

**PUBLIC SAFETY COMMISSION
MEETING MINUTES – August 25, 2011
Austin, TX**

The Public Safety Commission met in Austin, Texas on August 25, 2011. Attending the meeting were Chairman Allan Polunsky, Commissioners Ada Brown, Carin Barth, John Steen and Cindy Leon. A quorum was present for the meeting. DPS staff members and guests were also present.

Call to order

The meeting was called to order by Chairman Polunsky at 10:30 a.m. Proper notice had been posted.

Approval of Minutes (00:39 on Audio 1001 - indicates time stamp from audio file)

A motion was made by Commissioner Steen and seconded by Commissioner Leon approving the minutes as submitted for the July 21, 2011 meeting. Motion passed unanimously.

Public Comment (01:07)

There were no public comments.

Director's Report (01:31)

Director Steven McCraw presented information on public awareness of the broad range of responsibilities of the Department. He stated 30 diverse community individuals recently graduated from Class 001 of the Citizen's Academy, conducted in Houston-Region 2, by Commander L. C. Wilson. The Director provided details of the 12 week hands-on class and exercises included to educate the public about the work performed by the Department. There are plans to expand the program across all Regions. He commended Commander Wilson and Deputy Director Lamar Beckworth for initiating the Citizen Academy idea and development of the program. Commissioner Steen agreed with the Director stating this helps educate the public with what the Department of Public Safety does and the program was a great opportunity to demonstrate the diversity of responsibilities and provide public awareness to community leaders.

Director McCraw continued with a report on contract management. He added this responsibility had been placed under the General Counsel to insure that a process was in place and that negotiations have legal review in order to minimize risk to the Department. Chairman Polunsky added he was very happy this step had been taken. Chairman Polunsky requested that General Counsel Adkins provide an update and status of staff attorney expertise with regards to review, negotiations and oversight of contracts at the September meeting. Commissioner Leon inquired about the current review process. General Counsel Phillip Adkins stated the whole purpose was to adjust the process, in order to get Legal involved earlier in the process and negotiations, rather than at the end. He stated they currently review the contracts. Commissioner Steen stated accountability was in place and asked about the sign-off. General Counsel Adkins said the division manager, Finance and Legal sign off on an HQ-33. Commissioner Steen said he liked the idea of the sign-off not being on a separate form, but thought better to have it on the

actual contract. He asked for that to be considered because he liked the idea of the accountability it presented.

Director McCraw then reported on an FBI ceremony he had attended earlier in the morning that dealt with Crime Records fingerprints. He said at that meeting they recognized one of DPS' own who identified latent fingerprints from a high profile case that went back 34 years. He stated forensics and perseverance were necessary and paid off in this case. The individual recognized was a former DPS Trooper, David Maxwell, whose sister had been raped and murdered. The Director stated how proud he was of all involved. This concluded his report.

New Business:

(21:30) Presentation to Trooper James Hicks of Waco

Deputy Director Lamar Beckworth and Commander Luis Gonzales presented information on the results of a traffic stop made by Trooper James Hicks. Trooper Hicks conducted a traffic stop on I-35 near Waco and noted several indicators of criminal activity. He received consent and conducted a search of the vehicle and found a black bag containing watches and jewelry valued at \$1.5 million, which had been robbed from a store in a McAllen mall. Steve Konetzke of Roach, Howard, Smith & Burton Insurance Company presented a check in the amount of \$5,000 to go to the Department of Public Safety Officers Memorial Fund for Trooper Hick's rare recovery effort of all the stolen items. Chairman Polunsky congratulated Trooper Hicks and thanked him for his service to the State. He added this was yet another illustration of why the Department was the preeminent law enforcement agency, because of people like Trooper Hicks.

(27:55) Discharge Appeal Hearing and possible action regarding DPS employee Phillip Frear

Chairman Polunsky stated he had received a continuance request from the attorney representing Mr. Frear. Mr. Frear suffered a catastrophic injury and was unable to appear today. Chairman added the continuance request was granted until April, 2012 and stated this was the third and last continuance.

