

**MINUTES
PUBLIC SAFETY COMMISSION
JUNE 11, 2020
AUSTIN, TX**

On March 16, 2020, Governor Greg Abbott suspended certain requirements of the Open Meetings Act to advance the public health goal of limiting face-to-face meetings during the public health disaster caused by the Coronavirus. Members of the commission participated in the meeting remotely and were not together at the same physical location. The public accessed the meeting through a link provided at the department's internet website.

The Public Safety Commission meeting was held by telephonic-audio conference on June 11, 2020. Attending the meeting were Chairman Steven Mach, Commissioners Nelda Blair, Steve Stodghill and Dale Wainwright. DPS staff members and guests were also present through the telephonic-audio conference.

CALL TO ORDER (0:00:01)

The meeting was called to order by Chairman Mach at 10:00 a.m. Proper notice had been posted.

INVOCATION (0:01:59)

Invocation was given by Chaplain Ferman Carpenter.

APPROVAL OF MINUTES (0:05:07)

A motion was made by Commissioner Blair, seconded by Commissioner Stodghill, approving the minutes for the Public Safety Commission meeting held April 23, 2020. A rollcall vote was conducted and the motion passed unanimously.

PUBLIC COMMENT (0:05:54)

Susan Nelson – Constituent Services Director for Representative Vikki Goodwin
Ms. Nelson requested an update for Representatives Howard and Goodwin on the Safe Gun Storage campaign.

DIRECTORS REPORT (0:08:44)

Director McCraw provided an update on the following:

- Governor Abbott has modified some of the Executive Orders for COVID-19
- over 20,000 flights screened
- over 362,000 vehicles screened at the Louisiana border
- maintained DLD operations by issuing commercial driver licenses (CDLs)
- Driver License offices have opened and DPS is strictly adhering to CDC guidelines in keeping its employees healthy and safe
- meetings were held with the Governor's Office, Lieutenant Governor's Office and the Legislative Budget Board on our new strategic plan – updated strategic framework matches our priorities (pandemics, COVID-19, and violent and destructive protests)
- May 25, 2020, George Floyd was killed by Minneapolis police officers. As a result, Governor Abbott has instructed DPS to:
 - *protect people and property from harm
 - *defend their right to protest peacefully throughout the state
- Use of Force Policies, Procedures and Reporting Overview:
 - *Prior to acceptance into the Trooper Training Academy, applicants are vetted through an in-depth, pre-employment background investigation which includes, among other steps: employment and criminal history review, cognitive interviewing, polygraph examination, and psychological evaluation.
 - *The Department has adopted the Dynamic Resistance Response Model (*C Joyner, C Basile – FBI L. Enforcement Bull., 2007 – HeinOnline*) over other Use of Force continuums or graphics as the model with which to help sworn members identify and categorize levels of resistance with which they may be confronted and to reasonable levels of force with which they can respond.
 - *The Department issues and requires the use of in-car and body worn camera systems by commissioned employees who make regular contact with the public. Since the systems are “always on”, they capture video activity several seconds prior to being activated (whether manually or automatically by the activation of emergency equipment). Department policy designates clear requirements for when the devices must be activated and how the integrity of the data must be maintained. Once “on” policy prohibits turning off the video or audio functionality during public contacts (traffic stops, arrests, transport, etc.). Supervisors review routine video footage regularly in addition to reviewing significant incidents.
 - *The Department provides recruits and incumbent commissioned members with robust Use of Force instruction consisting of classroom, hands-on, and scenario based training. Throughout this training evolution, the context of communication, de-escalation and procedural justice is reinforced.
 - *The Department provides recruits and incumbent commissioned members with de-escalation training that focuses not only on force options and communication

strategies, but also strategic and tactical options intended to reduce the likelihood of the need to use force. In all situations, officers are expected to act with intelligence and exercise sound judgment based on a deep reverence for human life.

