

**MINUTES**  
**PUBLIC SAFETY COMMISSION**  
**January 14, 2011**  
**Austin, TX**

The Public Safety Commission met in Austin, Texas on January 14, 2011. Attending the meeting were Chairman Allan Polunsky, Commissioners Ada Brown, Carin Barth and newly appointed A. Cynthia Leon. John Steen joined the meeting at a later time. 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 9:31 a.m. Proper notice had been posted.

Chairman Polunsky formally welcomed Commissioner Leon to the Public Safety Commission stating Governor Perry appointed her to serve until January 1, 2016. The Chairman provided a brief biography on Commissioner Leon and followed with presenting her the official Commission badge. Commissioner Leon thanked the Chairman and stated she was thrilled to have been appointed and looking forward to working with the other Commissioners and the DPS staff. She added that she felt it a privilege to be a part of the organization.

Chairman followed by acknowledging the service and time of Commissioner C. Tom Clowe. He continued stating that he was a tremendous member of the Commission that added a high level of integrity, wisdom and level headedness that everyone looked to for advice and counsel when times were critical. The Chairman said a more formal acknowledgement would be held at a future date. He continued by stating on behalf of the Public Safety Commission he thanked Commissioner Clowe for his time and many contributions to the State of Texas and specifically to the Public Safety Commission over the last several years.

**Approval of Minutes** (07:03 - indicates time stamp from audio)

**A motion was made by Commissioner Barth and seconded by Commissioner Brown approving the minutes as submitted for the December 17, 2010 meeting. Motion passed unanimously.**

**Public Comment** (07:26)

Gary Chandler, the new President of DPSOA, representing the DPSOA Legislative Committee, presented the DPSOA legislative agenda, which set their goals. He also formally thanked Commissioner Clowe for his service and applauded Commissioner Leon in joining the Commission. Chairman asked if there was anything specific on the list he wanted to reference. Mr. Chandler stated trying to secure the resources DPS needs to accomplish their goals; and support a deferred retirement option program for their members. Chairman and the other Commission members congratulated Mr. Chandler and wished him luck in his new position.

Joe Ptak spoke on the state implementation and study of Cite and Release policy. He requested the Public Safety Commission take action on two items to give the policy a better chance to succeed and evaluate the program's effectiveness at meeting its goals. Chairman asked that Duncan Fox, OGC review and report back to the Commission at the next meeting with regard to the legal requirements the Department may have with respect to Mr. Ptak's presentation.

**Director's Report** (14:09)

Colonel Lamar Beckworth presented in Director McCraw's absence during the reporting period. Colonel Beckworth publicly commended Commissioner Clowe for his exceptional job in moving the agency forward. In addition he welcomed Commissioner Leon on her commitment to serve the department.

He reported first about the Legislative session reconvening and the significant changes in security at the Capitol for the 82<sup>nd</sup> session. He stated there were no lines and our staff was working with government personnel in a professional manner. He publicly complimented Commander Ortiz and his team for this effort on behalf of the Department.

Secondly, he spoke about some of the things the DPS was looking for to come out of this Legislative session listing: implementing southbound driver license checks, which the DPS would encourage the Legislature to approve; approving regulated commercial driving schools whereby DPS would control and regulate those schools; authorized use of GPS tracking surveillance of criminals without the need of a court order; a process to be put in place to make it illegal to produce synthetic marijuana; mandatory prohibition of using wireless communications on the highways and lastly increasing DWI penalties.

The third topic he reported on was utilizing a unified command process, developed by DPS, in working major cases such as used in the East Texas arson case. DPS deployed those resources and were able to identify the two subjects involved. The two pleaded guilty and received two life sentences. The second case the unified command process helped in solving was the Twilight Rapist case. Colonel Beckworth presented a map and chart of events developed by the unified command process which once again aided in making it possible to identify the suspect and capture him.

Commissioner Barth inquired about the Legislation with respect to the handheld and text messaging and what the department would be proposing. Colonel Beckworth stated handhelds were the focus - not being used in the capacity of text messaging while driving. He clarified minimizing the distraction of handhelds while driving, specifically to use hands-free auxiliaries. He stated many cities had adopted processes and DPS had nothing in place, so it would be modeled after those. DD MacBride said LBB was proposing in a report to make all kinds of handheld devices illegal to use while driving a vehicle. Chairman Polunsky inquired about opposition of ordinances of this nature. Colonel Beckworth said it was challenging to prove texting verses listening or talking on a handheld, and added it was also difficult for an officer to prove up. DD MacBride stated she would send the LBB report electronically once available.

