
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.