Texas Register, and that the chairman sign the order to this effect.

E.F. “Mano” DeAyala seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action **Regarding Proposed Land Transactions**

1. Request for a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Ellis Unit, in Walker County, Huntsville, Texas. He stated Oneok Arbuckle Pipeline, LLC is requesting an easement consisting of an area of approximately 2.19 acres of land being 3,172.76 feet long by 30 feet wide for one natural gas liquids pipeline. This request includes temporary workspace totaling 5.56 acres for use during pipeline construction and installation. Oneok Arbuckle Pipeline, LLC has agreed to pay \$115,605 for this easement with a 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright and Patrick O’Daniel abstained from action on this item due to their firms representing Oneok Arbuckle Pipeline, LLC.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Request for a Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Lumpkin presented the request for a gas pipeline easement at the Ramsey Unit, in Brazoria County, Rosharon, Texas. He stated South Texas NGL Pipelines, LLC is requesting an easement consisting of approximately 1.056 acres being 1,534.43 feet long by 30 feet wide for one hydrocarbon gas liquids pipeline. This request includes temporary workspace totaling 3.12 acres for use during pipeline construction and installation. South Texas NGL Pipelines, LLC has agreed to pay \$85,350 for this easement with a 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

3. Request for Gas Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Lumpkin presented the request for gas pipeline easements at the Clemens Unit, in Brazoria County, Brazoria, Texas. He stated Phillips 66 Pipeline, LLC is requesting easements consisting of approximately 2.45 acres being 3,558.24 feet long by 30 feet wide for three natural gas liquids pipelines. This request includes temporary workspace totaling 8.75 acres for use during pipeline construction and installation. Phillips 66 Pipeline, LLC has agreed to pay \$507,670 for these easements, all with a 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Patrick O’Daniel abstained from taking action on this item due to his firm representing Phillips 66 Pipeline, LLC.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for gas pipeline easements at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.


Thomas Fordyce seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, February 8, 2019, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 202nd meeting of the Texas Board of Criminal Justice at 1:51 p.m.


Chairman


Secretary

Texas Board of Criminal Justice
203rd Meeting



Minutes

February 8, 2019
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Austin/Lake Travis and San Gabriel Room
3401 South IH 35
Austin, Texas 78741**

**February 8, 2019
11:15 AM – 2:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Austin/Lake Travis

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 202nd TBCJ Meeting Minutes
- C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2018 Annual Review
- D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- E. Report from the Chairman, TBCJ
- F. Internal Audit Status Report for Fiscal Years 2018 – 2019
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code Sections
 - 1. 152.71, Acceptance of Gifts Related to Buildings for Religious and Secular Programs
 - 2. 163.36, Supervision of Offenders with Mental Impairment
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Proposed Repeal of Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision

- J. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for a Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas
 - 2. Request for a Public Street Easement and Surface Lease at the Wynne Unit in Walker County, Huntsville, Texas

- K. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project - Request to Replace a Ground Water Storage Tank at the Mountain View Unit in Coryell County, Gatesville, Texas

Reconvene TBCJ

II. Executive Session – San Gabriel Room

- A. The TBCJ may convene into Executive Session.

- B. Discussion of personnel matters relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).

- C. Discussion regarding deployment of security personnel, devices, or security audits (Closed in accordance with Section 551.076, Government Code).

- D. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).

- E. Consultation with legal counsel regarding pending or contemplated litigation or settlement offers; to receive legal advice on items posted on this agenda; or consultation on a matter where the TBCJ seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 203**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, February 8, 2019, in regular session at 11:00 a.m. in the Lake Austin/Lake Travis rooms at the Wyndham Garden Hotel, Austin, Texas. The TBCJ recessed from regular session at 12:06 p.m., reconvened in executive session at 12:36 p.m. in the San Gabriel room, and adjourned at 1:15 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. “Mano” DeAyala
Larry Miles
Derrellynn Perryman
Hon. Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Tom Fordyce
Patrick O’Daniel

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Cris Love
Christopher Cirrito Bobby Lumpkin
Jeremy Desel Angie McCown
Marie Freeland Jerry McGinty
Patty Garcia Melvin Neely
Cody Ginsel Giustina Persich
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Malika Te
Frank Inmon Pam Thielke
Sherry Koenig April Zamora

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County, and David Gutierrez, Board of Pardons and Paroles Presiding Officer

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 203rd meeting of the TBCJ on Friday, February 8, 2019, at 11:00 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." One speaker registration card was received for public comments prior to the deadline. The presentation was heard later in the meeting.

