



Public Safety Commission Meeting
February 22, 2011 10:30 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

The Commission will go to the Crime Lab for the Dedication at this time

10:30 am - Chairman Polunsky called the meeting to order. In attendance: Chairman Allan Polunsky, Commissioners Carin Barth, Ada Brown, John Steen, and Cynthia Leon. Also present were Director Steve McCraw, Dep. Director Lamar Beckworth, Chief of Staff Duke Bodisch, and General Counsel Phil Adkins. A quorum was present. Deputy Director Cheryl McBride joined the meeting later in the day.



The Commission left the meeting room to go to the Crime Lab for the Dedication.

11:47 am The Commission returned from the Crime Lab dedication and tour and resumed the meeting.

II. APPROVAL OF MINUTES

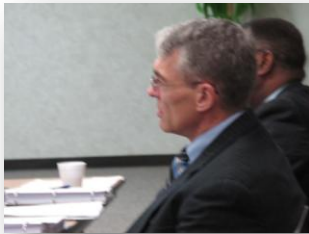
A motion and second was made and the minutes were approved unanimously.

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)

Chairman Polunsky asked if there was anyone who wished to comment.

None

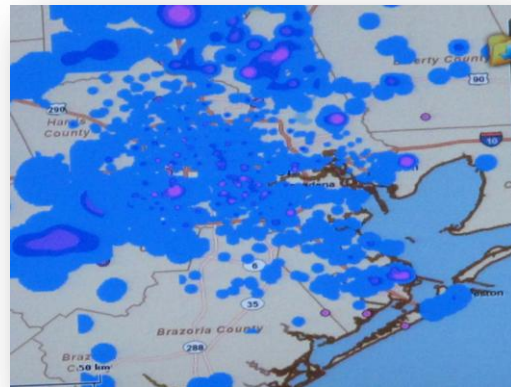
IV. DIRECTOR'S REPORT



Steve McCraw gave a demonstration of TXMAP that enables the Department to graphically show cartel activity, border incidents, seizures, trooper location, commercial vehicle crossings, etc. All of this information is available in real time. In 2010, \$1.2 Billion were seized in drug money. This enables us to look at cross jurisdictional information. This has been a great tool when testifying at the Capitol in that we can pull up a specific Senate or House District and show real time information. Tomorrow we will be testifying before the Transportation and Homeland Security Committee. Houston has shown a 162% increase in gang

activity. These activities have an impact on the community. This is criminal activity, but does not necessarily show up in all of the statistics because it is not criminal violence. "Spillover violence" that is tracked closely, does not give the complete picture.

The PSC approved our budget (LAR), and our exceptional items request. We will continue working with the legislature to get these passed. The hearing tomorrow is to consider our 20 exceptional items request. We have been and will continue to be very transparent and candid in our testimony. We have arrested over 32,000 criminals. Based on the threat that we are facing today, we need to do more rather than less. Over the last 10 years, the state has grown by 5 million people, but we have not expanded our DL personnel facilities. We are working very hard to improve our service, but it is going to take money. We will need mega-facilities in Houston, Dallas, San Antonio and Austin. 27% of our facilities are processing 85% of the requests. Yet there is a demand to maintain our mobile offices.



V. NEW BUSINESS

A. Report, discussion and possible action regarding Continuance Plan at the Department of Public Safety

No Report

B. Report, discussion and possible action regarding creation of a foundation to benefit the Texas Department of Public Safety

Chairman Polunsky said that this is a subject that Director McCraw and I have discussed for the past couple of months. We have been looking at other agencies, specifically the Parks and Wildlife Foundation, that is very robust. We already have the museum foundation that is not doing very much. Our idea is to raise funds that will benefit our employees and their families. I think that this is a very good idea, and just wanted to bring this to the Commission for discussion.

Director McCraw said that he has met with TPWD Executive Director Carter Smith and Game Warden Col. Pete Flores with the Game Wardens, and they have been very effective in raising funds and they even pay for a dorm and their academy.

Chairman Polunsky said that he feels that it would be a very noble endeavor. Comm. Leon asked if it would be like the Ranger Foundation and if so she would be in favor. Chairman Polunsky said that it would be the same idea, but on a broader sense. Comm. Brown agreed as did Comm. Barth.

