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OPEN MEETING

PUBLIC SAFETY COMMISSION

MARCH 26, 2009

On the 26th day of March, 2009, the following
meeting was held in Austin, Travis County, Texas.

A P P E A R A N C E S

COMMISSIONERS OF THE PUBLIC SAFETY COMMISSION:

Allan B. Polunsky, Chair

C. Tom Clowe, Jr.

Carin Marcy Barth

Ada Brown

John Steen

DIRECTOR'S STAFF OF THE DEPARTMENT OF PUBLIC SAFETY:

Colonel Stanley E. Clark

Lt. Colonel Lamar Beckworth, Assistant Director

1 CHAIRMAN POLUNSKY: Commissioner Barth.

2 COMMISSIONER BARTH: Present.

3 CHAIRMAN POLUNSKY: Commissioner Brown.

4 COMMISSIONER BROWN: Present.

5 CHAIRMAN POLUNSKY: Commissioner Clowe.

6 COMMISSIONER CLOWE: I can see by the new
7 flat screens that you're on the call to order,
8 Mr. Chairman, and I would like to be recorded as
9 present.

10 (Laughter)

11 CHAIRMAN POLUNSKY: Let the record show
12 that he is physically present.

13 (Laughter)

14 COMMISSIONER CLOWE: In the call to order.

15 CHAIRMAN POLUNSKY: In any manner. But
16 Commissioner Steen.

17 COMMISSIONER STEEN: Present.

18 CHAIRMAN POLUNSKY: And I am present.
19 There is a quorum present.

20 The Texas Public Safety Commission is
21 called to order in accordance with Chapter 551 of the
22 Texas Government Code and the Open Meetings Act. A
23 quorum of the Commission is present, and the meeting is
24 now declared open. It is 10:40 a.m.

25 The first item on the agenda is public

1 comment. Is there anybody here who would like to
2 address the Public Safety Commission at this time? If
3 they do, they will have five minutes to speak. Nobody
4 wishes to address the Commission. All right.

5 The next item will be under new business.
6 The first item will be the discussion and possible
7 action regarding transcription of Public Safety
8 Commission meetings. Commissioner Steen, I believe that
9 this is an issue that you have raised in the past.
10 Would you like to begin the discussion on that?

11 COMMISSIONER STEEN: Yes, Mr. Chairman. I
12 would like to suggest again that we -- that we change
13 from having a transcript done of our meeting to
14 traditional minutes. And I've talked to the -- some of
15 the commissioners about it. I brought it up once
16 before. I didn't get much support. But I think that if
17 there's some reluctance, what I would like to do is
18 perhaps get together with our general counsel and work
19 out a format and let us do it for a couple meetings,
20 that is, produce some minutes, and I think you'll see
21 the value of it.

22 CHAIRMAN POLUNSKY: Okay.

23 COMMISSIONER BROWN: To add to the
24 discussion, since it seems like it takes significant
25 time for the transcripts to be uploaded and publicly

1 available, I tend to after considering it agree that
2 perhaps having some more digestible minutes that are
3 available more quickly would better serve the public.
4 So I think we ought to give that a try.

5 COMMISSIONER STEEN: Thank you.

6 COMMISSIONER BARTH: I would like to make
7 a motion.

8 CHAIRMAN POLUNSKY: Well, one moment,
9 please. Any further discussion on this or --

10 COMMISSIONER CLOWE: Yeah. I would like
11 to make a comment. I think to clarify perhaps what
12 Commissioner Steen said initially, I think you and I
13 have had a discussion. I don't think you've talked to
14 the commissioners, have you? I hope you haven't.

15 COMMISSIONER STEEN: I haven't done it in
16 a way that would be a problem, but I -- but I did show
17 each -- give each commissioner a copy of the minutes
18 that we used at the --

19 COMMISSIONER CLOWE: Right. And I have a
20 copy of those. But you didn't do it in a way that it
21 would have been a violation of the Open Meetings Act?

22 COMMISSIONER STEEN: No, sir.

23 COMMISSIONER CLOWE: And that's important
24 to clarify your comment on that. And what I said to
25 Commissioner Steen when he and I met this morning just

1 before this meeting was convened is that I have reviewed
2 these minutes and they didn't satisfy the concerns that
3 I had, and I hope we would continue with a certified
4 transcript because so many times I receive calls from
5 employees and former employees who tell me that they
6 have read the minutes -- the transcript -- pardon me --
7 and they refer to specific comments and questions which
8 are asked and answers which are given. So I told
9 Commissioner Steen that I was not in favor of this, and
10 I am not opposed to his suggestion that he work with the
11 general counsel to come up with some compromise, but I
12 still carry the concern that we be precise in what is
13 reported in these meetings relative to questions asked,
14 answers given, comments made.

15 CHAIRMAN POLUNSKY: Thank you, sir. Do
16 you have any comment, or do you wish to make a motion,
17 did you say?

18 COMMISSIONER BARTH: I would like to make
19 a motion that we make available an abridged copy as soon
20 as possible of the minutes with a certified copy
21 available as quickly afterwards so that there would be
22 basically a compromise here. There would be a copy, and
23 if someone had a question, they could then -- I hate to
24 use this word -- click through and see the full
25 transcripts behind it.

1 COMMISSIONER CLOWE: And Commissioner
2 Steen commented to me this morning I think correctly
3 what he would like would be minutes, which would
4 necessarily be voted on and approved by the
5 commissioners. The transcript is a different animal,
6 and it is certified by the reporter. So if I were to
7 understand your motion, you're suggesting we have both?

8 COMMISSIONER BARTH: That's right. And
9 then we could, to the best of our knowledge, approve the
10 abridged minutes based on what was in there so that if
11 down the road it was perhaps misinterpreted, we have
12 that full transcript behind it.

13 COMMISSIONER STEEN: Second.

14 CHAIRMAN POLUNSKY: Okay. There is a
15 motion that has been made by Commissioner Barth and
16 seconded by Commissioner Steen that in the future at
17 Public Safety Commission meetings that both an abridged
18 copy of minutes setting out what took place at the
19 previous meeting be produced and made available and then
20 that abridged copy be followed by a full transcript. Is
21 that a permanent policy that you want to go forward on,
22 or do you want to try this for --

23 COMMISSIONER BARTH: I think we should try
24 it. I think we should try it and see how it works. I
25 mean, I envision somewhere in those minutes tags where

1 you could -- if you decided, Hey, I don't remember it
2 this way, or, I want more information, you could go
3 right to the full transcript. It's a little -- a little
4 bit of technology that's definitely out of my space, but
5 I've seen it done before with -- and, in fact, if you
6 look at some of the documents now with respect to SEC
7 filings, you have that sort of situation where there are
8 tags and you (inaudible). Does that make sense?

9 COMMISSIONER BROWN: Just to chime in, I
10 think the thinking of the Commission is that the
11 transcript is available for accuracy and precision, but
12 because it takes so long to get that, that in the
13 interim, the public will be able to read the succinct
14 minutes. Is that the thinking?

15 CHAIRMAN POLUNSKY: I believe that's what
16 the thinking is, although I'm not quite sure why it
17 takes so long to get these transcripts.

18 COMMISSIONER CLOWE: Could we have an
19 answer to that question?

20 STUART PLATT: We are current on the
21 minutes, and we have a contractual arrangement and
22 we're -- they should be expedited from here on out. I
23 will address the issue of the abridged minutes and so
24 forth. The last 12 and a half years I have used a
25 digital recording in my courtroom and what we would be

1 capable of doing in working with IT is putting a digital
2 copy of the transcription -- when I say "transcription,"
3 an actual recording of the meeting and people -- and
4 then we can have an abridged outline with hyperlinks to
5 particular locations.

6 COMMISSIONER BARTH: Hyperlinks.

7 That's -- there you have it. Thank you.

8 STUART PLATT: And the other benefit of
9 that might be that you can actually tag action items
10 where the Commission says, We want this action to be
11 carried out, and that might be a benefit to have on the
12 Web site so you can tag it, and the person could then
13 link to that action item. Mr. Fox and I have looked at
14 that as an option. We haven't really talked extensively
15 with Commissioner Steen, but as a part of this
16 experiment and Commissioner Barth's move for it, I think
17 we could perhaps work that direction.

18 COMMISSIONER STEEN: Mr. Chairman, just a
19 little bit of semantics. You know, we've been using a
20 transcript, but that transcript -- those aren't minutes.
21 Minutes by definition are a summary of what went on at
22 the meeting. So -- and then just to the point that
23 Commissioner Clowe made, if we do this, then on future
24 agendas, we're going to have to have an item -- it's
25 usually at the beginning of the agenda -- where we would

1 consider the minutes and approve them as correct or
2 whatever.

3 CHAIRMAN POLUNSKY: Which we certainly
4 should be doing so that there's no question about that.
5 So are you okay with this, then? I mean, obviously you
6 seconded the motion, but --

7 COMMISSIONER STEEN: Yes.

8 CHAIRMAN POLUNSKY: -- is this a solution
9 that you're comfortable with going forward, at least on
10 a trial basis, so that we see how it works. And I guess
11 we can revisit this if it's not to everyone's
12 satisfaction in the next couple of months or so.

13 COMMISSIONER STEEN: Agreed.

14 CHAIRMAN POLUNSKY: Okay. All right.
15 There is a motion and a second, and there has been a
16 discussion. Is there any further discussion? There is
17 none. All those in favor, please say "aye." Any
18 against, "no." Motion passes.

19 The next item is the discussion and
20 possible action regarding unused salary dollars in the
21 last five years. Chief Ybarra.

22 OSCAR YBARRA: Good morning, Mr. Chairman.

23 CHAIRMAN POLUNSKY: How are you?

24 OSCAR YBARRA: Just give me a minute.

25 COMMISSIONER CLOWE: Learning how to use

1 new technology.

2 (Laughter)

3 CHAIRMAN POLUNSKY: Make sure you get
4 these -- these are the JS monitors here, the John Steen
5 monitors.

6 (Laughter)

7 OSCAR YBARRA: Mr. Chairman,
8 Commissioners, at the last Commission meeting the
9 Commission requested the agency to identify how much
10 funding was generated by agency employee (inaudible) for
11 the last five years. A similar question was asked of us
12 from the Senate Finance Committee, and we had provided
13 this information to that committee and sat down and
14 explained this information to them. Accounting & Budget
15 Control has presented you with this information in your
16 committee meeting notebooks. The report reflects the
17 activity for fiscal year 2004 through 2008. Just as a
18 note, for this particular budget year, 2009, salaries
19 represent about 60 percent of the agency's funding.
20 That's just an FYI. The way this report is laid out for
21 the Commission is we identify the total salary dollars
22 available and then identify the total expenditures
23 related to salaries to identify the remaining balance.
24 We also provided unfunded expenditures that the agency
25 incurred during these fiscal years. We tried to

1 identify how some of these dollars were utilized. You
2 also were made aware that some of these dollars were not
3 sufficient in those fiscal years, and we had to find
4 additional dollars to cover those shortfalls. We
5 provided you with a summary report for each fiscal year
6 and a detailed report behind each fiscal year. That's
7 how this report is laid out. Would you like me to
8 answer any questions that you have?

9 CHAIRMAN POLUNSKY: Are there questions?

10 COMMISSIONER BARTH: Let me ask a
11 question. The 25 percent transfer, tell me what that
12 is.

13 OSCAR YBARRA: There's a rider in our bill
14 pattern, specifically in our bill pattern that allows
15 the agency to transfer up to 25 percent out of a
16 particular strategy. Other agencies may not have that
17 specific rider. Article 9 pretty much allows them to
18 only transfer up to 12 and a half percent, but the
19 agency has a 25 percent rider in our bill pattern.

20 COMMISSIONER BARTH: So we're allowed to
21 transfer up to 25 percent of the total?

22 OSCAR YBARRA: The way it works,
23 Commissioner Barth, is if you had a strategy that is a
24 rather large strategy, you're allowed to transfer up to
25 25 percent out of that strategy. If you're transferring

1 dollars into a strategy that is not as much funding, it
2 would only allow you to transfer up to 25 percent of
3 that particular strategy.

4 COMMISSIONER BARTH: Okay. I just want to
5 make sure on the -- on a 325 million dollar salary, we
6 could transfer 70 million, is that right, give or take?

7 OSCAR YBARRA: Possibly. But depending on
8 the rules, it would limit the agency if the particular
9 strategy you're transferring into only allows up to 25
10 percent coming in.

11 COMMISSIONER BARTH: Okay. Let's take
12 specifically the -- where we are transferring unfunded
13 salaries to cover, you know, the -- the right to exceed.
14 Okay. I assume that there was no problem with
15 transferring that amount of money?

16 OSCAR YBARRA: It's a 90 million dollar
17 strategy.

18 COMMISSIONER BARTH: It's a 90 million
19 dollar strategy. So you're saying we could transfer 25
20 percent of these fungible dollars over there; is that
21 right?

22 OSCAR YBARRA: That's correct.

23 COMMISSIONER BARTH: So we could have
24 transferred over the years off of 325 million quite a
25 bit of money.

1 OSCAR YBARRA: The transfers are heavily
2 regulated by the LBB and the Comptroller's office.

3 COMMISSIONER BARTH: Okay. My -- so just
4 in the back of my head, I'm sort of thinking, okay, we
5 have somewhere between -- it seems to me 350 and 450
6 unfunded -- excuse me -- unfilled positions a year.
7 That's what I've noticed. Is that about right?

8 OSCAR YBARRA: Well, over the past two
9 years we have seen quite a bit of vacancies, and in 2006
10 and 2007 we did not have that many vacancies within the
11 agency from a Commission ranks perspective. At one
12 time, I believe, in 2000 -- late 2006, the agency only
13 had 14 vacancies in the Commission ranks once that
14 recruit school graduated.

15 COMMISSIONER BARTH: But in the last two
16 years we've basically had somewhere between let's call
17 it 400 --

18 OSCAR YBARRA: Yes, ma'am. And if you
19 recall, during the beginning of the 2008 biennium, the
20 legislature appropriated dollars for several exceptional
21 items that called that particular -- those particular
22 vacancies, and we had about 188 additional personnel
23 that were added to the agency, and about 120 border
24 positions that were added to the agency to name the
25 majority of what was added to the agency.

1 COMMISSIONER BARTH: But nevertheless, you
2 know, it seems to me there's somewhere between -- and
3 I'm using the number 70,000 for unfilled positions kind
4 of in my mind. 70,000 times 400, there's 28 million
5 dollars out there in play.

6 OSCAR YBARRA: At some time possibly, yes,
7 but some of those positions are filled right away.

8 COMMISSIONER BARTH: Okay. In the last
9 two years it seems like there's 20, 20, and 30 million
10 out there.

11 OSCAR YBARRA: Correct.

12 COMMISSIONER BARTH: Okay. And that's
13 what I'm trying to understand.

14 OSCAR YBARRA: I believe in the next
15 biennium because of the state of the economy and what
16 I'm seeing in other government agencies, those
17 positions -- even the noncommissioned -- will be filled.

18 COMMISSIONER BARTH: I don't want to see
19 us look towards these unfilled positions as a place to,
20 I call it, plug holes in other parts of the budget.

21 OSCAR YBARRA: Yes, ma'am. I'm with you
22 there.

23 COMMISSIONER BARTH: I mean, I really --
24 it concerns me when (inaudible) shortage, and I'm
25 looking at basically between 20 and 30 million dollars

1 on this side. I would not want our budget to
2 continue -- or our actions to continue to show shortages
3 and think, you know, well, we always have this amount of
4 money to plug the holes.

5 OSCAR YBARRA: Right. And I will tell
6 you, Commissioner Barth, that in just looking at what is
7 going on within the economy and positions being filled
8 within the agency, I'm concerned that when we do fill
9 those positions and what we're seeing in the (inaudible)
10 exceptional items that are being approved for this
11 agency, I'm concerned that some of those -- when we fill
12 those positions, some of those utility dollar overages,
13 the -- some of the shortfalls in director staff, I'm
14 going to be concerned of how we're going to cover all
15 those expenditures when we do fill those positions.
16 But, again, our initiative and strategy is to fill those
17 positions, but there will be a concern when we do.

18 COMMISSIONER BARTH: Then we're not
19 budgeting right, or we're not --

20 OSCAR YBARRA: We're budgeting based on
21 what we're given, and the legislature appropriates for
22 specific items, you know, and they allow that 25 percent
23 transferability to make your budget. I mean, we ask --
24 we ask for what we need. You know we ask for 27 million
25 dollars for operating shortfalls, and in the Senate and

1 the House the only activity to date is about a million
2 dollars dedicated for deferred maintenance. Other than
3 that, zero has been considered for our operating
4 shortfalls.

5 COMMISSIONER BARTH: Okay. That's all I
6 have.

7 CHAIRMAN POLUNSKY: Well, let me -- let me
8 amplify somewhat on Commissioner Barth's comments. I do
9 not agree with that philosophy with respect to how we
10 address shortfalls.

11 OSCAR YBARRA: Yes, sir.

12 CHAIRMAN POLUNSKY: It doesn't meet the
13 transparency test. I don't think it's good public
14 policy. I'm sure all things being equal, we would love
15 to fill all of the empty positions, and I'm very hopeful
16 that in the future that we will because that would be a
17 very high priority for the department, but nevertheless,
18 I just -- I just have a problem with that type of
19 accounting process.

20 OSCAR YBARRA: Yes, sir.

21 CHAIRMAN POLUNSKY: If for some reason we
22 incur shortfalls or find ourselves in a situation or
23 situations where we need additional dollars, then there
24 are procedures that are in place for us to go back and
25 hopefully plug those holes in that manner. I just --

1 I'm not going to be too strong in my language here, but
2 I just don't feel that that is a proper way for a state
3 department to be funding various needs when -- when, you
4 know, we ask for certain items and money for those items
5 are diverted to other items. I mean, that's just
6 something that is inappropriate in my mind and can
7 certainly get us into trouble with the people in the
8 state legislature and the leadership when we do
9 something like that. So that's just my position. Any
10 discussion beyond that?

11 COMMISSIONER BROWN: I agree with you.

12 OSCAR YBARRA: I just have to ask you if
13 that's the direction the Commission wants to go, then
14 I -- I believe I would -- we have to look at our budget
15 process. The way it's set up today, you know, we do
16 have positions in the agency that we add because of
17 additions that the legislature has made. An example
18 would be for border security and the 187 FTEs. You
19 know, that's a lot more activity coming through the
20 support functions, whether it be in Chief Fulmer's area
21 or mine. We've had to add positions into those areas to
22 support those activities and -- and it would be a
23 challenge for us to find dollars at this point if -- if
24 we take this strategy in the future. And I'm assuming
25 what I'm hearing is if we stay straightforward with what

1 the budgeting is providing, then we'll be asking for
2 emergency appropriations in the future for these
3 expenditures from the legislature.

4 CHAIRMAN POLUNSKY: That's how I think it
5 ought to be done, but I'm just one of five people here.

6 OSCAR YBARRA: I'll just -- if you recall,
7 Mr. Chairman, when we were testifying in front of the
8 Senate Finance, Senator Ogden was asking questions about
9 shortfalls, and one of the things that I mentioned to
10 him is that -- and he asked for this information -- was
11 that we -- we were using salary dollars to cover some of
12 these shortfalls, and if I'm not mistaken, he said,
13 Good. Cover yourselves. Try to cover yourself as much
14 as you can. That's what I recall. I'll go back and
15 check, but I believe that's what he said, and then he
16 asked for this information.

17 COMMISSIONER BARTH: I don't want to put
18 words in Senator Ogden -- but I would be surprised if in
19 the spirit of him giving -- appropriating the money, he
20 would want to see us in the habit of plugging our holes
21 with unfilled position dollars.

