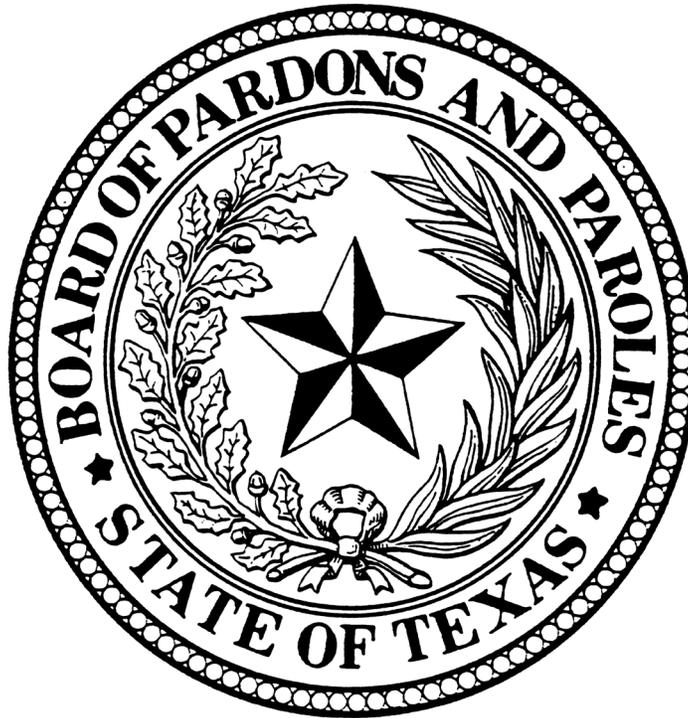


TEXAS BOARD OF PARDONS AND PAROLES

MINUTES

Board Meeting No. 21-0121



January 21, 2021

Austin, Texas

TEXAS BOARD OF PARDONS AND PAROLES

Board Meeting

Videoconference and Teleconference

8610 Shoal Creek Blvd.
BPP Conference Room
Austin, Texas

Other Locations:

Amarillo Board Office
5809 S. Western, Suite 200
Amarillo, Texas

Angleton Board Office
1212 N. Velasco, Suite 201
Angleton, Texas

Austin Board Office
4616 W. Howard Lane, Suite 200
Austin, Texas

Huntsville Board Office
1022 Veterans Memorial Pkwy.
Huntsville, Texas

Palestine Board Office
133 E. Reagan St.
Palestine, Texas

San Antonio Board Office
2902 N. E. Loop 410, Suite 206
San Antonio, Texas

January 21, 2021

9:00 AM

Order of Business

1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Items – Minutes for the October 28, 2020 Board Meeting
5. Chairman’s Report – David Gutiérrez, Chairman
6. Violence Against Women and Victim Liaison Support Grants – Kyle Britt, Budget Director
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. 145.264 Special Condition “Z” (Not to Enter a Specified County)
9. Discussion and Consideration of Board Policy, BPP-POL. 145.201 Action Upon Review-Release Denied
10. Discussion and Consideration of Board Policy, BPP-POL. 145.202 Discretionary Mandatory Supervision
11. Discussion and Consideration of Board Policy, BPP-POL. 145.206 Special Review – Release Denied
12. Discussion and Consideration of Board Policy, BPP-POL. 145.208 Initial Review

13. Discussion and Consideration of Board Policy, BPP-POL. 146.255 Revocation Hearings-Pending Charges
14. Discussion and Consideration of Board Policy, BPP-POL. 148.200 Sex Offender Conditions – Releasee Not Convicted of a Sex Offense
15. Final Re-Adoption with Non-Substantive Amendments in 37 TAC, Chapter 148
 - A. §148.45 Witnesses
 - B. §148.47 Evidence
 - C. §148.48 Record
 - D. §143.50 Procedure after Waiver of Hearing
16. Final Re-Adoption with Substantive Amendments in 37 TAC, Chapter 148, §148.52 Hearing
17. 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).
18. Reconvene Texas Board of Pardons and Paroles Open Meeting
19. Adjourn



**MINUTES OF THE
TEXAS BOARD OF PARDONS AND PAROLES
BOARD MEETING
(VIDEOCONFERENCE/TELECONFERENCE)
THURSDAY, JANUARY 21, 2021**

REGULAR SESSION

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, January 21, 2021 at 9:00 a.m. via videoconference and the public access to the meeting was made available through teleconference.

Central Office, 8610 Shoal Creek Blvd., Austin, Texas;
Amarillo Board Office, 5809 S. Western, Suite 200, Amarillo, Texas;
Angleton Board Office, 1212 N. Velasco, Suite 201, Angleton, Texas;
Austin Board Office, 4616 W. Howard Lane, Suite 200, Austin, Texas;
Huntsville Board Office, 1022 Veterans Memorial Pkwy., Huntsville, Texas;
Palestine Board Office, 133 E. Reagan St., Palestine, Texas; and
San Antonio Board Office, 2902 N. E. Loop 410, Suite 206, San Antonio, Texas.

