

Texas Board of Criminal Justice
179th Meeting



Minutes

June 10, 2015
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Wyndham Garden Hotel – Highland Lakes Ballroom
3401 South IH-35
Austin, Texas 78741

June 10, 2015
12:45 – 1:15 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 178th 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 2014 – 2015

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

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

1. 151.25, Texas Department of Criminal Justice Tobacco Policy
2. 151.75, Standards of Conduct for Financial Advisors
3. 154.1-.12, Private Sector Prison Industries Programs

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-02.09, “Prison Rape Elimination Act Ombudsman Policy Statement”

I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Water Pipeline Easement at the Briscoe Unit in Frio County, Dilley, Texas
2. Request for Valve Site Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

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. 179

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Wednesday, June 10, 2015, at 1:10 p.m. at the Wyndham Garden Hotel, Austin, Texas. The board adjourned at 2:09 p.m.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Terrell McCombs, Vice-Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Carmen Villanueva-Hiles
Janice Harris Lord
Larry Miles
Thomas P. Wingate

BOARD MEMBER ABSENT: Judge Larry Gist

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Rudolph Brothers Angie McCown
Christopher Cirrito Jerry McGinty
Jason Clark Oscar Mendoza
Matt Demny Paul Morales
Marie Freeland Ron Steffa
Sharon Howell Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora
Bobby Lumpkin

OTHERS PRESENT: Libby Elliott, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 179th meeting of the TBCJ on Wednesday, June 10, 2015, at 1:10 p.m. He noted a quorum was present, declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He added that during the regular session, the board would conduct business from the agenda posted in the *Texas Register*.

Chairman Bell recognized Libby Elliott, Office of the Governor; The Honorable Judge Dale Spurgin, Jones County; Mario Cicconetti, Office of Senator Joan Huffman; Dr. Clint Carpenter, Superintendent of Windham School District; and members of the media.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Chairman Bell recognized Andrea Richardson as the 2015 recipient of the *Promotion of Positive (POP) Mental Health Initiatives Award*. On behalf of the Texas Department of Criminal Justice (TDCJ or agency), April Zamora, Reentry and Integration Division Director, introduced Ms. Richardson, of the Bluebonnet Trails Community Service Center. Ms. Richardson introduced her staff, and thanked the board for the honor.

Chairman Bell presented Christopher Cirrito with his 20 year service award from the TDCJ. He highlighted Mr. Cirrito's career and commended him for his valuable contributions. Mr. McCombs agreed and acknowledged his splendid leadership as the Internal Audit Division Director. Mr. Cirrito thanked the board.

Chairman Bell recognized the TDCJ employees who have dedicated 25, 30, and 35 plus years of service with the state of Texas during the months of April and May 2015. He noted also Bryan Collier, Deputy Executive Director, obtained 30 years of service with the TDCJ, and had received a special honor prior to the meeting. On behalf of the board and Mr. Livingston, he expressed deepest gratitude for the continued service of these employees.

Chairman Bell announced the May 5th passing of former board member, Patsy Day. He enumerated her contributions to the board, the community, and humanitarian and victims' rights causes, and asked for a moment of silence in her memory.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 178th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments, abstentions, or objections to the proposed consent items. Mr. Gambrell abstained due to his firm's representation of Walmart. Chairman Bell acknowledged the abstention and, seeing no further questions, the consent items stand approved.

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

Summary of the 84th Legislative Session

Mr. Livingston thanked TDCJ staff for their dedication and diligence regarding the 84th Legislative Session, and recognized Bryan Collier, Jerry McGinty, Jeff Baldwin, Sherry Koenig, Gina Sweetin, and Angela Moore, for their loyal and excellent support. He discussed legislative actions pertaining to the TDCJ. House Bill 2, the supplemental appropriations bill, provides additional funding for agencies to meet needs for the current biennium; the TDCJ received \$42.5 million to address the shortfall in correctional managed health care. House Bill 9 provides for the actuarial soundness of the state pension system, and required a 2.5% increase in employee contributions; however, in order to offset the cost, the legislature also passed a 2.5% pay raise for all state employees. Senate Bill 20 addressed contracting challenges, by requiring state agencies to implement a range of accountability procedures, most of which the TDCJ already practices. House Bill 1546 created an additional mechanism for state jail offenders to receive diligent participation credit to offset sentence length. Senate Bill 1697 created an additional exception in the Public Information Act, helping to ensure continued confidentiality regarding certain aspects of the execution process. Senate Bill 746 revised the civil commitment process for violent sex offenders after release, but did not change the TDCJ's role during pre-release, which includes legal representation through the State Counsel for Offenders Division.