22 OSCAR YBARRA: And I know he's frustrated
23 with that. No doubt. No doubt.

24 COMMISSIONER BARTH: I mean, that just
25 sort of surprises me.

1 OSCAR YBARRA: Right.

2 COMMISSIONER BARTH: I mean, in the spirit
3 of full transparency, I would rather go back for
4 emergency appropriations than --

5 OSCAR YBARRA: Sure.

6 COMMISSIONER BARTH: -- get in this habit
7 of we don't really want to go fill these positions
8 because we have these dollars over here that we know
9 we're going to need to use for deferred maintenance. I
10 just --

11 OSCAR YBARRA: I will tell you just in
12 this budget process -- and you recall, Commissioner
13 Barth -- when we sat down with you in early September,
14 we identified \$15 million of shortfalls, which the five
15 million is for DL reengineering and about a million
16 dollars or two million dollars in director staff and the
17 dollars for utilities and so on and so forth. But right
18 now just off the top of my head, I can think of about
19 \$15 million that we would probably -- nine million
20 dollars of which were for gasoline, which we ended up
21 covering and wasn't part of that 15 million.

22 COMMISSIONER BARTH: It was covered with
23 salary dollars?

24 OSCAR YBARRA: Yes, ma'am.

25 COMMISSIONER BARTH: The spirit is to fill

1 those positions and pay those salaries. That's -- you
2 know, I have a real problem asking the legislature for
3 more positions --

4 OSCAR YBARRA: I do.

5 COMMISSIONER BARTH: -- okay, and then
6 sitting there and going, okay, well, really (inaudible)
7 fill those positions because I need those dollars over
8 here.

9 CHAIRMAN POLUNSKY: It's almost a
10 disincentive not to fill those positions, which is not
11 what this is all about.

12 OSCAR YBARRA: There's no argument there,
13 sir.

14 CHAIRMAN POLUNSKY: So, I mean, that
15 troubles me for that reason, that there is a reason not
16 to fill certain positions here because people are
17 looking at those dollars to be reallocated in some other
18 area. But beyond that, it's the integrity issue. I'm
19 not suggesting that there's a lack of integrity here,
20 but nevertheless, I think that, you know, we should be
21 completely truthful and we should do this in a very
22 businesslike manner. You know, we should ask for what
23 we need, and it should be set out as such, and that
24 there should not be -- and I'm not trying to be flippant
25 here, but some type of hocus-pocus going on where, you

1 know, this gets moved from here to there and so on. I
2 don't think that that is how this process was fully
3 designed to operate.

4 OSCAR YBARRA: We -- we have set up
5 budgets. You know, I just have to defer to the
6 Commission on how they want us to operate in fiscal year
7 '09.

8 COMMISSIONER BARTH: I want to operate as
9 the money was appropriated as opposed to the idea of
10 continuing to transfer it around. I mean, this money
11 seems very fungible and --

12 OSCAR YBARRA: Okay. In '09 y'all adopted
13 15 million dollars to up front budgeting. So it's kind
14 of -- we're kind of in the middle of the year already
15 and we're -- we spent some of those dollars.

16 COMMISSIONER BARTH: We -- I'm not
17 following you.

18 OSCAR YBARRA: Okay. At the beginning of
19 fiscal year '09 --

20 COMMISSIONER BARTH: Right.

21 OSCAR YBARRA: -- during our budget
22 process, we were sent back to create -- to recover
23 unfunded shortfalls within the agency up front, and that
24 required transfers within the agency either from highway
25 patrol, criminal law enforcement, into director staff,

1 into Private Security Bureau to cover shortfalls there.

2 COMMISSIONER BARTH: These shortfalls not
3 being staff shortfalls?

4 OSCAR YBARRA: Some of them would be staff
5 shortfalls. The Private Security Bureau is spending
6 additional operating dollars to stay staffed up to
7 prevent backlogs by utilizing temporaries. We have an
8 exceptional item in our LAR which requests additional
9 FTEs to fund that either from an -- from an FTE
10 perspective and dollars were sent to Private Security
11 Bureau and dollars were sent for driver's license
12 reengineering.

13 COMMISSIONER BARTH: Well, see, to me,
14 it's one thing if you're funding salaries with salary
15 money. Okay. Maybe it's a different division or
16 department. It's another thing to use this money with
17 the idea that you'll have this money out here, don't
18 fill these positions because I've got capital programs
19 and deferred maintenance, DL, whatever it be. That's
20 what -- these are salary dollars, and so, to me, if we
21 have a mismatch in personnel, that's one thing, but, you
22 know, we're not asking the right amount of money for
23 utilities or fuel or deferred maintenance and we're
24 thinking we'll cover it with whatever stays unfilled,
25 that's another thing. That's just my position.

1 COMMISSIONER STEEN: Mr. Ybarra, I have a
2 question. You mentioned that an alternative is to use
3 the -- did you say emergency appropriation process?

4 OSCAR YBARRA: Yes, sir.

5 COMMISSIONER STEEN: Could you expound on
6 that? How does that work?

7 OSCAR YBARRA: Let's use the disasters for
8 an example. A lot of state agencies had to spend a lot
9 of their operating dollars and their salary dollars and
10 whatever dollars they had to meet the need, and some of
11 those agencies by utilizing all of their second year
12 dollars are not going to have the dollars to operate for
13 the rest of the year. So they would make a request
14 through the LBB and submit their request as an emergency
15 appropriation, and I believe that also may be going
16 through the Governor's office, if I'm not mistaken, and
17 requesting emergency appropriation, and then it would be
18 granted those funds to cover their shortfalls.

19 COMMISSIONER STEEN: Thank you.

20 CHAIRMAN POLUNSKY: So do you need
21 direction, then?

22 OSCAR YBARRA: I will state that the rider
23 allows us through the legislation allows us to make
24 these transfers. If the Commission so desires to change
25 this for fiscal year '09, my staff and I will work to

1 see what we can do, but I'm -- I'm almost certain that
2 we would be requesting dollars from the legislature as
3 an emergency appropriation to cover some of these
4 shortfalls.

5 CHAIRMAN POLUNSKY: And then what would
6 happen to the dollars that would have otherwise been
7 utilized?

8 OSCAR YBARRA: They would lapse.

9 CHAIRMAN POLUNSKY: So theoretically if
10 you go in for an emergency appropriation, it can show
11 that these dollars are lapsing because they are not
12 going to be used since those vacancies have not been
13 filled. I mean --

14 OSCAR YBARRA: I believe the LBB would ask
15 us, sir, why we're not using our transferability, and we
16 would explain why.

17 CHAIRMAN POLUNSKY: So this is prevalent
18 among all state departments and agencies?

19 OSCAR YBARRA: That's why I believe that
20 rider was put in place because things do come up and
21 agencies -- they know agencies are operating to the best
22 of their ability what's been appropriated, but they give
23 them that flexibility within their budgets.

24 COMMISSIONER BARTH: What would happen if
25 you have 14 vacancies at the end? You filled all these

1 vacancies. Now, if you go back to a couple years where
2 you said there were very few vacancies, we would be
3 asking for it anyway. Is that right?

4 OSCAR YBARRA: What would happen is the --
5 we try to -- what we've done in the past is we would
6 identify projections to the director and where we're at
7 as an agency like we did last month and the director,
8 based on those projections, would advise each division
9 to come (inaudible) and try and make their -- work with
10 their budgets and not exceed budgets, and at the same
11 time, if there was funding that was made available,
12 would identify that we're going to need that to pay our
13 utility bill.

14 COMMISSIONER BARTH: So not fill
15 positions?

16 OSCAR YBARRA: It's not about not filling
17 positions. That's never been the case. From a --
18 the -- our dollar --

19 COMMISSIONER BARTH: Slow filling
20 positions?

21 OSCAR YBARRA: Well, there's no way around
22 it. The recruit school takes six months to graduate
23 those people. It takes six months to graduate right now
24 today. So if you're moving people from Texas Highway
25 Patrol into CLE to fill a position, you know, when you

1 work with a recruit school, that position is going to be
2 open until that recruit school graduates. So it's the
3 process. We're not holding any vacancies.

4 CHAIRMAN POLUNSKY: So what to do here.

5 COMMISSIONER BARTH: I guess -- I mean, I
6 think we ought to make sure we're comfortable with this,
7 which I'm not that comfortable with this idea of asking
8 for more positions along the way. And I hear what
9 you're saying. It sounds to me like we really need less
10 positions based on the flow of the people. If you're
11 telling me the recruit school is six months, right off
12 the bat, you would already need 115 less positions.

13 OSCAR YBARRA: In the beginning of 2008 we
14 had three recruit schools to try to fill all these
15 positions, and we had the additional personnel, the
16 current vacancies, had the border security, and you
17 started seeing those positions fill up, but then that
18 particular year, '08, was the third year of a cycle
19 where people had an advantage to retire at that point in
20 the Commission ranks, and we had quite a few people
21 retire, and that's why you saw the 100 -- maybe 150
22 vacancies at the beginning of '09. I mean, I know from
23 April -- from April to August, Commissioner Barth, there
24 were probably 116 Commission positions that were vacated
25 due to retirement. In '06 --

1 COMMISSIONER BARTH: You know, I guess
2 where I -- I don't want to look to this pot as always
3 the plug, and I think that's the problem. Okay.

4 OSCAR YBARRA: And when we get full,
5 Commissioner, it kind of forces the money to be spent
6 where it should be spent. I mean, look at -- look at
7 Page 5.

8 COMMISSIONER BARTH: Well, what I want to
9 do is not be forced. I want to get in the habit.

10 OSCAR YBARRA: It's there, you know, but
11 you know you would have vacancies. Look at Page 5 as an
12 example. Look at how much was spent on salaries that
13 fiscal year.

14 COMMISSIONER BARTH: And you had to have
15 had a shortfall in the budget, right, that year?

16 OSCAR YBARRA: We had a shortfall and, of
17 course, we didn't have some of the expenditures we have
18 today, gasoline being one of them. Back then I think
19 the price of gas was about a dollar -- well, that's when
20 it was about \$1.38, but that's when we finally received
21 some money to cover our gasoline shortfall going from 90
22 cents a gallon to \$1.38. We received about five million
23 dollars --

24 UNIDENTIFIED SPEAKER: For the biennium.

25 OSCAR YBARRA: -- for the biennium. Two

1 and a half million a year.

2 COMMISSIONER BARTH: I don't have a
3 solution. It bothers me to have this sort of pot out
4 here that is the plug and not get a better budgeting
5 situation.

6 COMMISSIONER BROWN: Chairman, is that
7 something that we could maybe -- would that be
8 appropriate to discuss with counsel in the executive
9 session?

10 CHAIRMAN POLUNSKY: I don't think it would
11 be.

12 STUART PLATT: I don't think it's
13 appropriate because it's not -- unless you have a legal
14 question regarding legal ramifications of this, we could
15 touch on that, but I think otherwise it's a policy
16 decision that has to be --

17 COMMISSIONER BROWN: I do have a legal
18 question, but --

19 STUART PLATT: And we can certainly take
20 that part up in executive session.

21 COMMISSIONER BROWN: Okay.

22 COMMISSIONER STEEN: Mr. Chairman, could
23 we have Colonel Clark weigh in on this?

24 COLONEL CLARK: Well, I was just going to
25 make one comment regarding these personnel. In addition

1 to what Oscar said about this large retirement that we
2 had at the end of August of '08, on an average we lose
3 six to eight commissioned officers per month. Every
4 month we lose that many. So over the year you're
5 talking about 60 officers right there in salary that
6 goes away at some point during the year as opposed to
7 normal retirements. So it's an ongoing process of
8 trying to fill these commissioned ranks. It's difficult
9 when we have a recruit school that lasts so long and it
10 takes, like Oscar said, six months to put those -- and
11 we'll just use a hundred as an average -- get those
12 people out there. Well, we've lost 60 just through
13 normal attrition. So it's a battle to stay filled.

14 OSCAR YBARRA: And during that time frame
15 in '08, you saw almost double not only because of the
16 attrition, but because of the retirements. And that's
17 how we started '09. But in other years you will see
18 that wasn't the case.

19 COMMISSIONER BARTH: I think it's
20 something we should keep an eye on.

21 CHAIRMAN POLUNSKY: I guess what I'm
22 hearing is that you should go forward as you have and
23 this is something that we'll probably review, I guess,
24 at each meeting going forward and just see how it's
25 working out.

1 OSCAR YBARRA: I would be glad after
2 session to sit down with the LBB and Mr. Pitts and
3 Mr. Ogden's staff and discuss anything with them and see
4 what -- and like I said, we discussed this with the
5 lieutenant governor and Chairman Ogden's staff, and I'll
6 be glad if we can get insight from them. And maybe I
7 could share that with y'all and see what they say and
8 then kind of report back if you would like.

9 CHAIRMAN POLUNSKY: Well, we may set up
10 meetings and go over there.

11 OSCAR YBARRA: Sir?

12 CHAIRMAN POLUNSKY: Excuse me. We --
13 possibly one or two of the commissioners can meet with
14 Chairman Ogden and Chairman Pitts --

15 OSCAR YBARRA: Sure.

16 CHAIRMAN POLUNSKY: -- staff members,
17 whatever.

18 OSCAR YBARRA: And there's no doubt that's
19 been one of his concerns about the vacancies. There's
20 no doubt about that. I've heard that in many a meeting.
21 You're absolutely right about that.

22 COMMISSIONER CLOWE: About what?

23 OSCAR YBARRA: That he does notice that we
24 have vacancies. He does.

25 COMMISSIONER STEEN: "He" being?

1 OSCAR YBARRA: Chairman Ogden.

2 CHAIRMAN POLUNSKY: Yes, sir.

3 COMMISSIONER CLOWE: I would like to give
4 you my opinion about this if I may. My sense is in a
5 state agency of this size where there is the constant
6 recruitment and separation from the agency by both
7 commissioned and noncommissioned employees, there will
8 be a fluctuation from biennium to biennium depending on
9 the FTEs authorized, the economic conditions, retirement
10 programs that come into play, et cetera. This agency in
11 the time that I've been on this board appears to me to
12 have used unfilled FTEs as a source for money that was
13 needed where it could be legally and properly used. My
14 sense is from my experience in state government, that is
15 not an unusual practice among agencies. Now, if this
16 Commission decides this is an ethical issue and directs
17 you never to do that, then to put a fine point on it at
18 a point in time where money needs to be spent and you
19 don't have it, you will not be able to spend it even
20 though it might be available in some other category.

21 OSCAR YBARRA: That's correct.

22 COMMISSIONER CLOWE: Case in point, you
23 will not do building maintenance and you will park
24 vehicles when you run out of gasoline.

25 OSCAR YBARRA: Yes, sir.

1 COMMISSIONER CLOWE: We have a very
2 graphic example of this in the driver's license issue
3 that Chief Brown is going to brief us on shortly where
4 money is being spent that has not been authorized or
5 it's about to be spent. This is an emergency request.
6 Those are not granted easily based on my experience by
7 the LBB and the leadership officers. The Racing
8 Commission has just asked for an emergency
9 appropriation, which I believe they have received,
10 because they were not going to meet a payroll in April
11 of this year if it weren't granted. The DPS, to my
12 knowledge, has never gotten in that situation. But if
13 this board determines this is an ethical issue and gives
14 you orders to not transfer money, it puts you in a
15 position where you've either got to go to the LBB for an
16 emergency appropriation or not spend that money. Am I
17 correct in that, in your opinion?

18 OSCAR YBARRA: That's correct, sir.

19 COMMISSIONER CLOWE: And we're going to
20 hear from Chief Brown shortly on that very issue in
21 regard to the driver's license project.

22 OSCAR YBARRA: In all due respect, sir, I
23 believe that's why that rider is in our bill pattern,
24 the 25 percent transferability, to manage our budget.

25 COMMISSIONER CLOWE: This is the most

1 candid discussion I've ever heard in a public meeting of
2 this issue, and I think it's very beneficial. It is a
3 very difficult problem to deal with.

4 OSCAR YBARRA: Yes, sir, it is.

5 CHAIRMAN POLUNSKY: Anything else? Any
6 additional discussion? Chief, I think, as I said a
7 moment ago, my feeling is that we'll just go forward as
8 we've operated in the past, but need to review this on
9 an ongoing basis just to keep, you know, a handle on
10 it --

11 OSCAR YBARRA: Yes, sir.

12 CHAIRMAN POLUNSKY: -- and see if it's
13 being executed properly, but beyond that decide whether
14 it's something we might want to still address in some
15 manner going forward.

16 OSCAR YBARRA: Yes, sir.

17 CHAIRMAN POLUNSKY: But as of today, I
18 guess we're just going to continue on. Is that how you
19 feel? And obviously you feel the same way, Tom?

20 COMMISSIONER CLOWE: Yes, sir.

21 OSCAR YBARRA: Is there anything else the
22 Commission would like us to do with the House
23 Appropriations and Senate Finance on this issue? We'll
24 be glad to do that.

25 COMMISSIONER CLOWE: Yes. There is one

1 thing. And I think that this discussion is beneficial
2 from the standpoint that in the past my sense is there's
3 been sort of a we'll take care of that some way or
4 another attitude about funding requirements. Clearly
5 this board is not satisfied with that position or that
6 attitude, and I think it calls on you, Chief, to improve
7 your budgeting process and sharpen up on how you
8 forecast needs and covering those needs, and this board,
9 I think through the members, stands ready to help you in
10 that, but it's a new day --

11 OSCAR YBARRA: Yes, sir.

12 COMMISSIONER CLOWE: -- and the sense of
13 this discussion is we don't want this -- the worst word
14 I can think of to describe it is slush fund rolling
15 around over here that's generated from unfounded FTEs
16 that we can just reach in the cookie jar and get the
17 money and take care of it. I'm sitting here wondering
18 where these funds for these screens came from. They
19 certainly weren't in any appropriation.

20 COMMISSIONER STEEN: I paid for them.

21 (Laughter)

22 COMMISSIONER CLOWE: They weren't cheap --

23 COMMISSIONER BROWN: They were from CE --

24 COMMISSIONER CLOWE: -- but somehow things
25 get done when commissioners or when colonels say, Well,

1 we need to do this. But let's sharpen up, and let's get
2 a more preciseness about what we're doing. And as I
3 said earlier twice, we're going to hear from Chief Brown
4 about one heck of a problem we've got in regard to this
5 issue shortly.

6 OSCAR YBARRA: May I make a remark on
7 that, sir?

8 CHAIRMAN POLUNSKY: Yes, sir.

9 OSCAR YBARRA: Okay. I believe we've
10 already started doing that, sir. A, we started
11 reporting to the Commission. We had a staff meeting
12 with the division chiefs regarding forecasts. The
13 colonels are allowing us to present our budget forecast
14 to all division chiefs in one place, and we are
15 identifying that these are our shortfalls. Commissioner
16 Barth made a grand move to start identifying shortfalls
17 at the beginning of the year and fund them up front.
18 That alone has improved our transferability. It's a lot
19 of homework to do that on the back end, but thank you
20 very much. That is the beginning. We are sharpening
21 our pencils. We are communicating. The colonels are
22 listening. The division chiefs are all listening.
23 We're all working together. We have ideas about how to
24 look at exceptional items in the future as a team all
25 together, all the players at the table to identify

1 exactly what we need. Those are the moves that we're
2 making today, and we are sharpening our pencils, and
3 this Commission is being informed like it's never been
4 informed about the financial status of this agency. So
5 those are the steps we've taken, sir.

6 COMMISSIONER BARTH: And, Commissioner
7 Clowe, I agree, where I was headed truly on this
8 discussion is budgeting. I think you understand from
9 him and myself that the -- you know, that -- to use this
10 word "slush fund," we prefer not to have. We prefer to
11 do a better job on the budgeting on the front end of the
12 budgeting, you know, putting in contingencies and going
13 to the various legislators and saying we've got to have
14 them. I mean, I hear what they say, no contingencies.
15 There isn't a capital project out there on the private
16 sector that, you know, correctly budgeted doesn't have a
17 contingency, and we need to keep that in mind as we go
18 forward.

19 OSCAR YBARRA: And you see those rules,
20 Commissioner. You see the capital limitations
21 (inaudible) 25 percent. You see the 25 percent
22 transferability. The legislature has provided those
23 tools to state agencies to manage their budget.

24 CHAIRMAN POLUNSKY: I would certainly
25 agree that there's a new day, and I am pleased to see

1 how things have come together much more constructively
2 in the recent months. So I think you're certainly in
3 that respect going in the right direction. Anything
4 else?

