



Public Safety Commission Meeting

August 15, 2012, 9:00 a.m.
105 West 15th Street, Room 140
Reagan Building
Austin, TX 78701

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

9:00 am – Chairwoman Cynthia Leon called the meeting to order. In attendance: Chairwoman Cindy Leon, Commissioners Allan Polunsky, Carin Barth, and John Steen. Commissioner Ada Brown was not present. Also present were Director Steve McCraw, Deputy Director David Baker, Deputy Director Cheryl McBride, and General Counsel Phil Adkins.

II. APPROVAL OF MINUTES

9:05 – 9:10 a.m.

Motion made by Commissioner Steen, and seconded by Commissioner Polunsky, to approve the Minutes from the July 19, 2012 meeting. Passed Unanimously.

III. PUBLIC COMMENT

9:10 – 9:15 a.m.

(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.

IV. DIRECTORS REPORT

9:15 – 10:30 a.m.

A. Presentations

Director Steve McCraw presented an Individual Lifesaving Award to CID Agent Cabora Domingue. On May 23, 2012, four CID Agents were dining in Lajitas when Agent Todd Hester started turning red and was unable to breathe. Agent Domingue quickly approached Agent Hester and applied the Heimlich

Maneuver, which dislodged a food obstruction from Hester's throat, restoring his airway and averting a possible life-threatening situation. is receiving the Director's Individual Lifesaving award.

Agent Cabora Domingue with her mother and two sons and the PSC Commissioners and Director McCraw



The Border Security Operations Center (BSOC) receives a Unit Citation for Operation Drawbridge

Director McCraw also presented a Unit Citation Award to The Border Security Operations Center (BSOC) for Operation Drawbridge, a network of cameras in strategic locations along the Texas-Mexico border region that provide real-time monitoring of areas not covered by conventional law enforcement agents at the Border Security Center. Since its inception in November of 2008, the unit has successfully detected more than 2,500 persons conducting illegal activities and human trafficking using this system. Staff Captain Aaron Grigsby, Mark Siebert, Joel Aud, Beth Bourne, Karin Guest, Kendra Miller, Anastasia Moore, Brandy Prinz, Joe Rivas, Jared Vandenheuvel, Lance Vaughn and members of the Texas State Guard were all recognized as part of the Unit Citation.

And finally, Director Steve McCraw stated that the Department has created a brand new award, the Medal of Distinguished Service. He asked the Texas Ranger Director, Hank Whitman, to come forward to receive this award for his character and competence in his service to the Department of Public Safety. Whitman was instrumental in border security efforts, including the formation of the Texas Ranger Reconnaissance Teams. His 22 years of service to the department exemplify what we are trying to achieve Department wide.

Commissioner Polunsky and



Texas Ranger Chief Hank Whitman receives the Distinguished Service Medal

Commissioner Steen expressed their gratitude and appreciation for his character and commitment and mentioned their regret that he was leaving the Department.

.....

Chairman Leon asked to take Item VII - J. in Ongoing Business out of sequence to discuss now.

.....

V. NEW BUSINESS

10:30 – 11:30 a.m.

A. Report, discussion and possible action regarding proposed FY 2013 Chief Auditor's Office Plan (10 min)

Assistant Director Steve Goodson – Chief Auditor of DPS – The Texas Internal Auditing Act states that agencies provide the adequate resources to conduct and complete audits in a thorough and timely manner. I'm here to report to you that we do have the resources necessary at DPS to fulfill this requirement.

I also ask for the Commission's approval of the 2013 CAO Activities. The Commission has already reviewed and discussed the plan.

A motion was made by Comm. Steen and seconded by Comm. Barth.

Approved unanimously.

Comm. Steen thanked AD Goodson for his excellent job and going above and beyond what has been asked of you. Comm. Polunsky agreed with Comm. Steen and thanked AD Goodson for his good work.

B. Report and discussion regarding Department tactical capabilities including Ranger Reconnaissance Teams, SWAT and Special Response Teams (SRT) (15 min)

Assistant Director Hank Whitman – asked Deputy Assistant Director Kirby Dendy, Texas Rangers Division, to make the presentation regarding the Special Operations Group, which includes: Special Response Team (SRT - 60 members), Special Weapons and Tactics Team (SWAT – 20 members), Crisis Negotiations Team (20 members), and Reconnaissance Team (20 members).

Texas has 268,000+ square miles to cover. SWAT and SRT team cooperate based on various metrics, including drug involvement, weapons cache, etc.

Special weapons and tactics are utilized for optimum response. A good variety of weapons for Law Enforcement are akin to a good bag of clubs to a golfer. A golfer wouldn't want to go to the tee box holding a putter, and conversely, he wouldn't want to go to the green with a driver. Having, and knowing the proper use and function of a variety of weapons is crucial to efficient response to any given situation.

