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**TEXAS BOARD OF CRIMINAL JUSTICE**  
**Sheraton, Austin Hotel**  
**Austin, Texas**

**December 2-3, 2008**

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Table of Contents for Summary

A. Recognitions .....	Page 1
B. Discussion, Consideration and Possible Action Regarding Consent Items .....	Page 2
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 3
E. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ).....	Page 3
F. Report from the Chairman of the Correctional Managed Health Care Committee (CMHCC).....	Page 3
G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI).....	Page 4
H. Report from the Chairman, Texas Board of Criminal Justice (TBCJ).....	Page 4
I. Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009.....	Page 5
J. Discussion, Consideration and Possible Action Regarding Purchases and Contracts Over One (1) Million Dollars .....	Page 6
K. Discussion, Consideration and Possible Action Regarding the Capital Expenditure Authority Request .....	Page 6
L. Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy, BP-14.01, "Texas Department of Criminal Justice Investment Policy" And Resolution Adopting the Investment Policy .....	Page 6
M. Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-01.80, "Good Conduct Time" .....	Page 6
N. Discussion, Consideration and Possible Action Regarding Revisions to Personnel Directive, PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees" .....	Page 6
O. Discussion, Consideration and Possible Action Regarding Revisions to Board Policy, BP-01.01, "Texas Board of Criminal Justice Responsibilities".....	Page 7
P. Discussion, Consideration and Possible Action Regarding Repeal of Board Policy, BP-14.67 "Purchasing and Contracting with Historically Underutilized Businesses" .....	Page 7
Q. Discussion, Consideration and Possible Action Regarding Repeal of Board Rule §151.53, Multiple Employments with the State (37 TAC §151.53).....	Page 7
R. Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77) .....	Page 7

S.	Discussion, Consideration and Possible Action Regarding Adoption of Amendments to Board Rules	
1.	§151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51)	Page 7
2.	§151.21, Naming of a Texas Department of Criminal Justice Owned Facility (37 TAC §155.21)	Page 7
3.	§159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (37 TAC §159.9)	Page 8
T.	Discussion, Consideration and Possible Action Regarding Proposed New Board Rule, §195.41, Community Residential Facilities (37 TAC §195.41)	Page 8
U.	Discussion, Consideration and Possible Action Regarding Proposed Amendments to Board Rules	
1.	§151.8, Advisory Committees (37 TAC §151.8)	Page 8
2.	§151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)	Page 8
3.	§161.21, Role of the Judicial Advisory Council (37 TAC §161.21)	Page 8
V.	Discussion, Consideration and Possible Action Regarding Land Transactions	
1.	Request for Transfer of the Marlin Veterans Affairs Hospital from the United States of America, Department of Veteran Affairs	Page 8
2.	Request for Sanitary Sewer Easement on the Clements and Neal Units in Potter County, Amarillo, Texas	Page 8
W.	Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects	
1.	Request for Approval to Replace Chillers and Heating, Air Conditioning (HVAC) System Controls at the Jester IV Unit in Fort Bend County, Richmond, Texas	Page 9
2.	Request for Approval to Repair/Replace Fire Alarm System at the McConnell Unit in Bee County, Beeville, Texas	Page 9

## **SUMMARY OF THE MINUTES FOR TEXAS BOARD OF CRIMINAL JUSTICE**

### **Meeting No. 140**

#### **Convene – Texas Board of Criminal Justice**

Chairman Oliver Bell convened the 140<sup>th</sup> Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Tuesday, December 2, 2008, at 2:53 p.m. and stated that a quorum was present. He announced that the Board would adjourn the meeting into executive session, which is closed to the public in accordance with the Texas Government Code, Section 551.

Chairman Bell reconvened the 140<sup>th</sup> Meeting of the Board on Wednesday, December 3, 2008, at 9:04 a.m., stated that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell recognized staff representatives attending from the Governor's Office, the Legislative Budget Board (LBB), and various legislative offices. Chairman Bell stated that the Board is committed to providing the opportunity for public presentations on topics within its jurisdiction as well as public comments 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. He reviewed the requirements for speaker registration.

