

Texas Board of Criminal Justice
156th Meeting



Minutes

August 19, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Hotel
6121 North IH-35
Austin, Texas 78752
Salons E-H**

**August 19, 2011
11:00 AM**

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Discussion, Consideration, and Possible Action Regarding Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 155th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP)

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Payment of Insurance Premiums by the Community Supervision and Corrections Departments
2. Collaboration Efforts Involving Homeland Security and Community Corrections
3. Statewide Assessment Instrument

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

1. Update on the Central Unit Closing
2. Update on Correctional Managed Health Care

F. Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

G. Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

- H. Report from the Chairman, TBCJ
 - 1. Leadership Accountability
 - 2. Change Management
- I. Discussion, Consideration, and Possible Action Regarding Selection of the Inspector General
- J. Discussion, Consideration, and Possible Action Regarding Selection of the Director of the Internal Audit Division
- K. Discussion, Consideration, and Possible Action Regarding Selection of the Director of the State Counsel for Offenders
- L. Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2012 Annual Audit Plan
- M. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- N. Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2012 Proposed Operating Budget
- O. Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Section 163.40, Substance Abuse Treatment
- P. Discussion, Consideration, and Possible Action Regarding Land Transactions
 - 1. Request for Transfer of Land at the Wynne Unit in Walker County, Huntsville, Texas
 - 2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas
- Q. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects
 - 1. Request for Kitchen Renovations at the Pack Unit in Grimes County, Navasota, Texas
 - 2. Request to Replace Roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas
 - 3. Request to Upgrade Light Fixtures in Cell Blocks at the Huntsville Unit in Walker County, Huntsville, Texas
- R. Public Comments

Adjourn

The TBCJ may discuss and take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 156

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, August 19, 2011, at 9:14 a.m. at the Crowne Plaza in Austin, Texas. The meeting adjourned immediately into executive session, reconvened in regular session at 11:26 a.m., and finally adjourned at 1:06 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TBCJ MEMBER ABSENT:

Leopoldo (Leo) Vasquez, III, Secretary

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Jerry McGinty
Mike Bell	Susan McHenry
Melinda Bozarth	John Moriarty
Matt Demny	Madeline Ortiz
Jackie Edwards	Raymond Pyeatt
C.F. Hazlewood	Ron Steffa
Frank Inmon	Rick Thaler
Sherry Koenig	Jan Thornton
Lannette Linthicum, M.D.	Kim Vernon
Michelle Lyons	Carey Welebob
Angie McCown	Dee Wilson

OTHERS PRESENT:

Chelsea Buchholtz, Office of the Governor; Angela Isaack, Legislative Budget Board; Mike Meyer, Senate Finance Committee; the Honorable Dale Spurgin, Jones County Judge; the Honorable Mary Anne Bramblett, Chairman, Judicial Advisory Council; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 156th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, August 19, 2011, at 9:14 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 that the board would adjourn into executive session which is closed in accordance with Texas Government Code Sections 551.071, 551.074, and 551.076, the *Open Meetings Act*.

Reconvene the Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 156th meeting of the TBCJ on Friday August 19, 2011, at 11:26 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 Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized Chelsea Buchholtz, Office of the Governor; Angela Isaack, Legislative Budget Board; and the Honorable Dale Spurgin, Jones County Judge.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Chairman Bell noted that speaker registration cards were only received for the public comments portion of the meeting and as such he would review the requirements for speaker registration at that time.

Recognitions

Chairman Bell recognized the Honorable Mary Anne Bramblett as the chairman of the Judicial Advisory Council (JAC). The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals appointed Judge Bramblett. In addition to her duties as the JAC chairman, Judge Bramblett serves as the district judge of the 41st District Court, a position she has held since January 1989. She is a strong advocate for the use of sentencing alternatives and a friend to the Texas Department of Criminal Justice (TDCJ). Chairman Bell expressed his confidence that under Judge Bramblett's leadership the strong working relationship established by Judge Gist will continue to flourish between the JAC and the board. Judge Bramblett stated that she was honored by Chairman Bell's kind words.