The General Appropriations Act granted a remarkable 8% pay raise for correctional officers and parole officers, a significant benefit to the agency for recruiting and retaining front line staff. The TDCJ also received \$60 million for renovation and repair of facilities, \$10 million for comprehensive video surveillance, \$144 million for offender health care operations, including pay raises for health care staff (5% annually for the biennium) and additional direct care medical positions at units. In addition, the TDCJ received \$6 million for the Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI), funding for five additional OIG positions, 50 additional reentry coordinators, 500 additional treatment slots for the DWI program, funding to provide treatment in all the Intermediate Sanction Facility beds, 125 additional halfway house beds, and \$2 million for reentry pilot programs in the Houston and Dallas areas. Community Corrections received funding for health insurance for employees and retirees and \$13 million for probation supervision. Mr. Livingston referred to the Legislative Appropriations Request as previously presented to the TBCJ by Mr. McGinty and expressed thanks to the governor, legislative leadership, and all Texas legislators for their recognition of the importance of the criminal justice system, the treatment program and TDCJ staff.

Chairman Bell asked if there were any questions. Mr. McCombs commended Mr. Livingston and the leadership of the TDCJ for their efforts throughout the 84th Legislative Session. Chairman Bell echoed appreciation for the leadership of TDCJ administrators, the governor and staff, and legislators, for their commitment to public safety and attention to the key fiscal and policy items as presented by Mr. Livingston.

Report from the Chairman, TBCJ

Father's Day – Maintaining Family Ties

Chairman Bell discussed the ways the TDCJ strives to help offenders maintain family ties during incarceration. The TDCJ promotes successful reentry by encouraging and facilitating visitation. Enhanced training regarding visitation is provided for TDCJ staff. Children receive activity sheets, crayons, and books for family members and their children during visits. Also, the website was recently updated to allow friends and family to verify an offender's eligibility for visits prior to making the trip. The website also offers several videos for first time visitors to know what to expect upon arrival. The Day with Dad program continues to provide periodic opportunities for extended visits with children. In addition, the Windham School District offers a parenting and family wellness program which is a communication based interactive program that supports development of healthy family relationships. The GO KIDS Initiative supports the parent child relationship and connects the offender's family with valuable community resources. Chairman Bell wished everyone a happy Fathers' Day.

Pretrial, Probation, and Parole Supervision Week

During the week of July 12-18th, the TDCJ will join with other state and local agencies across the nation in recognizing parole and community supervision officers for their dedication and public service. Probation and parole officers provide guidance and direction for positive behavior, to help individuals help themselves. They accept risk in a challenging work environment, to keep communities safe, promote successful reentry, and provide taxpayers with a cost effective alternative to incarceration. On behalf of the TBCJ, Chairman Bell voiced appreciation of the men and women who supervise offenders in the community, and encouraged their recognition during Pretrial, Probation, and Parole Supervision Week this July.

Internal Audit Status Report for Fiscal Years 2014 – 2015

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the June 2, 2015, Internal Audit Status Report for the Fiscal Years (FY) 2014 - 2015:

- **1414 – Correctional Institutions Division, *Laundry Operations***: Status has moved from report writing to draft report.
- **1510 – Information Technology Division, *Video Conferencing***: Status has moved from background to control assessment.
- **1517 – Correctional Institutions Division, *Heat-Related Precautions***: Status has moved to deferred for future consideration.

