

Texas Board of Criminal Justice
203rd Meeting



Minutes

February 8, 2019
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

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

**February 8, 2019
11:15 AM – 2:15 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Lake Austin/Lake Travis

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 202nd TBCJ Meeting Minutes
- C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2018 Annual Review
- 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 2018 – 2019
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code Sections
 - 1. 152.71, Acceptance of Gifts Related to Buildings for Religious and Secular Programs
 - 2. 163.36, Supervision of Offenders with Mental Impairment
- 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 Proposed Land Transactions
 - 1. Request for a Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas
 - 2. Request for a Public Street Easement and Surface Lease at the Wynne Unit in Walker County, Huntsville, Texas

- K. Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project - Request to Replace a Ground Water Storage Tank at the Mountain View Unit in Coryell County, Gatesville, 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 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. 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. 203**

The Texas Board of Criminal Justice (TBCJ) convened on Friday, February 8, 2019, in regular session at 11:00 a.m. in the Lake Austin/Lake Travis rooms at the Wyndham Garden Hotel, Austin, Texas. The TBCJ recessed from regular session at 12:06 p.m., reconvened in executive session at 12:36 p.m. in the San Gabriel room, and adjourned at 1:15 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice-Chairman
Eric Gambrell, Secretary
E.F. "Mano" DeAyala
Larry Miles
Derrellynn Perryman
Hon. Thomas P. Wingate

TBCJ MEMBERS ABSENT:

Tom Fordyce
Patrick O'Daniel

**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
Frank Inmon Pam Thielke
Sherry Koenig April Zamora

OTHERS PRESENT:

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

Convene the Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 203rd meeting of the TBCJ on Friday, February 8, 2019, at 11:00 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." One speaker registration card was received for public comments prior to the deadline. The presentation was heard later in the meeting.

Recognitions

Chairman Wainwright recognized Rudolph Brothers, former State Counsel for Offenders Director, and outlined his exceptional career. On behalf of the TBCJ, Chairman Wainwright thanked him for his loyalty, commitment, and dedication to serving the great state of Texas.

Billy Hirsch, TDCJ CID Deputy Director Prison and Jail Operations, introduced Wayne Brewer as the new Region I Director, and highlighted his career. He stated Mr. Brewer has a zest for life and accomplishing our mission.

April Zamora TDCJ Reentry and Integration Division Director, introduced Amanda Vasquez as the new Deputy Director of the Reentry and Integration Division, and highlighted her career. She stated Ms. Vasquez has an abundance of experience with offender programs.

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 January and February 2019. During this time, 77 employees attained 25 years of service, 11 employees attained 30 years of service, 11 employees attained 35 years of service, and seven 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. 202nd TBCJ Meeting Minutes**

Chairman Wainwright stated he was abstaining from taking action on the personal property donations. 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 multiple entities listed on the personal property donations list. Board Member Larry Miles abstained from taking action due to his church donating items listed on the personal property donations. Chairman Wainwright acknowledged the abstentions and, hearing no further objections, the consent items were approved.

Report from the Presiding Officer, Texas Board of Pardons and Paroles

Overview of the Texas Board of Pardons and Paroles Fiscal Year 2018 Annual Review

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2018 Annual Review. He stated that Article IV, Section II, of the Texas Constitution establishes the BPP's duties as follows: decide which prisoners to release on parole or discretionary mandatory supervision; decide conditions of parole and mandatory supervision; decide revocation of parole and mandatory supervision; and recommend clemency matters to the governor. Mr. Gutierrez explained that the recidivism rate is 20.3% for offenders released and tracked for a period of three years. Over the past decade, this number has decreased from 28% due to the efforts and working relationship of the BPP and the TDCJ. In FY 2018, the BPP considered 78,974 parole cases and 26,566 were approved, reflecting a 33.6% rate. There were 19,077 mandatory supervision cases considered, of which 9,136 were approved, and 6,180 parole revocations.

Mr. Gutierrez discussed some ongoing developments in the BPP. The first area is working with the TDCJ Media Services to produce a video to help victims understand the interview process and the impact they can make. The second area is to improve the percentage of voting done electronically and to increase efficiency. The third area is working closely with legislative committees and the TDCJ in the 86th Legislative Session.

Terrell McCombs commended Mr. Gutierrez for doing a great job making decisions on what is right and acknowledged those decisions are not easy to make.

Derrelynn Perryman, on the behalf of victims of crime, thanked Mr. Gutierrez for his compassion and consideration of their needs in a process that is overwhelming.

Mr. Collier thanked Mr. Gutierrez for the fantastic job and great working relationship.

