

**MINUTES  
PUBLIC SAFETY COMMISSION  
February 5, 2003  
Austin, Texas**

The Public Safety Commission met in Austin, Texas on February 5, 2003. Attending the meeting were Chairman Colleen McHugh and Commissioners Robert Holt and James B. Francis, Jr.

**DPS Staff members present:**

Tommy Davis, Director  
David McEathron, Assistant Director  
Frankie Waller, Assistant Director  
Tom Haas, Tom Meredith & Laura Font, Accounting & Budget Control  
Randy Elliston, Lamar Beckworth, David Baker, Bob Burroughs & Coy Clanton, Traffic Law Enforcement  
C. J. Havrda & Earl Pearson, Rangers  
Marshall Caskey & Kent Mawyer, Criminal Law Enforcement  
Burton Christian, Administration  
David Gavin, Crime Records  
Andy Mokry, Building Program  
Judy Brown, Frank Elder, Rhonda Fleming & Greg Gloria, Driver License  
Farrell Walker, Audit & Inspection  
Mary Ann Courter, General Counsel  
Mary Lauderdale & Ed Kelly, Information Management Service  
Jack Reichert, Aircraft  
Tela Mange, Public Information  
Michael Kelley, Legislative Liaison  
David Outon, Internal Affairs  
Dorothy Wright, Secretary

Guests present were Jack Gilbert and Susan Bonnen, Attorney General's office; Jack Erskine & Larry McGinnis, Hughes & Luce; Mary Anne Wiley and David Zimmerman, Governor's Office; and Allen Remle.

The meeting was called to order by Chairman McHugh. Proper notice had been posted.

- I. **Minutes.** Upon motion by Commissioner Holt and seconded by Commissioner Francis, the minutes of the January 7, 2003 meeting were approved.
- II. **Public comment.** There was no public comment.
- III. **Pending Litigation.** The Commission went into Executive Session to confer with legal counsel reference pending litigation pursuant to Tex. Gov. Code Sec. 551.071. The Commission then reconvened Regular Session.

- IV. Discharge appeal hearing of Pamela Evans.** Pamela Evans appeared before the Commission to appeal her discharge. She was represented by Attorney Dale Tillery. DPS was represented by Pamela Smith of Legal Services. Court reporter was Rhonda Howard of Esquire Deposition Services. Opening statements were made by both attorneys. All witnesses were sworn. The only witness appearing for DPS was Sergeant Ivan Adame, Driver License Division. DPS Exhibit #1 was submitted and accepted by the Commission. Pamela Evans was the only witness appearing for appellant. No appellant exhibits were introduced. Closing statements were made by both attorneys.
- V. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status or purchase of real property.** The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters including Special Ranger and Special Texas Ranger commission, pending and contemplated litigation, status of purchase of real property and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner McHugh announced that the Commission had discussed only those matters listed above. A Special Ranger commission for DPS retiree James Moorman and Special Texas Ranger commissions for DPS retirees Israel Cano and Frankie Waller had been considered. Upon motion by Commissioner Francis and seconded by Commissioner Holt, Special Ranger and Special Texas Ranger commissions were approved for the above named individuals respectively. A motion was made by Commissioner Francis and seconded by Commissioner Holt affirming the action of the Director in discharging Pamela Evans (see attached Order).
- VI. Budget matters.** Tom Haas updated the Commission on budget matters. There was some discussion on gasoline prices and an existing appropriations rider to cover increased costs and proposed budget reductions.
- VII. Audit & Inspection Report.** Farrell Walker gave the Audit & Inspection report.
- VIII. Division reports.** Burt Christian gave the Administration Division report. There was some discussion on enhancements to the CHL renewal and electronic arrest reporting processes and EMS and Training Bureau activities. Jack Colley gave an overview of DPS' response and resources committed to the Shuttle Columbia Disaster. Randy Elliston gave the Traffic Law Enforcement Division report. The Driver License Division report was given by Judy Brown. There was some discussion on marketing efforts reference on-line services. Marshall Caskey gave the Criminal Law Enforcement Division report. The Ranger report was given by C. J. Havrda. Mary Lauderdale gave the Information Management Service report. Bob Burroughs gave an update on joint efforts between DPS and the Texas Commission on Environmental Quality (TCEQ) for implementation of the State's vehicle emissions inspection/maintenance program. Coy Clanton updated the Commission on the border safety inspection stations.

