



Public Safety Commission Meeting

December 15, 2016, 10:00 am

6100 Guadalupe, Building E

Austin, TX 78752

Summary

(This report represents a summary of events of the meeting, and is not a 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

10:04 am – Chairwoman Cynthia Leon called the meeting to order. In attendance: Chairwoman Cindy Leon, Faith Johnson, Steven Mach, Randy Watson and Manny Flores. A quorum was present. Also present were, Director Steve McCraw, Deputy Director David Baker, Deputy Director Robert “Duke” Bodisch, and General Counsel Phil Adkins.



II. APPROVAL OF MINUTES

A motion was made by Commissioner Mach and seconded by Commissioner Johnson to approve the minutes from the October 13, 2016 PSC Meeting. Motion carried.

III. PRESENTATIONS

Director Steve McCraw – Made the following presentations for Service Awards: (DPSOA thanks the DPS Media and Communications Office for the following report regarding the Awards.)

DPS Recognizes Employees for Acts of Courage, Honor

AUSTIN – The Texas Public Safety Commission (PSC) and Texas Department of Public Safety (DPS) Director Steven McCraw presented a *Purple Heart Award*, *Lifesaving Award* and *Certificate of Commendation* to current employees and one retiree for their exemplary service and honorable actions.

“Today we express our gratitude for these admirable Texans, who acted with honor and courage when faced with extraordinary circumstances,” said Director McCraw.

In addition, Commissioner Faith Johnson was presented with a proclamation of gratitude and appreciation, a Texas flag and was named an honorary Texas Ranger Captain in recognition for her service on the PSC since May of 2014. Governor Greg Abbott recently appointed Commissioner Johnson as the Dallas County District Attorney, and today was her last PSC meeting to serve as a commissioner.

“Commissioner Johnson has been an invaluable asset to the Texas Public Safety Commission, and I know she will be a steadfast champion of justice in her new position as Dallas County District Attorney,” said PSC Chair Cynthia Leon.

“Commissioner Johnson is someone who cares very much about this state and the people of Texas, and DPS has been enormously fortunate to have her expertise and outstanding leadership on the Public Safety Commission,” said Director McCraw.



The following awards were presented today:

- **Robert Bourland**, retired Texas Highway Patrol, received a *Purple Heart Award*. In June of 1990, Bourland was patrolling in Midland County when he observed a truck tractor semi-trailer emitting an extreme amount of black smoke. As a result, he initiated a traffic stop during which the tires of the vehicle became engulfed in flames. When Bourland re-approached the vehicle with his fire extinguisher, the tires exploded, severely injuring him. Bourland recovered from his injuries, returned to duty and retired as a Captain in the Motor Vehicle Theft Service after serving 36 years with DPS.



- **Kristi Burchett**, Texas Highway Patrol administrative assistant in Wichita Falls, received a *Lifesaving Award*. On July 1, 2016, Burchett was off duty attending a poolside birthday party when she spotted a child in the pool in distress. Burchett subsequently jumped into the pool and lifted the child out of the water to safety.



- **Margie R. Charles**, DPS Driver License Office customer service representative in Spring, received a *Certificate of Commendation*. On October 27, 2016, Charles reported an attempted bribery situation at the Spring Driver License Office. As a result of her actions, the suspect was arrested.



Additionally, the following service awards were presented by Director McCraw:

45 Year Service Award



*Danial David Lyssy
Texas Highway Patrol, Reg. 4*

35 Year Service Award



*Michael Ray Haley
Texas Highway Patrol, Reg. 5*



*Cathy Eileen McCord
Law Enforcement Support, Reg. 5*

30 Year Service Award

*Judy Dancak Rumdell
Information Technology, Reg. 6*



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. Should a member of the public bring an item to the Commission for which the subject was not posted on the agenda of the meeting, state law provides that the Commission may receive the information but cannot act upon it at the meeting. The Commission may direct staff to contact the requestor or request that the issue be placed on a future agenda for discussion.)