Chairman Wainwright thanked Mr. Gutierrez for an enlightening presentation and his commitment to public service.

Report from the Executive Director, Texas Department of Criminal Justice

86th Legislative Session Update

Mr. Collier stated the 86th Legislative Session began on January 8, 2019, and is in full swing. In the past few weeks, the focus has been on the Senate budget hearings. The TDCJ presented the legislative appropriations request and exceptional items to the Senate Finance Committee on January 28, 2019. Earlier in the week, they appeared before the House Appropriations Committee to provide an overview of Correctional Managed Health Care and to the House Corrections Committee to provide an agency overview. The TDCJ base budget in both the House and Senate give the agency a good starting point. The House base budget includes 26 million for comprehensive video surveillance and provides a significant amount to the health care base budget. The Senate base budget includes 10 million for comprehensive video surveillance and 2 million in funding for college level vocational training. The TDCJ will continue to work closely with members on exceptional items. The TDCJ is also monitoring filed legislation that has an impact on the agency. Further updates will be provided throughout the process.

Correctional Officer Staffing

Mr. Collier stated correctional officer staffing remains the number one challenge and priority. Recent hiring totals reflect some improvements with correctional officer vacancies; however, new initiatives to recruit and retain correctional officers will continue. Overall, correctional officer vacancies have reduced from nearly 4,000 to around 3,400. Staff remains diligently focused on aggressively recruiting and retaining officers. A variety of strategies to provide relief staff to units that have significant staffing shortages is currently being worked on.

American Correctional Association Winter Conference

Mr. Collier stated during the American Correctional Association's conference held last month, the TDCJ had 14 units that were reviewed for re-accreditation by the American Correctional Association and all 14 units were successful. The wardens and staff did an outstanding job representing their respective units before the standards committee. Each unit achieved a score of 98% or higher on their respective audits. Mr. Collier thanked Lorie Davis, Correctional Institutions Division Director, Cody Ginsel, Private Facilities Contract Monitoring/Oversight Division Director, Kelvin Scott, Administrative Review and Risk Management Division Director, and staff for all of their hard work during the accreditation process.

Report from the Chairman, TBCJ

Reorganization of the Prison Rape Elimination Act Ombudsman's Office and the TDCJ's Safe Prisons Program

Chairman Wainwright stated in 2003, the Prison Rape Elimination Act (PREA) was passed and, over time, standards were developed that correctional agencies across the country were expected to adhere to. Recognizing the complexity of the evolving standards and a need for independent oversight, the Texas Legislature created the PREA Ombudsman Office in 2007. This office reports directly to the TBCJ. Prior to the passage of PREA, Texas had a well-established Safe Prisons Program and zero tolerance for in-prison sexual abuse. This remains true today. Only a few changes needed to be implemented. There was one standard in particular related to cross-gender viewing that posed the most significant challenge. Nearly 40% of TDCJ correctional officers are female. The TDCJ focused efforts on finding a solution, and implemented modifications such as adding privacy partitions and a policy requiring opposite gender staff to announce their presence when entering an offender housing area. The first PREA audit was conducted in August 2014 and the facility was found to be fully compliant. Fast forward to today, every facility under the jurisdiction of the TDCJ has been audited and found to be compliant with all PREA standards. Facilities are now undergoing a second cycle of audits. Only eight other correctional systems across the country have reached the level of full accreditation with PREA and American Correctional Association standards. Even with these accomplishments, there are still deficiencies that can be found and processes improved. Recently it was determined that some TDCJ resources would be better aligned under the PREA Ombudsman Office. Regional PREA managers will be transferring to the PREA Ombudsman Office. The new team will have a newly integrated information system that allows for better tracking of complaint resolutions across the correctional system. The realignment will ensure that the independent PREA Ombudsman has additional tools to continue important work of ensuring compliance with federal and state laws and standards.

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 January 29, 2019, Internal Audit Division Status Report for the Fiscal Years (FY) 2018 - 2019:

- **1808 – Prison Rape Elimination Act Ombudsman, Correctional Institutions Division, Office of the Inspector General, *Safe Prisons – PREA Coordination***: Audit is complete.
- **1814 – Information Technology Division, *Project Management***: Audit is a draft report.
- **1901 – Correctional Institutions Division, *Correctional Officer Retention Consultation***: Audit is in field work.
- **1902 – Administrative Review and Risk Management Division, *Operational Review Consultation***: Audit is in field work.

