



# Public Safety Commission Meeting

March 21, 2012, 9:00 a.m.  
Criminal Law Enforcement Auditorium  
6100 Guadalupe, Bldg E Austin, TX 78752

## Summary

(This report represents a summary of events of the meeting,  
and is not necessarily complete nor an exact transcript of testimony.)

The Public Safety Commission convened as posted to consider and take formal action, if necessary, on the following agenda items:

### I. CALL TO ORDER

*9:05 am - Chairman Polunsky called the meeting to order. In attendance: Chairman Allan Polunsky, Commissioners Carin Barth, John Steen and Cynthia Leon. Not present was Commissioner Ada Brown. Also present were Director Steve McCraw, Deputy Director David Baker, Deputy Director Cheryl McBride, and General Counsel Phil Adkins.*



### II. DISCHARGE APPEAL HEARING

Continuance of discharge appeal hearing and possible action regarding DPS employee Michael Deck

*Chairman Polunsky stated that Mr. Deck's counsel had requested a continuance and that the PSC had granted it. This hearing will be re-scheduled.*

### III. APPROVAL OF MINUTES

*Motion made by Commissioner Steen, and seconded by Commissioner Barth, to approve the Minutes. Passed Unanimously.*

**IV. PUBLIC COMMENT** (members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must complete a Public Comment Registration Card located at the entry)

*Chairman Alan Polunsky asked if anyone wished to make public comment. There was no response.*

**V. DIRECTORS REPORT**

**A. Presentation of Medal of Merit awards**

*Five DPS employees were awarded the prestigious Medal of Merit for their roles in the Department Veteran Assistance Program (DVAP), and a Texas 10 Most Wanted analyst was recognized by a state employee group.*

*“Military personnel continue to be a vital resource for the department, both in our current ranks and in recruiting,” said DPS Director Steven C. McCraw. “The DVAP program sends a strong message that military service and experience are valued at DPS and that we understand the challenges that service members and their families have faced. The program also provides practical assistance to the department’s reserve and National Guard members deployed and returning from overseas assignments, and assistance to all departmental veterans and their families. I am pleased to recognize the efforts and accomplishments of all award recipients today.”*

*The groundbreaking DVAP program, started in 2008, assists DPS employees and their families during pre-deployment, deployment and post-deployment phases of military activation. The program is now statewide and includes a component for incoming recruits, supervisors, peer support and reintegration. It stresses practical support and understanding the difficulties that the men and women of our armed forces face, while recognizing the vital skill set they bring to the department.<sup>1</sup>*



**Lt. Ed Burris, Aviation Austin – military veteran**



**Dr. Frances Douglas, Chief Psychologist Austin**



**Captain David Franklin, Criminal Investigations Hurst – military veteran**



**Capt. Mike Tacquard, Highway Patrol Austin – military veteran**



Assistant Chief Timothy Ochsner, Aviation Austin – military veteran

## B. Recognition of Victoria Sungino recipient of the 2012 Texas Public Employees Association Unsung Hero Award

*The Commission and Director also recognized Victoria Sungino, a crime analyst with the Texas 10 Most Wanted Program. Sungino has been selected as one of the 2012 Unsung Heroes by the Texas Public Employees Association. She was nominated based on her tireless efforts to promote the Texas 10 Most Wanted Fugitive and Sex Offenders programs. In coordination with the Governor's Office, Criminal Investigations Agents, Intelligence and Counter Terrorism personnel, she processes tips that lead to the capture of the state's worst criminals. She will receive her award at an annual ceremony on April 12 in Austin. The Unsung Hero program recognizes state employees whose significant contributions often go unnoticed.<sup>2</sup>*



DPS Crime Analyst Victoria Sungino is recognized.

*Chairman Polunsky awarded the Public Safety Commissioners "Honorary Membership" to the Tactical Marine Unit. He noted that when in Weslaco for the dedication of the new Regional Headquarters, the PSC had the opportunity to ride on the new Tactical Marine vessel, and when touring the Rio Grande River, several of the Commissioners were aboard when they came upon the smuggling of a large quantity of marijuana by a cartel, and participated in its seizure.*



Public Safety Commissioners aboard DPS Tactical Marine Unit on the Rio Grande

*Adjourn to executive session, at 9:23 am.*

*Reconvene, 2:12 pm.*

## **VI. NEW BUSINESS**

- A.** Report, discussion and possible action regarding the Department's evaluation and discipline of DWI offenses for commissioned and non-commissioned personnel

*Deputy Director David Baker – Comm. Steen had requested this information and asked that it be moved to the next PSC Meeting; Col. Baker said he had no problem with this.*