5 OSCAR YBARRA: No, sir. I think I've got
6 the next one too, though.

7 (Laughter)

8 CHAIRMAN POLUNSKY: Well, since we're on
9 budget, I just want to ask Colonel Clark for a -- or to
10 participate in a brief discussion on an issue that came
11 up here in the last few days. At a House Appropriations
12 Committee meeting on the 19th, there was a question
13 raised by Representative Brown, and also concern by
14 Chairman Pitts, with respect to the expenditure of funds
15 that had been earmarked for border operations, in
16 particular a helicopter, which is -- tell me what type
17 of helicopter that is. It's not the A-Star.

18 COLONEL CLARK: It's the EC 145. It's a
19 twin engine.

20 CHAIRMAN POLUNSKY: Okay. Long story
21 short, it appears that the EC 145 was purchased through
22 funds that had been allocated for border operations and
23 is here in Austin where there is a feeling that it
24 should be stationed in Laredo. Can you comment on that?

25 COLONEL CLARK: Yes, sir. And just for

1 the benefit of everyone in the room, of course our
2 Border -- Border Star initiative is a very exciting
3 topic to everyone down at the legislature, Senate, and
4 the House. Everyone is interested in that operation,
5 the tactical side as well as the funding, and it's been
6 heavily audited. And one of the side notes to Border
7 Star was the previous funding for four new helicopters
8 that would be deployed along the border, and one of
9 those helicopters was to be placed -- the funding was to
10 purchase a helicopter, and it was to go to Laredo. That
11 particular helicopter was unlike all of the other
12 helicopters that we had purchased previously. This is
13 the -- a large -- you've all seen medevac type
14 helicopters. It's a very large helicopter capable of
15 flying upwards of 11 people, I believe, if it's fully
16 loaded. And, Bill, you can nod if I'm correct on that,
17 okay? Thank you. So-so. But anyway, that's the EC
18 145. It is a beautiful machine, very sophisticated,
19 twin engine -- not twin rotor, but twin engine, very
20 expensive, around eight million dollars. That
21 helicopter was delivered to -- of course, first to
22 Austin. So our chief pilot, Bill Nabors, the assistant
23 chief, John Brannon, our trainer, our captain, Tim
24 Ochsner, so they could get certified on this helicopter.
25 It is a very sophisticated piece of machinery. It's not

1 just the ability to fly. It is to operate all of the
2 equipment that is on that particular helicopter.
3 Hoists, thermal imaging. It's equipped like I'm told no
4 other helicopter in the United States. No one has an
5 airframe like this. And so it is something to be very
6 proud of. Representative Brown brought to our attention
7 that he wanted to know why this helicopter was not in
8 Laredo where it was intended to be. We tried to explain
9 to him -- and I'm not sure we were clear in our -- well,
10 I know that Colonel Beckworth was clear, but they
11 misunderstood, I think. We have to get our senior
12 pilots, our chief, our assistant chief, our trainer up
13 to speed and certified on this helicopter before we can
14 even think about deploying it to Laredo. We have
15 inexperienced pilots in Laredo. They are not ready to
16 fly this piece of equipment. But we will comply with
17 their wishes and their intent and so therefore we have
18 prepared a letter to Representative Pitts which lays out
19 our plan to deploy that helicopter to Laredo. But
20 before we do that, I want Representative Pitts and all
21 members of the Appropriations Committee to know that
22 safety is our first and foremost concern. We're not
23 going to deploy that aircraft to the border until we can
24 certify that our pilots have been adequately trained.
25 There's a special school that they have to go to up in

1 the metroplex area to get certified on this aircraft.
2 But Chief Nabors is working on this. We have a plan in
3 place. We hope to deliver this aircraft by mid April
4 and to begin training those younger, inexperienced
5 pilots on the border. That aircraft can be deployed
6 anywhere quickly, and that's what our plan is. So we
7 hope to do a better job of explaining to the members of
8 the Appropriations Committee that we're not trying to
9 hide the ball. We're not trying to keep that helicopter
10 here in Austin for our pleasure. That's not the concern
11 at all. I will note that our -- that our SWAT team is
12 stationed and based out of Austin, and if we have to
13 deploy the SWAT team in an emergency, that is the
14 aircraft that we would use. And so that is a good
15 reason, aside from the other issues we've discussed, to
16 keep that aircraft in the Austin area. But with that
17 being said, Mr. Chairman, is that an adequate
18 explanation of the helicopter?

19 CHAIRMAN POLUNSKY: Yes, Colonel. If I
20 understand you correctly, notwithstanding your last
21 argument regarding the SWAT team, that the EC 145 that
22 was purchased with funds that are associated with Border
23 Star is going to be deployed in Laredo within a
24 reasonable period of time, probably in the next 30 days
25 or so.

1 COLONEL CLARK: Yes, sir.

2 CHAIRMAN POLUNSKY: After our aircraft
3 section people are confident that our training is -- has
4 been completed successfully and that it's safe to
5 operate that -- that airframe down in Laredo.

6 COLONEL CLARK: Yes, sir.

7 CHAIRMAN POLUNSKY: So there's absolutely
8 no intention on the part of the Department of Public
9 Safety to divert that helicopter to Austin and replace
10 it as it was intended to be in Laredo with another
11 helicopter on a permanent basis.

12 COLONEL CLARK: That's correct. And I did
13 not mention this, but we will -- on a rotation basis,
14 Chief Nabors will have his senior experienced pilots TDY
15 down to Laredo to participate in the training so we'll
16 always have an experienced, mature pilot with our
17 younger pilots as they learn.

18 CHAIRMAN POLUNSKY: Okay. And then
19 briefly there was some discussion on black-and-whites
20 that somehow somebody felt money was appropriated for
21 new ones, and new ones were not sent down there.

22 COLONEL CLARK: Another misinterpretation
23 or miscommunication. Colonel Beckworth I thought
24 adequately described that, but I'll pitch the ball to
25 Lamar and let him answer that.

1 LIEUTENANT COLONEL BECKWORTH:

2 Mr. Chairman, Commissioners, the audit reflected that we
3 had purchased and provided older vehicles to the border,
4 and that was not accurate. It was a miscommunication
5 and a misinterpretation. What basically happened in the
6 process is annually we buy approximately 450 to 500
7 black-and-white cars to replace our existing fleet once
8 they get to some certain mileage. So when you go by our
9 fleet shop, you will see probably 200 to 300 cars on
10 that particular shop. They are brand-new cars. When
11 this request occurred for us to deploy personnel to the
12 border, based on the number of FTEs that were provided
13 for us, we chose to send the new cars that were on the
14 shop operation down to the operation so that we could
15 meet their needs. We then took the funding that was
16 provided by the border and replaced those cars through
17 our normal yearly process. Had we chose not to do that,
18 we would have to order cars, wait for approximately
19 eight to 12 months before they would have arrived here
20 before we could send those cars down to that operation.
21 So I think there was a miscommunication and
22 understanding that in some concept that we sent old cars
23 to the border, and we did not. All the cars that were
24 sent down there were brand-new cars right out of our
25 shop.

1 CHAIRMAN POLUNSKY: Good. I think that's
2 a very good explanation. So in summary to
3 Representative Brown, and Chairman Pitts, and Chairman
4 Ogden, and everyone else involved in the Appropriations
5 process, and all members of the state legislature,
6 certainly I want to make it very clear that it is the
7 intent and the direction of the Department of Public
8 Safety that whatever funds are appropriated to the
9 department for specific uses will be used for those
10 specific uses.

11 OSCAR YBARRA: Yes, sir.

12 CHAIRMAN POLUNSKY: And that will be the
13 case certainly here with these items that we've
14 discussed this morning, and that will be the case with
15 items going forward.

16 OSCAR YBARRA: Yes, sir.

17 CHAIRMAN POLUNSKY: And, again, we want to
18 make sure that the integrity of the department, which is
19 extremely high, is maintained at that level and that the
20 confidence of the legislature is in no way impaired by
21 misconception or actual actions that might take place or
22 whatever. We're just going to be fully committed to
23 comply with the intent of any type of legislative
24 appropriation that benefits the department, no ifs,
25 ands, or buts.

1 OSCAR YBARRA: Absolutely, sir.

2 CHAIRMAN POLUNSKY: Okay. Thank you very
3 much. And you're correct. You have the next item, and
4 that will be the discussion and review of pending
5 contracts, commitments, and change orders, including the
6 following: Livescan Palm Print Upgrade.

7 OSCAR YBARRA: Just as an FYI, sir, this
8 particular item was an exceptional item that was
9 approved by the legislature for the '08 -'09 biennium.
10 So this is a fulfillment of that particular approval of
11 the legislature. It's a palm print device which will
12 greatly enhance fingerprinting, and the contract is
13 provided for your review.

14 COMMISSIONER BARTH: Was this contract bid
15 out?

16 MS. TAYLOR: Yes.

17 OSCAR YBARRA: Yes, it is.

18 COMMISSIONER BARTH: So there would be
19 multiple vendors out there that could provide it?

20 MS. TAYLOR: Yes, ma'am.

21 COMMISSIONER BARTH: And have we used this
22 vendor before?

23 MS. TAYLOR: Yes, ma'am.

24 COMMISSIONER STEEN: Chief, this is being
25 brought to us because it's over a million dollars?

1 OSCAR YBARRA: That is correct. It's 2.4
2 million dollars, sir.

3 COMMISSIONER STEEN: But that's the reason
4 you're bringing --

5 OSCAR YBARRA: Yes, sir. It's for your
6 review.

7 COMMISSIONER STEEN: And when the contract
8 is signed, remind me who signs it.

9 OSCAR YBARRA: It's a process, sir. The
10 actual contract, once it's ready for execution, will
11 require the tracking of it through several parties
12 within the agency. First it will come to my procurement
13 section from the actual division. That document that's
14 submitted will have the division chief's approval, along
15 with the project director's signature. And then that
16 will go through the process of procurement. And then
17 general counsel will be looking over that contract.
18 Once they have looked at it and they feel that it's
19 okay, it will be submitted to accounting and budget
20 control where I will review it and my staff will review
21 it. And I will at that point execute it, and the two
22 directors will have the opportunity to review it, and if
23 they choose to not approve it, then we would eliminate
24 that contract.

25 COMMISSIONER STEEN: Does someone from the

1 general counsel's office sign the contract approving it
2 as to legal form?

3 OSCAR YBARRA: That's correct, sir. On
4 that tracking sheet they sign as to --

5 COMMISSIONER STEEN: But not the contract?

6 OSCAR YBARRA: No, sir.

7 COMMISSIONER STEEN: They sign the
8 tracking sheet?

9 OSCAR YBARRA: The tracking sheet. An
10 official agency form.

11 COMMISSIONER STEEN: Mr. Chairman, are you
12 looking for a motion on this?

13 CHAIRMAN POLUNSKY: I don't think we need
14 a motion. I think it's just more a --

15 OSCAR YBARRA: Just for review.

16 COMMISSIONER STEEN: Thank you.

17 CHAIRMAN POLUNSKY: Any additional
18 questions? Anything else, sir?

19 OSCAR YBARRA: No, sir. I think I'll stay
20 up for the next item just in case.

21 CHAIRMAN POLUNSKY: Okay. The next item
22 is discussion and possible action regarding purchases
23 using seized funds. That will be Colonel Beckworth.

24 LIEUTENANT COLONEL BECKWORTH:
25 Mr. Chairman, Commissioners, this will be the first

1 opportunity this Public Safety group has had an
2 opportunity to discuss seized funds, and so I feel
3 compelled to kind of give you an overview of the full
4 process and being at your consideration for any
5 questions.

6 First of all, the Public Safety Commission
7 is the ruling authority for all seized funds. The group
8 controls everything relating to seized funds. The
9 agency, DPS, has a Seized Asset Committee that meets or
10 is called by the chair, who is chief of criminal law
11 enforcement division, and he will call the chief of the
12 rangers, administration, THP, and the County to come
13 together to discuss requests from different agencies
14 based upon needs, equipment, and training needs that
15 they have, and that's the area in which we utilize our
16 seized fund assets. Chapter 24 of our general manual
17 lays out the governing process and the guidelines as
18 relate to the seized forfeited asset process. What I
19 provided to you -- and I don't have an overlay of it --
20 in your booklet you have a process for forfeited assets
21 from a federal perspective and forfeited assets from a
22 state perspective, and what that entails is if we
23 process a court case on seized assets, money, homes,
24 land, whatever the process might be, it will go through
25 a process with the -- from a state perspective. It will

1 go through a process with the district attorney
2 processing the case through the courts. With all of the
3 counties within the state, we have a local agreement.
4 That agreement stipulates that any approved process
5 through state forfeiture, the Department of Public
6 Safety could receive up to 70 percent and the local
7 entity would receive 30 percent. That percentage can
8 vary depending upon other agreements made between the
9 two entities. When that money is processed, all of the
10 proceeds go into our general revenue process. The
11 agency does not retain any funding from the state
12 forfeiture process. It all goes in the general revenue.
13 However, on the federal seized process, there is a
14 process by which working with the attorneys from a
15 federal perspective, we could end up processing the
16 cases federally. If we do that, the agency can receive
17 up to 80 percent of those proceeds, or they can receive
18 as low as 5 percent of the proceeds depending upon the
19 nature of it. And I've given you two examples of court
20 cases in that document, one from a state perspective and
21 one from a federal perspective kind of outlining how
22 that process works. And so we are governed by Chapter
23 59 of the Code of Criminal Procedure on our state
24 assets, and we frequently get changes in district
25 attorneys in an area, and we'll go back and try to

1 create another 70/30 agreement, but that 70/30 agreement
2 in that state court is binding, and we try to follow
3 that accordingly.

4 What I also have in the document is a
5 disbursement list of '08 and '09 projects or projected
6 '09 projects, and it will show you some of the items
7 that have been approved by previous commission and have
8 been purchased with seized funds.

9 I also have provided you with a document
10 in the report that shows the amount of money that we
11 currently have on hand in our seized funds. The amount
12 that we currently have available today is
13 \$17,194,564.26. You will also see projected
14 expenditures for 2009, and that will be based upon the
15 items that we will present to you today and should you
16 choose to approve them. So this particular sheet
17 outlines the available money and the projected
18 expenditures that we'll present to you today.

19 What I also have in there is a document
20 that shows what has occurred previously in 2004, 2005,
21 2006, 2007, and 2008. You can see how much money has
22 been awarded and how much money has been received in our
23 seized funds process. Also, what happens is we also
24 have a process by which the Public Safety Commission
25 previously has authorized the agency to replace certain

1 items, and we replace those annually based upon a
2 one-fifth percentage of the number of items that we
3 have, and that's how we replace those items. For
4 example, we have the ability by a previous commission --
5 if you want to do something different, you can, but we
6 have the ability by previous commission to replace the
7 following items: Body armor replacement, both in
8 criminal law enforcement and THP; in-car video camera
9 replacement in THP; handheld radio replacement in THP
10 and criminal law enforcement. We also have the ability
11 to -- recurring costs on certain items. Court costs and
12 liens, vehicle storage and towing, hazardous chemical
13 destruction, and forfeited vehicle makeready. So those
14 are the categories that previous commissions have
15 authorized us to do annually from these particular
16 funds.

17 So I've given you an overview of these
18 particular items. What has happened, two months ago the
19 committee met based on critical things that we believe
20 we need and we are recommending and asking your
21 consideration for the following approval items. We are
22 in a position to where we're asking for four portable
23 400 KW generators, emergency generators to be placed on
24 a platform to be taken to offices where our power goes
25 out based upon (inaudible) so we can bring those systems

1 back up and be operational in a short period of time.

2 COMMISSIONER STEEN: Colonel, may I ask
3 you a question? Are you now going down this list of
4 items that's on the sheet that's entitled
5 "Disbursements"?

6 LIEUTENANT COLONEL BECKWORTH: No. I'm
7 going over the items that are identified that we're
8 making a request today. However, I'll stop and
9 entertain questions.

10 COMMISSIONER STEEN: No. But where are
11 they in the handout?

12 LIEUTENANT COLONEL BECKWORTH: They are at
13 the very back.

14 COMMISSIONER BARTH: They are past the
15 spreadsheet of the numbers.

16 LIEUTENANT COLONEL BECKWORTH: They are
17 past the spreadsheet under the breakout items. Look
18 over one additional page and you will see where we
19 identified them.

20 Have you found them?

21 COMMISSIONER STEEN: Yes. I'm wondering,
22 is there a way we could -- if we're going to dwell on
23 anything here, is there a way we can put it up on the
24 screen?

25 LIEUTENANT COLONEL BECKWORTH: Dorothy has

1 a copy, and she can try and put it up on the screen.

2 COMMISSIONER STEEN: Thank you, Colonel.

3 CHAIRMAN POLUNSKY: I think this is the
4 type of information that Mr. Steen correctly was
5 thinking should be available to be displayed on the
6 screens.

7 COMMISSIONER BARTH: It seems to me there
8 would be like a summary of all the items as opposed
9 to each individual one. Is there a one page summary of
10 each one?

11 LIEUTENANT COLONEL BECKWORTH: No.

12 COMMISSIONER STEEN: Are we going to vote
13 on each one? Is that --

14 LIEUTENANT COLONEL BECKWORTH: No. We can
15 provide that in the future for you. We don't have a one
16 page --

17 COMMISSIONER BARTH: Summary. I guess the
18 other question I have is: Can you use this money for
19 anything?

20 LIEUTENANT COLONEL BECKWORTH: There
21 are -- no, you cannot. There are certain things the
22 funds can be utilized for, and so there's a guideline
23 that the federal government provides to us that they can
24 be used for. So I will make that available to you as
25 well to show what those particular items can be.

1 OSCAR YBARRA: There is also a rider in
2 our bill pattern that specifically identifies these
3 funds and how they -- what would be preferably it should
4 be spent on, and that is -- and I hope I'm not quoting
5 it incorrectly -- police equipment, preferred police
6 equipment.

7 COMMISSIONER BARTH: Preferred police
8 equipment?

9 OSCAR YBARRA: Yes.

10 COMMISSIONER BARTH: But it doesn't have
11 to be?

12 OSCAR YBARRA: No. But you're also
13 limited by the federal guidelines also, which -- which
14 gives you a little bit more flexibility.

15 COMMISSIONER BARTH: Does it give you --

16 OSCAR YBARRA: But for the most part, the
17 agency uses it for preferred police equipment.

18 COMMISSIONER BARTH: But does it give you
19 a flexibility like for IT?

20 OSCAR YBARRA: Yes, it does.

21 COMMISSIONER BARTH: Okay.

22 OSCAR YBARRA: I think mostly like from a
23 onetime perspective purchase.

24 COMMISSIONER BARTH: Okay.

25 LIEUTENANT COLONEL BECKWORTH: Dorothy has

1 placed on the screen the request from the highway patrol
2 service for the four 400 KW portable backup emergency
3 generators to allow us to be able to have the
4 flexibility when a facility goes out across the state to
5 bring that system back up. Those particular units would
6 cost \$148,000. There are four of them. The estimated
7 cost would be \$592,000 from seized funds. There's
8 another request for generators that she's going to place
9 on there. These particular generators would be placed
10 at all of our coastal locations. When we had the storms
11 during Hurricane Ike, our Beaumont system went
12 completely out, our Houston facility went out. We
13 anticipate these same or similar problems and so we're
14 asking and requesting consider be provided for these
15 particular generators to Houston, Corpus Christi,
16 McAllen, and Beaumont. The cost for those particular
17 equipment will be \$1,152,000 for the four full
18 generators to go in those facilities, and we're asking
19 your consideration on those.

20 We're also asking for consideration on a
21 request to replace a component in the highway patrol
22 offices to allow us to replace (inaudible). There are
23 several offices across the state that have frequent
24 failures and cannot link into our system. We need to
25 try to make sure those systems work appropriately. We

1 had available one million dollars in our technology
2 refresh budget that we used and so we're asking you to
3 approve \$836,842 to finish out that project in those
4 highway patrol offices.

