

Texas Board of Criminal Justice
199th Meeting



Minutes

June 29, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Wyndham Garden Hotel
Lake Travis/Lake LBJ Room and Blanco Room
3401 South IH 35
Austin, Texas 78741**

**June 29, 2018
11:15 AM – 12:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Travis/Lake LBJ Room

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 198th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Judicial Advisory Council – Overview of Community Supervision Activities
- D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)
- E. Report from the Chairman, TBCJ
- F. Internal Audit Status Report for Fiscal Years 2017 – 2018
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directives
 - 1. PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees”
 - 2. PD-30, “Employee Grievance Procedures”

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 163.3, Objectives
 - 2. 163.38, Sex Offender Supervision

- J. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction - Request for a Gas Pipeline Easement at the Hughes Unit in Coryell County, Gatesville, Texas

- K. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Projects
 - 1. Request to Replace Agriculture Bulk Storage Facility at the Eastham Unit in Houston County, Lovelady, Texas
 - 2. Request to Replace Plumbing Controls and Fixtures at the Ellis Unit in Walker County, Huntsville, Texas
 - 3. Request to Replace Plumbing Controls and Fixtures at the Estelle Unit in Walker County, Huntsville, Texas

Reconvene TBCJ

II. Executive Session – Blanco 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 Council 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. Discussion regarding security assessments or deployments relating to information resources technology, confidential network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices (Closed in accordance with Section 551.089, Government Code).

- E. 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

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 199**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, June 29, 2018, in regular session at 11:17 a.m. in the Lake Travis/Lake LBJ Room at the Wyndham Garden Hotel, Austin, Texas, and adjourned at 12:19 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. “Mano” DeAyala
Tom Fordyce
Larry Miles
Patrick O’Daniel
Derrelynn Perryman
Thomas P. Wingate

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE (TDCJ)
STAFF PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Jason Clark, Chief of Staff Frank Inmon
Rudolph Brothers Sherry Koenig
Christopher Cirrito Cris Love
Lorie Davis Bobby Lumpkin
Jeremy Desel Jerry McGinty
Marie Freeland Melvin Neely
Patty Garcia Kelvin Scott
Cody Ginsel Ron Steffa
Carey Green Pam Thielke
Rene Hinojosa April Zamora
Sharon Howell

OTHERS PRESENT:

David Gutierrez, Board of Pardons and Paroles Presiding Officer; Janis Reinken, House Corrections Committee Clerk, Representative James White’s office; Haylie Ewing, Intern with the House Corrections Committee; Judge Larry Gist, former TBCJ member; Justin Wood, Senate Committee on Criminal Justice; and Honorable Judge Dale Spurgin, Jones County.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 199th meeting of the TBCJ on Friday, June 29, 2018, at 11:17 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*. He stated the TBCJ would be conducting business from the agenda posted in the *Texas Register*.

Recognitions

Chairman Wainwright recognized Jeff Baldwin, former TDCJ Chief of Staff, for 24 years of service with the Texas Department of Criminal Justice, noted his analytical skills, and outlined his education and prestigious career.

Bryan Collier, TDCJ Executive Director, recognized Mr. Baldwin for his hands-on role with 12 legislative sessions, managing executive services and media service branches, serving as an advisor to five executive directors, six board chairs, countless division directors, several board members and senior staff, and also serving as a senior editor on every high level document produced in the agency in the last 20 years. His wisdom has helped the agency weather many storms, and maneuver complicated politically sensitive policy issues over the years, and earned him the nickname of consigliere of the TDCJ.

Chairman Wainwright congratulated Mr. Baldwin for a remarkable career and stated his contributions will have a long lasting impact on the TDCJ. On behalf of the TBCJ, Chairman Wainwright thanked him for his loyalty, commitment, and dedication to serving the great state of Texas.

Mr. Collier introduced Jason Clark as the new Chief of Staff, and highlighted his education and career. He stated Mr. Clark has the right experience, temperament, energy, and focus to serve the agency well into the future.

Melvin Neely, TDCJ Information Technology Division Director, introduced Tina Clark as the new Information Technology Deputy Director, and highlighted her career.

Pam Thielke, Parole Division Director, introduced Chris Carlson as the new Parole Division Region I Director, and highlighted his education and career.

