

Texas Board of Criminal Justice
201st Meeting



Minutes

October 18, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

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

October 18, 2018
11:30 AM – 1:00 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. 200th TBCJ Meeting Minutes
 4. 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 2018 – 2019
 - F. Discussion, Consideration, and Possible Action Regarding the Creation of a TDCJ Training Division
 - G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
 - H. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, “Investment Policy,” and Resolution Adopting the Investment Policy

- I. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-03.46, “Standards for the Use of Force”
- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Sections
 - 1. 159.9, Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding
 - 2. 159.19, Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses
 - 3. 159.21, Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill
- K. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.15, GO KIDS Initiative
- L. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request to Renew a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
 - 3. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Reconvene TBCJ

II. Executive Session – San Gabriel 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

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

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. 201**

The Texas Board of Criminal Justice (TBCJ) convened on Thursday, October 18, 2018, in regular session at 11:30 a.m. at the Wyndham Garden Hotel, Austin, Texas, and adjourned at 12:20 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
Hon. 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 Sherry Koenig
Rudolph Brothers Cris Love
Christopher Cirrito Bobby Lumpkin
Marie Freeland Jerry McGinty
Patty Garcia Melvin Neely
Cody Ginsel Giustina Persich
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Malika Te
Frank Inmon April Zamora

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County.

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 201st meeting of the TBCJ on Thursday, October 18, 2018, at 11:30 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*.

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

Recognitions

Chairman Wainwright recognized Rudolph Brothers, State Counsel for Offenders Division Director, for two decades of service to the state of Texas, noted his hard work and commitment, and outlined his education and incredible career. He congratulated Mr. Brothers for devoting 20 years to public service.

Bobby Lumpkin, Manufacturing, Agribusiness and Logistics Division Director, recognized Marvin Carter, Ellis Unit farm manager, for receiving the 2018 Billy Max Moore award presented by the National Association of Institutional Agribusiness. He highlighted Mr. Carter's career and congratulated him for his outstanding performance.

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 September and October 2018. During this time, 996 employees attained 25 years of service, 23 employees attained 30 years of service, nine employees attained 35 years of service, and one employee attained 40 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. 200th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Hearing none, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

TDCJ Video

Mr. Collier stated the Association of State Correctional Administrators (ASCA) is an association made up of all the state correctional directors in the United States. Members of ASCA were recently challenged with developing a short two-minute video highlighting their respective agency. Being the ASCA member representing the great state of Texas and an outstanding agency, Mr. Collier felt compelled to challenge Chief of Staff, Jason Clark, and Communications Director, Jeremy Desel, on meeting this challenge. The video that was the result of this challenge was shown to the audience and TBCJ members.

Training Division

Mr. Collier stated at the August 2018 TBCJ meeting, Oscar Mendoza, TDCJ Deputy Executive Director, provided a presentation of the TDCJ's request to create a training division. He stated the creation of this division would allow the consolidation of training sections or departments currently within the Community Justice Assistance Division, Correctional Institutions Division, Human Resources Division, and Parole Division. Although each of the training sections or departments provide excellent training to specific staff, the newly created division would allow for an enterprise-wide focus on staff training verses the silo-approach currently in place. The utilization of shared expanded resources provides an opportunity to improve the overall quality and availability of training offerings without diminishing the ability to customize training for specific divisions and needs. These independent training sections and divisions deliver training to nearly 150,000 participants each year. The volume of the training task combined with the critical mission of the TDCJ dictate that the training of employees is one of the most important core functions performed, and the creation of a training division would enhance and strengthen that function.

Report from the Chairman, TBCJ

Domestic Violence Awareness Month

Chairman Wainwright stated October is domestic violence awareness month and the Texas Council on Family Violence organizes an annual "Go Purple" day in recognition of the victims of domestic violence in an effort to end it. The TBCJ and TDCJ participated in this recognition by wearing purple ribbons. The number of American troops killed in Afghanistan and Iraq between 2001 and 2012 was 6,488. The number of American women who were murdered by current or former partners during that time was 11,766. That is nearly double the amount of casualties lost during war. This is a serious issue that touches so many Texans across the state. The TBCJ and TDCJ assist in addressing this problem by including meaningful programming to help stop the cycle of abuse and supporting the victims of these crimes. Whether it is anger management classes, battering intervention services geared specifically towards family violence

offenders, or programs for individuals who have been victimized by their partners, the agency is working to address some of the root causes of domestic violence and help end the cycle of abuse.

