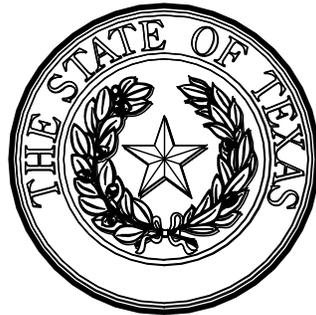


**Texas Board of Criminal Justice**  
*172nd Meeting*



**Minutes**

**April 17, 2014**  
**Austin, Texas**

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**TEXAS BOARD OF CRIMINAL JUSTICE**

**Radisson Hotel & Suites – Riverside South  
111 Cesar Chavez at Congress  
Austin, Texas 78701**

**April 17, 2014  
11:00 AM – 12:00 PM**

**ORDER OF BUSINESS**

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*Call to Order*

*Convene Texas Board of Criminal Justice (TBCJ)*

I. Regular Session

19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony

*Recess*



# MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

## Meeting No. 172

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Thursday, April 17, 2014, at 11:04 a.m. at the Radisson Hotel & Suites, Austin, Texas. The board recessed at 12:10 p.m., reconvened in regular session at 2:22 p.m., and adjourned at 3:25 p.m.

**BOARD MEMBERS PRESENT:** Oliver Bell, Chairman  
Tom Mechler, Vice Chairman  
Judge Larry Gist  
Janice Harris Lord  
Terrell McCombs  
Thomas P. Wingate

**BOARD MEMBERS ABSENT:** Leopoldo (Leo) Vasquez, III, Secretary  
Eric Gambrell  
Carmen Villanueva-Hiles

**TDCJ STAFF PRESENT:** Brad Livingston, Executive Director  
Bryan Collier, Deputy Executive Director  
Mike Bell Sherry Koenig  
Rudolph Brothers Angie McCown  
Jason Clark Jerry McGinty  
Matt Demny Paul Morales  
Marie Freeland Madeline Ortiz  
Patty Garcia Ron Steffa  
Scott Hornung William Stephens  
Sharon Howell Carey Welebob  
Frank Inmon April Zamora  
Stuart Jenkins

**OTHERS PRESENT:** John Newton, Legislative Budget Board (LBB); Rachel Carerra, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

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

Chairman Oliver Bell convened the 172nd meeting of the TBCJ on Thursday, April 17, 2014, at 11:04 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the board would conduct business from the agenda posted in the Texas Register.

## **19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony**

Chairman Bell welcomed all honored guests joining the TBCJ for the 19th Annual Governor's Criminal Justice Volunteer Service Awards Ceremony. He recognized the importance of criminal justice volunteers and their positive impact on the criminal justice system, and read a letter of greeting from the Honorable Rick Perry, Governor of Texas.

Mr. Bell yielded the floor to Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ or agency). Mr. Livingston welcomed the honored guests, and thanked them for their unique partnership with the TDCJ. He stressed that the selected honorees represent a force of more than 21,000 every day heroes who volunteered nearly 460,000 hours of their time this past year. Mr. Livingston gave his personal thanks to all the TDCJ volunteers for their valuable efforts.

Chairman Bell introduced the keynote speaker, the Honorable Cathy Cochran, of the Texas Court of Criminal Appeals. Judge Cochran thanked the board and credited volunteers for making an incredible difference in the criminal justice system. Judge Cochran explained that volunteers work in the redemption business, serving offenders, victims, and their families with restorative justice and rehabilitation programs. She briefly reviewed the history of the TDCJ volunteer services. She also applauded volunteers for their role in reducing recidivism, challenged volunteers to continue their work and thanked them for their commitment.

Chairman Bell thanked Judge Cochran for her remarks and presented her with a chairman's coin as a token of appreciation from the board.

