

**PUBLIC SAFETY COMMISSION  
MEETING MINUTES – February 16, 2012  
Austin, TX**

The Public Safety Commission met in Austin, Texas on February 16, 2012. Attending the meeting were Chairman Allan Polunsky, Commissioners Carin Barth, Ada Brown, John Steen and Cindy Leon. A quorum was present at the meeting. DPS staff members and guests were also present.

**Call to Order**

The meeting was called to order by Chairman Polunsky at 9:09 a.m. Proper notice had been posted.

**Approval of Minutes** (00:50 – indicates time stamp from audio file)

**A motion was made by Commissioner Steen seconded by Commissioner Barth approving the minutes as submitted for the January 26, 2012 meeting. Motion passed unanimously.**

**Public Comment** (01:13)

There were no public comments.

Before going to the Director's Report Chairman Polunsky announced that we would go straight to New Business for the Discharge Appeal Hearing.

**New Business** (01:36)

The Commission heard the discharge appeal of Michael Deck. The Department was represented by Assistant General Counsel John Ferguson and Michael Deck represented himself. **A motion was made by Commissioner Brown seconded by Commissioner Barth to continue the hearing at the March meeting to present more evidence. Motion passed unanimously.**

**Directors Report** (01:50)

**A. Presentation of Director's Awards, Director's Citations and Life Saving Awards**

Captain Walt Goodson assisted Director McCraw with presentation of the following awards:

**Trooper Robert Bryan** received a Director's Citation for his efforts in evacuating a wounded Harrison County Sheriff's Deputy from the scene of a gunfight on January 26, 2011.

**Corporal Timothy Pitts** received a Director's Citation for his efforts in rescuing a woman who was stranded in Lake Leon near Eastland after her boat capsized on January 5, 2011.

**Trooper Kevin Sanmann** received a Director's Citation for his decisive action against a subject who posed a significant threat to a Plano Police Department detective, an ATF agent and himself during an execution of an arrest warrant on October 7, 2010.

**Trooper Stephen Jay Tone** received a Director's Citation for his efforts in locating and rescuing four firefighters who had gone missing during a wildfire in Eastland County on April 15, 2011.

**Corporal Jesse Stewart** received a Director's Citation for his response to a suicide call on January 24, 2010, in Rusk County, during which he negotiated with the subject until medical assistance arrived. **Corporal Stewart** also received a Lifesaving Award for supporting first responders and performing CPR on a driver who had fallen unconscious on January 25, 2010, near Kilgore. The man's breathing and pulse were restored, and Corporal Stewart continued CPR until medical assistance arrived.

**Staff Sergeants Michael Lemmon, Christopher Barclay, Kevin Allison and Scott Allan Hamilton** received Director's Citations for their response during a training mission in Corpus Christi Bay on May 12, 2011, when they rescued two fishermen from a boat that had caught fire.

**Former Agents J. Wesley Crites and James York** received Director's Citations, and **former Agent Jimmy Murray** received a Purple Heart, for their efforts during the execution of a search warrant on March 3, 1972, in Houston, when a female suspect attempted to flee. The suspect shot Agent Murray, and Agents Crites and York returned fire and took the suspect into custody.

**Trooper Charlie Luncford** received a Lifesaving Award, and **Canton Police Department Sergeant Steve Hall** received a Director's Award, for reviving a woman who had fallen unconscious after choking on February 10, 2011.

**Trooper Barry Evans** received a Lifesaving Award, and **James Douglas Beggerly** received a Director's Award, for performing CPR on a subject who had collapsed shortly after being arrested near Tyler.

**Trooper Brian Powell** received a Lifesaving Award, and **Gene Smithwick** received a Director's Award, for performing CPR on a man in Weatherford who had gone into full cardiac arrest.

**Mr. Ramon Trevino** received a Director's Award for his assistance to Trooper Arnold Rodriguez on August 28, 2010, in restraining a combative subject who was being arrested for DWI in Brownsville.