This is a very elite group. Failure rate for SWAT and SRT applicants during training is approximately 70%. We partner with and utilize the best and toughest programs in the U.S. including the CIA, Army Rangers, Navy Seals, and others.

The typical response follows a tiered priority, beginning with the first on the scene, usually troopers, agents or Texas Rangers. When the situation calls for it, the Regional Special Response Team and Crisis Negotiation Team is called in. Their assessment may prompt a call for Special Ops, SWAT, and Tactical Support.

DAD Dendy went on to show slides of various tactical vehicles and operations in action, including air support, marine vessels, armored vehicles, and four wheeler ATVs.

The Commission noted that the Special Ops groups are the elite of the most elite state law enforcement group in the world, the Texas Rangers.

C. Report, discussion and possible action regarding launch of DPS Texas Prescription Drug Monitoring Program (15 min)

Asst. Director Renearl Bowie – License and Regulations – The department is utilizing the PAT system which collects data on controlled substances schedule II – V. The PAT system, Texas is one of only five states that have such a comprehensive reporting program.

The pilot program started in August of 2011, and the actual program started last month. The program has the potential to serve 100,000+ active registrants in 2012 including licensed physicians and pharmacists. It can also serve 10,000+ regulatory and law enforcement officers, including licensing board investigators. The database can also provide information to out of state users (law enforcement).

D. Report, discussion and possible action regarding statewide reporting of criminal history disposition information (15 min)

AD Skyler Hearn – Law Enforcement Support – In January of 2012, 22 counties of the 254 in Texas were at 90%+ compliance (or approximately 22% of the counties). In February, 67 counties were at 90%+; in March, 86 counties were at 90%+; in April, 100 counties were at 90%+; and in May, 125 counties were at 90%+. Today, we are at 227 counties at 90%+ completeness, or 89% of Texas counties.

VI. ADJOURN INTO EXECUTIVE SESSION 11:30 a.m. – 1:30 p.m. (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 11:04 am.

Reconvened, 1:20 pm.

VII. ONGOING BUSINESS 1:30 – 3:45 p.m.

Reports, discussion and possible action regarding the following:

A. Report, discussion and possible action regarding discharge appeal hearing process and scheduling (15 min)

General Counsel Phillip Adkins – Asked to defer this item until the September meeting.

B. Report, discussion and possible action regarding the adoption of amendments to Inscription on Vehicles Rule 1.151, 37 TAC Sec. 1.151, concerning Exemption of Inscription, as previously published in the Texas Register (5 min)

General Counsel Phil Adkins – we have received no comments. Allows the director to choose to have unmarked cars to be totally unmarked at his discretion.

Moved to approve by Comm. Steen, and Seconded by Comm. Polunsky.

Approved unanimously.

- C.** Report and discussion on preliminary steps to provide for video or audio presentation of Public Safety Commission meetings (10 min)

Defer this item until we determine where we will be holding future meetings.

- D.** Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office. Updates regarding status of recent CAO activity (10 min)

Assistant Director Steve Goodson – The Commission has already reviewed and discussed two of the four Audit reports, but the Fraud Risk Assessment report was discussed.

Also discussed had to do with an audit of Criminal Justice Information Audit Services. I would like to commend AD Skylor Hearn for his progress on getting data into the system as reported.

At this point in the meeting, Governor Rick Perry made a surprise entry into the room and asked Assistant Director Whitman to come forward for further congratulations and awards. Governor Perry thanked his "old friend" Hank for his unwavering commitment to the state of Texas. He said that Hank Whitman exemplified all the best of Texas with his commitment to ethics, valor, loyalty and service. He presented Hank Whitman with a Governor's Proclamation and presented Dorothy Whitman with a Yellow Rose of Texas plaque. Director McCraw also made Hank Whitman an Honorary Admiral of the Texas Navy.



Dorothy and Hank Whitman with Governor Rick Perry

-
- E.** Update report, discussion and possible action regarding recruitment (10 min)

Assistant Director Frank Woodall – We currently have 80 recruits in the class, having lost 16 of the original 96. One recruit had a mother who suffered a stroke, so she has deferred her enrollment in the academy until the January class. 3 left because they didn't like their duty assignments, 5 due to pre-existing medical conditions, 2 for higher paying positions elsewhere, 3 for personal reasons including 2 who decided that it was not the career path that they wanted.

We currently have 628 people in the pipeline for the January class. If we have the academy (dormitory) open in January, we can house 183 in that facility, but we cannot get that number ready to report. If we go back to 120 in the recruit classes, we would have to adjust the length of the academy by up to four weeks, due to the skills training requiring. Comm. Polunsky said that the goal of 120 is ideal, and do what you can to get there.