Recognitions

Chairman Wainwright recognized Rudolph Brothers, former State Counsel for Offenders Director, and outlined his exceptional career. On behalf of the TBCJ, Chairman Wainwright thanked him for his loyalty, commitment, and dedication to serving the great state of Texas.

Billy Hirsch, TDCJ CID Deputy Director Prison and Jail Operations, introduced Wayne Brewer as the new Region I Director, and highlighted his career. He stated Mr. Brewer has a zest for life and accomplishing our mission.

April Zamora TDCJ Reentry and Integration Division Director, introduced Amanda Vasquez as the new Deputy Director of the Reentry and Integration Division, and highlighted her career. She stated Ms. Vasquez has an abundance of experience with offender programs.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of January and February 2019. During this time, 77 employees attained 25 years of service, 11 employees attained 30 years of service, 11 employees attained 35 years of service, and seven employees attained 40 years of service. He stated these individuals represent the strong commitment of TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 202nd TBCJ Meeting Minutes**

Chairman Wainwright stated he was abstaining from taking action on the personal property donations. He asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing multiple entities listed on the personal property donations list. Board Member Larry Miles abstained from taking action due to his church donating items listed on the personal property donations. Chairman Wainwright acknowledged the abstentions and, hearing no further objections, the consent items were approved.

Report from the Presiding Officer, Texas Board of Pardons and Paroles

Overview of the Texas Board of Pardons and Paroles Fiscal Year 2018 Annual Review

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2018 Annual Review. He stated that Article IV, Section II, of the Texas Constitution establishes the BPP's duties as follows: decide which prisoners to release on parole or discretionary mandatory supervision; decide conditions of parole and mandatory supervision; decide revocation of parole and mandatory supervision; and recommend clemency matters to the governor. Mr. Gutierrez explained that the recidivism rate is 20.3% for offenders released and tracked for a period of three years. Over the past decade, this number has decreased from 28% due to the efforts and working relationship of the BPP and the TDCJ. In FY 2018, the BPP considered 78,974 parole cases and 26,566 were approved, reflecting a 33.6% rate. There were 19,077 mandatory supervision cases considered, of which 9,136 were approved, and 6,180 parole revocations.

Mr. Gutierrez discussed some ongoing developments in the BPP. The first area is working with the TDCJ Media Services to produce a video to help victims understand the interview process and the impact they can make. The second area is to improve the percentage of voting done electronically and to increase efficiency. The third area is working closely with legislative committees and the TDCJ in the 86th Legislative Session.

Terrell McCombs commended Mr. Gutierrez for doing a great job making decisions on what is right and acknowledged those decisions are not easy to make.

Derrelynn Perryman, on the behalf of victims of crime, thanked Mr. Gutierrez for his compassion and consideration of their needs in a process that is overwhelming.

Mr. Collier thanked Mr. Gutierrez for the fantastic job and great working relationship.

Chairman Wainwright thanked Mr. Gutierrez for an enlightening presentation and his commitment to public service.

Report from the Executive Director, Texas Department of Criminal Justice

86th Legislative Session Update

Mr. Collier stated the 86th Legislative Session began on January 8, 2019, and is in full swing. In the past few weeks, the focus has been on the Senate budget hearings. The TDCJ presented the legislative appropriations request and exceptional items to the Senate Finance Committee on January 28, 2019. Earlier in the week, they appeared before the House Appropriations Committee to provide an overview of Correctional Managed Health Care and to the House Corrections Committee to provide an agency overview. The TDCJ base budget in both the House and Senate give the agency a good starting point. The House base budget includes 26 million for comprehensive video surveillance and provides a significant amount to the health care base budget. The Senate base budget includes 10 million for comprehensive video surveillance and 2 million in funding for college level vocational training. The TDCJ will continue to work closely with members on exceptional items. The TDCJ is also monitoring filed legislation that has an impact on the agency. Further updates will be provided throughout the process.