Chairman Bell recognized the Office of Inspector General's (OIG) Information Systems Division (ISD). The division has maintained a close working relationship with the Texas Fusion Center, which is an intelligence gathering operation run by the Department of Public Safety to track criminal and homeland security related activity that impacts Texas. Additionally, the OIG-ISD maintains a close working relationship with the United States Department of Homeland Security.

This relationship has allowed the TDCJ to expand its scope of gathering and sharing of information between the OIG and other departments and agencies. For instance, through this program, the OIG has established a pilot project with Webb County Jail by which data related to gang activity is shared electronically. Information about incoming offenders is shared with OIG who in turn passes it to the TDCJ while gang information on parolees is provided to Webb County. This sharing of information facilitates the management of the offender population on both ends. In addition to gang intelligence, information on contraband can also be shared. For example, a Webb County officer found an offender designing a homemade handcuff key. As TDCJ uses the same type of handcuffs, the intelligence on this case provided the OIG the opportunity to minimize potential security risks. This past spring the United States Department of Homeland Security recognized the OIG-ISD program on information gathering and sharing with other departments and agencies as a best practice. Additionally, Janet Napolitano, the Secretary for the Department of Homeland Security, recommended the Texas OIG model be used for other states. Through close working relationships with outside law enforcement organizations, such as the Texas Fusion Center and the Department of Homeland Security, the OIG continues to be a premier organization in the criminal law enforcement arena. Chairman Bell thanked John Moriarty, Inspector General, and his staff for their outstanding work. Mr. Moriarty credited Bruce Toney, Deputy Director of the OIG-ISD, for the excellent outcome of the pilot program and the best practices award.

Mr. Moriarty recognized Danny Stoltz, who is a retired 30-year veteran of the United States Marshals Service, as the new commander over the OIG Fugitive Task Forces. Mr. Stoltz thanked the board and Mr. Moriarty for the opportunity to serve the agency in this capacity. Chairman Bell welcomed Mr. Stoltz to his position.

Kim Vernon, Director of the State Counsel for Offenders (SCFO), recognized Barbara Corley as the new chief of the Civil Commitment Section. Ms. Corley stated that she was thrilled to be working for the agency in her new position.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of June and July 2011. The TBCJ, along with Brad Livingston, TDCJ Executive Director, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Chairman Bell recognized and welcomed Mike Meyer, staff member of the Senate Finance Committee.

Discussion, Consideration, and Possible Action Regarding Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 155th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items. Eric Gambrell stated that his firm does pro bono work for the San Antonio Food Bank and Wal-Mart and as there are personal property donations from both being brought before the TBCJ for approval, he would abstain from voting on the consent items. Seeing no further objections, Chairman Bell stated the consent items stand approved, noting for the record that Mr. Gambrell abstained from voting on the items.

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

Ms. Rissie Owens, BPP Presiding Officer, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

- 1. Payment of Insurance Premiums by the Community Supervision and Corrections Departments (CSCDs)**

Judge Bramblett reported that the JAC met on July 14 - 15, 2011, and one of the discussions concerned funding issues for the CSCDs. Probation has a total net loss of 3.5% from the previous biennium. Money is being prioritized. She advised the board that two facilities did not receive funding and were closed due to substandard performance evaluations from a recent audit. Judge Bramblett acknowledged that one of these facilities was in her district, noting that the Community Justice Assistance Division (CJAD) had to make hard decisions. Judge Bramblett expressed her support for CJAD and its performance based evaluations. Regarding the insurance premiums, Representative Sylvester Turner has requested an interim charge from the Speaker of the House, in order to gather information and guidance on this issue. Currently, funds for the insurance premiums for county CSCD employees are taken out before monies are distributed to the CSCDs, thereby limiting the amount of funds available for the diversion programs.

- 2. Collaboration Efforts Involving Homeland Security and Community Corrections**

The JAC received a presentation from the Immigration and Customs Enforcement (ICE) pilot program in North Texas, the Enforcement and Removal Operation. Homeland security is working with the CSCDs to target deported criminal aliens.

