Texas Board of Criminal Justice

190th Meeting

Minutes

February 10, 2017
Austin, Texas
Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Phoenix South

A. Recognitions

B. Consideration of Approval of Consent Items (Pages 1-7)
   1. Hazardous Duty Pay Authorization Requests
   2. Personal Property Donations
   3. 189th 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 2016 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 2016 – 2017

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over $1 Million

H. Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders” (Pages 8-15)

I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification & Hazardous Duty Pay Eligibility Guidelines (Pages 16-21)

J. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rules Title 37 Texas Administrative Code (Pages 22-40)
   1. 151.71, Marking of Texas Department of Criminal Justice Vehicles
   2. 151.73, Texas Department of Criminal Justice Vehicle Assignments
   3. 155.23, Site Selection Process for the Location of Additional Facilities
   4. 163.21, Administration
K. Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction – Request for Sale of South Texas Intermediate Sanction Facility, Harris County, Houston, Texas (Pages 41-42)

Recess

II. Executive Session – Robertson 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. 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. 190

The Texas Board of Criminal Justice (TBCJ) convened on Friday, February 10, 2017, in regular session at 11:32 a.m. in the Phoenix South room at the DoubleTree Hotel, Austin, Texas. The TBCJ recessed from regular session at 12:39 p.m., reconvened in executive session in the Robertson room at 1:03 p.m., and adjourned at 2:05 p.m.

**TBCJ MEMBERS PRESENT:**  
Hon. Dale Wainwright, Chairman  
Terrell McCombs, Vice Chairman  
Leopoldo (Leo) Vasquez, III, Secretary  
Tom Fordyce  
Eric Gambrell  
Larry Miles  
Derrelynn Perryman  
Thomas P. Wingate

**TBCJ MEMBERS ABSENT:**  
Judge Larry Gist

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ) STAFF PRESENT:**  
Bryan Collier, Executive Director  
Rudolph Brothers  
Christopher Cirrito  
Jason Clark  
Lorie Davis  
Matt Demny  
Marie Freeland  
Patty Garcia  
Cody Ginsel  
Sharon Howell  
Frank Inmon  
Dr. Linthicum  
Bobby Lumpkin  
Angie McCown  
Madeline Ortiz  
Kelvin Scott  
Ron Steffa  
Pam Thielke  
Carey Welebob

**OTHERS PRESENT:**  
Honorable Judge Dale Spurgin, Jones County; and David Gutierrez, Presiding Officer, Board of Pardons and Paroles.
Chairman Dale Wainwright convened the 190th meeting of the TBCJ on Friday, February 10, 2017, at 11:32 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 board would be conducting business from the agenda posted in the *Texas Register*.

Chairman Wainwright recognized the Honorable Judge Dale Spurgin, Jones County, and David Gutierrez, Presiding Officer, Board of Pardons and Paroles.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on posted agenda topics as well as public comments on issues within its jurisdiction as provided in accordance with Board Rule 151.4, “Public Presentations and Comments to the Texas Board of Criminal Justice.” One speaker registration card was received by staff prior to the deadline. Ms. Frances Vaughn stated she attended the American Correctional Association (ACA) Conference and toured the Dominguez Unit. She spoke highly of Warden Troy Selman, who conducted the tour, and said he represented the state very well and the tour was informative. Ms. Vaughn thanked the agency for setting it up. Chairman Wainwright thanked her for the compliment.

**Recognitions**

Lorie Davis, Correctional Institutions Division (CID) Director, recognized Leonard Echessa, Deputy Director for Support Operations, for 25 years of service to the TDCJ. She highlighted his career as he promoted through the ranks in the CID. Ms. Davis stated he has a calm and analytical approach and has done a wonderful job.

Bryan Collier, TDCJ Executive Director, stated Mr. Echessa is an outstanding leader and is a strong member of the CID team. He congratulated Mr. Echessa for doing a great job.

Ms. Davis recognized Tracy Bailey, Deputy Director for Management Operations, for 25 years of service to the TDCJ. She highlighted her career as she promoted through the ranks in the CID. Ms. Davis stated Ms. Bailey has done amazing things with correctional staff and is very focused on leadership.

Mr. Collier stated Ms. Bailey is an outstanding leader and always does a fantastic job for the agency. He congratulated her for a job well done.

Pamela Thielke, Parole Division Director, introduced Sherri Cogbill as the new Manager III for the Parole Division that oversees the Interstate Compact Office, and highlighted her career. Ms. Thielke stated Ms. Cogbill’s determination, reliability, responsivity, and passion for work in the criminal justice field has made her a sound fit for this position.