Chairman Bell yielded the floor to Judge Gist, Master of Ceremonies, for the awards ceremony. Judge Gist greeted the audience and stated that the individuals being recognized represent the high caliber of volunteers who make a difference in the lives of those they serve. Volunteers offer a wide range of assistance to offenders by providing programs, which strengthen family relationships, improve life skills, and ensure successful reentry to the community. They also provide inspiration and assistance to TDCJ staff.

Judge Gist also acknowledged the Rehabilitation Programs Division staff and the TBCJ office staff who worked collectively on this ceremony. The following individuals and organizations were recognized:

Barry Brown, *Chaplaincy Department*  
Claude Sumrall, *Correctional Institutions Division*

AIDS Foundation Houston, *Health Services Division*  
Thomas M. Webb, *Nancy Hees Award-Parole Division*  
James McClurkin, *Private Facilities Contract Monitoring/Oversight Division*  
Christ Church United Methodist, *Religious Service*  
John Yaws, *Religious Service*  
Edward S., *Substance Abuse Treatment Program*  
Teresa 'Teri' Darby, *Pathfinder Award-Victim Services Division*  
Literacy Highland Lakes, *Judy Burd Award-Windham School District*  
Michael 'Tac' Buchanan, *Restorative Justice*  
Carla Hooten, *Susan Cranford Award-Female Offender Program*  
"Possum Talks", *Most Innovative Program*  
Terry County Christian Association, *Community Service*  
"My Dad Reads to Me Program," *Best Family Program*  
Ronald Zifer, *Leonard Davis Award for Most Hours Served*  
Jeremy Itz, *Extensive Travel*  
Clint Morris, *TDCJ Employee Volunteer*  
Lloyd Michael Warren, *WSD Employee Volunteer*  
Joe Grimes, *Criminal Justice Administrator*

Judge Gist yielded the floor to Carol Vance, former chairman of the TBCJ, who presented Maxine Young with the *Carol S. Vance Volunteer of the Year Award for 2014*. Following words of enthusiasm for the extraordinary progress of the TDCJ volunteer services program, he highlighted Ms. Young's wide experience with a number of health education and peer led programs, many of which have expanded throughout the TDCJ. After presenting her with the award, he returned the floor to Judge Gist.

Judge Gist thanked all the guests for coming, gave special congratulations to all the winners, and yielded to Chairman Bell, who mentioned the timeliness of the ceremony, as National Volunteers Week occurred April 6-12, 2014. He congratulated the winners once more, thanked all the volunteers, and encouraged the audience to voice their gratitude to each other more often.

There being no further business at this time, Mr. Bell recessed the 172nd meeting of the TBCJ. He advised the board would reconvene in committee meetings and continue with regular business beginning at 1:30 p.m. The time was 12:10 p.m.

*(Attachment A – Program for 19th Annual Governor's Criminal Justice Volunteer Service Awards)*

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**TEXAS BOARD OF CRIMINAL JUSTICE**

**Radisson Hotel & Suites – Riverside South  
111 Cesar Chavez at Congress  
Austin, Texas 78701**

**April 17, 2014  
2:00 – 2:30 PM**

**ORDER OF BUSINESS**

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*Call to Order*

*Reconvene Texas Board of Criminal Justice (TBCJ)*

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-6*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 171st TBCJ Meeting Minutes
5. Excused Absences

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

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2013-2014

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Page 7*)

G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-01.10, "Texas Board of Criminal Justice Recognition Program" (*Pages 8-11*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code (*Pages 12-21*)

1. Section 152.25, Maximum Rated Capacity of Individual Units
2. Section 163.41, Medical and Psychological Information

I. Discussion, Consideration, and Possible Action Regarding a Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas (*Page 22-23*)

*Recess/Adjourn*

*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. 172

The TBCJ reconvened in regular session at 2:22 p.m., at the Radisson Hotel & Suites, Austin, Texas, and adjourned at 3:25 p.m.