#### **Recognitions**

Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), recognized Dr. Lannette Linthicum, Health Services Division Director, on her appointment as the Chair of Accreditation with the American Correctional Association (ACA). Mr. Livingston recognized Angie McCown as the Director of the Victim Services Division. Chairman Bell welcomed Ms. McCown and stated that the Board looked forward to working with her.

John Moriarty, Inspector General, recognized Elizabeth Mullen as the Assistant Director of Investigations. Ms. Mullen stated that it was her honor to meet the Board and to work for such a fine organization.

Nathaniel Quarterman, Director of the Correctional Institutions Division, recognized Oscar Mendoza as the Director for Region IV. Mr. Mendoza thanked the Board and executive management for the honor to serve them in this new position.

Mr. Quarterman noted that ten (10) units have recently received initial accreditation or reaccreditation from the American Correctional Association (ACA). This brings the Agency's number of accredited units to 86. Chairman Bell remarked that he would be issuing the Chairman's Coin to each of the wardens for outstanding performance.

#### **Initial Accreditation:**

Alfonso Castillo – Estelle Unit  
Todd Foxworth – Skyview/Hodge Units  
Kenneth Negbenebor-Ramsey Unit  
Charles Bell – Wynne Unit

#### **Reaccreditation:**

Michael Upshaw – Correctional Training Academy  
Tracy Bailey – Halbert Substance Abuse Felony Punishment Facility  
Joe Nunn – Jordan Unit and Baten Intermediate Sanction Facility  
Jeffrey Marton – Torres and Ney Units  
Kay McCleary – Woodman Unit  
Rick Thompson – Roach Unit

Chairman Bell congratulated the unit wardens and thanked them and their staff for the hard work regarding the ACA accreditation and reaccreditation.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 plus years of service with the State of Texas during the months of October and November 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**

***APPROVED***

Chairman Bell remarked that the Consent Items includes an excused absence for Pastor C. L. Jackson who has been unable to attend more than half of the regularly scheduled Board meetings in the 2008 calendar year. He asked if there were any amendments or objections to the Consent Items as proposed. Eric Gambrell objected to the inclusion of the personal property donation from the San Antonio Food Bank and recommended that it be placed in line for consideration on the regular agenda due to a conflict of interest on his part, as his firm does work for the San Antonio Food Bank.

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. 139<sup>th</sup> TBCJ Meeting Minutes
6. Excused Absences

**Discussion, Consideration and Possible Action Regarding Consent Items**

***APPROVED***

Chairman Bell called for a motion and second regarding the personal property donations from the San Antonio Food Bank. Mr. Gambrell stated as his firm currently represents this company, to prevent even the slightest suggestion of impropriety, he would abstain from the vote on these personal property donations, which includes assorted breads and ice cream products.

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

Rissie Owens, Presiding Officer of the BPP, presented the End of the Year Statistical Report. Ms. Owens provided an overview of the mission statement and the BPP structure. The types of releases were described. Ms. Owens discussed the Fiscal Year (FY) 2008 parole considerations and a comparison of the FY 1997 – FY 2008, noting that the parole approval rate for FY 1997 was 16.71% and 30.93% for FY 2008. The discretionary mandatory supervision approval rates for FY 2008 were 48.77%. Ms. Owens reviewed the Revocation Process, noting that the BPP reviewed 30,268 individuals for revocation decisions. The Executive Clemency Activity for FY 2008 was reviewed in addition to Executive Clemency Activity for FY 2009 year to date (YTD).

Tom Mechler requested Ms. Owens clarify the meaning of a technical revocation. Ms. Owens responded that individuals on parole have a duty to report to the Parole Division to pay fees, attend counseling sessions, and so forth. A technical violation is not a new criminal violation. Mr. Mechler noted that a criminal revocation involves a new criminal violation. Ms. Owens responded affirmatively.

