

Texas Board of Criminal Justice
188th Meeting



Minutes

October 18, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Embassy Suites Hotel – Longhorn Room, Austin Room
5901 North IH 35
Austin, Texas 78723

October 18, 2016
11:30 AM – 2:00 PM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ) at 11:30 AM for Executive Session

Reconvene TBCJ at 1:00 PM for Regular Session

I. Regular Session – Longhorn Room

A. Recognitions

B. Consideration of Approval of Consent Items (*Pages 1-7*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 187th TBCJ Meeting Minutes
4. Excused Absences

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

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2017

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*Page 8*)

G. 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 (*Pages 9-33*)

H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code (*Pages 34-48*)

1. 151.6, Petition for the Adoption of a Rule
2. 155.21, Naming of a Texas Department of Criminal Justice Owned Facility
3. 161.21, Role of the Judiciary Advisory Council
4. 163.5, Waiver to Standards

- I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 1. Request to Amend Right of Way Easement at the Eastham Unit in Houston County, Lovelady, Texas
(Pages 49-50)
 2. Request for Water Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas
(Pages 51-52)

II. Executive Session – Austin Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 188**

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Tuesday, October 18, 2016, at 11:32 a.m. at the Embassy Suites Hotel, Austin, Texas. The TBCJ met in executive session, reconvened in regular session at 1:01 p.m., and adjourned at 1:48 p.m.

TBCJ MEMBERS PRESENT: Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Tom Fordyce
Eric Gambrell
Larry Miles
Derrellynn Perryman
Thomas P. Wingate

TBCJ MEMBER ABSENT: Judge Larry Gist

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:** Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jeff Baldwin Bobby Lumpkin
Rudolph Brothers Angie McCown
Christopher Cirrito Jerry McGinty
Jason Clark Madeline Ortiz
Lorie Davis Kelvin Scott
Matt Demny Ron Steffa
Marie Freeland Pam Thielke
Cody Ginsel Bruce Toney
Sharon Howell Carey Welebob
Frank Inmon April Zamora
Sherry Koenig

OTHERS PRESENT: Honorable Judge Dale Spurgin, Jones County; and Preston Streufert, Governor Abbott's office.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 188th meeting of the TBCJ on Tuesday, October 18, 2016, at 11:32 a.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. The board conducted executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074, 551.076, and 551.071, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Wainwright reconvened the regular session of the 188th meeting of the TBCJ on Tuesday, October 18, 2016, at 1:01 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 Wainwright recognized the Honorable Judge Dale Spurgin, Jones County, and Preston Streufert, Governor Abbott's office.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics, as well as, public comments on issues within its jurisdiction as provided 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 Wainwright announced a special recognition of former Parole Division Director Stuart Jenkins and asked TDCJ Executive Director Bryan Collier to conduct the recognition. Mr. Collier thanked Chairman Wainwright for the honor.

Mr. Collier stated Mr. Jenkins served the TDCJ for over 34 years in virtually every supervisory role within the Parole Division and retired in July, 2016. He mentioned Mr. Jenkins had several tough assignments to include serving as a parole regional director in the Houston area for about 10 years and later served as parole division director for 9 years, setting an agency record for the longest tenure of a parole division director. Mr. Collier recognized Mr. Jenkins for his accountability, sharp operational focus, and solid leadership that helped to mentor countless others in leadership roles. He stated Mr. Jenkins has a track record of constantly improving public safety throughout his career and Texas is safer because of his service. Mr. Collier congratulated Mr. Jenkins and wished him the very best as he enters the next phase of his life.

Chairman Wainwright stated Mr. Jenkins was promoted to the parole director in September 2007, beginning his career in July 1982 as a parole case worker and advanced through the ranks serving in various management positions including hearings analyst, regional director, section director, and deputy director. He mentioned Mr. Jenkins knows the Parole Division from bottom to top and ran it admirably. Chairman Wainwright noted Mr. Jenkins was instrumental in the

Parole Division receiving full accreditation from the American Corrections Association and obtaining pay raises for parole officers through the Texas Legislature. He stated Mr. Jenkins' strong leadership allowed the Parole Division to implement the Texas Risk Assessment System, enhanced the training to parole staff, improved offender drug testing procedures, and increased the number of halfway house beds. Chairman Wainwright acknowledged Mr. Jenkins for providing outstanding leadership during his tenure and noted his dedication to the TDCJ will have a positive lasting impact.

