

**MINUTES**  
**PUBLIC SAFETY COMMISSION**  
**December 1, 2004**  
**Austin, Texas**

The Public Safety Commission met in Austin, Texas on December 1, 2004. Attending the meeting were Chairman Colleen McHugh and Commissioners Robert Holt and Carlos Cascos.

**DPS Staff members present:**

Tommy Davis, Director  
David McEathron, Assistant Director  
Oscar Ybarra, Tom Meredith, Laura Font & Shelia Latting, Accounting & Budget Control  
Randy Elliston & Lamar Beckworth, Highway Patrol Division  
Gary Stone & Kenny Crockett, Criminal Law Enforcement  
Burt Christian, Administration  
Judy Brown, Frank Elder, Greg Gloria & Angie Parker, Driver License  
Earl Pearson & Ray Coffman, Texas Rangers  
Farrell Walker & Jude Schexnyder, Audit & Inspection  
Mary Ann Courter, General Counsel  
Mary Lauderdale & Ed Kelly, Information Management Service  
Jack Reichert & Steve Powell, Aircraft  
Michael Kelley, Legislative Liaison Office  
Dorothy Wright, Secretary

**Guests present:**

Val Shepperd & Shaniqua Johnson, Legislative Budget Board  
Janna Burleson, Governor's Office

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

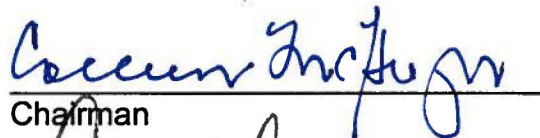
- I. **Minutes.** Upon motion by Commissioner Cascos and seconded by Commissioner Holt, the minutes of the October 27, 2004 meeting were approved.
- II. **Public comment.** There was no public comment.
- III. **Budget matters.** Colonel Davis briefed the Commission on projected budget expenditures for FY2005. There was some discussion on this. Val Shepperd of the Legislative Budget Board gave a brief overview of the baseline budgeting process. Oscar Ybarra gave the budget report, including appropriation bill limitations and gasoline prices.
  - A. **Use of seized funds for Denson Building security equipment.** Burt Christian briefed the Commission on the proposed purchase. Upon motion by Commissioner Cascos and seconded by Commissioner Holt, approval was given to use seized funds for the security equipment purchase.

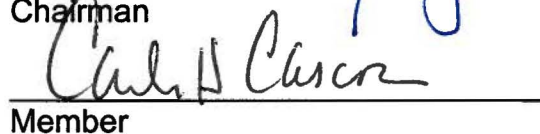
- IV. Audit & Inspection report.** Farrell Walker gave the audit & inspection report.
- V. Division reports.** Burt Christian gave the Administration Division report. There was some discussion on electronic arrest reporting, reduction of the private security backlog and ongoing building projects. The Texas Highway Patrol Division report was given by Randy Elliston. There was some discussion on the Athens building dedication, STEP project results, THP criminal interdiction efforts and public service announcement funding. Judy Brown gave the Driver License Division report, including an update on the DL reengineering, driver responsibility program and CRIS projects; the Road to Success Customer Service program; fraud unit investigations; recent driver license mismailings and efforts to correct the problem. The Criminal Law Enforcement Division report was given by Gary Stone. There was some discussion on activities of the various services relating to homeland security. Earl Pearson gave the Ranger Division report. The Information Management Service report was given by Mary Lauderdale.
- VI. For publication for public comment**
- A. Proposed amendments to Rules 29.11, 29.24, 29.27 & 29.29, 37 TAC Secs. 29.11, 29.24, 29.27 & 29.29, relating to practice and procedure for appeals of administrative rulings.** Mary Ann Courter briefed the Commission on the proposed amendments. Upon motion by Commissioner Cascos and seconded by Commissioner Holt, the attached amendments were unanimously approved for publication for public comment.
- VII. Final adoption.**
- A. Repeal of existing Rule 27.1, 37 TAC Sec. 27.1; proposed New Rule 27.1, 37 TAC Sec. 27.1, relating to the rights of a person with criminal history record information on file with the department to obtain a copy of that information, as published in 29 TexReg 9624-9625, October 15, 2004**
- B. Proposed amendments to Rules 31.1, 31.2, 31.6, 31.7, 31.10 & 31.12, 37 TAC Secs. 31.1, 31.2, 31.6, 31.7, 31.10 & 31.12, relating to Standards for an Approved Motorcycle Operator Training Course, as published in 29 TexReg 9626, October 15, 2004**
- C. Proposed amendments to Rules 33.1-33.5, 37 TAC Secs. 33.1-33.5, relating to All-Terrain Vehicle Operator Education and Certification Program, as published in 29 TexReg 9628, October 15, 2004**
- Mary Ann Courter briefed the Commission on the above repeal, new rule and proposed amendments. Upon motion by Commissioner Holt and seconded by Commissioner Cascos, the attached repeal, new rule and proposed amendments were unanimously approved for final adoption.
- VIII. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of 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; 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 personnel matters, pending litigation and ongoing criminal investigations.

