



Public Safety Commission Meeting

August 27, 2015, 9:00 a.m.
6100 Guadalupe, Building 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 will convene as posted to consider and take formal action, if necessary, on the following agenda items:

I. CALL TO ORDER

9:02 am – Chairwoman Cynthia Leon called the meeting to order. In attendance: Chairwoman Cindy Leon, Commissioners Randy Watson, Faith Johnson, Steven Mach and Manny Flores. A quorum was present. Also present were, Director Steve McCraw, Deputy Director David Baker, and General Counsel Phil Adkins.



APPROVAL OF MINUTES

A motion was made by Commissioner Flores, and seconded by Commissioner Mach to approve the minutes from the June 18, 2015 PSC Meeting. Motion carried.

III. 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.)

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Chair Cindy Leon stated that there were no public comment requests.

IV. DIRECTORS REPORT

A. Presentations

Director Steve McCraw – Presented made the following presentations for Service Awards:

DPSOA thanks the DPS Media and Communications Office for the following report regarding the Awards.

DPS Commends Officers, Employees for Outstanding Service

AUSTIN – The Texas Public Safety Commission (PSC) and the Texas Department of Public Safety (DPS) Director Steven McCraw presented two *Lifesaving Awards*, three *Texas Highway Patrol Division Chief Awards* and one *Unit Citation* to DPS employees for their exemplary service.

“These law enforcement officers and DPS employees are true public servants dedicated to helping their fellow Texans, and we are grateful for their selfless service,” said Director McCraw. “Today we recognize these award recipients for their outstanding character and heroic actions, and the state of Texas thanks them for their continued commitment to protecting others.”

The following awards were presented today:

- **Trooper Jeremy Frazier**, Texas Highway Patrol in Tyler, received a *Lifesaving Award* for his actions during a life-threatening incident on Sept. 10, 2014. While on patrol, Frazier heard and responded to a request for emergency medical assistance for an unresponsive passenger in a vehicle on U.S. Highway 83 in Rio Grande City. Upon arriving at the scene, Frazier checked on the woman, removed an obstruction from her airways and began performing CPR until EMS arrived. The woman was ultimately transported by EMS to the hospital.



- **Trooper Travis High**, Texas Highway Patrol in Pampa, received a *Lifesaving Award* for his assistance at the scene of a crash on Jan. 24, 2015. While working traffic enforcement on I-40, High responded to a major crash in Carson County involving a passenger car and a motorcycle. High found that both the motorcycle operator and passenger had been ejected and suffered severe trauma to their left legs. He applied tourniquets to both individuals' legs and monitored the two victims until EMS arrived. High's actions helped save the life of the passenger and helped prolong the life of the motorcycle operator, who later died.



- **Sgt. Karl Keesee, Cpl. Cristobal Delgado and Trooper Michael Sams**, all Texas Highway Patrol in Abilene, each received a *Texas Highway Patrol Division Chief Award* for their response to a life-threatening situation. On March 19, 2015, Keesee, Delgado, Sams and a Texas Ranger responded to the DPS office parking lot to help a man who was not breathing. Sam immediately began CPR, while Keesee retrieved a defibrillator from the office. The officers used the defibrillator and continued to perform CPR until the Brownwood Fire Department arrived. The man was ultimately transported to the hospital for treatment.



- **Lubbock Crime Laboratory DNA Section** received a Unit Citation for its significant accomplishments and assistance to colleagues at other DPS crime labs. In 2014, the Lubbock Crime Laboratory DNA Section assisted with the Garland Crime Laboratory caseload and provided accelerated training for the new DNA section supervisor/technical leader at the Corpus Christi lab. **Laura Baker, Gema Guerra, Heather Hall, Brent Hester, Becka Klein, Daniel Lindley, Naomi McDonald, Amber Miller, Kristen Poirier, Yahaira Romero, Amy Snell, Jason White, and David Young** were all recognized as part of the Unit Citation.



