

Texas Board of Criminal Justice
209th Meeting



Minutes

February 25, 2020
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**DoubleTree Hotel
Phoenix South and DeZavala
6505 North IH-35
Austin, Texas 78752**

**February 25, 2020
10:45 AM – 12:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix South

- A. Recognitions
- B. Consideration of Approval of Consent Items
 - 1. Hazardous Duty Pay Authorization Requests
 - 2. Personal Property Donations
 - 3. 208th TBCJ Meeting Minutes
 - 4. Excused Absences
- C. Report from the Presiding Officer, Texas Board of Pardons and Paroles – Overview of the Texas Board of Pardons and Paroles Fiscal Year 2019 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 2019 – 2020
- G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to BP- 03.91, “Uniform Offender Correspondence Rules”
- I. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code Sections
 - 1. 161.21, Role of the Judicial Advisory Council
 - 2. 163.31, Sanctions, Programs, and Services
 - 3. 163.41, Medical and Psychological Information

- J. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code
 - 1. 163.33, Community Supervision Staff
 - 2. 163.35, Supervision
- K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions - Request for Wastewater Easement at the Kyle Unit in Hays County, Kyle, Texas
- L. Discussion, Consideration, and Possible Action Regarding Proposed Facilities Division Construction Projects
 - 1. Replace Roofs at the Coffield Unit in Anderson County, Tennessee Colony, Texas
 - 2. Replace Roofs at the Michael Unit in Anderson County, Tennessee Colony, Texas
 - 3. Replace Roofs at the Young Unit in Galveston County, Dickinson, Texas
 - 4. Install Air Conditioning at the Hodge Unit in Cherokee County, Rusk, Texas

Reconvene TBCJ

II. Executive Session – DeZavala Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of personnel matters relating to the Board of Criminal Justice, 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 or to hear a complaint or charge against an employee (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. 209**

The Texas Board of Criminal Justice (TBCJ) convened on Tuesday, February 25, 2020, in regular session at 10:53 a.m. in Phoenix South at the DoubleTree Hotel, Austin, Texas, recessed at 12:41 p.m., reconvened in Executive Session at 1:36 p.m., and adjourned at 3:06 p.m.

TBCJ MEMBERS PRESENT:

Patrick O’Daniel, Chairman
Derrelynn Perryman, Vice-Chairman
Tom Fordyce, Secretary
E.F. “Mano” DeAyala
Hon. Molly Francis
Hon. Faith Johnson
Sichan Siv
Eric Nichols

TBCJ MEMBERS ABSENT:

Larry Miles

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE STAFF
PRESENT:**

Bryan Collier, Executive Director
Oscar Mendoza, Deputy Executive Director
Andrew Barbee
Erik Brown
Jason Clark
Lorie Davis
Jeremy Desel
Marvin Dunbar
Patty Garcia
Cody Ginsel
Carey Green
Rene Hinojosa
Frank Inmon
Dr. Lannette Linthicum
Bobby Lumpkin
Jerry McGinty
Melvin Neely
Ron Steffa
Pam Thielke
Rebecca Waltz
Kristen Worman
David Yebra
April Zamora

TBCJ STAFF PRESENT:

Chris Cirrito
Jill Durst
Cris Love

OTHERS PRESENT:

Allegra Hill, Policy Advisor with the Office of Texas Governor Greg Abbott; Roel Benavides, Committee Clerk for the House Corrections Committee; Hon. Dale Spurgin, Jones County; Rep. Carl Sherman, Texas House of Representatives; Mike Ward, Committee Clerk for the Senate Committee on Criminal Justice; and David Gutierrez, Board of Pardons and Paroles Chair.

Convene the Texas Board of Criminal Justice

Chairman Patrick O’Daniel convened the 209th meeting of the Texas Board of Criminal Justice (TBCJ) on Tuesday, February 25, 2020, at 10:53 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 O’Daniel stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as provided in accordance with Board Rule 151.4, “Public Presentations and Comments to the Texas Board of Criminal Justice.” Four speaker registration cards were received for public comments prior to the deadline.

Recognitions

Chairman O’Daniel introduced Sichan Siv and Eric Nichols as new board members appointed by Governor Greg Abbott and highlighted their backgrounds.

