

Texas Board of Criminal Justice
157th Meeting



Minutes

October 14, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Doubletree Hotel – Phoenix South
6505 North IH-35
Austin, Texas 78752**

**October 14, 2011
2:30 PM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 156th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Texas BPP

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Introduction of the JAC Members
2. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting
3. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”
4. Planned SKILLS Conference Webinars
5. Planned Regional Sentencing Conference Meetings

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

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

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

- H. Report from the Chairman, TBCJ
 - 1. Review of Alternatives for Providing Offender Health Care
 - 2. Standards of Ethics and Integrity
 - 3. Chairman's Fitness Challenge
- I. Internal Audit Status Reports for Fiscal Years 2011 and 2012
- J. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- K. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders Memorandum of Understanding
- L. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas
 - 2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
 - 3. Request Sale of 2,200 Acres at the Ramsey Unit in Brazoria County, Rosharon, Texas

Adjourn 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. 157

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, October 14, 2011, at 12:57 p.m. at the Doubletree Hotel in Austin, Texas. The meeting adjourned immediately into executive session, reconvened in regular session at 2:59 p.m., adjourned into executive session at 3:40 p.m. The board finally adjourned at 4:24 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Melinda Bozarth Jerry McGinty
Rudolph Brothers Susan McHenry
Matt Demny Ron Steffa
Jackie Edwards Rick Thaler
Scott Hornung Carey Welebob
Frank Inmon Dee Wilson
Stuart Jenkins
Sherry Koenig
Lannette Linthicum, M.D.
Michelle Lyons

OTHERS PRESENT:

Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; Chloe Lieberknecht, Sunset Advisory Commission; the Honorable Dale Spurgin, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 157th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, October 14, 2011, at 12:57 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session, which is closed in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene the Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 157th meeting of the TBCJ on Friday October 14, 2011, at 2:59 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Office of the Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; and Chloe Lieberknecht and staff from the Sunset Advisory Commission, thanking them for their interest in the board.

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." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics during the meeting.

Recognitions

Chairman Bell recognized John Moriarty, former Inspector General, on his retirement after serving the state of Texas for 22 years. Chairman Bell highlighted Mr. Moriarty's illustrious career in law enforcement and thanked him for his years of service. On the board's behalf, he presented Mr. Moriarty with a Resolution of Commendation. Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ) commended Mr. Moriarty for his years of excellence in the field of law enforcement and his contributions to the agency. Mr. Moriarty thanked the board and Mr. Livingston for the gracious words. He related it had been his pleasure to work for the board, whose support made his job easier. Applause followed and photographs were taken.

Chairman Bell recognized Kim Vernon, former Director of State Counsel for Offenders (SCFO), on her retirement after serving the state of Texas for 20 years. He highlighted Ms. Vernon's career with the Board of Pardons and Paroles (BPP) and TDCJ noting her excellent legal and managerial skills. Mr. Livingston expressed his sincere appreciation for Ms. Vernon's service as the Director of SCFO, recognizing that through her efforts SCFO is a model department within

the agency. Ms. Vernon thanked the board and Mr. Livingston for their support, saying it was a pleasure and honor to serve and work with them. Chairman Bell presented Ms. Vernon with a Resolution of Commendation. Applause followed and photographs were taken.

Mr. Livingston recognized and presented Dr. Lannette Linthicum, Director of Health Services, with her 25-year state of Texas Service Award.

Chairman Bell recognized and presented Ralph Bales, Prison Rape Elimination Act (PREA) Ombudsman, with his 25-year state of Texas Service Award.

Chairman Bell presented Scott Hornung, Internal Audit Director, and Rudolph Brothers, SCFO Director, with their director's badges.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of August and September 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

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

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 156th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed Consent Items as presented. David Nelson proposed pulling Item 1 Hazardous Duty Pay Authorizations for discussion following the approval of the other Consent Items. Chairman Bell asked if there was a specific area with regard to that topic for discussion. Mr. Nelson responded the designation of the positions entitled to hazardous duty pay. Eric Gambrell called the amendment on the floor to question. He noted that the item, which was posted as a Consent Item, might have to be posted as a regular item at a separate meeting as opposed to adding it to the current schedule. Chairman Bell deferred to Melinda Bozarth, TDCJ General Counsel, for procedural advice. Ms. Bozarth recommended the Hazardous Duty Pay Authorizations be removed from the Consent Items and delayed until a future meeting where it can be posted for discussion.