Patty Garcia, Human Resources Division Director, introduced Charlene Maresh as the new Human Resources Deputy Division Director, and highlighted her career with the TDCJ. Ms. Garcia expressed her enthusiasm for having Ms. Maresh in this new position.
Angie McCown, Victim Services Division Director, introduced Mary McCaffity as the new Victim Services Deputy Division Director, and highlighted her career and educational background. Ms. McCown stated Ms. McCaffity brings experience and proven leadership to the position that will allow her to serve well in this position.

Frank Inmon, Facilities Division Director, introduced Kim Farguson as the new director of facilities maintenance, and highlighted his career. Mr. Inmon stated Mr. Farguson has over 30 years experience in the maintenance field, 20 of which has been with the TDCJ.

Eric Gambrell, TBCJ member, stated when a TDCJ employee passes, the Chairman writes a letter of condolence to the family. Mr. Gambrell read a letter that was received from the mother of former TDCJ Lewis Unit employee, Jeff Bailey. She expressed sincere gratitude for the Chairman’s heartfelt letter which was received at a time of tremendous loss and sorrow. She described Jeff’s battle with cancer and although he lost this battle, he loved the work he did and he respected the people he worked with.

Chairman Wainwright recognized Dr. Lannette Linthicum for being an exceptional leader. She was recently honored by the ACA. He stated he was privileged to witness the swearing in ceremony of the 105th ACA National President Dr. Lannette Linthicum, the first physician to preside over the ACA. Chairman Wainwright and Mr. Collier presented Dr. Linthicum with a framed memorial keepsake for her dedication and outstanding performance in criminal justice.

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 October, November, December 2016, and January 2017. During this time, 100 employees attained 25 years of service, 48 employees attained 30 years of service, 15 employees attained 35 years of service, and 5 employees attained 40 years of service. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Collier, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 189th TBCJ Meeting Minutes
4. Excused Absences

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Board Member Eric Gambrell abstained from taking action due to his firm representing three entities listed on the personal property donations list. Chairman Wainwright acknowledged the abstention and, hearing no further questions, the consent items were approved.
Report from the Presiding Officer,
Texas Board of Pardons and Paroles

Overview of the Texas Board of Pardons and Paroles Fiscal Year 2016 Annual Review

David Gutierrez, Presiding Officer, presented an overview of the Texas Board of Pardons and Paroles (BPP) Fiscal Year 2016 Annual Review. He stated the BPP has seven board members and 14 parole commissioners. Mr. Gutierrez explained they consider individual offenders eligible for parole and discretionary mandatory supervision, and set conditions upon those individuals considered for release. He stated they also determine revocation matters throughout the state for those individuals who allegedly violated a condition(s) of parole and recommend clemency matters to the Governor. In FY 2016, the BPP considered over 101,000 cases. The approval rate was slightly above 34% and the discretionary mandatory review was slightly over 42%. Mr. Gutierrez attributed the rising trends to rehabilitation programming. He stated treatment programs are essential for the voters to consider release. In FY 2016, over 20,000 preliminary and revocation hearings were conducted. Slightly over 5,900, out of a parole population of 87,000, were revoked. An additional 7,000-8,000 were placed in intermediate sanction facilities. Mr. Gutierrez stated they utilize the graduated sanction approach for revocation hearings. They look at the pattern, work closely with the Parole Division, and determine if other conditions or other levels of supervision should be added in lieu of revocation. He stated Texas is the model when it comes to the low number of revocations and utilizing the graduated sanction approach.

Derrelynn Perryman, TBCJ member, spoke about the opportunity she had to observe a class in a SAFP program in one of the women’s facilities in Gatesville. She asked the group of 40–50 offenders what they were getting out of the programing that was going to be beneficial to them after they are released. Ms. Perryman expressed how impressed she was that they were all very excited about what they were learning and how they had a chance to rethink their lives.

Mr. Gutierrez agreed and attributed the accomplishments achieved in treatment programs to the close working relationship with the TDCJ.

Chairman Wainwright stated he was not surprised by the collaboration that has been exhibited.

Terrell McCombs, TBCJ member, expressed gratitude to Mr. Gutierrez for doing an outstanding job and asked what has been the biggest challenge?

Mr. Gutierrez responded by stating the biggest challenge has been the tremendous responsibility the voters have in making the decision to release someone and hoping that person does not do harm to another. He explained that they hired a new victim’s liaison who will work in conjunction with victim services in an effort to aid with the challenges faced in making the decision to release an offender.