DAD Frank Woodall

DAD Woodall also reported that Michael Laredo had prepared a report on the number of schools that we feel would be necessary to fill our vacancies and keep up with attrition. He found that 10 schools per year between now and 2017 would achieve 0 vacancies. The 54 recruit classes would cost approximately \$92 million over the next 5 years.

The Department loses approximately 15 commissioned officers per month. In 2011 we lost 169 commissioned officers, and we are currently at 88 for 2012, with August being our heaviest month for retirement due to some advantages in the ERS pension system.

F. Report, discussion and possible action on Driver License monthly updates (10 min)

Assistant Director Rebecca Davio said that she has nothing further to add to her report but welcomed questions. Comm. Barth asked her to speak a little about the mega-centers. On the technology side, are we preparing things off site, and can you set it up in a plug and play manner? AD Davio said that most of the hardware and software is plug and play and everything is going according to schedule. There was some further discussion regarding media participation in the openings of the mega-centers.

G. Report, discussion and possible action regarding FY 2014-2015 Legislative Appropriations Request (10 min)

Assistant Director Denise Hudson, CFO for DPS. – Reported that the additional Exceptional Item that were discussed at the July PSC meeting (to address housing at the training facility in Florence) was added and submitted to the LBB. The Commission asked what the cost difference was between the “modular” dorms and a permanent “brick and mortar” dormitory. AD Hudson stated that to supply the 247 needed beds using permanent “brick and mortar” buildings would cost approximately \$35 million while the use of the “modular” units would cost \$27 million, a savings that is not significant enough to warrant going that route. A major expense in either of these options is preparing the infrastructure which would be common to both options, including slabs, plumbing and electrical hookups.

H. Report, discussion and possible action on the Fiscal Year 2012 Operating Budget (5 min)

Assistant Director Denise Hudson, CFO for DPS. – Reported that the 2012 operating budget is on target, and currently is showing \$183,229 excess funds in the capital projects account. When questioned, those funds are likely to be absorbed on already approved projects that have not been fully contracted or overages on projects in progress. This amount provides a cushion if any of the approved projects do not come in within budget.

I. Report, discussion and possible action regarding purchases using seized funds (5 min)

Assistant Director Denise Hudson, CFO for DPS. – Using the balance in the seized funds account and additional federal grant funds, we are proposing to begin replacing the agency’s body armor over the next 5 years. This year, we propose purchasing 1,570 vests for a total of \$571,000.

*Motion made by Comm. Steen, seconded by Barth.
Approved unanimously.*

J. Review of pending contract/renewal/change order/awards from Contract Review Board (10 min)

1. Policy #1(a) Queuing System for DL Centers

(This item was taken out of order at the beginning of the meeting following the Director's Report.)



DAD Enrique Gomez and AD Wayne Mueller

Asst. Director Wayne Mueller – This is a review prior to entering into an agreement with a vendor to establish a queuing system for the mega-centers. This is a one year contact for \$550,000 with the option for 2 renewals at 3 year increments for a total of \$1.2 million. Enrique Gomez discussed his background with IBM and explained the queuing system. He stated that the public could sign into the queue remotely and not show up to the mega-center until their position in the queue comes near. Once in the queue, persons with smart phones will be able to control their positions. They can request more time, or leave the queue and rejoin at the same place at a later time. It will be very simple to use, and has a 99.9% reliability. You can also queue-in to multiple lines for different services.

Commissioner Polunsky had concerns that the Commission was not provided advance information, and that the Commission was asked to consider the item at the beginning of the meeting, allowing no time for review. He also asked why the staff was not prepared to answer fundamental questions such as "what other states were utilizing this system". The packet indicates that Kansas is the only state whose DL offices are utilizing the system.

Commissioner Barth stated that she has grave concerns regarding the financial solvency of the very new company (formed in 2009). They do have 150 customers (including Austin Community College), but their revenues are fairly small. Despite that, and I go on record as having concern, but with the Directors endorsement, I suggest that we allow it to move forward based on having a viable contingency plan that can be implemented in a very short period of time.

Comm. Steen asked what the urgency was to sign the contract before the September PSC Meeting. Comm. Barth indicated that the urgency is there. Gen. Counsel Adkins said that the Department would move forward with having a backup contract with a different vendor ready to sign if needed.

Director McCraw assured the Commission that they have looked at the system thoroughly, and that the vendor's software would only use the smart phone number for sign in and tracking (no sensitive identifiers).

