



Public Safety Commission Meeting

April 20, 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

9:00 am – *Chairman Cindy Leon called the meeting to order. In attendance: Chairman Cynthia Leon, Commissioners Allan Polunsky, Carin Barth, and Ada Brown. Not present was Commissioner John Steen (Comm. Steen joined the commission during the award ceremonies). Also present were Director Steve McCraw, Deputy Director David Baker, Deputy Director Cheryl McBride, and General Counsel Phil Adkins.*



II. DISCHARGE APPEAL HEARING

Discharge Appeal Hearing and possible action regarding DPS employee Victoriano Perez
Chairman Leon – introduced both attorneys and asked about witnesses to be called. The Department would call 2 and the defense would only call one, Victoriano Perez. The discharge was due primarily to allegedly removing a voided vehicle inspection sticker from a facility that he monitored and placing it on his personal vehicle, which is a violation of state law. It was also alleged that he lied about crossing into Mexico during work hours during the investigation.

Following an hour and twenty minutes of statements and testimony, a motion was made by Comm. Brown, and seconded by Comm. Polunsky to affirm the discharge based primarily on an admitted lie made to the investigator. Passed Unanimously.

III. APPROVAL OF MINUTES

Motion made by Commissioner Barth, and seconded by Commissioner Polunsky, to approve the Minutes from the March Public Safety Commission Meeting.. 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 Cindy Leon asked if anyone wished to make public comment.

Donald Dickson – Attorney with the Parker Law Firm and counsel for Texas State Troopers Association - Just reached my seventeenth year as Attorney for TSTA. I wanted to welcome the new Chairman to the Commission and would like to thank Allen Polunsky for his service as Chairman. “The Department is better off today than on the day that you took over the Chairmanship of the Commission. Thank you for your service.”

V. DIRECTORS REPORT

A. Presentation of awards

Director Steve McCraw awarded a Director’s Citation to Orlando Moreno who came upon a woman in Bexar County perched on the railing of an overpass in an apparent attempt to commit suicide. Trooper Moreno was able to negotiate with the woman and ultimately move in close enough to grab on to the woman and pull her to safety.



Director McCraw awarded a Director’s Citation to DPS Security Officer Bertha Trevino for her brave and quick response to a civilian being attacked by two Pit Bull dogs.



Director McCraw awarded a Life Saving Award to Waylon S. Rogers who, while dining in a restaurant noted that the room had become quiet. He looked around the room and noted a woman was choking and had turned blue in the face. He promptly responded and was able to clear the airway utilizing the Heimlich maneuver.



Director McCraw Awarded Lt. David Cabrera a Life Saving Award for his quick response and action in assisting a choking woman in a restaurant.



Lt. Kevin Bruce James was awarded a Purple Heart citation; Lt. James suffered severe injuries in a line of duty auto accident.



Director McCraw also spoke of the first ever, Top Trooper Competition that was held recently. Each region could send two men and one woman to compete in areas of job knowledge, firearms, and other areas of proficiency. 20 Troopers competed. Trooper Javier Arana, who died in the line of duty had finished second in the male competition, but did not live to accept the award. Assistant Director, HP Chief Luis Gonzalez said that the award would be named in his honor. The two winners of the competition, Jose Rodriguez and Veronica Garcia, were not available to accept their award.



Colonel McCraw also asked to note an award presented to the Houston 100 Club, which consistently responds to the deaths of DPS troopers with kindness and financial assistance to the surviving families. Houston 100 Club Executive Director Richard A. Hartley was on hand to receive the recognition. Trooper Javier Arana's widow, Cindy, and their four children were on hand also for the presentation.



Also recognized was Trooper James Scott Burns's widow, Michaela. Trooper Burns was shot and killed in 2009. Director McCraw recognized Michaela for receiving the Governor's Criminal Justice Pathfinder Award for speaking to parolees about the importance of making appropriate choices in life.



Following the recognitions, Michaela and Cindy shared a moment of consolation.

