

TEXAS BOARD OF PARDONS AND PAROLES

MINUTES

Board Meeting No. 24-0118



January 18, 2024

Austin, Texas

TEXAS BOARD OF PARDONS AND PAROLES

Board Meeting

Thursday, January 18, 2024

Cambria Hotel Austin Uptown

(Uptown AB Room)

13205 Burnet Road

Austin, Texas

1:00 PM

Order of Business

1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Item – Minutes for the October 19, 2023 Board Meeting
5. Chairman’s Report – David Gutiérrez, Chairman
6. Discussion and Consideration of Parole Guidelines Offense Severity Rankings – Lee Ann Eck Massingill, Parole Commissioner
7. Discussion and Consideration of Board Policy, BPP-POL. 145.255 Special Condition “L” (Maximum Level of Supervision)
8. Discussion and Consideration of Board Policy, BPP-POL. 145.257 Special Condition “P” (Special Needs Offender Program)
9. Discussion and Consideration of Board Policy, BPP-POL. 145.260 Special Condition “SISP” (Super Intensive Supervision Program)
10. Discussion and Consideration of Board Policy, BPP-POL. 145.262 Special Condition “V” (Victim)
11. Discussion and Consideration of Board Policy, BPP-POL. 145.264 Special Condition “Z” (Not to Reside in or Enter a Specified County)
12. Discussion and Consideration of Board Policy, BPP-POL. 145.201 Action Upon Review-Release Denied
13. Discussion and Consideration of Board Policy, BPP-POL. 145.206 Special Review-Release Denied
14. Discussion and Consideration of Board Policy, BPP-POL. 145.270 Policy Statement on Imposition of Special Conditions
15. Discussion and Consideration of Board Policy, BPP-POL. 146.252 Preliminary Hearings-Pending Criminal Charges
16. Discussion and Consideration of Board Policy, BPP-POL. 148.200 Sex Offender Conditions – Releasee Not Convicted of a Sex Offense
17. Initial Readoption without Amendments in 37 TAC, Chapter 146
 - A. §146.3 Right to Counsel
 - B. §146.11 Releasee’s Motion to Reopen Hearing or Reinstate Supervision

- C. §146.12 Procedure after Motion to Reopen is Granted; Time; Rights of the Releasee; Final Disposition
18. Initial Readoption with Non-Substantive Amendments in 37 TAC, Chapter 146
- A. §146.4 Procedure after Waiver of Preliminary Hearing
 - B. §146.5 Procedure after Waiver of Revocation Hearing
 - C. §146.7 Preliminary Hearing
 - D. §146.9 Revocation Hearing
19. Initial Readoption with Substantive Amendments in 37 TAC, Chapter 146
- A. §146.10 Final Board Disposition
20. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 147, Subchapter A
- A. §147.1 Public Hearings
 - B. §147.3 Ex Parte Consultations
 - C. §147.5 Witnesses
 - D. §147.6 Record
21. Final Readoption with Non-Substantive Amendments in 37 TAC, Chapter 147, Subchapter B
- A. §147.24 Relevant Testimony
 - B. §147.26 Stipulation
22. Convene Texas Board of Pardons and Paroles Closed Meeting – Executive Session
- A. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda (Closed in accordance with Section 551.071, Government Code).
 - B. Consultation with Legal Counsel on Matters Where the Texas Board of Pardons and Paroles 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).
 - C. Annual Parole Guidelines Meeting to Review and Discuss the Parole Guidelines and Range of Recommended Parole Approval Rates. (Closed in accordance with Section 508.144b, Government Code).
23. Reconvene Texas Board of Pardons and Paroles Open Meeting
24. Adjourn



**MINUTES OF THE
TEXAS BOARD OF PARDONS AND PAROLES
BOARD MEETING
THURSDAY, JANUARY 18, 2024**

REGULAR SESSION

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, January 18, 2024 at 1:00 p.m., Cambria Hotel Uptown, 13205 Burnet Road, Austin, Texas.

