

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.

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Chairman

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Secretary

** Signature on file*

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.