Report, discussion and possible action regarding Driver License Transformation Program update

AD Rebecca Davio, Driver License, reported an update on the Driver License transformation program stating it was informational only and required no action. She stated it was more than 6 mega-centers and additional employees. She stressed it was being well managed and one they would be proud of. She stated it began in the beginning of FY2011 with a \$63 million biennial budget increase to transform DL state-wide. This amount represents a 40% increase in the DLD budget. This program consists of five components:

1. Facilities: 6 mega centers will be added. Mega centers are defined as a facility with 25 or more employees. Plans include 2 in the DFW metroplex, 2 in Houston, 1 in San Antonio and 1 in Austin. A refresh is being done on all other existing facilities.
2. Staffing & Training: Hiring and training of staff is ongoing. Job descriptions were changed and good employees will be rewarded.
3. Business Process: The business process is being reviewed and updated to improve efficiency.
4. Technology: Technology will be improved to enhance efficiency and customer service.
5. Communication: All involved will receive communication updates, including the Legislature.

These five components consist of 52 different projects, largest being in the technology area with 19 different projects.

She explained the financial management. In FY 2012 about \$27million will be used to increase salaries to existing employees, provide 3 months of salary for 361 new employees, purchase new equipment, and \$3 million for the purchase of new technology and implementation. By September 2012 they hope to open the Mega-centers.

In FY 2013 approximately \$36 million will be used for rent on the mega-centers, salaries of existing employees, continuation of salaries for the 361 new employees, and \$3 million for continued implementation of technologies.

The funds will be tracked separately. DLD is responsible for management of all transformation expenditures providing quarterly reports to the Commission and LBB on expenditures. AD Davio provided the accomplishments to date, paid internship program and FTE allocation. Commissioner Barth requested a monthly status report on the site selections with TFC in order to stick with the extremely aggressive schedule presented. AD Davio stated she would include the requested monthly site selection updates in her regular report. She continued reporting on transaction times stating the goal was thirty minutes.

AD Davio reported on the pilot program for scheduling driving tests which is being done at four offices in the metroplex and one in Austin. Commissioner Leon asked that this pilot be updated also in her regular monthly report. Commissioner Steen brought up the security aspect of driver license. Director McCraw stated the most valuable document in the state is a driver license since it provided one national identity, and security was of utmost importance.

Report, discussion and possible action on amendments to Commercial Driver License Rule for publication: Rule 16.2, 37 TAC 16.2, concerning Commercial Motor Vehicles and Licensing Definitions

AD Davio reported the amendments modified the statute which allowed the Department to adopt rules to enforce the Texas commercial driver license chapter. It modifies the statute to now include authorization to adopt rules to maintain compliance with federal commercial driver license rules. This would provide the ability to resolve any conflicts between the two statutes. It would also provide the department with the opportunity to remove ambiguity so that commercial drivers further understand the rules and statutes which govern their industry. The proposal of this statutory change would allow modification of two commercial definitions in Texas statute to correspond to the federal definitions. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the rules be published as discussed. Motion passed unanimously.**

Report, discussion and possible action regarding FY2012 Internal Operating Budget

(01:09:25) AD Denise Hudson, Finance, presented the FY2012 budget totaling \$1,266,974,983. She stated \$18 million in federal seized funds was included. She proposed a replacement schedule using these seized funds over five years. Commissioner Steen clarified AD Hudson was looking for approval at this meeting of the budget and seized funds and stated in the past seized funds had been approved each month rather than in advance as she was requesting. He wanted to know if the HQ security could be improved using some of these seized funds. Director McCraw stated there were specific rules that outlined items seized funds could and could not be used for and added they could not be used for bricks and mortar. She presented the breakdown by division including the FTE's. She provided the gasoline operational set

asides with the driver license card stock which totaled \$11,651,583. Commissioner Leon stressed the gasoline needed to be looked at ongoing with regards to redistributing the gasoline. Commissioner Steen stated item C on the list of seized funds permissible uses said - law enforcement facilities. Commissioner Steen asked General Counsel Adkins to research the permissible uses of seized funds being used for the DPS headquarter security.

Commissioner Barth asked, with regards to seized funds, how many graduates Director McCraw anticipated graduating from the three proposed schools. Director McCraw stated they were now starting each academy with 80 per school at \$2.6 million per school. Commissioner Barth then asked General Counsel Adkins if seized funds could be used for fuel, he responded it could not.