Leo Vasquez inquired on the typical length of a parole term. Ms. Owens explained that the amount of time that an individual is supervised by the Parole Division is dependent on that individual's sentence given by the court. Mr. Vasquez asked if it was possible to receive the averages of offenders' time served. Ms. Owens noted that most of the BPP's statistics came from TDCJ Executive Services and that she would contact staff regarding his request.

Janice Harris Lord requested additional information about the term "exonerations" primarily based on the DNA and where those cases fall within capital cases. Ms. Owens responded that very few of those cases have submitted clemency petitions to the BPP, which if submitted would be a petition for a pardon for innocence. Noting there were six (6) different BPP offices, each with two (2) BPP members and one (1) commissioner, Mr. Gambrell asked if these positions have voting privileges. Ms. Owens explained that all positions have equal voting rights, noting that the decisions needed a majority vote.

Mr. Gambrell asked if the BPP held hearings. Ms. Owens explained the BPP conducts paper reviews, noting that the offender population is too large to conduct hearings. Mr. Gambrell asked if an offender wants a hearing, does that individual submit a request in writing. Ms. Owens responded that the offender may submit a request on an I-60, a transmittal form used by offenders throughout the system or a letter to the BPP office on Shoal Creek Boulevard in Austin. She noted that once an offender's case has been received, any BPP member may interview that offender regarding the case.

## **Report from the Chairman, Judicial Advisory Council (JAC)**

Judge Larry Gist, Chairman of the JAC, had no report.

Summary of Minutes, Board Meeting No. 140

Page 2 of 9

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

Mr. Livingston reported that several weeks ago the Agency had a public cell phone incident, which highlighted the threat of cell phones present in the prison system. He stressed that any offender cell phone activity in prisons, regardless of who has been contacted, is unacceptable. Mr. Livingston pledged his and the Agency's commitment to work diligently to stop this activity. He noted that only a few of the Agency's staff violate policy and state law, which risks the security of their peers as well as themselves by bringing contraband into the prison system. Mr. Livingston stated that out of the vast number of employees, most are hard working and dedicated public servants, doing a job that is so critical to the public's safety. Remarking that most prison systems in the United States have contraband issues such as cell phones, Mr. Livingston stated his determination to stop this activity in the Texas prison system. He reported that under the direction of the Governor, the prison system was locked down and each facility underwent the shakedown procedure. This shakedown was different from the biennial shakedowns because all the prisons were on lockdown at the same time. Additionally, all individuals entering a unit must submit to metal detection searches and pat searches. A number of contraband items were found, notably 132 cell phones, 118 chargers, 183 shanks or weapons and a number of other common types of contraband. Mr. Livingston stated that these numbers were too high, stressing there will be zero tolerance for contraband. The information gathered during the shakedown pointed out that the concentration of certain contraband was on only a few units. This has helped Agency staff prioritize where additional resources should be placed. The Agency has requested and received assistance, in terms of the Office of Inspector General (OIG) using cell phone detecting equipment from the Department of Public Safety. TDCJ is working with the Attorney General's Office and the Federal Communications Commission (FCC) with respect to cell phone jamming technology. Six (6) dogs were purchased for training in cell phone detection. Mr. Livingston advised the Board that cell phone jamming seems to be viable. The Agency will continue to work with the FCC, Congress and others to help find a legislative solution to authorize states to utilize this technology to render cell phones useless in the prison system.

Mr. Livingston noted that the Legislative Appropriations Request contains an exceptional item request for \$30 million for security enhancements specifically targeted for contraband screening. TDCJ is seeking those funds immediately as opposed to seeking those funds through the ordinary budget process. He stated that TDCJ would seek an additional \$36 million for video surveillance equipment for installation throughout the prison system. Mr. Livingston advised that later on the agenda an item to be presented by the Chief Financial Officer would outline the necessary approvals that the Board must take before this request is submitted to the Office of the Governor and the Legislative Budget Board (LBB). The first \$10.5 million would provide contraband and personnel screening as appropriate to the type of unit, such as walk through detectors, parcel screening X-ray machines, and ingress/egress video surveillance system wide. It would also provide funding for two (2) mobile contraband screening units and a complete video surveillance system for the Polunsky Unit. The next funding item (\$18.9 million) is to provide comprehensive surveillance equipment at the other 19 maximum-security units. These two (2) funding items will close out the first request for \$30 million. The funding request for \$36 million will be utilized to provide video surveillance systems to the remaining units. Mr. Livingston expressed his confidence that these measures will place TDCJ ahead of the contraband issue in addition to providing better security with respect to offenders, staff and the general public at large.