5 And finally, we are requesting a piece of
6 equipment, weapons of mass destruction bags. That
7 particular kit has injectors called DuoDote. They are
8 two devices that allow us if we are exposed to a certain
9 chemical, we can use this antidote for Sarin, VX, or
10 Soman Nerve Agents. And this particular equipment in
11 our weapons of mass destruction bag has passed it's
12 expired expiration date and therefore it's critical that
13 we replace this equipment. That cost to replace all the
14 equipment, which is 9,100 units we're requesting, would
15 be \$419,328. And those are the items that we're asking
16 you to consider.

17 I would also like to kind of touch on
18 Commissioner Barth's comment about IT use. We have made
19 a request to CJD to be considered for a grant to pay for
20 a TDEX system funding. We were denied that particular
21 CJD grant. It puts us in a vulnerable position going
22 forward that we may not have enough money to fulfill
23 paying for the system as it currently is in place. We
24 are talking about almost four million dollars -- a
25 little over four million dollars that could possibly be

1 needed. We are not exactly sure how much will be needed
2 because each month we're forecasting (inaudible) our
3 budget, and our plans are to try to replace that with
4 any unused federal dollars that we do not use, but
5 there's a possibility that we may have to come to the
6 Commission and ask for funding to pay for those
7 particular unmet needs as relate to the TDEX system. So
8 I want to bring that to your attention this morning as
9 well.

10 And that concludes my report, and I ask
11 your consideration on approving these four items.

12 COMMISSIONER STEEN: Colonel, when you
13 began your presentation, you said this is the first time
14 we were doing something. Say that again.

15 LIEUTENANT COLONEL BECKWORTH: We have not
16 had a meeting of our seized funds for quite some time,
17 and this is the first particular meeting we will have
18 had making a request to this body. So I felt compelled
19 to kind of give you an overview of how the process
20 worked in the past and for your consideration on
21 approving these particular items.

22 COMMISSIONER STEEN: That's the first time
23 it's come to this --

24 COLONEL CLARK: This commission.

25 LIEUTENANT COLONEL BECKWORTH: This body.

1 COMMISSIONER STEEN: This commission as
2 it's constituted?

3 COLONEL CLARK: As constituted, right.

4 COMMISSIONER BROWN: The overview was
5 helpful. Thank you.

6 CHAIRMAN POLUNSKY: Is there a discussion
7 on this?

8 COMMISSIONER STEEN: Mr. Chairman, do you
9 want a motion on all the items together, or do you --

10 CHAIRMAN POLUNSKY: I mean, we can do that
11 if everybody is in agreement or we can pull them for
12 individual discussion. I mean, it's up to y'all.

13 COMMISSIONER STEEN: Well, just to move
14 along, I'll make the motion on the entire group of
15 expenditures.

16 COMMISSIONER CLOWE: Second.

17 CHAIRMAN POLUNSKY: All right. It's been
18 moved by Commissioner Steen and seconded by Commissioner
19 Clowe that the items that have been presented by Colonel
20 Beckworth be purchased using the seized funds as set out
21 this morning. Is there a discussion on this? There is
22 none. All in favor, please say "aye." Any against,
23 "no." Motion passes.

24 COMMISSIONER BARTH: I have one quick
25 question after the fact, though. Can we look at this

1 notice -- if I did my numbers right, roughly 14 million
2 in the seized funds.

3 OSCAR YBARRA: Yes, ma'am.

4 COMMISSIONER BARTH: Do we look at that as
5 a place to solve some of our budget shortfalls?

6 OSCAR YBARRA: This year, yes, ma'am.
7 Specifically TDEX.

8 COMMISSIONER BARTH: You know, but just in
9 general, I mean, I'm sitting here saying, okay, there's
10 14 million dollars out there that's not been spent --
11 I'm not saying rush out and go spend it, but with the
12 same respect --

13 OSCAR YBARRA: Yes, ma'am. And we do that
14 like specifically for TDEX and -- but there's also
15 things that we can see in the future that are going to
16 happen, you know. This money is traditionally utilized
17 by the agency via a rider approved by the legislature to
18 replace aircraft. Everybody -- the Cessna and a
19 helicopter. You're looking at probably close to five
20 million dollars there. We also -- we're also aware of a
21 rider that exists today in the Senate for the purchase
22 of a helicopter in Longview which specifically
23 identifies the use of seized funds to purchase that
24 helicopter. When you put those two together and you add
25 the recurring costs, it chews up the money pretty fast.

1 So we're taking that into consideration this particular
2 fiscal year.

3 CHAIRMAN POLUNSKY: And how much is that
4 rider for the helicopter in Longview?

5 OSCAR YBARRA: Currently, sir, that
6 helicopter is around 4.2 million dollars, and it allows
7 the agency to hire pilots to fly that helicopter, but no
8 funding from an operational perspective in the Senate.
9 We would have to find dollars to do that within our
10 budget.

11 CHAIRMAN POLUNSKY: But that's not an
12 exceptional item.

13 OSCAR YBARRA: No, sir. That was added to
14 our request by the Senate.

15 CHAIRMAN POLUNSKY: So --

16 COMMISSIONER BROWN: Do you mind -- I'm
17 sorry. I didn't mean to interrupt you, Jim.

18 CHAIRMAN POLUNSKY: Well, obviously then
19 it doesn't rise to the level of priority of other items.
20 Is that -- would that be an accurate assessment?

21 OSCAR YBARRA: Other items as in agency
22 needs? If that's a rider that's put in our bill
23 pattern, sir, that would be the direction for the agency
24 to go.

25 CHAIRMAN POLUNSKY: You maneuvered around

1 that pretty well.

2 (Laughter)

3 COMMISSIONER BROWN: You've been over an
4 important distinction, and I want to see if you could
5 repeat that as to what --

6 OSCAR YBARRA: Repeat what?

7 COMMISSIONER BROWN: Okay. Go back
8 over --

9 LIEUTENANT COLONEL BECKWORTH:
10 Commissioner Brown, let me help you.

11 COMMISSIONER BROWN: Okay.

12 LIEUTENANT COLONEL BECKWORTH: Basically
13 what he's saying is that there has been -- if you look
14 at the sheet that you have before you see, you will see
15 a Rider 3 and you will see a Rider 57. The last 57
16 Rider required DPS to take seized fund money and
17 purchase a new helicopter and place it in Amarillo.

18 COMMISSIONER BROWN: Right. Okay.

19 LIEUTENANT COLONEL BECKWORTH: We just did
20 that recently. However, we are also tasked by the
21 process to place the existing aircraft after they reach
22 a certain period of time. We have a Cessna in Houston
23 that's due. We have to replace that. It's coming up.
24 660 some odd thousand dollars is what we anticipate
25 that's going to cost us. We also have another aircraft

1 in Lubbock, I think, that's coming up for replacement.
2 That's a helicopter. That's 4.2 million dollars. So we
3 know those particular projects are coming up for
4 replacement. In addition to that, in this particular
5 session, there is a rider that's kind of like Rider 57
6 for Amarillo telling us to go ahead and identify funding
7 through seized funds to provide a helicopter in
8 Longview, Texas, to the amount of 4.2 million dollars.
9 That that particular rider is not like the one that was
10 done for 57. The one in 57 gave us permission -- gave
11 us funding for two pilots and --

12 COMMISSIONER BROWN: Got you.

13 LIEUTENANT COLONEL BECKWORTH: -- also
14 operating costs. This one does not. It just gives us
15 permission to get the aircraft, and we would have to
16 find the dollars to operate it from some other source.

17 COMMISSIONER BROWN: Thank you. And you
18 asked that far better than I. We went over a lot of
19 stuff, but that was the distinction I was looking for
20 was what was not funded in this particular -- okay.
21 Thank you.

22 COLONEL CLARK: Mr. Chairman, I might make
23 one comment to Commissioner Brown. There's no guarantee
24 that these funds will continue to come in. I mean, our
25 troopers do a magnificent job of criminal interdiction,

1 and we're going to seize currency, but there is no
2 guarantee any year how much money would come in to be
3 awarded. So it fluctuates from year to year. And
4 there's a lot of money pending out there right now.
5 It's in your file that shows you what is currently
6 awaiting distribution. But as we know, it will
7 continue, but it depends on the good work of our
8 troopers, who we have some fantastic interdictors out
9 there, and they do a good job, and that's just one of
10 the things that they do. They seize narcotics, weapons,
11 and currency. But that currency on the federal side
12 allows us to fund these very important equipment items.

13 COMMISSIONER BROWN: And I will say it was
14 really impressive to look at the amazing numbers of -- I
15 mean, that's -- it's amazing that our troopers are
16 seizing that much. We should be really proud of them.

17 CHAIRMAN POLUNSKY: Okay. So that -- we
18 voted on that motion, correct? Anything else?

19 OSCAR YBARRA: You tell me, sir.

20 CHAIRMAN POLUNSKY: Are you having fun?

21 OSCAR YBARRA: Every day, sir.

22 CHAIRMAN POLUNSKY: Thank you. The next
23 item: Discussion and possible action regarding
24 implementation of driver license reengineering, new
25 driver license system, and options regarding

1 implementation, including consideration of current key
2 contract relationships and possible expedited contract
3 processes during the implementation phase. That will be
4 Chief Brown.

5 OSCAR YBARRA: I'm not gone yet, sir.

6 JUDY BROWN: If you will indulge me for
7 just a moment so I can back up and provide some history,
8 which I think it will make it easier as we go forward.

9 As we spoke to the Public Safety
10 Commission on a number of occasions with regards to the
11 driver license reengineering project, two of the most
12 significant obstacles that we met in this project were
13 the communications network and the ability to operate on
14 a mainframe computer. As we reached those obstacles,
15 the technical team, project team were able to maneuver
16 to new technologies. They distributed server
17 environment to allow us to operate outside of the
18 mainframe on a -- several pieces of hardware that would
19 allow us the throughput capacity that we need to operate
20 the system with some efficiency as well with regards to
21 the satellite system not having the ability to move the
22 images through the bandwidth that we had on the new
23 satellite. We have found the opportunity, tested it and
24 the ability to run via a phone line network. Both of
25 those pieces of technology are an increase in what we

1 originally intended for the cost of this project to run.
2 We have identified through the request to exceed
3 documentation that's been provided to the Public Safety
4 Commission prior to today the need to exceed our capital
5 authority. Those requests take most specifically those
6 two items and allow us the opportunity to do the
7 installation of equipment and the operating costs
8 through the end of this fiscal year. In our exceptional
9 items on the LAR under the IT portion, we have the
10 continuing cost for the communications network to take
11 us through the biennium. We are, I guess I would say, a
12 third through the request to exceed process with
13 approvals. We still have a couple approvals to obtain,
14 with a couple of approvals promised. So we are
15 diligently working to ensure that all questions are
16 answered and Chief Ybarra and myself, and perhaps
17 repeatedly with some, have made ourselves available with
18 others, and continue to work through that process for
19 the request to exceed to be approved. Because of the
20 timing and where we are today, the project schedule
21 required us to begin cutover, which means stopping
22 certain processes in order that we would fulfill all the
23 way through the life cycle of some of our functions,
24 which would allow us to begin our migration of data over
25 the Easter weekend. We began that cutover this week.

1 Knowing that we've got the request to exceed pending and
2 we've got the budgetary appropriations request for the
3 biennium pending as well, it is our recommendation that
4 we continue forward with this process. We have
5 determined through continued effort from our technical
6 team, office of general counsel, the procurement folks
7 out of Chief Ybarra's division, the opportunity to move
8 through the migration and move through the pilot with
9 expenditures that would be within the cap. Now, what
10 that means is if we don't get the request to exceed
11 approved, then we have to regroup at the pilot and
12 determine how we function as a Driver License Division
13 supporting the offices across the state. Additionally,
14 if we got the request to exceed approved and did not get
15 the biennium request approved, we would also have that
16 same dilemma. We believe with the timing -- and it will
17 be to the moment and almost exact, but with the timing
18 that we can continue to move forward and be able to make
19 those decisions along the way keeping the Public Safety
20 Commission apprised of each step as we obtain approvals
21 and as we move through implementation.

22 We also would ask that as we go through
23 implementation that the Public Safety Commission give us
24 the authority and/or the direction to have latitude in
25 the procurement process. We anticipate as any large

1 scale project of this type that as we move to
2 implementation, as we move through that probably 120
3 days from migration to full implementation across the
4 state, that we may encounter hurdles that would require
5 us to obtain services or a contract for equipment that
6 might need to be made on an immediate basis.

7 So we have provided again through the work
8 of general counsel, through the work of the fiscal
9 affairs division, through the technical team, we have
10 provided a recommendation to you kind of a best and
11 worst recommendation, but our recommendation would be
12 that you give us the authority and the latitude to make
13 procurement decisions through the implementation phase
14 of this project at your will, Chairman Polunsky. If you
15 would like to appoint a commissioner that we could work
16 through, one commissioner to seek approval for those,
17 and then at each opportunity to report to the full
18 commission, we would be able to report those purchases
19 as part of our division report.

20 CHAIRMAN POLUNSKY: Thank you, Chief.
21 With respect to the last comment, we are going to have
22 some commissioners become involved in this directly. I
23 am appointing a committee that will be chaired by
24 Commissioner Barth, and also have Commissioner Clowe
25 serve on it that will be involved in this process, and

1 also provide a more global overview and interface with
2 the Driver License Division on behalf of the Commission.

3 You have an important project going on
4 here. You have an important function and responsibility
5 and duties over there, and I feel that it's extremely
6 important that the Commission be very much involved --
7 not doing your job, but at least, as I said, interfacing
8 with you and providing a bridge between the Public
9 Safety Commission and Driver License Division. So Carin
10 and Tom are going to become involved in that capacity.
11 Of course, Carin is already working with you on that in
12 the immediate past here. So that's how we'll be doing
13 that in the future.

14 JUDY BROWN: Okay. I appreciate the
15 appointment and welcome the involvement.

16 CHAIRMAN POLUNSKY: Yes. Any comments?

17 COMMISSIONER BARTH: I've got a question
18 on -- in terms of recommending to the chairman to
19 appoint either myself or Commissioner Clowe for this
20 interim approval of contracts dollar -- total dollar
21 value that you anticipate.

22 JUDY BROWN: In talking with Jimmy and
23 Linda -- or for those of you who don't know Jimmy Weise,
24 he's our technical project manager, and Linda Boline is
25 the business -- business side project manager. But in

1 speaking with them, we don't anticipate to exceed
2 \$500,000.

3 COMMISSIONER BARTH: And that would still
4 fall under the amount under the RTE; is that right?

5 JUDY BROWN: That's correct.

6 COMMISSIONER BARTH: So these are vendors
7 we haven't contracted for but anticipate we might and
8 not having to wait the 30 days between meetings to
9 approve it?

10 JUDY BROWN: That is correct. Or vendors
11 that we would have the opportunity to go direct through
12 DIR's process to obtain their services.

13 OSCAR YBARRA: Just to clarify, I mean,
14 those would not be dollars associated with the request
15 to exceed, right?

16 COMMISSIONER BARTH: Yes or no?

17 JUDY BROWN: They are included in the
18 request to exceed.

19 OSCAR YBARRA: But you're using capital
20 authority to do that?

21 JUDY BROWN: As part of the project.

22 COMMISSIONER CLOWE: I'm sorry. I didn't
23 hear your answer.

24 OSCAR YBARRA: They have some capital
25 authority under the current budget process. I think

1 what they are doing is substituting certain things for
2 others to use their capital authority. It's still all
3 under the same project. I understand that that -- that
4 will be okay under the rules. The dollars set aside, in
5 other words, for the shortfall would not be spent.

6 COMMISSIONER BARTH: That's not what I
7 heard. Is that --

8 JUDY BROWN: There are dollars included in
9 the request to exceed that are justified in the request
10 to exceed that would cover the potential for any of
11 these emergency, I'll call, procurements, that if the --
12 the interim procurements that may come up during the
13 implementation process.

14 COMMISSIONER BARTH: Are you struggling
15 over here, Oscar? I see you struggling, so --

16 OSCAR YBARRA: I just want to make sure
17 that -- I know that they have -- you have 10 million
18 dollars of (inaudible). Would you be using those
19 dollars for the 500,000?

20 JUDY BROWN: No, sir. We would be using
21 the dollars in the request to exceed.

22 OSCAR YBARRA: Then I cannot authorize
23 that expense.

24 JUDY BROWN: In the request to exceed we
25 have dollars in the justified -- a memo that we did with

1 the request to exceed that these funds would be out of
2 those same dollars for those same subject matters.

3 OSCAR YBARRA: They would be associated
4 with those items. Bottom line is that the 7.9 million
5 dollars is restricted from a perspective that we could
6 not buy capital items beyond that amount -- in that
7 amount. So if you're using existing deal reengineering
8 authorized dollars to pay for that, then it's just a
9 flip-flop. If you're going to pay for this -- something
10 later with this money, if that's the case, okay. But if
11 you're using the 7.9 million, we're not allowed -- we're
12 not allowed to move forward.

13 JUDY BROWN: Because of -- because of --
14 and I'll back up. I'll back up. With regards to not
15 having the request to exceed approved at this point, we
16 can move forward with the existing cap to do the pilot
17 and implementation. We have negotiated -- Jimmy and
18 Linda have negotiated successfully with the
19 communications vendor the opportunity to extract the
20 pilot offices out of the overall contract so that we
21 could move forward with that -- execution of that
22 contract and installation of those communication lines.
23 So within existing cap dollars, we could move forward.

24 OSCAR YBARRA: I would be fine with that.

25 COMMISSIONER BARTH: Are you sure?

1 OSCAR YBARRA: The key words being
2 "existing cap dollars," yes.

3 COMMISSIONER BARTH: I'm going on what
4 he's saying here, so -- I sure would like to have you --

5 JUDY BROWN: I apologize for that.

6 CHAIRMAN POLUNSKY: In the future y'all
7 need to get together before these meetings and get
8 this --

9 OSCAR YBARRA: I think we were, but when I
10 heard it, it sounded a little different, but we're on
11 the same page. Sorry.

12 CHAIRMAN POLUNSKY: All right.

13 STUART PLATT: Mr. Chairman, can I make an
14 inquiry?

15 CHAIRMAN POLUNSKY: Yes, sir.

16 STUART PLATT: With -- Commissioner Barth
17 has been extremely helpful in this matter. We talked
18 yesterday. She asked the question about anticipated
19 expenditures. There are some constraints the Commission
20 has regarding particular IT expenditures. Are you
21 authorizing for this -- the appointment of this
22 committee those committee members to use their
23 discretion if we hit those cap amounts for expenditures
24 in this process on a short-term basis on these
25 procurements?

1 CHAIRMAN POLUNSKY: Are we --

2 COMMISSIONER BARTH: No, that's not

3 what --

4 OSCAR YBARRA: He's talking about from the

5 contract perspective.

6 STUART PLATT: The contract perspective.

7 COMMISSIONER BARTH: Okay.

8 STUART PLATT: Because right now we've got

9 some constraints --

10 COMMISSIONER BARTH: Right. Right. And

11 what I would suggest to the chairman now with the

12 approval of the other commissioners is to delegate to

13 Commissioner Clowe and myself during this -- I call it

14 during the stub periods on the ability to approve these

15 contracts up to a combined total of half a million over

16 what I'm hearing is the next 120 days?

17 JUDY BROWN: Yes, ma'am.

18 COMMISSIONER BARTH: Commissioner Clowe.

19 COMMISSIONER CLOWE: Well, let me

20 understand exactly where we are. We started off with a

21 project that was supposed to cost 38,238,145, and now

22 we're looking at an expense projected to be 56,049,574,

23 and we're short in that 56,049,574 by seven point

24 something million, which we have a request pending -- an

25 emergency request pending that we hope to get.

1 JUDY BROWN: That's correct.

2 COMMISSIONER CLOWE: And in the interim it
3 is your plan to begin implementation. You've already
4 got some testing going on now, but you have tests
5 planned in two steps that can be funded through an
6 agreement you made with the vendor under present
7 authorized funds.