Commissioner Brown stated how proud she was of the Department for catching the Twilight Rapist. Colonel Beckworth stated it was the two officers who recognized and captured the suspect in Edna at 4:30 a.m. that morning -- which their hats went off to them. Chairman said to think about bringing Troopers involved in these types of apprehensions to the Commission for public recognition. He stressed how important he felt it was to encourage public recognition by either the Commission or the Director for those individuals involved in leading to the apprehension of individuals who committed crimes.

#### **New Business (32:01)**

AD Davio, Driver License Division, provided a packet for the tour of the Driver License Headquarters office – detailing the behind-the-scenes look at what is done day to day and the improvements done to date. She added all but two of the items on the twenty-five item DL project list were being worked on, but still a long way to go in the changes. During the tour Chairman Polunsky asked for the percentage of complex cases and suggested the possibility of moving those to one or two of the Regional offices for handling. He asked AD Davio to keep the Commission abreast of this since expediting individuals through the lines was a hot button with the members of the Legislature and they would want to know what was being done. AD Davio stated she would report at the next meeting on this. She said the current wait time averaged 32 minutes. All Commercial drivers now go to the Denson location. Commissioner Barth asked if there was anything AD Davio would change in the NemoQ system – AD Davio replied the wait time. She pointed out that the difference in the transaction time at the HQ DL office was due to the manager there at that office. Chairman Polunsky asked that AD Davio provide the tour information to the House and Senate members. He said to list the top 10 offices in volume with ideas such as additional facilities that may be needed, aligning resources with demands and any other ideas the TSU study results came up with that may be helpful to look into. Commissioner Steen asked that she show true percentages on her charts. DD MacBride said the transactions were being looked at

and they thought of adding to the website so individuals could know which offices are busy or which locations handle certain transactions. AD Davio added they were looking at on line scheduling. Chairman Polunsky asked for monthly updates to continue being presented on all of the NemoQ projects.

(34:41) Commissioner Steen joined the meeting during the DL tour.

Duncan Fox, OGC followed up on an item from the previous Public Safety Commission meeting having to do with if the Department could charge other agencies for services such as incinerator burning. He advised the Commission that DPS does not have specific statutory authority to charge local government a fee to destroy drugs. AD Simpson, Law Enforcement Support stated burning was done by DPS in only one area and said they never charged for the burning. He continued stating manpower was provided by local law enforcement to unwrap the marijuana from the shrink-wrap packaging, due to the environmental issue, and that this was the most labor intensive portion of the process. He stated Hidalgo County pays about 75 cents per pound for burning. AD Simpson added he and the Director spoke with Senator Hinojosa about looking into another piece of equipment that would burn the wrap and most other types of drugs. This would be a service which DPS would perform, but charging had not been discussed. Chairman asked the costs be quantified. DAD Johnson stated that DPS costs were \$50K/year, plus salaries to operate the current incinerator. Chairman pointed out by adding an additional piece of equipment would add additional costs and requested AD Simpson look at these costs. Commissioner Leon inquired if piggy-backing with the Border Patrol in an existing arrangement might be possible, but DAD Johnson said an incinerator in Laredo was used or the drugs were commercially trucked to Florida for destruction. She suggested finding something all agencies could use might be an economical avenue to look into. Chairman asked that considering the additional incinerator expenses, reimbursement to DPS should be considered, or other options, since it was not good for DPS to be losing money in these situations. Commissioner Steen thanked AD Simpson for looking into this matter.

Chairman spoke with AD Simpson complimenting the work he had done in interfacing the communication networks with the various jurisdictions that were on different frequencies. Chairman stated based on feedback he had received during ride-along, the Troopers were very pleased with this and he wanted to pass this on to AD Simpson. He added it was very positive work being well received by the Troopers in the field. AD Simpson added they would prepare a presentation for a future Commission meeting on this as so many had no idea all that was involved.

(48:45) General Platt welcomed Commissioner Leon and provided background on the Field Investigator Augmentation System policy and the current implementation progress of the concept to help her since she was new. After reviewing the revisions made since the last meeting, and removing the reference to the Appendix, he requested the final policy be approved by the Commission. General Platt explained a difference he and the Director had. He added that the differences between him and the Director were in the implementation process and not the substantive policy. He explained it had to do with the oath guidelines training component, specifically with respect to the confidentiality in working the cases. **A motion was made by Commissioner Steen and seconded by Commissioner Brown to adopt the recommendation as presented by General Platt. Motion passed unanimously.** Chairman Polunsky requested that any further issues such as this matter pertaining to objections to the use of the oath should be brought to the Commission's attention. Commissioner Steen asked that future policies be posted on the screen for the public attending to view. **The final approved policy is a part to these minutes.**