Chairman O’Daniel recognized departing board members Hon. Thomas Wingate and Terrell McCombs for their dedication, integrity, and wisdom while serving the state of Texas.

Bryan Collier, Texas Department of Criminal Justice (TDCJ) Executive Director, recognized Ron Steffa, Deputy Chief Financial Officer, for 30 years of service.

Mr. Collier introduced Marvin Dunbar as the Administrative Review and Risk Management (ARRM) Division Director, and highlighted his education and career.

Mr. Collier introduced Kristen Worman as the General Counsel for the TDCJ, and highlighted her education and career.

Jerry McGinty, Chief Financial Officer, introduced Rebecca Waltz as the new Budget Director, and highlighted her education and career.

Bobby Lumpkin, Manufacturing, Agribusiness and Logistics (MAL) Division Director, introduced Matt Barber as the new MAL Deputy Division Director, and highlighted his education and career.

Lorie Davis, Correctional Institutions Division Director, introduced Eric Guerrero as the new Deputy Director of Management Operations, and highlighted his education and career.

Marvin Dunbar, ARRM Division Director, introduced Travis Turner as the new ARRM Deputy Director, and highlighted his education and career.

Chairman O’Daniel recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 years of service to the state of Texas during the months of January and February 2020. During this time, 104 employees attained 25 years of service, 26 employees attained 30 years of service, and 15 employees attained 35 years of service. One employee, Ms. Janice Birks, was present and recognized for her dedication during 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. 208th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman O’Daniel stated the consent items include an excused absence for Sichan Siv for the December meeting due to personal business, and asked if there were any amendments, abstentions, or objections to the proposed consent items. Hearing none, 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 2019 Annual Review

David Gutierrez, Presiding Officer Board of Pardons and Paroles (BPP), introduced Brian Long, board member; Betty Wells, General Counsel; and Timothy McDonald, Governmental Affairs Specialist. He congratulated Mr. O’Daniel on his appointment as chair of the TBCJ and stated the BPP and the TBCJ work extremely well together to provide public safety, promote positive change in offender behavior, successfully reintegrate offenders back into society, and assist victims of crimes. The success of the criminal justice arena in Texas is contingent upon the two agencies working hand in hand, in which both boards have done an outstanding job. Mr. Gutierrez was appointed as a member of the BPP in 2009 by then Governor Rick Perry. He served a six-year term as a board member in the Gatesville regional area. In 2015, Governor Abbott appointed him to another term as presiding officer. Prior to joining the BPP, he served 33 years with the Lubbock County Sheriff’s office, with the last 12 as sheriff. His entire career has been in law enforcement, serving as a public servant to the citizens of this great state.

The BPP receives its authority from Article IV, Section 11 of the Texas Constitution. The BPP is responsible for deciding which prisoners to release on parole or discretionary mandatory supervision; determining the conditions of parole and mandatory supervision; deciding on revocation of parole and mandatory supervision; and recommending clemency matters to the governor. It is important to note that the BPP does not set eligibility dates for offenders to be considered for parole; that is determined by statute and the TDCJ. It is also important to note that the BPP does not supervise individuals once they are released from prison. That responsibility falls under the jurisdiction of the TDCJ. There are some conditions of parole or mandatory supervision that are standard; however, there are special conditions that the BPP will decide to set such as sex offender restrictions or installing an interlock device on an individual’s vehicle. If an individual violates a condition and the matter is brought to the BPP, a determination will be made regarding whether to continue that individual on supervision, impose additional conditions,

utilize a graduated sanction approach, place them in an intermediate sanction facility or substance abuse facility, or ultimately revocation.

In FY 2019, slightly over 77,000 cases for parole considerations were received, with an approval rate of 35.7%. In FY 2020 year-to-date, the approval rate has slightly increased to right below 40%. This is attributed to the refocus on parole guidelines and the utilization of treatment programs that are available. It is important to note that the 77,000 cases reviewed are not just numbers. These are actual individuals with families and victims, and these decisions are very difficult. In FY 2019, slightly under 19,000 cases were reviewed for discretionary mandatory supervision, with just over 9,000 cases approved. In 2003, there were 10,554 parole revocations; in 2019, there were 5,388 parole revocations. The reasons for the drop in revocations include the use of Intermediate Sanction Facilities, Substance Abuse Felony Punishment Facilities, rehabilitative and reentry programs, and successful field operations by the Parole Division. From 1999 to 2015, recidivism rates dropped from 33% to 20.3%.