Chair Cindy Leon stated that there were multiple requests to address the Commission. We will differ public comment regarding the Compassionate Use regulation until after our staff have had a chance to make their presentation to the Commission. There were no requests for comment on any other topics.

V. DIRECTORS REPORT

A. Case Update – Aircraft Operations



Director McCraw – Mark Donalin (?) and Damon Emory (?) – There has been a small gang of juveniles robbing small businesses, especially convenience stores. While monitoring police dispatchers, we heard the alarm for a robbery at a 7-11 in Mesquite. We dispatched, knowing our proximity to the infraction. We quickly located the fleeing perpetrators and maintained communications with Dallas PD. Using our night vision capabilities, we could track the suspects and communicate their specific locations to the ground police units. Once the first two suspects were located, we moved on and notified the police that one suspect was hiding in the trunk of the vehicle. We were able to utilize a

mapping system that we could relay positions based on our focal point. We could mark targets for weapons so that they could be retrieved. The video clearly showed movement of the suspects and there were very few places to hide from the eyes in the sky. The ground officers gave warnings that the k-9 responders would be released. We had reports of two suspect that were bitten by the dogs as well as two responding officers. The dogs were pretty excited.



Commissioner Mach asked if there were any breakdown in communications due to different agencies jargon. Lt. Donalin said that most of the communication is conducted in plain English. If they use a code that we are not familiar with, we will just ask them to clarify.

Director McCraw thanked Governor Abbott for making the funds and resources available to make these capabilities possible. We now are flying 14 helicopters and 9 fixed wing aircraft.

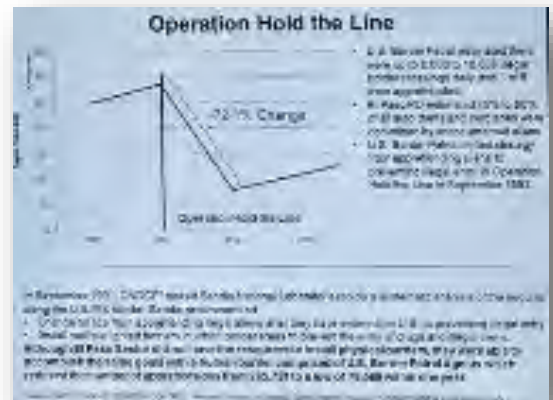
B. 2016 Public Safety Threat Assessment

Director McCraw discussed the broad range of terror assessments that the department is involved in. He briefly touched on the types in very general terms.

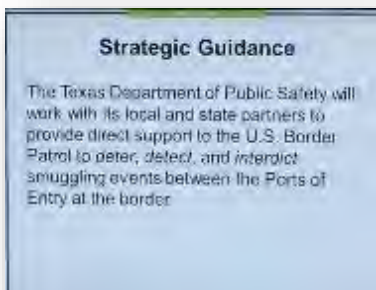
C. Operation Secure Texas Update



Director McCraw – Operation Hold the Line was a very successful initiative in El Paso. We, of course, are now focused on areas of the highest criminal activity.



The results of our enhanced operations have resulted in:



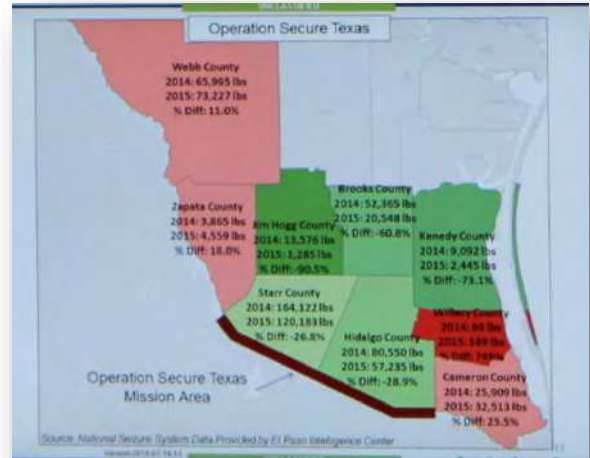
Decrease in smuggling, decrease in drugs, decrease in crime, and decrease in all manner of illegal activities.

