



Public Safety Commission Meeting

June 16, 2011, 9:30 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

9:38 am - Chairman Polunsky called the meeting to order. In attendance: Chairman Allan Polunsky, Commissioners Carin Barth, Ada Brown, and Cynthia Leon. Commissioner John Steen arrived at 9:50 am. Also present were Director Steve McCraw, Dep. Director Lamar Beckworth, Deputy Director Cheryl McBride, Chief of Staff Duke Bodisch, and General Counsel Phil Adkins.

II. APPROVAL OF MINUTES

Motion made by Commissioner Brown, and seconded by Commissioner Barth, to approve the Minutes. 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)

Michael Samulin – I'm here to commend the Department regarding the great improvements in the Drivers License Division. I'm usually here to represent the Texas Burglar & Fire Alarm Association. My 85 year old mother went to get her new ID (she no longer drives), and was greeted by happy, helpful people and given a number. The elderly are given a priority number and she was in and out of the office in 30 minutes or less and very happy with the experience. I commend AD Rebecca Davio for all of her great efforts in improving the division.

Chairman Polunsky also thanked Director McCraw for his leadership in these improvements. Commissioner Barth also thanked AD Davio and others in the Department for their efforts in these strides to improve the Division, especially in the acceptance of credit cards in payment, an issue that she had requested.

IV. DIRECTORS REPORT

Director Steve McCraw – Began by attesting that for the purpose of ethics disclosure, he did not buy lunch for or in any other way entice Mr. Samulin to testify this morning regarding the Drivers License Division.

As a follow up to the discussion of the improvements to the DL Division, he noted that Deputy Director Cheryl McBride, in contracting with an outside vendor, has shortened the "out the door" delivery time for the production of the Drivers Licenses to seven days. This is a great improvement.

Director McCraw gave an update regarding the June 9, 2011 confrontation with a Mexican cartel on the border. The cartel operations are becoming increasingly confrontational, putting both law enforcement officers and the general public in greater danger. They are increasing their surveillance on both sides of the border, and utilizing a technique that we refer to as “splashdown” in which, when confronted by law enforcement, they are instructed to head south to the border immediately and proceed to pre-determined and scouted areas where they drive their stolen vehicles and their contraband directly into the river. Once the river is reached, cartel “agents” from the Mexico side of the border jump into rafts and boats and try to retrieve the “merchandise”. On June 9, Border Patrol agents were shot at trying to stop these runners. LCOP and Ranger Recons spotted a suspicious red Dodge Durango. When the Durango made a splashdown, two Texas Parks and Wildlife (Game Warden) boats with Texas Rangers on board, and one Border Patrol boat made the scene. Initially the suspects threw rocks at the boats, but soon opened fire.

The same day, a very similar incident took place, but DPS was able to stop the perpetrators before entering the river and recovered 1,200 lbs. of marijuana. This is just an example of what takes place every day along the border and how it is becoming more confrontational and dangerous.

Chairman Polunsky said that he went to the border the next day to see the situation first-hand and attend a press conference. He referenced a media questioning the show of force by the Department, and he said that he wanted to make a statement for the record that if any of our officers is in a life or death situation, there is no limit on the number of bullets that can be used to defend oneself. A single shot at one of our people warrants a full response. There is no requirement that they first must be under heavy fire. There really does not need to be a shot fired from a suspect, only the clear and present danger of a critical threat. DPS is not going to play a “politically correct” game of apologizing for use of force in these dangerous incidents, and any suggestions of using restraint in such situations is absurd. It is a dangerous situation down there and no one should minimize that danger.

V. NEW BUSINESS

A. Renaming ceremony of State Operations Center to the Jack Colley State Operations Center

Chairman Polunsky – adjourned the meeting to move over to the State Operations center for the dedication in the name of Chief Jack Colley.

Director McCraw and Chairman Polunsky shared stories about the larger than life character of Jack Colley, and outlined his enormous contributions to developing the state’s emergency response team. His son, Chris Colley, spoke of his father and his dedication to his country, the state of Texas and to DPS. His daughter, Jennifer Colley, thanked all in attendance for their support. Chairman Polunsky read a proclamation signed by Governor Perry.



Col. McCraw & Chairman Polunsky



AD Nim Kidd & Col. McCraw



Chris Colley (2nd from the right) trades stories with Chairman Polunsky, Col. McCraw, & AD Kidd. Jennifer Colley is on left with her fiancé.