Vice-Chairman Terrell McCombs stated Mr. Jenkins held one of the most difficult positions in the TDCJ and did it well, with a tenure longer than anyone in recent memory. He acknowledged Mr. Jenkins did an admirable job in keeping Texans safe, and for that all Texans owe him gratitude.

Mr. Jenkins thanked Chairman Wainwright, Mr. Collier, and the Board Members. He stated there were challenges, however, the support from the TBCJ during the entire time was unbelievable. He expressed that his wife Judy was a tremendous support too. He stated any accomplishments were the result of the team effort. He mentioned he was most proud of the positions overseeing the city of Houston and the entire Parole Division and thanked everyone for their support.

Lorie Davis, Correctional Institutions Division (CID) Director, presented Eric Guerrero as the new director for Correctional Training and Staff Development, and highlighted his career. Next, she presented Tony O'Hare as the new Region I director, and highlighted his career. Then Ms. Davis introduced Matt Barber as the new Region II director, and highlighted his career. Lastly, she introduced Melodye Nelson as the new Region VI director, and highlighted her career. Ms. Davis stated this completes the CID leadership team.

Pamela Thielke, Parole Division Director, introduced Jennifer Robinson as the new deputy director of Field Operations, and highlighted her career and educational background. Next, she introduced Kerry Gaddis as the new deputy director of Support Operations, and highlighted his career and educational background. Then Ms. Thielke introduced Robert Kimbro as the new Region V director, and highlighted his career and educational background. Lastly, she introduced Nikki Nation director of Review and Release Processing, and highlighted her career.

Cody Ginsel, Private Facilities Contract Monitoring/Oversight Division Director, introduced Allison Dunbar as new deputy director for Private Facilities Contract Monitoring/Oversight Division, and highlighted her career and educational background.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service with the state of Texas during the months of August and September 2016. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 187th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing entities listed on the personal property donations list. Board Member Larry Miles also abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Chairman Wainwright acknowledged the abstentions and, hearing no further questions, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

Female Cognitive Pre-release program at the Marlin Unit

Mr. Collier stated a new female cognitive pre-release program was implemented at the Marlin Unit and began accepting offenders in September. The program has a capacity of 112 offenders and will serve over 200 offenders each year. The six month program was developed from existing resources by the Rehabilitation Programs Division (RPD) to address the need for an additional mid-level female pre-release program expressed by the Board of Pardons and Paroles Chairman David Gutierrez. The program will receive offenders who have been approved for release to parole, contingent on successful completion of the program. It provides intensive cognitive behavioral programming combined with curriculum on family relationships, anger management, domestic violence awareness, personal budgeting, and substance abuse education. Mr. Collier commended the staff of the RPD for the creativity and work designing this program and CID for facilitating the program. He also thanked Chairman Gutierrez and the Board of Pardons and Paroles for working with the TDCJ to provide this program.

Report from the Chairman, TBCJ

New Ombudsman Visitation Hotline

Chairman Wainwright stated the TDCJ website and Twitter accounts communicate information to the public. He thanked Jason Clark, Public Information Office Director, and the Information Technology Division staff for administering the website and social media account. Chairman Wainwright expressed the importance of maintaining offender family relationships during incarceration. Mr. Clark recently informed the TDCJ Twitter followers about the new visitation hotline administered by the Ombudsman's office. Operation hours are on Saturdays and Sundays from 8 a.m. to 5 p.m., and provides the public another source of information regarding offender location and visitation policy. Chairman Wainwright stated the staff on correctional facilities can answer these questions; however, it is helpful to have one number to call as well. He complimented Mr. Collier and Kelvin Scott, Administrative Review & Risk Management

Division Director, for implementing the hotline. Chairman Wainwright also thanked Mr. Collier, Ms. Davis and her senior staff, the wardens, and every TDCJ employee that strives to provide a positive experience for the offenders' families and friends.

Internal Audit Status Report for Fiscal Years 2015 - 2017

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the October 7, 2016, Internal Audit Division Status Report for the Fiscal Years (FY) 2015 - 2016:

- **1602 – Correctional Institutions Division, Unit Supply:** Audit has moved to draft report.
- **1608 – Windham School District, Information Security – Access Controls:** Audit is complete.
- **1614 – Information Technology Division, Software Licensing:** Audit has moved to report writing.
- **1616 – Reentry and Integration Division, Verification and Identification Processing Follow up:** Audit has moved to draft report.
- **1701 – Parole Division, Restitution Collection Follow up:** Audit is in field work.
- **1702 – Windham School District, Recreation Programs Follow up:** Audit is in field work.
- **1703 – Business and Finance Division, Victim Restitution System:** Audit has been assigned and is in background.
- **1718.01 – Walk Through, Data Systems Identification:** Audit has been assigned.