Cris Love, Inspector General, recognized Steven Zeller and Jill Blake for their heroic actions that saved the life of an applicant during the physical assessment testing. On April 17, 2018, a new applicant testing was being conducted in Huntsville when an applicant collapsed due to cardiac arrest. Zeller and Blake immediately responded and became the primary emergency caregivers. They performed CPR, applied an emergency AED, and continued to follow instructions given by the AED until the applicant regained consciousness. They continued to monitor the applicant until care was taken over by Walker County EMS personnel. The applicant later underwent an emergency procedure at Conroe Regional Medical center. Mr. Zeller and Ms. Blake's actions

saved the applicant's life. Mr. Love stated it is an honor to work with excellent staff and presented each with an award for their life saving actions.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service to the state of Texas during the months of May and June 2018. During this time, 49 employees attained 25 years of service, 29 employees attained 30 years of service, 15 employees attained 35 years of service, one employee attained 40 years of service, one employee attained 45 years of service, and one employee attained 50 years of service. 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. 198th 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 San Antonio Food Bank and Kairos listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.

Report from the Judicial Advisory Council

Overview of Community Supervision Activities

Judge Larry Gist, member of the judicial advisory council, former board member, and Presiding Judge of Jefferson County Drug Impact Court, presented an overview of community supervision activities. A few months ago a Chiefs' Conference was held and representatives from more than 100 probation departments across Texas attended the event. Chiefs from communities of all sizes discussed common issues they are facing and received feedback from each other on different methods used to address issues that arise. Bryan Collier, TDCJ Executive Director, was the keynote speaker, and stated he learned a great deal from listening to what the chiefs had to say. Much of the information and issues are being addressed because of the cooperation between JAC and the TDCJ.

Mr. Collier and Carey Green, TDCJ Community Justice Assistance Division (CJAD) Director, and others traveled to several places in the state and held meetings with judges and prosecutors to learn what issues and obstacles they faced, and what help was needed in order to improve the quality of work they performed. Prosecutors and judges defer sending people to prison, along with other techniques, to protect the public and fix problems, and they feel comfortable doing this due to the quality of the community corrections system. The great success of the community corrections system is something to take pride in, considering it involves three times the number of people incarcerated in prison and operates for little more than \$1 per day compared to around \$50 per day in the prisons.

Each chief is appointed by the local criminal judge. Every new chief is assigned a mentor, a senior probation chief from another area to work with them for at least a year to guide them through the process of developing a probation department. Judge Gist encouraged board members to visit a probation department to gain a wider perspective and thanked them for the opportunity to give this presentation.

Mr. McCombs thanked Judge Gist for the presentation and the accomplishment of the great work being done in the community supervision department.

Report from the Executive Director, Texas Department of Criminal Justice

Judicial Focus Group Meetings

During the month of May, Carey Green, TDCJ CJAD Director, and Mr. Collier spent a considerable amount of time traveling the state and conducting focus groups to learn more about their needs as preparations are made for the Legislative Appropriations Request for the 86th Legislative Session. These focus groups were conducted in Abilene, Amarillo, Dallas, Harlingen, Houston, and Jasper with judges, probation chiefs, and prosecutors from surrounding counties to discuss the needs and trends within adult probation. The direct input received is being used to help build a legislative request for adult probation that will reflect the needs of the field. Mr. Collier thanked Ms. Green for her work in planning and coordinating these meetings.

Correctional Officer Staffing

Mr. Collier stated for the past 18 months TDCJ correctional staffing has been declining. As a result, a number of progressive actions have been taken to address this critical issue. Some of the actions taken include significantly enhancing recruiting and retention efforts, increasing the starting pay for correctional officers by 12%, increasing the number of units with a sign on bonus to 29 units, increasing the amount of the bonus to \$5,000 on some units, creation of mobile recruiting stations, and additional strategies aimed at addressing this staffing shortage. In May 2018, over 800 correctional officers were hired, which decreased vacancy numbers from 3,930 to 3,772. Projections reflect hiring over 830 correctional officers in June, which could help in further decreasing the vacancy numbers. Although encouraging, this issue remains a top priority and the TDCJ will remain vigilant and focused on addressing the issue of recruiting and retaining correctional officers.