3. Statewide Assessment Instrument

Judge Bramblett further reported on the future implementation of an improved assessment tool to enhance the public safety model by placing the appropriate person on probation with the appropriate services for rehabilitation. She voiced her hopes that if the assessment tool is validated it could be implemented for all components of the criminal justice system.

Following Judge Bramblett's comments, Chairman Bell reemphasized the importance of the homeland security mission in the probation arena and its relevance to the public safety mission.

Report from the Executive Director, Texas Department of Criminal Justice

1. Update on the Central Unit Closing

Mr. Livingston briefed the board on the closure of the Central Unit. He stated this was a tremendous opportunity for the state of Texas to close a prison unit. To a large extent, it can be attributed to the success of the treatment programs and the diversion initiatives that the legislative leadership and the Office of the Governor put in place in the past legislative sessions. The fact the TDCJ's populations are somewhat stable provided policy makers the opportunity to make those decisions, is a remarkable success story. It supports the decisions they made in the most recent legislative session to close the Central Unit and to continue funding the treatment and diversion programs at substantially similar levels to where they are at today. As mentioned during the Business and Financial Operations Committee meeting on August 18, 2011, the state's leadership came through big for criminal justice during this past legislative session. The TDCJ is in solid shape as it moves forward.

Mr. Livingston provided some of the logistical details involving the closure of the Central Unit. As of August 5, 2011, the offender population was transferred from the Central Unit to other units, which have been able to absorb the offenders. Staff is working to wind down auxiliary operations at the unit. The Correctional Institutions Division (CID), Human Resources Division (HR), and a number of other divisions have been engaged in activities related to closure of the Central Unit. The CID and HR met with each Central Unit employee. The majority of the correctional staff was able to take advantage of vacant correctional officer positions within that same region. Mr. Livingston reported the winding down operations at the Central Unit have been a success, and noted the highly motivated cooperation among the divisions. Some logistical activities will continue to transition. The TDCJ has received some funding to transition the warehousing functions and the mechanical shop functions, whose operations will be transferred to other locations. Mr. Livingston acknowledged the closure of the Central Unit is a success story that the TDCJ can tout.

2. Update on Correctional Managed Health Care

Mr. Livingston stated the management and delivery of offender health care involves the cooperation of several divisions and partnerships. The funding levels present a challenge within the upcoming biennium. The following are highlights from his briefing:

- The composition of the Correctional Managed Health Care Committee was reduced from nine members to five voting members and one ex-officio member, the state Medicaid director.
- TDCJ has the authority to conduct a biennial review concerning expenditures within correctional managed health care.
- TDCJ is the contracting entity with health care providers within this area.
- TDCJ can contract with other entities specifically with other university providers who may have an interest in providing health care to the offender population.
- There are specific rate structures that TDCJ must work within for hospital services. These rates can be negotiated with the various providers currently in place and to other providers who can be added.
- The hospital and clinical services line item is approximately 28% below the current levels. Mr. Livingston noted that the legislative leadership sent a clear message that the TDCJ and its university health care partners must work together to provide the best health care delivery system possible at the most affordable cost possible for offender health care.
- The funding for unit and psychiatric care is approximately 12% below the current levels. The pharmacy funding is approximately 7.5% below current funding levels.
- The university health care partners will make further staff reductions. The University of Texas Medical Branch (UTMB) began its staff reductions for unit based care earlier in the summer.

Mr. Livingston stated it was his expectation to develop a system of health care partnerships to facilitate health care delivery within the 2012-2013 funding levels. The TDCJ will utilize all the statutory authority it has at its disposal to make certain that this is a working system, expanding partnerships where it makes sense, and continuing dialogue with the TDCJ's current university health care partners.

Chairman Bell commented that the closure of the Central Unit has been a positive story and stated he was pleased the current trends have allowed the board and the TDCJ to be able to close a unit. The Central Unit has been studied for closure for the last six to eight years. Crime rates are down and offender populations are relatively flat. If the trends continue, Chairman Bell stated it might be possible more prisons could close in the future.