In addition to the awards above, **Special Agent Roberto Aguirre**, Criminal Investigations Division in Del Rio, was recognized at 2015 Texas Gang Investigators Association Conference in June. Aguirre was named the organization's *Peace Officer of the Year* for his significant contributions to combating criminal street and prison gangs.



Also, **Trooper Raegan Droddy**, Texas Highway Patrol in Orange, and Grapevine Police Department Senior **Officer Greg Ross** were recognized for competing in the 23rd Annual Commercial Vehicle Safety Alliance North American Inspectors Championship recently in St. Louis. Each year, the Commercial Vehicle Safety Alliance invites member jurisdictions throughout North America to participate in the championship, which is the only event dedicated to recognizing and awarding commercial vehicle inspector excellence. At the competition, Droddy placed sixth overall and Ross placed 17th.

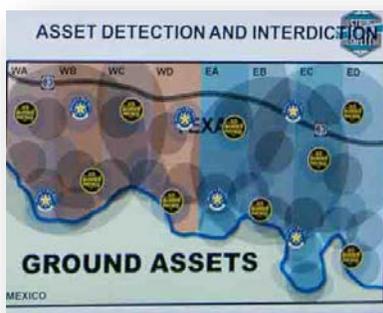


B. Border Priority Information Requirements (Dashboard)

Director Steve McCraw – We are asked to provide a great deal of data to the Texas Legislature and the challenge is to determine what data should be collected and how can we convey that data effectively to the legislature. Originally, no one believed that the gangs were working with the Mexican Cartels until we could provide data to support our anecdotal messages. The numbers on the saturation patrols show that they work. It may be inefficient, but it is working. Over time we are working to end the temporary deployments to the border using the legislature’s funding to build a permanent commissioned force in the border region.



We’re meeting with the LBB tomorrow and this type of data needs to be up to date and accurate. During the session, a House member was looking for specific seizure numbers and we couldn’t get them to him in a timely matter. It is our job to have systems in place to capture the data and present it in a usable and timely manner. We still have a list of things to do, and will continue to update that list as the needs arise.



Col. McCraw continued to show (using non-specific, representative regions and zones) how illustrating our interdiction results graphically tells a more compelling story.

Following his report, Director McCraw added that he is aware of the reaction from the field to his limiting secondary employment for commissioned officers. He stated that he has met with DPSOA President Gary Chandler who relayed the concerns that he is hearing from his members. He noted his primary reasoning for this change in policy were 1. There are only so many hours in a day that a person can work and still be effective, and most of the officers are already working 10 hour days; 2. There are many secondary employment jobs available with companies or organizations that do not reflect well back on the Agency; and 3. Since DPS is the regulatory agency that oversees the private security industry, there can be conflicts of interest for DPS commissioned personnel working for these firms that are regulated by DPS.

V. NEW BUSINESS

A. Report by Texas Department of Public Safety Foundation

Chairman Leon asked the Texas Department of Public Safety Foundation - Executive Director Emily Christy to come forward to provide the report. Ms. Christy introduced a promotional video that their Foundation produced touting the greatness of DPS, outlining the scope and depth of the services that the agency provides and speaks to the dedication and hard work of the personnel. At the end of the video they asked for donations.



When asked by Commissioner Johnson, Ms. Christy reported that the DPS Foundation gave out four \$5,000 scholarships this year. They received 30 applications. She also said that they are organizing major fundraisers in each of the major cities in Texas.

B. Report, discussion, and possible action on Aircraft operations and structure



Director Steve McCraw – in recent years we have substantially increased the capabilities and demands of personnel in our Aircraft Operations. This is a highly skilled and dangerous job. We are very proud of our safety record to date. We take fire from the ground, and have been fortunate to have not seen a disastrous incident so far. We currently do most of our training internally, and there is some value to that. We are tapping into former military pilots. We are recommending that we upgrade the top position of this division from a Deputy Assistant Director to Assistant Director. We are asking for permission to raise DAD Bill Nabors to the level of Assistant Director. The Captain in the RGV, Stacy Holland, is doing

essentially the job that our Majors are doing and would ask that he be elevated as well, and all aircraft positions below one level.