- B.** Report and discussion regarding communications equipment for commissioned personnel

*Assistant Director Skyler Hearne, Law Enforcement Support Services – Commissioner Barth had asked the question and did the follow up questions on this topic. AD Hearne stated that very commissioned officer has a portable radio assigned to them. In every area of the state, there may be different capabilities for the radios based on the tower and other infrastructure in the area. We have 736 APEX 7000 units issued. This is the most versatile of our radios. We would need about 3,870 to equip all commissioned personnel and other critical personnel with these radios. These radios run \$6,000 - \$7,000 each, but these do not quickly lose value due to newer technologies coming on line like you have with computers.*

*The Commissioners questioned AD Hearne about areas in the state where troopers are out of communication zones...dead spots. AD Hearne said that there are areas in the valley and in west Texas that there is no cell phone service, but even in these areas, there should be some radio connectivity through either DPS or local Sheriff departments. Director McCraw agreed that the Commission's concern regarding radio/communication coverage across the state is very appropriate, and the Department is upgrading and expanding coverage as funds and statewide infrastructure allow.*

- C.** Review of pending contract renewals/change orders/awards
- 1.** Modification of Learning Management System for enhancements and application discovery (Saba Consulting Inc)

*Assistant Director Wayne Mueller, Administration – there is nothing new on this point.*

- 2.** MegaCenter biometric equipment purchase (Morpho Trust)

*AD Mueller said that this is regarding the purchase of 128 units that the review board looked at and made the recommendation of spending the \$820,144.00 necessary for the purchase. AD Rebecca Davio joined AD Mueller to clarify the need to the Commission. These are mainly for signature and fingerprint capture devices in the new DPS License Mega-Centers.*

- D.** Report, discussion, and possible action on proposed amendments to Texas Highway Patrol Rule for publication to receive public comment: Rule 3.52, 37 TAC Sec. 3.52 concerning Police Traffic Supervision on Interstate Highways in Cities of Over 50,000 Population

*Assistant Director Luis Gonzalez, AD Highway Patrol Divisions - Historically DPS has not had supervision of Interstate Highways within cities with over 50,000 in population, with the exception of major incidents and violations. We have left that to the local law enforcement agencies. We do not assign personnel to those areas, but we are asking to modify the rule to allow DPS to take action against routine violations such as a traffic stop when situations arise.*

*A motion was made by Comm. Steen and seconded by Comm. Leon. Motion passed unanimously.*

- ## **VII. ADJOURN INTO EXECUTIVE SESSION** (if required) to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration

of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations

*Taken out of sequence; Chairman Polunsky adjourned the meeting to executive session, at 9:23 am. Reconvened, 2:12 pm.*

## **VIII. ONGOING BUSINESS**

Reports, discussion and possible action regarding the following:

- A.** Report, discussion and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

*Nothing to report.*

- B.** Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071

*Nothing to report*

- C.** Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements

*No discussion.*

- D.** Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar.

*No discussion.*

- E.** Report, discussion and possible action on the Fiscal Year 2012 Operating Budget

*Assistant Director Denise Hudson – Federal funds - \$70 million dollars will have a 2 year waiting time. We are waiting for a grant lock to free up, and do expect funds to become available soon.*

- F.** Report, discussion and possible action regarding purchases using seized funds

*Assistant Director Denise Hudson, CFO – No real major changes. We are seeing items that have been pre-encumbered being freed up, and we currently have approximately \$12 million available. Director McCraw said that the priority is given to public safety related areas that need funding.*

- G.** Update Report, discussion and possible action regarding recruitment

*Deputy Assistant Director Frank Woodall, Education/Training – We currently have 54 recruits in the Academy (down from 55 last month). As of the 1<sup>st</sup> of this year, we have had approximately 4,000 apply online, of which approximately 17% will move on to background checks. We have 470 applicants pre-screened. 90 applicants are waiting to test (physical and written tests). 57 are waiting for polygraph testing. 40 need background tests. 35 are ready for oral exams. We had 25 oral exams scheduled this week, but 2 asked to re-schedule due to family issues. 22 have already been interviewed. 8 have been passed on through the process. We currently have 13 recruits waiting for the next Academy to begin. Chairman Polunsky asked when he expected that class to begin and DAD Woodall said that he would like to have it begin by mid to late June. Chairman asked if there was anything at all that the Commission could do to help. DAD Woodall said that the troopers in the field are still their best recruiters.*

*The current class (A-12) will graduate on June 22, 2012.*

- H.** Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

*Skipped.*

- I. Status report, discussion and possible action on Department generators – specifically conversation updates with electrical companies around the state