A Growing Success: Hydroponics within the TDCJ

Chairman Wainwright discussed hydroponics within the TDCJ. He stated the herb garden at the Michael Unit was suffering because the sun caused much of the ground's moisture to evaporate. Lieutenant Eric White began searching for a solution. He remembered hearing about a technique to grow plants without using soil. He mentioned this to fellow officer Michael McLeon and the idea to build a hydroponic garden on prison property was born. Hydroponics is a method of growing plants without soil, using a mineral rich water solution. This allows the plant to take in its food with very little effort as opposed to soil where the roots must search out the nutrients and extract them. The men thought this would be the perfect solution. Using supplies such as PVC pipes and water pumps, they constructed three new soilless gardens. The beds range from 60 to 120 square feet of growing space. Currently there are more than 500 plants that produce lettuce, tomatoes, cucumbers, peppers, and basil. The fresh vegetables are harvested and taken to the Michael Unit kitchen where they are served to offenders. The extra produce is donated to local charities. The project continues to grow as the prison is currently working to expand the gardens and double the number of plants. McLeon and White continue to come up with innovative ideas such as designing an aquaponic system in which fish and plants grow together in one integrated system. After the story was posted on TDCJ's social media channels, several other entities including Texas A&M University reached out to learn more about the project. Chairman Wainwright expressed appreciation to officer McLeon and Lieutenant White for their green thumbs and creativity.

Internal Audit Status Report for Fiscal Years 2018 - 2019

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the October 9, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1813 – Windham School District, *Financial Information*:** Audit is in report writing.
- **1904 – Rehabilitation Programs Division, *Volunteer Identification and Tracking*:** Audit is in control assessment.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2018-2019)

Discussion, Consideration, and Possible Action Regarding the Creation of a TDCJ Training Division

Mr. Collier stated the consolidation of the TDCJ training resources into a new training division would enhance the quality and accessibility of agency training for years to come. He requested the TBCJ consider a motion to create a new training division within the TDCJ, which would consolidate the training sections of the Community Justice Assistance Division, Correctional Institutional Division, Human Resources Division, and Parole Division.

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 to create a new training division within the Texas Department of Criminal Justice, as presented by Mr. Collier.

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

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

Chairman Wainwright stated the topic of Discussion, Consideration, and Possible Action Regarding Purchases and Contracts over \$1 Million will not be discussed and passed on this agenda item.

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. He stated the changes to the policy are non-substantive.

Mr. McCombs asked if state law dictates this must be reviewed annually. Mr. McGinty affirmed.

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 resolution adopting the investment policy as presented, and that the Chairman sign the resolution adopting the policy.

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

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policy BP-03.46, “Standards for the Use of Force”

Sharon Howell, TDCJ General Counsel, presented BP-03.46, “Standards for the Use of Force.” She stated the changes to the policy are not substantive and bring the policy in line with current agency policy standards.

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

Patrick O'Daniel moved that the Texas Board of Criminal Justice approve the revisions to BP-03.46, "Standards for the Use of Force," as presented.

Thomas Wingate 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 159.9, "Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding"

Ms. Howell presented the proposed amendments to Board Rule 159.9, "Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding." She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are minor and update the signature authority on the Memorandum Of Understanding. 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.

Derrelynn Perryman 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 159.9, regarding Firearms Proficiency Training for Supervision Officers/Memorandum of Understanding, to receive public comment, as presented.

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

2. Section 159.19, "Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illness"

Ms. Howell presented the proposed amendments to Board Rule 159.19, "Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illness." She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive stylistic changes and reflect structural changes to the Texas Health and Human Services Commission. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Mr. McCombs asked if the changes are because the agencies no longer exist, are no longer applicable to the change, or clarify language. Ms. Howell stated the departments are still there; however, they fall under the Texas Health and Human Services Commission, and it also clarifies language.

Chairman Wainwright asked if this continues a current relationship and Memorandum of Understanding that was in place in the past. Ms. Howell affirmed, and stated it does not change the nature of the relationships.

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 for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 159.19, regarding Continuity of Care and Service Program for Offenders who are Elderly and Offenders with Physical Disabilities or Significant or Terminal Illnesses, to receive public comment, as presented.