(01:00:03) General Platt presented the draft proposal with four changes amending Government Code 411.244, with respect to the Inspector General function, for Commission consent. Commissioner Barth asked why on Sec. 411.244 (2) (b) "and director" had been added, rather than "at the direction of the Commission, the Director would receive reports on status while pending". The Commission asked General Platt to change the language stating "at the direction of the Commission" to clarify the chain of report for the OIG office was to the Commission. General Platt commented the Director did not favor changes to the statute. General Platt was instructed to come back later in the meeting and present to the Commission after revising as discussed. Chairman Polunsky made it very clear how Representative

Kolkhorst expected the OIG office to be led, and it was to be led by the Commission and no one else. Chairman suggested deferring this item until later in the meeting when General Platt could come back with the revised Code. The Director would be joining the meeting by that time. Commissioner Steen asked if General Platt could at that time also have the presentation available for viewing on the screens.

(01:19:28) AD Bowie, Regulatory Services Division, provided a report on the Vehicle Inspection Advisory Committee Chair Recommendation. He proposed Roy Baird be appointed as Chair of the Committee. Commissioner Brown asked for a full sketch on Mr. Baird. AD Bowie provided Mr. Baird's biography to the members. Commissioner Steen inquired about the Committee's authority to advise, nothing else - AD Bowie clarified it was to advise only. Chairman appointed Roy Baird as Committee Chair of the Vehicle Inspection Advisory Committee.

AD Bowie continued with a report on the Vehicle Inspection Advisory Committee Membership recommendations of: Dennis Wright, David Lewis, and Abel Porrass and stated that each of their bios were in the binders. He added that each individual had been vetted by criminal history checks, lien records that their background checks were more than cursory background checks, stating that a couple had traffic violations. AD Bowie added he would take full responsibility for these individuals should a problem ever crop up. He commented that he felt they were good people and warranted serving on the Committee. Commissioner Leon inquired about the length this Committee had been around and what prompted the Legislation to implement this Committee. Colonel Beckworth stated it went back a few years when this group went to the Legislators and DPS to get things approved and work with DPS and make sure everything was done in a legal way, that the Committee meets one time per quarter. Commissioner Steen asked for clarification of this being approved by the Commission rather than as the Committee Chair being appointed by the PSC Chairman. AD Bowie requested the Commission approve the members as recommended. **A motion was made by Commissioner Steen and seconded by Commissioner Barth approving the individuals as presented be appointed for three year terms. Motion passed unanimously.**

#### **Executive Session (1:27:13)**

The Commission went 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 12:14 p.m. and ended at 4:02 p.m.

(On CD#1002 at 00:22) The Public Safety Commission reconvened at 4:02 p.m. A quorum was present.

#### **Ongoing Business**

(00:33) Commissioner Brown reported on the appointment in the search for the Office of General Counsel position and stated two finalists had been interviewed during the Executive Session. **A motion was made by Commissioner Barth and seconded by Commissioner Leon to have the Director discuss having Phillip Adkins become the new General Counsel. Motion passed unanimously.** The Director added he looked forward to working with Mr. Adkins. Commissioner Brown commented on the fine pool of people who applied for this position and Chairman Polunsky agreed and congratulated Mr. Adkins.

(03:19) Commissioner Steen added his appreciation for what Duncan Fox had been doing. He stated that twice Mr. Fox had served as interim General Counsel. He commented he did an excellent job and said people say no one knew more about DPS legal matters than Duncan Fox did and expressed his appreciation to Mr. Fox for a job well done and asked for a round of applause. Chairman Polunsky stated Duncan was a good lawyer.



(04:40) Commissioner Brown reported on the 28-day work cycle and overtime and compensatory time policy stating an overview follow up would be presented at the February meeting.

(06:20) Deputy Director Cheryl MacBride reported that she had posted for her replacement as CFO and made a recommendation to the Commission to approve Denise Hudson for joining the Department in the capacity of the Assistant Director of Finance, contingent upon her background investigation. **A motion was made by Commissioner Steen seconded by Commissioner Barth agreeing to the recommended appointment of Denise Hudson as the new CFO, based on the contingency of her background investigation. Motion passed unanimously.**

(08:24) DD MacBride reported on the fiscal year 2011 Operating Budget, as of November, adding there were no items to be concerned about in the report.

(09:06) DD MacBride reported, Captain Jason Hester joined for questions on the FY2011 fixed and variable recruit school costs of \$26,879 per recruit, as requested by the Commission at the last meeting. Commissioner Barth thanked her for preparing the numbers.