## **Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC) Correctional Managed Health Care, 4<sup>th</sup> Quarter FY 2008 Financial Report**

David McNutt, CMHCC Chief Financial Officer, provided an overview of the 4<sup>th</sup> Quarter FY 2008 Financial Report. Mr. McNutt stated that copies of all reports could be found on the CMHCC website. The population indicators remained stable throughout the quarter; however, the 55+ offender population continues to increase as discussed in previous meetings. The HIV population has remained stable over the past two (2) years. Mental health care population remained stable as well. Mr. McNutt stated that the overall health care costs for the 4<sup>th</sup> Quarter are \$477.5 million, which is \$14.7 million above the overall revenues earned by the university providers. The University of Texas Medical Branch (UTMB) total revenue through the quarter was \$366.3 million. Their expenditures totaled \$381 million for a net loss of \$14.7 million. On offender per day

basis, UTMB earned \$8.30 in revenue and expended \$8.63 resulting in a loss of \$.33 per day per offender. The Texas Tech University Health Sciences (TTUHSC) revenue through the quarter was \$96.5 million (round figures). Expenditures totaled \$96.5 million (round figures), which resulted in a net gain of \$39,296. On offender per day basis, TTUHSC earned \$8.49 and expended \$8.49 per day. The total cost per offender through the quarter was \$8.60 per day, compared to the prior four (4) year average of \$7.56. For UTMB the cost per day per offender was \$8.63, which was slightly higher than the cost per day for the last four (4) years (\$7.67). For TTUHSC the cost per day per offender was \$8.49, which was significantly higher than the cost per day over the last four (4) years (\$7.18).

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

Dee Wilson, Director of the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), recognized Judy Briscoe, former Chairman of ACOOMMI, for her association with TCOOMMI over the past 20 years. Ms. Wilson noted that Ms. Briscoe has been a tireless champion for offenders with mental illness and other special needs. She then presented Ms. Briscoe with a plaque honoring her extraordinary service and dedication to TCOOMMI. Ms. Briscoe thanked the Board members for their support, stating that she had enjoyed reporting to them. She also noted that correctional people were the hardest working, dedicated professionals that one could ever meet. Ms. Briscoe said it had been her pleasure working with the Board and the Agency staff.

Ms. Wilson introduced John Bradley as the newly appointed Chairman of ACOOMMI. Mr. Bradley acknowledged that as the District Attorney of Williamson County, the notion in Williamson County was to be tough on crime and prosecute offenders as severely as possible. He stated that after becoming better informed, he realized that certain populations in Texas should not be treated or prosecuted to the extent of the law. Through many intervention devices for individuals who were medically or mentally impaired, Williamson County began to realize a savings of significant dollars locally and has had better outcomes. Mr. Bradley related that through his experience as an ACOOMMI member, he has learned valuable information about the TCOOMMI eligible offender population. He stated that Ms. Briscoe has laid tremendous groundwork as the Chair of ACOOMMI and thanked the Board for inviting him to the meeting.

Chairman Bell thanked Mr. Bradley for attending the meeting. He praised Ms. Briscoe for her support and leadership.