**BOARD MEMBERS PRESENT:** Oliver Bell, Chairman  
Tom Mechler, Vice Chairman  
Judge Larry Gist  
Janice Harris Lord  
Terrell McCombs  
Thomas P. Wingate

**BOARD MEMBERS ABSENT:** Leopoldo (Leo) Vasquez, III, Secretary  
Eric Gambrell  
Carmen Villanueva-Hiles

**TDCJ STAFF PRESENT:**

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Stuart Jenkins
Mike Bell	Sherry Koenig
Rudolph Brothers	Angie McCown
Jason Clark	Jerry McGinty
Matt Demny	Paul Morales
Marie Freeland	Ron Steffa
Patty Garcia	William Stephens
Scott Hornung	Carey Welebob
Sharon Howell	April Zamora
Frank Inmon	

**OTHERS PRESENT:** John Newton, LBB; Rachel Carrera, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Representative Ruth Jones McClendon; Tatiana Oria, Office of Representative Toni Rose; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

## **Reconvene Texas Board of Criminal Justice**

Chairman Bell reconvened the regular session of the 172nd meeting of the TBCJ on Thursday, April 17, 2014, at 2:22 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 recognized John Newton and Rachel Carrera, LBB; Jared Staples, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Representative Ruth Jones McClendon, and Tatiana Oria, Office of Representative Toni Rose.

Chairman Bell invited Representative Ruth Jones McClendon to address the board. She shared her concern about the impact of wrongful convictions and juveniles assigned to adult facilities. She acknowledged that neither the board nor TDCJ administrators issue verdicts or determine sentencing; however, she asked them to be a voice. Chairman Bell thanked her for coming, and recognized her staff in the audience.

Mr. Bell stated that the TBCJ is committed to providing the opportunity for public comment and 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 stated that five registration cards had been received for public comment, and the review of the rules for comments to the board would take place before the public comment portion of the meeting.

### **Recognitions**

Chairman Bell gave the floor to Brad Livingston, Executive Director of the TDCJ. Mr. Livingston recognized Mike Bell, TDCJ Information Technology (IT) Division Director, on being named the Texas Chief Information Officer of the Year. Karen Robinson, Director of the Department of Information Resources, presented him with the award in October 2013. Mr. Livingston commended Mike for his energetic, innovative leadership, and for making the most of appropriated resources. He thanked Mr. Livingston, calling attention to the phenomenal support of the IT staff.

Mr. Livingston recognized Paul Morales, upon his promotion to director of the Administrative Review and Risk Management Division. He traced Mr. Morales' years of experience and congratulated him on his new position.

William Stephens, director of the Correctional Institutions Division (CID), recognized Lori Davis, upon her promotion to deputy director of CID Management Operations. He charted her advancement through the correctional structure and welcomed her to his team.

Chairman Bell recognized the TDCJ employees who achieved 25, 30, and 35 plus years of service with the state of Texas during the months of February and March 2014. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees.

## **Consideration of Approval of Consent Items**

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 171st TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell presented the consent items which included excused absences for himself and Judge Gist, both of whom were unable to attend the February 2014 meeting due to personal business. Mr. Bell asked if there were any amendments or objections to the proposed consent items. Seeing none, the consent items were approved as presented.

## **Report from the Executive Director, Texas Department of Criminal Justice (TDCJ) – National Correctional Officers Week**

Mr. Livingston announced that correctional officers will be honored during National Correctional Officers Week, May 4-10, 2014. He explained that correctional officers play a significant role in the safety of citizens, and expressed his appreciation and gratitude. He urged all to join in thanking them for their service. Mr. Livingston said the Annual Fallen Officers Memorial Service will be held in Huntsville on May 8, and that similar memorials to honor those who died in the line of duty, as well as employee appreciation events, will be held throughout the state.

Chairman Bell agreed that our staff does an exceptional job, and wished them days that start safe and end safe.

