Texas Board of Criminal Justice

213th Meeting

Minutes

October 30, 2020
Austin, Texas
TEXAS BOARD OF CRIMINAL JUSTICE

Via Zoom Video Conference

October 30, 2020
10:00 – 11:30 AM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items
   1. Hazardous Duty Pay Authorization Requests
   2. Personal Property Donations
   3. 211th & 212th TBCJ Meeting Minutes

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Report from the Presiding Officer, Judicial Advisory Council

F. Discussion, Consideration, and Possible Action Regarding Proposed Ombudsman Program Realignment

G. Internal Audit Status Report for Fiscal Years 2020-2021

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

I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions
   1. Request for Electrical Easement Expansion at the Montford Unit in Lubbock County, Lubbock, Texas
   2. Request for a Meter Site at the Luther Unit in Grimes County, Navasota, Texas
   3. Request for Amendment to Electrical Easement at the Ferguson Unit in Madison County, Midway, Texas

Recess
II. Executive Session

A. The TBCJ may convene into Executive Session.

B. Discussion of personnel matters relating to the Board of Criminal Justice, 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 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 Texas Board of Criminal Justice (TBCJ) convened on Friday, October 30, 2020, in regular session at 10:00 a.m. via Zoom and adjourned at 11:02 a.m.

**TBCJ MEMBERS PRESENT:**
Patrick O’Daniel, Chairman  
Derrelynn Perryman, Vice-Chairman  
Larry Miles, Secretary  
E.F. “Mano” DeAyala  
Judge Molly Francis  
Judge Faith Johnson  
Sichan Siv  
Eric Nichols  
Rodney Burrow, M.D.

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:**
Bryan Collier, Executive Director  
Oscar Mendoza, Deputy Executive Director  
Jason Clark  
Tina Clark  
Allison Dunbar  
Cody Ginsel  
Billy Hirsch  
Bobby Lumpkin  
Ron Steffa  
April Zamora

**TBCJ STAFF PRESENT:**
Chris Cirrito  
Jill Durst  
Cris Love

**Convene the Texas Board of Criminal Justice**

Chairman Patrick O’Daniel convened the 213th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, October 30, 2020, at 10:00 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 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.” No speaker registration cards were received for public comments prior to the deadline.
Derrelynn Perryman stated October is domestic violence awareness month and the Texas Council on Family Violence sponsors a “go purple” day each October. Although the TBCJ meeting does not fall on that day, TBCJ and Texas Department of Criminal Justice (TDCJ) personnel are wearing purple today in recognition of this important issue. Texas Department of Public Safety reports family violence statistics each year. In 2018, they reported more than 212,000 victims and 207,000 offenders involved in family violence in Texas. Statistically, only 1 in 10 incidents are reported to law enforcement, which clearly shows that the numbers of those affected by family violence is much higher. In 2018, 175 women and 26 men were murdered by an intimate partner and more than 200 children lost their parents. One in 15 children is exposed to intimate partner violence each year and 90% of these children are eyewitnesses to this violence. Victims of intimate partner violence lose a total of eight million days of paid work each year. The cost of intimate partner violence exceeds $8.3 billion each year. Between 21% and 60% of intimate partner victims lose their jobs due to reasons stemming from the abuse. The mission statement of the TDCJ is to promote public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime. Domestic violence awareness month is a time to renew our commitment to do our part to end domestic violence in the great state of Texas.

**Recognitions**

Bryan Collier, TDCJ Executive Director, recognized Lorie Davis, former Correctional Institutions Division (CID) Director, for her retirement, and highlighted her background.

Mr. Collier recognized Bobby Lumpkin as the new CID Director, and highlighted his background.

Mr. Collier recognized Billy Hirsch as the new Manufacturing, Agribusiness and Logistics Division Director, and highlighted his background.

Mr. Collier recognized Tina Clark as the new Director of the Information Technology Division as the Chief Information Officer, and highlighted her background.

Mr. Collier recognized Cody Ginsel for 30 years of service with the TDCJ, and highlighted his background.

Mr. Collier recognized April Zamora for 25 years of service with the State of Texas, and highlighted her background.