Commissioner Steen asked AD Hudson if anything in her presentation addressed use of seized funds for HQ security. AD Hudson said it did not. Commissioner Steen stated he had a real problem with not addressing the HQ security, as he had urged in the past. He said he would use it for HQ security over a replacement helicopter. Director McCraw said seized funds could not be used specifically to build a wall, as he would have liked to have seen the academy being built using seized funds. Commissioner Barth recognized his issues and asked General Counsel Adkins to have his office look at seized funds use for HQ security. **Commissioner Brown called the question. A motion was made by Commissioner Barth seconded by Commissioner Leon to approve the FY2012 Internal Operating Budget as presented. Motion passed unanimously. Commissioner Steen voted no.** He stated it was about setting priorities and he would place HQ security as a priority over a replacement helicopter.

(01:34:20) Report, discussion and possible action on proposed new Capitol Access Pass Rules for publication: Rules 2.1-2.13, 37 TAC Secs. 2.1-2.13, concerning the establishment of rules for Capitol Access Pass

AD RenEarl Bowie, Regulatory Services and Commander Joe Ortiz, Capitol Region reported on the Capitol Access Pass rules which would be in the same manner as the concealed handgun process. The process would be online, for three years, with a \$100 fee. Commissioner Barth asked how they came to \$100 fee. AD Bowie stated it mirrored the costs associated with the CHL license. **A motion was made by Commissioner Barth seconded by Commissioner Brown to publish the rules on the Capitol Access Pass. Motion passed unanimously.**

Chairman Polunsky asked to go to Ongoing Business item A. He requested Commissioner Barth chair the meeting in order for him to be able to personally make a motion that was important to him.

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

Chairman Polunsky announced it was Colonel Beckworth's last day to meet in his official capacity with the Public Safety Commission due to him retiring at the end of the month. Chairman Polunsky provided a brief background of Colonel Beckworth's 33 year DPS career that started on May 24, 1978. He stated Colonel Beckworth was the essence of the Department, a constant professional, a visionary, a people person and personified everything that was good about DPS adding he was literally a living legend who everyone in the department was proud to know and be a friend of. He added how sorry he was that this was the Colonel's last meeting in this capacity. **A motion was made by Chairman Polunsky seconded by Commissioner Brown to approve that the Public Safety Commission retroactively remove the designation of Interim Director during the time Lamar Beckworth served in that position, and make him a Director. Motion passed unanimously.** Chairman

Polunsky added this would add Director Beckworth to the 12 Directors who led the Department in the last 76 years, and allow him to accept the deserved recognition as a Director of the Department of Public Safety, adding no one deserved it more than Lamar Beckworth. Commissioner Steen asked if any chance Colonel Beckworth would consider changing his mind. Colonel Beckworth stated No! Commissioner Steen stated Colonel Beckworth was one of the finest people he had ever known and that it had been an honor to work with him and he felt he was irreplaceable, Commissioner Leon agreed. A standing ovation and round of applause followed. Chairman Polunsky presented the portrait of Colonel Beckworth that would grace the hall of the department headquarters joining the ranks of the other former Directors of the Department. Colonel Beckworth thanked the Public Safety Commission and everyone at the Department. He stated this was a tremendous blessing and asked everyone to do one thing. He said life is about relationships, to grow and build from the bottom to the top of the people that worked for us every day and to be mindful how you treat your employees and show them appreciation, since DPS had an outstanding organization with the greatest employees. He added this department was about service and if you were not about service you were with the wrong department. He added this was his challenge, he enjoyed the last 33 years, and he looked forward to the new chapter in his life about serving.

(1:48:49)

Adjourn into Executive Session

The Commission adjourned into Executive Session to discuss security issues, 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; and ongoing criminal investigations. Executive Session began at 12:19 p.m.

(00:13 on Audio 1002) The Public Safety Commission reconvened at 2:57 p.m. A quorum was present.

Chairman addressed Ongoing Business, item A.

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

Director McCraw requested the advice and consent of the Public Safety Commission to appoint AD David Baker as Deputy Director Law Enforcement. **A motion was made by Commissioner Steen seconded by Commissioner Barth approving the selection of David Baker to the position of Deputy Director of Law Enforcement. Motion passed unanimously.** A standing ovation and round of applause followed. He joined the Director's table immediately. Commissioner Steen asked for Colonel Baker's thoughts or comments. He stated he appreciated the Commission's support and said he was overwhelmed.