Jack Colley had many infamous “Colleyisms” including “This ain’t Rhode Island” as illustrated to scale on the mural detailed above.

B. Discharge Appeal Hearing and possible action regarding DPS employee Reginald Norman

Chairman Polunsky – deferred to the next PSC Meeting.

C. Semi-annual update report, discussion and possible action on EEO/Sexual Harassment

Major Rhonda Fleming – under state law, every new employee must take EEO training within 30 days of hire, and all 8309 employees must take review EEO training every two years. We have had 147 allegations of sexual misconduct reported and 49 have been sustained. One in three adults have experienced workplace bullying, and we have a committee formed that is studying possible changes or additions to our policy manual. I would like to publicly thank everyone that helps me to do my job.

Commissioner Steen asked if the Department is making progress on sexual harassment. Maj. Fleming said that she feels that we are making progress, and hopes that it is the raising of the awareness and not just a lack of reporting.

D. Report, discussion and possible action on North Texas Toll Authority contract including ensuring the Department is receiving full compensation for service provided

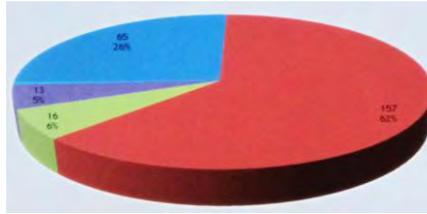
AD Steve Goodson – I have initiated an audit at the PSC request and have identified areas where the cost costs could exceed the reimbursable rates. I anticipate, following fieldwork, to have a report for the Commission by August 30, 2011.

Chairman Polunsky said that he feels that it will be determined that the DPS services to the NTTA have been under reimbursed for those services. He instructed AD Goodson to look at all of the toll authorities that we are contracted with.

Additional Report for Audit and Inspections:

We have received status updates on 100% of open audit and inspection issues in follow-up. Below is the current status of the 252 issues as of this month:

65 - 26% Implemented
157 - 62% In Progress
16 - 6% Delayed
13 - 5% Withdrawn
1 - <1% Not Implemented



Who audits the auditors? This question was asked. AD Goodson selected auditors from the Texas Lottery Commission and from the Texas Attorney General's Office for this auditors audit.

The Commission recommended that AD Goodson not be involved in selecting the auditors that will audit his division. AD Goodson will pursue that.

E. Report, discussion and possible action on Department generators

Assistant Director Nim Kidd – Division of Emergency Management – Showed a slide of all facilities within 150 miles from the coast. I would like to make a recommendation that we look at the power of the generators for each facility and evaluate whether they are adequate to power the entire building.

Chairman Polunsky asked if there was a brownout today, would the HQ campus have problems. AD Kidd said that yes we would. It was stated that the

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

- 1. Helicopter Flight Training and Parts, Labor and Repair Services (American Eurocopter Corporation) - Award of New Contract**

AD Valarie Fulmer – We only had one contract and it was approved by the review board and Commissioner Barth. This is not an action item.

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

Chairman Polunsky adjourned to executive Session at 11:39 am.

Reconvened at 4:13 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 Compensatory Time policy

Commissioner Brown – nothing to report at this time.

- 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

Passed

- 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

- 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

Inspector General Steward Platt – The bill has passed and is waiting for the Governor’s signature.

Commissioner Steen asked how the Inspector General’s office is shaping up.

Gen. Platt said that things are progressing nicely, and training is continuing. We have a good staff, but could use more than the four administrative support staff. He stated that the investigation times are quicker, and Comm. Steen asked if that is a metric by which his office should be judged. AG Platt said that it is certainly a metric that should be tracked, but it is not necessarily the most important metric in that some types of investigations will necessarily take longer, such as an EEO cases with 30+ witnesses.

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

Discussed in Executive Session.

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

Assistant Director Hudson – We have a remaining balance in our current Operating budget of \$9 million. We currently have 375 vacancies, and after the recruits graduate we will have approximately 343 vacancies. Chairman Polunsky commended Col. McCraw, both Deputy Directors, Amanda Arriaga, and really all of the members of the DPS for the wonderful work done at the Legislature and it is breathtaking how well the session seems to be turning out.

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

Assistant Director Hudson – We currently have \$12.5 million in seized funds, and we have two requests for weapons and water craft.