We see an increase in smuggling at the points of entry, due to our activity in other areas.

Data collection is a key element along the border. We coordinate our data with that of other agencies.

Bail-outs, the act of crashing their escape vehicles directly into the river where we have a difficult time pursuing, we have seen a marked decrease.

We are also seen a sharp decrease in the apprehension of illegal aliens. Coyotes are moving their crossing points to more remote areas, where it is a more hostile environment, and many people who have paid to cross, end up suffering exposure and other dangers to their health. We have seen reduction in crimes of 15-18% in the high activity counties.



Sector	Sum of 2014	Sum of 2015	% Diff
El Paso Texas	52,598	45,275	-13.92%
Big Bend Texas	1,422	438	-69.19%
Del Rio Texas	4,332	1,976	-54.38%
Laredo Texas	52,328	84,574	61.62%
RGV (Cameron)	6,432	18,697	190.69%
RGV (Starr and Hidalgo)	30,886	32,690	5.84%

The most dramatic increases in drug seizures at Ports of Entry occurred in Cameron County and the Laredo, TX Sector. These areas are the east and west flanks, respectively, of the current multi-agency border initiative.

Home invasions happen all over the state, but not like they do along the border. Here, these hostile gangs not only invade a home, but often take over the house to control for their operations from.

Skyler Hearn – AD Law Enforcement Support – reported that we have doubled our coordination with other agencies, and continue to grow these partnerships and data sharing.

Commissioner Mach asked if the increased activity has moved some of the trafficking from the smaller highways like Hwy. 59 to the major arteries

such as I-35.

Director McCraw said that it is always a moving target. When we step up operations in one area, they quickly shift to another area.

D. Update on Senate Criminal Justice Committee Hearing on 10/4/16

Director McCraw – Chaired by John Whitmire. The testimony included DPS, Art Acevedo, former Austin Police Chief and newly named Houston Police Chief, as well as the NAACP.

When we speak of racial profiling, we have to look at the larger picture. It all begins with our recruits, followed closely by our training. We have to start with people of good character, and then train them properly. Capturing encounters on video is critical to our oversight and we keep the videos for 6 months. We require our Sergeants to review the videos both randomly and based on specific incidents where questions are raised. If someone feels like they haven't been treated properly, we are now making the complaint process easier, and we will make the encounter videos available to the

public when requested. The camera doesn't lie. We have caught questionable behavior by our officers from time to time without a complaint ever being filed through our video review system.

Our Inspector General's Office has been proactive in detecting behavior that is an indicator for an officer who is on the edge of committing questionable behavior, and acting to modify that behavior.



HISTORY OF CNU

- In 2010 the current CNU teams were formed and trained at Texas State University in San Marcos.
- 60 DPS employees from:
 - Texas Ranger Division
 - Criminal Investigation Division
 - Texas Highway Patrol Division
- One 10 person per Team per Region.
- One throw phone per region.

There are 4 DPS personnel on the Texas Association of Crisis Negotiators board, including the current president.

Chair Leon asked when was the last time they used crisis negotiations. In late November in NE Texas. We have had 74 hostage situations throughout the state this year, with 21 surrendering.

E. Use of Force

Director McCraw touched briefly on use of force.

VI. NEW BUSINESS

A. Special Operations Group - Crisis Negotiation Unit Update

Texas Ranger J.D. Robinson (?) and Texas Ranger John Vance (?) began by noting that the Crisis Negotiation Unit is one of the most overlooked groups at DPS. The CNU began with 60 people in 2010 and has grown to 84 now from all agencies within the state. We begin with a selection process to ensure individuals are well suited for this type of work. They then go through 40 hours of training. Each year, any member of the CSU (including all other agencies that have Crisis Negotiators), have to have 40 hours of continuing education.

PROGRAM

- Preservation of all lives in hostage/barricaded situation.
- Gather and disseminate intelligence on suspects, victims, weapons, interior layout, history, relatives, etc.
- Assist SRT and SWAT in perimeter security, temporary custody of suspects, and medical evacuation during non negotiation situations.

