
TEXAS BOARD OF CRIMINAL JUSTICE

**Hilton Austin Hotel
Austin, Texas**

May 24, 2007

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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.