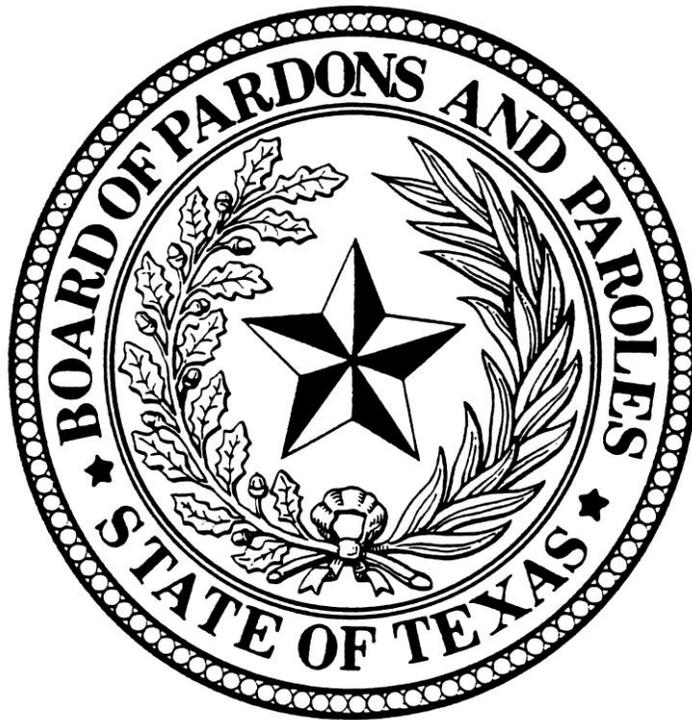


TEXAS BOARD OF PARDONS AND PAROLES

MINUTES

Board Meeting No. 22-0310



March 10, 2022

Austin, Texas

TEXAS BOARD OF PARDONS AND PAROLES

Board Meeting

Thursday, March 10, 2022

Holiday Inn Austin Midtown
Elm Room
6000 Middle Fiskville Road
Austin, Texas

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 21, 2021, Board Meeting
5. Discussion and Consideration of Parole Guidelines Offense Severity Rankings – Lee Ann Eck-Massingill, Parole Commissioner
6. Discussion and Consideration of Fiscal Year 2021 Parole Guidelines Annual Report – Jessica Dillard, Board Administrator
7. Discussion and Consideration of General Victim Assistance Grant Program Resolution – Kyle Britt, Budget Director
8. Discussion and Consideration of Violence Against Women Justice and Training Program Grant Resolution – Kyle Britt, Budget Director
9. Discussion and Consideration of Board Designee Hearing Manual Resolution – Mike Adams, Director of Hearing Operations
10. Discussion and Consideration of Board Policy, BPP-POL. 145.255 Special Condition “L” (Maximum Level of Supervision)
11. Discussion and Consideration of Board Policy, BPP-POL. 145.257 Special Condition “P” (Special Needs Offender Program)
12. Discussion and Consideration of Board Policy, BPP-POL. 145.260 Special Condition SIS (Super Intensive Supervision Program)
13. Discussion and Consideration of Board Policy, BPP-POL. 145.262 Special Condition “V” (Victim)
14. Discussion and Consideration of Board Policy, BPP-POL. 145.264 Special Condition “Z” (Not To Reside In Or Enter A Specified County)
15. Discussion and Consideration of Board Policy, BPP-POL. 145.201 Action Upon Review-Release Denied
16. Discussion and Consideration of Board Policy, BPP-POL. 145.206 Special Review-Release Denied
17. Discussion and Consideration of Board Policy, BPP-POL. 145.270 Policy Statement on Imposition of Special Conditions
18. Discussion and Consideration of Board Policy, BPP-POL. 146.252 Preliminary Hearings-Pending Criminal Charges

19. Discussion and Consideration of Board Policy, BPP-POL. 148.200 Sex Offender Conditions – Releasee Not Convicted of a Sex Offense
20. Discussion and Consideration of Board Policy, BPP-POL. 145.209 Pre-Parole Release
21. Final Readoption without Amendments in 37 TAC, Chapter 141, Subchapter C
 - A. §141.60 Submission and Presentation of Information
 - B. §141.71 Minutes of the Board
22. Final Readoption without Amendments in 37 TAC, Chapter 141, Subchapter E
 - A. §141.91 Purpose
 - B. §141.92 Record
23. Final Readoption without Amendments in 37 TAC, Chapter 141, Subchapter F, §141.101 Issuance of Subpoenas
24. Final Readoption with Amendments in 37 TAC, Chapter 141, Subchapter G, §141.111 Definition of Terms
25. Initial Adoption of Rule in 37 TAC, Chapter 145, Subchapter A, §145.19 Action Upon Review; Early Release on Parole
26. 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).
27. Reconvene Texas Board of Pardons and Paroles Open Meeting
28. Adjourn



**MINUTES OF THE
TEXAS BOARD OF PARDONS AND PAROLES
BOARD MEETING
THURSDAY, MARCH 10, 2022**

REGULAR SESSION

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, March 10, 2022, at 9:00 a.m., Holiday Inn Austin Midtown, 6000 Middle Fiskville Road, Austin, Texas 78752.