8 JUDY BROWN: That's correct.

9 COMMISSIONER CLOWE: So you're not
10 spending any money up to this point that is not properly
11 funded and available.

12 JUDY BROWN: That is correct.

13 COMMISSIONER CLOWE: If you don't get the
14 emergency funding approved, then you're in the soup.

15 MR. WEISE: We have a contingency in that
16 contract that basically says we're not going to buy
17 anything else.

18 COMMISSIONER CLOWE: And then the whole
19 program stops?

20 MR. WEISE: Yes.

21 COMMISSIONER CLOWE: And what you're
22 asking this commission for is that two commissioners be
23 named and those two commissioners act in lieu of the
24 full commission on an intermediary basis to approve up
25 to half a million dollars of contracts if necessary that

1 are within the funding that's already approved and
2 available?

3 JUDY BROWN: That is correct.

4 COMMISSIONER CLOWE: How did we get into
5 this situation? You know, I think this started a long
6 time before this board came into being, but it is an
7 embarrassment to me to see the kind of overrun we have
8 on this and that we're now in with our hat in our hand
9 before the LBB with this gun at our backs to get this
10 thing done. How did we get in this mess?

11 JUDY BROWN: I will tell you very
12 honestly, Commissioner Clowe, that the project scope
13 when we began some six years ago to lay this project
14 out, to scope it out, we determined, the agency, the
15 division chiefs, the leadership at that point in time in
16 this agency, which is significantly different with the
17 exception of myself, determined that we would partner in
18 implementation of this project.

19 COMMISSIONER CLOWE: With who?

20 JUDY BROWN: The Department of Public
21 Safety would take on a certain role with regards to IT
22 support, and we would contract out the software
23 development and the mechanism to implement the project
24 in the field.

25 COMMISSIONER CLOWE: That's the

1 partnership you're talking about?

2 JUDY BROWN: That is the partnership that
3 I speak of. The piece of that partnership that failed
4 is the department's piece and -- and there's not one
5 there's significant -- there's not one specific issue to
6 point a finger at. There's not one specific issue to
7 blame. But we determined back then that we would use
8 mainframe technology. That wasn't the best decision for
9 the technology that's available. And we stepped right
10 up to that hurdle and couldn't get over it without
11 changing from mainframe technology to this distributed
12 server environment. The other technology that had been
13 historically used in the agency for many, many years to
14 support law enforcement was the satellite communication
15 network, and again, the decision was made then that we
16 were going to do everything we could to utilize the
17 satellite network to support the system. And very
18 quickly as we resolved the issue with the mainframe
19 throughput, then we bumped against the hurdle that the
20 technology of satellite will not move images back and
21 forth to driver's license offices in an efficient
22 capacity. The technology is changing through that time
23 period, the inability to maintain a continued level of
24 support from the IT environment, which y'all are very
25 familiar with, have been the significant hurdles that

1 have cost us not only delay in the project, but the
2 increase in the cost.

3 COMMISSIONER CLOWE: Well, I for one am
4 disappointed not only the overrun in cost, but the
5 increased delays and, you know, to say that it's the
6 failure on the department's part is easily articulated,
7 but my sense is this program has not been well managed,
8 and I think that the IT portion is a weak part of this
9 whole plan. And I think it points up the need for
10 strength in the IMS and better coordination with IMS on
11 all the projects that depend so heavily on it such as
12 this one. And I hate to see this department backed into
13 a corner like it is with so many ifs and alternative
14 plans where we ought to be doing things in a well
15 planned, orderly, with firm deliverables forthcoming.
16 It's an embarrassment, as I say, to get ourselves in a
17 position where we're trying to come up with this new
18 driver license, and we just don't know.

19 JUDY BROWN: Commissioner Clowe, I will
20 take complete blame for where we're at today. I will
21 tell you that several months ago that some members in
22 the agency will tell you that I stole Jimmy Weise.
23 Others will tell you that I dragged him kicking and
24 screaming, but we brought him over to driver license
25 full-time. He brought a team with him that we -- we

1 coordinated with Chief Lane, and we brought those IT
2 experts into our environment, into our house, and we
3 have housed them that way. And from that point forward
4 we have seen continued success, continued coordination
5 and would not be where we were today without that. But
6 it lays out exactly the issue that you laid out as being
7 an inefficiency that we have corrected in this project,
8 and I will tell you that we need to correct it in every
9 project moving forward that we ensure we have the right
10 dedicated team from the very beginning.

11 COMMISSIONER CLOWE: And you see, that
12 makes my point in that when you had to go steal somebody
13 and drag them into your division to get this job done,
14 that's not the way I think we ought to do things here
15 with IT. IT ought to be a strong, productive entity
16 that when driver license or CLE or the Texas Rangers or
17 the highway patrol have a project, they deal with them
18 and provide what is needed. That displays a weakness on
19 our part, in my opinion, organizationally, that we've
20 got to deal with.

21 JUDY BROWN: And I agree. I think if we
22 are successful in the exceptional item list that we
23 have, you will see an IT division that's able to
24 maintain their technical expertise, and that they are
25 able to maintain that, stay with that, and move forward

1 with that. While we have the turnover that we have in
2 our IT division, it's difficult to maintain a solid team
3 on a five year project.

4 COMMISSIONER BARTH: Can I ask a question
5 with respect to the overall project in terms of what
6 other states have successfully implemented a project
7 this size?

8 JUDY BROWN: Two.

9 COMMISSIONER BARTH: And they are?

10 JUDY BROWN: Utah has -- and there is not
11 a state that's implemented a project of this size.

12 COMMISSIONER BARTH: Okay.

13 JUDY BROWN: Texas is one of the top three
14 largest states out there. California has not. New York
15 has not. Florida has not. Utah has delivered a project
16 like that. There are a number of states who have begun,
17 stopped, started over again, and I can't tell you
18 exactly the status of those states, but Utah and I
19 believe --

20 JIMMY WEISE: Pennsylvania.

21 JUDY BROWN: Pennsylvania stopped.

22 LINDA BOLINE: Iowa.

23 JUDY BROWN: Iowa.

24 CHAIRMAN POLUNSKY: Chief Brown, are you
25 confident that this project will be implemented

1 successfully?

2 JUDY BROWN: With the request to exceed,
3 yes, sir, I absolutely am, and the continued budget over
4 the next biennium. This -- we have -- the last two
5 weeks we have been in training. We have the system
6 fully operational. We have trained our -- we're
7 training our trainers. We have had solid, very
8 confident opportunity to work through the system, to
9 bring our field people in, to bring our headquarters in.
10 We are getting rave reviews on the project. We are
11 seeing very few issues come up along the way, which you
12 would expect on a project of this scope. And, again, I
13 think as we implement and as we move forward, we have
14 the opportunity to put a state-of-the-art driver's
15 license system out there.

16 CHAIRMAN POLUNSKY: So you are
17 confident --

18 JUDY BROWN: Yes, sir.

19 CHAIRMAN POLUNSKY: -- that we will not
20 have issues that will result in this project being
21 delayed further or being in any way dysfunctional?

22 JUDY BROWN: Yes, sir.

23 COMMISSIONER BARTH: And when do we deem
24 it complete with respect to the bearing point contract
25 in terms of robust?

1 LINDA BOLINE: We have 60 days after we
2 begin pilot, and then we have final acceptance. After
3 final acceptance, there is -- I believe the actual
4 project closeout is in September, if not a month before
5 that. But it's just right after we get our pilot and do
6 all the project management stuff after the final
7 acceptance.

8 JUDY BROWN: The pilot period is -- it's a
9 bit of a misnomer, Commissioner Barth. Pilot is really
10 the transition to the new system. The first 30 days
11 would be in the headquarters environment. The next 30
12 days will be in seven driver license offices, and from
13 that point forward, we begin to roll a number of offices
14 a week over a 12 week period.

15 COMMISSIONER BARTH: But once the 60 days
16 from the time, let's call it, Easter, this then deemed
17 complete given we don't run into any issues?

18 JUDY BROWN: We accept the (inaudible).

19 COMMISSIONER BARTH: Okay.

20 JIMMY WEISE: Now, one of the things that
21 you need to be aware of is if the RTE continues to get
22 delayed and if we do stand up on Easter -- we go
23 (inaudible) get headquarter pilot. We begin that 60
24 days then. So each increase in the RTE cuts the window
25 that we -- when we actually start (inaudible) in the

1 field. So, I mean, if we don't hit the field on the
2 31st day and we hit them on the 60th day, then we're
3 basically without bearing point when we do those six or
4 seven field performances. And to clarify. One thing
5 that was able to -- we will have bumps during
6 implementation. That's why we're requesting the ability
7 to make procurements if they are needed. Well, we're
8 not expecting anything that's going to force us to turn
9 around and go back. We will continue to move forward.

10 CHAIRMAN POLUNSKY: Well, I think that
11 bumps are to be expected in a project of this size and
12 scope. I'm just concerned that we don't get into a
13 situation where the project in some manner collapses or
14 is derailed in such a way that we have a catastrophic
15 situation on our hands.

16 JUDY BROWN: I do not expect that to
17 happen.

18 JIMMY WEISE: And one of the things that's
19 got to be built in is future life cycle maintenance of
20 the application. I mean, once it's stood up, it's going
21 to have to be fed each day. It's not an application
22 that you can just stand up and walk away and say we
23 never have to invest any money again. If that's the
24 approach, then, you know, two years from now you'll be
25 doing another (inaudible).

1 STUART PLATT: Mr. Chairman, can I make an
2 inquiry regarding that maintenance issue? At what point
3 would our maintenance contract with bearing point -- is
4 there an overlap between a pilot program and the
5 maintenance contract to (inaudible)?

6 LINDA BOLINE: The SLA begins the day
7 after the pilot.

8 JIMMY WEISE: So after the 60 day pilot
9 (inaudible).

10 COMMISSIONER BARTH: Can I ask Oscar kind
11 of a technical question in terms of the flow of funds?
12 Do the flow of funds go to bearing point and then they
13 pay their subcontractors? How does that work?

14 OSCAR YBARRA: I'm assuming that's
15 correct. Yes. They would pay their subcontractor. We
16 would pay them directly, and they would pay their
17 subcontractors.

18 COMMISSIONER BARTH: Do we have the
19 ability to pay the vendors directly?

20 LINDA BOLINE: The subcontractor?

21 OSCAR YBARRA: The subcontract vendor?

22 COMMISSIONER BARTH: Yes.

23 LINDA BOLINE: Not --

24 OSCAR YBARRA: Not through contract. The
25 contract is set up through that particular vendor -- the

1 award -- the awarded vendor.

2 COMMISSIONER BARTH: Bearing point, let's
3 call it, is the parent, for lack of a better way of
4 saying it. So we pay them the money and then they are
5 to disburse it to the vendors.

6 OSCAR YBARRA: There's language in the
7 contract that identifies that.

8 LINDA BOLINE: And they disclose that --
9 what they pay each month.

10 COMMISSIONER BARTH: And how does that
11 flow with respect to the bankruptcy courts?

12 STUART PLATT: That's why we consulted
13 with bankruptcy counsel before, and we may have the
14 answer for that by the time we go into executive
15 session.

16 CHAIRMAN POLUNSKY: Well, that's certainly
17 a very fundamental issue here that we're all very
18 concerned about. So it would be very helpful,
19 Mr. Platt, to have whatever information possible.

20 STUART PLATT: We had a conference this
21 morning with bankruptcy counsel and we'll talk in
22 executive session about that.

23 CHAIRMAN POLUNSKY: Where are we with the
24 request?

25 JUDY BROWN: We are working it through the

1 legislative process at this point.

2 CHAIRMAN POLUNSKY: And where are we?

3 Where is it?

4 JUDY BROWN: We have two signatures
5 pending approval at the Governor's office, and we have
6 approval from Senator Ogden.

7 CHAIRMAN POLUNSKY: So we need signature
8 from Chairman Pitts?

9 JUDY BROWN: Chairman Pitts --

10 CHAIRMAN POLUNSKY: The speaker?

11 JUDY BROWN: -- lieutenant governor and
12 the speaker.

13 CHAIRMAN POLUNSKY: And what -- again,
14 where are we?

15 JUDY BROWN: We are answering questions.
16 We answered some questions yesterday for Representative
17 Pitts. We have a commitment from the lieutenant
18 governor's office. We're contacting them as frequently
19 as we possibly can.

20 CHAIRMAN POLUNSKY: You have a commitment
21 from the lieutenant governor's office for what?

22 JUDY BROWN: That when we receive both
23 Ogden and Pitts's approval, that that approval will be
24 granted.

25 CHAIRMAN POLUNSKY: All right. So what

1 I'm -- what I'm hearing here is it's very critical to
2 get the approval of Chairman Pitts.

3 JUDY BROWN: I spoke with his staff
4 yesterday on two occasions.

5 CHAIRMAN POLUNSKY: So what do we need to
6 do in order to get that?

7 JUDY BROWN: It -- I am making myself
8 available at every opportunity to answer any questions,
9 to provide any level of detail that they need. It may
10 be, Chairman Polunsky, that if you reached out to
11 Chairman Pitts, we may have a more successful audience
12 at his level.

13 CHAIRMAN POLUNSKY: Chief Kelley, could
14 you facilitate a meeting if necessary?

15 MICHAEL KELLEY: I'm Michael Kelley, Chief
16 of Government Relations. Are you asking me if I have
17 set up or would you like a setup?

18 CHAIRMAN POLUNSKY: Well, I don't think
19 you have set up from what I can hear, but I would agree
20 with Chief Brown that if this is not going to be
21 addressed expeditiously, that it possibly could be
22 helpful or advantageous for me to meet with either the
23 chairman or members of his staff to see if we can move
24 this forward because from what I'm hearing today and
25 what I've heard previously, it's critical that we get

1 his approval --

2 MICHAEL KELLEY: Yes, sir.

3 CHAIRMAN POLUNSKY: -- and with this
4 approval then the others probably will follow suit
5 quickly --

6 MICHAEL KELLEY: Yes, sir.

7 CHAIRMAN POLUNSKY: -- and we'll be on
8 track.

9 MICHAEL KELLEY: I'll contact Kathy
10 Panaszek on the committee and see if we can do something
11 either this evening since we're going up to the capitol
12 anyway, if that will be okay with you.

13 CHAIRMAN POLUNSKY: That will be fine.

14 MICHAEL KELLEY: Okay.

15 JUDY BROWN: That concludes my report
16 unless you have further questions.

17 CHAIRMAN POLUNSKY: Are there other
18 questions?

19 COMMISSIONER BARTH: Do we need a motion?

20 STUART PLATT: My concern was -- yes. I
21 have some concern with the scope of the authority being
22 given to the committee. So I wonder if you need a
23 motion or some sort of formal action to delegate that
24 authority to the committee?

25 COMMISSIONER CLOWE: Is it on the agenda

1 as an action item?

2 COMMISSIONER BARTH: It should be.

3 STUART PLATT: It is in terms of DL
4 reengineering. It's fairly generic, and so I think --
5 and I anticipate this, I'll believe it (inaudible) open
6 meetings.

7 COMMISSIONER CLOWE: Point it out to us,
8 would you please.

9 STUART PLATT: It's under Roman numeral
10 III, Subpart E.

11 COMMISSIONER CLOWE: You think that covers
12 it?

13 STUART PLATT: I believe it does because
14 it includes language about possible expedited
15 contracting process.

16 CHAIRMAN POLUNSKY: Mr. Platt, would
17 you -- would you formulate a motion --

18 STUART PLATT: Sure.

19 CHAIRMAN POLUNSKY: -- for consideration?
20 Would you like to put one forth at this point?

21 STUART PLATT: I can put one forth. I
22 would request that a member of the Commission move for
23 the subportion of the committee -- of the Commission,
24 being committee members, Commissioner Barth and
25 Commissioner Clowe with Commissioner Barth serving as

1 chair, be vested with the delegated authority to oversee
2 the critical stage of the implementation of the DL
3 reengineering process during this next -- basically from
4 this point until the pilot project is completed and vest
5 them -- that the Commission vest them with authority to
6 approve for procurements up to but not exceeding
7 \$500,000 to expedite the implementation of the program.
8 Is that consistent with what was discussed on it?

9 COMMISSIONER BROWN: I'll move. So moved.

10 CHAIRMAN POLUNSKY: Is that okay with you,
11 Tom?

12 COMMISSIONER CLOWE: Yes, sir.

13 CHAIRMAN POLUNSKY: Okay. There's a
14 motion from Commissioner Brown. Is there a second to
15 Commissioner Brown's motion, which is tracking the
16 proposed motion that Mr. Platt has articulated?

17 COMMISSIONER STEEN: Second.

18 CHAIRMAN POLUNSKY: It's been seconded by
19 Commissioner Steen. Is there a discussion on this
20 motion? No discussion. All in favor, please say "aye."
21 Any against, "no." Motion passes. You now have
22 assistance.

23 COMMISSIONER BARTH: (Inaudible) click on
24 the icon.

25 (Laughter)

1 CHAIRMAN POLUNSKY: Thank you. We're
2 scheduled next to go to executive session, but for time
3 reasons, I'm going to move onto ongoing business at
4 least partially if that is okay with the rest of the
5 commission.

6 COMMISSIONER BROWN: Sure.

7 CHAIRMAN POLUNSKY: And I would move on to
8 reports, discussion, deliberation, and possible actions
9 regarding the following, and the first would be the
10 procurement of a project management contract to
11 implement organizational changes and planning regarding
12 the development and administration of the project
13 management plan, and we will address that through a
14 report from Commissioner Clowe.

15 COMMISSIONER CLOWE: Commissioners, as
16 instructed by the chair, Commissioner Brown and I met
17 following the meeting of a selection committee to
18 responses for a request for proposals for a project
19 management office that resulted in four entities that
20 were deemed qualified and recommended for interview.
21 Approximately two weeks ago Commissioner Brown and I
22 interviewed those four entities and went through a
23 rating process with our purchasing department, and as a
24 result of those actions, including the cost factor, the
25 Deloitte firm was named the number one respondee. A

1 meeting was subsequently scheduled between our director
2 of human resources and the colonels, as well as other
3 people -- I was not present and so I do not know who
4 else attended -- and the work was begun on a statement
5 of work and the identification of costs in this matter.

6 Now, to my knowledge, this agency has
7 never worked in the past with a project management
8 office, and it was to a great extent a learning
9 experience for me and perhaps for Commissioner Brown,
10 but we did learn that it is not uncommon for large
11 entities or entities that have complex expansions or
12 reorganizations or redevelopment activities to employ a
13 firm as a project management office to assist the
14 management in the implementation of that expansion or
15 reorganization or turnaround. And although I don't
16 think Colonel Beckworth was there, Colonel Clark
17 attended a number of these meetings and was brought into
18 this process. The Deloitte people demonstrated, in my
19 opinion, and I think in Commissioner Brown's opinion as
20 well, a high level of expertise and generated a level of
21 confidence from us in their ability to assist us in the
22 reorganization of this agency and the hiring of people
23 necessary to run the organization under the director's
24 guidance, and their help to this point has been very
25 beneficial.

1 We have come up against a major obstacle
2 that was identified in the meeting that Paula Logan and
3 Colonel Clark had with Mr. Drew Beckley of Deloitte and
4 that is the projected costs. And in entertaining moving
5 forward with a contract -- and no contract has been
6 signed at this point. We are in the negotiation stage.
7 There is no obligation on either party's part. -- it
8 was identified that the resources of Deloitte that would
9 be brought to bear over perhaps a two year period would
10 range in costs from possibly three and a half million
11 the first year to an additional two and a half million
12 the second year, a total of six million dollars for two
13 years. Now, Commissioner Brown was unable to meet at
14 the next meeting with the Deloitte individuals, so in
15 light of that I asked the chairman to attend that
16 meeting, and he did so. And at this point there's been
17 a very careful division of communications. Commissioner
18 Brown has not communicated with the chairman and there's
19 been -- we've been very careful to observe the open
20 meetings protocol, and we are here now in the public
21 meeting, which is the proper venue to discuss this
22 issue.

23 My sense, Commissioners, is that there's
24 no question that Deloitte has the expertise. They have
25 the depth. They have the experience. They would be a

1 fine company to work with as a PMO. The cost is the
2 issue that I think the commissioners might want to delve
3 into and focus on in this discussion today. We ended
4 the meeting, the chairman and others on the staff,
5 asking Mr. Beckley to be creative in his thinking and
6 see what Deloitte might do to reduce the expense of
7 employing his firm and how that might work out. We have
8 not heard from him, and he's here today, and I assume
9 prepared to speak to that. Mr. Chairman, that would be
10 where I think we are in this process today.