### **Report from the Chairman, TBCJ**

The following are highlights of Chairman Bell's report:

*Board Visitation Initiative:* The Board Visitation Initiative includes CID facilities, Parole Division offices and facilities, and Community Supervision and Corrections Departments (CSCD). To date Board members have visited 51 separate CID facilities, five (5) Parole Offices and five (5) CSCDs. The Board has learned the different areas of the business of corrections. Chairman Bell noted the commitment demonstrated by employees in each facet of the criminal justice system by the way they work with the 750,000 individuals under supervision.

*Contraband Activity:* Chairman Bell emphasized that beyond zero tolerance, the Board's goal is to find contraband wherever it may be. The ultimate goal is to stop contraband at the perimeter. The Board is committed to doing everything that is legal to stop this contraband activity. He stressed that the Board is very serious about pursuing participants in contraband activity and later in this meeting will address authorizing the request for \$66 million to increase security in TDCJ facilities. More than 90% of the contraband activity is at less than 20% of TDCJ facilities, and those facilities will receive special attention. Chairman Bell noted that in over half of the facilities, no contraband was found. If TDCJ employees are involved in contraband activity, they will be found and prosecuted, offenders will as well. Chairman Bell stressed that the majority of TDCJ's employees are not participating in this activity. He gave examples of how outside influences bring in contraband, which is a business for many people not connected with TDCJ. Chairman Bell stated that the State of Texas will prosecute any outside influences involved in contraband activity. He noted that contraband activity has never been higher than it is today. The Board and Agency staff will continue to watch and remain vigilant. Chairman Bell emphasized that the Board and Agency will do every legal measure available to stop contraband. He stressed that the Board and staff will not break the law while enforcing the law.

*Training Initiatives:* Chairman Bell praised the leadership team assembled by Mr. Livingston and noted that he believes the Wardens, senior staff and executive staff are the best that the Agency has ever had. Executive staff continues efforts to upgrade the competence of correctional officers. The training initiatives such as edge weapons training, uniform professionalism and complaisance in corrections are offered for all correctional staff to improve performance. The Board is committed to training programs such as these.

*Correctional Staffing Initiative:* Chairman Bell reported the correctional staffing initiative for increased pay for Correctional Officers (CO) I and II has affected the TDCJ staffing vacancies. Before the increased pay for entry positions, 3,900 vacancies had been reported. As of October 2008, 2,700 vacancies were reported. Chairman Bell noted that the Agency stands now at 89.6% employment rate. He recognized Mr. Livingston's initiative has positively affected the recruitment and retention areas, and enhanced other areas throughout the prisons system. One (1) of the Board's highest priorities throughout the legislative session will be the CO pay proposal. Chairman Bell expressed his hope that the state leadership will look favorably on that request, which will help strengthen the body of correctional staff.

### **Internal Audit Status Report for Fiscal Year 2008 and Fiscal Year 2009**

Raymond Pyeatt, Director for the Internal Audit Division, provided a status update for FY 2008 and FY 2009. The following are highlights of Mr. Pyeatt's report:

#### **FY 2008**

- **0802 - Information Technology Division, Offender Information Management System:** The final report was issued on October 31, 2008.
- **0803 - Information Technology Division, Corrections Tracking System, Community Justice Assistance Division, Community Supervision Tracking System:** The final report was issued on October 31, 2008.
- **0804 - Rehabilitation and Reentry Programs Division, Rehabilitation Tier Placement, Serious and Violent Offender Reentry Initiative:** The report is being written. The completion date has been revised by two (2) weeks because staff have been shifted to Audit 0901 - Unit Entry Procedures Review as part of the contraband effort.
- **0806 - Correctional Institutions Division, Warehouse/Armory:** The report is being written. The loss of the audit manager has impacted this audit as well as several others.
- **0809 - Correctional Institutions Division, Security Threat Group Management Office:** The exit conference was held November 24, 2008. Responses have been received and are under review.
- **0813 - Correctional Institutions Division, Office of Disciplinary Coordination, Counsel Substitute Program:** The proposed final report has been sent to the Chief of Staff for review. An exit conference with the Executive Director is pending.
- **0814 - Correctional Institutions Division, Bench Warrants:** The draft report was issued on November 17, 2008. An exit conference is pending.
- **0818 - Facilities Division, Environmental Branch:** The proposed final report was sent to the Chief of Staff for review on November 25, 2008. An exit conference with the Executive Director is pending.
- **0819 - Manufacturing and Logistics Division, Warehousing and Supply:** The draft report was issued on November 25, 2008. An exit conference is pending.
- **0820 - Parole Division, Sex Offender Registration:** The proposed final report was sent to the Chief of Staff for review on November 26, 2008. An exit conference with the Executive Director is pending.
- **0821 - Administrative Review and Risk Management Division, Use of Force:** The draft report was issued on November 25, 2008. An exit conference is pending.