Chief Nabors was asked to give a maintenance update and to explain how deployment to the border or other areas of the state to respond to emergencies; we do our best to adjust personnel and aircraft to accommodate all needs and situations.

Motion made by Comm. Mach and seconded by Comm. Watson. Motion Carried.

- C. Report, discussion, and possible action regarding carrying of weapons at open meetings of the Public Safety Commission**
- D. Report, discussion, and possible action regarding non-commissioned employees carrying of weapons and members of public carrying of weapons in non-public secure portions of law enforcement facilities, Government Code 411.207(c)**

These items will be discussed in Executive Session, and will be voted on following Executive Session

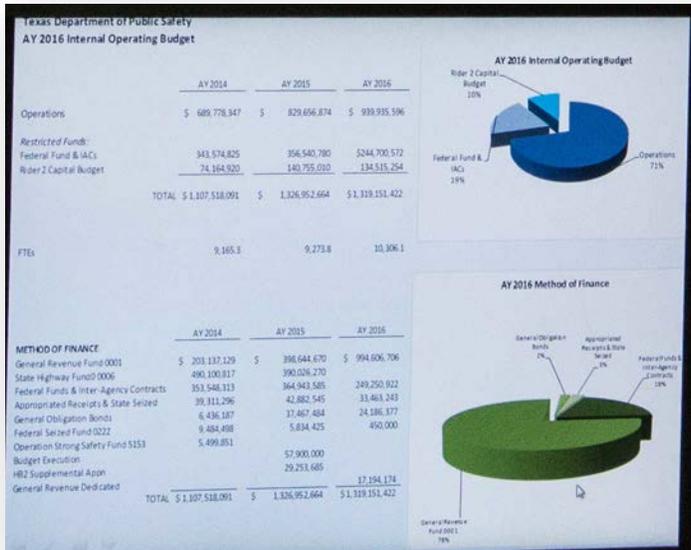
when we reconvene.

E. Report, discussion, and possible action regarding the proposed FY 2016 CAO Audit Strategy

Chief Auditor Catherine Melvin – gave a brief update on the Audit Strategy.

Motion to approve the Audit Strategy by Comm. Johnson, and seconded by Comm. Watson. Motion carries.

F. Report, discussion, and possible action on the FY 2016 Operating Budget



Assistant Director, CFO Suzy Whittenton – Provided an update stating that the budget is increased by \$110 million (13%) primarily due to additional border funding, and expect less in Federal funding. Our budget department put together a book that is available to you (and electronically).

The legislature has requested additional reporting, such as cost containment measures for border funding.

We are limited to a 15% transfer limit from one division to the other (most agencies can transfer up to 25%).

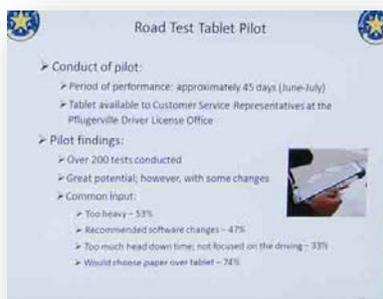
Motion to approve recommendations by Comm. Mach, and seconded by Comm. Watson; Motion Carried.

G. Report and discussion on Drive Test Tablet Pilot



AD Joe Peters asked his staff to provide the report.

Basically, all areas evaluated, including security, efficiency, etc. (over 200 tests) it showed great promise. We did get many comments and suggestions. One complaint regarded too much "head down" time, but it wasn't any more troublesome than the paper version.