11 CHAIRMAN POLUNSKY: Thank you very much,
12 Commissioner Clowe, for all the work you've done on this
13 project to date. Mr. Beckley, I think that certainly
14 accurately describes the status of where we are, you
15 know, that there is some concern, at least on my part,
16 and I believe certainly Commissioner Clowe's part as
17 well as to the price that is associated with the
18 services that you're proposing. And you were asked, as
19 Commissioner Clowe spoke to a second ago, to possibly
20 revisit your strategy as to what services, you know,
21 could or would be provided to the department in this
22 endeavor. So I would like to hear what your thoughts
23 are and if your proposal has changed since it was
24 originally presented.

25 DREW BECKLEY: I'm Drew Beckley, a

1 principal with Deloitte Consulting. We've had several
2 discussions following the meeting last week and
3 preparing actually a draft statement of work, which
4 would be a modification from the proposal we had
5 submitted to the Commission.

6 Basically it would anticipate a budget of
7 a million and a half dollars over the next two years.
8 Part of that was as we had raised the possibility, the
9 assumption of the number of those responsibilities by
10 the department itself in the conduct and changing the
11 mode from the proposal in which we would participate.
12 So we have proposed a smaller team, that it would be
13 part-time in an organized fashion rather than full-time
14 with some adjustments to the individual's
15 responsibilities and working much more in an oversight
16 and review mode with more of the detailed work to
17 actually be done by department personnel. I would
18 emphasize also that the contract as structured in the
19 RFP is a time and materials contract so that we
20 basically serve at the pleasure of the Commission and
21 the department under that in terms of the level of
22 effort. So it is -- it's not fixed at any number, but
23 in fact this as structured would have a cap on it of a
24 million and a half over the two year period.

25 It also included as part of that the doing

1 of the first task as we had proposed and doing that pro
2 bono, which would involve the putting together of the
3 recommendations, division, the priorities in the initial
4 plan. It was clear to us that in both making the
5 proposal that also we went through discussions just as
6 we have to better understand collectively how a PMO
7 might operate that it's very important to get to a sense
8 of the priority for those things to be undertaken over
9 the next two years and even in the shorter period over
10 the next three to six months. So that work initially
11 would be to establish that, which would basically be the
12 plan for the next six months or through the end of this
13 fiscal year.

14 CHAIRMAN POLUNSKY: So if I understand
15 what you're saying, you do have a plan to reduce the
16 scope of your services and remarkably reduce the costs
17 associated with it?

18 DREW BECKLEY: That's correct.

19 COMMISSIONER CLOWE: May I add a couple of
20 things?

21 DREW BECKLEY: If I can also say -- and
22 that's actually been reduced to a graph of the statement
23 of work that we have exchanged with the department and
24 going through a couple of modifications.

25 PAULA LOGAN: This is probably (inaudible)

1 a final draft -- I'm Paula Logan. I'm the human
2 resources director. But we wanted to at least get it to
3 the phase where we were in general agreement about all
4 the main clauses so that you could reference in this
5 meeting if you wanted to discuss it in detail.

6 COMMISSIONER CLOWE: Mr. Platt, let me ask
7 a question before you go forward, Paula. Are we within
8 the parameters of the original RFP in this discussion
9 and are we authorized to discuss this matter in this
10 way?

11 STUART PLATT: I believe we are. Aline,
12 you've worked the scope of this contract. I -- probably
13 the best (inaudible) North Lamar contract matters out
14 here who has worked intensely on this, and we talked
15 about it yesterday. She believes --

16 COMMISSIONER CLOWE: We're not changing
17 the parameters so that we made the original RFP null and
18 void?

19 STUART PLATT: No, I don't think so. In
20 fact, one of the things that happened is I think they
21 identified the pro bono portion, which, as you and I sat
22 last week and met, has been identified, if I'm not
23 mistaken. So we deal with that up front before we move
24 into the pay phase, which I think is consistent with the
25 cafeteria plan approach that we had in the RFP.

1 PAULA LOGAN: I was just going to point
2 out that although Deloitte is limiting their scope, as
3 he said, that means that DPS would take over more
4 portions to do in-house. And so we would probably have
5 to in turn identify staff, possibly hire staff that
6 could work full-time to do that. Now, we could probably
7 do that less expensively than Deloitte can, but it would
8 still be an additional expense to the contract to have
9 internal people. Either that or we would have to draw a
10 lot of people from their permanent jobs into these
11 temporary jobs and leave those permanent jobs vacant
12 during the duration of the project.

13 COMMISSIONER CLOWE: Commissioners, I
14 would like to -- may I?

15 CHAIRMAN POLUNSKY: Yes, sir.

16 COMMISSIONER CLOWE: I would like to add
17 some background to this so that you'll have the benefit
18 of some of the time that we spent on this. This is a
19 big project to implement and you have a divergence of
20 priorities that must come together to be accomplished in
21 an efficient way. There was a meeting between the
22 Deloitte people and the staff and the identification of
23 some priorities took place and it was clear as it was
24 recounted to me that staff was focusing on what I would
25 consider more tactical objectives, which is natural.

1 There are certain problems facing this agency that the
2 leadership says, Well, we've got to perform. Case in
3 point, the driver's license issue. That's a very
4 tactical problem that has to be dealt with. My personal
5 feeling is that the Commission has more of a strategic
6 view that we would like to see an organization come out
7 of this that is, in fact, one that accomplishes the
8 tactical goals, but as an overall policy and guiding
9 focus that puts us where we want to be as far as the end
10 organization, the emphasis on intelligence, counter
11 terrorism, all of the things that the original Deloitte
12 study pointed out were lacking, and that points up the
13 problem here of coordination where you've got a board
14 that meets once a month and a leadership that's here
15 every day, and then perhaps a PMO that's trying to grind
16 these two forces together and make progress, and it can
17 be done I think through close coordination and
18 communication. It may, Mr. Chairman, call for another
19 subcommittee and an oversight or a steering committee,
20 but this is a tough job. And I know, Mr. Chairman,
21 you're eager for us to move ahead on it because you've
22 expressed that to me, but to begin without a good plan
23 is probably a mistake, and this is an important part of
24 identifying how we're going forward. And I thought when
25 Deloitte came out on top personally we were ready to

1 move forward, and then the chairman and I saw that six
2 million dollars and we said no, that's not going to fly.
3 And so we had another meeting and the money is important
4 and it's got to be settled, but how we progress this
5 change and make it meaningful, productive, lasting, and
6 in the end beneficial is extremely important. And the
7 PMO ranges all the way from an outside firm doing all of
8 it to doing it internally all on our own, or just not
9 having a PMO and saying, Well, we're just going to do it
10 with the colonels. And here we are in the public and we
11 now have to say our thoughts in the public. So this
12 calls for a very candid discussion I think to get us to
13 where we need to be.

14 DREW BECKLEY: Commissioner Clowe, if I
15 could add one thing. You mentioned PMO and trying to
16 understand what that is, and I know we had some
17 discussion the last time I was before you. For those
18 members who weren't involved in the discussion, this is
19 the same concept that was used five years ago for the
20 reorganization of Health and Human Services Commission
21 under House Bill 2292. I mean, so it's not necessarily
22 a new concept even within Texas, although not used as
23 often, and that was the concept that was in place for
24 two years in the development of the plan and the
25 implementation of it for Commissioner Hawkins. And then

1 it was disbanded at the end of the -- what was actually
2 called day one, which was the completion of that work.

3 COMMISSIONER STEEN: Mr. Beckley, was
4 Deloitte involved in that?

5 DREW BECKLEY: Yes, sir, we were.

6 CHAIRMAN POLUNSKY: And what did that
7 cost?

8 DREW BECKLEY: To the point, it was
9 approximately five million dollars, I believe, across
10 two years, and there was also -- and the piece I'm not
11 clear on is there were some additional tactical projects
12 beyond that that were undertaken such as specific work
13 done within the Medicaid portion of the agency.

14 CHAIRMAN POLUNSKY: And those services
15 were paid for through state funds or federal funds or --

16 DREW BECKLEY: First, I can't answer that
17 with specific knowledge. I can make a good guess, and
18 that would be that it was a combination of funds because
19 of the nature of the agencies covered in the federal
20 programs, that there would have been federal matching
21 money available. I don't know exactly how it was
22 accounted for because of the specific program funding,
23 and then also the overhead allocations of funding within
24 HHSC.

25 COMMISSIONER BARTH: Commissioner Clowe,

1 do we have the ability to handle as much in-house as
2 this reduced scope of work and dollars?

3 COMMISSIONER CLOWE: That's a very good
4 question, and the chairman and I discussed that at
5 length, and I think our feeling is we have a number of
6 very talented people in this agency who could be called
7 into this team, and yet we probably don't have everybody
8 we need and Paula has correctly pointed to me -- pointed
9 out to me that we do not have any funding designated at
10 this point in time to hire people for this. We've got
11 to take people who are in jobs or vacant FTEs and press
12 them into service if we decide to form a team
13 internally. A very good question.

14 COMMISSIONER BARTH: And I guess the
15 million and a half dollars in terms of a cap, would that
16 mean we would then have to put out another bid?

17 COMMISSIONER CLOWE: No. The way I
18 understand it is, it's within the RFP that we posted,
19 and a statement of work would be on a time and materials
20 basis. Mr. Beckley mentioned that. And if the chairman
21 appointed a steering committee, it would be sort of like
22 the committee he appointed just recently where you are
23 the chair and I'm on it where you would have meetings
24 that would agree on certain jobs to be done. And you
25 would know what that expenditure was going to involve,

1 and when it reached a certain point, there would be a
2 stop and you would be authorized in his response to our
3 concern up to a million and a half over two years or
4 750,000 a year or some division by two of that total
5 amount.

6 COMMISSIONER BARTH: I don't think you
7 answered him.

8 COMMISSIONER CLOWE: I didn't answer it?

9 COMMISSIONER BARTH: No. I mean, the --

10 PAULA LOGAN: We can amend the -- we can
11 amend.

12 COMMISSIONER BARTH: That's the question I
13 have.

14 PAULA LOGAN: As long as we stay in scope,
15 which --

16 COMMISSIONER BARTH: So that if we seem --
17 for whatever the reason we can't pull the appropriate
18 people off within our department and/or we can't attract
19 people to work as employees of DPS on this project,
20 somewhere along the way we rapidly get to that million
21 and a half dollars because we just don't have the people
22 within the agency to pick up the workload. We were
23 supposed to be doing from our end based on this
24 statement of work. We could then amend the contract
25 without having to go out and go through this whole

1 process again?

2 PAULA LOGAN: Right. And in fact you
3 don't have to put the million and a half cap in there in
4 the first place if you don't want to. There could
5 simply be the Commission's understanding with the staff
6 that we won't obligate funds above that without coming
7 back to you and getting more authority. I think what we
8 tried to do when we put this statement of work -- this
9 draft statement of work together was to try to answer
10 the question of what's this whole thing going to cost,
11 and come up with a scheme so we could answer that
12 question, but we could -- it is a monthly time and
13 materials and so -- and we also identified some -- in
14 this proposal some routine costs that would happen
15 monthly, but there's still some control over that. If
16 we're spending too much on a monthly basis, we can
17 always go to Deloitte and say, It's costing too much on
18 a monthly basis. How can we change that? We can stop
19 the contract at any time because it is a time and
20 materials basis contract. So we can stop ordering
21 services under the contract. And we have the ability to
22 go out and create substatements of work where we
23 identify specific projects and say, This is really
24 important to us, and we realize it might cost a lot of
25 money, but we need you to come help us do something. I

1 think one of the things that was identified was maybe
2 help stand up the (inaudible) or something like that and
3 so -- and then, you know, they could tell us what they
4 think it's going to cost to do that substatement of work
5 and we can either get approval to move forward on those
6 on an individual basis.

7 So there's -- when we bid the RFP, we made
8 it this broad (indicating), and now we're kind of making
9 it this broad (indicating), but we can amend the
10 contract to go back out and take it to here
11 (indicating), or we can make it smaller or we could just
12 leave it here with an agreement that staff will only do
13 certain things without coming back to you and asking for
14 permission.

15 COMMISSIONER BARTH: Okay. Let me ask a
16 question to Commissioner Clowe. With the -- I guess
17 we -- the original scope of the contract or the
18 statement of -- the original scope of the RFQ, I -- it
19 was all encompassing, as I understand.

20 COMMISSIONER CLOWE: Very broad.

21 COMMISSIONER BARTH: Okay. Very broad.
22 But you felt like what was in there had to be done; is
23 that correct?

24 COMMISSIONER CLOWE: Yes.

25 COMMISSIONER BARTH: Okay. So, you know,

1 given we're now going to have some firm do some portion
2 of it and we think we can absorb the rest of that work
3 within the agency, we still have to have some dollars
4 available. Maybe we think we can do it for less than
5 Deloitte thinks we can do it, but we still have to have
6 some dollars available and attract people. The old
7 saying is that, you know, if you take one person and
8 move them over there, we're doing something over there.
9 Okay. All right. So I just want to understand making
10 sure that we can attract people to do the skills that we
11 need and implement the plan we need implemented. And in
12 a quick pace to meet the time line, I'm not advocating
13 spending any more money, but I just want to make sure
14 that the rest of the commissioners are aware that we
15 could run into, you know, I hate to use the word
16 dragging this project out by not having the right staff
17 within our department.

18 CHAIRMAN POLUNSKY: We're not going to
19 drag the project out. One way or the other, this thing
20 is going to get done. This has got the highest priority
21 in my mind.

22 COMMISSIONER BARTH: But what I'm hearing
23 here --

24 CHAIRMAN POLUNSKY: I mean, I --

25 COMMISSIONER BARTH: What I'm hearing is

1 two-thirds of the work just based on -- maybe a little
2 bit less than two-thirds of the work we're going to pick
3 up going forward with this statement of work, meaning
4 the department. Yes?

5 COMMISSIONER CLOWE: I think you're making
6 an excellent point, and that is taking a very realistic
7 view of what we're discussing.

8 COMMISSIONER BARTH: Okay.

9 DREW BECKLEY: Commissioner Clowe, if I
10 could add something. In the original concept it was
11 really a PMO structure that was about 50/50. So we're
12 starting from that point and shifting much heavily into
13 the department in this regard.

14 COMMISSIONER CLOWE: But in my mind in the
15 RFP the thinking was Deloitte would play the leadership
16 role in their 50 percent.

17 DREW BECKLEY: Right.

18 COMMISSIONER CLOWE: And the DPS would
19 furnish their 50 percent as a supportive and an involved
20 participant, but Deloitte would lead the way. I think
21 now we're talking about Deloitte saying go that way, but
22 then we have to pick up and go. And if you're having
23 some concerns about that, I think those are valid. The
24 fact is that I think you need a guide in something like
25 this unless you're going to have a commission that meets

1 with the leadership constantly, frequently, or a
2 steering committee that's here almost as much as the
3 chairman has been, which is practically every day,
4 and -- because, you know, you're shaping the future of
5 this agency. It's tremendously important.

6 COMMISSIONER BARTH: I don't disagree. I
7 think you look at this and -- do we have people -- have
8 we identified people within the agency that are going to
9 pick up this load other than just approve this?

10 COMMISSIONER CLOWE: The chairman and I
11 talked about that and we have identified some people by
12 name that we think have tremendous potential to step up
13 and be involved in this along, of course, with the
14 current leadership. The colonels are doing an excellent
15 job of moving ahead as best they can. But if we enter
16 into this next phase, the pace is going to pick up and
17 we're going to start making some real substantive
18 changes.

19 COMMISSIONER BARTH: There's only 24 hours
20 in a day. I just want to make sure that the people
21 we've identified, you know, we have people behind them
22 to pick up whatever load they need to pick up.

23 COMMISSIONER CLOWE: I think you're very
24 wise to have that concern and ask that question, and I
25 think that's something that this board ought to be

1 convinced can be done before we move in that direction.

2 CHAIRMAN POLUNSKY: Ms. Logan, what's your
3 opinion? Do we have the personnel here that can provide
4 the services we're discussing?

5 PAULA LOGAN: I'm going to agree with
6 Commissioner Clowe. I think we have a lot of people
7 that can step up and do it. There might be some areas
8 of expertise that we need to hire some, you know. Some
9 of the kinds of things that Deloitte identified in their
10 study was communication operator, you know, somebody to
11 help with the communications plan maybe, maybe some
12 change management strategy, you know. I think he
13 identified strategy innovation office and needing to
14 have somebody that can really look at business process
15 reengineering stuff. There might be a few talents like
16 that that we might need to hire in, but I think, you
17 know, for the most part, we have a lot of talent. But a
18 lot of these decisions that need to be made are going to
19 be decisions that would normally in our agency be made
20 by division chiefs and above. They are major policy
21 level decisions. And so, you know, back to what you're
22 saying is that when you start partnering up those people
23 that already have a 60 hour a week job, then so -- and
24 how much time can each person put in on the different
25 parts of the project and -- but we have, you know, some

1 depth in the agency as far as assistant managers and
2 managers that you could -- and captains and lieutenants
3 and people that you could draw in and build a program
4 with, but there probably are going to be some areas that
5 we're going to need to maybe get some assistance in as
6 well.

7 COMMISSIONER STEEN: Mr. Beckley, when you
8 had proposed the six million dollars -- of course you're
9 looking at what Deloitte people would be involved and
10 their hourly rates. You're just estimating the time
11 and -- is that how you came up with the six million?

12 DREW BECKLEY: That's correct. It was not
13 a requirement of procurement to come up with a number.
14 It was to provide a rate schedule because of the time
15 and materials nature of the contract. As part of that,
16 it did also require that we put together an approach of
17 how we would recommend going forward. So it was in the
18 combination of those and answering the question of well,
19 then what would that require as the budget for a
20 statement of work the first two years under this
21 contract that we came to that number and the decision to
22 explore how to make that number smaller.

23 COMMISSIONER STEEN: Could you paint a
24 picture -- if we decided to spend the six million, just
25 tell us what -- how -- what the office would be, how

1 many people there, and then as you shift over to this
2 idea that now we're backing off to 1.5 million, how is
3 that different?

4 DREW BECKLEY: Let me offer two thoughts.
5 One, in the preface to that, the reason we thought it
6 would be valuable to do the front end piece of work to
7 really get to the plan would be to help put some of the
8 specifics that feel ambiguous and not laid out now in
9 terms of what would be the resource requirements, what
10 are the suggested priorities, how long might those go
11 before the projects were chartered, but to start to
12 bundle those together and say does this fit the
13 leadership's vision and the Commission's vision of what
14 needs to happen over the next two years. So some of the
15 specifics would come out of that effort that we're
16 suggesting will facilitate in the front.

17 To the specific question of what would it
18 look like, there were in the RFP 35 different specialty
19 areas identified. In other words, skills could be
20 provided potentially under the RFP and about 26 or so
21 different kinds of tasks to be performed under the RFP
22 if those were in effect included either under a base PMO
23 work or under the substatements of work. So they were a
24 very broad base. In responding to that, we put together
25 as laid out in the RFP -- and I think it was pretty wise

1 -- the key players to put a project manager in place, to
2 put a client service executive in place to really work
3 as the interface on the board or the Commission and the
4 project manager to be working with the leadership within
5 the department and the individual chiefs. And then
6 underneath that -- and these were all proposed of what
7 we would call manager level. So very experienced
8 people. One in finance. One in technology. There was
9 a requirement for an internal audit position and so we
10 responded and we thought that would be part-time.
11 Internal audit and risk management. Also, to have one
12 for human resources, another for change in management
13 and communication. And I think that's the list. Oh,
14 financial management if I didn't mention that.

15 COMMISSIONER STEEN: So how many people?

16 DREW BECKLEY: So that was seven people,
17 two of whom were part-time.

18 COMMISSIONER STEEN: Five of them would be
19 Deloitte people that would be coming over here every day
20 and devoting full-time?