The **U.S. Homeland Security Investigations Border Security Enhancement Security Team in Alpine**, including **Chinyere Abosi, Jose Santa Cruz, William Fort, Kemp Johnson, Robert Soria, Erick Tarango, Don Alvarenga, Alex Rodriguez, and Brian Scholz** received Director's Awards, and the **Alpine office of the DPS Criminal Investigations Division** received a DPS Unit Citation, for their efforts to dismantle drug trafficking operations in their area. These efforts resulted in the arrest of 41 subjects and the seizures of 11,553 pounds of marijuana, 15.76 kilograms of cocaine, \$267,213 in cash, seven firearms and 12 vehicles.

Director McCraw also noted that the Department received two awards from the State Employee Charitable Campaign: 2011 Highest Percent Participation and the 2011 Rising Star for most improved campaign.

Chairman Polunsky stated these are the moments that make it such an honor and privilege to be associated with the Department of Public Safety. The individuals honored today embody the professionalism and exceptionalism of DPS and that is why we are so fortunate to have this agency in place to protect the citizens of the state of Texas. He wished all the recipients the best of luck in the future and thanked them for what they have done in their past in performing their duties.

**B. Advice and consent regarding appointment of Homeland Security Assistant Director – Jay Kimbrough**

Director McCraw displayed a Homeland Security Grant Program Summary slide showing the Office of Homeland Security is responsible for the oversight of \$160 million in FY 2010 and reduced to \$117 million in FY 2011. With the yearly decrease in Homeland Security grant funding and drastic reduction to the UASI allocations and removal of funding for San Antonio, El Paso and Austin in 2011, Director McCraw requested advice and consent on the selection of Jay Kimbrough as the Assistance Director of Homeland Security. He has spent a lifetime in public service and is a recognized and committed problem solver. Jay Kimbrough has an extensive and distinguished public service career including decorated Vietnam War veteran of the United States Marine Corps, county attorney, assistant district attorney, county judge, deputy first assistant attorney general for Texas, and executive leadership positions with a number of state agencies. As the individual who established the Texas Homeland Security Office in 2004, Jay Kimbrough has a unique understanding of the byzantine process used by the Department of Homeland Security to allocate grant funds to states and local jurisdictions. He also understands the importance of closely working with local, state and federal agencies to accomplish the homeland security goals of the state. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the appointment of Jay Kimbrough as Homeland Security Assistant Director. Motion passed unanimously.** Chairman Polunsky referenced back to the UASI funding allocation slide and asked for further explanation on why funding had been cut in FY 2011 for San Antonio, El Paso and Austin. Director McCraw replied that the decision had been made by the US Department of Homeland Security removing the cities from receiving UASI funding and that Kimbrough would need to look at this issue for the state. Chairman Polunsky requested a letter be drafted to DHS protesting action taken removing UASI funding for San Antonio, El Paso and Austin for his signature. **A motion was made by Chairman Polunsky and seconded by Commissioner Leon to draft letter to DHS for his signature protesting action taken removing UASI funding for San Antonio, El Paso and Austin. Motion passed unanimously.**

Director McCraw proudly displayed a photo of Troopers Bruce Cipriani and Thomas Arriaga of a \$1 million cash seizure that occurred in Victoria on February 13, 2012. Over the course of a 21-day period, Trooper Cipriani seized over \$1.8 million in cash in three separate events. Cipriani is a name that is heard often as he also had a notable cocaine seizure of 16 kilos in August 2010. Director McCraw briefly read over

items from that morning's Executive Summary to showcase the great work that occurs daily.

**New Business** (56:30)

**B. Report, discussion, and possible action on the presentation of the Office of the Inspector General 2011 Annual Report of Operations and OIG resource allocations/regional assignments of personnel**