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

### **National Crime Victims' Rights Week**

Chairman Bell spoke about the week long campaign each April, to promote awareness of victims' rights and to extend compassion to those who have been harmed by crime. This year, during the week of April 6-12, the theme was "30 Years, Restoring the Balance of Justice." He encouraged participation and support in victim related observances throughout the year. He thanked the Victim Services Division for their dedication and work to ensure that every victim has a voice.

## **Internal Audit Status Report for Fiscal Years 2013 – 2014**

Scott Hornung, Director for Internal Audit, provided the following revision to the handout of the April 10, 2014, Internal Audit Status Report for the Fiscal Years (FY) 2013 - 2014:

- **1404 - Information Technology, Data Management – Offender Information Management System:** The status has moved from control assessment to field work.

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

*(Attachment C – Internal Audit Status Report, Fiscal Years 2013-2014)*

**Discussion, Consideration, and Possible Action**  
**Regarding Purchases and Contracts Over \$1 Million**

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He identified the first three items as existing contracts which required an increase in funding. Items 4-16 are FY 2015 purchases, most of which were awarded through the comptroller's office and procured by them on behalf of the agency. Items 4-9 relate to Texas Correctional Industries while the remaining items 10-16 relate to agricultural operations. Mr. McGinty noted some contracts contain a 10% variance to allow for fluctuation in the market, which also allows for menu flexibility in response to changing prices.

Chairman Bell asked if there were questions. Mr. McCombs asked how long increased food prices were expected to continue, asking whether incremental increase should be considered. Mr. McGinty replied that prices were based on commodity, and explained that events such as drought would impact the market.

Chairman Bell added that animal sickness also impacts the price of food, such as a recent disease in swine. Mr. McCombs and Mr. Mechler both commended Mr. McGinty and his staff for their management skills. Seeing no further questions, Chairman Bell called for a motion and a second.

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

*Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.*

*(Attachment D – Purchases and Contracts Over \$1 Million Handout)*

**Discussion, Consideration, and Possible Action**  
**Regarding Proposed Revisions to Board Policy 01.10,**  
**“Texas Board of Criminal Justice Recognition Program”**

Sharon Howell, TDCJ General Counsel, presented the proposed revisions to Board Policy 01.10, noting that changes were grammatical and formatting only.

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

*Judge Thomas P. Wingate moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 01.10, "Texas Board of Criminal Justice Recognition Program," as presented.*

*Ms. Janice Harris Lord seconded the motion which prevailed unanimously when called to a vote.*

## **Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code**

### **1. Section 152.25, Maximum Rated Capacity of Individual Units**

Ms. Howell reported the proposed amendments to 152.25, Maximum Rated Capacity of Individual Units, were necessary to account for changes in law and to update or correct the capacity of certain units. The amendments did not result in any change in capacity. Ms. Howell recommended publication in the Texas Register for public comment.

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

*Ms. Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 152.25, regarding Maximum Rated Capacity of Individual Units to receive public comment, as presented.*

*Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.*

### **2. Section 163.41, Medical and Psychological Information**

Ms. Howell presented the proposed amendments to 163.41, Medical and Psychological Information, stating this is a Community Justice Assistance Division standard which the board promulgates by rule. Amendments clarify existing practice and how the rule conforms to statutory requirements. She recommended publication in the Texas Register for public comment.

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

*Judge Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 163.41, regarding Medical and Psychological Information to receive public comment, as presented.*

*Ms. Lord seconded the motion which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding  
a Request for Pipeline Easement at the Stiles Unit in  
Jefferson County, Beaumont, Texas**

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request by Air Liquide Large Industries U.S. LP for an easement at the Stiles Unit consisting of two sections with a combined area of 4.21 acres of land for installation of a gas pipeline. The request includes temporary workspace totaling 8.72 acres. Air Liquide Large Industries U.S. LP has agreed to pay \$304,477.00 for this easement with a ten year term.

