

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.

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Chairman

Secretary

Signatures on file.

Reference attachments for the minutes are available upon request from the Office of Record, Executive Services.