



Public Safety Commission Meeting

May 17, 2012, 9:00 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

9:07 am – Chairwoman Cynthia Leon called the meeting to order. In attendance: Chairwoman Cindy Leon, Commissioners Allan Polunsky, Carin Barth, and John Steen. Not present was Commissioner Ada Brown. Also present were Director Steve McCraw, Deputy Director David Baker, Deputy Director Cheryl McBride, and General Counsel Phil Adkins.



II. DISCHARGE APPEAL HEARING

Continuance of Discharge Appeal Hearing and possible action regarding DPS employee Michael Deck

The defense stated that they were not ready since they had not received a formal notice and therefore it would be against his constitutional rights to hold the hearing today. DPS Counsel disagreed and said that he has record of numerous notifications. After much back and forth discussion, Comm. Steen made a motion to continue the hearing until next month. Seconded by Comm. Barth. The PSC voted 3-1 in favor of the continuance, with Comm. Polunsky voting no. June 21, 2012 is set for the next PSC Meeting and the defense counsel acknowledged that he had received official notice of the hearing on that date.

PSC took a 10 min. break, and reconvened at 9:35.

III. APPROVAL OF MINUTES

Motion made by Commissioner Steen, and seconded by Commissioner Barth, to approve the Minutes. Passed Unanimously.

- 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 asked if anyone wished to make public comment. There was no response.

V. DIRECTORS REPORT

A. Presentation of Awards

Three DPS employees were awarded for their service:

Director McCraw first awarded a Purple Heart to Trooper Justin Duck who sustained serious personal injuries while conducting a traffic stop in NW Harris County.



Director McCraw presented the Director's Citation to the Education and Training Division's Fitness Unit and Sgt. Robert Greg Davis for their development and implementation of our fitness program as well as its continuing improvements.



On Sept. 4, 2011, the Bastrop wildfires burned out of control, and nine DPS troopers were on hand to accept the award who worked 12-14 hours a day while some of their own homes were in harm's way. Bastrop District 6B07 received the Director's Citation for their above and beyond service during this crisis.

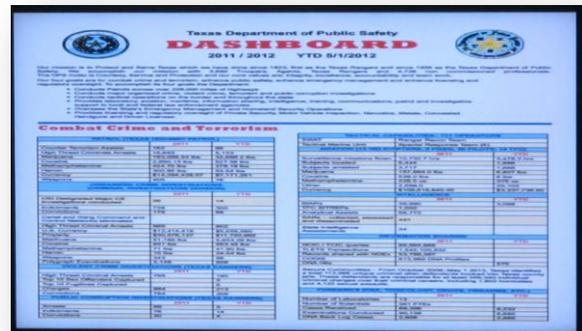


B. DPS Dash Boards

Director Steve McCraw – One thing that the Department has adopted is some form of dashboard to help us track and report data effectively and efficiently. We monitor a massive amount of data, and dashboards help us to view a manageable snapshot of the data for an understandable overview. These also help us to identify certain patterns. There is nothing secret about this data, and it provides transparency and helps us to monitor where we are with respect to our goals and mission. Comm. Steen asked if we could make the document and information available to the audience at the meeting.

We have considered posting this data on our DPS website. For example on the baseline data from 2008 – 2012, there has been a 57% increase in seizures by the Department. Comm. Barth stated that the Department can back up the data to the legislature and the media, because every number reported will fall under scrutiny.

Dir. McCraw also stated that we are now making data driven decisions to not only support tactical operations but also for strategic planning. We are using evidence based policing based on real data. Chair Leon suggested some footnotes and also adding definitions



See link to full Dashboard documents in the email.

Comm. Steen congratulated the Director for his report and on the data collection and reporting project.

Comm. Steen also suggested culling the data down further to truly represent a public friendly dashboard highlighting the 10-15 most important statistical data points. Dir. McCraw agreed with the idea and said that that could be easily done focusing on the tier 1 threats and other critical data.

C. Report regarding Director's testimony and committee meetings

Director Steve McCraw – Senate Criminal Justice Committee meeting on April 11, 2012. The Mexican Cartel is merely walking contraband across the bridges. Sen. Hinojosa brought up the peso laundering, so our charge is to further infiltrate and learn all we can about the new techniques.

