

# TEXAS BOARD OF PARDONS AND PAROLES

## MINUTES

*Board Meeting No. 24-0822*



August 22, 2024

Austin, Texas



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# TEXAS BOARD OF PARDONS AND PAROLES

## Board Meeting

Thursday, August 22, 2024

Cambria Hotel Austin Uptown

(Uptown AB Room)

13205 Burnet Road

Austin, Texas

10:00 AM

## Order of Business

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1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Item – Minutes for the April 25, 2024 Board Meeting
5. Discussion and Consideration of the 89<sup>th</sup> Legislative Appropriations Request (LAR) for Fiscal Years 2026 and 2027 – Kyle Britt, Director of Budget
6. Discussion and Consideration of Board Policy, BPP-POL 145.251 Special Condition “D” (Release to Detainer)
7. Discussion and Consideration of Board Policy, BPP-POL. 145.252 Special Condition “E” (Educational Skill Level and Vocational Training)
8. Discussion and Consideration of Board Policy, BPP-POL. 145.254 Special Condition “I” (Employer Notification)
9. Discussion and Consideration of Board Policy, BPP-POL. 145.256 Special Condition “M” (Sex Offender Registration Condition and DNA Submission)
10. Discussion and Consideration of Board Policies
  - A. BPP-POL. 145.264 Special Condition “Z” (Not to Reside in or Enter a Specified County)
  - B. BPP-POL. 145.271 Special Condition “A” (Not to Reside in a Specified County)
11. Discussion and Consideration of Board Policy, BPP-POL, 141.200 Board of Pardons and Paroles Mission Statement
12. Discussion and Consideration of Board Policy, BPP-POL. 141.201 Policy Statement on Internal Audit Procedures
13. Discussion and Consideration of Board Policy, BPP-POL. 141.300 Handgun Policy
14. Discussion and Consideration of Board Policy, BPP-POL. 145.204 Medically Recommended Intensive Supervision
15. Discussion and Consideration of Board Policy, BPP-POL. 145.205 Designation of Standardized Distance for Child Safety Zones
16. Discussion and Consideration of Board Policy, BPP-POL. 145.266 Gang Renouncement and Disassociation

17. Initial Readoption without Amendments in 37 TAC, Chapter 148
  - A. §148.40 Purpose
  - B. §148.46 Opinion and Expert Testimony
  - C. §148.47 Evidence
  - D. §148.49 Decisions
18. Initial Readoption with Non-Substantive Amendments in 37 TAC, Chapter 150
  - A. §150.55 Conflict of Interest Policy
  - B. §150.56 Policies Pertaining to the Administration of the Agency
19. Public Comments and Public Presentations
20. Chairman’s Report – David Gutiérrez, Chairman
21. 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).
22. Reconvene Texas Board of Pardons and Paroles Open Meeting
23. Adjourn



**MINUTES OF THE  
TEXAS BOARD OF PARDONS AND PAROLES  
BOARD MEETING  
THURSDAY, AUGUST 22, 2024**

**REGULAR SESSION**

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, August 22, 2024 at 10:02 a.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  
Jeffrey Marton  
Alfredo Salcido

**BOARD STAFF PRESENT**

Bettie Wells, General Counsel  
Timothy McDonnell, Chief of Staff  
Jessica Dillard, Board Administrator  
Rachel Alderete, Director, Support Operations  
Kyle Britt, Director, Budget  
Eugene Stroud, Deputy Director of Financial Operations  
Wadella Murphy, Director, Hearing Operations  
Clinton Gunnels, Director, Institutional Parole Operations  
Libby Hamilton, Director, Victim Liaison  
Rodney Sigler, Director, Human Resources  
Jessica Guerrero, Manager of Administration  
Heather Penick, Manager of Business Operations  
Kimberley Harris, Manager, Staff Development  
Pamela Pacher, Program Specialist  
Terence Hall, Director, IT  
Robert Detjen, Systems Analyst  
Estela DeHoyos, Program Supervisor  
Veronica Torres, Program Supervisor  
Oliver Cui, Executive Assistant  
Elizeth Willaker, Executive Assistant  
Matthew Schlosser, Multimedia Technician

**TDCJ STAFF PRESENT**

Kelsey Kersh, TDCJ Internal Audit  
Cheryl Foreman, TDCJ Internal Audit  
Chris James, OIG

**OTHERS PRESENT**

James Sullivan, General Counsel, Governor's Office  
Jason Bramon, Assistant General Counsel, Governor's Office  
Cory Sharp, Legislative Budget Board  
David O'Neil, Attorney at Law  
Cassie Daniel, Chief of Staff, Representative Noble  
John Hall  
Beverly Shaffel  
Jeff Williams  
Allen Patton  
Richard Calvillo  
Fran Gutiérrez  
Lindsey Thomas  
Austin Gutiérrez  
Matt and Carley Pesoni  
Matthew Monahans  
Adam and Meiko Gutiérrez

**CONVENED – TEXAS BOARD OF PARDONS AND PAROLES**

Presiding Officer (Chairman) David Gutiérrez convened the meeting of August 22, 2024 at 10:02 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, Parole Commissioners and guests present.