(10:52) DD MacBride presented a slide showing the seized funds report which reflected a balance of \$5.3 million. There were no requests for purchases out of seized funds at this time. At the request of Chairman Polunsky, she reviewed the list of permissible and impermissible uses using seized funds. He inquired if the funds could be used for overtime. She stated in limited circumstances the funds could be used for overtime of officers and investigators. Commissioner Leon inquired about the generator item and Commissioner Barth reported they were for the DPS offices listed and stemmed after Hurricane Ike.

(16:34) Chairman Polunsky thanked AD Davio, Driver License Division for the very interesting tour adding things were going in the right direction and they were pleased. He asked about a comment she made regarding putting recruitment information in all DL offices on either the display screens or walls stating that they may be something that could pay off. Commissioner Steen added his thanks for the presentation. He said he had received a lot of compliments that she was doing a great job.

(18:25) Chairman Polunsky asked Highway Patrol about the dividers TX Dept. Of Transportation (TxDOT) had been installing on the highways and if they were effective. He thought they insured a vehicle would not move across the median into oncoming traffic; and secondly wondered if any discussions to have cuts or some location after certain lengths in place for law enforcement to be able to cross over to the opposite side of traffic. Chief Madden reported that these were in process and a report would be presented at the next Commission meeting on what was taking place and the status. Commissioner Barth asked at what speed the dividers would block i. e. 80 mph; and could they add that information when they made their report. The Director confirmed law enforcement could cross at any of those points saying TxDOT was agreeable and willing to work with DPS on this and they would have a report at the next meeting. Chairman Polunsky said he heard from Troopers they had to go some length to apprehend someone going in the opposite direction and felt the cable medians were of little use and if a vehicle was going 80 mph they would not be effective. The Director agreed a Trooper should not have to go twenty miles to turn around and they would continue to work with Tx DOT on this.

(23:40) General Platt, Office of Inspector General, followed up from the earlier discussion regarding the revisions to the criminal investigation policy and stated he had made drafts considering the context discussed earlier in the meeting and the suggested changes. **A motion was made by Commissioner Barth, seconded by Commissioner Steen delegating Chairman Polunsky work through the language in the policy with General Platt and approve. Motion passed unanimously.** Amanda Arriaga stated the date for filing bills to the Legislation to review was March 11<sup>th</sup>. Commissioner Steen thanked Ms. Arriaga for her input in being put on the spot for that information.

(28:22) Colonel Lamar Beckworth stated there were no issues with any of the consent items, that each had been vetted and validated. **A motion was made by Commissioner Steen and seconded by Commissioner Barth approving consent items A & B as presented. Motion passed unanimously.**

(28:57) Commissioner Steen inquired of the Director what he had presented to the Legislators this morning. The Director stated he gave a 15 minute presentation on Border Violence and the economy. Commissioner Steen asked that he give that presentation to the Commission at the next meeting.

He also asked that the DPS Policy on Gifting and reporting requirement be placed on the February agenda. The Director stated he would call Commissioner Steen prior and report at the next meeting where DPS was with the policy and how they were taking care of this.

Commissioner Barth requested an update report on the agenda for the next meeting that included the current volume of applications and time to obtain a Concealed Handgun License.

The Director commented on the tremendous professional job Duncan Fox had done for the Department and what a valuable asset he was to the organization. Commissioner Leon echoed that Mr. Fox was fantastic in her briefing the day before.

(31:36) The next meeting of the Public Safety Commission was suggested by Commissioner Barth to be held on February 22<sup>nd</sup>.

Chairman Polunsky appointed Commissioner Leon to be the Commission Liaison on Border Security issues working closely with the Director on all matters. The Chairman requested that the Director keep the Commission advised and integrate Commissioner Leon on all information necessary to have a Commission perspective on issues going on at the Border. The Director and Commissioner Leon plan to attend a 2011 Legislative Tour of the Valley sponsored by the Rio Grande Valley Partnership the following week.

The meeting was adjourned at 4:37 p.m.

Read and approved this 22nd day of February, 2011.