The House Joint Committee Meeting in April, Chaired by Rep. Senfronia Thompson and focused on human trafficking. We don't have a way to centralize the data regarding this criminal activity. Defining human smuggling and human trafficking is very important. Human smuggling does not involve being preyed upon, whereas human trafficking does. The only way to capture the proper data is to collect data at the national level which begins at the arrest. Human smuggling takes place by cowardly thugs and often evolves into trafficking when they victims are forced into indentured services, often to pay off their debt. They cannot just walk away, because the traffickers will go after their families.

Senate Transportation and Homeland Security Meeting Chaired by Sen. Tommy Williams in April and focused on drivers license and identification cards as they relate to border security. He asked us assess the cost involved to open offices on Saturdays from 9:00 – 3:00 to better handle the flood of requests. Comm. Barth asked, personnel issues aside, to make sure that we do not have lease contractual issues with opening offices on Saturdays at all of our offices.

Another issue raised at this meeting was whether DPS needs to be conducting the driving tests. Chairman Philips had concerns about discontinuing the testing, but we will go back and provide more information so that they will be able to make an informed decision. Comm. Barth maintains that the driving tests are a big bottleneck in the system, and if the schools test the students, we should not have to re-test them.

Deputy Director Cheryl McBride stated that DPS has a focus group working on these questions and hope to have recommendations soon.

Comm. Steen expressed his concern that the issuing of a permit to drive is a grave responsibility and that we should be cautious about training schools incentives to pass students regardless of their abilities.

Director McCraw also testified before a Congressional committee regarding border security.

VI. NEW BUSINESS

A. Report, discussion and possible action regarding discharge appeal hearing process and scheduling

Chair Leon – In an effort to be more efficient we are looking at different ways to conduct our meetings, such as holding discharge hearing grouped during one month (with perhaps fewer Commissioners present). General Counsel Philip Adkins said that we have 12 cases, but we will not hear one a month, but rather, last year for example, we had 5 discharge hearings. Comm. Steen asked if it was statutorily required that we spend a maximum of 2 hrs. per hearing Perhaps we could spend less time per hearing and maybe hold up to 4 hearings in one day. Comm. Steen suggested the PSC could not afford to go two months without a routinely scheduled meeting, so a specially called meeting for discharge hearings could help catch up the backlog of hearings.

Comm. Polunsky said that he does not disagree with what is being discussed and it would help in the short term, but perhaps going to the Legislature for considering moving these hearings out of the Department and place them in some other venue such as State Office of Administrative Hearings (SOAH). Comm. Steen said that holding the hearings during the monthly meeting ties up a great deal of the high level DPS staff during the hearings.

- B.** Report, discussion and possible action regarding communications from Texas Facilities Commission regarding leasing practices

Chair Leon asked to discuss this after Executive Session.

Following Executive Session, Chair Leon asked for a letter to be prepared in response to the Texas Facilities Commission's letter, and asked that Mr. Williamson be invited to provide an update for the May Public Safety Commission Meeting.

- C.** Report, discussion and possible action regarding the Department's evaluation and discipline of DWI offenses for commissioned and non-commissioned personnel

Deputy Director David Baker – In response to Comm. Steen's request stated that we take DWI very seriously. It is DPS policy to fire commissioned officers for a DWI arrest but we do not automatically fire non-commissioned personnel for DWI arrests. In 2011, we had 8 non-commissioned personnel and 2 commissioned officers arrested for DWI. In Texas, TCLEOSE Administrative rules mandate a Class B misdemeanor and suspension of the commissioned license for a minimum term of 30 days and a maximum of 10 years. Many other states (neighboring) do not mandate a suspension of the law enforcement license for DWI. Colorado is the exception, and does terminate commissioned officers for DWI arrests. Comm. Steen recommended considering similar policies for non-commissioned officers, with a zero tolerance position agency wide (both commissioned and non-commissioned personnel dismissed for DWI arrest).

Inspector General Stuart Platt

- D.** Report, discussion and possible action regarding the adoption of proposed new Private Security Rule: Rule 35.47, 37 TAC Sec. 35.47 concerning Residential Solicitation, as previously published in the Texas Register

RenEarl Bowie, Assistant Director, Regulatory Services Division – asked for a vote to adopt rules listed in items D & E. A motion was made by Comm. Polunsky and seconded by Comm. Steen. Approved unanimously.