Necessarily more than the paper version. The forms are the same and the information is the same so the learning time is very quick. The Toughbook tablet, at 2.5 lbs. was a little cumbersome, but we are looking at the Microsoft Surface, which is less than half the weight. Currently, 77% of the employees questions we not in favor of switching, but we feel that that trend will reverse with the lighter equipment and more familiarity. No action by the Commission was needed.

H. Report and discussion on Contract Update

Assistant Director Amanda Arriaga - Senate Bill 20 codifies the Best Practices Policy as outlined by the Texas Comptroller. It involved areas such as Conflict of Interest, Posting, Retention, and Vendor Performance evaluations. Contracts over \$1 million have to be signed by the Director; over \$5 million require more reporting and documentation; and over \$10 million, the LBB has to be notified.

The General Appropriations Act requires that by October 1, we must provide the LBB with a comprehensive list of all contracts over \$50,000.

The other news:

- SB 20 not only codified various provisions into law, but also made the state Contract Management Guide to have the effect of law.
- The Procurement Director, DAD of Policy & Planning & Assistant Director of Administration now have to certify that we are doing things the right way.

Bottom line: All best practices all of the time

New contract provisions

- **Best Value**
Must be certified by Procurement Director before use
- **Conflict of Interest**
Employees in the procurement process must disclose any conflict of interest with a private vendor.
Employees who are part of a contract negotiation may not work for that vendor for 2 years.
Vendors must disclose relationships with any "interested parties" within the agency.
- **Notice**
Must provide 10 business days notice to LBB before payment on a contract of over \$10M or over \$1M that was not completed

New contract provisions

- **Posting**
Must post on DPS website all contracts, authority to enter into contract, and the related solicitation.
Must post agency contract management handbook and risk analysis procedures.
- **Retention**
Retention period for contracts and related items is 7 years.
- **Vendor Performance**
Agencies are required to review vendor performance at the completion of each contract and add to Comptroller's system.

New contract provisions - Enhanced Guidance

- **Over \$1M**
Develop reporting requirements.
Verify that vendor is in compliance with financial provisions and delivery schedules.
Must be approved and signed by Director
- **Over \$5M**
Director of Procurement must certify in writing that the solicitation and purchasing methods and contractor selection process complied with state law and agency policy
- **Over \$10M**
Provide notice to LBB before payment.
Send to Contract Advisory Team for review

Action Item - Policy & Procedure

- **General Manual** - Updating to reflect all new provisions in law.
- **Standard Operating Procedures** - A step by step process that details how the policies will be implemented.
- **DPS Contract Management Guide** - A user guide for DPS employees detailing contract procedures and processes.

Action item - Enact 37 TAC 1.264

- Move Vendor Protest Procedures from 37 TAC 1.231 to 37 TAC 1.264.
- In addition, clarify the role of the Deputy Directors in the Vendor Protest Process.

I. Report, discussion, and possible action regarding delegation of contract signature authority pursuant to Government Code 2261.254(d)

General Counsel Phil Adkins - Move to have the Director to authorize and sign any contract of \$1 million or more.

Moved by Comm. Mach, and seconded by Watson; motion carried.

J. Report, discussion, and possible action regarding disclosure of financial interest with potential vendors pursuant to Government Code 2261.252(b)

General Counsel Phil Adkins - stated that a sample statement is enclosed in the commission's packets. Discussion to move to Executive Session.

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

1. Amendments to 37 TAC Section 1.129, concerning Fees for Sale of Motor Vehicle Crash Reports in Highway Patrol Field Offices

Chief Luis Gonzales - the proposed amendment will bring us in compliance with bills passed by the legislature.

A motion to publish was made and seconded; Motion carried.

2. Amendments to 37 TAC Section 1.143, concerning Use of Unmanned Aircraft by a Law Enforcement Authority

AD Bill Nabors – just cleaning up a rule required by statute and the FAA guidelines.