BOARD MEMBERS PRESENT

David Gutiérrez
Elodia Brito
Carmella Jones
Brian Long
Marsha Moberley
Linda Molina
Ed Robertson

PAROLE COMMISSIONERS PRESENT

Michael Adams
Richard Aiello
Jacqueline Bishop
Joel Butler
Edward Davila
Lee Ann Eck-Massingill
Mary Farley
Sandra Fletcher
Troy Fox
Raymond Gonzalez
James Paul Kiel
Jeffrey Marton
Anthony Ramirez
Alfredo Salcido

Roel Tejada

BOARD STAFF PRESENT

Bettie Wells, General Counsel
Timothy McDonnell, Chief of Staff
Jessica Dillard, Board Administrator
Rachel Alderete, Director, Support Operations
Eugene Stroud, Deputy Director of Financial Operations
Wadella Murphy, Director, Hearing Operations
Clinton Gunnels, Director, Institutional Parole Operations
Erica Montalvan, Deputy Director, Institutional Parole Operations
Libby Hamilton, Director, Victim Liaison
Kelsey Stratton, Director, Staff Development
Rodney Sigler, Director, Human Resources
Jessica Guerrero, Manager of Administration
Heather Penick, Manager of Business Operations
Pamela Pacher, Program Specialist
Lisa Arterberry Gains, ROS
Heather Clark, ROS
Jeff Dombrosky, Assistant ROS
Sam Garcia, Assistant ROS
Terence Hall, Systems Analyst
Estela DeHoyos, Program Supervisor
Oliver Cui, Executive Assistant
Elizeth Willaker, Executive Assistant
Matthew Schlosser, Multimedia Technician

TDCJ STAFF PRESENT

Matt Jug, OIG

OTHERS PRESENT

David O’Neil, Attorney at Law

CONVENED – TEXAS BOARD OF PARDONS AND PAROLES

Presiding Officer (Chairman) David Gutiérrez convened the meeting of January 18, 2024 at 1:00 p.m. in accordance with Chapter 551, Texas Government Code, Open Meetings Act. After roll call, the Chairman stated a quorum was present and declared the meeting open.

RECOGNITIONS

Chairman Gutiérrez recognized the Board Members, and guests present.

BOARD RETIREES (ATTACHMENT A)

Chairman Gutiérrez recognized the employees that retired and stated the names of the retirees will be included as part of the official minutes of the meeting.

NAMES OF SERVICE AWARD RECIPIENTS (ATTACHMENT B)

Chairman Gutiérrez recognized the Board staff who have dedicated 5, 15, 25, and 50 years of service to the state of Texas. He expressed his deepest appreciation for their dedicated service, and stated the names of the service award recipients will be included as part of the official minutes of the meeting.

Chairman Gutiérrez recognized Troy Fox, Parole Commissioner, for 50 years of state service. He thanked him for his years of service.

Wadella Murphy introduced New Regional Operations Supervisor, Lisa Arterberry-Gaines, New Assistant Regional Operations Supervisor, Sam Garcia and New Assistant Regional Operation Supervisors, Jeff Dombrosky. She highlighted their careers and welcomed them to the Board.

Chairman Gutiérrez recognized the 88th Legislative Session team members and expressed his immense gratitude for their tireless dedication and hard work during the session.

CONSENT ITEMS

Chairman Gutiérrez stated the Board had an opportunity to review the Consent Item listed on the agenda prior to the meeting and asked if there were any objections. Hearing no objections, the Board approved the minutes for the October 19, 2023 Board Meeting.

CHAIRMAN’S REPORT

Chairman Gutiérrez reported the recent activities of the Board and shared some of the agency’s latest accomplishments.

- **Sunset Advisory Commission Review**

Currently, the agency is under review by the Sunset Advisory Commission. A self-evaluation report was submitted to the Sunset Advisory Commission August 2023. The agency will continue with the review through the fall of 2024.

- **House Bill 1, 88th Legislature**

In late November staff participated with the House Bill 1, 88th Legislative Session, Article IV, Rider 60 Stakeholder’s meeting on warrants issued for parole violators. This was a coordinated effort with TDCJ’s Parole Division. The discussion provides a positive forum for attendees to share ideas, obtain clarity and statistical information. There are tentative plans for another meeting in the spring.

- **Staff Training and Development**

In November several staff attended the Texas Corrections Association Conference in College Station, Texas. Staff also presented to several conferences of the Texas County and District

Attorney’s Association, including DAs across the state. Chairman Gutiérrez, Timothy McDonnell, and Libby Hamilton were presented to the Annual Texas County and District Attorney’s Association in Frisco, Texas. Additionally, several staff members recently attended the American Association Conference in National Harbor, Maryland. Staff gained a wealth of information and exchange of practices from others from across the country.