Correctional Officer Staffing

Mr. Collier stated correctional officer staffing remains the number one challenge and priority. Recent hiring totals reflect some improvements with correctional officer vacancies; however, new initiatives to recruit and retain correctional officers will continue. Overall, correctional officer vacancies have reduced from nearly 4,000 to around 3,400. Staff remains diligently focused on aggressively recruiting and retaining officers. A variety of strategies to provide relief staff to units that have significant staffing shortages is currently being worked on.

American Correctional Association Winter Conference

Mr. Collier stated during the American Correctional Association's conference held last month, the TDCJ had 14 units that were reviewed for re-accreditation by the American Correctional Association and all 14 units were successful. The wardens and staff did an outstanding job representing their respective units before the standards committee. Each unit achieved a score of 98% or higher on their respective audits. Mr. Collier thanked Lorie Davis, Correctional Institutions Division Director, Cody Ginsel, Private Facilities Contract Monitoring/Oversight Division Director, Kelvin Scott, Administrative Review and Risk Management Division Director, and staff for all of their hard work during the accreditation process.

Report from the Chairman, TBCJ

Reorganization of the Prison Rape Elimination Act Ombudsman's Office and the TDCJ's Safe Prisons Program

Chairman Wainwright stated in 2003, the Prison Rape Elimination Act (PREA) was passed and, over time, standards were developed that correctional agencies across the country were expected to adhere to. Recognizing the complexity of the evolving standards and a need for independent oversight, the Texas Legislature created the PREA Ombudsman Office in 2007. This office reports directly to the TBCJ. Prior to the passage of PREA, Texas had a well-established Safe Prisons Program and zero tolerance for in-prison sexual abuse. This remains true today. Only a few changes needed to be implemented. There was one standard in particular related to cross-gender viewing that posed the most significant challenge. Nearly 40% of TDCJ correctional officers are female. The TDCJ focused efforts on finding a solution, and implemented modifications such as adding privacy partitions and a policy requiring opposite gender staff to announce their presence when entering an offender housing area. The first PREA audit was conducted in August 2014 and the facility was found to be fully compliant. Fast forward to today, every facility under the jurisdiction of the TDCJ has been audited and found to be compliant with all PREA standards. Facilities are now undergoing a second cycle of audits. Only eight other correctional systems across the country have reached the level of full accreditation with PREA and American Correctional Association standards. Even with these accomplishments, there are still deficiencies that can be found and processes improved. Recently it was determined that some TDCJ resources would be better aligned under the PREA Ombudsman Office. Regional PREA managers will be transferring to the PREA Ombudsman Office. The new team will have a newly integrated information system that allows for better tracking of complaint resolutions across the correctional system. The realignment will ensure that the independent PREA Ombudsman has additional tools to continue important work of ensuring compliance with federal and state laws and standards.

Internal Audit Status Report for Fiscal Years 2018 - 2019

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the January 29, 2019, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1808 – Prison Rape Elimination Act Ombudsman, Correctional Institutions Division, Office of the Inspector General, Safe Prisons – PREA Coordination:** Audit is complete.
- **1814 – Information Technology Division, Project Management:** Audit is a draft report.
- **1901 – Correctional Institutions Division, Correctional Officer Retention Consultation:** Audit is in field work.
- **1902 – Administrative Review and Risk Management Division, Operational Review Consultation:** Audit is in field work.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2018-2019)

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 152.71, “Acceptance of Gifts Related to Buildings for Religious and Secular Programs”

Ms. Howell requested the adoption of amendments to Board Rule 152.71, “Acceptance of Gifts Related to Buildings for Religious and Secular Programs,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the amendments appeared in the December 28, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Secular Programs, as published in the Texas Register, and that the chairman sign the order to this effect.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

2. Section 163.36, “Supervision of Offenders with Mental Impairment”

Ms. Howell requested the adoption of amendments to Board Rule 163.36, “Supervision of Offenders with Mental Impairment,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the amendments appeared in the December 28, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.36, regarding Supervision of Offenders with Mental Impairment, as published in the Texas Register, and that the chairman sign the order to this effect.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Repeal of Board Rule Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision

Ms. Howell requested the adoption of repeal of Board Rule 195.51, “Sex Offender Supervision,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the repeal appeared in the December 28, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final repeal of the rule.