Chairman

IN THE MATTER OF                         §                 BEFORE THE

THE DISCHARGE OF                         §                 PUBLIC SAFETY COMMISSION

PROBATIONARY EMPLOYEE                 §                 IN AUSTIN, TRAVIS COUNTY, TX

## **Advice and Consent**

In accordance with Government Code Section 411.007(f), the Director found that the following named probationary employee was unsuitable for continued employment in the Department of Public Safety. The Public Safety Commission has consented to the discharge of this employee:

Employee Name	Employee Title/Division	Date of Discharge
Oliver Snyder	Assistant Manager, Driver License	12/20/10

Approved:

Allan B. Polunsky, Chairman  
Public Safety Commission  
Date: January 14, 2011

# **The Inspector General Field Investigator Augmentation System**

## **Section I**

### **Introduction**

#### **1-1. Purpose**

This policy—

- a. Prescribes policy and mandated procedures concerning the mission and duties of The Inspector General (TIG) of the Texas Department of Public Safety (DPS) and the Department to augment investigative resources to meet responsibilities under Texas Government Code 411.244.
- b. Prescribes duties, missions, standards, and requirements for Temporary Acting Inspectors Generals (TAIG's) throughout DPS.
- c. Discusses Office of Inspector General (OIG) coordination with the offices of the Director, Deputy Directors, Assistant Directors, and Regional Commanders for OIG investigative force augmentation for field investigations.
- d. Prescribes responsibilities for Regional Commanders (RC); Assistant Directors (AD), and The Inspector General (TIG) in, approving, detailing, supporting, removing, supervising, and maintaining objectivity in fact-finding for Temporary Acting Inspectors Generals (TAIG's).

#### **1-2. Responsibilities**

a. TIG will—

- (1) Coordinate with RC's for the approval of a cadre of field investigators for each region which may consist of both commissioned and non-commissioned DPS employees.
- (2) Train Temporary Assistant IG field investigators and conduct—
  - (a) Provide a TIG course for members of these regional or HQ's selected personnel.
  - (b) Sustainment (refresher) training for TAIG's.
- (3) Inquire into, and periodically report upon to the Director and the Commission, the efficiency, economy, morale, effectiveness, and training of Temporary Acting Inspectors Generals (TAIG's).
- (4) Perform initial intake on complaints which will be referred to as Inspector General Action Requests (IGARs).
- (5) When issues or allegations are approved by proper authority for investigation under Government Code 411.244, or Commission, Director, or Inspector General Directives, determine if a field investigation by a Temporary Acting Inspectors Generals (TAIG's) is the most appropriate resource for investigating an issue or allegation.
- (6) A field investigation into allegations regarding a commissioned employee shall be accomplished by a commissioned employee unless otherwise approved by the affected Deputy Director, the Regional Commander, Assistant Director and the Inspector General.



(7) Request the Regional Commander where the primary acts associated with an IGAR requiring inquiry or investigation have allegedly occurred to assign an approved TAIG as an augmentee for inquiry/investigation.

(8) Provide OIG resources (normally a Captain) to coordinate assignment by the RC and provide the assigned TAIG the specific issue(s)/allegation(s) for investigation in addition to as OIG support and oversight.

(9) Provide policy guidance and oversight, to include training and annual acknowledgment/certification from the TAIG select personnel of their obligations to maintain confidentiality and OIG chain of command responsibility to oversight on OIG delegated investigations.

b. The RC or in the case of Headquarters (HQ) augmentation<sup>1</sup>, then the appropriate AD will—

(1) Maintain a list of augmentees to assist in or fully investigate OIG field investigations.

(2) Select the TAIG for detail assignment to specific cases after considering the workload within the region and the investigator, the nature and magnitude of the allegation, and the need to maintain a clear perception of independence by the fact-finder (investigator).

(3) When the regional (or HQ) cadre of investigators cannot or should not handle a matter in light of (b)(2) above, the RC<sup>2</sup> shall notify the OIG and appropriate Deputy Director and Assistant Director that coordination with another cadre list (i.e. separate region) is necessary to obtain an approved field investigator. Thereafter that RC or AD shall be responsible for obtaining an independent approved TAIG).

(4) Provide the TIG assistance in the enforcement of annual acknowledgment and certification, as well as actual compliance with this policy during investigations from the TAIG select personnel in their region pertaining to their obligations to maintain confidentiality and OIG chain of command responsibility for oversight on OIG delegated investigations.

---

<sup>1</sup> Most inquiries or investigations requiring augmentation will be field investigations in regions. However there are occasions in which Headquarters personnel are subject to investigations and these might require augmentation of OIG investigative resources, particularly when non-commissioned personnel are the subjects of allegations or issues.

<sup>2</sup> A relatively small joint HQ cadre of investigators will be built by TIG and ADs through cooperation to assist in HQ personnel investigations. At times other regions, such as Region 7 cadre will be used on HQ inquiries/investigations. TIG and ADs may coordinate appointment of a member of the cadre to a case in an AD's Division pertaining to HQ personnel.