With regard to correctional managed health care, Chairman Bell characterized what Mr. Livingston and his staff were experiencing as a transition of the contracting responsibilities and management from the CMHCC to the TDCJ executive team. The amount of planning in this endeavor is the key to a positive outcome. He praised Mr. Livingston and his team for their planning and willingness to work with the correctional managed health care university partners, while exploring all available options to provide service to the largest health care system in Texas.

Terrell McCombs noted that legislation reads university health care partners are to be used unless there is some area of health care, which they cannot adequately provide care. He asked if staff foresees any medical need that the university health care partners may not be able to provide. Mr. Livingston responded it was too early to know how extensive some of the changes may be. He explained that for years both university health care partners have relied on outside partners to deliver significant components of correctional managed health care. Texas Tech University Health Sciences Center (TTUHSC) has used this approach more than the UTMB. The TDCJ will open dialogues with other entities and explore all avenues of operations within the perimeters of its authority. Mr. Livingston mentioned that one of the items for discussion later on the agenda is an extension of the current health care contract, which will have the necessary safeguards in place by September 1, 2011.

David Nelson stated it was important for the TDCJ to maintain the relationship with the current correctional managed health care partners. Statutorily the health care partners are required to provide health care delivery services to offenders. While it is not an exclusive provision of those services, they should stand ready to provide them. Mr. Nelson further stated on two separate occasions the board was notified in writing by one of the university partners that it did not intend to continue unit based health care unless there was an increase in funding. He noted that unfortunately, there has been a decrease in funding. Mr. Nelson said the board and the agency must examine and explore potential eventuality and be prepared to fill in if that correctional managed health care partner chooses not to fulfill its statutory obligation.

Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)

The Honorable Allen Hightower, Executive Director of the CMHCC, had no report.

Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)

John Bradley, Chairman of the ACOOMMI, had no report.

Report from the Chairman, TBCJ

1. Leadership Accountability

Chairman Bell stressed the relevance of leadership at all levels from the executive director to the employees. With leadership comes accountability. Strong effective leaders take accountability for the performance within their divisions and departments. Being accountable is doing the right thing for the right reason. It is also doing a good job and having pride in what one does. An effective leader provides ways to motivate the employees and keep them engaged. Keeping the employees engaged is the challenge. The value of leadership has no price tag. The TDCJ's accountability for leadership begins at the front line supervisor, and extends to the executive

director's office. Chairman Bell commented that the TDCJ has excellent succession planning in place. He credited Mr. Livingston with this leadership planning. He also commended the OIG, SCFO, and the Internal Audit Division for their succession planning. Chairman Bell praised the TDCJ for its forward leadership planning.

2. Change Management

Chairman Bell acknowledged that personnel in three key management positions were retiring at the end of August. Change management is a process by which a structured approach is put in place to develop individuals, to help them to shift on objectives, help the team develop, help the organization develop, and to examine one's current and future state. Through proper management, the transition in staff in management or any operational area of an organization will mean growth and advancement. Chairman Bell commented that the current budget is a change management operation, which is an opportunity to reevaluate, push forward, and deliver the best effort possible. Change management is the responsibility of all employees at all levels. Chairman Bell stressed it needs to be embraced and supported. The vision of tomorrow will be created by the new leaders of today.

3. Chairman's Fitness League

Chairman Bell reviewed the Chairman's Fitness League post season training which concluded in July. The following were the top three ranking teams in each division:

- Division I - Championship: Houston VI-Parole Office, 1,906 points; 2nd Place: Parole Division Specialized Programs; 3rd Place: Houston III-Parole Office
- Division II - Championship: SCFO, 2,599 points; 2nd Place: Administrative Review and Risk Management Division; 3rd Place: Facilities Division
- Division III - Championship: Halbert Unit, 1,116 points; 2nd Place: Information Technology Division; 3rd Place: Human Resources Administration
- Division IV - Championship: Hobby Unit, 6,842 points; 2nd Place: Scott Unit; 3rd Place: Cole State Jail
- Division V - Championship: Lychner and Kegan Unit Complex, 3,496 points; 2nd Place: Huntsville Unit; 3rd Place: Manufacturing and Logistics Division
- Division VI - Championship: Bridgepoint Correctional Center, 5,600 points
- Division VII - Championship: Windham School District, 1,585 points