Mr. Gambrell suggested language for a motion removing the Hazardous Duty Pay Authorization Requests from the Consent Items. Mr. Nelson concurred with the suggestion. Chairman Bell called for a motion and a second.

Mr. Nelson made a motion that the Hazardous Duty Pay Authorizations Requests be removed for consideration from the Consent Items.

Janice Lord seconded the motion. The motion failed when called to a vote (three nays, two yeas, and two abstaining).

Chairman Bell explained that the format for the action on the floor should have been an objection to Item 1; therefore, the Consent Items stand approved with the exception of the Hazardous Duty Pay Authorizations, which will be revisited.

**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)

The Honorable Mary Anne Bramblett, Chairman of the JAC, had no report.

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

Brad Livingston, TDCJ Executive Director, had no report.

**Report from the Executive Director,
Correctional Managed Health Care Committee (CMHCC)**

The Honorable Allen Hightower, Executive Director of the CMHCC, had no report.

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

John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Review of Alternatives for Providing Offender Health Care

Chairman Bell stated that with the legislative changes to the CMHCC functions, contracting responsibilities have been transferred to the TDCJ. TDCJ staff is working to secure health care services that meet the biennial funding reductions and all of the operational requirements mandated by the legislature. To date, efforts have included obtaining interim agreements with the two current university providers; negotiations with the current university providers to potentially continue all or a portion of their current service; reaching out to and meeting with other university providers to determine their interest in providing services; and having discussion with several local hospitals where there are clusters of TDCJ units to determine the hospitals' ability to expand their current services level.

The University of Texas Medical Branch (UTMB) requested a meeting with representatives of the LBB to discuss additional funding for offender health care as well as the potential for UTMB to transition out of the health care delivery partnership with TDCJ. Agency staff is working to facilitate the LBB meeting. Chairman Bell expressed his confidence that in the event a transition plan must be implemented, TDCJ and UTMB will work together to phase out the university's participation in such a way it would not negatively impact the delivery of health care to the offender population. Dr. Linthicum will provide the Health Care Committee an update at the December board meeting. Chairman Bell thanked Mr. Livingston, Dr. Linthicum, and all of their staff for their hard work. He conveyed the board's confidence that at the end of this process everyone will be proud of the resulting offender health care model.

2. Standards of Ethics and Integrity

Chairman Bell reviewed the standards for ethics and integrity, noting that the board and senior staff continue to emphasize the TDCJ's public integrity initiatives. He acknowledged that the overwhelming majority of TDCJ staff meet and exceed these expectations while only a handful of employees continue to test TDCJ's resolve. The TDCJ goal is to be the best correctional system in the nation. Chairman Bell thanked those individuals who are walking the right path. He reminded those individuals who continue to challenge their peers and leadership that the Office of the Inspector General is vigilant. Chairman Bell emphasized the importance of ethics and integrity in the criminal justice arena, whose employees as public servants must be beyond reproach, or they can negatively impact the safety of fellow employees, the offenders, and the citizens of Texas.

3. Chairman's Fitness Challenge

Chairman Bell announced that the Fiscal Year (FY) 2012 Chairman's Fitness Challenge will have an Olympic theme to complement the new statewide fitness incentive "Get Fit Texas State Agency Challenge." The first quarter of the Chairman's Fitness Challenge will be "Training for the Gold," a five-week event designed to encourage employees to engage in physical fitness activities and promote team participation. Top leaders in each division will be awarded gold,

silver, and bronze medals. Registration for the first quarter will begin October 24, 2011, with the challenge commencing on October 31, 2011.