*Assistant Director Nim Kidd, Division of Emergency Management – The conversation with the electrical companies around the state has been completed and we now feel that we have the Tier 1 priority status that we have requested at all critical facilities.*

- J. Report, discussion and possible action regarding Emergency Management's procurement status of RFP for audit services with respect to Federal monies for past grants

*Assistant Director Nim Kidd, Division of Emergency Management – We are working through the backlog and expect to see significant improvement by next month.*

- K. Report, discussion and possible action regarding Emergency Management disaster response contract services

*Assistant Director Nim Kidd, Division of Emergency Management – I am not sure what question we are trying to answer. No additional information needed.*

- L. Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office  
Real Estate

*Assistant Director Steve Goodson, Audit and Inspections – Chairman Polunsky asked if any of the Commissioners had any specific audits that they would like an update on. There were none. No issues were needed to be addressed today.*

- M. Report, discussion and possible action on Driver License monthly updates

*Assistant Director Rebecca Davio, Drivers License Division – In the interest of time, I have nothing to add unless there are any questions.*

*Comm. Barth asked if we were on schedule for the completion of the DL Mega-Centers. AD Davio replied that there is one site that has run into some opposition from the community (local neighborhoods in the area), and we may have delays involved due to that. Chairman Polunsky asked if the land was zoned properly for our purposes. AD Davio replied that she was certain that it was, or it would not have been recommended. Chairman Polunsky said that he doesn't see an issue if it is properly zoned, and he would like additional information on the issue to be sent to him and other Commissioners for further action.*

*Chairman Polunsky asked, if we end up not being able to move on this property, what is plan B?*

*AD Davio suggested that it would be delayed as much as a year. Finding appropriate locations and property has proven to be a very difficult task.*

- N. Update report, discussion and possible action on the presentation of the Office of Inspection General 2011 Annual Report of Operations and OIG resource allocations/regional assignments of personnel Response to Commissioner Steen regarding OIG recommendations

*Inspector General Stuart Platt, Office of Inspector General – IG Platt presented the Commission with the Office of Inspector General Annual Report to the Public Safety Commission.*

*IG Platt stated that since he had met with Commissioner Brown on this issue and it was his understanding that she had a staffing recommendation to make, that the Commission may want to defer this discussion to the next meeting when Comm. Brown is available.*

*Col. McCraw addressed some issues that he had concerns about. We have the resources across the state*

to handle professional investigations, and Major Rhonda Fleming (who is brilliant, by the way) with a staff of one has been able to do remarkable work and keep up with the load with a very limited staff and utilizing field investigative resources. We would like to have the option of entering the “admission of fact”, whereby the accused has the opportunity to fess up to the transgression, and a determination and standardized consequences to their actions are administered without the need for extensive investigations.

Inspector General Stuart Platt provided the Commission with a report and some recommendations including both staffing and policy/procedure changes.

His recommendation for staffing is based on having dedicated OIG Lieutenant and Captain investigators. Director McCraw stated he prefers staying with the current OIG staffing and utilizing Temporary Acting Inspector Generals (TAIGs). Comm. Steen asked IG Stuart to address Dir. McCraw’s concerns. IG Platt stated that although the TAIG program is utilizing investigators to be assigned as dedicated to the task of internal investigations, but in reality, it is not practical to devote several weeks to a dedicated investigation.

Comm. Leon stated that she is not prepared to vote on this today. She said that she would feel more comfortable postponing a decision until Comm. Brown can weigh in.

Chairman Polunsky asked if Comm. Steen had his questions answered from the last meeting. Commissioner Steen stated that both Col. McCraw and IG Steen make very good arguments.

Chairman Polunsky said that the discussion and action would be deferred to the April PSC meeting and asked that more dialogue be carried out among appropriate parties, especially Chief Gonzalez.

- P.** Report, discussion, and possible action regarding the adoption of proposed amendments to Driver License Rule: 15.25, 37 TAC Sec. 15.25 concerning alternate address for Peace Officers

Assistant Director Rebecca Davio, Drivers License Division – The purpose of this rule is to provide an alternate address for police officers on their DL. We had no comments submitted. Motion by Comm. Steen and seconded by Comm. Barth for final approval. Passed Unanimously.

- Q.** Report, discussion and possible action regarding the adoption of proposed amendments to Driver License Rule: Rule 15.38, 37 TAC Sec. 15.38 concerning Fee Exemptions

Assistant Director Rebecca Davio, Drivers License Division – This is for final approval for the exemption of fees. We had no comments submitted. Motion by Comm. Steen and seconded by Comm. Barth for final approval. Passed Unanimously.

