

Texas Board of Criminal Justice
202nd Meeting



Minutes

December 13, 2018
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel – Salons E-H, Lone Star II & III
6121 North IH 35
Austin, Texas 78752**

**December 13, 2018
12:00 – 2:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Executive Session – Lone Star II & III

- 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).

Reconvene Texas Board of Criminal Justice (TBCJ)

II. Regular Session – Salons E-H

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 201st 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 Purchases and Contracts Over \$1 Million
- G. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies
 - 1. BP-07.03, "GO KIDS (Giving Offenders' Kids Incentive and Direction to Succeed)"
 - 2. BP-13.69, "State Counsel for Offenders"
- H. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code Section
 - 1. 152.71, Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes
 - 2. 163.36, Mentally Impaired Offender Supervision
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Proposed Repeal of Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision
- J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 159.9, Firearms Proficiency Training for Supervision Officers
 - 2. 159.19, Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness
 - 3. 159.21, Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly
- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
 - 1. Request for a Gas Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas
 - 2. Request for a Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas
 - 3. Request for Gas Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

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. 202**

The Texas Board of Criminal Justice (TBCJ) convened on Thursday, December 13, 2018, in executive session at 12:06 p.m. in the Lone Star II & III rooms at the Crowne Plaza Hotel, Austin, Texas. The TBCJ recessed from executive session at 12:55 p.m., reconvened in regular session at 1:04 p.m. in Salons E-H, and adjourned at 1:51 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
Derrellynn 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 Cris Love
Christopher Cirrito Bobby Lumpkin
Jeremy Desel Angie McCown
Marie Freeland Jerry McGinty
Patty Garcia Melvin Neely
Cody Ginsel Giustina Persich
Carey Green Kelvin Scott
Rene Hinojosa Ron Steffa
Sharon Howell Malika Te
 Pam Thielke

OTHERS PRESENT:

Honorable Judge Dale Spurgin, Jones County, and David Gutierrez, Board of Pardons and Paroles Presiding Officer

Reconvene the Texas Board of Criminal Justice

Chairman Dale Wainwright reconvened the 202nd meeting of the TBCJ on Thursday, December 13, 2018, at 1:04 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 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

Bryan Collier, TDCJ Executive Director, introduced David Yebra as the Director of the new Training Division, and highlighted his career. He stated Mr. Yebra has a wealth of solid education and experience that he brings to the TDCJ.

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 November and December 2018. During this time, 79 employees attained 25 years of service, 24 employees attained 30 years of service, 10 employees attained 35 years of service, and four employees attained 40 years of service. He stated these individuals represent the strong commitment of 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. 201st TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright stated there were no excused absences for board members from the August and October meetings. He 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 the San Antonio Food Bank and Kairos listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further objections, the consent items were approved.

Report from the Executive Director, Texas Department of Criminal Justice

86th Legislative Session

Mr. Collier stated the 86th Legislative Session will begin on January 8, 2019. In preparation of the upcoming session, the TDCJ has been meeting with legislative leadership offices and committees, and reviewing pre-filed bills. The selection of Dennis Bonnen as Speaker of the House will help get the ball rolling quickly when session begins. It is anticipated that committees will begin to meet in early February. The TDCJ executive team is optimistic and ready for the challenge.

Holiday Message

Mr. Collier expressed gratitude to the TBCJ and all staff of the TDCJ for a successful year. There were challenges that were faced; however, the TDCJ has become stronger as a result. The offender population has remained stable. A settlement in on-going heat litigation was successfully navigated. Starting pay for correctional officer staffing was increased. Several key leadership positions were filled and will have a huge impact on the TDCJ for decades to come. He thanked all staff for a job well done and asked everyone to remember the staff that will be on duty Christmas and New Year's Day protecting the public. Mr. Collier wished everyone a merry Christmas and happy New Year.