James P. Sullivan, General Counsel for the Governor’s office on behalf of Governor Gregg Abbott, First Lady Cecilia Abbott, as well as the people of the state of Texas recognized and presented a proclamation and flag flown over the state capital to Chairman David Gutiérrez for his years of dedicated public service and leadership to the state. He extended their best wishes for a fulfilling future.

**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, 10, 15, 25, and 35 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 Mary Farley, Board Member for 5-years of state service. He thanked her for her years of service to the state.

Chairman Gutiérrez recognized Board Member Marsha Moberley for 15-years of state service. He highlighted her career and thanked her for her service to the state.

Chairman Gutiérrez recognized Parole Commissioners Roel Tejada for 10-years and Anthony Ramirez for 35-years of state service, noting they were on excused absence. He highlighted their careers and thanked them for their years of service.

Jessica Dillard recognized Wadella Murphy for 25-years of state service. She highlighted her career and thanked her for her years of service.

Clinton Gunnels introduced the new IPO staff, including Clint Adams, Regional Supervisor and Rustin Phillips, Assistant Regional Supervisor for the Northern IPO region; Susan Scheiner, Assistant Regional Supervisor for the Central IPO Region and Matthew Royer, Assistant Regional Supervisor for the Southern IPO Region.

Timothy McDonnell recognized Chairman David Gutiérrez for 48-years of service to the citizens of the state of Texas, including 15-years of service to the Board of Pardons and Paroles. He highlighted his career and expressed the staff’s gratitude for his leadership vision and dedication.

## 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 April 25, 2024 Board Meeting.

## DISCUSSION AND CONSIDERATION OF THE 89<sup>TH</sup> LEGISLATIVE APPROPRIATIONS REQUEST (LAR) FOR FISCAL YEARS 2026 AND 2027 (ATTACHMENT C)

Chairman Gutiérrez introduced Kyle Britt, Director of Budget to present agenda item #5.

Mr. Britt presented the 89<sup>th</sup> LAR for Fiscal Years 2026 and 2027 stating the LAR is prepared by instructions provided by the Legislative Budget Board. The intent of the LAR is to provide funding for the 2026 and 2027 fiscal years and to provide the Board of Pardons and Paroles with a formal process to request additional funding for activities the Board feels are important for the ongoing mission of the agency. He stated the Board's request for the biennium in Strategy D1 is \$65,693,419. He discussed the funds that will provide for the base operations for all BPP activities, not including the grant activities which have been funded through grants received from the Governor's Office, Criminal Justice Division. Mr. Britt noted the current grants are up to date, funded through the current year. Grant applications have been submitted for the next year, but final approval will not be available until September or October. Funding for the BPP is entirely provided by general revenue appropriated by the legislature.

Additionally, Mr. Britt discussed the Exceptional Items requested, which are intended to improve, and provide funding for new activities and any programs going forward. The total Exceptional Item cost for FY 2026 is \$6,290,915 and in FY 2027, \$6,008,143.

*Ms. Molina moved to adopt the 89th Legislative Appropriations Request (LAR) for Fiscal Years 2026 and 2027, as presented.*

*Ms. Jones 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 #6 - #9 and Bettie Wells, General Counsel to present agenda items #10 - #16 for discussion and consideration.

## DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.251 SPECIAL CONDITION "D" (RELEASE TO DETAINER)

Mr. Robertson discussed the responsibilities of the Special Condition Workgroup and recognized the workgroup members. He stated Board Policy 145.251 Special Condition "D" was reviewed by the Special Condition Workgroup, and in reviewing the policy the workgroup determined that non-substantive grammatical revisions were appropriate. He recommended the Board approve the revisions to Special Condition "D."

### *Motion*

*Ms. Moberley moved to adopt the revisions to Board Policy, BPP-POL. 145.251 Special Condition “D” (Release to Detainer), as presented.*

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.252 SPECIAL CONDITION “E” (EDUCATIONAL SKILL LEVEL AND VOCATIONAL TRAINING)**

The recommended amendments to Board Policy 145.252 include non-substantive protocol revisions and substantive revisions in the POLICY section.

***Motion***

*Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.252 Special Condition “E” (Educational Skill Level and Vocational Training), as presented.*

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.254 SPECIAL CONDITION “I” (EMPLOYER NOTIFICATION)**

The recommended amendments to Board Policy 145.254 include non-substantive grammatical and protocol revisions.