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, 411.005 and 411.0071
No discussion

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

Update was received during Executive Session. Commissioner Barth said she and her fellow members of the Commission felt strongly about the security of the DPS headquarters.

A motion was made by Commissioner Barth seconded by Commissioner Steen to utilize all state seized funds and any above the federal seized funds budgeted and approved at the meeting today towards securing the Headquarters at DPS. Motion passed unanimously. She asked Commander Ortiz to put a plan in place to execute expeditiously. The federal seized funds would need researched to verify permissible use towards the HQ security.

Ongoing Business

Report, discussion and possible action on the Fiscal Year 2011 Operating Budget

AD Denise Hudson, Finance reported a balance for FY11 of \$1,593,410. She added that the current vacancies for commissioned employees totaled 355.

Report, discussion and possible action regarding purchases using seized funds

No further discussion.

Update report, discussion and possible action regarding recruitment

DAD Woodall stated the current school began with 75 and 3 resigned resulting in 72 current recruits. Chairman stated this was an improvement. DAD Woodall said no one failed the PRT by the second day, therefore no one was sent home for failing the PRT standards. Commissioner Steen inquired about mentoring and if advance training for the PRT had been conducted. DAD Woodall said it had in some instances, but not in all Regions. Commissioner Steen said it would be good to know if it attributed to the current success. One-third of this training academy has previous military experience, including two out of the five female recruits.

Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

No further discussion outside of Executive Session report.

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

General Counsel Adkins stated he sent a letter proposing a modified structure to the current foundation, but had received no response. He said he would advise once he received acceptance of his proposal.

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

This item will be deferred to the September meeting.

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

Deputy Director Baker reported that 72 out of 243 are completed. Further progress is expected after September first since that is when the new budget year starts.

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

Chief Auditor Goodson reported that despite increasing operational costs, DPS received full compensation for the direct costs associated with providing law enforcement services on the toll way systems during the period reviewed. He stated neither the CT nor the NTTA contract

allowed for recovery of indirect costs, of which DPS accrued an additional \$1,051,086 for these contractual relationships. He added that the CT contract expires at the end of August 2011 and the NTTA contract in another year. DPS is involved due to a rider and has been done for several years. Director McCraw said if we ask for indirect costs to be paid they will pay, that both had been very good about the contract. He stated in fact they wanted additional FTE's and would pay for them. The benefit of using the Department is the multiple jurisdiction capability allowing statewide authority. Chairman Polunsky asked if the two contracts are being renegotiated. General Counsel Adkins said it would be – going forward adding the indirect cost could not be recouped since they were never negotiated in the original contract. Chairman added, yet another reason these contracts were to go through the Office of General Counsel.

Status report, discussion and possible action on Department generators – specifically conversation updates with electrical companies around the state

This item was report in Executive Session and there was no further discussion.

Report, discussion and possible action regarding the adoption of proposed amendments to Rule 15.25, 37 TAC Sec. 15.25, concerning the review of residential addresses for state-issued driver licenses and identification cards

(23:15) AD Davio explained the amendments would require the department to establish a system for identifying unique addresses that are submitted in license or certificate applications in a frequency or number that in the department's determination, casts doubt on whether the addresses are actual addresses where the applicant resides. The action would establish a process which would further minimize the potential for fraudulent driver license and identification card issuance through residential address review. No comments were received on this Rule. **A motion was made by Commissioner Steen seconded by Commissioner Brown to approve the adoption of proposed amendments to the rule as discussed. Motion passed unanimously.**

Reports

Chairman Polunsky asked AD Davio to continue with her DL division report. She reported on the L1 card vendor stating the Letter of Acceptance is not an acceptance of the total contract, simply an acknowledgement. It is only acknowledging the card production is meeting the established SLA and quality standards. Chairman Polunsky asked why it was not an action item. AD Davio stated it had previously been approved and this was an operational item only, not an action item. The contract was approved prior to the Commission requiring contracts be approved. General Counsel Adkins stated it did not have financial implications and was an acknowledgement of performance, which initiated the 5-year term of the contract. He added the contract may be cancelled with 30 day notice. Commissioner Barth said the contract had been signed back in 2005 and the transformation of DL did not start initially, they had 2 years of payment since 2009, before needing to accept the contract, part DPS fault, part L1 fault. She added we may have other contracts with this unusual clause for a Letter of Acceptance, and a very close eye should be kept on this contract. This item was informational only. Commissioner Barth asked for a monthly report with an in-depth report of status in six months on this contract since the value was \$2.5 million a year.