Commissioner Barth moved to approve the use of seized funds. Seconded by Comm. Brown. No discussion. Passed unanimously.

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

Captain Jason Hester – We currently have 181 candidates in the process, and 32 in the graduating class. Chairman Polunsky asked when the B-2011 class will begin, and Capt. Hester responded that he can’t really tell specifically, but it will be as soon as we get 60 qualified candidates through the process. Col. McCraw is considering raising the number in each recruit classes up to 80, to try to get 50-60 to graduate.

Comm. Steen asked about the impact of the retire-rehire program. Col. Beckworth and I have discussed taking care of hardship duty stations first, and then consider moving it on to other areas. They would have to demonstrate that they are someone who we would like to have back and that can contribute in a real way. The only thing holding it up is ending the session and having our plan solidified so that we do it correctly. Chairman Polunsky asked to have a report for the July meeting.

- I.** Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

Paula Logan – Nothing to report at this time

- J.** Follow-up report, discussion and possible action regarding creation of a foundation to benefit the Texas Department of Public Safety

Chairman Polunsky – the PSC sent out a letter to the Foundation stating that not including members of the PSC on the Board of Directors could not be valid since none of the PSC members authorized it.

- K.** Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements

Col. Steve McCraw – I would like to add this to the next meeting. Comm. Steen stated that he appreciates the dialogue and would like to continue being involved.

- L.** Status report, discussion and possible action on TxDOT median dividers and effectiveness in deterring vehicles crossing over and law enforcement turn around areas

Assistant Director Baker – The number of crossovers currently installed remains at 71, while the number requested dropped from 268 to 243 currently. The San Antonio region of TxDOT has several requests that they have agreed to, but asked if we could be patient and wait for the new fiscal year's funding (September).

- M.** Follow up report, discussion and possible action on Chief Auditors Office Open Issues – aging and corrective action

Previously covered.

VIII. REPORTS

- A.** Commission member reports and discussion

Chairman Polunsky - Asked for any Commission Reports: None

- B.** Finance Report

Nothing further to report.

- C.** Chief Auditors Office Report

Nothing further to report.

- D.** Division status reports on activities and action

- *Administration – Nothing further to add to my report*
- *CID – Nothing further to add to my report*
- *Drivers License – Nothing further to add to my report*
- *Emergency Management – Nothing further to add to my report*
- *Government Relations – Nothing further to add to my report*
- *Highway Patrol – Nothing further to add to my report*
- *Information Technology – Nothing further to add to my report*
- *Intelligence and Counterterrorism – Nothing further to add to my report*
- *Law Enforcement Support – Nothing further to add to my report*
- *Office of the Inspector General – Nothing further to add to my report*
- *Regulatory Services – Nothing further to add to my report*
- *Texas Rangers – Nothing further to add to my report*

IX. CONSENT ITEMS

- A.** Discussion and possible action on the Director's Action of discharging probationary employee Meghann Presley
- B.** Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024: Special Ranger: Roy G. Duff, Jerrell T. Jolley, Howard K. Malone, Glen Redmon, Antonio Rodriguez, Patrick Williams; Special Texas Ranger: Antonio Leal III
- C.** Discussion and possible action approving a donation of a .338 sniper rifle with scope to the Texas Ranger Swat team. Value of the rifle is approximately \$8000.

Chairman Polunsky asked if any of the rules need to be reviewed separately. Col. Beckworth stated that we are good to go on all three.

Motion to approve AB&C made by Comm. Leon and seconded by Comm. Brown. Passed unanimously.

X. ITEMS FOR FUTURE AGENDA

Comm. Barth asked for three items:

- 1. Follow up on selecting an Audit Team for the Audit and Inspection Division.*
- 2. Report on MSB's effectiveness in collecting fees and surcharges*
- 3. Report from AD Nim Kidd on progress related to discussions with Electric utilities for our operations and on-site generators.*

Col. Beckworth asked for two items:

- 1. A discussion of access passes to the State Capitol as approved by the passage of HB 2131 for the purpose of approving rules.*
- 2. A discussion of weigh station operations.*

XI. DATE FOR FUTURE MEETINGS

July 24th is tentatively scheduled for the next PSC Meeting.

XII. ADJOURN

Chairman Polunsky adjourned the meeting at 5:10 PM.

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items

Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney

Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties, discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071

Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations

Government Code Sec. 551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person

Government Code Sec. 551.073 Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person