Allison Dunbar, Private Facilities Contract Monitoring/Oversight Division (PFCMOD) Director, introduced Ronald Givens as the new Deputy Director of the PFCMOD, and highlighted his background.

Mr. Lumpkin, CID Director, introduced Maricia Jackson as the new Region III Director, and highlighted her background.

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 September and October 2020. During this time, 67 employees attained 25 years of service, 33 employees attained 30 years of service,
17 employees attained 35 years of service, and five 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. 211th & 212th TBCJ Meeting Minutes

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

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

**COVID-19 Update**

Mr. Collier thanked Chairman O'Daniel and the TBCJ members for their continued support of the TDCJ during these trying times. He stated during the past 60 days, the overall positive rate for offenders and staff dropped to the lowest numbers since March of this year. The numbers of staff and offender hospitalizations also decreased. As these decline, we are doubling down on preventative measures, as well as modeling new testing strategies to prepare ourselves for the potential of another wave of COVID-19. The new testing strategy will provide each unit in the system to be tested every three weeks. Testing will include a random number of staff and offenders at each location, with follow-up mass testing being conducted if large numbers of positives are identified during the random testing. These tests will be conducted by unit wardens and unit staff who are trained on how to administer the tests. Compliance assessment teams are conducting unannounced audits of unit and office locations to help ensure all preventative protocols are being followed. We are closely monitoring community COVID-19 positive rates and increasing our focus on units in areas that reflect increased community numbers. At all agency locations, we continue to clean, disinfect, utilize masks for all staff and offenders, social distance, limit travel, and utilize all available resources to prevent the outbreak of COVID-19. We are fighting hard to keep staff vigilant with all agency protocols and will continue to maintain a razor focus on this issue.

Sadly, since the last board meeting, the TDCJ lost four staff to COVID-19: Elizabeth Jones, Correctional Officer V at the Carole Young Unit; Herbert Garcia, Correctional Officer V in Offender Transportation; James Weston Jr., Correctional Officer V at the Johnston Unit; and Donald Parker, Food Service Manager III at the Neal Unit. Each of these employees lost their battle with COVID-19; however, they will never be forgotten for their bravery and commitment to public safety and for the ultimate sacrifice they paid. We continue to pray for their families and co-workers who mourn each of these losses. They will be honored in our fallen officer service. Mr. Collier publicly commended the employees of the TDCJ, stating that their daily
sacrifice to the state of Texas allows the TDCJ to meet its mission of delivering public safety and does not go unnoticed.

**Recruiting and Retention**

Mr. Collier provided an update on efforts related to correctional officer recruiting and retention. He stated over the past two years, the TDCJ has faced significant staffing challenges and continues to see a drop in recruiting and retention despite the pay increase provided by the legislature last fall. Although recruiting is a key part of our ability to staff, retention is equally important. In order to address this issue, we cannot continue to do the same things and expect different results. Mr. Collier announced new initiatives that will begin soon. On January 1, 2021, correctional recruiting will transition from the Human Resources Division to the Training and Leader Development Division. The purpose is to change our recruiting model to one similar to a military recruiting model that will utilize uniformed staff in recruiting. Additionally, we will utilize uniformed staff to work in concert with our recruiting staff to assist in retention, with retention becoming a much stronger focus in our efforts. The Human Resources Division will work closely with the Training and Leader Development Division staff to assist in the processing of applicants. Staff from the Training and Leader Development Division will work closely with unit wardens and Correctional Institutions Division leadership on staff retention. These efforts represent a significant shift in our traditional model and present us with an opportunity to rewire recruiting and retention efforts. He stated he will provide an update on this transition in future meetings.

**Report from the Chairman, TBCJ**

**Employee Tributes**

Chairman O’Daniel stated as we enter the fall season, the world continues to search for some sense of normalcy, but the pandemic has wreaked havoc across our great land, making that increasingly difficult. Each day, lives are impacted and loved ones are lost. He recognized those who have succumbed to COVID-19 and provided a brief glimpse into the lives of the everyday heroes who worked for this agency and gave their all for the great state of Texas.