Discussion, Consideration, and Possible Action Regarding Selection of the Inspector General

Chairman Bell stated that Mr. Moriarty announced his retirement effective August 31, 2011. The selection process began in June. He noted that two very good candidates came forward. The Internal Audit Committee was responsible for leading the interviews. The candidates also spent time with the executive director and the TBCJ chairman.

Chairman Bell called for a motion and a second for the selection of the Inspector General.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve the selection of Bruce Toney as the Inspector General, to be effective September 1, 2011.

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

Chairman Bell welcomed Mr. Toney as the newly selected Inspector General. Mr. Toney thanked the board for the opportunity to serve the agency as the Inspector General.

Discussion, Consideration, and Possible Action Regarding Selection of the Director of the Internal Audit Division

Chairman Bell stated Raymond Pyeatt was retiring effective August 31, 2011. An internal search was conducted, with one candidate emerging.

Chairman Bell called for a motion and a second for the selection of the director of the Internal Audit Division.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the selection of Scott Hornung, as the Director of the Internal Audit Division, to be effective September 1, 2011.

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

Chairman Bell welcomed Mr. Hornung to his position as the director for Internal Audit. Mr. Hornung thanked the board for their confidence in his abilities. He also thanked Mr. Pyeatt for his leadership as well as his friendship.

Discussion, Consideration, and Possible Action Regarding Selection of the Director of the State Counsel for Offenders

Chairman Bell stated there were three candidates who applied for the position of director of the SCFO. All were qualified and well spoken. He praised Ms. Vernon as a strong leader who has reshaped and refocused the SCFO into a team of legal experts respected by the judiciary and district attorneys throughout the state.

Chairman Bell called for a motion and a second for the selection of the director of the State Counsel for Offenders.

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve the selection of Rudolph Brothers, as the Director of the State Counsel for Offenders, to be effective September 1, 2011.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Chairman Bell welcomed Mr. Brothers to his new position. Mr. Brothers stated he was honored to be selected to be the SCFO director, thanking Ms. Vernon for her support.

Discussion, Consideration, and Possible Action Regarding the Fiscal Year 2012 Annual Audit Plan

Raymond Pyeatt, Director of Internal Audit Division, noted he briefed the Audit and Review Committee on August 18, 2011, on the Fiscal Year (FY) 2012 Annual Audit Plan. He stated he would be pleased to answer questions the board may have.

Chairman Bell asked if there were any questions. Seeing none, he called for a motion and a second.

Tom Mechler made a motion that the Texas Board of Criminal Justice approve the Internal Audit Plan for Fiscal Year 2012 and authorize the internal audit director to perform audit work outside of the audit plan if deviations are warranted in the judgment of the internal audit director, documented as required by the Texas Internal Auditing Act, and presented to the board at its next scheduled meeting.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

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

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. Items 1-7 are FY 2012-2013 contract renewals for Texas Correctional Office on Offenders with Medical and Mental Impairments for mental health services. Item 8 is the FY 2012-2013 contract for after care treatment for offenders that are released from the substance abuse felony punishment facility program. Item 9 is the FY 2012-2016 lease for copier equipment. Item 10 is the FY 2012 contract for the installation of the security surveillance system at the McConnell Unit. Item 11 is the FY 2012-2013 contract for natural gas, which has a 10% variance, for approximately 40 TDCJ units. An additional item is the extension to the current correctional managed health care contract. The intent is to extend the FY 2010-2012 contracts with the universities for up to six months, which should allow the TDCJ time to deal with the complex issues as previously discussed. Controls concerning price rates will be in place by September 1, 2011, as mandated by the legislature.