Mr. Gutierrez stated that since being appointed the presiding officer, the key areas of focus to improve upon include: working efficiently and consistently across the state; providing the best public service by staff; establishing a training department; establishing a victim liaison to provide more services for victims; determining efficiencies in staff to eliminate unnecessary positions, identify essential positions, and reward those performing at a high level; increasing communication with all callers such as Texas groups, defense attorneys, district attorneys, law enforcement agencies, criminal justice advocates, and legislators; centralizing the purchasing division, which has been extremely beneficial in eliminating waste and duplication; and utilizing technology to simplify and enhance operations. Currently, BPP is working on a project with the TDCJ to move parole files from paper to electronic voting. Over the last two years, the cases voted electronically nearly doubled to 50%. Additionally, the BPP worked with the governor's office to establish a special clemency application for survivors of human trafficking and domestic violence victimization in the public awareness campaign. Although this is an accomplishment to be proud of, there is still a lot of work to be done to continue to improve operations. He thanked the TBCJ for the opportunity to present the FY 2019 annual review.

Chairman O'Daniel asked Mr. Gutierrez what he was most proud of since being appointed presiding officer. Mr. Gutierrez stated it is wonderful to work with such professionals across the criminal justice system to promote positive change in incarcerated individuals and to see the system from the beginning to end working efficiently to provide hope for the future. He stated he was also very proud to work with victims, as they are the heart of the system.

Mr. Collier thanked Mr. Gutierrez for a great working relationship and stated it is a privilege to work with him and the BPP.

(Attachment B – Texas Board of Pardons and Paroles FY 2019 Annual Review)

Report from the Executive Director, **Texas Department of Criminal Justice**

Correctional Officer Staffing

Mr. Collier provided an update on the challenges of correctional officer staffing. Over the past few months, the TDCJ has continued to focus on efforts to improve staffing and retention in a variety of ways. One effort has been the testing of a direct hire model at the Robertson and Clements units. This model allows the units to directly hire correctional officer applicants without a delay for the applicant prior to a correctional officer academy. In this model, rather than be hired and given a future academy date, the candidate is offered a quick hire date and allowed to work under a training status at the unit until the academy begins. During this time, they are given the opportunity to become familiar with the unit and the role of a correctional officer. This model has been tested over the past few months, has shown great potential, and will be expanded to many of the other units within the next few weeks. The objective is to reduce the drop-off rate for employees who are offered a position but later do not report to the academy due to obtaining other employment, and to reduce anxiety about the work environment by allowing them to adjust to the environment prior to the academy. Mr. Collier stated correctional officer staffing will continue to be a top priority and updates will be provided on progress and new developments.

Unit Closures

Mr. Collier discussed the announcement regarding the closure of two correctional facilities that will take place over the next few months. Over the past year, correctional populations have declined to levels not seen in more than 20 years. Currently, the population is approximately 140,500 offenders, a number not seen since 1997. Based on this decline, TDCJ is confident that it can close the Garza East Unit in Beeville and later close the Jester I Unit in Sugarland. The capacity of these facilities, which is just over 2,300, is not needed. The unit closure process will begin during May, starting with the Garza East Unit, which will be fully closed by August. The Jester I Unit closure will also occur this summer but will follow the Garza East Unit due to transferring of the treatment program from that facility to another location. Staff at each of these locations will be able to transfer to units that are nearby where there are staff vacancies. The Garza East Unit will be maintained at a level that would enable its reopening if population or other needs require its use in the future. The Jester I Unit, along with some surrounding acreage, is being reviewed by the General Land Office for possible sale in the future. An update on the sale progress will be provided at a future meeting. Because of the combination of successful rehabilitative programs funded by the Texas legislature and lower recidivism and crime rates, populations continue to decline yearly. Once these closures are complete, Texas will have closed 10 prisons in nine years, seven over the last four years.