- E.** Report, discussion and possible action regarding the adoption of proposed amendments to Private Security Rules: Rules 35.63 and Rule 35.70, 37 TAC Sec.

35.63 and Sec. 35.70 concerning General Administration and Examinations; Rule 35.93, 37 TAC Sec. 35.93 concerning Penalty Range; Rule 35.221, 37 TAC Sec. 35.221 concerning Qualifications for Investigations Company License; and Rule 35.256, 37 TAC Sec. 35.256 concerning Application for a Training Instructor Approval, as previously published in the Texas Register

Approved as stated above.

- F.** Report, discussion and possible action regarding criminal investigations as provided by Government Code 411.0041. This item may be presented in Executive Session.

Chair Leon asked to discuss this item in Executive Session.

- VII. 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

Chair Leon adjourned the meeting to executive session, at 11:36 am.

Reconvened, 1:35 pm.

VIII. ONGOING BUSINESS

Reports, discussion and possible action regarding the following:

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

Chair Leon tabled this item since Comm. Ada Brown was not present and was very involved in this issue.

- B.** 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 Steve McCraw – said that he had nothing new to add. Comm. Barth had several suggestions which Dir. McCraw said he would incorporate the changes.

- C.** Update, report, discussion and possible action on the presentation of the Office of Inspector General 2011 Annual Report of Operations and OIG resource allocations/regional assignments of personnel

Chair Leon tabled this item since Comm. Ada Brown was not present and was very involved in this issue. Comm. Steen asked later of IG Platt if this puts in jeopardy our verbal agreement for TxDOT for a favorable lease on office space. Gen. Platt confirmed that it could. Dir. McCraw said that he would call the TxDOT director today and is confident that they will hold the space for DPS.

- D.** Report, discussion and possible action on Driver License monthly updates

Assistant Director, Drivers License, Rebecca Davio – Rather than go through everything, does the Commission have any questions? A few specific questions were asked and answered.

- E.** Report, discussion, and possible action regarding the adoption of proposed repeal and adoption of simultaneous proposal of new Driver License Rule: Rule 15.48, 37 TAC Sec. 15.48 concerning Selective Service Registration, as previously published in the Texas Register

Assistant Director, Drivers License, Rebecca Davio – A motion was made and seconded to approve the Rule for final adoption. (no comments received from the public on items E, F, and G) Approved unanimously.

- F.** Report, discussion, and possible action regarding the adoption of proposed new Driver License Rule: Rule 15.90, 37 TAC Sec. 15.90 concerning Deferral of Enforcement Actions for Victims of Identity Theft, as previously published in the Texas Register

A motion was made and seconded to approve the Rule for final adoption. Approved unanimously.

- G.** Report, discussion, and possible action regarding the adoption of proposed new Commercial Driver License Rule: Rule 16.41, 37 TAC Sec. 16.41 concerning Medical Certificate Requirements, as previously published in the Texas Register

A motion was made and seconded to approve the Rule for final adoption. Approved unanimously.

- H.** Report, discussion and possible action on the Fiscal Year 2012 Operating Budget

Assistant Director, Finance and CFO, Denise Hudson – Our operating budget has risen significantly from \$23 million to \$54 million primarily due to how it is allocated and reported.

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

Assistant Director, Finance and CFO, Denise Hudson – Increase the budget by \$47,500 for HQ security and storage of seized vehicles and property. Motion made and seconded. Approved unanimously.

- J.** Update report, discussion and possible action regarding recruitment

Deputy Assistant Director, Recruitment and Education, Frank Woodall – Director McCraw told the PSC that DAD Frank Woodall recently received an award from the Law Enforcement Executive Development Association for Law Enforcement Executive of the Year.



We are down to 51 in our recruit school. We had one cadet whose academy was cut short by an injury, but hopes to be ready for the next class. We had one female cadet who did not agree to be OC (pepper) sprayed and has been suspended. This training is intended to help the cadets understand the experience of the OC spray and to prepare them to learn to fight through the experience. Comm. Polunsky asked if the recruits aren't advised coming in that this will be part of their training. The response was "no".