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

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2015-2017)

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

Chairman Wainwright abstained from voting on the purchases and contracts over \$1 million due to his firm representing several counties included in this item. Mr. Terrell McCombs facilitated the handling of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented two purchase items for approval. Item 1 is an increase of \$200,000 to an existing Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) Contract for Case Management and Continuity of Care – Bastrop, Burnet, Caldwell, Fayette, Gonzales, Guadalupe, Lee and Williamson Counties for Bluebonnet Trails Community Mental Health Mental Retardation Center. Item 2 is to replace the existing contract for TCOOMMI Contract for Case Management and Continuity of Care – Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall Counties for the North Texas Behavioral Health Authority.

Mr. McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

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

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

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

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

Mr. McGinty presented BP-14.01, “Texas Department of Criminal Justice Investment Policy,” and resolution to adopt, in accordance with Chapter 2256 of the Public Funds Investment Act which requires the agency to have a board policy regarding investments, and also requires an annual review. No revisions were made to the policy.

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

Terrell McCombs moved that the Texas Board of Criminal Justice approve the resolution adopting the investment policy as presented, and that the Chairman sign the resolution adopting the policy.

Larry Miles 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 151.6, Petition for the Adoption of a Rule

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 151.6, Petition for the Adoption of a Rule. She explained the proposed amendments are necessary to conform the language of the rule to state statute and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

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

Eric Gambrell 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 151.6, Petition for the Adoption of a Rule, to receive public comment, as presented.

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

2. Section 155.21, Naming of a Texas Department of Criminal Justice Owned Facility

Ms. Howell presented the proposed amendments to Board Rule 155.21, Naming of a Texas Department of Criminal Justice Owned Facility. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

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

Tom Fordyce 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 155.21, regarding Naming of a Texas Department of Criminal Justice Owned Facility, to receive public comment, as presented.

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

3. Section 161.21, Role of the Judiciary Advisory Council

Ms. Howell presented the proposed amendments to Board Rule 161.21, Role of the Judiciary Advisory Council. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

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

Thomas Wingate 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 161.21, regarding Role of the Judiciary Advisory Council, to receive public comment, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

4. Section 163.5, Waiver to Standards

Ms. Howell presented the proposed amendments to Board Rule 163.5, Waiver to Standards. She explained the proposed amendments are necessary to update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

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

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 Section 163.5, regarding Waiver to Standards, to receive public comment, as presented.

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

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

Chairman Wainwright abstained from taking action on the next two agenda items due to his firm representing the Texas Department of Transportation and Brazosport Water Authority. Mr. McCombs facilitated the handling of both agenda items.

1. Request to Amend Right-of-Way Easement at the Eastham Unit in Houston County, Lovelady, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request from the Texas Department of Transportation in cooperation with the TDCJ to amend an existing right-of-way easement at the Eastham Unit in Houston County, Lovelady, Texas. The amendment will correct an oversight created in the original easement granted in April 1960 for construction of state FM 230. The amendment will add an approximate 3.35 acres of land to extend the right-of-way easement to common boundaries of neighboring properties. All other terms and provisions of this easement will remain in full force and effect. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request to amend the right of way easement at the Eastham Unit in Houston County, Lovelady, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

2. Request for Water Pipeline Easement at the Darrington Unit in Brazoria County, Rosharon, Texas

Mr. Demny presented the request from the Brazosport Water Authority for an easement at the Darrington Unit in Brazoria County, Rosharon, Texas, for the installation of one water pipeline to provide water to customers. The total length of the easement is 21,236.42 feet long by 30 feet wide and encompasses 14.626 acres of land. The request also includes 9.75 acres of land for a temporary workspace used during pipeline construction and installation. They have agreed to pay \$36,834.00 for the easement, which will also include an option for the agency to purchase water to serve the Darrington Unit at a reduced rate. The requested term for the easement is 30 years. Mr. Demny recommended the TBCJ approve the request.

Terrell McCombs asked if there were any questions or comments. Hearing none, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve the request for a water pipeline easement at the Darrington Unit in Brazoria County, Rosharon, Texas, as presented.

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

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, December 9, 2016, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 188th meeting of the Texas Board of Criminal Justice at 1:48 p.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.