Inspector General Stuart Platt and Phillip Ayala did an interactive presentation showcasing their new software (IA Pro). Data compiled for presentation was for calendar year 2011. In 2011, 365 complaints were received and data can be broken down by type of allegation, position classification, region, division, age, and tenure. It is noted that the greatest risk for sustained allegations/resignations is THP with five or less years of service and is consistent with past history. Director McCraw added that alcohol, sex, state cars, candor and secondary employment are the top five allegations consistent with other agencies. Commissioner Leon recommended we consider annual training to include these high risk items for the first five years. Inservice Training occurs every two years as well as Ethics Training. We are looking at virtual training in the future. Commissioner Brown requested to have use of force allegation information sent to her. Commissioner Leon requested printed copies of all the slides be provided to all the Commissioners. Inspector General Platt made the following two recommendations: (1) increase the number of sergeants to provide additional mentoring, and (2) fact-based scenario training should be at the later part of the Academy rather than the first for a better understanding. In addition Inspector General Platt pointed out that operations are running well but he believes we should begin to move towards doing away with TAIG. His office currently has 10 Lieutenant investigators (10 permanent and 3 floaters) and senior leadership that looked at establishing that office recommended 32 Lieutenant investigators. His recommendation is to add 7 Lieutenant positions, 1 Captain, 2 administrative positions, make the 3 floaters permanent and do away with TAIG. TxDOT has shared space currently available in San Antonio and he and Gary Albus have been in communication with them. At this time, TxDOT just needs to know that we are interested in pursuing the space. Commissioner Steen requested General Platt formalize the recommendations made during his presentation to include Director McCraw's response to those recommendations and whether they should be implemented. Commissioner Brown volunteered to work with the OIG and report back at the March meeting for any action to be taken at that time.

Before we continued to the next agenda item, we paused to recognize Representative Pete Gallego. Chairman Gallego was at the meeting to see some of his constituents from Alpine receive awards. He commended the Department and the Director for reaching out and building a much better relationship with other law enforcement agencies. The morale of the Department and its employees out in the field has improved tremendously throughout the years. Chairman Gallego represents the largest geographic district in the state and he's had the opportunity to meet and work with lots of people during his 22 years of service. Chairman Polunsky commended Chairman Gallego on his distinguished 22 year career in the legislature. He is a true professional and has a high level of integrity and a friend of law enforcement. We are sorry to see him leave the legislature and wish him good luck in his endeavors and thank him for his support.



C. Report, discussion, and possible action on proposed repeal and simultaneous proposal of new Driver License Rule for publication to receive public comment: Rule 15.48, 37 TAC Sec. 15.48 concerning Selective Service Registration

AD Rebecca Davio, Driver License, presented this rule proposing action to post it to the Texas Register for public consideration. The proposed rule is needed due to the implementation of SB 132, 82<sup>nd</sup> Texas Legislature, to repeal and replace current language that Selective Service registration is required for males at least 18 but less than 26 years of age. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the repeal and proposal for publication. Motion passed unanimously.**

D. Report, discussion, and possible action on proposed new Driver License Rule for publication to receive public comment: Rule 15.90, 37 TAC Sec. 15.90 concerning Deferral of Enforcement Actions for Victims of Identity Theft

AD Rebecca Davio, Driver License, presented this rule proposing action to post it to the Texas Register for public consideration. The proposed rule is needed due to the implementation of HB 2256, 82<sup>nd</sup> Texas Legislature, pertaining to the protection for identity theft victims. Victims of identity theft who can provide a police report or acceptable court documents will have statutory and administrative penalties associated with offenses resulting from identity theft removed from their driver record. If the person who actually committed the offense(s) can be determined, the associated penalties will be applied to that record or if the license holder falsifies the identity theft report, the penalties will be reapplied to the record. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the proposed rule for publication. Motion passed unanimously.**

E. Report, discussion, and possible action on proposed new Commercial Driver License Rule for publication to receive public comment: Rule 16.41, 37 TAC Sec. 16.41 concerning Medical Certificate Requirements

AD Rebecca Davio, Driver License, presented this rule proposing action to post it to the Texas Register for public consideration. The proposed rule is needed to implement Title 49, Code of Federal Regulations Chapter 383.71 relating to commercial driver medical certificate requirements. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the proposed rule for publication. Motion passed unanimously.**

F. Report, discussion, and possible action regarding expanded scheduling options for Driver License transactions

AD Rebecca Davio, Driver License, provided information on expanded scheduling options for driver license transactions. There are three components of wait times: processing times, capacity and demand. The benefits to online scheduling are that it evens out inconsistent demand, reduces office crowding and provides predictability for customers. Currently, online scheduling is only available for non-CDL driving tests at the 59 busiest offices. In the future, we hope to offer other DL services by appointment as well as expand online schedule to all offices.

Commissioner Barth asked what can be done when a college student loses his wallet and needs a new driver license. Most individuals are not aware if you have your audit number from your driver license you can order a new license online. It is recommended you make a copy of your driver license and place it in safe keeping in the event it is lost or stolen. Commissioner Brown and Barth thought this may be good

information to post on our website. Commissioner Steen suggested we approach the Legislature to push online driver license renewals by providing a financial incentive.