CNU MEMBERS

- Increased from 60 in 2010 to 84 currently
- Qualified candidates participate in a selection process
- Attend a basic 40 hours Hostage Negotiation course
- Maintain 40 hours per year of specified training
- Available for call outs when not on special assignments

TRAINING

- National Crisis Negotiation Competition
 - Held in San Marcos, Texas in January (annually)
 - Reality based training/competition
- Other State Association of Hostage Negotiators Conferences/Competition

STATE LAW MANDATE

- As per Section 16.02 of the Texas Penal Code and Article 18.20, Section 1, (23) of the Texas Code of Criminal Procedure, Crisis Negotiators must receive a minimum of forty (40) cumulative hours of specialized, hostage and barricaded suspect situation, training each calendar year.

EQUIPMENT

- Throw Phone with covert audio/visual
- Loud Hailers
- Public address system
- Computers
- Cell phones
- iPads



NATIONAL COUNCIL ON NEGOTIATION ASSOCIATIONS

- 2 Texas Rangers selected as the Texas Delegates to the National Council on Negotiation Associations
- Responsible for setting national training standards for negotiation

B. Report on Victim and Employee Support Services (VESS) Overview

Assistant Director Amanda Arriaga – Administration – Introduced Melissa Atwood, Director of Victim & Employee Support Services and Dr. Celesta Harris, a staff psychologist for VESS. In 2016 we served nearly 4,000 individuals. Our staff is spread

Victim and Employee Support Services (VESS)

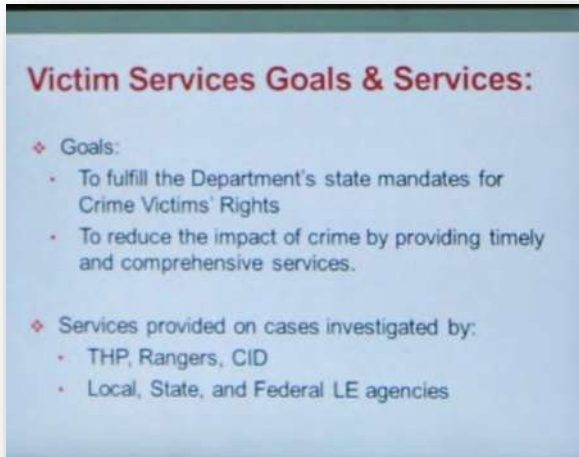
Victim Services

- Regional Counselors (14)
- VESS Supervisor (1)

Employee Support Services

- Regional Counselors
- Staff Psychologist (2)
- Employees trained as Peers (139)
- Employee veterans trained as Peers (24)
- Chaplain Volunteers (33)





pretty thin; I have one staff member that covers 30 counties. We had 9090 victim services contacts in 2016 and counseled 275 employee clients resulting in 512 employee counseling sessions. Most referrals come from THP, but we also get referrals from Texas Rangers, CID, as well as from Federal, State, and local agencies who may not have the counseling resources available.

Dr. Harris gave an overview of the Psychological Evaluation process. We always discuss the limits of confidentiality of the evaluation, specifically that confidentiality doesn't necessarily apply since the applicant is applying for a position and that results will be shared with other DPS personnel.

C. Report, discussion, and possible action on the following rule proposals for publication to receive public comment:

1. Simultaneous repeal of current 37 TAC Chapter 6, concerning License to Carry Handguns and proposed new 37 TAC Chapter 6, concerning License to Carry Handguns

Assistant Director Renearl Bowie – The staff is requesting that the change of wording from “License to Carry Concealed Handguns” to “License to Carry Handguns” in the rule be posted in the Texas Register for public comment.

A motion was made by Commissioner Mach and seconded by Commissioner Flores. The motion carried.

2. Amendments to 37 TAC Chapter 15, concerning Driver License Rules
 - (a) Amendments to 37 TAC Section 15.25, concerning Address
 - (b) Amendments to 37 TAC Section 15.55, concerning Waiver of Knowledge and/or Skills Tests
 - (c) Amendments to 37 TAC Section 15.62, concerning Additional Requirements

Driver license division requested that the three rule modifications be posted in the Texas Register for public comment.