***Motion***

*Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 145.254 Special Condition “I” (Employer Notification), as presented.*

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.256 SPECIAL CONDITION “M” (SEX OFFENDER REGISTRATION CONDITION AND DNA SUBMISSION)**

The recommended amendments to Board Policy 145.256 include non-substantive grammatical updates and substantive revisions to the DISCUSSION section.

***Motion***

*Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.256 Special Condition “M” (Sex Offender Registration Condition and DNA Submission), as presented.*

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICIES**

Ms. Wells discussed the board policies listed in agenda item 10., A-B. She stated the Special Condition Workgroup reviewed Board Policy 145.264 Special Condition “Z” and determined they wished to repeal the policy, as it expanded the authority for the Board to restrict an offender and sometimes prohibit the

offender the opportunity to have a successful reintegration into society. The Special Condition “Z” policy will remain in effect prior to October 1<sup>st</sup>.

Additionally, Ms. Wells stated Board Policy, BPP-POL 145.271 Special Condition “A” relates to the county of residence, which is the intended change, as opposed to entering a county. The Special Condition “A” policy will be effective October 1<sup>st</sup>.

***Motion***

***Ms. Moberley moved to repeal Board Policy, BPP-POL. 145.264 Special Condition “Z” (Not to Reside in or Enter a Specified County), as presented.***

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

***Motion***

***Ms. Molina moved to adopt Board Policy, BPP-POL. 145.271 Special Condition “A” (Not to Reside in 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. 141.200 BOARD OF PARDONS AND PAROLES MISSION STATEMENT**

Ms. Wells stated Board Policy 141.200 includes a non-substantive revision on page one and a substantive revision on page two, which includes the new address to the Angleton Board Office.

***Motion***

***Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 141.200 Board of Pardons and Paroles Mission Statement, as presented.***

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.201 POLICY STATEMENT ON INTERNAL AUDIT PROCEDURE**

The recommended amendments to Board Policy 141.201 include non-substantive protocol updates and substantive revisions to page one. The substantive revisions include added language required by statute relating to the posting of the report on the agency website.

***Motion***

***Ms. Jones moved to adopt the revisions to Board Policy, BPP-POL. 141.201 Policy Statement on Internal Audit Procedures, as presented.***

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.300 HANDGUN POLICY**

The recommended amendments to Board Policy 141.300 include substantive amendments on page one and two, and non-substantive protocol, spelling and grammar revisions on page three and four, including

a protocol revision on the attachment. The substantive revisions relate to Firearm Carry Act of 2021 language.

***Motion***

***Ms. Brito moved to adopt the revisions to Board Policy, BPP-POL. 141.200 Handgun Policy, as presented.***

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.204 MEDICALLY RECOMMENDED INTENSIVE SUPERVISION**

The recommended amendments to Board Policy 145.204 Include non-substantive protocol revisions on page one and two.

***Motion***

***Mr. Robertson moved to adopt the revisions Board Policy, BPP-POL. 145.204 Medically Recommended Intensive Supervision, as presented.***

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.205 DESIGNATION OF STANDARDIZED DISTANCE FOR CHILD SAFETY ZONES**

The recommended amendments to Board Policy 145.205 include non-substantive protocol amendments to page three.

***Motion***

***Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.205 Designation of Standardized Distance for Child Safety Zones, as presented.***

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

**DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.266 GANG RENOUNCEMENT AND DISASSOCIATION**

The recommended amendments to Board Policy 145.266 include substantive and non-substantive protocol amendments to page one of the policy.

***Motion***

***Ms. Jones moved to adopt the revisions to Board Policy, BPP-POL. 145.266 Gang Renouncement and Disassociation, as presented.***

***Mr. Long 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 - #18.

#### **INITIAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 148**

Ms. Molina presented the rules in agenda item #17 stating on April 25, 2024, the Rules Committee met in an open meeting and considered the rules in Chapter 148. The Rules Committee by unanimous vote recommended the initial readoption of Chapter 148 Sex Offender Conditions of Parole or Mandatory Supervision without amendments to the rules listed in agenda item #17.

##### ***Motion***

***Ms. Moberley moved for the Initial Readoption Without Amendments of Chapter 148 Sex Offender Conditions of Parole or Mandatory Supervision, §148.40 Purpose, §148.46 Opinion and Expert Testimony, §148.47 Evidence and §148.49 Decisions.***

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

#### **INITIAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 150**

Ms. Molina presented the rules in agenda item #18, and stated On April 25, 2024 the Rules Committee by unanimous vote recommended the initial readoption of Chapter 150 with non-substantive amendments to the rules in agenda item #18. The proposed rule review of Chapter 150 was published in the Texas Register on May 10, 2024. The non-substantive amendments include grammatical edits for uniformity and consistency throughout the rules. The Rules Committee is recommending Initial Readoption With Non-substantive Amendments to the rules listed in agenda item #18.