- *Before using force, (when the situation allows), commissioned members are required by law and policy to manifest their purpose (explain their intent and give verbal instructions) and identify themselves as peace officers. Members are required to use only the amount of force that is objectively reasonable based on the totality of the circumstances that confront them.
- *Department policy prohibits the use of chokeholds by commissioned members unless there is an imminent risk of serious bodily injury or death to the member or another. Members are required to reassess the need for continued force throughout an incident.
- *Commissioned members of the Department are prohibited from discharging a firearm at or in the direction of any person including toward any part of an occupied vehicle unless a justification for the use of deadly force exists, and the discharge does not present an unreasonable risk of injury to third parties.
- *Once a scene is safe and as soon as practical, Department members are required to provide first aid that is consistent with their training, and to summon advanced care when required.
- *In addition to statutory requirements, DPS has an internal policy requiring all sworn personnel to intercede to prevent excessive force in the event that they observe another officer using force that is clearly beyond that which is objectively reasonable under the circumstances. This expectation is taught in the classroom, practiced in training, and reinforced using reality-based scenarios during which the student identifies and stops excessive force by a role-player officer against a role-player citizen.
- *Members are required to report any use of force that involves the physical effort to control, restrain, or overcome the resistance of another, or any complaint of injury (claims of discomfort or temporary pain due to restraints may not rise to the level of injury) by another. Any use of an electronic control device, even if not successful, any intermediate weapon or tool (e.g. chemical agent, baton, etc.) shall be reported.
- *Each citation and warning includes contact information for the Office of the Inspector General to assist citizens who believe they were treated unfairly or unprofessionally.
- *Blue Team is an incident reporting and early intervention system, which seeks to identify potentially problematic trends in employee behavior. Firearm discharges, use of force, fleet crashes, vehicle pursuits, and assaults on an officer are reported in Blue Team by individual employees. Supervisors are responsible for entering informally resolved citizen complaints and counseling records regarding employees they supervise. Incident entries are forwarded through the employee's chain of command, providing visibility to department leadership. Once the incident entries have progressed through the chain of command, they are forwarded to the Office of

Inspector General (OIG) for final cataloguing. Thresholds are built into the system, which generate an alert if an employee engages in a certain number of a particular incident type, or in a certain number of combined incident types, within a designated period of time.

- *In the case of a firearm discharge, the incident is reviewed by the Firearms Discharge Review Board and a classification (either “consistent with policy” or “violates policy”) is assigned before being submitted to the affected division and subsequently OIG.
- *In the case of a non-firearm discharge Use of Force, the incident is reviewed by the Use of Force Review Committee before being forwarded to OIG.
- *In the case of a fleet crash, the incident is reviewed by the State Crash Reconstruction Team prior to submission to our office.
- *The Department also employs Red Team, which is pro-active, data-driven reporting system that uses mathematical, statistical analysis to identify members who stop a significantly higher percentage of minority drivers in comparison to their peers working within the same geographical area. Reports are run annually to identify outlier employees. Directed performance audits are conducted, and once complete, are forwarded to OIG for review and determination of next steps.
- *Accountability is a core value of the Department. As such, the Department maintains a firm stance of holding personnel accountable. When there has been clear evidence of wrongdoing, executive leaders have held, and continue to hold a commitment to taking swift action to identify, remediate, discipline, or terminate offending officers without undue delay.

(0:47:18) Chairman Mach acknowledged the following on the telephonic-audio conference:

- Michael Hull – Office of the Governor
- Suzanne Mackowiak and Aaron Moncibaiz – Lieutenant Governor’s Office
- Caitriana Corkill – Senator Charles Perry’s office
- Susan Nelson – Representative Vikki Goodwin’s office
- Stacey Chamberlain – Senator Kelly Hancock’s office
- Nicole Ascano and Katy Fallon-Brown – Legislative Budget Board

NEW BUSINESS

A. Report, discussion, and possible action on Health, Physical Fitness, and Command Presence Policy (0:48:05)

Deputy Director Martin reported that due to circumstances stemming from the COVID-19 pandemic, the spring testing cycle was canceled and the requirements waived for that cycle. The 2% allowance in the command presence threshold continues to remain in effect (Fall 2020 and Spring 2021) adding a one year extension until December 2021.

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, approving the amendment to add a one year extension on the Health, Physical Fitness, and Command Presence Policy. A rollcall vote was conducted and the motion passed unanimously.

B. Final Determination in Contested Cases – consideration and possible action on Proposal for Decision: (0:50:50)

1. SOAH Docket No. 405-20-1405.PSB – Bryant Earl Clark, Sr.

A motion was made by Commissioner Blair, seconded by Commissioner Wainwright, to adopt the Proposal for Decision issued in SOAH Docket No. 405-20-1405.PSB – Bryant Earl Clark, Sr. A rollcall vote was conducted and the motion passed unanimously.

C. Report, discussion, and possible action on the following rules proposals for publication to receive public comment: (0:57:48)

1. Amendments to 37 TAC Section 15.6, concerning Motorcycle License

2. Repeal of 37 TAC Section 15.29, concerning Driver Education Forms

3. Amendments to 37 TAC Section 15.55, concerning Waiver of Knowledge and/or Skills Tests

A motion was made by Commissioner Blair, seconded by Commissioner Stodghill, approving New Business, Items C1 – C3, for publication to receive public comment. A rollcall vote was conducted and the motion passed unanimously.

D. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

ONGOING BUSINESS

A. Report, discussion, update and possible action regarding Driver License Action Report (1:00:57)

Update provided by Chief Sheri Gipson:

-Driver License offices reopened on 5/26/20, in three phases; 6/3/20 all offices open to the public across the state with the exception of offices in county buildings which remain closed at this time

-First 30 days of reopening will focus on limited services (new Driver License or Identification Card, driving skills testing and new Commercial Driver License)

-No definitive date has been established for the 60 day extension once public notice is given

-Appointment solution is fully operational scheduling appointments up to six months in advance

- Solution limits the amount of people in the office at one time to enforce social distancing
- Stand-By que allows each office to establish the maximum number of slots per day (no guarantee of wait time)
- Scheduled appointments to date – 292,684
- Effective 5/31/20 – extending driver license from 6 to 8 years
- Driver License survey is on track to provide report at the end of June
- New guidelines have been established for hiring process (originally halted due to COVID-19) and are currently working to fill the remaining 196 vacancies in the regional offices
- REAL ID has been extended to October 2021

B. Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team (1:16:29)

With the upcoming retirement of Norma Cortez, Assistant Chief, Human Resource Operations, Director McCraw sought advice and consent to promote Major Katie Conley (Human Resource Operations) to Assistant Chief, Human Resource Operations.

A motion was made by Commissioner Blair, seconded by Commissioner Wainwright approving Katie Conley as Assistant Chief, Human Resource Operations. A rollcall vote was conducted and the motion passed unanimously.

C. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session)

To be discussed during Executive Session.

REPORTS (1:30:05)

None.

CONSENT ITEMS (1:21:04)

A. 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 Rangers: James L. Bonewitz, Edwin D. Crone, Jack H. Dean III, and Clay K. Taylor; Special Texas Rangers: Thomas W. Davis and Matthew B. Sigur

B. Donations:

1. Texas Rangers “Company F” – use of Lonesome Oak Ranch for lodging and meeting facility purposes

2. Additional donation items, as needed

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, approving Consent Items, Items A – B1. A rollcall vote was conducted and the motion passed unanimously.

ITEMS FOR FUTURE AGENDA (1:22:03)

None at this time.

DATE FOR FUTURE MEETING (1:22:11)

Discharge hearings will be scheduled on August 13, 2020, and the regular Public Safety Commission meeting is scheduled for August 14, 2020. It is anticipated that we will return to our regular meetings in August. Chairman Mach asked that we also look into scheduling an additional day solely for presentations.

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; ongoing criminal investigations. Executive Session began at 11:23 a.m.

(1:24:11) The Public Safety Commission reconvened in open session at 12:25 p.m. Commissioners present were Chairman Steven Mach, Commissioners Nelda Blair, Steve Stodghill and Dale Wainwright.

ADJOURN

A motion was made by Commissioner Wainwright, seconded by Commissioner Blair, to adjourn the meeting. A rollcall vote was conducted and the motion passed unanimously.

The meeting was adjourned at 12:27 p.m.

Read and approved this 14th day of August, 2020.

Steven P. Mack
Chairman

DOCKET NO. 405-20-1405.PSB

TEXAS DEPARTMENT OF PUBLIC SAFETY – PUBLIC SAFETY COMMISSION	§	BEFORE THE
	§	
VS.	§	STATE OF TEXAS
	§	
BRYANT EARL CLARK, SR., APPLICANT	§	PUBLIC SAFETY COMMISSION

FINAL ORDER

On June 11, 2020, the Public Safety Commission held a public meeting and considered the Proposal for Decision issued in the above referenced case by the Administrative Law Judge (ALJ) of the State Office of Administrative Hearings. For purposes of this Order, the Commission adopts the findings of fact and conclusions of law reflected in the Proposal for Decision.

The Commission, after review and due consideration of the Proposal for Decision, accepts the recommendation of the ALJ that Bryant Earl Clark, Sr.'s application for registration as a noncommissioned security officer be denied.

IT IS THEREFORE ORDERED that the application for registration as a noncommissioned security officer of BRYANT EARL CLARK, SR., is hereby DENIED.

SIGNED this 11th day of June, 2020.

Steven P. Mach
Steven P. Mach, Chairman
Public Safety Commission

**SPECIAL RANGER /
SPECIAL TEXAS RANGER APPLICANTS
June 11, 2020**

Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Bonewitz, James L.	CID	San Antonio	04/30/2020	33	
Crone, Edwin D.	CID	Belton	03/31/2020	24	
Dean III, Jack H.	CID	Houston	04/30/2020	16	
Taylor, Clay K.	THP	Bryan	04/30/2020	37	

Special Texas Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Davis, Thomas W.	TRD	Tyler	04/30/2014	27	
Sigur, Matthew B.	TRD	Alice	04/30/2020	23	

Approved by the Public Safety Commission on: Steven P. Mack Date: 6/11/20