Chairman Polunsky said that he would suggest putting a blue ribbon group from across the state to lead the Foundation and that he has someone already in mind (who he has not yet approached) to lead the Foundation. Comm. Steen asked the Director to look into if there were other states who have pursued such foundations. The Chairman said that there is enough agreement to continue to look into the formation of such a foundation.

C. Report, discussion and possible action on the Department of Public Safety gift policy and reporting requirements

Chairman Polunsky asked Commissioner Steen to report. The ethics policy is under review. Director McCraw said that we contract with a company through a grant to review many of our policies, and they are looking at our ethics policy. It is very consistent with the International Association of Chiefs of Police and the Standard for Public Employees. Comm. Steen said that he is specifically interested in reporting standards. Director McCraw said that there is currently a \$50 reporting requirement. General Counsel Phil Adkins said that gifts over \$50 are illegal to accept, but he does not know of any specific reporting policy.

D. Report, discussion and possible action on TxDOT median dividers and effectiveness in deterring vehicles crossing over and law enforcement turn around areas

Assistant Director David Baker, Texas Highway Patrol. The 78th Texas Legislature authorized \$3 Billion in bonds to improve highway safety, including cable barrier systems. The majority of the cables are category 3, which are capable of sustaining an impact by an 1800 lb vehicle (car) at a 20 degree angle at 60 mph, and a 4400 lb vehicle (truck) at a 25 degree angle at 60 mps. In 2009, TxDOT asked DPS for specific points for crossovers. We asked our Sergeants to travel the state and report GPS locations for crossovers. We have requested some 200 crossovers, and so far 52 crossovers have been installed. These cables have proven very effective in almost eliminating crossover fatalities where they were installed.

Chairman Polunsky asked how we can make TxDOT more responsive to our requests. Col. McCraw said that the dialogue needs to take place in the planning stages. Comm. Steen suggested that Director McCraw and Chairman Polunsky should meet with Executive Director Amadeo Saenz of TxDOT. to improve the communication.

The Commission asked for a monthly update on this issue.

The Commission also asked AD Baker to give an update on the taser holster problems being reported. The cost to replace the holsters will be \$38,000 which will be covered by grant money.

E. Report, discussion and possible action regarding the adoption of proposed amendments to Private Security Rules: 35.46, 37 TAC Sec. 35.46, concerning Guidelines for Disqualifying Convictions; Rule 35.93, 37 TAC Sec. 35.93, concerning Penalty Range; Rule 35.142, 37 TAC Sec. 35.142, concerning Application for a Security Officer Commission; Rule 35.181, 37 TAC Sec. 35.181, concerning Employment Requirements; Rule 35.186, 37 TAC Sec. 35.186, concerning Registration Applications; Rule 35.292, 37 TAC Sec. 35.292, concerning Requirements for Continuing Education Courses

Assistant Director Ren Earl Bowie – Regulatory and Licensing - The Private Security Bureau has recommended changes that we have reviewed and recommend for adoption. Michael Samuel (VP of the Private Security Board) was asked to clarify why people with serious felony convictions (molestation, rape, counterfeiting, etc.) would only have to wait 10 years to apply for a Private Security License (and not be permanently barred. Mr. Samuel said that this was set statutorily by the Sunset Commission and Sen. Whitmire was instrumental in drafting the language due to his penchant for giving second chances.

A motion was made and seconded to defer decision, and Comm. Brown has been named to meet with the Private Security Bureau to clarify their reasoning behind their language. The motion passed unanimously.

F. Review of pending contract renewals/change order/award

- Helicopter Simulator Training (ERA Training Center)
- Helicopter Maintenance (RAMS Aviation)
- Helicopter Maintenance (Superior Aviation Services, Inc)
- Helicopter Flight Training (American Eurocopter Corporation)
- Helicopter Training for Initial and Recurrent Pilots (Longhorn Helicopters Inc)

Assistant Director Valarie Fulmer said that these request fall under the policy for renewing larger contracts. This is for information only, no action required.

VI. 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 at 1:13 pm.

Chairman Polunsky reconvened the PSC Public Meeting at 5:55 pm.

VII. ONGOING BUSINESS

Reports, discussion and possible action regarding the following:

A. Committee report and discussion on 28-day work cycle and Overtime and Compensator

Chairman Polunsky- Commissioner Brown called Lt. Jimmy Jackson and Lt. Randy Jones to make the presentation for the Committee.