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

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

1. Section 152.71, “Acceptance of Gifts Related to Buildings for Religious and Secular Programs”

Ms. Howell requested the adoption of amendments to Board Rule 152.71, “Acceptance of Gifts Related to Buildings for Religious and Secular Programs,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the amendments appeared in the December 28, 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 152.71, regarding Acceptance of Gifts Related to Buildings for Religious and Secular Programs, as published in the Texas Register, and that the chairman sign the order to this effect.

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

2. Section 163.36, “Supervision of Offenders with Mental Impairment”

Ms. Howell requested the adoption of amendments to Board Rule 163.36, “Supervision of Offenders with Mental Impairment,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the amendments appeared in the December 28, 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.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 163.36, regarding Supervision of Offenders with Mental Impairment, as published in the Texas Register, and that the chairman sign the order to this effect.

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

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

Ms. Howell requested the adoption of repeal of Board Rule 195.51, “Sex Offender Supervision,” as proposed and authorized at the December 2018 TBCJ meeting. She explained the repeal appeared in the December 28, 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 repeal of the rule.

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 repeal Board Rule Title 37 Texas Administrative Code Section 195.51, concerning Sex Offender Supervision, 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.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for a Gas Pipeline Easement at the Boyd Unit in Freestone County, Teague, Texas

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, presented the request for a gas pipeline easement at the Boyd Unit, in Freestone County, Teague, Texas. He stated ETC Katy Pipeline, LTD is requesting an easement consisting of an area of approximately 6.55 acres of land being 9,507.83 feet long by 30 feet wide for one natural gas pipeline. This request includes temporary workspace totaling 22.12 acres for use during pipeline construction and installation. ETC Katy Pipeline, LTD has agreed to pay \$365,535 for this easement with a 10-year term. Terms include indemnification language. 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.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the request for a gas pipeline easement at the Boyd Unit in Freestone County, Teague, Texas, as presented.

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

2. Request for a Public Street Easement and Surface Lease at the Wynne Unit in Walker County, Huntsville, Texas

Mr. Lumpkin presented the request for a public street easement and surface lease at the Wynne Unit, in Walker County, Huntsville, Texas. He stated the City of Huntsville is requesting an easement consisting of approximately 0.55 acres being 400 feet long by 60 feet wide on which to locate a public street and related drainage facilities to provide secondary access to the site of the city's new police department complex. Additionally, the request includes a lease of 2.373 acres of adjoining property for additional greenspace. The City of Huntsville has agreed to pay \$9,643 for this easement with a 30-year term and an annual rental of \$2,076 for leased property with a 20-year term. Both terms include indemnification language. 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.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the request for a public street easement and surface lease at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

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

Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project – Request to Replace Ground Water Storage Tank at the Mountain View Unit in Coryell County, Gatesville, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for consideration requesting board approval to replace a ground water storage tank at the Mountain View Unit located in Coryell County, Gatesville, Texas. The work will consist of replacing the current 150,000 gallon steel tank with two new tanks, each 151,000 gallon bolted steel 24 feet high by 32 feet in diameter. A new booster pump station will be installed and connected to the new tanks. Additionally, the new system will be regulated by two new pressure vessels. Bids were received for this project in January. If approved, the work will be performed by MCG Contractors, Inc., with a total cost of \$5,038,700.

Derrellynn Perryman moved that the Texas Board of Criminal Justice approve the request to replace a ground water storage tank at the Mountain View Unit located in Coryell County, Gatesville, Texas, as presented.

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

Public Comments

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public comments in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." He reviewed the requirements for speaker registration in accordance with the *Open Meetings Act*. There was one registration card received prior to the established deadline for public comment regarding an item posted on the agenda. The time limit set was three minutes per individual.

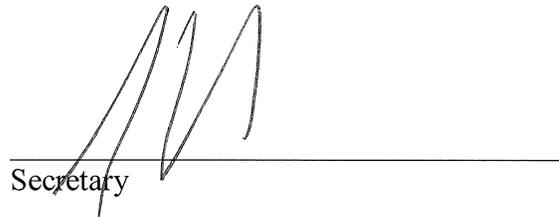
Frances Vaughn stated there was a cross-gender viewing incident that she brought to the attention of the PREA Ombudsman. She stated a female sergeant conducted a drug test on a male offender and an investigation was conducted. Ms. Vaughn alleged the investigation failed to speak to the offender in regard to how the drug test was administered. She stated the female sergeant is in a recruitment process and is being held out by the agency as exemplary. Ms. Vaughn requested this matter be further investigated.

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Friday, April 5, 2019, at the DoubleTree Hotel in Austin.

Adjournment

There being no further business, Chairman Wainwright recessed the 203rd meeting of the Texas Board of Criminal Justice at 12:06 p.m.


Chairman


Secretary