Mr. Collier, on behalf of division directors and Windham School District, thanked Mr. Gutierrez for working together with them. He stated many people have said it is a pleasure working with Mr. Gutierrez and the BPP.
Report from the Executive Director,
Texas Department of Criminal Justice

Closure of South Texas Intermediate Sanction Facility and Repurposing of the Kegans State Jail

Mr. Collier stated it was announced in August that the South Texas Intermediate Sanction Facility in Houston will be closed and the Kegans State Jail also located in Houston will be repurposed into an intermediate sanction facility. Initially, the plan was to complete this transition in the summer of 2017. After discussions with the operating vendor for the South Texas facility, it was determined that the transition could occur earlier. The transition was initiated and completed in December. The benefits of an earlier closure allow a reduction in operating costs for 2017 and will also prevent any potential staffing problems which could have occurred as a result of the facility being identified for closure. Mr. Collier stated an additional 200 intermediate sanction facility beds opened due to this transaction. Today’s vote for the request for the sale of the South Texas Intermediate Sanction Facility will be the final action on this transition. Mr. Collier recognized Cody Ginsel, Lorie Davis, and Jerry McGinty and their respective teams for all of their work which has helped to ensure a seamless transition.

Update of Activities Related to the 85th Legislative Session

Mr. Collier presented an update on the 85th Legislative Session. He stated much of the activity in the past few weeks has focused on the Senate, which began budget hearings earlier this month. The TDCJ appeared before the Senate Finance Committee on February 1st to provide an overview of offender health care and appeared before a Senate sub-committee on health care on the 3rd. The TDCJ presented the agency budget to the Senate Finance Committee on Wednesday February 8, 2016. The TDCJ’s base budget in both the House and Senate restored the 4% items requested and gave a good starting point in beginning budget discussions. The TDCJ is seeking funding for 10 exceptional items and are concentrating efforts on those areas at this time. The House has not named committees, however, it will be in the very near future. The House budget hearings will be held in the next few weeks. Jeff Baldwin and his team are monitoring filed legislation that has an impact on the agency and hearings on bills will begin in a few weeks. Legislative session is still in the early stages and has 108 days left. Mr. Collier assured the TBCJ members that the TDCJ team is fully engaged in working through the session.

Division Realignment

Mr. Collier announced that the Agribusiness, Land and Minerals Department is moving into the Manufacturing and Logistics Division, which is being renamed as the Manufacturing, Agribusiness and Logistics Division. These two areas share many similar functions such as logistics, mechanical shops, and offender job training. Agricultural operations provide raw materials utilized in factories, and freight transportation serves both areas. The merging of these two functions will allow the leveraging of resources to improve both areas and strengthen the agribusiness, and manufacturing and logistics operations. There are no negative personnel actions resulting from this change. The combination of these two important areas will have long-
lasting benefits. Mr. Collier commended Matt Demny and Bobby Lumpkin for their assistance on making this transition successful.

**Report from the Chairman, TBCJ**

**American Correctional Association Conference**

Chairman Wainwright discussed the American Correctional Association’s 2017 Winter Conference in San Antonio. He stated the highlight was witnessing Dr. Lannette Linthicum being sworn in as president of the Association. Chairman Wainwright spoke about the many members of the TDCJ family that were there including Executive Director Bryan Collier who serves on the ACA Board of Directors, and Dr. Clint Carpenter, Windham School District Superintendent, and Christopher Cirrito, Internal Audit Division Director. He stated many TDCJ senior staff gave presentations during the conference because they are recognized experts in their respective fields. Chairman Wainwright thanked them for helping make the conference a success, and also thanked the many other TDCJ staff who made important contributions. He also expressed one activity of particular significance was the accreditation, or reaccreditation in the case of TDCJ, of facilities and functions that, if successful, leads to agency-wide accreditation. The Texas Department of Criminal Justice achieved agency-wide accreditation in 2014, and the accomplishment was recognized by the Association through the presentation of the prestigious golden eagle award. Maintaining agency-wide accreditation requires each unit and function to continually demonstrate excellence. During the 2017 winter conference, 16 facilities and the Parole Division were successfully reaccredited and none of our units were not reaccredited. Chairman Wainwright thanked Lorie Davis, Cody Ginsel, and Pam Thielke for the hard work and outstanding performance that was recognized by the Association.

**Internal Audit Status Report for Fiscal Years 2016 - 2017**

Christopher Cirrito, Director for the Internal Audit Division, provided the following updates to the handout of the February 01, 2017, Internal Audit Division Status Report for the Fiscal Years (FY) 2016 - 2017:

- **1606 - Rehabilitation Programs Division**, *Post-Secondary Education Programs*: Audit is complete.
- **1607 - Correctional Institutions Division**, *Offender Off-Unit Transports*: Audit has moved to draft report.
- **1611 - Rehabilitation Programs Division**, *Civil Commitment*: Audit is complete.
- **1705 - Information Technology Division**, *Information Systems Security–Texas Administrative Code Chapter 202*: Audit is in field work phase.
- **1708 - Windham School District**, *Application Processing*: Audit has moved to field work.
- **1718.01 - Walk Through**, *Data Systems Identification*: Audit is complete.