**IX. For publication for public comment.**

**A. Proposed amendment to Rule 1.211, 37 TAC Sec. 1.211, relating to dishonored check fee.** Laura Font briefed the Commission on the proposed amendment. Upon motion by Commissioner Francis and seconded by Commissioner Holt, the attached amendment was unanimously approved for publication for public comment.

**B. Proposed amendment to Rule 1.191, 37 TAC Sec. 1.191, relating to emergency vehicle operations**

**C. Proposed amendment to Rule 3.53, 37 TAC Sec. 3.53, relating to police pursuit operations**

Randy Elliston briefed the Commission on the proposed amendments. Upon motion by Commissioner Francis and seconded by Commissioner Holt, the attached amendments described in IX.B and IX.C were unanimously approved for publication for public comment.

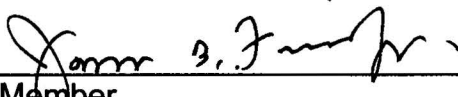
**X. For adoption.**

**A. Proposed Rules 27.101-27.106, 37 TAC Secs. 27.101-27.106, relating to the reporting, collection, entry and indexing of offender records; and maintaining the database for a Computerized Criminal History System, as published in 27 TexReg 10897, Nov. 22, 2002.** Mary Ann Courter briefed the Commission on the proposed rules. Upon motion by Commissioner Holt and seconded by Commissioner Francis, the attached rules were unanimously approved for final adoption.

A motion was made by Commissioner Francis, seconded by Commissioner Holt and unanimously passed adjourning the meeting.

Read and approved this 25 day of March, 2003.

  
Chairman

  
Member

  
Member

IN THE MATTER OF } BEFORE THE  
THE APPEAL OF DISCHARGE OF } PUBLIC SAFETY COMMISSION  
PAMELA EVANS } IN AUSTIN, TRAVIS COUNTY, TEXAS

ORDER

BE IT REMEMBERED that the Public Safety Commission convened in Austin, Travis County, Texas, to hear the appeal of discharge of Pamela Evans on the 5th day of February, 2003. Pamela Evans received adequate notice of said hearing and did appear in person and by and through her attorney, Dale Tillery. Therefore, pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above captioned matter.

After reviewing all the evidence, the Commission finds there was substantial and credible evidence presented at the hearing that following a reported injury on November 8, 2001, Pamela Evans has not worked since November 26, 2001, has exhausted all of her available sick leave, vacation leave and leave pursuant to the Family and Medical Leave Act, and has not presented any medical documentation that she is ready or able to return to work in any capacity.

The Commission finds that this conduct is in violation of the Department's rules and regulations and in violation of the Public Safety Commission rules as described in the July 11, 2002 letter from Colonel Davis outlining the preliminary determination of just cause to discharge Pamela Evans.

Therefore, the Commission finds there is just cause to discharge Pamela Evans and affirms the Director's decision in this matter.

On motion of Comm. Francis, seconded by Comm. Holt, the discharge was affirmed.

ENTERED AND SIGNED on the 5th day of February, 2003.

  
Chairman of the Public Safety Commission

**TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE**

On February 5, 2003, the Public Safety Commission (Commission) by majority vote approved rules concerning:

**Crime Records  
Title 37 T.A.C. Part I, Chapter 27  
Subchapter H  
Section Numbers 27.101 – 27.106**

The Texas Department of Public Safety adopts new Sections 27.101-27.106, concerning Computerized Criminal History System, without changes to the proposed text as published in the November 22, 2002, issue of the Texas Register (27 TexReg 10897).

The new sections are necessary to implement provisions of the Texas Code of Criminal Procedure, Chapter 60, directing the Texas Department of Criminal Justice and the Texas Department of Public Safety to adopt procedures to ensure that offender processing data is reported from the time an offender is arrested until the time the offender is released and to provide measures and policies designed to identify and eliminate redundant reporting of information.

No comments were received regarding adoption of the new sections.

The new sections 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 Code of Criminal Procedure, Article 60.08.

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.

  
Colleen McHugh, Chairman  
Public Safety Commission

*7/10/03*