- **New Parole Liaison Position**

The newly created parole liaison position announced last summer assists with many of the logistics the Institutional Parole Officer (IPOs) must do in the prisons, to include parole interviews. Currently, 12 positions are filled. Chairman Gutiérrez stated this is an example of forward thinking to best meet the Board’s mission. He expressed his gratitude for the staff’s outstanding service and contributions to the Board of Pardons and Paroles.

DISCUSSION AND CONSIDERATION OF PAROLE GUIDELINES OFFENSE SEVERITY RANKINGS (ATTACHMENT C)

Lee Ann Eck-Massingill discussed the Parole Guidelines Offense Severity Rankings, stating the Parole Guidelines Committee ranked 169 offenses due to recent legislative changes. Of the 169 offenses, 33 were state jail, 24 monetary, 19 drug, 92 were assorted offenses, and one which was previously ranked in the interim was confirmed. Additionally, of the 169 offenses, 30 were ranked highest, 41 were ranked high, 34 were ranked moderate and 64 were ranked low. She thanked the Parole Guidelines Committee members and requested Board approval of the 169 ranked offenses.

Motion

Ms. Molina moved to adopt the Parole Guidelines Offense Severity Rankings, as presented.

Ms. Moberley seconded the motion, which prevailed when called for a voice vote.

BOARD POLICIES (ATTACHMENT D)

Chairman Gutiérrez yielded the floor to Ed Robertson, Board Member and Chair of the Special Conditions Workgroup to present agenda items #7 - #11 and Bettie Wells, General Counsel to present agenda items #12 - #16 for discussion and consideration.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.255 SPECIAL CONDITION “L” (MAXIMUM LEVEL OF SUPERVISION)

Mr. Robertson stated Board Policy 145.255 was reviewed by the Special Condition Workgroup, and in reviewing the policy the Workgroup determined that non-substantive changes to the DISCUSSION, and PROCEDURES sections was appropriate. He recommended the Board approve the revisions to Special Condition “L.”

Motion

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.255 Special Condition “L” (Maximum Level of Supervision), as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.257 SPECIAL CONDITION “P” (SPECIAL NEEDS OFFENDER PROGRAM)

The recommended amendments to Board Policy 145.257 include non-substantive revisions to the POLICY, DISCUSSION, DEFINITION and PROCEDURES sections, which identify the criteria of imposition of Special Condition “P”.

Motion

Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 145.257 Special Condition “P” (Special Needs Offender Program), as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.260 SPECIAL CONDITION “SISP” (SUPER INTENSIVE SUPERVISION PROGRAM)

The recommended amendments to Board Policy 145.260 include non-substantive revisions to the POLICY, DISCUSSION and PROCEDURES sections, and substantive changes to the DEFINITIONS section related to the Division’s criteria for SISP referral.

Motion

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.260 Special Condition “SISP” (Super Intensive Supervision Program), as presented.

Ms. Moberley seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.262 SPECIAL CONDITION “V” (VICTIM)

The recommended amendments to Board Policy 145.262 include non-substantive revisions to the DISCUSSION section.

Motion

Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.262 Special Condition “V” (Victim), as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.264 SPECIAL CONDITION “Z” (NOT TO RESIDE IN OR ENTER A SPECIFIED COUNTY)

The recommended amendments to Board Policy 145.264 include non-substantive revisions to the POLICY, DISCUSSION, and PROCEDURES sections.

Motion

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.264 Special Condition “Z” (Not To Reside In Or Enter A Specified County), as presented.

Ms. Brito seconded the motion, which prevailed when called for a voice vote.

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.201 ACTION UPON REVIEW
RELEASE DENIED**

Ms. Wells noted the policies on the agenda are a part of the annual review. She stated Board Policy 145.201 includes non-substantive revisions related to grammar.

Motion

Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.201 Action Upon Review Release Denied, as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.206 SPECIAL REVIEW
RELEASE DENIED**

Board Policy 145.206 was presented with non-substantive revisions related to grammar, reformatting, and protocol.

Motion

Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 145.206 Special Review-Release Denied, as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.270 POLICY STATEMENT ON
IMPOSITION OF SPECIAL CONDITIONS**

The recommended amendments to Board Policy 145.270 include non-substantive and reformatting revisions.

Motion

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.270 Policy Statement on Imposition of Special Conditions, as presented.

Mr. Robertson seconded the motion, which prevailed when called for a voice vote.

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 146.252 PRELIMINARY HEARINGS-
PENDING CRIMINAL CHARGES**

The recommended amendments to Board Policy 146.252 include protocol revisions.

Motion

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 146.252 Preliminary Hearings-Pending Criminal Charges as presented.