Hurricane Preparedness

Mr. Collier discussed the preparations the TDCJ is making for this year's hurricane season. The TDCJ has been successful in weathering many hurricanes in the past and continues to take steps to ensure staff are prepared and able to respond successfully this season. On June 18, 2018, the TDCJ held an annual hurricane drill to test practices and readiness for such an event. The leadership team and staff performed flawlessly during the drill. Mr. Collier stated with confidence the TDCJ is ready and fully capable of responding to a hurricane this season, should the need arise.

Report from the Chairman, TBCJ

Highlights of the Offender Debate Team

Chairman Wainwright discussed the highlights of the Offender Debate Team. The first ever prison debate team in Texas was formed at the Huntsville Unit. Lee College and the TDCJ began this unique venture in the spring of 2016. Adam Key and Jeremy Coffman, champion debaters,

came up with this idea after seeing the untapped potential within the TDCJ and thought that harnessing the ability and teaching the men to articulate a position could be a valuable skill not only while in prison but after their release. Huntsville Unit Warden James Jones was intrigued and embraced the idea. In October 2016, the first ever George Beto Invitational Debate was scheduled. One challenge they faced was finding another college team willing to debate prison inmates. Texas A&M University stepped up as the first opponent. For six weeks, the Lee College team trained as often as they could within the confines of their prison schedule. They huddled together on the recreation yard to sharpen their arguments, squeezed in extra practice during study hall in the unit's education area, and even debated their coaches. Neither team was given advance knowledge of the topic to be debated. Each were provided the same research materials 30 minutes prior to their turn at the podium with the topic: "*Was the President's Achilles' Heel Foreign Policy?*" In a stunning upset, the Lee College debate team beat the Aggies in a 3 to 2 decision.

In October 2017, the Lee College team took on their next opponent, the world-renowned debaters of Wiley College. This time the topic was "*Online Education Detracts from the College Experience.*" In another surprising upset, the Lee College team beat the Great Debaters in a 4 to 1 decision. Afterwards, one student from Wiley remarked that "there are few teams we are prouder of having lost a debate to than these talented men."

In about four months, the Lee College debate team will have a chance to defend their title. An invitation is pending and they hope to take on the Rice Owls. It took two men with a novel idea to make a difference. Our debaters and those around them know they can settle differences not with violence but with words. They are armed with ideas and sharpening their communication skills so they can effectively transition back into communities.

Chairman Wainwright thanked Lee College and the TDCJ for thinking outside the box and wished the debaters good luck.

Internal Audit Status Report for Fiscal Years 2017 - 2018

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the June 19, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2017 - 2018:

- **1811 – Parole Division, Pre-release Placement Investigations:** Audit is in field work.

Mr. McCombs stated he spoke with Mr. Cirrito previously and is happy to report that the Internal Audit Division staff will be 100% filled within the next 10 days.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2017-2018)

**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. Item 1 is an increase of \$3.5 million to an existing contract for UTMB correctional healthcare services provided at Hospital Galveston in FY16-17. Items 2 – 9 are increases to the current contracts for services that are used throughout the state for outpatient substance abuse treatment services for FY18-19. Item 10 is commissary purchases for FY19. Item 11 is an increase to the current contract for bulk fuel. Item 12 is a continuation of the food service contract with Harris County to provide food services to Kegans State Jail. Items 13 – 19 are renewals of halfway house contracts currently in place. Item 20 is a continuation of cellular services with AT&T. Item 21 is an increase for the electronic monitoring services provided for offenders that are under electronic monitoring supervision through active and passive GPS for FY19-20. Item 22 is the food purchases for FY19.

Chairman Wainwright, Eric Gambrell, and Patrick O’Daniel abstained from voting on this item as their firms represent multiple entities listed.

Chairman Wainwright asked for any questions, comments, or other abstentions. Hearing none, he 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.

E.F. “Mano” DeAyala seconded the motion, which prevailed by a majority when called to a vote.

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

Sharon Howell, TDCJ General Counsel, presented PD-22, “General Rules of Conduct and Disciplinary Action Guidelines for Employees.” She stated this PD is being revised to remove all references to dual supervision, including processes that were in place solely to address dually supervised employees. Other changes are primarily grammatical and formatting, along with revising some definitions for consistency with other personnel directives.

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

Eric Gambrell moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees, as presented.

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

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-30, “Employee Grievance Procedures”

Ms. Howell presented PD-30, “Employee Grievance Procedures.” She stated this PD is being revised to remove all references to dual supervision, including processes that were in place solely to address dually supervised employees. Other changes are primarily grammatical and formatting, along with clarification of aspects of the grievance process.