21 DREW BECKLEY: That's correct. I'm sorry.
22 The position I didn't mention was a business process
23 position, which was really to reach across in the
24 integration processes like finance and recruiting and so
25 on. So the intent was not only that they would be

1 available, they would do the initial planning exercise
2 with the leadership and with the Commission, which would
3 develop what would happen over the next two years and
4 potentially beyond that with the longer term projects.

5 Secondly, coming out of that planning
6 exercise that they would actually become deployed in
7 working with the individual areas such as information
8 technology or financial management or human resources or
9 in business process projects such as the optimization
10 within the driver license implementation so that that
11 core team would in effect have the knowledge of the
12 vision and the priorities set that would be working with
13 the leadership of the department. And then would move
14 into the implementation role as each of those areas took
15 on those projects. So the idea was to try to keep a
16 core team and have that knowledge resident rather than
17 have those people shuffled in and out over the two
18 years. The -- that was the original plan. The
19 modified --

20 COMMISSIONER STEEN: That's the six
21 million dollar plan?

22 DREW BECKLEY: Yes, sir. And the modified
23 plan was to use four of those people and to use them
24 part-time and to switch the role from the leadership in
25 doing the planning and being involved necessarily in the

1 implementation of the projects to more the specification
2 and the oversight and the review in terms of this is --
3 this is what we walked through on the project, this
4 is -- for instance, if there were a project around the
5 implementation of the figurative operations portion of
6 the organizational model, what might -- what would be
7 the elements of bringing the project back, and then the
8 department personnel would be fully putting together
9 that project and we would be functioning more in an
10 oversight and review mode on a periodic basis rather
11 than being involved each day. Is that helpful?

12 COMMISSIONER STEEN: I think so. I'm just
13 sort of trying to get the big picture. So what you
14 originally proposed you would had -- you would have
15 had -- I'm just trying to picture this. There would be
16 some space dedicated to it over here and you would have
17 people from Deloitte coming over every day and working
18 here full-time?

19 DREW BECKLEY: That's correct.

20 COMMISSIONER STEEN: And there would have
21 been how many full-time people?

22 DREW BECKLEY: I think it was five
23 full-time and two part-time. Five or six. I'm sorry.
24 I don't remember.

25 COMMISSIONER STEEN: All right. And then

1 on this revised -- the one that you are here on today,
2 now it's four people, but they are not full-time?

3 DREW BECKLEY: That's correct. And so we
4 would be scheduling meetings to -- around really the
5 plan once developed to say here is an update meeting.
6 This is an oversight. And we would be working, in
7 effect, having them part-time, but it would be the same
8 group of people but we would be managing their
9 involvement to make that fit within the budget.

10 COMMISSIONER STEEN: And I think,
11 Ms. Logan, what you were saying earlier that if we were
12 looking at six million and now we're coming down to
13 5. -- 1.5 million, there's still costs associated with
14 it, and I guess we need -- wouldn't we want to get a
15 handle on that, Commissioner Clowe, in terms of --

16 COMMISSIONER CLOWE: Yes.

17 COMMISSIONER STEEN: What's the real cost?
18 If we're going from six million to something more than
19 1.5, but what are we going to have to --

20 COMMISSIONER CLOWE: We haven't done that,
21 and that's an excellent point, Commissioner Steen.
22 Whatever resources we bring to bear are tangible
23 expenses, and a value has to be put on those. But we
24 have not quantified that because our path has not been
25 clear up to this point, and that's why we're here today

1 hopefully to get some direction from the entire board.

2 PAULA LOGAN: I would add one thing to
3 what Drew was saying and that is that in addition to
4 those four people that he just talked about, they also
5 delineated -- and they are delineated in the statement
6 of work I gave you -- a series of experts that they have
7 either on staff or can bring in that could also come in
8 when we identified a project that needed somebody to
9 lead it that had a particular area of expertise that
10 could be brought in, and those would be recurring costs
11 also under the six million. And we might have to be a
12 little bit more strategic about that under 1.5 million
13 because we have a smaller pot of money, and so we might
14 need to bring them in. And instead of maybe leading a
15 small project like that and getting it together, again,
16 they would go more in the oversight and planning mode
17 and so that -- those experts would still be available,
18 but instead of coming on board and working for three
19 months full-time to get a small project implemented or
20 something like that, they would come on board part-time
21 for that eight month period.

22 COMMISSIONER CLOWE: Probably the first
23 step, Commissioner Steen -- and Mr. Beckley suggested
24 that -- would be for Deloitte and the leadership and the
25 commissioners to come together for a workshop, and we

1 would identify our priorities and our goals, and that's
2 where you bring the strategic and the tactical
3 objectives together. You prioritize, and that would
4 give substance to the plan to move forward. That's
5 probably the first step. And once you do that, if you
6 do that, you could begin to identify the roles that
7 people were going to play and what the expense would be
8 for those services.

9 COMMISSIONER BARTH: I think we have to
10 have some idea of a budget here. I hate to see this
11 thing just be a runaway situation. I mean, in terms of
12 assigning costs to our own people as well, you know, as
13 the contract.

14 COMMISSIONER CLOWE: You know, it's
15 reminiscent of the DL restructuring.

16 COMMISSIONER BARTH: I'll let you say
17 that. I was thinking it.

18 COMMISSIONER CLOWE: How in the world did
19 we get in the mess we are in there? And we certainly
20 don't want to get in that kind of mess here.

21 COMMISSIONER STEEN: Well, then aren't we
22 missing part of it today? In other words, he's --
23 Mr. Beckley has backed off from the six million to the
24 1.5. Ms. Logan said, Well, of course that's -- you
25 know, we're shifting more of the burden over to DPS, but

1 we haven't -- we haven't tried to quantify that. It
2 seems like we would want to do that, wouldn't we, before
3 we made a decision?

4 COMMISSIONER CLOWE: Well, I think what
5 we're looking for today is some direction from the
6 board. Because one of the options I mentioned briefly
7 was we just do this whole thing in-house. That's an
8 option. And if the board's will is that we take that
9 approach, then we'll budget that. But I think it's
10 wasteful not to have direction from the board and have a
11 direction pointed out before we begin to try to budget,
12 but I certainly think you made a good point. We want to
13 be very careful before we get into this thing that we
14 have some stops and some checks and balances so that we
15 don't say, Oops, we're sorry in two years. We spent a
16 lot more than we thought we were going to.

17 COMMISSIONER BARTH: Would it be possible
18 today to move to accept Deloitte as project -- outside
19 project management with the intention of coming together
20 with some committee to pull together the resources of
21 both the department and Deloitte and figure out what
22 that budget is?

23 COMMISSIONER CLOWE: Well, I'll tell you
24 what I think is the answer to that. Mr. Beckley was
25 very kind to make an offer to have this workshop, this

1 planning meeting pro bono on behalf of Deloitte. And I
2 readily accepted that before he could withdraw it. And
3 if he still wants to do that, then I think a meeting
4 where all the commission is involved -- and I see that
5 as a working meeting -- the leadership, the colonels,
6 and whomever they designate, where we identify what our
7 priorities are is a step before we put numbers on a
8 piece of paper. You know, what is it you want me to do
9 and then you tell me what you want me to do and I'll
10 project the cost for it. Otherwise, I think we're just
11 pulling numbers out of the air.

12 CHAIRMAN POLUNSKY: I would agree with
13 that wholeheartedly.

14 PAULA LOGAN: And I did ask general
15 counsel yesterday if we delay -- how long could we delay
16 implementing the contract and it still be something that
17 we could do. In other words, was there a drop dead date
18 that we had to make a decision and sign the contract.
19 And they said basically the answer was no. The
20 proposal, I believe, showed it good for 120 days. After
21 that we would have to beg the consideration of Deloitte
22 to still hold it the same pricing structure and enter
23 into the contract with us. But as long as Deloitte is
24 still willing to negotiate with us, there's no
25 particular time limit on -- so if you wanted -- you

1 could do what Commissioner Barth suggested and go ahead
2 and indicate you want to award the contract and move
3 forward and figure out the numbers as we go, or you
4 could have the initial planning session, see if you can
5 get a handle on it, and then award the contract or not
6 depending on maybe what the discussion is surrounding
7 the initial planning phase. And so, I mean, we actually
8 have some fluidity there in the contract process.

9 DREW BECKLEY: I suggest a clarification
10 to that.

11 PAULA LOGAN: Okay.

12 DREW BECKLEY: What we actually -- that's
13 exactly right. What we talked about is a statement of
14 work would basically be to put in place the contract as
15 time and materials, that the first step would be the
16 development of the agreement around what the division
17 is, what the priorities are, what the projects are, what
18 the potential level of resources is so that then the
19 rest of that can be done. We would do that portion pro
20 bono. So we wouldn't start any paid work under the PMO
21 per se unless there was some sort of special project
22 that the commission wanted us to take on in addition
23 early on. But basically we could start, get to that
24 point, and then based on the plan, that it either is
25 something that's comfortable from however the commission

1 and the leadership are overseeing the project that we
2 would be moving forward or we wouldn't be moving
3 forward. So the attempt was to try to get that point
4 without actually costing the commission or the
5 department anything and get more clarity on the table.

6 COMMISSIONER CLOWE: But you're saying you
7 want the contract signed before you do that pro bono
8 work. Did I hear you right?

9 DREW BECKLEY: If I had a choice of trying
10 to close that today or coming back and having another
11 discussion, I would rather close it today.

12 COMMISSIONER CLOWE: Well, we're talking
13 truth here. So just lay it out. Okay. Colonel, did
14 you have a comment?

15 COLONEL CLARK: Mr. Chairman,
16 Commissioners, let me just speak on behalf of the
17 employees. I know Deloitte wants to work to support our
18 efforts. I mean, that's the whole purpose of getting
19 this PMO. But I just want to be on the record as I
20 think you'll find that we have some remarkable people
21 who are ready to move forward to assist in this project,
22 and I think you'll be surprised at the level of
23 expertise that we have when they are challenged. This
24 is the way we'll save money, by using our people, and I
25 am confident that we can produce a great product as we

1 go forward in this organizational change, and I just
2 want to be on record as stating that we have some great
3 people and they are ready to go. They are ready to
4 serve. And I'll leave it at that.

5 COMMISSIONER CLOWE: Well said. And I
6 think it's very true. Very true.

7 CHAIRMAN POLUNSKY: I would agree with
8 that as well with all do respect to Mr. Beckley and
9 Deloitte who certainly did a wonderful job with respect
10 to the --

11 COMMISSIONER STEEN: Mr. Chairman, of
12 course this isn't of the highest importance. It's just
13 as a suggestion. Maybe in two weeks we could have the
14 session you're talking about, Commissioner Clowe, where
15 we come together and then at our next regular meeting, I
16 think that we with be at the point where I think we
17 would be in better shape to address this in terms of
18 having an idea of what it's really going to cost us.

19 COMMISSIONER CLOWE: And, you know, this
20 discussion has been very productive. I think you-all
21 are now up to speed on where we are. And thank you for
22 that suggestion.

23 COMMISSIONER STEEN: Would the Commission
24 be willing to do that, to have in essence a meeting
25 halfway between, you know, this and our next regular

1 meeting?

2 CHAIRMAN POLUNSKY: Right. That's what I
3 was about to say. I think Deloitte is a fine company.
4 We very well may go forward with them, but at this
5 point, I am not prepared personally to make the
6 commitment to enter into a contract with Deloitte. I do
7 think that it would be constructive for us to do as
8 Commissioner Steen and Commissioner Clowe essentially
9 have suggested here, and that is to have some type of
10 workshop meeting where we go through this, see if we can
11 construct a collaborative effort between Deloitte if we
12 go forward with Deloitte and our own staff, allocate
13 that out, see what it's going to cost, see if it's
14 workable, so on, and then come back and take some type
15 of action at the April meeting. So that's where I would
16 like to go with this. It very well may be that we go
17 forward with Deloitte in the form that they've discussed
18 today or some variation thereof, or it's certainly
19 possible that it could all go in-house and let the
20 department handle it. But in any event, I do think it
21 would be good for us to have some type of workshop
22 meeting in a couple of weeks and address all of this
23 because it is so important.

24 COMMISSIONER BROWN: Let me chime in for
25 just a second. There's a term of art that was thrown

1 out and probably everybody knows what it means, but just
2 in case, pro bono is just Latin for public good. It
3 means free.

4 COMMISSIONER CLOWE: For free.

5 COMMISSIONER BROWN: Free. Fancy talk for
6 free.

7 COMMISSIONER CLOWE: Lawyer talk for free.

8 CHAIRMAN POLUNSKY: So what are you
9 suggesting? That Deloitte do this pro bono?

10 COMMISSIONER BROWN: Pro bono. Free.

11 CHAIRMAN POLUNSKY: I didn't see a yes.

12 COMMISSIONER BROWN: For the record,
13 there's silence on the part of Mr. Beckley.

14 DREW BECKLEY: I'm sorry. I thought it
15 was a rhetorical question. The answer is yes.

16 COMMISSIONER STEEN: Mr. Beckley, so you
17 would be willing to -- your firm would be willing to
18 participate in this session workshop or whatever we're
19 going to call it?

20 DREW BECKLEY: Yes.

21 COMMISSIONER BARTH: And who would you
22 envision in the workshop?

23 DREW BECKLEY: Pardon?

24 COMMISSIONER BARTH: Who would you
25 envision in the workshop?

1 DREW BECKLEY: Actually, the -- I was
2 about to say yes to the workshop. The best way to
3 prepare for that would actually be working with the DPS
4 leadership and what we have in the background so we come
5 properly prepared to the workshop. That might involve
6 working with a couple of the commissioners as well to
7 get the kind of guidance. Honestly, I believe two weeks
8 is probably too quick to be able to take the breadth of
9 the recommendations that were in the report we issued in
10 the fall and be able to start organizing -- Colonel
11 Clark has been designated at least within the intent of
12 the RFP to be that interface. Putting that together
13 will probably take several weeks. So I would think that
14 the -- we would be pressed to try to get it in before
15 the next meeting. I would rather do it right so that at
16 the point we came together, we had a good set of things
17 to present to the entire Commission for reaction, which
18 would mean organizing that set of recommendations,
19 starting to look at what can be done within the
20 department and starting to put names against those,
21 laying out contingent kinds of priorities while this is
22 done in the first year, this is the implication of the
23 second -- we would end up -- if we did it in two weeks,
24 we would be too much in the development of that in the
25 meeting. So I suggest that we really take three or

1 four -- I prefer having about four weeks just given how
2 schedules would tend to work to try and put that
3 together.

4 COMMISSIONER CLOWE: And I would like to
5 add that at least on my experience the leadership role
6 falls to you or your designee to lead the work session
7 and help the participants identify through the work that
8 you do prior to convening that what the priorities are.
9 Someone has to take the leadership role and I see --

10 DREW BECKLEY: That's correct.

11 COMMISSIONER CLOWE: -- Deloitte in that
12 role.

13 COMMISSIONER BARTH: Let me ask you this
14 question. Being very specific, how much time would you
15 envision our top people spending with you over the next
16 three or four weeks?

17 DREW BECKLEY: Some of this would be
18 delegated within that in terms of gathering and sending
19 things out for review and approval. I'm anticipating
20 probably 10, 12 hours at a minimum, maybe as much as 20.

21 COMMISSIONER BARTH: I mean, I just want
22 to recognize that we're in the critical phase of DL, and
23 I am like looking at this going I think that's a big
24 part of this --

25 DREW BECKLEY: The two weeks is tight

1 because I would rather come prepared to that so we -- I
2 would rather be spreading that over three or four weeks.

3 COMMISSIONER BARTH: And now we've got the
4 legislative session, you know, and when they call, we go
5 up. I don't want to prolong this project. I think we
6 have to recognize that --

7 COMMISSIONER CLOWE: Other priorities.

8 COMMISSIONER STEEN: The question I have
9 is if we have the workshop, then how much time do we
10 need between the workshop and being in a position --

11 CHAIRMAN POLUNSKY: Well, I don't think
12 you would need much time at all. Can you do it in three
13 weeks?

14 DREW BECKLEY: I would like to be able to
15 sit down with Colonel Clark in answering that because
16 it's partly what resources can I put together, but also
17 how that fits with their schedules as well. We'll
18 certainly do everything we can to do that. We can
19 probably get an answer to that in the next day or so.

20 COLONEL CLARK: Our next -- just for your
21 information, our next public safety meeting is on the
22 16th of April. That's a pretty short time.

23 DREW BECKLEY: I'm not --

24 COLONEL CLARK: It's the third Thursday.

25 PAULA LOGAN: This one was delayed a week,

1 so --

2 CHAIRMAN POLUNSKY: Okay. So what do
3 y'all want to do here?

4 COMMISSIONER CLOWE: My suggestion would
5 be that we ask Mr. Beckley to get together with Colonel
6 Clark. They look at what resources are available and
7 come back to the chairman and Mr. Beckley advise him of
8 his recommendation for a meeting date, and then the
9 chairman through -- Dorothy can poll the members of the
10 board and try to find a date. I don't think we can set
11 a date at this time.

12 CHAIRMAN POLUNSKY: Is that okay with
13 everyone else?

14 COMMISSIONER BARTH: Would you consider
15 putting a subcommittee together here? I hate even
16 saying that. So we can delegate and try and -- just in
17 case we start with the calendar game and all of a
18 sudden, you know, we're five weeks out or four weeks
19 out. It's just a thought.

20 PAULA LOGAN: Well, I think it might be
21 important also to have that subcommittee be available to
22 Deloitte and the Colonel during this getting everything
23 together just so that they can provide guidance and
24 leadership on some of the things that they might need to
25 be putting together as well.

1 CHAIRMAN POLUNSKY: Do you want to
2 continue on with this, Tom?

3 COMMISSIONER CLOWE: Your pleasure,
4 Mr. Chairman.

5 COMMISSIONER BROWN: May I make a motion
6 for lunch? I'm starving.

7 CHAIRMAN POLUNSKY: Very well. And I'm
8 freezing and so I want to get out of here.

9 (Laughter)

10 CHAIRMAN POLUNSKY: But --

11 COMMISSIONER BARTH: It's a hostage
12 situation by the chairman.

13 CHAIRMAN POLUNSKY: Now, let me ask you a
14 question. John, do you have a strong interest in this?

15 COMMISSIONER STEEN: Do I?

16 CHAIRMAN POLUNSKY: Yes, you.

17 COMMISSIONER STEEN: Yes.

18 CHAIRMAN POLUNSKY: Would you like to
19 serve on that committee?

20 COMMISSIONER STEEN: I will.

21 CHAIRMAN POLUNSKY: Is that okay with you,
22 Ada? I know you've done some work on this, but --

23 COMMISSIONER BROWN: Absolutely. You bet.

24 CHAIRMAN POLUNSKY: -- I would like to
25 spread this out a little.

1 COMMISSIONER BROWN: You bet. I give you
2 the torch.

3 CHAIRMAN POLUNSKY: Okay. So then it will
4 be Mr. Clowe and Mr. Steen that would serve on the
5 subcommittee that would work towards facilitating all of
6 this and then coordinate a workshop meeting thereafter
7 or sometime in the near future.

8 COMMISSIONER CLOWE: And, Mr. Chairman, I
9 want to thank again Mr. Beckley for his involvement, his
10 offers. Deloitte has really I think tried to help us
11 and be responsive. We appreciate that. We know you're
12 in business to make money. We're in business to do this
13 right, but to save money. I would like to acknowledge
14 Paula's good work, Aline's, Ray Miller. And who else,
15 Paula, has been a stalwart in this? Stuart?

16 PAULA LOGAN: Yes.

17 COMMISSIONER CLOWE: I mean, this is an
18 example of what Colonel Clark mentioned. These people
19 have done wonderful work in being responsive on short
20 deadlines, a minimum of direction and instruction, and
21 really done super work, and we thank all of you for what
22 you do for this board.

23 CHAIRMAN POLUNSKY: Thank you. All right.

24 COLONEL CLARK: May I make one comment?

25 CHAIRMAN POLUNSKY: Yes, Colonel Clark.

1 COLONEL CLARK: Mr. Chairman, I hold in my
2 hand the Senate Journal from Monday, March 23rd, and I
3 would like to just advise our audience if they don't
4 know that our four commissioners were confirmed on that
5 day and I would like to congratulate them and officially
6 welcome them to the Public Safety Commission.