## **IX. REPORTS**

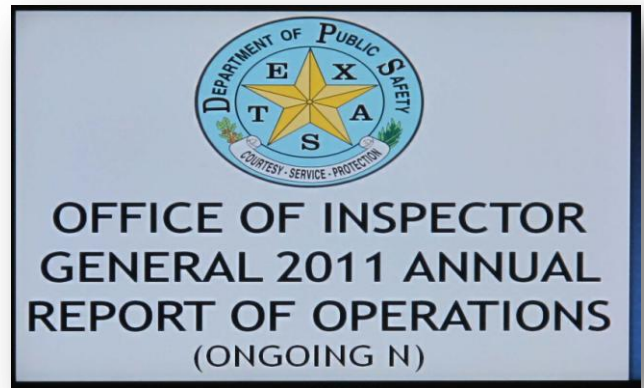
- A.** Commission member reports and discussion

None

- B.** Finance Report

Nothing further.

- C.** Chief Auditors Office Report



*This is an update on the Texas State Audit – A133 Audit. This is an audit required of all agencies who receive Federal funds. This is the first time in several years that we did not have an “adverse” overall report from the SAO. The audit issues relating to DPS are only a small portion of the State’s audit. Things are improving relative to the DPS, and the SAO found 17 issues that needed to be addressed: 4 Material Weaknesses, and 13 significant deficiencies. We are taking all of these seriously, and are addressing them all. The 4 material weaknesses are the highest priorities. We are turning the ship, and moving in the right direction.*

*One other issue that the Chairman asked me to address today. There was a reference to a “crooked office”. That was a reference to a inspection station in Navasota, and was not addressed to DPS.*

*AD Goodson was thanked for his continued good work.*

**D. Division status reports on activities and action**

- *Administration – Nothing further to add to my report*
- *Emergency Management – AD Nim Kidd thanked Highway Patrol for all of their great work during the Central Texas flooding.*
- *Government Relations – Nothing further to add to my report*
- *Highway Patrol – Nothing further to add to my report. Comm. Barth asked if he had seen any additional wrecks due to the increased speed limits. Chief Gonzalez said that there will be but it is too early to evaluate and report.*
- *Information Technology – Nothing further to add to my report*
- *Intelligence and Counterterrorism – Nothing further to add to my report*
- *Law Enforcement Support – Nothing further to report.*
- *Office of the Inspector General – Nothing further to add to my report*
- *Public Affairs and Policy – Nothing further to add to my report*
- *Regulatory Services – Nothing further to add to my report*
- *Texas Rangers – Nothing further to add to my report*
- *Inspector General – Nothing further to add to my report*

**X. CONSENT ITEMS**

- A.** Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024: Special Ranger: Miguel A. Campos, James Von Debrow III, Reginald B. Fields, Charles L. Garrett Jr., Mark W. Ginn, Samuel E. Morris, Fred E. Richnow, Bruce W. Roberts, Jerry T. Sanders and Kenneth R. Sellers; Special Texas Ranger: Donald R. Morris
- B.** Report, discussion, and possible action regarding the adoption of proposed reorganization of Chapter 21, Equipment and Vehicle Safety Standards, including:  
the repeal of Rules 21.2 – 21.4, and 21.7, 37 TAC Secs. 21.2 – 21.4, and 21.7, amendments to Rule 21.1, 37 TAC Sec. 21.1, and new Rules 21.2 – 21.7, and 21.9, 37 TAC Secs. 21.2 – 21.7, and 21.9
- C.** Acknowledgement of donation of four cases of Tecan pipette tips to TXDPS Laboratory facilities – HQ Austin (donation by Tecan, Inc)

*Commissioner Steen asked Deputy Director David Baker if all three items had been thoroughly vetted. DD Baker stated that they had and all were very good items.*

*A motion was made by Comm. Steen and seconded by Comm. Leon to approve Items A, B & C. Approved unanimously.*



## **XI. ITEMS FOR FUTURE AGENDA**

*Comm. Leon asked for additional discussion on exceptional items.*

## **XII. DATE FOR FUTURE MEETINGS**

*April 20, 2012, with a discharge appeal hearing.*

## **XIII. ADJOURN**

*Chairman Polunsky adjourned the meeting at 4:27 pm.*

<sup>1,2</sup> *The Award copy in item V, A and V, B was provided by DPS PIO.*

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items  
Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney  
Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties, discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071  
Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices  
Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations  
Government Code Sec. 551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person  
Government Code Sec. 551.073 Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person