Report from the Chairman, TBCJ

Welcome and Introduction

Chairman O'Daniel stated it is an honor to serve on this board. Almost three years ago, he was appointed by Governor Abbott with the great pleasure and privilege of working with the proud and dedicated men and women of the TDCJ. He stated that he has big shoes to fill and some water he should not be treading, as his predecessor Justice Wainwright would point out. His goal is to help keep the TDCJ great. Greatness is not easily achieved and even harder to maintain. It takes continued efforts, perseverance, and strong leadership. As a board, the TBCJ does not want to sit on the sidelines, but rather press forward and be in the championship every year. While the agency is in a good place, there will always be areas for improvement. It takes a team approach to get there with a leader willing to serve the team, not himself. The TBCJ is fortunate to have a strong head coach, Mr. Collier, leading the charge. Correctional officers have one of the most demanding jobs in all of state government. Day in and day out, they deal with convicted offenders who would rather be somewhere else. They are the boots on the ground, carrying out the mission, and keeping the public safe. Further, correctional officers belong to a proud organization with a storied history and a standard of excellence unmatched anywhere else. Unfortunately, the TDCJ is feeling the effects of a red-hot job market right now. The unemployment rate is at levels not seen in 50 years, which makes the hiring landscape incredibly difficult, particularly for correctional officers. The most pressing issue facing the agency is the recruitment and retention of officers. The TDCJ is working hard to stem the tide. It is everyone's shared priority to fill these positions, keep the current officers, and ensure they have the right tools at their disposal. David Yebra, Training and Leader Development Division Director, spoke at the last board meeting regarding how they are building a sense of family, developing a leadership pipeline, and revamping training offered to officers. As Mr. Collier stated, to be effective, it will take more than just training or pay increases. Every division within the TDCJ will need to work as a proud team to find new and creative ways to bring in and keep correctional officers.

Chairman O'Daniel stated his focus, however, will not just be on the employees of the TDCJ, but also the incarcerated offenders behind the walls, since most offenders will leave prison and return to society where they will be our co-workers, friends, and neighbors. It is important to make sure that as they do their time and pay back their debt to society, that TDCJ is increasing the possibility that they can turn their lives around. This does not mean that the TDCJ will turn everybody's life around, but it does mean that it should be there to offer a helping hand if somebody in the midst of imprisonment recognizes the error of their ways, is in the process of reflecting about where they have been and where they should be going, and wants to turn their life around. The TDCJ has helped countless individuals make that turn. The TDCJ has one of the lowest return-to-prison rates in the country, a mere 20.3% return after three years. Mr. O'Daniel stated he wants that number to be as close to zero as possible. He believes one way to get there is by providing the programming to the right people. There are more than 9,700 offenders in the TDCJ with past military service, and TDCJ has specialized programs to help address the specific needs of those who served our country. It is incredibly important that TDCJ not give up on our vets, both living in society and those incarcerated. Through an agreement with the Texas Veterans Commission, the Reentry and Integration Division helped open the first-ever Veterans Reentry Dorm at the Travis County State Jail. The housing area is populated by offenders who have been identified with a service record and wish to participate in the program. It is designed

to mimic the squadron structure familiar to veterans. Participation in the six-month program is completely voluntary and requires offenders to first take responsibility for the crimes that brought them to prison. As veterans transition from incarceration to communities, the department works to help eligible offenders file pension reinstatement claims, as well as veteran benefits applications. These offenders fought in our armed services to help keep us free, and we have a duty to return the favor.

Another area that must be closely watched is the growing elderly population. The number of incarcerated individuals over the age of 55 continues to increase. While the overall population has decreased over the last 10 years, the number of offenders 55 or older has nearly doubled. The TDCJ holds more than 20,000 elderly offenders who now comprise nearly 15% of the population. They are growing at a rate of nearly 1,000 a year. They pose challenges not only operationally but also utilize healthcare services at a higher rate. In an effort to control costs and support the growing population of elderly offenders whose medical needs cannot be met in a general population environment, the agency, with funding provided during the past two legislative sessions, is creating additional sheltered housing beds. The housing provides an alternative for those who might otherwise have an extended stay in a unit infirmary bed. These are steps in the right direction, but we must be creative as we look to the future on how to deal with a graying population.