##### ***Motion***

***Ms. Moberley moved for the Initial Readoption With Non-substantive Amendments in Chapter 150, §150.55 Conflict of Interest Policy, §150.56 Policies Pertaining to the Administration of the Agency.***

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

#### **PUBLIC COMMENTS AND PUBLIC PRESENTATIONS**

Chairman Gutiérrez stated two speaker registration cards were received for public comment. He reviewed the procedure for public comments and public presentations, as authorized by Board Rule 141.202, noting the time limit set was three minutes per individual. He introduced the first speaker, Chance Brooks.

Mr. Brooks thanked the Board for the opportunity to present, stating he is from a small town outside of Weatherford, Texas. He was released from federal prison September 15, 2023. Since his release, he got engaged, bought a new truck and house, and he obtained a job. He goes to counseling once a week and goes to the face recovery program every Friday. He attends church every Sunday and feels he's taken the steps and initiatives to guarantee his successful reintegration into society.

Chairman Gutiérrez thanked Mr. Brooks for his comments, stating it's always good to hear positive results of individuals that have taken another direction in life.

Chairman Gutiérrez introduced the second speaker, Pat Dunaway.

Ms. Dunaway asked, "How can someone who had a civil commitment that was dismissed in court, a very dangerous predator, be registered as a very low risk offender on DPS?" The offender purchased properties in 2003, 2004, and 2013 while he was in prison. He was released in 2021 and he's back in prison. He had a jury trial September 9<sup>th</sup> and is coming up this year. So, sadly not all offenders are successful. She stated nothing is going to help the behavioral abnormality he was tested for while he was in the system. He is a dangerous predator.

Chairman Gutiérrez thank Ms. Dunaway and proceeded with the order of business.

### **CHAIRMAN'S REPORT**

Chairman Gutiérrez informed the Board this will be his final Chairman's Report, stating it's been an honor to serve alongside the distinguished group and is proud of the progress made together. He reported on the agency's finances, activity, operations, and achievements.

Regarding finances, Chairman Gutiérrez stated he is pleased to report that the agency is in excellent financial shape. Budgeting and financial planning has been executed with precision and care, ensuring that the agency remains not only solvent, but also prepared for future challenges.

The core mission of the agency is to make informed and just parole decisions. Chairman Gutiérrez stated he is proud to say the agency consistently met that objective, deliberating with integrity and care, rendering parole decisions that uphold public safety while giving individuals a fair chance of reintegration into society. Currently, the Board is voting 80% of cases electronically, which significantly reduced the legacy paper files the agency had a few years back. The Chairman noted one of the most challenges of addressing work has been addressing parole violations. He commended he Board for its thoroughness in which difficult cases have been approached, stating the Board has consistently adhered to the principles of due process, ensuring that each decision is based on the comprehensive evaluation of all relevant factors. Another critical area of the Boards mandate is the consideration of the clemency recommendations. The Board approached the cases with the seriousness they deserve and made recommendations that reflect the Board's commitment on balancing compassion and accountability. The agency also increased transparency with stakeholders, ensuring that the processes are open and understandable. One of the most meaningful achievements was the creation of the victim liaison program, which offers needed support to victims as they navigate through the parole review process.

Chairman Gutierrez also reported that the agency's board offices, hearing operations and institutional parole offices have undergone substantial upgrades, making work more efficient and the environment more professional.

The agency has embraced technology in ways that have transformed agency operations. Parole violation hearings, which were once conducted in person in the 243 county jails across Texas were transitioned to zoom hearings in county jails, and federal prisons.

A Staff Development Department was created to conduct trainings, operational review to ensure consistency, accuracy and effectiveness of operations across the state. The department has developed leadership training for BPP employees and are developing performance-oriented scenario-based training focused on critical core competencies related to management and leadership. The agency is also utilizing webinar trainings and hiring 3-learning developers to create interactive on the man training modules.

In closing, Chairman Gutiérrez expressed his deepest gratitude to the Board membership, General Counsel, Chief of Staff, Board Administrator, Directors, Supervisors, and Board staff for the dedication, hard work and commitment to the agency’s mission which drives the agency forward.

**EXECUTIVE SESSION**

Chairman Gutiérrez recessed the Regular Session at 11:39 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 12:15 p.m.

**ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 17<sup>th</sup> DAY OF OCTOBER 2024.**

  

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**MARSHA MOBERLEY, PRESIDING OFFICER (CHAIR)**