Lt. Jackson explained that the agency has elected to use a 28 day, 160 hour work cycle to comply with the Fair Labor and Standards Act (FLSA) guidelines. The first 11 hours over 160 hours (160 – 171) is compensated with “compensatory time” (Comp time, hour for hour). The employee will be compensated (monetarily or time) for hours worked beyond 171 at time and a half.

If overtime is not taken within the 12 months from when it is incurred, cash payment must be made at the current rate of salary. A maximum accrual of 480 hours application of the time and one-half rate. This 480 hours of maximum accrual is arrived at by multiplying 320 hours X 1.5 = 480 hour.

Any paid leave or holidays taken are not counted as hours worked in determining overtime hours.

Lt. Jackson went on to illustrate various scenarios as they would work in practice on an HP timesheet, pointing out that if a trooper took a week and a half of vacation in the first two weeks of the 28 day cycle and then had to work a hurricane or other such disaster at 80 hours for each of the last two weeks, that trooper would only be paid at time and a half for 5 hours of overtime at time and a half despite having worked 80 total hours of overtime.

The commission had no questions, and Commissioner Barth thanked Lt. Jackson and Lt. Jones for their presentation and for their hard work on the Committee.

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

Due to the late hour, Chairman Polunsky suggesting deferring most of the rest of the agenda to next month's meeting (with the exception of the consent items acted on in agenda item number IX).

Tabled until the March PSC meeting.

C. Update 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

Tabled until the March PSC meeting.

- D.** Follow up report, discussion and possible action regarding Legislative initiatives for modification of the provisions of Government Code 411.244 DPS Office of Inspector General

Tabled until the March PSC meeting.

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

Tabled until the March PSC meeting.

- F.** Report, discussion and possible action on the Fiscal Year 2011 Operating Budget

Tabled until the March PSC meeting.

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

Tabled until the March PSC meeting.

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

Tabled until the March PSC meeting.

- I.** Report, discussion and possible action on costs of incinerator burning and options to include DPS reimbursement

Tabled until the March PSC meeting.

- J.** Report, discussion and possible action regarding the adoption of proposed new Rule 15.49, 37 TAC Sec. 15.49, concerning the requirement of proof of domicile before the issuance of a non-commercial driver license or identification certificate

Tabled until the March PSC meeting.

- K.** Report, discussion and possible action regarding the adoption of proposed new Rule 16.15, 37 TAC Sec. 16.15, concerning the requirement of proof of domicile before the issuance of a commercial driver license

Tabled until the March PSC meeting.

- L.** Report, discussion and possible action regarding the adoption of proposed amendments to Rule 15.163, 37 TAC Sec. 15.163, concerning the removal of the inclusion of future surcharges in the Amnesty and Indigency Programs

Tabled until the March PSC meeting.

VIII. REPORTS

- A.** Commission member reports and discussion

Tabled until the March PSC meeting.

- B.** Finance Report

Tabled until the March PSC meeting.

- C.** Audit & Inspection Report

Tabled until the March PSC meeting.

D. Division status reports on activities and action

Tabled until the March PSC meeting.

IX. CONSENT ITEMS

A. Discussion and possible action on the Director's Action of discharging probation an employee Tyler Broughton and Dan R. Jones, III

B. Discussion and possible action on appointments of Special Rangers and Special TexRangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024: Special Rangers – Barry Detlefsen, Robert Wade Ford, Roger Maynard, Arturo Munoz,

Jr., James M. Walker, Rex A Walker; Special Texas Rangers – Charlie Havrda; National Insurance Crime Bureau Applicants – Juan J. Aguilar and Anthony A. Harrison

C. Discussion and possible action on adoption of proposed rules for publication:

—. Proposed new Rule 1.44, 37 TAC Sec. 1.44, concerning Legislative Leave Pool

D. Discussion and possible action to approve the donation of six (6) OBR 7.62 Tactical Assault rifles to the Department for use by the Texas Ranger Division SWAT Team

*Motion made and seconded to approve consent items IX, A,B,C, & D.
Approved unanimously.*

X. ITEMS FOR FUTURE AGENDA

None (except for the median barrier issue discussed earlier).

XI. DATE FOR FUTURE MEETINGS

March 24, 2011 is the scheduled, date, but Chairman Polunsky suggested meeting earlier in March. No date was selected.

XII. ADJOURN

Chairman Polunsky adjourned the meeting 6:11 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