It is not just the old and frail who are heavy users of healthcare. Many offenders have treated their bodies poorly while in the free world. Once they are incarcerated, it benefits everyone if they can begin heading down the path of a healthier lifestyle. Diet is a big part of that. The TDCJ is now offering healthier options in the commissary and the chow line, and more than 19,000 offenders last month opted for a healthier meal. Eating better is just part of the answer. The agency is partnering with Windham School District in a campaign that gets the incarcerated population more active and involved in taking ownership of their wellness. It takes willpower to break bad habits. One approach is cognitive education. Many offenders can point to poor choices which led to their incarceration. Cognitive education is designed to help individuals re-engineer themselves back toward a healthy and productive life. It is already baked into much of the education and substance programming offered within the TDCJ. Through intervention, a teacher or counselor can draw the offender's attention to the choices and habits that contributed to their crime. Automatic thinking can be challenged. Memory can be trained. Visualizations can provide powerful footholds on the path back to a more reasonable reality. Each individual is unique. Cognitive education may be the best option for one person while a more intensive program would be better for someone else. In order to make those decisions, the agency must know who is at highest risk of returning. Sound risk assessments, and appropriate, timely evidence-based programming are key ingredients to keep an individual from returning to prison. The TDCJ will continue to expand program opportunities and ensuring the right people are in those programs.

One thing we cannot lose sight of is the core function of this agency, which is public safety. It is achieved in many ways, by keeping dangerous individuals away from the public, but also helping to change behavior that allows individuals who have been in the TDCJ system to not come back. Many times, the best way to determine what is working and what is not is to drill down and look at the data. It is exciting to hear that the agency is expanding its research capabilities. It is imperative to have data and research to show what is and is not working, so the focus can be on the factors proving to inhibit offenders' successful reintegration back into society.

As mentioned earlier, it takes a team approach for the criminal justice system to be in balance. Chairman O’Daniel stated he is grateful for a strong relationship with the Board of Pardons and Paroles. Under Chairman Gutierrez’s leadership, parole rates have gone up, revocations have gone down, and those returning to prison remain at all-time lows. The continued collaboration with the Parole Division and parole officers is greatly appreciated. On the front end of the system, there are 122 independent probation departments across the state that are keeping our communities safe by ensuring appropriate supervision. The entire Community Justice Assistance Division is working collaboratively with jurisdictions to find new and creative ways to deal with individuals by intervening before they enter the prison system. With a criminal justice system that is as large and diverse as the TDCJ, as former Chairman Wainwright would say, “treading water is not an option.” This is true for all of those who report to this board. Leaders from the Office of the Inspector General, State Counsel for Offenders, Internal Audit, and the PREA Ombudsman office have joined us today. Each one has a unique mission, yet each share a common goal of keeping Texans safe. As a board, we are responsible for reviewing and approving their budgets and ensuring they have the resources needed to do their jobs, a responsibility this board takes seriously.

Chairman O’Daniel stated an unfortunate reality is that victims can sometimes be forgotten when discussing the criminal justice system, however, it is imperative to remember there is a name, a family, and a community that is directly impacted by crime. The mission statement of the TDCJ is “to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist crime victims.” He stated it all comes back to victims; past, present, and future victims of crime. Chairman O’Daniel expressed gratitude for the opportunity to serve in this role, working as a team to continue to make the correctional system in Texas a model for the rest of the country.

Internal Audit Status Report for Fiscal Years 2019 - 2020

Chris Cirrito, Internal Audit Division Director, provided the following updates to the handout of the February 14, 2020, Internal Audit Division Status Report for Fiscal Years (FY) 2019 - 2020:

- **2005 – Human Resources Division, *Employee Clearances*:** Audit is a draft report.
- **2008 – Executive Administrative Services, *Social Media Governance*:** Audit is a draft report.

Mr. Cirrito stated two new projects have been added: Project 1810, regarding Seriously Mentally Ill Offenders, has been assigned follow-up and project 2016-05, regarding Offender Employment Services, is in walk-through.

Chairman O’Daniel asked if there were any questions. There were none.

