
TEXAS BOARD OF CRIMINAL JUSTICE
Hilton Austin Hotel
Austin, Texas

March 26 - 27, 2008

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

Meeting No. 136

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

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

Recognitions

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

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

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

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

Reaccreditation:

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

Initial Accreditation:

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

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

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

Discussion, Consideration and Possible Action Regarding Consent Items

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

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

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

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

Report from the Chairman, Judicial Advisory Council (JAC)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FY 2007 Internal Audit Plan

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

FY 2008 Internal Audit Plan

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

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

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

APPROVED

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

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

1. PD-71, "Selection Systems Procedures"

APPROVED

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

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

2. PD-72, "Employee Salary Administration"

APPROVED

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

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

APPROVED

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

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

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

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

APPROVED

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

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

APPROVED

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Comments

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

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

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

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

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

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

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

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

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

Adjournment

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