#### **FY 2009**

- **0901 - Correctional Institutions Division, Unit Entry Procedures:** The audit is in fieldwork. A draft report should be available in January 2009.
- **0903 - Facilities Division, Maintenance:** The audit is in control assessment.
- **0904 - Victim Services Division, Victim Notification System/Victim Information and Notification Everyday:** The audit was assigned on December 1, 2008, as scheduled. Background information is being gathered.
- **0906 - Human Resources Division, Application Processing:** The audit was assigned on December 1, 2008. Background information is being gathered.

- **0907 – Business and Finance Division, Contracts and Procurement Department:** The audit is in control assessment. The draft report should be issued mid-January 2009.
- **0913 – Manufacturing and Logistics Division, Texas Correctional Industries, Graphics Division:** The assignment of the audit has been delayed until the end of December 2008.
- **0919 – Parole Division, Client Supervision:** The audit should be assigned by mid-December.
- **0920 – Correctional Institutions Division, State Ready Section:** The audit is in fieldwork, which should be finished by the end of December 2008.
- **0924 – Correctional Institutions Division, Correctional Officer Retention:** This audit is a consultation regarding Correctional Officer Retention. Two (2) meetings have been held to discuss reason for the high turnover rate for correctional officers. A third meeting is scheduled, which delays the completion date of the report.

**Discussion, Consideration and Possible Action Regarding Purchases and Contracts**

**Over One (1) Million Dollars**

**APPROVED**

Jerry McGinty, Chief Financial Officer, reviewed the two (2) contracts over one (1) million dollars. The first item is the Calendar Year 2010 utility contract for electricity, to provide electrical service to 48 units through a competitive contract. He requested a 25% variance because of the volatile utility market. The second item is the outpatient substance abuse treatment services to be provided by the Dallas County CSCD at an amount not to exceed \$2,761,366. This contract is for a 12-month period to provide the aftercare portion for those offenders being released to Dallas County from the Substance Abuse Felony Punishment Program.

**Discussion, Consideration and Possible Action Regarding the Capital Expenditure**

**Authority Request**

**APPROVE**

**D**

Mr. McGinty explained the process of the Capital Expenditure Authority Request. Article IX of the General Appropriations Act requires that any agency requesting to exceed its capital limitation must process a formal request along with the justification for the request to the LBB and the Office of the Governor.

Chairman Bell asked if there were any questions. Mr. Nelson asked if the request was for immediate funding. Chairman Bell explained that in the Legislative Appropriations Request (LAR) for FY 2010, the Agency had requested \$30 million. The request includes that \$30 million as well as an additional \$36 million to purchase surveillance equipment as an immediate add on request. Mr. McGinty noted that the request is a supplemental funding request for FY 2009, which is asking for the authority to spend that \$66 million in FY 2009, immediately upon approval.

**Discussion, Consideration and Possible Action Regarding Annual Review of Board Policy,**

**BP-14.01, "Texas Department of Criminal Justice Investment Policy"**

**and Resolution Adopting the Investment Policy**

**APPROVE**

**D**

Mr. McGinty explained that the Board has to review the Investment Policy annually in accordance with the *Public Funds Investment Act*. No substantive changes were made to the policy. Mr. McGinty recommended that the Board approve the revised policy and Resolution adopting the policy.