(Attachment C – Internal Audit Division Status Report, Fiscal Years 2019-2020)

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

Chairman O'Daniel abstained from taking action on this item due to his firm representing Management Training Corporation. Vice-Chair Derrelynn Perryman handled the facilitation of this matter.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented five purchase items for consideration. Items one through four are increases to current contracts due to increases in services for Texas Correctional Office on Offenders with Mental Impairments. Item five is an increase to a current contract for Substance Abuse Felony Punishment Facility (SAFPF)/In-Prison Therapeutic Community (IPTC) due to increases in services at the Goodman Unit.

Vice-Chair Perryman asked for any questions, comments, or other abstentions. Hearing none, she called for a motion and a second.

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

Judge Molly Francis seconded the motion, which unanimously passed when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Revisions to BP-03.91, "Uniform Offender Correspondence Rules"

Erik Brown, TDCJ Office of the General Counsel – Director of Legal Affairs, presented the proposed revisions to BP-03.91, "Uniform Offender Correspondence Rules." He stated the policy is being updated to include revised rules for the offender mail system for the purpose of preventing the introduction of contraband received through offender mail. The remaining changes are non-substantive, reflecting citation corrections and grammar and style.

Chairman O'Daniel stated there are four public presentations regarding this item. He reviewed the rules and stated each presenter is allowed three minutes.

Margarita Luna, from the Texas Criminal Justice Coalition, stated she has objections to the policy. She mentioned that she had previously been incarcerated and one of the things she looked forward to was mail from her children. She stated local ministries send out cards for offenders who do not have family members. These are things that are very helpful while incarcerated. She is concerned family members will suffer the most. She also expressed concern regarding the use of canines with respect to visitors because some people travel long distances to visit incarcerated family members, and if a canine is alerted to a visitor they will be turned away, no questions asked. She feels this is more punitive on family members. She suggested use of these resources in the mail room. She stated offenders get searched going into and coming out from visitation. She feels there is a better way and this should be looked into more.

Francis Vaughn stated she has concerns about the changes to the mail policy. She feels they are too harsh, although she understands the purpose behind it. Her husband is currently serving a life-sentence and understands the policy revisions from that perspective. However, she feels that the standard of punishing everyone for the sins of a few is unfair. She believes that when someone is caught bringing in contraband, they should be punished with free-world charges.

Jennifer Ersherbeck, from Texas Inmate Families Association, stated they understand the reasons for the policy revision, however, expressed concern because it is a lifeline for offenders that is desperately needed. Mail and cards from loved ones are ways to hold on to those we love. She stated it is important to the family members to have communication with their loved ones who are incarcerated, and it is hard on them to not have that communication. She stated there is not enough data regarding how much contraband is coming through the mail to warrant these revisions. She mentioned they are concerned for the safety of their incarcerated family members and also the lives of the officers. The main goal is for individuals to come home alive. She stated something they would like to see is the use of more graduated sanctions to rule violations, perhaps the use of dispute resolution, so those new to the system are informed about what they did wrong and how to get privileges back. She stated her organization understands the security concerns and wants to work with the TDCJ.

Dr. Amite Dominik, from Texas Prisons Air Conditioning Advocates, stated that she would like to highlight that family members are often one of the forgotten populations in the criminal justice system. There should be more dialogue between family members, advocates, and board members. The other point she highlighted is recidivism and reentry. One of the dominant factors in not recidivating is the relationship offenders have with family members or those who are reaching out to offenders during incarceration. She stated her organization feels the revisions are harsh, mainly the use of canines with respect to visitors. She expressed it is unfair to turn visitors away when a dog is alerted and there is no contraband found on the visitor. She mentioned other states allow the use of marijuana and it would be unfair to turn someone away who travelled from another state where marijuana use is legal simply because the dog alerted on that person. The last point she highlighted is that Texas has the largest population of indigent offenders unfortunately, and that little bit of commissary is a lifeline. The changes would severely limit deposits made into commissary accounts.

Judge Faith Johnson asked if these concerns have been considered.

Mr. Collier stated utilizing a third-party greeting card vendor has been identified as one way to help with some of these concerns. Also, information regarding the use of canines has been added to the website to make it easier for visitors to see the information beforehand. If a canine alerts on a visitor, even a second time, they are simply asked to leave; they will not be removed from the visitation list. He stated the use of canines is being used to screen staff at the 23 units with the highest contraband issues.