A motion to publish was made and seconded; Motion carried

3. Simultaneous repeal of 37 TAC Section 1.231, concerning Procedures for Vendor Protests of Procurements and proposed new 37 TAC Sections 1.262 – 1.264, concerning Contracting

AD Arriaga - We are asking for 3 things in this request to publish in the Texas Register.

Motion made and seconded; Motion to publish carried.

4. Repeal of 37 TAC Section 3.146 and proposed new 37 TAC Section 8.7, concerning Prohibited Weapons

Discussed in Executive Session.

5. New 37 TAC 8.21 and Section 8.22, concerning Unmanned Aerial Vehicles at the Capitol Complex

Commander Joe Ortiz – we had 6 incidents last year, with two unmanned aerial vehicles crashing on the capitol grounds.

A motion to publish was made and seconded; Motion Carried.

6. New 37 TAC Chapter 12, concerning Compassionate-Use/Low-THC Cannabis Program

Taken first on the agenda. Assistant Director Renearl Bowie – Texas Compassionate Use Bill (SB 399). We began getting calls immediately asking when the citizens can start growing marijuana. The rules have to be in place by December 1, which is a tight timeline. September of 2018, DPS should have 3 facilities up and running. I ask that this be published in the Texas Register.

Commissioner Flores relayed a personal story of how this rule can have a positive effect on the citizens of Texas and made the motion to approve. Seconded by Comm. Watson. Motion carried to publish in the Texas Register for comment.

7. Amendments to 37 TAC Sections 35.181 – 35.183 and new Section 35.185, concerning Active Military and Spouses – Special Conditions

8. Simultaneous repeal of current 37 TAC Chapter 36, concerning Metals Registration and proposed new 37 TAC Chapter 36, concerning Metals Recycling Entities

Assistant Director Renearl Bowie – Both 7 & 8 rule changes will bring us into compliance with changes brought about by the Texas Legislature.

A motion to publish was made and seconded; Motion Carried.

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

Discussed in Executive Session

VI. ONGOING BUSINESS

Reports, discussion and possible action regarding the following:

A. Update report, discussion and possible action regarding recruitment

Assistant Director Frank Woodall – Education Training and Research – We are currently in our 154th Academy and have 103 still remaining in the C-15 class that will be graduating this December.

We are currently recruiting for the A-16 and B-16 schools, and have received 2316 applications for A-16, and 300 applications for the B-16 class. AD Woodall stated that there are plans for four full academies in 2016. Commissioner Watson asked where they were going to put them all. AD Woodall replied that renovations on the top two floors of the dormitory are underway and should be able to accommodate everyone.

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

1. Amendments to 37 TAC Section 15.54, concerning Vehicle Inspection

AD Joe Peters – we published the rule and received no comment.

A motion to adopt was made and seconded; Motion Carried.

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

Nothing to discuss at this time.

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

Nothing to discuss at this time.

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

To be handled in Executive Session.

VII. REPORTS

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

No additional reports to be made.

VIII. 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.** Advice and consent regarding the Director's determination that certain probationary employees were found unsuitable for work during June and July
- 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 Rangers: Steven R. Anderson, Scott J. Garrison, James A. Lea, Manuel A. Lozano, James L. Kincheloe, Charlie S. Ramirez, Robert S. Ripps, and Michael B. Wilson

C. Donations:

1. Ten pieces of exercise equipment – THP, Abilene
2. Additional donation items, as needed

Chairman Leon asked Deputy Director Baker if there was any controversy surrounding any of the consent items. DD Baker said that there was no controversy.

A motion to approve A, B, & C consent items was made and seconded; Motion Carried.

IX. ITEMS FOR FUTURE AGENDA

None.

X. DATE FOR FUTURE MEETING

Any discharge hearings will be scheduled on October 14, 2015, and the regular Public Safety Commission meeting is scheduled for October 15, 2015.

XI. 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

Adjourned to Executive Session: 11:56 am.

XII. 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