Report from the Chairman, TBCJ

Telemedicine and Peer Education Initiatives

Chairman Wainwright stated he was the keynote speaker at the Coalition of Correctional Health Authorities Leadership Award Banquet held on November 15th. The list of guests included medical professionals from across the country and around the world. The TDCJ has many successful health initiatives that the state of Texas should be proud of. The size of the state alone makes it a logistical challenge to deliver care to offenders spread across the state, often at remote facilities hours away from medical centers. The TDCJ Health Services Division Director Dr. Lannette Linthicum and the Correctional Managed Health Care partners have developed a remarkable telehealth system to address this challenge. It uses technology to provide clinical health care from a distance. Between the University of Texas Medical Branch and the Texas Tech University Health Sciences Center, there are more than 75 telehealth providers who cover a wide range of healthcare services for offenders, such as primary care, mental health, internal medicine, and radiation therapy. In 2017, there were nearly 167,000 healthcare encounters using the telehealth system. This saves the state more than \$6 million a year. The managed health care partners continue to look for ways to expand its use, such as a current pilot project for tele-optometry and tele-dentistry technology. Besides technology, the advice of those who have lived the experiences are being utilized through the Peer Education Program. Through a rigorous selection process, offenders are chosen to become peer educators. They help educate other

offenders about preventative healthcare as it relates to HIV/AIDS, tuberculosis, diabetes, and a number of other topics. These peer educators are more likely to have firsthand knowledge about the risk factors common among fellow offenders, which gives them credibility concerning the issues. The educators are also more accessible as a constant source of information and support for other offenders. The project has grown significantly. Out of 104 units, 100 have active peer education programs. In 2018, more than 90,000 offenders attended classes led by peer educators. It is important to remember that these lessons will be carried well beyond the walls of prison and into at-risk communities as offenders reintegrate back into society. These are just a couple of examples of health care professionals thinking outside the box, working to find solutions, and striving to make a difference with a population that many would rather forget. Health care keeps pushing forward and improving. Chairman Wainwright thanked Dr. Linthicum, the entire staff of the Health Services Division, and the health care partners for running a race that matters.

Holiday Message

Chairman Wainwright reiterated Mr. Collier's comments from his holiday message. He urged each employee of the TDCJ to take time to relax and enjoy the holidays with family and friends. All should be proud of the accomplishments of the past year and the dedication that has built a strong and positive reputation. Chairman Wainwright thanked Mr. Collier for overseeing this section of public servants throughout the year. Guided by skillful leadership, the TDCJ continues to address the changing needs of the criminal justice system. The TDCJ leadership team did an excellent job meeting the challenges and overcoming difficulties in 2018. On behalf of the TBCJ, he wished all TDCJ employees a merry Christmas, happy holidays, and happy New Year.

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 December 3, 2018, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1813 – Windham School District, *Financial Information***: Audit is a draft report.
- **1814 – Information Technology Division, *Project Management***: Audit is in report writing.
- **1815 – Facilities Division, *Contract Oversight***: Audit is in report writing.
- **1907 – Manufacturing, Agribusiness and Logistics Division, *Pest Control***: Audit is in field work.
- **1910 – Parole Division Board of Pardons and Paroles, *Parole Case File Movement Coordination Consultation***: Audit changed to a consultation.

Mr. McCombs asked about the difference between an audit and a consultation. Mr. Cirrito stated an audit is more rigid, whereas a consultation allows a particular issue to be looked at and advice given in an informal matter.

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

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. There is only one item, which is the biennial purchase of computers. He stated state law requires the TDCJ to receive bids from at least six vendors for purchases of information technology equipment if the cost is between \$1 million and \$5 million; however, a total of 248 bids were solicited and the products were tested to ensure the needs of the TDCJ were met.

Chairman Wainwright stated he liked the process in place for getting additional bids and testing products.

Chairman Wainwright and Eric Gambrell abstained from voting on this item as their firms represent entities that submitted bids.

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.

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

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Board Policies

1. BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed)”

Sharon Howell, TDCJ General Counsel, presented BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed).” She stated the changes to the policy streamline language and are not substantive.

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 BP-07.03, “GO KIDS (Giving Offenders’ Kids Incentive and Direction to Succeed),” as presented.

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

2. BP-13.69, “State Counsel for Offenders”

Ms. Howell presented BP-13.69, “State Counsel for Offenders.” She stated the changes to the policy are not substantive and do not change any current practice, serving only to streamline language and update citations. The proposed changes clarify that the SCFO director reports directly and only to the TBCJ.

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

Thomas Wingate moved that the Texas Board of Criminal Justice approve the revisions to BP-13.69, “State Counsel for Offenders,” as presented.

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 152.71, “Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes”

Ms. Howell presented the proposed amendments to Board Rule 152.71, “Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes do not affect any practice and clarify the responsibilities associated with donating buildings to the TDCJ. 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 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Programmatic Purposes, to receive public comment, as presented.