Correctional Officer Elizabeth Jones was an example to everyone around her, both on and off the job. A 19-year veteran, she began her career at the Stiles Unit and soon transferred to Hospital Galveston. She later moved over to the Young Medical Complex. Elizabeth was considered the heartbeat of the facility. Warden Kim Massey noted that Elizabeth would arrive at work early so that she could sit in her car to read the Bible and said, “Her selfless service was an inspiration that helped build a generation of correctional officers.” When not at work, Elizabeth enjoyed shopping or cooking for her husband and two children. Officer Elizabeth Jones died from the coronavirus on August 15, 2020.

Correctional Officer Herbert Garcia’s signature phrase was “I been doing this a long time!” With nearly 29 years of service to the agency, Herbert was assigned to the Southern Regional Transport Unit in Rosharon. According to Warden Michael Franks, there was not a day that went by when Officer Garcia did not have a smile on his face and was enjoying life. “He was a leader and a mentor in the TDCJ family,” said Franks. Officer Garcia was a spiritual man who served as
a deacon at his church. He was also a loving father and grandfather, and a friend to everyone he met. Officer Herbert Garcia died from the coronavirus on August 17, 2020.

Correctional Officer James Weston, Jr. seemed like a character out of a western movie. He was an expert marksman and he loved horses. James began working for TDCJ 13 years ago and was assigned to the Johnston Unit in Winnsboro. Warden Virgil McMullen described him as someone who loved his job with the agency while always displaying professionalism. When not at work or enjoying time at the shooting range, James spent time watching reruns of his favorite show, The Lone Ranger. His home in Winnsboro was like walking into a Lone Ranger Museum. Family was also very important to James. He enjoyed spending time with his sons and especially his grandson, Hudson, and granddaughter, Faith. Officer James Weston, Jr. died from the coronavirus on August 26, 2020.

If you ever met Food Service Manager Donald Parker at the Neal Unit, you probably got a piece of hard candy from him. He handed them out to anyone he met. It was just one of the many things that the employees of the Neal Unit in Amarillo remember about him. Donald worked for the agency for nine years, all of them at the Neal Unit. Assistant Warden Charles Bristow described Donald as someone who had a great rapport with his fellow employees. “He just liked to have fun on the job,” said Bristow. “Everyone at the Neal Unit loved him,” added Bristow. Food Service Manager Donald Parker died from the coronavirus on October 1, 2020.

Though these individuals no longer walk among us, their cause is not forgotten. In Matthew 11:28, Jesus instructs those who are weary and carry heavy burdens to bring them to Him. Many of you are weary and the weight of these deaths is burdensome. Take to heart this scripture. Chairman O’Daniel asked for continued prayers for the families and coworkers. Additionally, he asked that everyone keep praying for all the offenders who have succumbed to the virus and the families who grieve for their memories, stating may God watch over and protect every one of us.

**Report from the Presiding Officer, Judicial Advisory Council**

Judge Rebecca Palomo, Judicial Advisory Council (JAC) member, stated the presiding officer of the JAC, Judge Rose Reyna, could not attend today’s meeting, and therefore, sent Judge Palomo on her behalf. She stated the JAC held a meeting on October 21, 2020, in which they were briefed on the Legislative Appropriations Request (LAR). The JAC fully supports the TBCJ’s LAR. She thanked them for including the exceptional item sustaining their base and for recognizing the importance of probation. The goal of the JAC is to reduce recidivism, to ensure and provide appropriate rehabilitative measures across Texas and other needed services, and ensure public safety. In working to accomplish this goal, the JAC follows Texas Government Code §493.003(b), which specifies the role of the JAC. Pursuant to that, the JAC’s duty is to advise the Criminal Justice Assistance Division director and the TBCJ on matters of importance to the judiciary. At the last JAC meeting, the chair, Judge Reyna, created committees: a legislative committee; a finance committee; an education committee; and a probation committee. These committees will report to the JAC, which will report to the TBCJ at the next meeting. The JAC currently has two vacancies: the District Attorney assigned and appointed to the JAC, David Escamilla, is retiring and Judge Gilles is also retiring. The JAC is very active and meets regularly. Judge Palomo stated the presiding officer, Judge Reyna, as well as all members of the JAC are always available to answer any questions and to assist in any way.
Chairman O’Daniel thanked Judge Palomo for attending the meeting and presenting this report.