Chairman O'Daniel asked if there were any other 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 revisions to board policy BP-03.91, "Uniform Offender Correspondence Rules," as presented.

Eric Nichols seconded the motion, which unanimously passed when called to a vote.

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

1. Section 161.21, “Role of the Judicial Advisory Council”

Mr. Brown requested the adoption of amendments to Board Rule 161.21, “Role of the Judicial Advisory Council,” as proposed and authorized at the December 2019 TBCJ meeting. He explained the amendments appeared in the January 3, 2020, issue of the *Texas Register*. Thirty days passed and no public comments were received. Mr. Brown asked the board to move forward with final adoption of the rule.

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

Judge Molly Francis moved that the Texas Board of Criminal Justice adopt amendments to Board Rule Title 37 Texas Administrative Code Section 161.21, regarding Role of the Judicial Advisory Council, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Faith Johnson seconded the motion, which unanimously passed when called to a vote.

2. Section 163.31, “Sanctions, Programs, and Services”

Mr. Brown requested the adoption of amendments to Board Rule 163.31, “Sanctions, Programs, and Services,” as proposed and authorized at the October 2019 TBCJ meeting. He explained the amendments appeared in the November 15, 2019, issue of the *Texas Register*. Thirty days passed and no public comments were received. Mr. Brown asked the board to move forward with final adoption of the rule.

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

Judge Faith Johnson moved that the Texas Board of Criminal Justice adopt amendments to Board Rule Title 37 Texas Administrative Code Section 163.31, regarding Sanctions, Programs, and Services, as published in the Texas Register, and that the chairman sign the order to this effect.

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

3. Section 163.41, “Medical and Psychological Information”

Mr. Brown requested the adoption of amendments to Board Rule 163.41, “Medical and Psychological Information,” as proposed and authorized at the October 2019 TBCJ meeting. He explained the amendments appeared in the November 15, 2019, issue of the *Texas Register*.

Thirty days passed and no public comments were received. Mr. Brown asked the board to move forward with final adoption of the rule.

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

Eric Nichols moved that the Texas Board of Criminal Justice adopt amendments to Board Rule Title 37 Texas Administrative Code Section 163.41, regarding Medical and Psychological Information, as published in the Texas Register, and that the chairman sign the order to this effect.

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

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

1. Section 163.33, "Community Supervision Staff"

Mr. Brown presented the proposed amendments to Board Rule 163.33, "Community Supervision." He 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 and clarify existing policy. Mr. Brown requested the TBCJ approve the amended rule for publication in the *Texas Register*.

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

Sichan Siv 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 163.33, regarding Community Supervision Staff, to receive public comment, as presented.

Judge Faith Johnson seconded the motion, which unanimously passed when called to a vote.

2. Section 163.35, "Supervision"

Mr. Brown presented the proposed amendments to Board Rule 163.35, "Supervision." He stated this rule is being reviewed pursuant to the state law requirement that rules be reviewed every four years. The proposed changes extend from two months to 90 days the period in which a community supervision corrections department will assess and create a treatment plan for newly received offenders. All other changes are non-substantive revision of grammar and style. Mr. Brown requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman O'Daniel 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 163.35, regarding Supervision, to receive public comment, as presented.

Eric Nichols seconded the motion, which unanimously passed when called to a vote.

**Discussion, Consideration, and Possible Action Regarding
Proposed Land Transaction – Request for Wastewater
Easement at the Kyle Unit in Hays County, Kyle, Texas**

Bobby Lumpkin, Director of the Manufacturing, Agribusiness and Logistics Division, stated that the request he is presenting includes indemnification language, the most-favored nation clause, and additional insurance in the amount of \$3,000,000. He presented the request for a wastewater easement at the Kyle Unit, in Hays County, Kyle, Texas, and stated that the City of Kyle is requesting an easement consisting of an area of approximately 0.336 acre of land being 696.93 feet long by variable width for a wastewater line. This request includes temporary workspace totaling 0.741 of an acre for use during construction and installation. The City of Kyle has agreed to pay \$82,819.00 for this easement with a 30-year term. Mr. Lumpkin recommended the TBCJ approve the request.