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

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2014-2015)

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 presented the list of items, grouped according to similar services or circumstances. Items 1-11 represent FY2014-2015 contracts for TCOOMMI services at various facilities, which received funding for additional services during the 83rd Legislative Session. Item 12 represents an increase of \$186,071.00 for additional cans & lids due to an increase of agricultural production at the Terrell Unit cannery in Rosharon. The comptroller's office procured this contract on behalf of the TDCJ. Likewise, for item 13, the Department of Information Resources procured the AT&T contract for increased services in FY2015. Item 14, a renewal of the contract for bulk fuel, includes a 10% variance to allow for fluctuation in the market. Item 15 renewed the contract with ARAMARK Correctional Services, LLC, to provide food services at the Hamilton Unit. Item 16, a continued inter-local \$1.6 million contract with Harris County, provides food services at the Kegans Unit. Items 17 and 18 list the contracts for FY2016 commissary items for which a 10% variance is provided. Dollar amounts are consistent with FY2015 expected expenditures. Item 19 represents the FY2016 AT&T contract for cellular services. Item 20, an inter-agency contract with the Texas Department of State Health Services, provides services for obtaining offender birth certificates. Items 21-26 represent contract renewals for FY2016 halfway house services. Items 27-35, for Substance Abuse Felony Punishment (SAFP) and In Prison Therapeutic Community (IPTC) services, list the contract renewal amounts by facility, and include three new DWI treatment locations. Item 36 renews the substance abuse treatment contract at five state jails, and items 37-38 represent FY2016-2017 renewals with Management and Training Corporation (MTC) for operation and management of the Bridgeport and Kyle Correctional Centers. Item 39 renews the contract with Gateway Foundation for Substance Abuse Treatment services at the South Texas Intermediate Sanction Facility (ISF) in Houston, and items 40 and 41 renew the contracts with MTC for operations and management of both South Texas ISF and West Texas ISF. Items 42-45 renew contracts with Corrections Corporation of America (CCA) for operations and management of privately operated state jails. Item 46 renews the existing contract services at the pre-parole transfer facility in Bridgeport.

Items 47-69 were the renewal contracts for Transitional Treatment Center (TTC) facilities which provide residential, outpatient, or a combination of services for offenders who received SAFP or IPTC programming prior to release. Mr. McGinty noted many TTC facilities provide the Substance Abuse Counseling Program (SACP) which is also available for parole offenders, for relapse prevention. Item 70 lists the FY2016-2017 \$4 million inter-agency contract to match state Medicaid funds with TCOOMMI services provided at local Mental Health Mental Retardation offices. Item 71 renews the existing inter-agency contract with the Texas General Land Office, for natural gas at 40 TDCJ units.

Mr. McGinty discussed item 72, the contract to install video surveillance at the Robertson and Michael units. Last March, the agency released a Request for Proposals which closed in April, for contracts at two additional units. Staff from the Private Facilities Contract Monitoring and Oversight Division (PFCMOD) and the Correctional Institutions Division (CID) reviewed bids from prospective vendors. Sigma Surveillance was again selected as the best value for the

agency. Items 73-77 represent new contracts for the operation and management of the Moore, Cleveland, Diboll, Estes, and Lockhart units. Since the existing contract was scheduled to expire in August, 2015, with no further renewals contained in the agreement, the TDCJ assembled technical and cost teams from the PFCMOD and CID staff. The teams carefully evaluated prospective vendors and are prepared to award contracts for the five facilities, to MTC at roughly the same, and slightly below, current rates.

Mr. McGinty reviewed FY2016 food purchases. He explained the coordination between agricultural, correctional, laundry and food service, warehousing and transportation, budget and procurement operations of the TDCJ, to estimate food needs for the next year. He noted food items are primarily purchased through the comptroller's office, and that the 10% variance compensates for market fluctuation to allow successful negotiation.

Mr. McCombs and the audience applauded Mr. McGinty for Business and Finance Division's expert negotiations with vendors. Chairman Bell echoed appreciation for a job well done, especially regarding the TDCJ's excellent procurement process, and asked if there were any questions. Mr. Gambrell abstained due to his firm's representation of multiple entities on the list. Mr. Vasquez abstained due to his affiliation with coffee traders. Chairman Bell noted both abstentions and, seeing no further questions, called for a motion and a second.

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

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

Chairman Bell thanked Mr. McGinty for his presentation.

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

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

1. Section 151.25, Texas Department of Criminal Justice Tobacco Policy

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 151.25, Texas Department of Criminal Justice Tobacco Policy. She noted the rule was updated to include vapor products as equivalent to tobacco, the definition of designated areas was specified as 'outdoor,' and roles of authority and responsibility were clarified to protect the comfort and safety of all employees. Ms. Howell requested the board approve the amended rule for publication in the *Texas Register*.