Chairman Bell asked if there were any questions or comments. Mr. Mechler commented on the substantial monetary benefit of pipeline easements. In response, Mr. Demny credited Mr. Mechler with the idea to include the most favored nation clause in the agreements.

Seeing no further comments, Chairman Bell called for a motion and a second.

*Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.*

*Judge Wingate seconded the motion which prevailed unanimously when called to a vote.*

**Public Comments**

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public comments 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 in accordance with the *Open Meetings Act*. Each speaker was allowed three minutes for remarks.

Karen Damico, widow of Samuel Damico, TDCJ offender #167220, spoke to the board regarding her husband, who passed away before he could receive early medical release. Her family's experience prompted her to start the advocacy group, "Inmate Assistance League." After extensive treatment and expensive testing, UTMB doctors recommended her husband for Medically Recommended Intensive Supervision (MRIS). About a month later, Mr. Damico passed away at the Michael hospice facility, before his MRIS release could be processed. Ms. Damico complained that some unit staff did not answer her inquiries and said the MRIS program was under-utilized and inefficient. Chairman Bell thanked Ms. Damico for coming, and asked her to submit further documentation of points in her presentation, so the appropriate staff could review and respond to her in writing.

Linda Pugh, an advocate with the "Inmate Assistance League," stated that she was working to abolish bad medical practices and experimental medicine on Texas prisoners. She suggested higher salaries for correctional officers and a higher standard of medical care for Texas prisoners. She reported that at one particular unit, the UTMB staff members told offenders that any 'as needed' medications will be administered as if they were scheduled medications. Chairman Bell invited her to provide documentation for her concerns, for review by the board.

Pat Hartwell, member of the Texas Death Penalty Abolition Movement, spoke about letters received by the organization. She cited several complaints received about mail room practices impacting death row offender at the Polunsky unit, such as delays in delivery, refusal to deliver mail from someone not on the offender's visiting list, and, final goodbye letters being returned as 'not deliverable, inmate refused' after the offender was executed. Ms. Hartwell said when she called the Polunsky Unit mail room regarding the complaints; she was told the mail is being handled correctly according to TDCJ policy. Chairman Bell asked Ms. Hartwell to provide documentation to the board, so staff could investigate and respond to her.

Angelyn Agapetus addressed the board regarding solitary confinement and the grievance protocol. She submitted research materials to the board regarding the adverse effects of solitary confinement on offenders and staff. She also asked whether the TDCJ removed all mentally ill offenders from administrative segregation in 2002. In regards to the grievance protocol, she voiced concern about extended waiting times for offenders who file a grievance, particularly for those on death row. She added her objection to cell restriction and commissary restriction for offenders on death watch. Chairman Bell asked her to provide any additional information to the board for their review.

Cindy Eigler, policy specialist at the "Texas Inter Faith Center for Public Policy," addressed the board on behalf of the faith community, regarding the TDCJ Death Row Plan. She said members of the center had sent letters to the TDCJ and the board, requesting that the department implement a formal classification system enabling the men on death row to work toward increasing privileges based on good behavior. The letters also included a request to move toward practices that recognize the inherent dignity and worth of all people. She said they believe their suggestions will enhance rather than compromise security. Ms. Eigler thanked Chairman Bell and the board for the opportunity to speak. Chairman Bell thanked her, and asked her to submit documentation of her presentation for review by the board.

Chairman Bell thanked all speakers for their comments, and invited them to submit any documentation of information they shared, in order to allow proper investigation. To obtain written response, he asked they leave their contact information with staff at the reception table outside of the meeting room.

Chairman Bell thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, June 5, 2014, at the DoubleTree Hotel in Austin.

### **Adjournment**

There being no further business for the regular session, Chairman Bell adjourned the 172nd meeting of the Texas Board of Criminal Justice at 3:25 p.m.

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Chairman

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\_\_\_\_\_  
Secretary

*\*Signature on file. Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.*