**Adjourn into Executive Session** (02:27:45)

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 1:10 p.m.

(02:27:49) The Public Safety Commission reconvened the open session at 4:33 p.m.

**Ongoing Business** (02:27:59)

- A. 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  
No discussion.
- B. 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  
No discussion.
- C. Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar  
No discussion.
- D. Report, discussion and possible action on the Fiscal Year 2012 Operating Budget  
No discussion.
- E. Report, discussion and possible action regarding purchases using seized funds  
No discussion.
- F. Update Report, discussion and possible action regarding recruitment  
DAD Frank Woodall Education and Training reported as of 4:20 p.m. today there are 55 recruits down from the initial 67. Five of the eleven that left stated they were leaving due to family issues at home. Three others have displayed lots of heart and determination and have been placed in intern positions until the next class due to physical issues.

We have received 771 applications and 555 are in the prescreening stage (pending some form of documentation). 101 are in the testing phase (PRT), 40 in polygraph, 39 in background investigations and 36 in oral interview board scheduled for next week. Commissioner Steen asked of those that leave due to family issues will they come back or are they gone for good? DAD Woodall responded that an individual had to leave because his mother suffers from dementia and he needed to settle her estate, another had a spouse that is 5 months pregnant and began having complications with her pregnancy and she lived out of state and another left due to his wife having problems with their 4 year daughter. Woodall added that obviously if any of those issues were life threatening they would have no problems with them leaving and coming back but they all decided not to return. Commissioner Brown issued kudos for working with those individuals who have heart but have physical

issues. It sounds like we are doing everything we can to keep them in the family by making them interns. By listening to some of these stories it is clear some had medical issues but some may have used it as a 'graceful out'.

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

No discussion.

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

Commissioner Steen asked to defer to the March meeting. Commissioner Brown had some language questions that she will email to Commissioner Steen. Chairman Polunsky asked for this to be a priority item for the next meeting.

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

No discussion.

**J. Report, discussion and possible action regarding Emergency Management's procurement status of RFP for audit services with respect to Federal monies for past grants**

AD Nim Kidd Emergency Management requested extension to add \$10 million to the Horn contract while they still pursue negotiations. Horn currently has 132 projects with 47 projects completed and they are satisfied with their work. **A motion was made by Commissioner Barth seconded by Commissioner Brown adding \$10 million for audit services relating to emergency management. Motion passed unanimously.**

**K. Report, discussion and possible action regarding Emergency Management disaster response contract services**

No discussion.

**L. Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office**

Steve Goodson, Chief Auditor, reported on the audit of the DPS Aircraft Section. The Aviation Section has established an environment that ensures safety and professionalism in which to carry out its mission. Pilots maintain training and experience, aircraft maintenance is well documented and use of resources is logged and reported to the legislature as required. The only significant concern was the need to improve internal control over capital assets. Aviation management has accepted and implemented the CAO recommendations.

**Real Estate**

Steve Goodson, Chief Auditor, anticipates the audit of real estate will be ready by the end of February.

**M. Report, discussion and possible action on Driver License monthly updates**

No discussion.

**Reports**

**A. Commission member reports and discussion - None**

**B. Finance Report - None**

**C. Chief Auditors Office Report - None**

**D. Division status reports on activities and action**

AD Nim Kidd, Emergency Management, thanked AD Mark Doggett, Information Technology, and the IT Staff for their assistance the last two days with the first ever state operations center outside the state operations center exercise at the

Doubletree Hotel. IT staff brought in equipment and did setup for phones and computers. They practiced the new emergency management structure along with the Finance section and all worked well. AD Kidd also thanked his staff for working thru Valentines' Eve on this important exercise.

