



Public Safety Commission Meeting

June 11, 2020, 10:00 a.m.

6100 Guadalupe, Building E

Austin, TX 78752

Summary

(This report represents a summary of events of the meeting,

**Meeting was conducted by Telephonic Conference Public
Access to the meeting was provided at the following link:**

https://www.dps.texas.gov/public_safety_commission/calendar/index.htm

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

I. CALL TO ORDER

10:00 am – Chairman Steven Mach called the meeting to order. In attendance: Chairman Steve Mach, Commissioners Steve H. Stodghill, Commissioner Nelda L. Blair, and Commissioner Dale Wainwright. A quorum was present. Also present were, Director Steve McCraw, and Freeman Martin, as well as General Counsel Phil Adkins.

II. INVOCATION

An invocation was given by DPS Chaplain Ferman Carpenter.

III. APPROVAL OF MINUTES

A motion was made by Commissioner Nelda Blair, and seconded Commissioner Steve Stodghill to approve the minutes from the April 23, 2020 PSC Meeting. With no discussion, and following a roll call vote, the motion carried.

IV. PUBLIC COMMENT

(Members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must register in advance at the link provided above. 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.)

Susan Nelson, Constituent Services Director for Representative Vikki Goodwin, HD 47 – I have been asked by Rep. Goodwin and Representative Donna Howard to get an update on the State’s Safe Gun Storage initiative. We understand that a contractor was to be determined by the end of May of 2020. We are basically looking for an update on where it stands and the direction that it is heading.

Chairman Mach thanked Ms. Nelson for the comment and said that they would discuss that and would have to get back with their offices regarding this matter.

V. DIRECTORS REPORT

Director Steve McCraw - At the last meeting we we’re just beginning our Covid -19 airport screenings as well as vehicle screenings at the Louisiana border, and since then we have moved on from that and unfortunately we have had to deal with violent and destructive protests across the state. As I have discussed before, about 87% of law enforcement agencies across the state have 50 or fewer officers and require our assistance to deal with situations such as demonstrations. This requires careful coordination and communication. As we all know, on May 25, George Floyd was killed by a police officer in Minneapolis, which reflects the worst of police officers, and has a impact on all officers who are daily doing their jobs to the best of their abilities. This action undermines everything that they have worked for in terms of protecting the people that they serve. We must keep in mind that people have the constitutional right to peacefully protest, and we serve to protect that right. As a result of that killing, we have been very busy both protecting their right to protest, as well as protecting the physical well being of the protesters and the property in their path.

Since May, we are now in the process of opening our DL offices across the state and you will get an update later in today’s meeting regarding that.

Subsequent to this incident, there has been much talk and discussion regarding police use of force, and the policies and procedures that address that. We were ask to put together those things that the Department of Public Safety has been doing, either required by law or addressed in policy and procedure. Director McCraw provided the Commission with a listing of these policies and addressed many of them in the meeting:

- *Most important part... to ensure that you protect people and not harm people and the first step in that is to address how you recruit and vet the applicants. It is so important to find the right people. You are familiar with our thorough vetting process which includes a Criminal History review, a cognitive review, a polygraph examination, and a psychological evaluation. It is too important to get the right person. We have had as many as 400 – 500 vacancies, but we could not rush or take short cuts in our recruit selection. We cannot invest the kind of training and give the incredible power that we are entrusting to them and have it go to a bad individual.*
- *The Department adopted the Dynamic Resistance Response Model that assess the level of resistance encounter. Once that level of resistance is appropriately*

assessed, they can respond with the appropriate use of force. Using body cameras and emergency lights. Those videos are maintained so that they can be used as evidence.