Comm. Barth suggested that additional time would not give us the comfort level of having longevity of service and volume statistics. I suggest that we try this out with the contingency plan in place that can be implemented very quickly. Director McCraw suggested that the current queuing system equipment and software will be available for backup. We are planning to do 800 transactions per day in the mega-center, and the system should be able to handle 10,000 transactions or more.

Comm. Polunsky suggested that there should be a dollar threshold at which contracts would require a

Commission vote for approval and moving forward. Chairman Leon suggested that the Commission should consider that at a future time. He also suggested that providing the information so late was not acceptable and will not be tolerated.

The money comes from part of the \$63 million dollars that the legislature allocated for improvement of the Drivers License Division.

Chairman Leon directed staff to move forward both with this contract and a backup plan that can be implemented if needed. She also directed the staff to review the Department's procurement process and allow the Commission to review their suggestions and take action on making the changes.

Comm. Barth suggested that we ask for a quarterly update once the system is in place and operating. Comm. Steen suggested that a trip to the vendor's headquarters would be appropriate to learn more about their business and leadership team.

Comm. Polunsky asked that the record reflect that he too has grievous concerns about the process that was used on the Williams contract, and that we had not even visited the business to ask the appropriate questions.

Chairman Leon said that a lot of good questions had been raised by the Commission, and that the contracting process needs to be reviewed and revised.

2. Policy #1(a) DL Communication Network (voice and data) Managed Services for Network and Devices
3. Policy #1(a) Texas Federated Identity Management System (TFIMS) TxDPS Application Security Management

Items 2 and 3 were placeholders and need to be passed on today's agenda.

4. Report, discussion and possible action for the Public Safety Commission Contracting Policies

Chairman Leon suggested that this has already been discussed. AD Mueller said that this was added at Commissioner Barth that DIR contracts be added back in to those reviewed by the Commission.

A motion was made and seconded to approve that move.

The motion passed unanimously.

- K.** 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 (5 min)

Director Steve McCraw asked the Commission to approve Deputy Assistant Director Kirby Dendy to the position of Assistant Director for the Texas Rangers.

After many kudos from the Director and the Commissioners for DAD Denby's long service and dedication to the Department, a motion was made and seconded to approve that move. The motion passed unanimously.



Retiring Texas Ranger Assistant Director Hank Whitman with newly appointed Texas Ranger Assistant Director Kirby Dendy

Director Steve McCraw asked the Commission for approval of Chris Sarandos to be the new Assistant Director for Information Services, or CIO. Mr. Sarandos has great deal of work experience in IT for the Air Force, and was the Deputy Director of CIO at NATO and later the Director of CIO at NATO. If approved, he would begin on September 4, 2012.

A motion was made and seconded to approve that appointment. The motion passed unanimously.

- L.** 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 (5 min)

No items for this.

VIII. REPORTS

3:45 – 4:00 p.m.

- A.** Commission member reports and discussion

No reports.

- B.** Finance Report

Nothing further to add to my report.

- B.** Chief Auditors Office

Nothing further to add to my report.

D. Division status reports on activities and action

- *Administration – Nothing further to add to my report*
- *Emergency Management – Nothing further to 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 report.*
- *Office of the Inspector General – Nothing further to add to my report*
- *Policies Projects and Portfolio – 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*

IX. CONSENT ITEMS

4:00 – 4:05 p.m.

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 employees Monique Clark and Megan Harris
- 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: Ronald D. Brooks, Tommy G. Matthews, Ulysses McBride, Juan G. Ramos, Clinton R. Sinderud, Michael L. Turner and Toney Harley; Special Texas Ranger: Rodolfo C. Jaramillo

Commissioner Steen asked Deputy Director David Baker if there were any problems with any of the consent items.

*Motion by Comm. Steen, Seconded by Comm. Polunsky to approve Consent Items A and B.
Approved unanimously.*

X. ITEMS FOR FUTURE AGENDA

4:05 – 4:15 p.m.

DPS policy of Contracting

XI. DATE FOR FUTURE MEETINGS

*September 19th for the Discharge hearings (3).
September 20th for the PSC Meeting.*

The Formula 1 race in Austin is adding complications for the November meeting. Chairman Leon proposed a combined November/December meeting and perhaps hold it in early December. We will look at this idea and let everyone know what the decision is. Comm. Polunsky suggested that he is OK with the concept, but does not want to set a precedent for bi-monthly meetings. Comm. Steen thought it would be best if we could find a date in November for a regular monthly meeting. Chairman Leon will have the Commission discuss it further and notification of the meeting will follow.

XII. ADJOURN

4:15 – 4:20 p.m.

A motion was made to adjourn by Comm. Steen and seconded by Comm. Polunsky.

Chairman Leon adjourned the meeting at 2:20 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