Ms. Brito seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 148.200 SEX OFFENDER CONDITIONS-RELEASEE NOT CONVICTED OF A SEX OFFENSE

The recommended amendments to Board Policy 148.200 include a substantive amendment, the addition of the code of criminal procedure statutory reference and non-substantive formatting revisions.

Motion

Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 148.200 Sex Offender Conditions-Releasee Not Convicted Of A Sex Offense, as presented.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

BOARD RULES (ATTACHMENT E)

Chairman Gutiérrez yielded the floor to Linda Molina, Chair of the Rules Committee to present the rules listed in agenda items #17 - #21.

INITIAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 146

Ms. Molina presented the rules in agenda item #17, stating on April 26, 2023 the Rules Committee met in an open meeting and considered the rules in Chapter 146. The Rules Committee by unanimous vote recommended the initial readoption of Chapter 146 without amendments to the rules listed in agenda item #17. On October 21, 2023, the proposed rule review of Chapter 146 was published in the Texas Register and the General Counsel reports no comments were received.

Motion

Ms. Moberley moved for the Initial Readoption Without Amendments to Chapter 146 Revocation of Parole or Mandatory Supervision, §146.3 Rights to Counsel, §146.11 Releasee's Motion to Reopen Hearing or Reinstate Supervision, and §146.12 Procedure after Motion to Reopen is Granted; Rights of the Releasee; Final Disposition.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

INITIAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 146

Ms. Molina presented the rules in agenda item #18, and stated the Rules Committee by unanimous vote recommended the initial readoption of Chapter 146 with non-substantive amendments to the rules listed in agenda item #18. The non-substantive amendments include edits for uniformity and consistency throughout the rules.

Motion

Ms. Moberley moved for the Initial Readoption With Non-Substantive Amendments to Chapter 146 Revocation of Parole or Mandatory Supervision, §146.4 Procedure after Waiver of Preliminary Hearing, §146.5 Procedure after Waiver of Revocation Hearing, §146.7 Preliminary Hearing, and §146.9 Revocation Hearing.

Ms. Brito seconded the motion, which prevailed when called for a voice vote.

INITIAL READOPTION WITH SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 146

Ms. Molina presented the rule in agenda item #19, and stated the Rules Committee by unanimous vote recommended the initial readoption of Chapter 146 with substantive amendments to the rule listed in agenda item #19. The amendments include edits for clarity.

Motion

Ms. Moberley moved for the Initial Readoption Substantive Amendments to Chapter 146 Revocation of Parole or Mandatory Supervision, §146.10 Final Board Disposition.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 147, SUBCHAPTER A

Ms. Molina presented the rules in agenda item #20, stating the Rules Committee previously approved the initial readoption of the rules and it has been more than 30 days since they were posted in the Texas Register. The General Counsel reports no comments were received. Following the initial re-adoption, the amendments are adopted to provide edits for uniformity and consistency throughout the rules and to correct grammatical errors.

Motion

Ms. Moberley moved for the Final Readoption With Non-Substantive Amendments to Chapter 147, Subchapter A General Rules for Hearings, §147.1 Public Hearings, §147.3 Ex Parte Consultations, §147.5 Witnesses, and §147.6 Record.

Ms. Jones seconded the motion, which prevailed when called for a voice vote.

FINAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 147, SUBCHAPTER B

Ms. Molina presented the rules in agenda item #21, stating the Rules Committee previously approved the initial readoption of the rules and it has been more than 30 days since they were posted in the Texas Register. The General Counsel reports no comments were received. Following the initial re-adoption, the amendments are adopted to provide edits for uniformity and consistency throughout the rules and to correct grammatical errors.

Motion

Ms. Moberley moved for the Final Readoption With Non-Substantive Amendments to Chapter 147, Subchapter B Evidence, §147.24 Relevant Testimony, and §147.26 Stipulation.

Ms. Brito seconded the motion, which prevailed when called for a voice vote.

EXECUTIVE SESSION

Chairman Gutiérrez recessed the Regular Session at 2:03 p.m. and convened the Board into Executive Session (closed under Section 551.071, Government Code).

RECONVENE TEXAS BOARD OF PARDONS AND PAROLES

Chairman Gutiérrez convened the Board back into Regular Session at 3:24 p.m. and proceeded with the order of business.

ADJOURNMENT

Having completed all posted items on the agenda, Chairman Gutiérrez adjourned the Board Meeting at 3:24 p.m.

ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 25th DAY OF APRIL 2024.



DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)