BOARD MEMBERS PRESENT

David Gutiérrez
Carmella Jones
James LaFavers
Brian Long
Linda Molina
Ed Robertson

BOARD STAFF PRESENT

Lee Ann Eck-Massingill, Parole Commissioner
Bettie Wells, General Counsel
Carol Garcia, Assistant General Counsel
Tim McDonnell, Chief of Staff
Jessica Dillard, Board Administrator
Rachel Alderete, Director, Support Operations
Kyle Britt, Budget Director
Eugene Stroud, Deputy Director, Financial Operations
Heather Penick, Manager, Business Operations
Michael Adams, Director, Hearing Operations
Heather Clark, Region Operations Supervisor
Kelsey Stratton, Director, Staff Development
Libby Hamilton, Director, Victim Liaison Program
Barry Bertocki, Clemency Director
Clinton Gunnels, Director, Institutional Parole Operations

Pamela Thielke, Program Specialist
Terence Hall, Systems Analyst
Robert Detjen, Systems Analyst
Jessica Guerrero, Program Supervisor
Estela DeHoyos, Program Supervisor
Matthew Schlosser, Multimedia Technician

OTHER STAFF PRESENT

Jennifer Robinson, Deputy Director, TDCJ Parole Division
Chris Cirrito, Director, TDCJ Internal Audit
Renee Russel, Deputy Director, TDCJ Internal Audit
Trent Peroyea, Budget and Policy Advisor, Governor's Office
Roger Nichols, Attorney at Law
Brian Wosko, OIG

CONVENED – TEXAS BOARD OF PARDONS AND PAROLES

Presiding Officer (Chairman) David Gutiérrez convened the meeting of March 10, 2022, 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

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 5, 10, 15, 20, and 30 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.

Chairman Gutiérrez presented a state service award to Kyle Britt for 30 years of service. He highlighted his career and thanked him for his hard work, and service.

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 from the October 21, 2021, Board Meeting.

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

Chairman Gutiérrez introduced Lee Ann Eck-Massingill, Parole Commissioner, to present for discussion and consideration agenda item #5, Parole Guidelines Offense Severity Rankings.

Ms. Massingill discussed the 76 offenses the Parole Guidelines Committee ranked, stating of the 76 offenses ranked, six were ranked Highest, 14 were ranked High, 29 were ranked Moderate, and 27 were ranked Low. Also, she noted that on the Codes to Be Ranked List, the correct NCIC Code for #15 is 26070317. Ms. Massingill requested the Board approve the 76 ranked offenses, as presented.

Motions

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

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

DISCUSSION AND CONSIDERATION OF FISCAL YEAR 2021 PAROLE GUIDELINES ANNUAL REPORT (ATTACHMENT D)

Chairman Gutiérrez introduced Jessica Dillard, Board Administrator, to present for discussion and consideration the Fiscal Year 2021 Parole Guidelines Annual Report.

Ms. Dillard briefly discussed the history of the Parole Guidelines and the requirements of the annual statistical report, which include a brief explanation of the parole guidelines, how the Board defines risk factors and offense severity ranking levels, approval rates for each guidelines score, and a comparison of the recommended approval rates under the parole guidelines to the actual approval rates to the individual parole panels and offices. Additionally, the report provides a description of instances in which approval rates do not meet the recommended approval rates to include the explanation of the variation and the list of actions the Board will take to meet the guidelines. Ms. Dillard stated the Fiscal Year 2021 Parole Guidelines Annual Report meets the guidelines of Government Code 508.1445.

Motions

Mr. Long moved to adopt the Fiscal Year 2021 Parole Guidelines Annual Report, as presented.

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

GRANT PROGRAM RESOLUTIONS (ATTACHMENT E)

Chairman Gutiérrez introduced Kyle Britt, Budget Director, to present for discussion and consideration agenda items #7 - #8.

DISCUSSION AND CONSIDERATION OF GENERAL VICTIM ASSISTANCE GRANT PROGRAM RESOLUTION

Mr. Britt stated every year he requests the Board for approval to apply for new grants through the Governor's Criminal Justice Division. There are two grants going forward for the next fiscal year, the Victim Liaison Support Grant and Violence Against Women Grant.