B. Report, discussion and possible action regarding the Department's Strategic Plan

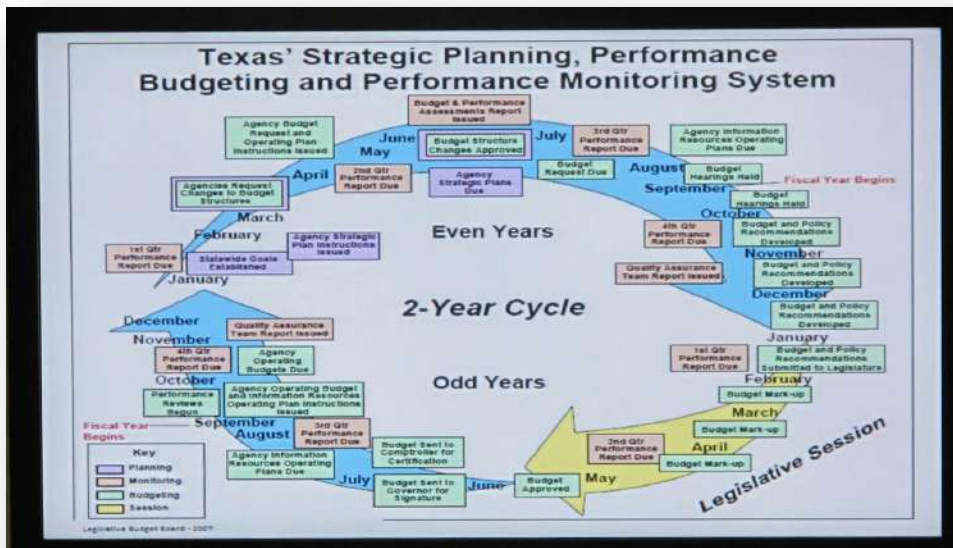
Chairman Leon asked to make a couple of comments. She thanked the Governor for her appointment to the Commission and now to the Chairmanship of the Commission. She also asked to say a few words of thanks to Chairman Polunsky for his four years of effective leadership of the Commission. Chairman Leon went on to list many of the achievements of the Department under Chairman Polunsky's Leadership, including:



- Acquisition of essential equipment
- Establishment of a unified Regional Command structure
- Created a Fusion Center
- Vastly increased Border Security
- Updated and improved Information and Technology
- Increased the level of resources available to the Troopers to perform their duties

Chairman Leon presented Chairman Polunsky a framed Texas Flag that was flown over the Texas Capitol. She also presented him with a framed proclamation from the Governor. And finally, Chairman Leon presented Polunsky with a framed DPS flag that had been carried on patrol by a Trooper, flown in a helicopter by the Aircraft Division, and ridden in a tactical marine unit on the Rio Grande River. This last recognition memento is a first for the Public Safety Commission, and is modeled after citations presented in the military.

Chairman Leon spoke of her philosophy and goals and will continue the work begun by Chairman Polunsky to make the Department of Public Safety the premier law enforcement agency in the country.

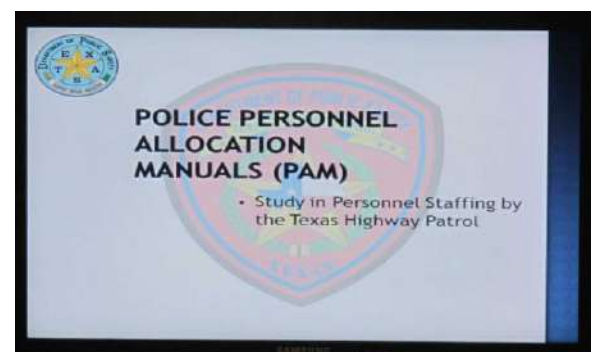


Director Steve McCraw continued his Director's Report – Strategic Planning – in Texas, through the Legislative Budget Board processes; we are held accountable and focused on our strategic plans. Purpose is to provide PSC members with a summary of the DPS Agency Strategic Plan. LBB requires: Vision, Mission, Philosophy and Goals.

We have 372 open positions open. Based on the PAM vs. Field recommendations, we should add 775 additional HP

positions across the state. The role of the Trooper has changed dramatically in recent years, with Troopers in the field performing interdictions, counter-terrorism identifications, etc.

Comm. Polunsky stated that in his opinion, increasing pay is fundamental to the future of the Department and needs to be the #1 priority at the Legislature if we are to be at the very top of the law enforcement profession. Director McCraw agreed, and pointed out that the starting Plano Police officer makes 40% more than a starting Trooper.



VI. NEW BUSINESS

A. Report, discussion and possible action regarding Exceptional Items and FY14-15 Riders

Denise Hudson, AD Finance/CFO – Discussed the legislative process and timeline, and went on to go over a summary of Exceptional Items that will be included in the Department’s request.

Please see the link to the AD Hudson’s slides for the LAR Overview.