AD Skylor Hearn, Law Enforcement Support, brought Lanell Waley to the meeting at the request of Commissioner Brown from the January meeting. Commissioner Brown read the summary from the Crime Lab report regarding the incident. In January 2010, five family members were brutally murdered in Bellville; including a two year old little girl. Two firearms were collected by investigators from a suspect and submitted to the Firearms Section of the Austin Lab for analysis. DPS Firearms Examiner Lanell Waley determined that both were used in the offense. It was also noticed that one of the pistols was engraved with a series of numbers under the trigger guard; a practice of many crime labs when they examine a weapon. Examiner Waley contacted the Texas Ranger investigating the case and provided him pictures of the numbers engraved on the pistol. After conducting further investigation, the Ranger discovered that the pistol was previously used in a homicide in 2004 in Houston and examined by a Houston Police Department crime lab. The female suspect in the Houston case had been no-billed by a grand jury and the firearm had been returned to her.

On November 21, 2011, a father and his 15 year old daughter were found shot to death in their home in Galveston County. Fired ammunition components including cartridge cases and bullets were collected at the crime scene and submitted to the Austin Lab Firearms section for analysis. One of the two suspects was apprehended in Austin. The suspect attempted to "ditch" a firearm while he was being pursued by police. The firearm was recovered and submitted to the lab for comparison to some of the previously submitted cartridge cases and bullets. Analysis was expedited and a positive identification was made by Lanell Waley just two days before Christmas. The suspect was also allegedly involved in home invasions in the Austin area. Completion of the testing was done within 30 days. Everyone stood and applauded Ms. Waley for her outstanding work! Commissioner Brown commended Ms. Waley for an awesome job and mentioned that they spend hours up there during meetings tending to disciplinary issues and it's so awesome to see the things they really don't read about, "you make us proud". Chairman Polunsky added it was a great story and thanked Commissioner Brown for bringing it to their attention.

Texas Highway Patrol – Commissioner Barth would like a report in the future on highway accidents as the speed limit is raised to 80 mph.

**Consent Items** (02:48:45)

- 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 Ranger: Frank E. Chambers, Bruce A. Gatlin and Steven L. McKinney
- B. Report, discussion and possible action regarding the adoption of proposed new Private Security Rule: Rule 35.47, 37 TAC Sec. 35.47 concerning Residential Solicitation



AD RenEarl Bowie, Regulatory Services, requested no action on this item at this time.

- C. Report, discussion and possible action regarding the adoption of proposed amendments to Private Security Rules: Rules 35.63 and Rule 35.70, 37 TAC Sec. 35.63 and Sec. 35.70 concerning General Administration and Examinations; Rule 35.93, 37 TAC Sec. 35.93 concerning Penalty Range; Rule 35.221, 37 TAC 35.221 concerning Qualifications for Investigations Company License; and Rule 35.256, 37 TAC Sec. 35.256 concerning Application for a Training Instructor Approval  
AD RenEarl Bowie, Regulatory Services, request no action on this item at this time.

**A motion was made by Commissioner Barth seconded by Commissioner Steen approving Consent Item A only. Motion passed unanimously.**

**Items for Future Agenda**

Commissioner Steen requested information on how we deal with DWIs as a policy matter in regards to commissioned and non-commissioned personnel.

Commissioner Barth requested a calendar of upcoming legislative hearings be sent to the commissioners. Director McCraw ensured his office would keep commissioners informed of future hearings.

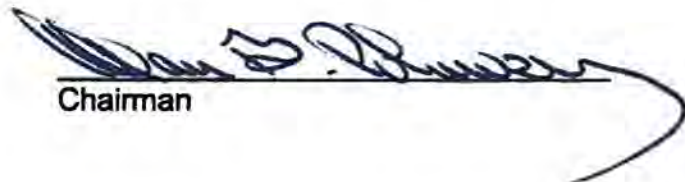
**Date for Future Meeting**

The next Public Safety Commission meeting is scheduled for March 21, 2012 starting at 9:00 a.m. in Austin, Texas and will include a discharge appeal hearing.

**Adjourn** (02:55:21)

The meeting was adjourned at 5:00 p.m.

Read and approved this 21<sup>st</sup> day of March, 2012.

  
Chairman

**SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS**  
**February 2012**

**Special Ranger Applicants:**

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Chambers, Frank E.	CID	Mount Pleasant	09/30/2011	22 years	
Gatlin, Bruce A.	THP	Mount Pleasant	11/30/2011	26 years	
McKinney, Steven L.	THP	HP/Waxahachie	05/31/2004	22 years	

**No Special Texas Ranger Applicants**

  
Approved by the Public Safety Commission on: 2/16/12