- *We provide our recruit schools and active officers with robust use of force training and in-service instruction. We do this in classroom, hands-on, and scenario-based training. The training focuses on communication and de-escalation and has been a priority for the last several years, but will continue to be emphasized.*
- *We expect our officers to act with intelligence and exercise sound judgement based on a deep respect for human life. And by the way, we do not use the choke hold...ever.*
- *We are dedicated to upholding the constitution and the law. Whether they have been out of recruit school for 10 days or 10 years, they that they are obligated to uphold the law, and if they see a crime being committed, either by the public or a fellow officer, they must step in proactively to avoid or prevent further criminal activity and they also have an obligation to report it as well. Commissioned officers, before they can use force, they must identify themselves as peace officers, and must assess the severity of the incident, and use only the minimal amount of force that is required to control the threat. They are also required to continue the assessment of whether the continued use of force is necessary. Use of force is not to punish, but to control. We must evaluate the risk of innocent 3rd parties being injured by their actions. When the scene is stabilized, and as soon as practical, the officer is required to provide first aid if necessary, and summon advanced care if required.*
- *We recently evaluated allegations of racial profiling, and we hired a professional analyst to evaluate our numbers and not surprisingly he found no evidence of racial profiling within our department. We have internal controls in place to spot issues early We are not just simply waiting for incidents to happen, but we are proactively watching for underlying signals of problems within our ranks and addressing them as they are identified.*
- *Our officers are trained to report on any use of force, whether it be fists, a baton, a taser, pepper spray, or the discharge of a weapon.*
- *In 2009 we were instructed to develop the Office of Inspector General to independently investigate allegations and incidents within the department. Now, every citation that is written has a phone number on it to reach the OIG to file a complaint. We have the opportunity to intercede with any problematic trends of an employee, and work to correct that behavior, or deal with the lack of compliance. All discharging of firearms are investigated by the OIG, and the use of force without the discharge of a firearm are reviewed by our Use of Force Committee, before being sent to the OIG if it is deemed necessary. Any fleet crash is also reviewed.*

- *We have a unique program that helps us to identify problematic employees based on their citation records. We use a mathematical program using data to identify officers who issue a disproportionate number of citations to minority drivers as compared to their peers working in the same geographical area. We have actually reviewed data on employees that rose to the level of an OIG review and in some cases have resulted in termination of the employee.*

We take very seriously our obligation that is entrusted to us to protect and to serve and to do so to the highest standards of ethics, transparency and accountability. We clearly do operate with a “service” mindset . We can never be too good and we are always looking at a better way.

Chairman Mach stated that he had visited the Alamo last week and was toured through the operations and was very impressed how the department was balancing the diligent protection of the protesters and property, but also keeping the landmark opened to visitors as much as possible to the public that were trying to enjoy their summer.

Dale Wainwright, also visited the Capitol, and was likewise impressed by the dedication and commitment of the troopers. From my South Austin apartment balcony, through binoculars I could observe our officers doing a tremendous job controlling the crowds in a very professional manner.

I also noted the great deal of respect and admiration that our Troopers get not only from their local communities, but across the state and even nationally and internationally.

Commissioner Wainwright asked Director McCraw if the legislature has shown any indication of legislation that might be discussed following these demonstrations. Director McCraw answered that he has been contacted by legislators to gather his insight and information regarding the demonstrations. And the big majority of the demonstrators were peaceful. It doesn't take many who are angry with police, with the government and often with each other. We had white supremacists joining into the mix with a clear agenda of violence. These are some of the challenges that we were having to deal with. I also had questions regarding Capital and Governor Mansion security that I would like to discuss with you during our executive session.

Commissioner Stodghill also weighed in on his observation of the incredible job that the troopers have been doing balancing maintaining the safety of all involved as well as protecting the demonstrators' right to peacefully protest.

Our troopers, special agents, and Texas Rangers have been working diligently on 14-hour days. And I am proud of the job that they are doing. The challenge that we have going in is this is that although the majority of the protesters are peaceful, 10%, 15%, and as many as 20% of the protesters are violent instigators who have seized on the opportunity to use the size of the crowds to provide cover for their criminal behavior. Whether it is the Mike Ramos Brigade, the Red Brigade, Antifa, or the Boogie Boys (a new group that we had not been aware of before) they move in and disrupt the peaceful protesters. It makes our jobs that much more difficult and dangerous. They hate government, they hate police, and often hate each other. They can't operate without a crowd. At the end of the day, our interaction with the protesters is also important. We want to limit the use of force as much as possible. By doing that, we have a better chance to interact with the crowd in a positive way.