Eric Nichols thanked Judge Palomo for working constructively on the LAR with the TBCJ and TDCJ.

**Discussion, Consideration, and Possible Action Regarding Proposed Ombudsman Program Realignment**

Mr. Collier stated the TBCJ challenges the TDCJ to strive to continuously be better and find areas that can be improved. From this ideology, he presented the request to transfer the TDCJ ombudsman program from the TDCJ Administrative Review and Risk Management (ARRM) Division to directly report to the TBCJ. The ombudsman program was established in May 1988 and provides a single point of contact for external inquiries. They are responsible for investigating and responding to external inquiries made by the general public or elected officials. In 2019, they received more than 45,000 inquiries. Responding to inquiries, complaints, and concerns from the public is challenging work in any field or organization. When it involves an agency as large and complex as the TDCJ, which involves safety and welfare of all Texans but especially the offenders in its jurisdiction, it becomes even more demanding. The job requires dedication, determination, compassion, and commitment. Fortunately, the ombudsman office consists of people who demonstrate these qualities. Mr. Collier stated the realignment would elevate the office to a place in the TDCJ organizational structure comparable to the PREA Ombudsman, Internal Audit, the Office of the Inspector General, and other functions reporting to the TBCJ. Given the office’s mission and heightened need for independence and communication with board members, the realignment is warranted. He stated the change will not negatively impact the operations of the office or the agency. The ombudsman program has always worked closely with other TDCJ divisions; this will not change. Likewise, the TDCJ has always worked closely with offices and entities reporting to the TBCJ. The fact that those entities report to the board has never been a hindrance to the agency; in fact, has always been very helpful to the agency. The timing is right considering the position of the lead ombudsman recently became vacant. The TDCJ has kept the position unfilled pending the TBCJ consideration of this proposal so that the TBCJ can hire the lead ombudsman if the proposal is accepted. Mr. Collier recommended that the oversight of the ombudsman program transfer from the ARRM Division of the TDCJ to report directly to the TBCJ.

Chairman O’Daniel stated this is something he has been thinking about for quite some time. To better understand this change in the organizational structure, it must be considered in the context of the PREA Ombudsman, which has reported to the TBCJ since the position was created in 2007. The PREA Ombudsman works closely with agency staff in reviewing allegations of sexual abuse. However, reporting directly to the board ensures independence and a direct line of communication between board members and that position. He stated he believes establishing a similar relationship between the board and the TDCJ’s ombudsman program is warranted for the same reasons. This proposed change is not a reflection of any dissatisfaction with the ombudsman office, nor a response to any failure by the ombudsman program. On the contrary, the ombudsman office does an outstanding job responding to inquiries and addressing concerns. Chairman O’Daniel stated this will establish a more appropriate organizational structure going forward. If approved, he will appoint a sub-committee to consider applicants for the ombudsman position.

\*Minutes of the 213th Meeting of the TBCJ\*
Chairman O’Daniel asked if there were any questions from the board. Hearing none, he called for a motion.

_Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the proposed ombudsman program realignment._

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

**Internal Audit Status Report for Fiscal Years 2020 - 2021**

Chris Cirrito, Internal Audit Division Director, stated the only update to the handout of the October 19, 2020, Internal Audit Division Status Report for Fiscal Years (FY) 2020 – 2021: project 2016-07 is now complete.

- **2016-07 – Correctional Institutions Division, Wheelchair Beds Walkthrough:** Audit is complete.

_(Attachment B – Internal Audit Division Status Report, October 19, 2020)_

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

Ron Steffa, Chief Financial Officer, reviewed the purchases and contracts over $1 million. The only item is a blanket purchase order for $4 million for white twill fabric used by our garment factory in production of offender clothing. While the agency does produce this type of fabric, existing inventory was used in the production of facemasks and fabric production has been impacted as we continue to respond to the pandemic. The agency currently is producing fabric and this purchase order will be utilized as necessary to supplement the factory’s requirements throughout the year.