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

Ms. Villanueva-Hiles moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the TDCJ Fiscal Year 2012 Proposed Operating Budget

Mr. McGinty stated that the Business and Financial Operations Committee met August 18, 2011, and received an in-depth briefing on the FY 2012 Proposed Operating Budget. He said he would be pleased to answer questions from the board.

Chairman Bell asked if there were any questions or comments. Mr. McCombs complimented Mr. McGinty and his staff on their incredible work.

Chairman Bell asked if there were any further comments. Seeing none, he called for a motion and a second.

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the Texas Department of Criminal Justice Fiscal Year 2012 Operating Budget as presented and authorize the executive director of the Texas Department of Criminal Justice to make transfers as necessary and as authorized through the General Appropriations Act and other applicable laws.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Adoption of Title 37 Texas Administrative Code Section 163.40, Substance Abuse Treatment

Melinda Bozarth, General Counsel, reported that this rule was posted in the June 24, 2011, issue of the Texas Register for public comment. Prior to posting, the staff at the Texas Register noted that in section (a)(26)(I) the name of the Board of Nurse Examiners had been changed to the Board of Nursing, and that under section (f), questioned whether the series should be joined by an “or” or an “and.” Ms. Bozarth also advised the board that the rule that was previously approved should have clarified that under section (a)(10), the reference to department should have specified the Texas Department of State Health Services and that all further references should reflect DSHS. All noted revisions were incorporated into the rule before posting in the Texas Register.

Chairman Bell asked if there were any comments or questions. Mr. Nelson inquired if there was any obligation to repost or republish in the Texas Register. Ms. Bozarth responded no, that the

rule as posted in the Texas Register was correct. Mr. Mechler asked Ms. Bozarth to explain the rule review process. Ms. Bozarth explained that state agencies are required to review their rules every four years. Executive Services initiates the review process through the TDCJ proponent and then distributes the rule to other divisions for comment. The review is finalized through the executive director's office for the TBCJ's approval for publication in the Texas Register for the public comment period. Comments from the public, if any, are considered and incorporated as appropriate.

Chairman Bell asked if there were any further comments. Seeing none, he called for a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code Section 163.40, regarding Substance Abuse Treatment, as presented and that the chairman sign the order to this effect.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

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

1. Request for Transfer of Land at the Wynne Unit in Walker County, Huntsville, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, reviewed the transfer of 2.536 acres of land at the Wynne Unit to the Board of Regents of the Texas A&M University System not later than January 1, 2012. This transfer is in accordance with House Bill 2518 as passed by the 82nd Legislature and signed by the governor. This land will be for the use and benefit of the Texas Forest Service. This property is currently leased to the Texas Forest Service and serves as the site of their district office.

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

Judge Gist made a motion that the Texas Board of Criminal Justice approve the request for the transfer of land at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

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

2. Request for Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Mr. Demny stated the Business and Financial Operations Committee received a detailed briefing on the gas pipeline easement at the Stiles Unit as requested by TransCanada Keystone Pipeline,

L.P. TransCanada has agreed to pay \$208,691 for this easement with a 30-year primary term. The easement includes an option for subsequent terms at defined renewal rates.

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

Mr. Mechler made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

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

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

1. Request for Kitchen Renovations at the Pack Unit in Grimes County, Navasota, Texas

Frank Inmon, Director of the Facilities Division, stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$5,250,000.

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

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,250,000 for kitchen renovations at the Pack Unit in Grimes County, Navasota, Texas, as presented.

Judge Gist seconded the motion, which prevailed unanimously when called to a vote.

2. Request to Replace Roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas

Mr. Inmon stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$2,237,900.

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

Mr. Nelson made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$2,237,900 to replace roofs at the Stringfellow Unit in Brazoria County, Rosharon, Texas, as presented.

Ms. Hiles seconded the motion, which prevailed unanimously when called to a vote.

3. Request to Upgrade Light Fixtures in Cell Blocks at the Huntsville Unit in Walker County, Huntsville, Texas

Mr. Inmon stated the Business and Financial Operations Committee received a detailed status update on this project on August 18, 2011. He requested the board approve the total project cost at \$1,387,200.