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

Thomas Fordyce moved that the Texas Board of Criminal Justice approve the request for a wastewater easement at the Kyle Unit in Hays County, Kyle, Texas, as presented.

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

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

1. Request to Replace Roofs at the Coffield Unit, Anderson County, Tennessee Colony, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for board consideration, requesting board approval to replace the roofs at the Coffield Unit located in Anderson County, Tennessee Colony, Texas. The work will consist of removing the existing roofing system and insulation board, and remediation of the concrete decking. The installation includes a new fully adhered PVC membrane roofing system over new rigid insulation board. Bids were received for this project in January 2020. If approved, the work will be performed by Mooring Recovery Services, Inc. with a total budget of \$6,269,300. Mr. Inmon recommended the TBCJ approve the request.

Chairman O'Daniel asked if there were any abstentions, 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 replace roofs at the Coffield Unit located in Anderson County, Tennessee Colony, Texas, as presented.

Faith Johnson seconded the motion, which unanimously passed when called to a vote.

2. Request to Replace Roofs at the Michael Unit, Anderson County, Tennessee Colony, Texas

Mr. Inmon presented a new project for board consideration, requesting board approval to replace the roofs at the Michael Unit located in Anderson County, Tennessee Colony, Texas. The work will consist of removing the existing roofing system, insulation, and flashings, and remediation of the concrete decking. Installation includes a new fully adhered PVC membrane roofing system. One bid was received for this project in December 2019. If approved, the work will be performed by Texas Liqua Tech Services, Inc. with a total budget of \$12,621,300. Mr. Inmon recommended the TBCJ approve the request.

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

Judge Molly Francis moved that the Texas Board of Criminal Justice approve the request to replace roofs at the Michael Unit located in Anderson County, Tennessee Colony, Texas, as presented.

Sichan Siv seconded the motion, which unanimously passed when called to a vote.

3. Request to Replace Roofs at the Young Unit, Galveston County, Dickinson, Texas

Mr. Inmon presented a new project for board consideration, requesting board approval to replace the roofs at the Young Unit located in Galveston County, Dickinson, Texas. The work will consist of removing the existing roofing system and insulation board, and remediation of the concrete decking. Installation includes a new fully adhered PVC membrane roofing system over a new rigid insulation board and modified bitumen membrane roofing system. Bids were received for this project in December 2019. If approved, the work will be performed by Texas Liqua Tech Services, Inc. with a total budget of \$3,475,300. Mr. Inmon recommended the TBCJ approve the request.

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

Judge Faith Johnson moved that the Texas Board of Criminal Justice approve the request to replace roofs at the Young Unit located in Galveston County, Dickinson, Texas, as presented.

Judge Molly Francis seconded the motion, which unanimously passed when called to a vote.

4. Request to Install Air Conditioning at the Hodge Unit, Cherokee County, Rusk, Texas

Mr. Inmon presented a new project for board consideration, requesting board approval to install air conditioning at the Hodge Unit located in Cherokee County, Rusk, Texas. The work will consist of constructing a new chilled-water cooling plant with three 600-ton chillers. Installation includes new air handling units outside each offender housing dorm. Additionally, a new emergency generator will be installed and a mechanical building will be erected to house circulating pumps and electrical switchgear. Bids were received for this project in January 2020. If approved, the work will be performed by R.E.C. Industries, Inc. with a total budget of \$5,554,362. Mr. Inmon recommended the TBCJ approve the request.

Chairman O'Daniel abstained from taking action on this item and asked if there were any other abstentions, questions, or comments. Hearing none, he called for a motion and a second.

Eric Nichols moved that the Texas Board of Criminal Justice approve the request to install air conditioning at the Hodge Unit located in Cherokee County, Rusk, Texas, as presented.

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

Chairman O'Daniel thanked everyone for coming and announced that the next meeting of the TBCJ will be Thursday, April 16, 2020, at the Crowne Plaza Hotel Austin.

Adjournment

There being no further business, Chairman O'Daniel recessed the 209th meeting of the Texas Board of Criminal Justice at 12:41 p.m.


Chairman


Secretary