Comm. Barth suggested having a work session for the reviewing and discussing the Departments budget requests prior to submitting to the LBB. The Commissioners and Chair agreed and will schedule one.

B. Report, discussion and possible action regarding internal contracting processes

General Counsel Phil Adkins – Asked Pam Smith, Amanda Ariaga, and Wayne Mueller to join him. We are working to transition into a greater role in the contracting process. We need to have all contracts in the same place, and overview by the OGC.



All formal contracts by the Agency will be signed only by the Director or a Deputy Directors. All ADs and their designated contract managers will attend contracting training.

Pam Smith, new to the Department but comes with over 22 years of contracting experience, including working with the State Comptroller Office. Ms. Smith gave a general overview of the state contracting process, explaining Texas statutory requirements and best practices. She noted

that in the past, the DPS Office of General Counsel had limited involvement in the contracting process, reviewing contracts for constitutional and legal “wholeness”. Now, the OGC is staffing up, and will be very involved throughout the contracting process.

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

Chief Auditor Steve Goodson - regards requesting audits. Audit of Real Estate contracts noted that we need to do a better job of protecting our interests in real estate contracting. Comm. Polunsky asked if AD Goodson was suggesting that we are overpaying the Texas Facilities Commission, and AD Goodson said he had no way to tell for sure, but that that was his opinion. Comm. Polunsky said that he would be leaving the meeting before its completion, and asked that a discussion of the possibility of requesting that DPS be exempted from having to use the TFC for future real estate transactions.

A motion was made by Comm. Barth and seconded by Comm. Polunsky to approve the 4 additional audit requests.

D. Report, discussion and possible action regarding the DPS Training Academy with respect to appropriate division for Academy

Commissioner Barth suggested that this item be deferred until the just approved audit is completed.

E. Report, discussion and possible action regarding Department’s actions and history as to hiring freeze

Commissioner Barth had requested this agenda item, and asked GC Adkins to provide additional materials

before discussing at next month's PSC Meeting.

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

Comm. Steen asked to defer this Meeting to the May meeting.

G. Report from Texas Facilities Commission

Chair Leon asked to take this item out of sequence since the Director for the Texas Facilities Commission, Terry Keel, was waiting in the wings. (Director McCraw's second part of his report, V-B, would be taken up following this report.) The location for the San Antonio facility was selected on September 21, 2011, and the delivery date for the Facility is September 1, 2012. The property is owned by an investment group whose principal is Barry Williamson. The property is located in the City of Leon Valley. Director Keel was joined by TFP staff Dalia Davis and real estate attorney Steve Halpen who addressed the PSC. The City of Leon has some questions regarding the Specific Use Permit, and will be addressing their concerns at a meeting on May 1, 2012. The nearby neighborhood, which does not technically "abut" the property, had previously had concerns regarding development and use of the property.



Assistant Director Rebecca Davio joined the Facilities Commission representatives to answer questions regarding drive routes around the facility. The zoning commission had concerns regarding the proposed routes as well.

Mr. Halpen responded to questions by Comm. Polunsky and Comm. Barth regarding feasibility of completing the project by September 1, 2012, by stating that there are no financial penalties written into the contract if the deadline is not met. Dir. Keel said that we could go to the AG's office if the contract is defaulted upon.

Comm. Polunsky asked if there was any vetting of the qualifications regarding the "developer" who the Texas Facilities Commission contracted with. The response was that such vetting is part of the RFP process. Comm. Polunsky asked that those documents be turned over to the Commission. Commissioner Polunsky suggested that if the developer was to begin construction today, that they would not possibly be able to deliver by the September deadline. Mr. Halpen said that he does not necessarily agree or disagree with that statement.

Comm. Polunsky pointed out that the City of Leon has denied zoning changes to the property two previous times to previous developers. Comm. Steen suggested that a significant fine for every day that the project goes beyond the deadline should be added to future real estate contracts. TFC Director Keel said to consider it done on future contracts under his watch.

Comm. Polunsky asked if all agencies were required to use the TFC for real estate deals. Dir. Keel said that there were several agencies, including the Texas Department of Transportation, are statutorily exempt from using the TFC. Comm. Polunsky said that DPS could therefore go to the legislature to ask for such an exemption.

Comm. Barth asked what the delay is with the Fort Worth Mega-Center. AD Davio said that the Fort Worth Mega-Center will be delayed until January, 2013, due to having to find a new developer and property.

Chairman Leon asked Comm. Barth to compile the PSC's concerns and requests for changes into a letter to the Texas Facilities Commission, so that it is clear to all parties what the expectations are.