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

Mr. Gambrell made a motion that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,387,200 to upgrade light fixtures in cell blocks at the Huntsville Unit in Walker County, Huntsville, Texas, as presented.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

Public Comments

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda as well as public comments on topics within its jurisdiction in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Noting that five speaker registration cards were received for the public comments portion of the meeting, Chairman Bell stipulated that each speaker would be given three minutes to address the board. He reviewed the rules for public presentations and comments. Chairman Bell called Gloria Rubac.

Ms. Rubac voiced her concerns about the use of isolation in administrative segregation, solitary confinement, and death row and how it affects the health of offenders assigned to these areas. She listed the negative effects attributed to long-term isolation. Ms. Rubac compared isolation to torture. With respect to death row offenders, Ms. Rubac requested information as to why a death row offender is classified as an administrative segregation offender but does not receive the benefits that a regularly classified administrative segregation offender receives. She also inquired why the Death Row Plan is not being used and why death row is permanently isolated. Chairman Bell advised Ms. Rubac that the three minutes was over and permitted her to conclude her comments. Ms. Rubac accused the correctional officers of cruelty toward death row offenders with respect to the shakedowns and lockdowns. She said offenders' personal and legal

property are unnecessarily destroyed. Chairman Bell advised Ms. Rubac to give her comments and questions in writing to the board staff and she would be sent a written response.

Robert Gartner spoke to the health issues of death row offenders due to the permanent isolation conditions at the Polunsky Unit. He related his concerns about the architectural designs of the cells, as well as the policies and standards concerning solitary confinement constitute extreme and unusual punishment. Mr. Gartner expressed his belief that isolation causes trauma and that individuals suffer more gravely from its effects than studies have shown.

A.S. Agapetus stated her concerns that solitary confinement adversely affects the mental health of the offenders. She said that offenders, who have been in solitary confinement for an extended period and then released, are extremely paranoid and dangerous to others. Ms. Agapetus provided evidence that other states' correctional departments have discontinued the use of solitary confinement as a useful tool. She recited various incidents of self-abuse that occur on death row and administrative segregation. Ms. Agapetus said the Death Row Plan (Rev. 2004) allows offenders to work. She requested the board consider reinstating the portion of the Death Row Plan that allows offenders to work and occupy their time usefully.

Terri Been stated she was a family member of a Texas death row offender, Jeff Wood. She noted that he was factually innocent of murder but was convicted under the Texas law of parties. According to Ms. Been, her brother was not present when the murder took place and the offender who committed the crime has been executed. Ms. Been advised the board that her brother has tried to commit suicide within the past year because of the conditions in isolation. Specifically, Offender Wood has lost personal and legal property during shakedowns. Ms. Been alleged that damage to personal property by a correctional officer during a shakedown has affected Offender Wood's sanity. She asked the board to request a review of the policy that requires damaged property (a radio in this case) be withheld for six months, and that it be changed to a more reasonable time limitation.

Allison Dieter talked about craft items denied to death row offenders. She held up a dream catcher that was crafted by a death row offender from shoelaces and colored pencils obtained from the unit commissary. Ms. Dieter alleged that an offender was stripped searched in below freezing temperatures. She provided copies of six grievances from the offender. Ms. Dieter mentioned other offenders' complaints such as privacy issues, the reduction of substantive food items for meals, lack of communication, lack of availability to use telephones, and experienced correctional officers being replaced by less experienced correctional officers to ease the budget crisis and the money used to deny the offenders' access to media publications.

Chairman Bell thanked all presenters for their comments, which have been noted and recorded. Agency staff will address the issues raised at the meeting in written form. If the speakers wish to receive a copy of these responses, they must leave their name and contact information on the follow-up sheet located at the speaker's registration table.

Chairman Bell thanked everyone for attending and announced that the next meeting of the TBCJ will be October 14, 2011, at the Doubletree Hotel, in Austin.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the Texas Board of Criminal Justice at 1:06 p.m.

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Chairman

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Secretary

*Signature on file.

Note: Referenced attachments for the approved minutes are available upon request from the Office of Executive Services..