Regarding the Victim Assistance Grant Program, he presented Board Resolutions, BPP-RES.22-03.01 and BPP-RES.22-03.04, noting that when applying for the grant, a funding amount less than what was asked for was given, however, an additional \$139,000 was provided for the grant through a different

funding source. Mr. Britt asked the Board to consider the two resolutions, one is to accept the \$139,000 and the second is for the new current grant for the current fiscal year.

Chairman Gutiérrez stated the text of Board Resolution, BPP-RES.22-03.01 and BPP-RES. 22-03.04 regarding General Victim Assistance Grant Program was previously provided to the Board.

Motions

Mr. LaFavers moved to adopt the General Victim Assistance Grant Program Resolutions, BPP-RES. 22-03.01, and BPP-RES. 22-03.04, as presented.

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

DISCUSSION AND CONSIDERATION OF VIOLENCE AGAINST WOMEN JUSTICE AND TRAINING PROGRAM GRANT RESOLUTION

Mr. Britt stated every year the Board has to apply for a new grant to continue the current grant for the Violence Against Women. The resolution authorizes staff to pursue all available grant opportunities for the next round of Violence Against Women funding.

Chairman Gutiérrez stated the text of Board Resolution, BPP-RES.22-03.02 regarding Violence Against Women Justice and Training Program was previously provided to the Board.

Motions

Ms. Molina moved to adopt the Violence Against Women Justice and Training Program Grant Resolution, BPP-RES. 22-03.02, as presented.

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

Mr. Britt introduced Eugene Stroud, Deputy Director of Budget and Heather Penick, the new Manager of Financial Operations.

DISCUSSION AND CONSIDERATION OF BOARD DESIGNEE HEARING MANUAL RESOLUTION (ATTACHMENT F)

Chairman Gutiérrez introduced Michael Adams, Director of Hearing Operations, to present for discussion and consideration agenda item #9, Board Designee Hearing Manual Resolution.

Mr. Adams stated in accordance with Government Code 508.041, the Board Designee Hearing Manual is to be reviewed and updated biannually. On October 21, 2021, a revised Board Designee Hearing Manual was presented for the Board's consideration, and it was adopted. He presented the resolution adopting the Board Designee Hearing Manual and asked for the Board's consideration.

Chairman Gutiérrez stated the text of Board Resolution, BPP-RES.22-03.03 regarding the Board Designee Hearing Manual was previously provided to the Board.

Motions

Mr. Long moved to adopt the Board Designee Hearing Manual Resolution, BPP-RES. 22-03.03, as presented.

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

BOARD POLICIES (ATTACHMENT G)

Chairman Gutiérrez yielded the floor to Board Member Ed Robertson, Chair of the Special Conditions Workgroup to present agenda items #10 - #14 and Bettie Wells, General Counsel to present to present agenda items #15 - #20 for discussion and consideration.

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

Mr. Robertson stated the responsibilities of the Special Condition Workgroup and recognized the Special Condition Workgroup members. He discussed the recommended amendments to Board Policy, BPP-POL. 145.255 Special Condition “L”, which include non-substantive protocol updates.

Motions

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

Mr. Long 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)

In reviewing Board Policy 145.257 Special Condition “P”, Mr. Robertson stated it was determined non-substantive protocol revisions were appropriate.

Motions

Ms. Molina moved to adopt the 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 SISPP (SUPER INTENSIVE SUPERVISION PROGRAM)

The recommended amendments to Board Policy 145.260 Special Condition SISPP, include non-substantive protocol and statutory reference revisions as well as substantive revisions to add a definition. Also, remove language related to motion to reopen hearing review requirement and add language related to recommendations for withdrawal of a condition.

Motions

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

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

DISCUSSION AND CONSIDERATION OF 145.262 SPECIAL CONDITION “V” (VICTIM)

The recommended amendments to Board Policy 145.262 Special Condition “V”, include non-substantive protocol updates.

Motions

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

Mr. LaFavers 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 Special Condition “Z”, include non-substantive protocol updates.

Motions

Ms. Jones 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.

Mr. Long 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 stated in reviewing Board Policy 145.201 Action Upon Review-Release Denied, it was determined no revisions were needed. She recommended the Board readopt the policy without revisions.

Motions

Mr. LaFavers moved to readopt Board Policy, BPP-POL. 145.201 Action Upon Review-Release Denied, without revisions, as presented.

Ms. Molina 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

The recommended amendments to Board Policy 145.206 Special Review – Release Denied, include non-substantive changes to protocol, grammar, and sentence structure.

Motions

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

Ms. Molina 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 amendment to Board Policy 145.270 Policy Statement on Imposition of Special Conditions, includes a non-substantive update to be consistent with protocol.