- H. Report, discussion, and possible action on proposed reorganization of Chapter 15, Driver License Rules, Subchapter J, Driver Responsibility Program for publication to receive public comment, including: amendments to Rule 15.161 and Rule 15.162, 37 TAC Sec. 15.161 and Sec. 15.162, repeal of Rule 15.163, 37 TAC Sec. 15.163, and new Rules 15.163 – 15.166, 37 TAC Secs. 15.163 – 15.166

Assistant Director Rebecca Davio, Drivers License Division – These rules are required by the legislature and I'm looking for approval to post in the Texas Register.

A motion was made, and seconded to post in the Texas Register. Passed unanimously.

- I. Report, discussion, and possible action on proposed amendments to Safety Responsibility Regulations Rule for publication to receive public comment: Rule 25.7, 37 TAC Sec. 25.7 concerning the application for a self-insurance certificate

Assistant Director Rebecca Davio, Drivers License Division –

A motion was made, and seconded to post in the Texas Register. Passed unanimously.

- J. Review of pending contract/renewal/change order/awards

- 1. Modification to allow for the Image Collection Card System to produce
Private
Security Bureau Pocket Cards (L-1 Secure Credentialing, Inc.)

AD Wayne Mueller - \$12,500 – set up fee for producing Private Security Licenses with photos. The Contract Review Board met and recommends approval of the contract. Since this contract already has amendments exceeding \$500,000, and therefore any additional amendments must be brought to the PSC Meeting for review and consideration.

No action was required.

- K. Report, discussion and possible action regarding Department policy addressing rehiring of retired personnel

Defer to the next PSC Meeting

- 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

Chairman Leon adjourned the meeting to executive session, at 2:47 pm.

Reconvened, 5:03 pm.

Chairman Leon apologized for the late hour, and stated that she had hope to keep the meeting short, but that didn't work out. She suggested that due to the late hour, that she would like to defer all ongoing business and division reports that didn't require immediate attention to the May Public Safety Commission

Meeting. She asked the Assistant Directors and staff if there were any items that needed to be addressed immediately, and there were none. She suggested that they go ahead with approving the consent items in Item X.

VIII. ONGOING BUSINESS - *Deferred to the May PSC Meeting.*

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
- 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
- C.** Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements
- D.** Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar
- E.** Report, discussion and possible action on the Fiscal Year 2012 Operating Budget
- F.** Report, discussion and possible action regarding purchases using seized funds
- G.** Update report, discussion and possible action regarding recruitment
- H.** Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety
- I.** Status report, discussion and possible action on Department generators – specifically conversion updates with electrical companies around the state
- 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
- K.** Report, discussion and possible action regarding Emergency Management disaster response contract services
- L.** Report, discussion and possible action on Driver License monthly updates
- M.** 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
- N.** Report, discussion, and possible action regarding the adoption of proposed repeal and adoption of simultaneous proposal of new Driver License Rule: Rule 15.48, 37 TAC Sec. 15.48 concerning Selective Service Registration

- O. Report, discussion, and possible action regarding the adoption of proposed new Driver License Rule: Rule 15.90, 37 TAC Sec. 15.90 concerning Deferral of Enforcement Actions for Victims of Identity Theft
- P. Report, discussion, and possible action regarding the adoption of proposed new Commercial Driver License Rule: Rule 16.41, 37 TAC Sec. 16.41 concerning Medical Certificate Requirements

IX. REPORTS - *Deferred to the May PSC Meeting.*

- A. Commission member reports and discussion
- B. Finance Report
- C. Chief Auditors Office Report
- D. Division status reports on activities and action

X. CONSENT ITEMS

- A. Discussion and possible action on the Director's action of discharging probationary employee Gracia Sandoval
- B. 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: Reynaldo M. Garcia, Donald G. Hatcher, Britt D. Peace, Sam Trejo and Ronald C. Walker; Special Texas Ranger: None

Commissioner Steen pointed out that these items are thoroughly vetted before adding them to the agenda.

A motion was made by Comm. Steen and seconded by Comm. Brown to approve Items A & B. Approved unanimously.

XI. ITEMS FOR FUTURE AGENDA

Comm. Leon asked if there are items for future meetings: OIG resources – Comm. Brown.

XII. DATE FOR FUTURE MEETING

May 17, 2012.

XIII. ADJOURN

Chairman Leon adjourned the meeting at 5:10 pm.

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