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

2. Section 163.36, “Mentally Impaired Offender Supervision”

Ms. Howell presented the proposed amendments to Board Rule 163.36, “Mentally Impaired 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 rearrange the title to person-first language, emphasizing the person and not the disability, and conform and streamline the language, using the definition of offender with mental impairment provided by the legislature and the Health and Safety Code. 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 163.36, regarding Mentally Impaired Offender Supervision, to receive public comment, as presented.

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

Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rule Title 37 Texas Administrative Code Section 195.51, Sex Offender Supervision

Ms. Howell presented the proposed repeal of Board Rule 195.51, “Sex Offender Supervision.” She stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The rule was reviewed to determine if there was a continuing need to retain it. The analysis determined there was no statutory provision requiring this rule and no continuing need for this rule. Ms. Howell recommended the TBCJ adopt the repeal.

E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed repeal of Board Rule Title 37 Texas Administrative Code Section 195.51, concerning Sex Offender Supervision, as presented.

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

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

1. Section 159.9, “Firearms Proficiency Training for Supervision Officers”

Ms. Howell requested the adoption of amendments to Board Rule 159.9, “Firearms Proficiency Training for Supervision Officers,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2, 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.

Patrick O'Daniel moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.9, regarding Firearms Proficiency Training for Supervision Officers, as published in the Texas Register, and that the chairman sign the order to this effect.

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

2. Section 159.19, “Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having Mental Illness”

Ms. Howell requested the adoption of amendments to Board Rule 159.19, “Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2, 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.

Thomas Fordyce moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.19, regarding Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness, as published in the Texas Register, and that the chairman sign the order to this effect.

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

3. Section 159.21, “Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly”

Ms. Howell requested the adoption of amendments to Board Rule 159.21, “Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly,” as proposed and authorized at the October 2018 TBCJ meeting. She explained the amendments appeared in the November 2,

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.

Derrellynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 159.21, regarding Continuity of Care and Service Program for Offenders who are Persons with Mental Impairments, Physical Disabilities, Terminal or Significant Illnesses, or who are Elderly, as published in the Texas Register, and that the chairman sign the order to this effect.

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

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

1. Request for 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 for a gas pipeline easement at the Ellis Unit, in Walker County, Huntsville, Texas. He stated Oneok Arbuckle Pipeline, LLC is requesting an easement consisting of an area of approximately 2.19 acres of land being 3,172.76 feet long by 30 feet wide for one natural gas liquids pipeline. This request includes temporary workspace totaling 5.56 acres for use during pipeline construction and installation. Oneok Arbuckle Pipeline, LLC has agreed to pay \$115,605 for this easement with a 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.

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

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

2. Request for a Gas Pipeline Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Lumpkin presented the request for a gas pipeline easement at the Ramsey Unit, in Brazoria County, Rosharon, Texas. He stated South Texas NGL Pipelines, LLC is requesting an easement consisting of approximately 1.056 acres being 1,534.43 feet long by 30 feet wide for one hydrocarbon gas liquids pipeline. This request includes temporary workspace totaling 3.12 acres for use during pipeline construction and installation. South Texas NGL Pipelines, LLC has agreed to pay \$85,350 for this easement with a 10-year term. Mr. Lumpkin 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 the request for a gas pipeline easement at the Ramsey Unit in Brazoria County, Rosharon, Texas, as presented.

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

3. Request for Gas Pipeline Easements at the Clemens Unit in Brazoria County, Brazoria, Texas

Mr. Lumpkin presented the request for gas pipeline easements at the Clemens Unit, in Brazoria County, Brazoria, Texas. He stated Phillips 66 Pipeline, LLC is requesting easements consisting of approximately 2.45 acres being 3,558.24 feet long by 30 feet wide for three natural gas liquids pipelines. This request includes temporary workspace totaling 8.75 acres for use during pipeline construction and installation. Phillips 66 Pipeline, LLC has agreed to pay \$507,670 for these easements, all with a 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 Phillips 66 Pipeline, 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 for gas pipeline easements at the Clemens Unit in Brazoria County, Brazoria, Texas, as presented.

Thomas Fordyce 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, February 8, 2019, at the Wyndham Garden Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright adjourned the 202nd meeting of the Texas Board of Criminal Justice at 1:51 p.m.


Chairman


Secretary