BOARD MEMBERS PRESENT

David Gutiérrez
Carmella Jones
James LaFavers
Brian Long
Ed Robertson
Fred Solis

OTHERS PRESENT

Bettie Wells, General Counsel
Tim McDonnell, Chief of Staff
Jessica Dillard, Board Administrator
Rachel Alderete, Director, Support Operations
Estela DeHoyos, Program Supervisor

CONVENED – TEXAS BOARD OF PARDONS AND PAROLES

Presiding Officer (Chairman) David Gutiérrez convened the meeting of January 21, 2021 at 9:00 a.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 present.

NAMES OF 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 employees who have dedicated 10, 15, 20, 25, 30, 35, and 45 years of service to the state of Texas. He expressed his deepest appreciation for their dedicated service. He stated the names of the service award recipients will be included as part of the official minutes of the meeting.

CONSENT ITEMS

Chairman Gutiérrez stated the Board had an opportunity to review the Consent Items listed on the agenda prior to the meeting and asked if there were any objections. Hearing no objections, the Board approved the minutes from the October 28, 2020 Board Meeting.

CHAIRMAN’S REPORT

Chairman Gutiérrez provided an update on the Board’s most recent activities, highlighting some of the key points in Fiscal Year 2020.

Parole Approval Rate

The overall parole approval rate was slightly over 38.5 percent compared to 35.5 percent in Fiscal Year 2019. This equated to an 8.5 percent increase in the parole approval rate. Currently the parole approval rate is approximately 39.5 percent.

Revocations

There was a 25 percent reduction in the number of revocations year over year. Chairman Gutierrez stated the Board worked with the Bureau of Justice and Richard Stroker in 2018 and 2019 to create a Vision Statement. Also, the Board worked on establishing consistency in both Hearing Officer and Analyst recommendations, which is reflected by the numbers. He noted the Board is seeing lower revocation numbers compared to Fiscal Year 2020.

COVID-19

The agency has encountered numerous challenges since March 2020. Chairman Gutierrez stated his two primary responsibilities are to ensure the Mission of the Agency was being performed and ensure the safety and well-being of the employees. Since March 2020, 66 employees tested positive for COVID-19; there is one death related to the virus (Joseph Lange); and there have been 116 employee quarantines due to close contact with someone who was positive. Additionally, from an administrative standpoint, it has been a challenge to shuffle staff to cover essential duties. He thanked Board Members, Parole Commissioners, Division Directors and all the staff for their quick responsiveness and willingness to take on additional work due to understaffing.

Legislative Session

On January 12th, opening ceremonies were held at the Capital for the 87th Legislative Session. The Chairman stated 16 bills have been identified as priority for the Board and another 70 with marginal interest. He anticipates testifying in the near future before the House Appropriations on the budget and Legislative Appropriation Request (LAR).

VIOLENCE AGAINST WOMEN AND VICTIM SUPPORT GRANTS (ATTACHMENT C)

Kyle Britt discussed two continuing grant resolutions, the Victim Support Continuation Grant, which provides guidance and training for voting members as they review cases and interact with victims. The second grant is the Domestic Violence and Human Trafficking Restorative Justice Program Continuation Grant, which works through the Clemency Section and assists Board Members and the staff in properly identifying and processing clemency applications submitted by survivors of human trafficking and domestic violence. Mr. Britt stated both grants were originally approved for the current year and are currently ongoing. He requested the Board's approval to go forward with applying for additional funding for Fiscal Year 2022.

Motions

Ms. Jones moved to adopt Board Resolution, BPP-RES.21-01.02, Domestic Violence and Human Trafficking Restorative Program Grant, previously provided for the Violence Against Women Act (VAWA) Grant, as presented.

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

Motions

Mr. Long moved to adopt Board Resolution, BPP-RES.21-01.01 Victim Liaison Support Grant Resolution, previously provided for the General Victim Assistant Direct Services Program (VOCA) Grant, as presented.

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

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

Chairman Gutiérrez yielded the floor to Ed Robertson, Chair of the Special Condition Workgroup to present for discussion and consideration BPP-POL.145.255 Special Condition "L", (Maximum Level of Supervision).

Mr. Robertson discussed the Special Condition Workgroup’s responsibility, recognized the Special Condition Workgroup members and thanked the Workgroup for their participation, suggestions and recommendations, as well as Ms. Wells and Ms. Like. He stated the recommended amendments to Special Condition “L” include non-substantive protocol updates, grammatical revisions, and added language under Procedure, Section II to clarify when the supervising Parole Officer may assign the offender to a lower level of supervision.