Motions

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

Mr. LaFavers 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 Preliminary Hearings-Pending Criminal Charges, consists of including the case law that required the Board to change the procedures.

Motions

Ms. Molina moved to adopt the revision to Board Policy, BPP-POL. 146.252 Preliminary Hearing-Pending Criminal Charges, as presented.

Mr. Long 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

In reviewing Board Policy 148.200 Sex offender Conditions-Releasee Not Convicted of a Sex Offense, Ms. Wells stated it was determined no revisions were necessary. She requested the Board consider the policy for re-adoption without revisions.

Motions

Mr. LaFavers moved to readopt Board Policy, BPP-POL. 148.200 Sex Offender Conditions-Releasee Not Convicted of a Sex Offense, without revisions, as presented.

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

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.209 PRE-PAROLE RELEASE

Ms. Wells stated Board Policy 145.209 Pre-Parole Release was adopted by the Board October 2021 in response to House Bill 2352, which became effective September 1st. The policy was updated to be consistent with the proposed Board rule and includes substantive changes, including a revision to the policy title, updates to the Statutory Section of the policy, adding the definition of “Early Release on Parole” and grammatical revisions.

Motions

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.209 Pre-Parole Release, as presented.

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

BOARD RULES (ATTACHMENT H)

Chairman Gutiérrez yielded the floor to James LaFavers, Chair of the Rules Committee, to present the rules listed in agenda items #21 - #25.

FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER C

Mr. LaFavers presented the rules in agenda item #21, stating the Board previously approved the initial readoption to the rules. The Rules Committee is recommending final readoption without amendments to the rules listed in agenda item #21.

Motions

Ms. Molina moved for the Final Readoption without Amendments of Chapter 141, General Provisions, Subchapter C, Submission and Presentation of Offenders, §141.60 Submission and Presentation of Information, and §141.71 Minutes of the Board.

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

FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER E

Mr. LaFavers presented the rules in agenda item #22, stating the Board previously approved the initial readoption without amendments to the rules. The Rules Committee is recommending final readoption without amendments to the rules listed in agenda item #22.

Motions

Ms. Molina moved for the Final Readoption without Amendments of Chapter 141 General Provisions, Subchapter E, Interviews, §141.91 Purpose and §141.92 Record.

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

**FINAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER F, §141.101
ISSUANCE OF SUBPOENAS**

Mr. LaFavers presented the rule listed in agenda item #23 and stated the Board previously approved the initial readoption without amendments to the rule. The Rules Committee is recommending the final readoption without amendments to the rule listed in agenda item #23.

Motions

Ms. Molina moved for the Final Readoption without Amendments of Chapter 141, General Provisions, Subchapter F, Subpoenas, §141.101 Issuance of Subpoenas.

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

**FINAL READOPTION WITH AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER G, §141.111
DEFINITION OF TERMS**

Mr. LaFavers presented the rule in agenda item #24, stating the Board previously approved the initial readoption of the rule, and it has been more than 30 days since it was posted to the Texas Register. It was determined two amendments to Board rule, §141.111 Definition of Terms, are required in accordance with 508.1455, which was effective September 1, 2021. A Board rule, §141.111, (14) was added and the remaining definitions renumbered accordingly. Also, on 1/1/2021, the Code of Criminal Procedures, Chapter 56, Rights of Crime Victims, was repealed, and recodified as Code of Criminal Procedures, Chapter 56A. Therefore, the Code of Criminal Procedures, Chapter 56A, §141.111 (51) was amended to reflect the current citations in the Code of Criminal Procedure, Chapter 56A.

Motions

Ms. Molina moved for the Final Readoption with Amendments of Chapter 141, General Provisions, Subchapter G, §141.111 Definition of Terms.

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

**INITIAL ADOPTION OF RULE IN 37 TAC, CHAPTER 145, SUBCHAPTER A, §145.19 ACTION UPON
REVIEW; EARLY RELEASE ON PAROLE**

Mr. LaFavers stated the rule in agenda item #25 is proposed for inclusion in Chapter 145 Parole, Subchapter A, Parole Process. The Board is required to adopt rules governing the early release on parole of certain offenders pursuant to Government Code, Section 508.1455. Rule §145.19 Action Upon Review; Early Release on Parole was added to implement the requirements of Section 508.1455.

Motions

Ms. Molina moved for the Initial Adoption of Chapter 145, Parole, Subchapter A, Parole Process, §145.19 Action Upon Review; Early Release on Parole.

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

EXECUTIVE SESSION

Chairman Gutiérrez recessed the Regular Session at 10:04 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 12:15 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 12:16 p.m.

ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 19TH DAY OF MAY 2022.



DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)