Internal Audit Status Reports for Fiscal Years 2011 and 2012

Mr. Hornung provided the following revisions to the handout of the Internal Audit Status Report for the Fiscal Years 2011 and 2012:

- **1115 - Human Resources Division, Correctional Officer Application Processing:** The draft report was issued on October 13, 2011.
- **1116 – Manufacturing and Logistics Division, Freight Transportation:** The draft report was issued on October 13, 2011. An initial exit conference is scheduled for October 26, 2011.

Chairman Bell asked if there were any questions or comments. There were none.

(Attachment B – Internal Audit Status Reports for Fiscal Years 2011 and 2012)

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, which include increases to existing contracts for the FY 2012-2013 biennium. The first contract increases the services at the halfway house facility in Houston by 81 beds, which are currently being used as part of the aftercare component for the substance abuse and in-prison therapeutic community programs. The second contract increases the services at the halfway house in Austin by 110 beds. The third contract increases the services at a transitional treatment center in Houston by 54 beds, which will be used for residential and outpatient substance abuse treatment.

Chairman Bell asked if there were any questions or comments. Mr. Gambrell stated he wished to abstain from the vote on this item as his firm represents Cornell Companies, Inc. Chairman Bell called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote (Mr. Gambrell abstained).

**Discussion, Consideration, and Possible Action Regarding
Proposed Repeal of Title 37 Texas Administrative Code Section 159.17,
Employment Referral Services for Offenders Memorandum of Understanding**

Ms. Bozarth, TDCJ General Counsel, advised the board that the purpose of the rule's repeal is to rescind the memorandum of understanding between the TDCJ, the Texas Workforce Commission, and the Texas Youth Commission, as there was no funding appropriated for the Project Reintegration of Offenders (Project RIO) by the 82nd Legislature. She requested that the board move forward with the proposed repeal.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Leo Vasquez made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders Memorandum of Understanding, to receive public comment, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

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

1. Request for Pipeline Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, stated the Business and Financial Operational Committee received detailed briefings on the land transactions earlier in the day. He reviewed the request from Chevron Phillips Chemical Company, LP to renew an existing pipeline easement at the Clemens Unit consisting of 2.6425 acres of land being 10 feet in width by 11,510.73 feet (697.62 rods) in length. He noted that the original lease was granted on November 9, 2001. Chevron Phillips Chemical Company, LP has agreed to pay \$244,167 for this easement with a 10-year term.

Chairman Bell asked if there were any comments or questions. Seeing none, he called for a motion and a second.

Terrell McCombs made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Ms. Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Demny presented the request for an easement by Air Products, LLC at the Stiles Unit consisting of 1.22 acres being 15 feet in width by approximately 3,538.51 feet (214.45 rods) for use in the installation of a gas pipeline. The request includes several temporary workspaces totaling 3.85 acres for use during pipeline construction and installation. Air Products, LLC has agreed to pay \$107,740 for this easement with a 10-year term. Mr. Demny noted that the TDCJ has received the most favored nation clause in the contract.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Vasquez seconded the motion, which prevailed unanimously when called to a vote.

3. Request Sale of 2,200 Acres at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny advised the board that House Bill 2004 as passed by the 82nd Legislature directs the TBCJ to sell 2,200 acres located in Brazoria County. Additionally, this legislation requires the sale to exclude the mineral interests in and under the subject property, and the deed to contain a provision reserving the state's interest in and right to remove all minerals in and under the property. Mr. Demny reviewed Texas Government Code §496.0021, which allows the General Land Office to negotiate and close a transaction on behalf of the TBCJ using procedures set forth in the Texas Natural Resources Code §31.158(c). The proceeds from this transaction shall be deposited in the Texas capital trust fund.

Chairman Bell asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve the sale of 2,200 acres at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell announced that the next meeting of the board will be December 9, 2011, at the Crowne Plaza Hotel, in Austin.

Adjournment

At 3:40 p.m., Chairman Bell adjourned the Texas Board of Criminal Justice into executive session, which is closed in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*. The TBCJ finally adjourned at 4:24 p.m.

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Chairman

Secretary

*Signature on file.

Note: Attachments for the approved minutes are available upon request from the Office of Record, Executive Services.