VI. NEW BUSINESS

A. Report, discussion, and possible action on Health, Physical Fitness, and Command Presence Policy

Deputy Director Freeman Martin – Homeland Security – due to the Covid-19 pandemic, we cancelled the Spring testing cycle, and have adjusted the implementation schedule that was adopted by the Public Safety Commission in October of 2019 (which I have provided for you in your binders). Because we need data from two complete consecutive testing cycles before we move forward with full implementation, I am requesting that we move the timetable back a year. This means that the Command Presence assessments will continue with the 2% allowance for all of the 2020 cycle and the Spring 2021 cycle. This will allow us to review two consecutive cycles' data and the implementation of the mandatory consequences for non-compliance with Command Presence will be delayed and will not go into effect until December 1, 2021 instead of December of 2020. This will give our Commissioned employees a greater amount of time to prepare and comply with the standards. I ask that you adopt the new compliance schedule for the Command Presence.

A motion was made by Comm. Wainwright, Comm. Blair seconded the motion to adopt the revised Command Presence implementation schedule.

Without further discussion a roll call vote was taken. The motion carried.

B. Final Determination in Contested Case – consideration and possible action on Proposal for Decision:

1. SOAH Docket No. 405-20-1405.PSB – Bryant Earl Clark, Sr.

General Counsel Phil Adkins – the Department denied Bryant E. Clark's application for a non-commissioned private security license due to a prior conviction of assault.

Commissioner Blair asked about the basis of his appeal. Counsel Adkins said that he was not guilty of the charges.

Commissioner Wainwright asked a question regarding any appeals still available to the applicant. Counsel Adkins stated that it could be appealed to the District Court, and clarified that this would be the last action taken by the PSC on the matter.

A motion to adopt this final decision to deny was made by Commissioner Blair, and seconded by Commissioner Wainwright.

Following a roll call vote, the motion carried.

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

1. Amendments to 37 TAC Section 15.6, concerning Motorcycle License
2. Repeal of 37 TAC Section 15.29, concerning Driver Education Forms
3. Amendments to 37 TAC Section 15.55, concerning Waiver of Knowledge and/or

Skills Tests

Chief Sheri Gipson – Driver License Division – these three items all related to changes to the motorcycle training program are routine updates and 1 repeal (item 2 outdated rule) to the Motorcycle licensing training procedures. We are asking that these be approved to be posted to the Texas Register for public review and comment.

A motion was made by Commissioner Blair and seconded by Commissioner Stodghill. Following a roll call vote, the motion carried.

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

This item was taken up in Executive Session.

VII. ONGOING BUSINESS

A. Report, discussion, update and possible action regarding Driver License Action Plan

Chief Sheri Gipson, Driver License Division – Driver License Offices began opening on Tuesday, May 26, allowing our staff to implement the online appointment scheduling and prepare for the public opening. The openings of the office occurred in three phases. By June 3rd, offices across the state were opened. We still have a few offices that are housed in county buildings that have not yet re-opened, but we anticipate that those will be open by mid-July. As part of this phase 3 opening, we are limiting services offered so that we can assist customers that do not have the required documentation and/or are needing new IDs for the first time. These include customers who are needing driver licenses or IDs for the first time, or are needing to complete the driver skills test. We are also continuing on with all of the Commercial DL issuing services, including the testing that continued for CDL while all of the other offices were closed. The extension of DL expiration dates will continue until 60 days following the announcement from the DPS that the DL offices have resume all normal operations. That announcement date has not been issued. The offices will continue to monitor operations and working with the Governor's office to comply with the open Texas strike force to determine when that announcement will be made. We will notify the media and the public to ensure that they know when that extension will expire.

The Appointment Solution has been implemented for all the open offices, and customers can schedule their appointments up to 6 months out. The success of the program is a testament to our staff and vendors hard work. We have also implemented a standby queue, which allows walk ins to add their name to a stand-by list (similar to airlines) so that if someone fails to show for an appointment, or there is an open time slot, that can then be served. Our goal is no longer than a 30 minute wait for those with appointments, and so far we are running at an average of 22 minutes for those with an appointment, and 27 minutes for those in the stand-by queue (although they will not have any guarantee as to how long their wait will be. We have made accommodations so that any remaining in the stand-by queue will be served prior to closing the office for the day, so that they will not have to return on another day.