Comm. Mach made the motion to post, which was seconded by Comm. Johnson. The motion carried.

3. New 37 TAC Section 16.31, concerning Third-Party Skills Testing Program

DL - Asked for item 3 to be posted in the Texas Register for comment.

A motion was made by Commissioner Mach, second by Commissioner Johnson. The motion carried.

D. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)
Discussed in Executive Session.

VII. ONGOING BUSINESS

A. Report, discussion, and possible adoption of the following previously published rules:

1. Amendments to 37 TAC Chapter 12, concerning Compassionate-Use/Low-THC Cannabis Program

(a) Amendments to 37 TAC Sections 12.1-12.4, 12.7, 12.8 and proposed new Section 12.9, concerning General Provisions

(b) Amendments to 37 TAC Section 12.11, 12.14 and Section 12.15, concerning Application and Renewal

(c) Amendments to 37 TAC Section 12.21 and Section 12.23, concerning Compliance and Enforcement

Motion made by Mach and seconded by Comm. Watson.

(d) Amendments to 37 TAC Section 12.31-12.34, concerning Security

(e) Amendments to 37 TAC Section 12.41 and Section 12.42, concerning Compassionate-Use Registry

Chair Leon asked to move this item up on the agenda so that those that wish to comment could speak their peace without waiting for other agenda items to be completed

Chair Leon began by stating that the governor and other key legislators have made it clear that they are not interested in expanding the Compassionate-Use/low THC Cannabis Program beyond the current child epilepsy use.

Assistant Director Renearl Bowie – Regulatory Services – We received a great deal of comments, especially related to sources and licensing fees. The current licensing fee is \$1.7 million had to do with providing commissioned officers at all points of distribution. After removing the commissioned officers from the process, that fee could be reduced to \$700,000, and the individual applicant fee could be reduced from \$5,000 to \$500. The underlying application process and rules for licenses and applications have not changed substantially. We would like to make these recommendations available in the Texas registry for Public Comment.

2. Public Comment regarding Amendments to 37 TAC Chapter 12, concerning Compassionate-Use/Low-THC Cannabis Program

Public Comment was called for by Chair Leon on the Compassionate-Use/Low-THC Cannabis Program:

The first speaker noted appreciation to the Department for their work and consideration of this very important matter. My son Dax and I have worked tirelessly meeting with legislators. I came to ask the Commission not to approve the regulations, but having heard the testimony, I am comforted that you are moving in the right direction.

Dr. Dave Clark, stated that he was here in support of accessibility and affordability of the program and was here as a resource for the Commission.

Mrs. Harrison and a group accompanying here, were grateful for the work that the Department and Commission have done on this issue. We, too, have spent countless hours working towards the goal of making Compassionate Use available to the tens of thousands that need it. Insurance does not cover the cost of this life changing treatment for epileptics. Having only 3 places to dispense this treatment is unacceptable. Requiring a trooper present doesn't make any sense, in light that there are pharmacies on every other corner in the state that dispense opioids and other dangerous substances without the aid of a trooper being present. Knowing that we could lose our children at any time without proper treatment. We have been given hope with the Compassionate-use program and we ask that you continue to make the treatment affordable and accessible to the 100's of thousands that could benefit from this potentially life-saving treatment.

April Hess- I am a healthcare professional that is looking into how I can help in this issue. As a medical provider, I want to ensure that we make the treatment accessible in a very safe way. We need to balance cost to produce the herbal solution and the safety of the patient. It is estimated that there are approximately 175,000 patients in Texas with epilepsy. If you consider approximately 20% would use this, which is still 35,000, a very large number. The cost of using the pharmaceutical version of this treatment, Marinol, not only has shown to have negative side effects, but costs approximately \$7,000 per month for the patient, and is not general not covered by insurance.

State Representative James Wright said that he has great interest in this issue and has spoken in length with a constituent whose daughter could benefit from this treatment if made available and affordable. I have had a great relationship with DPS in particular Director McCraw, and I have confidence that you will do the right thing to make this treatment available to those in need.