Chairman Wainwright asked if there were questions. Hearing none, he called for a motion and a second.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice repeal Board Rule Title 37 Texas Administrative Code Section 195.51, concerning Sex Offender Supervision, as published in the Texas Register, and that the chairman sign the order to this effect.

Larry Miles seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for a Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Boyd Unit, in Freestone County, Teague, Texas. He stated ETC Katy Pipeline, LTD is requesting an easement consisting of an area of approximately 6.55 acres of land being 9,507.83 feet long by 30 feet wide for one natural gas pipeline. This request includes temporary workspace totaling 22.12 acres for use during pipeline construction and installation. ETC Katy Pipeline, LTD has agreed to pay \$365,535 for this easement with a 10-year term. Terms include indemnification language. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Boyd Unit in Freestone County, Teague, Texas, as presented.

Thomas Wingate seconded the motion, which prevailed unanimously when called to a vote.

2. Request for a Public Street Easement and Surface Lease at the Wynne Unit in Walker County, Huntsville, Texas

Mr. Lumpkin presented the request for a public street easement and surface lease at the Wynne Unit, in Walker County, Huntsville, Texas. He stated the City of Huntsville is requesting an easement consisting of approximately 0.55 acres being 400 feet long by 60 feet wide on which to locate a public street and related drainage facilities to provide secondary access to the site of the city's new police department complex. Additionally, the request includes a lease of 2.373 acres of adjoining property for additional greenspace. The City of Huntsville has agreed to pay \$9,643 for this easement with a 30-year term and an annual rental of \$2,076 for leased property with a 20-year term. Both terms include indemnification language. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the request for a public street easement and surface lease at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Derrellynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project – Request to Replace Ground Water Storage Tank at the Mountain View Unit in Coryell County, Gatesville, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for consideration requesting board approval to replace a ground water storage tank at the Mountain View Unit located in Coryell County, Gatesville, Texas. The work will consist of replacing the current 150,000 gallon steel tank with two new tanks, each 151,000 gallon bolted steel 24 feet high by 32 feet in diameter. A new booster pump station will be installed and connected to the new tanks. Additionally, the new system will be regulated by two new pressure vessels. Bids were received for this project in January. If approved, the work will be performed by MCG Contractors, Inc., with a total cost of \$5,038,700.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve the request to replace a ground water storage tank at the Mountain View Unit located in Coryell County, Gatesville, Texas, as presented.

Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Public Comments

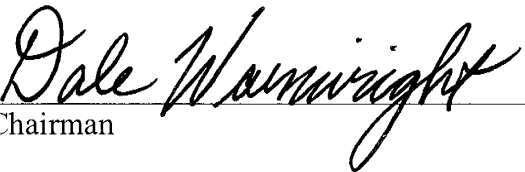
Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There was one registration card received prior to the established deadline for public comment regarding an item posted on the agenda. The time limit set was three minutes per individual.

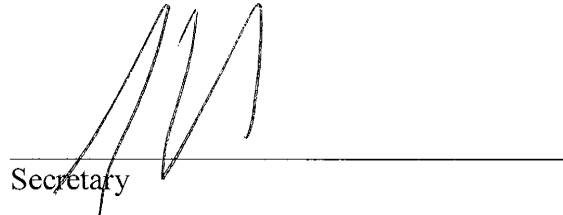
Frances Vaughn stated there was a cross-gender viewing incident that she brought to the attention of the PREA Ombudsman. She stated a female sergeant conducted a drug test on a male offender and an investigation was conducted. Ms. Vaughn alleged the investigation failed to speak to the offender in regard to how the drug test was administered. She stated the female sergeant is in a recruitment process and is being held out by the agency as exemplary. Ms. Vaughn requested this matter be further investigated.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, April 5, 2019, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright recessed the 203rd meeting of the Texas Board of Criminal Justice at 12:06 p.m.


Chairman


Secretary