Mr. DeAyala asked for clarification that this is a drawdown, so if we do not use $4 million then we do not spend $4 million. Mr. Steffa affirmed.

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

_E.F. “Mano” DeAyala moved that the Texas Board of Criminal Justice approve the purchases and contracts over $1 million, as presented._

_Judge Faith Johnson seconded the motion, which unanimously passed when called to a vote._
Discussion, Consideration, and Possible Action
Regarding Proposed Land Transactions

1. Request for Electrical Easement Expansion at the Montford Unit, in Lubbock County, Lubbock, Texas

Chairman Patrick O’Daniel abstained from taking action on this agenda item.

Billy Hirsch, Director of the Manufacturing, Agribusiness and Logistics Division, stated the request includes indemnification language, the most-favored nation clause, and additional insurance in the amount of at least $3,000,000. He presented the request for an electrical easement expansion at the Montford Unit, in Lubbock County, Lubbock, Texas, and stated that the City of Lubbock acting by and through Lubbock Power and Light is requesting an easement consisting of an area of 0.842 of an acre of land being 1,272.79 feet long by variable width to expand their current 10 foot permanent easement. This request includes temporary workspace totaling 0.262 of an acre of land. Lubbock Power and Light has agreed to pay $4,615 for this easement with a 10-year term. Mr. Hirsch recommended the TBCJ approve the request.

Mr. DeAyala expressed appreciation to Mr. Hirsch for considering the big picture on these requests by being good stewards of the state’s money.

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

Larry Miles moved that the Texas Board of Criminal Justice approve the request for an electrical easement expansion at the Montford Unit in Lubbock County, Lubbock, Texas, as presented.

Dr. Rodney Burrow seconded the motion, which unanimously passed when called to a vote.

2. Request for Meter Site at the Luther Unit, in Grimes County, Navasota, Texas

Chairman Patrick O’Daniel abstained from taking action on this agenda item.

Mr. Hirsch stated the request includes indemnification language, the most-favored nation clause, and additional insurance in the amount of at least $3,000,000. He presented the request for a meter site at the Luther Unit, in Grimes County, Navasota, Texas, and stated that ETC Katy Pipeline, LTD is requesting a meter site overlapping a current permanent pipeline easement consisting of an area of approximately 0.057 of an acre of land being 50 feet long by 50 feet wide. ETC Katy Pipeline, Ltd. has agreed to pay $2,500 for this meter site with a 10-year term. Mr. Hirsch 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.

Judge Molly Francis moved that the Texas Board of Criminal Justice approve the request for a meter site at the Luther Unit in Grimes County, Navasota, Texas, as presented.
Sichan Siv seconded the motion, which unanimously passed when called to a vote.

3. Request for Amendment to Electrical Easement at the Eastham/Ferguson Unit, in Houston/Madison County, Midway, Texas

Chairman Patrick O’Daniel abstained from taking action on this agenda item.

Mr. Hirsch presented the request for an amendment to an electrical easement that covers the Eastham and Ferguson Units. The Houston County Electric Co-op is requesting an amendment specifically at the Ferguson Unit, in Madison County, Midway, Texas, and stated that the amendment consists of an area of approximately 5.15 acres of land being 7,488.36 feet long by 30 feet wide to accommodate an upgrade to the current electrical transmission line servicing the Ferguson Unit. No compensation will be offered due to the easement being used to supply electricity to the unit. The original 10-year term will be renewed with the original easement which expires December of 2024. Mr. Hirsch 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.

Sichan Siv moved that the Texas Board of Criminal Justice approve the request for an amendment to an electrical transmission line easement at the Ferguson Unit in Madison County, Midway, Texas, as presented.

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

Chairman O’Daniel thanked everyone for attending the meeting and announced that the next meeting of the Texas Board of Criminal Justice will be Thursday, December 17, 2020, via video conference.

Adjournment

There being no further business, Chairman O’Daniel recessed the 213th meeting of the Texas Board of Criminal Justice at 11:02 a.m.