State Representative Stephanie Klick – also stated that she has worked closely with the agency, and also hopes that a suitable arrangement will be found to make these treatments accessible. She mentioned a constituent who had told her that her child, who had recently died, may have benefited from the treatment.

Chairman Leon thanked the guest speakers and noted that this is all newly charted territory for the Governor, the Department, and the Commission. We want to get it right, but will likely to make tweaks to the rules as time goes on.

Commissioner Mach moved to republish the rules for public comment in the Texas Register. and seconded by Commissioner Flores. The motion carried.

Chair Leon encouraged all who commented today to put their comments in writing during this public comment period. Hopefully we can bring this to a final vote at our February meeting.

3. Amendment to 37 TAC Section 23.5, concerning Vehicle Inspection Station and Vehicle Inspector Disqualifying Criminal Offenses
4. Amendments to 37 TAC Chapter 15, concerning Driver License Rules
 - (a) Simultaneous repeal and proposed new 37 TAC Section 15.7, concerning

Occupational License (Essential Need)

(b) Amendments to 37 TAC Section 15.30, concerning Identification Certificates

(c) Amendments to 37 TAC Section 15.36, concerning Applications for Duplicates and Corrections

(d) Simultaneous repeal and proposed new 37 TAC Section 15.59, concerning Alternate Methods For Driver License Transactions

DL Division – All 4 rules amendments were posted and we received no comments on any of the rule changes.

A motion was made by Commissioner Mach to pass the rule changes a-d, second by Commissioner Johnson. The motion carried.

B. Update report, discussion and possible action regarding recruitment

Assistant Director Frank Woodall – Education, Training and Research – Began by showing a new recruitment poster that was just produced. He went on to state that the C-16 Class was graduating and receiving their commissions tomorrow morning at Great Hills Church beginning at 10:00 am. 116 recruits will become new HP troopers tomorrow. In the last 12 months 436 new troopers will have been commissioned. This class consisted of 109 males and 7 females; they ranged in age from 21 to 46 years of age; there are 47 veterans in the class, and 14 former law enforcement officers.

The D-16 school is scheduled to graduate on February 24, and still has 135 recruits in the class. A-17 class will begin on January 8, and 153 have been invited to attend.

C. 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



Director McCraw ask the Commission to approve the promotion of Captain Rudy Resendez to Chief of the Executive Protection Detail. He also introduced Captain Henry De la Rosa of the Executive Protection Detail.

D. 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

E. Report, discussion, and possible action regarding ongoing criminal investigations

pursuant to Government Code § 411.0041 (Executive Session anticipated)

VIII. REPORTS

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

Nothing additional to add to the reports given to the PSC.

IX. CONSENT ITEMS

All of the following items may be enacted with one motion. These items are typically self-explanatory or have been previously considered by the Commission. There will be no separate discussion of these items unless a commissioner so requests.

A. Donations:

1. Use of land in Duval County – Law Enforcement Support
2. Polo Shirts with “Donate Life” logo – Driver License Division
3. Use of Sandhill Ranch for Lodging – Texas Rangers Company “C”
4. Use of land in Brewster County – Law Enforcement Support
5. Use of La Copa Ranch for Lodging and Training – Region 3 SRT
6. 100 UT Football Tickets – DPS First Responders
7. Use of Reveille Peak Ranch for Training - SWAT
8. Additional donation items, as needed

Commissioner Mach reported to Chair Leon that all of the donations have be thoroughly vetted for their appropriateness and nothing was out of order.

X.

A motion was made and seconded to approve the consent items 1-8. The motion carried.

XI. ITEMS FOR FUTURE AGENDA

None.

XII. DATE FOR FUTURE MEETING

The regular Public Safety Commission meeting is scheduled for February 22, 2017, and any discharge hearings will be scheduled on February 23, 2017.

The next Public Safety Commission Meeting will be held on Thursday, February 22, 2017.

XIII. 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 1:10 pm.

XIV. ADJOURN

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 government 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