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

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-30, Employee Grievance Procedures, as presented.

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

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.3, “Objectives”

Ms. Howell presented the proposed amendments to Board Rule 163.3, “Objectives.” This rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive rearrangements of language to make all rules consistent with each other. 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.

Patrick O’Daniel 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 163.3, regarding Objectives, to receive public comment, as presented.

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

**Discussion, Consideration, and Possible Action Regarding Proposed
Amendments to Board Rule Title 37 Texas Administrative Code
Section 163.38, “Sex Offender Supervision”**

Ms. Howell presented the proposed amendments to Board Rule 163.38, “Sex Offender Supervision.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are mostly non-substantive rearrangements of language to make the internal citations consistent with other rules. The proposed changes to the rule also include a clarification of appropriate case load size for specialized supervision of sex offenders by community supervision officers. 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 163.38, regarding Sex Offender Supervision, 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 Land
Transaction – Request for a Gas Pipeline Easement at the Hughes Unit in
Coryell County, Gatesville, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness, and Logistics Division, presented the request for a gas pipeline easement at the Hughes Unit in Gatesville. He stated Breviloba, LLC is requesting an easement consisting of an area of approximately 2.87 acres of land being 4,166.43 feet long by 30 feet wide for installation of one natural gas liquids pipeline. This request includes temporary workspace totaling 8.27 acres for use during pipeline construction and installation. Breviloba, LLC has agreed to pay \$142,795.00 for the easement with a ten-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright stated he had previously asked if indemnities were obtained in contracts entered into by TDCJ, and asked Mr. Lumpkin if there was an official answer for the record. Mr. Lumpkin stated all previous easement contracts included language that indemnifies the agency of any liability, and will continue to be used in future.

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

Tom Fordyce moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Hughes Unit in Coryell County, Gatesville, Texas, as presented.

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

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

1. Request to Replace Agriculture Bulk Storage Facility at the Eastham Unit in Houston County, Lovelady, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration requesting to replace the agriculture bulk storage facility at the Eastham Unit, Houston County, Lovelady, Texas. The work will consist of dismantling the current facility including repair of the foundation as needed. The new facility components will be assembled, attached to the existing foundation, and connected to the existing feed mill system. If approved, the work will be performed by Triple “S” Construction with a total cost of \$1,938,100. Mr. Inmon recommended the TBCJ approve the request.

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

Larry Miles moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$1,938,100 to replace the agriculture bulk storage facility at the Eastham Unit located in Houston County, Lovelady, Texas, as presented.

E.F. “Mano” DeAyala seconded the motion which prevailed unanimously when called to a vote.

2. Request to Replace Plumbing Controls and Fixtures at the Ellis Unit in Walker County, Huntsville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace plumbing controls and fixtures at the Ellis Unit, Walker County, Huntsville, Texas. The work will consist of installing 923 toilet valves, 161 shower valves, and 972 lavatory valves. The new valves will be electronically programmable to increase efficiency in order to control water consumption to lavatories, toilets, and showers. If approved, the work will be performed by TDCJ facility maintenance staff with a total cost of \$4,124,509. Mr. Inmon recommended the TBCJ approve the request.

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

Tom Wingate moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$4,124,509 to replace plumbing controls and fixtures at the Ellis Unit located in Walker County, Huntsville, Texas, as presented.

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

3. Request to Replace Plumbing Controls and Fixtures at the Estelle Unit in Walker County, Huntsville, Texas

Mr. Inmon presented a new project for board consideration requesting to replace plumbing controls and fixtures at the Estelle Unit, Walker County, Huntsville, Texas. The work will consist of installing 1,953 toilet valves, 270 shower valves, and 1,932 lavatory valves. If approved, the work will be performed by TDCJ facility maintenance staff with a total cost of \$3,590,749. Mr. Inmon recommended the TBCJ approve the request.

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

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve a not-to-exceed budget of \$3,590,749 to replace plumbing controls and fixtures at the Estelle Unit located in Walker County, Huntsville, Texas, as presented.

Terrell McCombs 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, August 24, 2018, at the Omni Southpark Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 199th meeting of the Texas Board of Criminal Justice at 12:19 p.m.

Chairman*

Secretary*