

MINUTES
PUBLIC SAFETY COMMISSION
April 16, 2003
Austin, Texas

The Public Safety Commission met in Austin, Texas on April 16, 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
Tom Haas, Accounting & Budget Control
Randy Elliston, Lamar Beckworth, Bob Burroughs & Coy Clanton, Traffic Law Enforcement
C. J. Havrda, Rangers
Marshall Caskey, Kent Mawyer & Heidi Fischer, Criminal Law Enforcement
Burton Christian, Administration
Tavia Wendlandt, Building Program
David Gavin, Crime Records
Judy Brown, Greg Gloria & Frank Elder, Driver License
Farrell Walker & Jude Schexnyder, Audit & Inspection
Mary Ann Courter, General Counsel
Mary Lauderdale & Ed Kelly, Information Management Service
Tela Mange, Public Information
Michael Kelley, Legislative Liaison
David Outon, Internal Affairs
Dorothy Wright, Secretary

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

- I. **Minutes.** Upon motion by Commissioner Francis and seconded by Commissioner Holt, the minutes of the March 25, 2003 meeting were approved.
- II. **Public comment.** There was no public comment.
- III. **Budget matters.** Tom Haas updated the Commission on the status of the Department's legislative budget request.
 - A. **Acceptance of donation of computer equipment from Criminal Information Sharing Alliance for use by CLE.** Marshall Caskey briefed the Commission on the proposed donation. Upon motion by Commissioner Holt and seconded by Commissioner Francis, the donation was accepted.
- 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 internet fingerprint submission & error resolution, CHL processing, the State

Operations Center and the building program. Randy Elliston gave the Traffic Law Enforcement Division report. There was some discussion on TLE drug interdictions, a recent shooting incident, ongoing child safety seat clinics and dive team activities. The Driver License Division report was given by Judy Brown. There was some discussion on DL reengineering funding and the CRIS project. Marshall Caskey gave the Criminal Law Enforcement Division report. An overview of DNA uses was given by Heidi Fischer, Special Crimes Service Missing Persons Clearinghouse. 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.

VI. For adoption.

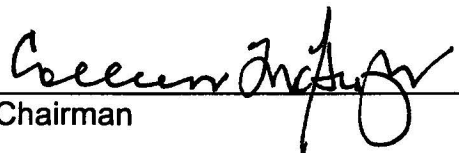
- A. Proposed amendment to Rule 1.211, 37 TAC Sec. 1.211, relating to dishonored check fee, as published in 28 TexReg 1610, Feb. 21, 2003**
- B. Proposed amendment to Rule 1.191, 37 TAC Sec. 1.191, relating to emergency vehicle operations, as published in 28 TexReg 1610, Feb. 21, 2003**
- C. Proposed amendment to Rule 3.53, 37 TAC Sec. 3.53, relating to police pursuit operations, as published in 28 TexReg 1611, Feb. 21, 2003**

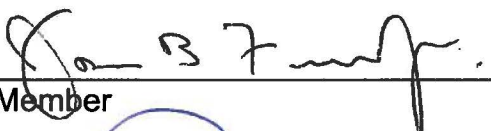
Mary Ann Courter briefed the Commission on the above proposed amendments. Upon motion by Commissioner Francis and seconded by Commissioner Holt, the attached amendments were unanimously approved for final adoption.


VII. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of purchase of real property, evidence in Charles Turk discharge appeal hearing. 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 commissions, pending and contemplated litigation, status of purchase of real property, evidence in discharge appeal hearing of Charles Turk and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner McHugh announced that the Commission had discussed only those matters listed above. A motion was made by Commissioner Francis, seconded by Commissioner Holt and unanimously approved affirming the action of the Director in discharging Charles Turk. The Commission had considered a Special Texas Ranger commission for DPS retiree Danny Rhea. Upon motion by Commissioner Holt and seconded by Commissioner Francis, a Special Texas Ranger commission was approved for Danny Rhea.

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

Read and approved this 20 day of May, 2003.


Chairman


Member


Member

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On April 16, 2003, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter N
Section Number 1.191

The Texas Department of Public Safety adopts an amendment to Section 1.191, concerning Emergency Vehicle Operations, without changes to the proposed text as published in the February 21, 2003, issue of the Texas Register (28 TexReg 1610).

Amendment to the section is necessary to replace outdated statutory reference with the updated reference and provides assurance to the public that department emergency vehicles used for law enforcement purposes are operated within statutory requirements when emergency warning devices are not used.

No comments were received regarding adoption of the amendment.

The amendment 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.

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 April 16, 2003, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter P
Section Number 1.211

The Texas Department of Public Safety adopts an amendment to Section 1.211, concerning Dishonored Check Fee, without changes to the proposed text as published in the February 21, 2003, issue of the Texas Register (28 TexReg 1610).

Amendment to the section increases the dishonored check fee collected by the department from \$15 to \$25 and replaces the outdated statutory reference with the updated reference. The increased fee is necessary due to rising overhead costs to the department.

No comments were received regarding adoption of the amendment.

The amendment 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.

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 April 16, 2003, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Traffic Law Enforcement
Title 37 T.A.C. Part I, Chapter 3
Subchapter D
Section Number 3.53

The Texas Department of Public Safety adopts an amendment to Section 3.53, concerning Police Pursuit Operations, without changes to the proposed text as published in the February 21, 2003, issue of the Texas Register (28 TexReg 1611).

Amendment to subsection (c) is necessary to delete language not authorized by statute and provides assurance to the public that department emergency vehicles used for law enforcement purposes are operated within statutory requirements.

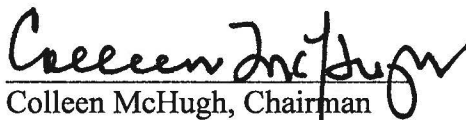
No comments were received regarding adoption of the amendment.

The amendment 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.

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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IN THE MATTER OF
THE APPEAL OF DISCHARGE OF
CHARLES TURK

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BEFORE THE
PUBLIC SAFETY COMMISSION
IN AUSTIN, TRAVIS COUNTY, TX

ORDER

BE IT REMEMBERED that the Public Safety Commission ("Commission") convened to hear the appeal of discharge of Charles Turk on the 25th day of March, 2003. Mr. Turk received adequate notice of the hearing on this matter and did appear in person and by and through his attorney, Tom Pappas. Pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above-captioned matter.

After reviewing all of the evidence presented at the hearing, the Commission finds there is substantial credible evidence that Charles Turk violated Texas Department of Public Safety rules and regulations as set out in the statement of charges dated November 5, 2002, and signed by Director Thomas A. Davis, Jr.

Therefore, the Commission finds that there is just cause to discharge Charles Turk 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 16th day of April, 2003.



M. Colleen McHugh, Chairman
Public Safety Commission