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

Janice Harris Lord moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.25, regarding Texas Department of Criminal Justice Tobacco Policy, to receive public comment, as presented.

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

2. Section 151.75, Standards of Conduct for Financial Advisors

Ms. Howell presented the proposed amendments to BR-151.75, Standards of Conduct for Financial Advisors. She described amendments to the rule as minor formatting only, and asked the board to approve posting in the *Texas Register* for public comment.

Chairman Bell asked if there were questions. Judge Wingate asked if these standards were required in all state offices. Ms. Howell replied yes, and state governing boards are required to adopt the standards.

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

Leo Vasquez moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 151.75, regarding Standards of Conduct for Financial Advisors, to receive public comment, as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

3. Section 154.1-.12, Private Sector Prison Industries Programs

Ms. Howell presented proposed amendments to BR-154.1-.12, Private Sector Prison Industries Programs. She discussed the 12 rules as a group, and explained the TDCJ was required to adopt standards for operation of the Prison Industry Enhancement Certification Program (PIE). She noted formatting changes; for example, all references to the Texas Youth Commission were updated to the Texas Juvenile Justice Department. She requested board approval to post in the *Texas Register*, for public comment

Chairman Bell asked if there were questions. Judge Wingate sought confirmation there were no substantive changes to the rules. Ms. Howell assured him there were none. Janice Harris Lord asked which units currently have the PIE Program. Ms. Howell replied there were two locations for PIE, both at the Lockhart unit.

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

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code sections 154.1-.12, regarding Private Sector Prison Industries Programs, to receive public comment, as presented.

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

Discussion, Consideration, and Possible Action
Regarding Proposed Revisions to Board Policy BP-02.09,
“Prison Rape Elimination Act Ombudsman Policy Statement”

Ms. Howell presented the first revision of BP-02.09, “Prison Rape Elimination Act (PREA) Ombudsman Policy Statement.” She noted the definitions were revised for consistency with the PREA standards. She added there would be no impact on operations, since agency policies were previously updated for compliance with the PREA standards.

Chairman Bell asked if there were questions.

Carmen Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the revisions to Board Policy 02.09, “Prison Rape Elimination Act Ombudsman Policy Statement,” as presented.

Pastor Larry Miles seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked Ms. Howell for her presentations.

Discussion, Consideration, and Possible Action Regarding Proposed
Land Transactions

1. Request for a Water Pipeline Easement at the Briscoe Unit in Frio County, Dilley, Texas

Matt Demny, TDCJ Director of the Agribusiness, Land and Minerals Department, reviewed the request from the city of Dilley, Texas, for an easement allowing one water pipeline at the Briscoe Unit. The city of Dilley agreed to pay \$4,049.00 for an area of 1.437 acres of land, with a 10 year term. Mr. Demny recommended the board approve the request.

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

Judge Thomas Wingate moved the Texas Board of Criminal Justice approve the request for a water pipeline easement at the Briscoe Unit in Frio County, Dilley, Texas, as presented.

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

2. Request for Valve Site Easement at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Demny presented the Phillips 66 Pipeline, LLC request for an easement at the Clemens Unit in Brazoria County, consisting of 0.797 acres of land for road access and a valve site, for \$10,000.00 with a 10-year term. Mr. Demny recommended the board approve the request.

Chairman Bell asked if there were any questions or comments. Eric Gambrell, due to his firm's representation of Phillips 66, abstained from voting. Seeing no further questions, Chairman Bell acknowledged Mr. Gambrell's abstention and called for a motion and a second.

Pastor Larry Miles moved that the Texas Board of Criminal Justice approve the request for a valve site easement at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

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

Chairman Bell thanked Mr. Demny for his presentation.

Chairman Bell thanked everyone for coming, and announced the next meeting of the TBCJ will be Friday, August 7th, 2015, at the Omni Hotel Downtown in Austin.

Adjournment

There being no further business for the regular session, Chairman Bell adjourned the 179th meeting of the Texas Board of Criminal Justice at 2:09 p.m.

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Chairman

Secretary

**Signature on file*

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