To date, we have had 292,684 appointments scheduled since May 26. We are still developing our data collection for the new system to provide more complete reporting.

As for safety, we are requiring face masks for all employees and for the customers. We screen for health including taking their temperature. We sanitize each service station after each customer. We

are using wall vision testing charts so that customers do not have to put their face into the testing equipment that we were previously using. We are installing plexiglass dividers in the offices, but since plexiglass is difficult to come by these days, we expect it to take our contractors until 8-12 weeks.

On May 31, we implemented the new 8 year renewal dates which should start reducing our office numbers as those 6 year licenses are all expired.

Upcoming changes, as the result of HB 123, which is the DL or ID fee exemption for Foster and homeless youths, the code will be deployed so that customers can donate to that and that the foster and homeless youths can utilize those funds. Also in July, customers can donate to the Evidence Testing Fund both online and when in the office.

The driver license study, UT is finalizing their work and are track to provide a draft report to the Department at the end of June.

Staffing, we did have a freeze on staffing, but have opened up that process now. We currently have approximately 196 vacancies to be filled across the state.

The date for the Real ID was extended to October of 2021, but to date we have approximately 77% of our issued licenses are Real ID (a little over 18 million).

Finally, DPS DL Division has won 2 prestigious awards from American Association of Motor Vehicle Administrators: one for service efficiency and one for fraud detection.

Chairman Mach made it a point to compliment Chief Gipson and her division for all of the positive feedback that he has been receiving regarding the DL offices' improved services.

Comm. Wainwright asked if the public is being kept well informed as to the expiration extension on the DLs and asked how they would be notified.

Chief Gipson stated that the media, the website, and social media. Other states have been notified as well and are generally offering the same type of extensions.

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

Director McCraw – due to the retirement on July 31, 2020, after 11 years with DPS, of Norma Cortez, Assistant Chief of Human Resources, I am seeking advice and consent for the promotion of Major Katie Conley, currently assigned to Human Resources, to the position of Assistant Chief of Human Resources Operations and she will report to Chief Valarie Brown.

A motion was made by Comm. Blair to approve the promotion of Katie Blair to Assistant Chief of Human Resources Operations and seconded by Comm. Wainwright.

Without further discussion and a roll call vote, the motion carried.

- C. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated)

This item was taken up in Executive Session.

VIII. REPORTS

- A. Commission member reports and discussion

There were no additional Commission member reports or discussion.

- B. Finance Report

Chief Suzy Whittenton - Nothing additional to report.

- C. Chief Auditors Office

Chief Auditor Catherine Melvin - Nothing additional to report.

- D. Division status reports on activities and action

Nothing additional to report.

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. 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 Rangers: James L. Bonewitz, Edwin D. Crone, Jack H. Dean III, and Clay K. Taylor; Special Texas Rangers: Thomas W. Davis and Matthew B. Sigur

- B. Donations:

1. Texas Rangers "Company F" – use of Lonesome Oak Ranch or lodging and meeting facility purposes
2. Additional donation items, as needed

With no discussion, a motion was made to approve items XII A, and B 1,2 by Commissioner Wainwright and seconded by Commissioner Blair.

Following a roll call, the Motion Carried.

X. ITEMS FOR FUTURE AGENDA

Chairman Mach asked the Commissioners to get any suggestions for agenda items to Sophie.

XI. DATE FOR FUTURE MEETING

Discharge hearings will be scheduled on August 13, 2020, and the regular Public Safety Commission meeting is scheduled for August 14, 2020.

The next Public Safety Commission Meeting will be held on August 14, 2020. We anticipate that this will be an in-person meeting and we may add an additional day for all of the presentations and awards that have been postponed during the pandemic.

XII. 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 Mach recessed the Public Safety Commission Meeting to go into Executive Session at 11:23 am.

XIII. 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