**Discussion, Consideration and Possible Action Regarding Annual Review of Administrative Directive, AD-**

**04.80, "Good Conduct Time"**

Melinda Bozarth, General Counsel, explained that state law requires the Board to review this directive, concerning Good Conduct Time, on an annual basis. Staff has no recommended changes to the directive at this time. She noted that the fact that the directive was placed on the agenda and the Board received a copy of the directive reflects compliance with the state law requirement. No official Board action is required.

**Discussion, Consideration and Possible Action Regarding Proposed Revisions to Personnel Directive, to Personnel Directive, PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees"**

*APPROVE*

*D*

Ms. Bozarth provided the following highlights of revisions to the directive:

- The Applicability Section has been revised to include employees attending the Office of the Inspector General (OIG) Training Academy, among those exempt from provisions of the policy.
- A definition of technical supervision has been added.
- In Section 10, 2(b), a revision has been made to clarify the role of the General Counsel when reviewing a recommendation for termination.
- Rule 14 has been changed to include "offensive gestures."
- Rule 42 has been revised to clarify employees must notify the Agency of any changes in an offender relationship, including changes based on legal requirements such as custody or visitation rights.
- Rule 45 has been revised to clarify an employee gives implied consent to a search of his/her person or belongings while on state property.

**Discussion, Consideration and Possible Action Regarding Proposed Revisions to Board Policy, BP-01.01, "Texas Board of Criminal Justice Responsibilities"**

*APPROVE*

*D*

Ms. Bozarth noted the substantive revision of the policy is the deletion of B.17, approving multiple employment authorizations. Ms. Bozarth stated that state law does not require a governing board to approve these types of employments. With revisions to PD-81, "Multiple Employments with the State," this area of responsibility has been shifted to the Human Resources Director.

**Discussion, Consideration and Possible Action Regarding Repeal of Board Policy, BP-14.67, "Purchasing and Contracting with Historically Underutilized Businesses"**

*APPROVE*

*D*

Ms. Bozarth stated that the state law requires this policy to be established as a rule. She noted that later on the agenda the Board would adopt the required rule and as such, recommended the Board repeal the policy.

**Discussion, Consideration and Possible Action Regarding Repeal of Board Rule §151.53, Multiple Employments with the State (37 TAC §151.53)**

*APPROVE*

*D*

Ms. Bozarth stated that as state law does not require a governing board to approve multiple employment authorizations, she recommended that the rule be repealed. The Board approved the publication of the rule in the August 20, 2008, issue of the Texas Register. No comments were received.

**Discussion, Consideration and Possible Action Regarding Adoption of New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)**

*APPROVE*

D

Ms. Bozarth noted that the new Board Rule 151.77, Purchasing and Contracting with Historically Underutilized Businesses (HUB) was published in the October 10, 2008, issue of the Texas Register. The purpose of the rule is to adopt the Texas Comptroller of Public Accounts rules related to the HUB program as required by law. Ms. Bozarth noted no comments were received and recommended that the Board adopt the new rule.

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

**1. §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (37 TAC §151.51)**

*APPROVED*

Ms. Bozarth stated that §151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines was published in the August 29, 2008, issue of the Texas Register. As no comments were received during the 30-day comment period, Ms. Bozarth recommended the Board adopt the rule as published.

**2. §155.21, Naming of a Texas Department of Criminal Justice Owned Facility (37 TAC §155.21)**

*APPROVED*

Ms. Bozarth states that §155.21, Naming of a Texas Department of Criminal Justice Owned Facility was approved for publication in the August 29, 2008, issue of the Texas Register. As no comments were received during the 30-day comment period, she recommended the Board adopt the amended rule as published.

**3. §159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding (37 TAC §159.9)**

*APPROVED*

Summary of Minutes, Board Meeting No. 140

Page 7 of 9

Ms. Bozarth stated that §159.9, Firearms Proficiency Training for Supervision Officers/ Memorandum of Understanding was published in the August 29, 2008, issue of the Texas Register for public comment. No comments were received during the 30-day comment period. Ms. Bozarth recommended the Board adopt the rule as published.