We have 40 recruits in line for the next school, so we can schedule the next school. We have three days of interviews next week. We hope to start a new recruit school the first week of July. Graduation is on June 22. Director McCraw stated that we currently have 425 and will be down to 380 after graduation. Revising the retire/rehire program has lessened the impact of retirement.

- K.** Report, discussion and possible action regarding Emergency Management's procurement status of RFP for audit services with respect to Federal monies for past grants

Assistant Director, Emergency Management, Nim Kidd – Complimented the DL division for fast service in updating their address on the DL.

I am pleased with the progress being made and I hope to have a more comprehensive report next month.

- L.** Report, discussion and possible action regarding Emergency Management disaster

response contract services

Assistant Director, Emergency Management, Nim Kidd – This has been on the agenda some time so I'm not sure if there is anything specific that you would like to be updated on.

- M.** Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office. Updates regarding status of Fuel Consumption, Training Academy and IT Contracting audits.

Assistant Director, Audits and Inspections, Robert Goodson, Chief Auditor – The Audit of Fuel Consumption. We found numerous risks exist and we made several recommendations to policy changes for better accountability. Management has requested and CAO has agreed to conduct a cost / benefit analysis of retaining the agencies 48 bulk fuel facilities. Dir. McCraw stated the consideration is not only that the cost of using our own bulk fuel facilities is more than buying retail, but also the availability of fuel in the event of emergencies (Ike for example). One option that we are considering and discussing with TxDOT, is access to their 251 bulk fuel facilities around the state.



- N.** Review of pending contract/renewal/change order/awards from Contract Review Board

- 1. Donation of lease space (First State Bank of Woodson)

Assistant Director Wayne Mueller, Administration – we accepted this donation on March 19, and we are looking for the 90 day approval of the PSC. A motion was made and seconded to approve the donation. Approved unanimously.

- O.** Report, discussion, and possible action on the adoption of proposed amendments to Texas Highway Patrol Rule: Rule 3.52, 37 TAC Sec. 3.52 concerning Police Traffic Supervision on Interstate Highways in Cities of Over 50,000 Population, as previously published in the Texas Register

Assistant Director Luis Gonzalez - we are looking for approval of this rule. A motion was made and seconded to approve the Rule for final adoption. Approved unanimously.

P. Update and legal advice regarding Texas Department of Public Safety Foundation
Commissioner Polunsky is holding a separate meeting on the Foundation following this PSC meeting. We are currently receiving some funds from the DPS Museum.

IX. REPORTS

- A.** Commission member reports and discussion

None

- B.** Finance Report

Nothing further to report.

- C.** Chief Auditors Office

Nothing further to report.

D. Division status reports on activities and action

- *Administration – Nothing further to add to my report*
- *Emergency Management – Hurricane season begins in a couple of weeks and we have been conducting training exercises in preparation of the season.*
- *Government Relations – Nothing further to add to my report*
- *Highway Patrol – Nothing further to add to my report.*
 - *Information Technology – Comm. Polunsky asked for an update as to what has been going on in the division with the departure of AD Doggett. Interim Assistant Director Bryan Lane said that the transition has proceeded more smoothly than expected, and we are moving forward with implementing the transformation plan.*



Bryan Lane

- *Intelligence and Counterterrorism – Nothing further to add to my report*
- *Law Enforcement Support – Nothing further to report.*
- *Office of the Inspector General – Nothing further to add to my report*
- *Public Affairs and Policy – 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*
- *Inspector General – Nothing further to add to my report*

X. 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 the Director's action of discharging probationary employee Felix Volk

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: Tommy J. Salmon and Dawson L. Stubbs; Special Texas Ranger: None

Commissioner Steen asked Deputy Director David Baker if all three items had been thoroughly vetted. DD Baker stated that they had and all were very good items.

A motion was made by Comm. Steen and seconded by Comm. Polunsky to approve Items A, B & C. Approved unanimously.

XI. ITEMS FOR FUTURE AGENDA

Comm. Leon said that we will add all items that were deferred from this meeting as well as those discussed in the Executive Session.

XII. DATE FOR FUTURE MEETING

*June 11, 2012, from 9:30 – 4:30 for the Exceptional Items Workshop in the Director's conference room.
June 21, 2012, for the PSC Meeting with a discharge hearing.*

XIII. ADJOURN

Chair Leon adjourned the meeting at 2:46 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 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