Eric Gambrell seconded the motion, which prevailed unanimously when called to a vote.

3. Section 159.21, “Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill”

Ms. Howell presented the proposed amendments to Board Rule 159.21, “Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes are non-substantive stylistic changes and provide an updated address of record. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if this continues a current program. Ms. Howell affirmed.

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

Derrelynn Perryman 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 159.21, regarding Continuity of Care and Service Program for Offenders with Mental Impairments, the Elderly, Physically Disabled, Terminally Ill or Significantly Ill, to receive public comment, as presented.

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

**Discussion, Consideration, and Possible Action Regarding Adoption
of Amendments to Board Rule Title 37 Texas Administrative Code
Section 159.15, “GO KIDS Initiative”**

Ms. Howell requested the adoption of amendments to Board Rule 159.15, “GO KIDS Initiative,” as proposed and authorized at the August 2018 TBCJ meeting. She explained the amendments appeared in the September 7, 2018, issue of the *Texas Register*. Thirty days passed and no public comments were received. Ms. Howell asked the board to move forward with final adoption of the rule.

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 adopt amendments to Title 37 Texas Administrative Code Section 159.15, regarding GO KIDS Initiative, as published in the Texas Register, and that the chairman sign the order to this effect.

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

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

1. Request to Renew a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness, and Logistics Division, presented the request to renew a gas pipeline easement at the Ellis Unit, in Walker County, Huntsville, Texas. He stated Oneok Arbuckle Pipeline, LLC is requesting to renew an easement consisting of an area of approximately 3.58 acres of land being 3,122.7 feet long by 50 feet wide for one natural gas liquids pipeline. The original easement was granted in November 2008. Oneok Arbuckle Pipeline, LLC has agreed to pay \$94,650.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright and Patrick O’Daniel abstained from action on this item due to their firms representing Oneok Arbuckle Pipeline, LLC.

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

Judge Thomas Wingate moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Ellis Unit in Walker County, Huntsville, Texas, as presented.

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

2. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Lumpkin presented the request to renew a gas pipeline easement at the Stiles Unit, in Jefferson County, Beaumont, Texas. He stated Enterprise TE Products Pipeline Company, LLC is requesting to renew an easement consisting of two tracts of land totaling 4.11 acres being 3,580.6 feet long by 50 feet wide for one natural gas liquids pipeline. The original easement was granted in November 2008. Enterprise TE Products Pipeline Company, LLC has agreed to pay \$162,555.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Chairman Wainwright and Patrick O'Daniel abstained from taking action on this item due to their firms representing Enterprise TE Products Pipeline Company, LLC.

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 the request to renew a gas pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

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

3. Request to Renew a Gas Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Lumpkin presented the request to renew a gas pipeline easement at the Stiles Unit, in Jefferson County, Beaumont, Texas. He stated HSC Pipeline Partnership, LLC is requesting to renew an easement consisting of two tracts of land totaling 4.11 acres being 3,580.6 feet long by 50 feet wide for one 12" natural gas liquids pipeline and one 6" natural gas liquids pipeline. The original easement was granted in November 2008. HSC Pipeline Partnership, LLC has agreed to pay \$325,845.00 for this easement for another 10-year term. Mr. Lumpkin recommended the TBCJ approve the request.

Patrick O'Daniel abstained from taking action on this item due to his firm representing HSC Pipeline Partnership, LLC.

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

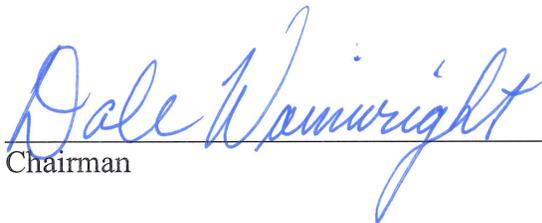
Terrell McCombs moved that the Texas Board of Criminal Justice approve the request to renew a gas pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

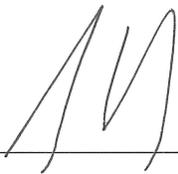
Derrelynn Perryman seconded the motion, which prevailed unanimously when called to a vote.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, December 13, 2018, at the Crowne Plaza Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 201st meeting of the Texas Board of Criminal Justice at 12:20 p.m.


Chairman


Secretary