There were no further reports from the divisions. Chairman Polunsky welcomed the new AD Law Enforcement Services, Skylor Hearn back to Austin.

Consent Items

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: Israel J. Barrera, Randall J. Boysen, William R. Brazzil, James B. Camp, Teofilo Garcia, Jr., John Reney Jr., Glenn M. Scales, Timothy T. Thompson, and Tracey L. Tullis; Special Texas Ranger: Brad K. Harmon, Gary S. Henderson, and Frankie L. Waller

A motion was made by Commissioner Barth seconded by Commissioner Leon approving the consent item on the appointments of Special Rangers and Special Texas Rangers as set out and approved by Colonel Baker. Motion passed unanimously.

Donations:

1. Lease of two Harley-Davidson Motorcycles for Capitol Complex (Cowboy Harley-Davidson)
2. Lease of five Honda DN'01 Motorcycles for Motorcycle Safety Unit (Motorcycle Safety Foundation)

A motion was made by Commissioner Barth seconded by Commissioner Steen approving the consent item for the donations. Motion passed unanimously. Chairman Polunsky asked for verification of "lease" or donation. Commander Ortiz clarified lease for \$1/month = \$24/year; at end of 12 months revert back to the pilot project.

Items for Future Agenda

No items were added.

Date for Future Meeting

The next meeting of the Public Safety Commission was tentatively scheduled for September 27, 2011. A discharge appeal hearing will be scheduled.

Commissioner Leon proposed the January meeting being held at the grand opening of the Weslaco Regional Command facility. Chairman Polunsky inquired if it opened next month. Director McCraw said it opened in November and stated January would be the best month for the opening. Chairman stated this would be great, they looked forward to it and perhaps Senator Hinojosa and other elected officials could attend also.

Commissioner Barth publicly acknowledged Commander L. C. Wilson for his service to the Department since he was retiring at the end of the month. Both Chairman Polunsky and Director McCraw stated Commander Wilson did a good job and he would be missed.

Adjourn

(45:06) The meeting was adjourned at 3:42 p.m.

Read and approved this 27th day of September, 2011.


Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 2011, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter B
Section 15.25

The Texas Department of Public Safety (the department) adopts amendments to Section 15.25, concerning Address. This section is adopted without changes to the proposed text as published in the April 15, 2011 issue of the *Texas Register* (36 TexReg 2377) and will not be republished.

These amendments are made pursuant to Texas Transportation Code, Section 521.060 which requires the department to establish a system for identifying unique addresses that are submitted in license or certificate applications in a frequency or number that, in the department's determination, casts doubt on whether the addresses are actual addresses where the applicant resides. The amendments to this rule establish a process which further minimizes the potential for fraudulent driver license and identification card issuance through residential address review.

No comments were received regarding the adoption of these amendments.

The amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Texas Transportation Code, Section 521.060.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.


Allan B. Polunsky, Chair
Public Safety Commission

SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS

August 2011

Special Ranger Applicants

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Barrera, Israel J.	THP	CVE/Falfurrias	06/30/2011	30 years	✓
Boysen, Randall J.	CID	Kerrville	06/30/2011	28 years	✓
Brazzil, William R.	CID	Tyler	12/31/2010	23 years	✓
Camp, James B.	CID	San Antonio	06/30/2011	24 years	✓
Garcia Jr., Teofilo	CID	Abilene	06/30/2011	27 years	✓
Reney Jr., John	THP	Chief's Staff/ HQ	06/30/2011	30 years	✓
Scales, Glenn M.	THP	HP/Bandera	05/31/2011	27 years	✓
Thompson, Timothy T.	THP	Chief's Staff/ Waco	06/30/2011	27 years	✓
Tullis, Tracey L.	THP	HP/Tyler	06/30/2011	26 years	✓

Special Texas Ranger Applicants

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Harmon, Brad K.	Texas Rangers	Hurst	06/30/2011	20 years	✓
Henderson, Gary S.	Texas Rangers	Pampa	08/31/2003	28 years	✓
Waller, Frankie L.	Director's Staff	Headquarters	02/28/2003	32 years	✓

Approved by the Public Safety Commission on: August 25, 2011
 Motion by: Barth Second by: Leon - unanimously