Vice-Chairman Terrell McCombs asked if there is a single parameter that stands out as a cautionary flag, regardless of the department, that comes up often.
Mr. Cirrito replied that the issues tend to differ from audit to audit. He stated the audit plan is designed to give a wide coverage to all the functions of the agency.

Chairman Wainwright asked if there were any other questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2016-2017)

**Discussion, Consideration, and Possible Action Regarding Proposed Revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders”**

Sharon Howell, TDCJ General Counsel, presented PD-29, “Sexual Misconduct with Offenders,” proposed revisions. She stated this was a periodic review that includes small changes made to the policy. Ms. Howell explained a definition for “intern” was included in the policy and conforming changes were made to acknowledge that interns could possibly have interactions with offenders that should be regulated under the policy. She stated citations to pre-regulations were included to clarify that a person reporting a violation of this policy may report it to the PREA Ombudsman without having to go through the chain of command.

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

*Tom Fordyce moved that the Texas Board of Criminal Justice approve the revisions to Personnel Directive PD-29, “Sexual Misconduct with Offenders,” as presented.*

*Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.*

**Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines”**

Ms. Howell presented the proposed amendments to Board Rule 151.51, “Custodial Officer Certification and Hazardous Duty Pay.” She explained the proposed amendments do not change any procedures but are necessary to reconcile and use consistent language among the rule and various policies, including PD-85, “Custodial Officer Certification, Hazardous Duty Pay, and Longevity Pay.” 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 151.51, regarding Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines, to receive public comment, 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 151.71, “Marking of Texas Department of Criminal Justice Vehicles”

Ms. Howell requested the adoption of amendments to Board Rule 151.71, “Marking of Texas Department of Criminal Justice Vehicles,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, 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.

Derrelynn Perryman moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.71, regarding Marking of Texas Department of Criminal Justice Vehicles, 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.

2. Section 151.73, “Texas Department of Criminal Justice Vehicle Assignments”

Ms. Howell requested the adoption of amendments to Board Rule 151.73, “Texas Department of Criminal Justice Vehicle Assignments,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, 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.

Leo Vasquez moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 151.73, regarding Texas Department of Criminal Justice Vehicle Assignments, 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.
3. Section 155.23, “Site Selection Process for the Location of Additional Facilities”

Ms. Howell requested the adoption of amendments to Board Rule 155.23, “Site Selection Process for the Location of Additional Facilities,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, 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.

Tom Wingate moved that the Texas Board of Criminal Justice adopt amendments to Title 37 Texas Administrative Code Section 155.23, regarding Site Selection Process for the Location of Additional Facilities, as published in the Texas Register, and that the chairman sign the order to this effect.

Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.

4. Section 163.21, “Administration”

Ms. Howell requested the adoption of amendments to Board Rule 163.21, “Administration,” as proposed and authorized at the December 9, 2016, TBCJ meeting. She explained the amendments appeared in the December 23, 2016, 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 163.21, regarding Administration, as published in the Texas Register, and that the chairman sign the order to this effect.

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

Discussion, Consideration, and Possible Action Regarding Proposed Land Transaction Request for Sale of South Texas Intermediate Sanction Facility, Harris County, Houston, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the request for sale of South Texas Intermediate Sanction Facility in Harris County, Houston, Texas, as authorized by §496.0021, Government Code. The facility has been determined to be surplus to the agency’s current and projected needs and, as such, is subject to sale. Mr. Demny recommended the TBCJ approve the request.
Chairman Wainwright asked if it is just the building and the property upon which it sits or if it includes the parking lot or other land. Mr. Demny responded it is only the building.

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 sale of South Texas Intermediate Sanction Facility in Harris County, Houston, Texas, as presented.*

*Leo Vasquez seconded the motion, which prevailed unanimously when called to a vote.*

Chairman Wainwright thanked everyone for coming, and announced that the next meeting of the TBCJ will be Thursday, April 6, 2017, at the DoubleTree Hotel in Austin and will be held in conjunction with the Governor’s Criminal Justice Volunteer Service Awards Ceremony.

The TBCJ recessed from regular session at 12:39 p.m. and reconvened in executive session at 1:03 p.m.

**Reconvene Texas Board of Criminal Justice**

Chairman Wainwright reconvened in the executive session of the 190th meeting of the TBCJ on Friday, December 9, 2016, at 1:03 p.m., which is closed to the public in accordance with Texas Government Code Sections 551.074, 551.076, and 551.071, the Open Meetings Act.

**Adjournment**

There being no further business, Chairman Wainwright adjourned the 190th meeting of the Texas Board of Criminal Justice at 2:05 p.m.

Chairman*  
__________________________________________  Secretary*  
__________________________________________

*Signature on file*