Motions

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

Mr. Solis 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 ENTER A SPECIFIED COUNTY) (ATTACHMENT E)

Chairman Gutiérrez yielded the floor to Ed Robertson to present for discussion and consideration BPP-POL. 145.264 Special Condition “Z” (Not to Enter a Specified County).

Mr. Robertson discussed the recommended amendments to Special Condition “Z”, which include non-substantive protocol updates, grammatical revisions and an update to the statutory authority. Substantive changes include expanding the conditions not to enter the specified county, to include not to reside in a specified county. Also, a provision was added for modification of the condition to allow entry into the specified county for a specific date, period of time and purpose.

Motions

Ms. Jones moved to adopt the revisions to Board Policy, BPP-POL. 145.264 Special Condition “Z”, (Not to Enter a Specified County), as presented.

Mr. LaFavers 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 (ATTACHMENT F)

Chairman Gutiérrez yielded the floor to General Counsel Bettie Wells to present for discussion and consideration BPP-POL. 145.201 Action Upon Review-Release Denied.

Ms. Wells discussed the recommended amendments to Board Policy 145.201, which include added language under Procedure, Sections I and II to provide clarification.

Motions

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

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

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.202 DISCRETIONARY MANDATORY SUPERVISION (ATTACHMENT G)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL. 145.202 Discretionary Mandatory Supervision.

Ms. Wells discussed the recommended amendments to Board Policy 145.202, which include a non-substantive change under the Discussion section of the policy and a substantive change under Procedure, Section IV to clarify how the Board reviews Discretionary Mandatory Supervision Special Review-Release Denied.

Motions

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.202 Discretionary Mandatory Supervision, as presented.

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

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.206 SPECIAL REVIEW - RELEASE DENIED (ATTACHMENT H)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.145.206 Special Review – Release Denied.

Ms. Wells discussed the recommended amendments to Board Policy 145.206, which include non-substantive protocol updates and one substantive change, the inclusion of the definition from the Board’s rule “Information Not Previously Available” under Definitions.

Motions

Mr. LaFavers moved to adopt the revisions to Board Policy, BPP-POL. 145.206 Special Review – Release Denied, as presented.

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

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.208 INITIAL REVIEW (ATTACHMENT I)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL. 145.208 Initial Review.

Ms. Wells discussed the recommended amendments to Board Policy 145.208, which include non-substantive protocol revisions and a substantive change.

Motions

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.208 Initial Review, as presented.

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

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 146.255 REVOCATION HEARINGS-PENDING CRIMINAL CHARGES (ATTACHMENT J)

Chairman Gutiérrez stated agenda item #13, Board Policy, BPP-POL.146. 255 will not be discussed at this time.

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

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.148.200 Sex Offender Conditions – Releasee Not Convicted of a Sex Offense.

Ms. Wells discussed the recommended amendments to Board Policy 148.200, which include a substantive revision, clarifying the process for requesting and conducting a sex offender condition hearing.

Motions

Mr. LaFavers 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 L)

Chairman Gutiérrez yielded the floor to James LaFavers, Chair of the Rules Committee to present the rules listed in agenda item #15 and #16.

FINAL RE-ADOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 148

Mr. LaFavers, Chair of the Rules Committee, presented the rules in agenda item #15, stating the rule is found in Chapter 148 Sex Offender Conditions of Parole and Mandatory Supervision. The Board previously approved the initial re-adoption of the amended rules and it has been more than 30 days since they were posted to the Texas Register. The General Counsel reports no comments were received. The Rules Committee recommends final re-adoption with non-substantive amendments.

Motions

Mr. Long moved for the Final Re-adoption with Non-substantive Amendments of Chapter 148, § 148.45 Witnesses; §148.47 Evidence; §148.48 Record; and §148.50 Procedure after Waiver of Hearing.

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

FINAL RE-ADOPTION WITH AMENDMENTS IN 37 TAC, CHAPTER 148

Mr. LaFavers presented the rule in agenda item #16, stating the rule is found in Chapter 148 Sex Offender Conditions of Parole or Mandatory Supervision. The Board previously approved the initial re-adoption of the amended rule and it has been more than 30 days since it was posted to the Texas

Register. The General Counsel reports no comments were received and the Rules Committee is recommending final re-adoption of the amended rule.

Motions

Mr. Long moved for the Final Re-adoption with Substantive Amendments of Chapter 148, § 148.52 Hearing.

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

EXECUTIVE SESSION

Chairman Gutiérrez recessed the Regular Session at 9:40 a.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 10:45 a.m. and proceeded with the order of business.

ADJOURNMENT

Having completed all posted items on the agenda, Chairman Gutiérrez adjourned the Board Meeting at 10:45 a.m.

ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 15th DAY OF APRIL, 2021.



DAVID GUTIERREZ, PRESIDING OFFICER (CHAIR)