A motion was made by Commissioner Cascos and seconded by Commissioner Holt adjourning the meeting.

Read and approved this 12 day of January, 2005.

  
Chairman

  
Member

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Member

TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On December 1, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Crime Records  
Title 37 T.A.C. Part I, Chapter 27  
Subchapter A  
Section Number 27.1

The Texas Department of Public Safety adopts the repeal of Section 27.1, concerning the rights of a person with criminal history record information on file with the department to access and review that information, without changes to the proposed text as published in the October 15, 2004, issue of the Texas Register (29 TexReg 9624).

Repeal of the section is necessary due to substantial revisions having been made and the simultaneous filing of a new section which creates a procedure for obtaining from the department a copy of criminal history record information that relates to oneself.

No comments were received regarding adoption of the repeal.

The repeal is 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; Texas Government Code, Section 411.086, which requires the Texas Department of Public Safety to adopt rules that provide for a uniform method of requesting criminal history record information from the department; and Texas Government Code, Section 411.083(b)(3), which requires the Texas Department of Public Safety to grant access to criminal history record information to the person who is the subject of the information.

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



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On December 1, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Crime Records  
Title 37 T.A.C. Part I, Chapter 27  
Subchapter A  
Section Number 27.1

The Texas Department of Public Safety adopts new Section 27.1, concerning the rights of a person with criminal history record information on file with the department to obtain a copy of that information, without changes to the proposed text as published in the October 15, 2004, issue of the Texas Register (29 TexReg 9625).

Adoption of the new section is necessary in order to establish a uniform procedure for obtaining from the department a printout of criminal history record information maintained by the department that relates to oneself. The new section allows such a person to obtain a copy of that information regardless of whether there is reason to challenge the accuracy of the information. The new section will also accurately reflect the current practice of the department with regard to the correction of inaccurate or incomplete criminal history record information. The new section will further allow the subject of the record to contact the department's Error Resolution Unit, which will take all necessary steps to correct any inaccurate or incomplete information.

No comments were received regarding adoption of the new section.

The new section is 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; Texas Government Code, Section 411.086, which requires the Texas Department of Public Safety to adopt rules that provide for a uniform method of requesting criminal history record information from the department; and Texas Government Code, Section 411.083(b)(3), which requires the Texas Department of Public Safety to grant access to criminal history record information to the person who is the subject of the information.

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



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On December 1, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Standards For An Approved Motorcycle Operator Training Course  
Title 37 T.A.C. Part I, Chapter 31  
Section Numbers 31.1, 31.2, 31.6, 31.7, 31.10 and 31.12

The Texas Department of Public Safety adopts amendments to Sections 31.1, 31.2, 31.6, 31.7, 31.10, and 31.12, concerning Standards For An Approved Motorcycle Operator Training Course, without changes to the proposed text as published in the October 15, 2004, issue of the Texas Register (29 TexReg 9626).

Amendments to Section 31.1 and Section 31.10 are necessary in order to change the word "instructor" to "RiderCoach preparation" in order to align it with the Motorcycle Safety Foundation title change.

Amendments to Section 31.2 and Section 31.12 are necessary in order to strengthen the department's ability to deny and suspend RiderCoaches and training site sponsors in accordance with Texas Occupations Code, Chapter 53.

Amendments to Section 31.6 are necessary in order to adopt the Motorcycle Safety Foundation's recently released Experienced RiderCourse Suite.

Amendments to Section 31.7 are necessary in order to clarify what motorcycles can and cannot be used in the Basic Motorcycle Operator Training Course.

No comments were received regarding adoption of the 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 662.009.

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

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TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On December 1, 2004, the Public Safety Commission (Commission) by majority vote approved rules concerning:

All-Terrain Vehicle Operator Education and Certification Program  
Title 37 T.A.C. Part I, Chapter 33  
Section Numbers 33.1 - 33.5

The Texas Department of Public Safety adopts amendments to Sections 33.1-33.5, concerning All-Terrain Vehicle Operator Education And Certification Program, without changes to the proposed text as published in the October 15, 2004, issue of the Texas Register (29 TexReg 9628).

Amendments to Section 33.1 are necessary in order to update the definition of an All-Terrain Vehicle (ATV) to bring it in line with legislation passed in 2003. Amendment to the section also updates the definition of the All-Terrain Vehicle Safety Institute.

Amendment to Section 33.2 is necessary in order to update information relating to fees charged by the ATV Safety Institute for courses.

Amendment to Section 33.3 is necessary in order to correct grammatical errors.

Amendment to Section 33.4 is necessary in order to strengthen the department's ability to deny and suspend applicants, instructors, or program sponsors in accordance with Texas Occupations Code, Chapter 53.

Amendment to Section 33.5 is necessary in order to add the allowance for an ATV Coach to apply for Texas approval via e-mail.

No comments were received regarding adoption of the 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 663.018, which states that the "designated division or state agency may adopt rules to administer this chapter." The Governor has designated the Texas Department of Public Safety to administer the all-terrain vehicle operator education and certification program as provided by Texas Transportation Code, Section 663.011.


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.

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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