**Discussion, Consideration and Possible Action Regarding Proposed New Board Rule §195.41, Community Residential Facilities (37 TAC §195.41)**

*APPROVED*

Ms. Bozarth noted that state law requires the Board to adopt standards that govern community residential facilities. Board Rule 195.41, Community Residential Facilities is a new rule modeled after Board Rule 163.39, which governs community corrections facilities for probationers. Ms. Bozarth requested the new rule be published in the Texas Register for public comment.

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

Ms. Bozarth noted that state law requires a governing body to review board rules every four (4) years to determine if the rule remains applicable. Board Rule 151.8 as well as the two (2) following rules are brought forth as a part of this requirement.

**1. §151.8, Advisory Committees (37 TAC §151.8)**

*APPROVED*

The proposed amendments to §151.8 improve clarity and conform language to existing organizational structure and Texas statute.

**2. §151.75, Standards of Conduct for Financial Advisors (37 TAC §151.75)**

*APPROVED*

The proposed amendments improve clarity and ensure service providers follow the same standards set for financial advisors.

**3. §161.21, Role of the Judicial Advisory Council (37 TAC §161.21)**

***APPROVED***

The proposed amendments improve clarity and incorporates state law requirements in Section (b)(2) regarding presentations to the Board by the Judicial Advisory Council.

**Discussion, Consideration and Possible Action Regarding Land Transactions**

**1. Request for Transfer of the Marlin Veterans Affairs Hospital from the United States of America, Department of Veteran Affairs**

***APPROVED***

Mr. McGinty noted the Facilities Division and the Office of the General Counsel have negotiated the transfer of the facility from the federal government. Mr. McGinty also noted funding for renovations to the facility is included in the FY 2010-2011 LAR. These renovations will allow the facility to be utilized as a psychiatric/medical facility housing approximately 300-350 offenders.

**2. Request for Sanitary Sewer Easement on the Clements and Neal Units in Potter County, Amarillo, Texas**

***APPROVED***

C. F. Hazlewood, Director of Agribusiness, Land and Minerals, recommended that the Board approve the request for a sanitary sewer easement on the Clements and Neal Units in Potter County, Amarillo, Texas, as discussed during the meeting of the Business and Financial Operations Committee on December 2, 2008. Mr. Hazlewood noted a change in the provided documentation to include an addition in the amount of \$3,190.67.

**Discussion, Consideration and Possible Action Regarding Facilities Division Construction Projects**

**1. Request for Approval to Replace Chillers and Heating, Air Conditioning (HVAC) System Controls at the Jester IV Unit in Fort Bend County, Richmond, Texas**

***APPROVED***

Frank Inmon, Director, Facilities Division, requested that the Board approve the replacement of chillers and heating, ventilation and air conditioning (HVAC) system controls at the Jester IV Unit in Fort Bend County, Richmond, Texas, as presented at the meeting of the Business and Financial Operations Committee on December 2, 2008. The total project amount requested was \$4,554,000.

**2. Request for Approval to Repair/Replace Fire Alarm System at the McConnell Unit in Bee County, Beeville, Texas**

***APPROVED***

Mr. Inmon requested that the Board approve the repair or replacement of the fire alarm system at the McConnell Unit in Bee County, Beeville, Texas, as presented at the meeting of the Business and Financial Operations Committee on December 2, 2008. The total project amount requested was \$1,711,000.

Chairman Bell asked if there were any comments or questions. Mr. McCombs commended Mr. Inmon and the Facilities Division staff for developing a standardized report for tracking major construction projects.

Chairman Bell thanked everyone for attending the meeting, extended holiday greetings and announced that the next meeting of the Board would be Friday, February 13, 2009, at the Holiday Inn on Town Lake in Austin, Texas.

**Adjournment**

There being no further business, Chairman Bell adjourned the regular session of the 140<sup>th</sup> meeting of the Board at 10:50 a.m.