7 (Applause)

8 COLONEL CLARK: And we'll have a souvenir
9 booklet for each one of you.

10 COMMISSIONER CLOWE: Now, Colonel, we
11 cannot be dismissed. We can be fired.

12 (Laughter)

13 CHAIRMAN POLUNSKY: The Commission now
14 adjourns to executive session, which is closed to the
15 public in accordance with the Texas Government Code,
16 Sections 551.071 and 551.074. Those people in the
17 audience may remain in the room. There will be lunch
18 served for everyone except Commissioner Brown --

19 (Laughter)

20 CHAIRMAN POLUNSKY: -- who was overly
21 presumptuous in --

22 (Executive session from 1:44 to 3:50)

23 CHAIRMAN POLUNSKY: All right. Let's go.
24 The regular session of the Texas Public Safety
25 Commission is convened in accordance with Chapter 551 of

1 the Texas Government Code and the Open Meetings Act.
2 During this meeting the Commission will be conducted
3 from the agenda posted in the Texas Register. A quorum
4 of the board is still present and the meeting is
5 reconvened. It is 3:50. Because a couple of the
6 commissioners are going to need to leave early today,
7 we're going to jump around a little on this agenda so
8 that we can address a couple of the more pressing issues
9 and then the balance will be carried over to the April
10 meeting and therefore I believe that one of the --

11 COMMISSIONER STEEN: Mr. Chairman, can
12 I --

13 CHAIRMAN POLUNSKY: Yes, sir.

14 COMMISSIONER STEEN: I know it's
15 Commissioner Clowe and Commissioner Barth. When do
16 y'all have to leave?

17 COMMISSIONER CLOWE: 4:15.

18 COMMISSIONER STEEN: 4:15. So -- and
19 then, Mr. Chairman, are we going to adjourn the meeting
20 at that time or will the three of us continue?

21 CHAIRMAN POLUNSKY: We can continue.

22 COMMISSIONER STEEN: So we can cover some
23 of the consent items and other things?

24 CHAIRMAN POLUNSKY: Yes. All right. Let
25 me -- I want to drop down to at least one of the

1 reports, that would be audit and inspection.

2 Mr. Walker.

3 FARRELL WALKER: Mr. Chairman,
4 Commissioners, my report includes seven internal audits
5 and one inspection report and a list of the projects
6 that we're currently working on. While our reports
7 include a number of recommendations, none of them are
8 particularly remarkable. For your information, I
9 might tell you that to date our inspectors have worked
10 on 1,133 bill analyses and 493 fiscal notes. We still
11 have 60 days to go, and during the 80th legislature for
12 the entire legislative session, they did 475 fiscal
13 notes. So the folks downtown are being very creative
14 this year, but we're keeping up with them. Other than
15 that, I have nothing to report.

16 CHAIRMAN POLUNSKY: All right. Also, you
17 have an internal audit services contract?

18 FARRELL WALKER: Yes, sir. After written
19 responses to our RFQ were evaluated, three firms were
20 selected for oral presentations. We're currently in
21 negotiations with the highest ranking of those three. I
22 expect that we'll conclude those negotiations as early
23 as Monday of next week. So in the interest of time, I
24 would request that the Commission delegate authority to
25 enter into the contract next week so that we can get

1 started on the projects that are part of that RFQ.

2 COMMISSIONER STEEN: Mr. Walker, what does
3 that RFQ cover?

4 FARRELL WALKER: We have three grant audit
5 projects that are outlined in that RFQ. In addition,
6 we've allowed ourselves enough flexibility to request
7 any additional assistance that we may need over the next
8 several years.

9 COMMISSIONER STEEN: And can you say who
10 are the three that -- who were the three finalists?

11 STUART PLATT: I think since we're still
12 in the process at this point in time, we probably don't
13 want to identify those three out loud. It's my
14 understanding there's been one that was identified
15 (inaudible). We can't identify that entity by name. We
16 shouldn't identify them. In case something fell through
17 with that, we shouldn't identify the rank order of those
18 individuals.

19 COMMISSIONER STEEN: So what you can
20 identify the --

21 STUART PLATT: I don't think you should
22 identify the individual names.

23 COMMISSIONER STEEN: At all?

24 STUART PLATT: I don't think so.

25 COMMISSIONER STEEN: So we're --

1 STUART PLATT: The party that they have
2 already entered into negotiations with, you are free to
3 name that. Commissioner Barth and I talked about that
4 yesterday. If you do want to identify that, you can.

5 FARRELL WALKER: We're negotiating with
6 Deloitte.

7 COMMISSIONER BARTH: So do you need a
8 motion to delegate the authority to come to a conclusion
9 on the contract to Mr. Walker in the audit? Then I'll
10 make that motion.

11 COMMISSIONER BROWN: Second.

12 CHAIRMAN POLUNSKY: All right. There's a
13 motion made by Commissioner Barth and seconded by
14 Commissioner Brown. Any discussion on the motion?

15 COMMISSIONER STEEN: And what's the motion
16 again?

17 CHAIRMAN POLUNSKY: To --

18 STUART PLATT: To approve -- as I
19 understand it, to approve Deloitte on that, but it would
20 be subject to legal completing its review. We will get
21 a final copy this afternoon is my understanding of the
22 contract that's proposed by Deloitte, and until we've
23 reviewed it, it would not be effective to be signed.

24 COMMISSIONER STEEN: Okay.

25 CHAIRMAN POLUNSKY: Discussion? There's

1 no discussion. All in favor, please say "aye." Any
2 against, "no." The motion passes. Do you have anything
3 you want to add?

4 COMMISSIONER BARTH: Yes. I just want to
5 make a comment with respect to audit to the departments
6 that it is I believe this commission's expectation that
7 where there are recommendations as a result of audits
8 that they would be taken under advisement and responded
9 and corrective action would be taken in a timely
10 fashion. And I have asked Mr. Walker to make sure that
11 we have time lines so we can see when the responses were
12 forwarded and when the corrective action was taken
13 because I believe there are a number of issues out there
14 in a number of departments where the audit
15 recommendations have been put over to the side, and I
16 don't find that acceptable at all. I think audit is a
17 tool. We need to use it as a tool, and it doesn't need
18 to be something that we get to when we have time.

19 COMMISSIONER STEEN: Mr. Walker, I want to
20 echo that, that I feel very strongly about that. And I
21 hope that when recommendations are made that there's a
22 real intense follow-up, a timetable set up so that we
23 know that these things are being acted upon and not
24 just -- things aren't just drifting. Do you want to
25 comment on that?

1 FARRELL WALKER: I appreciate the support.
2 You know, with competing priorities, it's helpful for us
3 all to understand what the expectations are, and I will
4 do my part to --

5 COMMISSIONER STEEN: We want to stand
6 behind you, and if you need our assistance with that,
7 we're ready to get involved if we need to.

8 FARRELL WALKER: Thank you, sir. I
9 appreciate it.

10 CHAIRMAN POLUNSKY: That's it?

11 COMMISSIONER BARTH: That's it.

12 CHAIRMAN POLUNSKY: Thank you, Mr. Walker.
13 Is Mr. Kelley here? No.

14 The next item is the update report,
15 discussion, and possible action regarding employment of
16 an assistant to the Commission. Colonel Clark.

17 COLONEL CLARK: Mr. Chairman, I have met
18 with the individual who has been selected for that
19 position. Her name is Linda Dougherty. She has passed
20 her background investigation, and I believe in my
21 discussions with her, she will be available and ready
22 for employment April the 20th. She is currently
23 employed with a company that is being downsized and
24 moved to Boston and she is heavily involved in getting
25 that transformation done, but she will be at our

1 disposal on the 20th of April.

2 CHAIRMAN POLUNSKY: Ada, did that come up
3 in your discussion with her that this was going to take
4 that long for her to be available?

5 COMMISSIONER BROWN: It was not my
6 impression that it was going to be a long time, but I'll
7 have to go back and look at the date that she was hired.
8 It feels like it was a long time ago.

9 CHAIRMAN POLUNSKY: We're talking
10 basically two months from the time that we made that
11 decision.

12 COMMISSIONER BROWN: I did not understand
13 that it would --

14 COLONEL CLARK: I think initially she
15 would have been available on April 1st and due to the
16 company issues and that move, it has been delayed is
17 what I was -- is what she told me.

18 COMMISSIONER BROWN: That's not something
19 I was aware of at the time. I knew that there would be
20 some period of time, but I don't recall it being
21 multiple months.

22 CHAIRMAN POLUNSKY: I don't think I like
23 that.

24 COLONEL CLARK: I'll be glad to call her
25 and see if I can hasten her arrival.

1 CHAIRMAN POLUNSKY: Particularly since
2 we're right in the middle of the legislative session.
3 We're -- I mean, we need assistance really 365 days a
4 year, but particularly during this period of time is
5 critical, and I think that you may need to decide, you
6 know, where -- what's most important to her.

7 COLONEL CLARK: I'll express those
8 concerns.

9 CHAIRMAN POLUNSKY: Thank you.

10 COMMISSIONER CLOWE: Mr. Kelley is here
11 now.

12 CHAIRMAN POLUNSKY: All right. I'm going
13 to drop down to discussion and possible action regarding
14 the ongoing Sunset Review recommendations and other
15 legislation affecting the department and the Public
16 Safety Commission. Chief Kelley.

17 MICHAEL KELLEY: Good afternoon,
18 Mr. Chairman and Commissioners. I'm Michael Kelley,
19 chief of government relations. What I would like to
20 present to you is an update on -- let you know who has
21 been here and who said they could not be here today at
22 the commission meeting. I'll give you an update on the
23 confirmation of the four commissioners, review the DPS
24 requested bills, go over the DPS bill tracking, and then
25 go over the Sunset bill that is coming up.

1 First of all, Kyle Mitchell is here from
2 the Governor's office, and earlier Mike Meyer was here
3 from the Senate Finance Committee. Mike had to go back
4 because they had some meetings, but we were glad he took
5 time to do that. Texas Burglar & Fire Alarm Association
6 was here earlier. Mike (inaudible) and Rodney Hooker
7 have worked very hard with us on the private security
8 interest. We've got Sergeant Gary Chandler and John
9 Pike of DPS here today and then Don Dixon with the Texas
10 State Troopers Association. And Amy Trost was not able
11 to be here because of other Sunset duties, but she
12 wanted to make sure you know that she is readily
13 available and she has been working for me to make sure
14 you guys have the latest information. I just want to
15 say about these persons, especially these interest
16 groups, that they have been working with us down at the
17 legislature. Not only did they help us get working on
18 our budget, they endorsed the commissioners when they
19 were up for appointment. They've been side by side
20 helping us with Sunset. So we have some really good
21 partners out here, and I just want to thank these groups
22 for attending these meetings and for helping us out
23 because not only are they helping us publicly, but they
24 are working behind the scenes, meeting with lawmakers
25 and giving us feedback so we can work with them to try

1 to achieve the results that we think you want to have.

2 Next, on the confirmation Colonel Clark
3 mentioned earlier, you received a seven to nothing
4 support vote in the Senate nominations committee on the
5 9th of March. That was the week after you actually went
6 there to testify. And then on the 23rd of March, that
7 Monday was a 31 to nothing confirmation. So you are
8 confirmed. One thing I want to mention that I've heard
9 great feedback from, you're one of the only commissions
10 that actually went down and met and interacted. While
11 others are still getting approved, I think what we found
12 was you doing that is really helping us on the budget
13 and on other policy issues. It means a lot. I know you
14 meet with Senator Carona. He just so happens to be
15 carrying a lot of our legislation that we have asked
16 for. We met with Senator Shapleigh and were able to
17 work through on this Chicago plan. And so now
18 Representative Chavez on the House side wanted a
19 briefing. So Tony Leal went and told her all that we
20 were doing. So what we found by you going down was it
21 was not only beneficial for your getting approved, it's
22 also been very beneficial to this whole agency. So
23 thank you for taking the time to do that.

24 Next, on the DPS requested bills, there's
25 a total of 40 bills that lawmakers have asked for, and I

1 keep sending you those on Fridays so you have the latest
2 update. But there's 40 bills that we have requested,
3 and that's 26 policy issues. So you've got some House
4 and Senate bills that are the same. On the 1st of
5 April, next week, we're going to have the Transportation
6 and Homeland Security Committee have the DPS day, is
7 what they are calling it, where they are going to have
8 many of these same bills, are all going to be brought up
9 at one time by Chairman Carona, and he's just going to
10 have -- have all of us -- have all our bills that he's
11 got laid out and any bills pending in his committee
12 dealing with DPS to try to do them all in one day.
13 Last -- this current week was emergency management day,
14 if you will. So he decided to have all the emergency
15 management bills. So that being said, since we've been
16 given that heads-up as of last night, we know we're
17 going to have our witnesses down there, but certainly if
18 any of the commissioners want to come and attend that
19 day, we know there will be a lot of bills on the 1st of
20 April before the Transportation and Homeland Security
21 Committee.

22 One thing that Senator Carona has let us
23 know, his intent is to do like he's done with a lot of
24 other pieces of legislation he's worked with, is to
25 create some omnibus bills. So while we have 26 issues

1 floating around in different bills, he fully intends to
2 pull some of those into one big omnibus bill. Like I
3 know he has emergency management. He's trying to pull
4 them into one big bill. Drivers License he wants to
5 pull into one big piece of legislation, and then some of
6 the other legislation dealing with the DPS he would like
7 to roll into the Sunset bill. So just understand a lot
8 of these bills on that chart may end up being a part of
9 a different piece of legislation, but his intent is
10 fully to support us and get these bills passed by the
11 end of session.

12 The next thing I would like to talk about
13 is DPS bill tracking. Once again, every Friday morning
14 the Office of Audit and Inspection, the Office of
15 General Counsel and the Government Relations Office is
16 meeting to go over with the division chief
17 representatives what we're doing as far as how we've
18 been doing that week, where we need to improve, where
19 we're not having coverage, where we ought to improve
20 coverage. So we're learning as we go during this
21 session to make sure that we have representatives at all
22 the committee meetings where DPS legislation is coming
23 up or DPS related legislation. That is working very
24 well. The divisions are communicating back and forth
25 with each other. You may have a highway patrol that's

1 sitting in uniform gets a DL question. They know what
2 to answer, what to say and how to get back to the Driver
3 License Division. You may have Chief Burroughs sitting
4 in there stuck like he did last week and he gets
5 questions related to law enforcement. He can then turn
6 back to Major Joy and say, Major Joy is here with
7 Highway Patrol. We'll let him handle that one. That is
8 working very well, and it's something we've found in
9 this session. The communications between divisions is
10 working very well and us working together to track all
11 these bills together I think is putting a very favorable
12 light upon the agency whenever we're down at the
13 capitol.

14 As far as the total number of bills, the
15 total number of House bills filed so far is 4,723, which
16 is 14 percent higher than last session. The total
17 number of Senate bills is 2,459, which is a 20 percent
18 increase. So now you've got a total of 7,182 bills that
19 have been filed in both the House and Senate. That's a
20 16 percent total increase. Of that you've got a total
21 of 1,039 bills that DPS believes has some kind of impact
22 upon our agency. Those are categorized as either high,
23 medium, or low, and that's what you see in the bill
24 tracking chart that I sent you on Friday. That helps us
25 to alert which bills we think are going to have the

1 largest impact or which ones we really need to be
2 working hard on or if we think there might be a problem
3 the way it's drafted and the way it might impact us,
4 that helps us to be able to work to go down to work with
5 the bill author or sponsor to let them know our
6 concerns. So 14 percent of all those bills that have
7 been filed have some kind of impact upon the Department
8 of Public Safety. Out of this we've got a breakdown of
9 all of the divisions tracking. You've got
10 Administration tracking 401 bills; Highway Patrol, 268;
11 Criminal Law Enforcement, 234; Driver License, 195;
12 Accounting, 144; Emergency Management Division, 91;
13 Information Management Service, 72; Texas Rangers, 57;
14 Public Information Office, 16; Aircraft has 9; and
15 Internal Affairs has six. So there again you see by
16 having those Friday meetings we're all talking, we're
17 helping each other keep an eye on all these various
18 bills that are coming forth.

19 As far as next is the DPS Sunset bill, and
20 we have two pieces of legislation that are considered
21 the Sunset bill for DPS. That's House Bill 2730 by
22 Representative Lois Kolkhorst, a Republican out of
23 Brenham, and Senate Bill 1017 by Senator Juan Chuy
24 Hinojosa, a Democrat out of McAllen. The intent is for
25 the House bill to be the main vehicle. In other words,

1 the bill that will go through both bodies and go
2 forward. I spoke with Athena Ponce, who works for
3 Senator Hinojosa yesterday and Senator Hinojosa's
4 preference is not to hold a separate hearing on the
5 Senate bill, but to wait for the House bill to pass and
6 just have one hearing when it comes over. So on Monday,
7 House Bill 2730 by Representative Lois Kolchorst will go
8 before the House Public Safety Committee where it will
9 be heard and then it's allowed to be amended, changed.
10 And so we will need to be down there as leadership ready
11 to watch and see what happens and answer any questions
12 related to the bill. On this -- and that's going to be
13 in Room E-2.014. One thing you need to understand on
14 the Sunset bill, we did meet on the 18th of March, last
15 Wednesday -- and Chairman Polunsky and Commissioner
16 Clowe, thank you for being at that meeting where we've
17 met with Representative Kolchorst as the author of the
18 bill to go over with her the different issues and
19 concerns we might have about the bill itself and also
20 some concerns about the fiscal implications about if the
21 bill is to be enacted, monies we might need. So each
22 one of the divisions analyzed what that bill does and we
23 provided some fiscal impacts to them just to let them
24 and the Sunset staff know these are some things that we
25 need to consider. And in particular I want to bring up

1 on Page 79 of the bill under Article V, it says, The
2 Department of Public Safety will have under a review of
3 the Sunset in 2010. The Sunset Commission is going to
4 look at DPS to see for recommendations in the 2008 audit
5 of the department's information technology system. Then
6 Sunset is to look at our civilian business model for
7 operation of the Driver License Division that focuses on
8 improving customer service and that improvement is for
9 the Driver License Division they must look at using best
10 practices and call center technology in monitoring
11 customer service calls, expanding operating hours of
12 driver's license offices, and decreasing the time the
13 department takes to send a replacement driver's license.
14 The continuation is that the Sunset Advisory Commission
15 shall submit a report about how we're doing in those
16 areas no later than February 15th of 2011 and then that
17 will give the legislature a chance to look and see how
18 are we doing with implementing some of these provisions
19 that were brought up in Sunset. The concern that our
20 agency has had is that in order to do this properly, we
21 need money. Obviously one of our exceptional items is
22 converting to a civilian model in the Driver License
23 Division and then customer service initiatives that go
24 along with that. Were we not to be appropriated dollars
25 to do that, then our concern was that the Sunset is

1 going to come out and say we did not do a good job on
2 here even though the bill passes and the bill says that
3 Sunset bill says that we're supposed to look at doing
4 these things. So we just wanted to make sure that
5 Representative Kolthorst and Senator Hinojosa understood
6 that more than just the Sunset bill, we're going to need
7 their assistance in getting those dollars in the
8 Appropriations Act to help fund and pay for that.

9 I do have some information on the budget,
10 but I would like to wait until Chief Ybarra comes up to
11 talk about the side by side on the Senate and House. If
12 you wouldn't mind, I would like to wait and we can
13 discuss that at one time. But subject to that, I would
14 be glad to answer any questions.

15 CHAIRMAN POLUNSKY: Are there questions?
16 Can you bring him up?

17 MICHAEL KELLEY: Sure.

18 OSCAR YBARRA: Chairman and Commissioners,
19 we provided you with a side by side in your commission
20 notebooks, but there have been meetings since that
21 particular time and we want to provide you with the most
22 updated information that we have. That's provided on
23 the screen. Chief Haas has also extra copies. If
24 anybody needs any, raise your hand and we'll be glad to
25 provide you one. Again, as -- my name is Oscar Ybarra.

1 I'm the Chief of Finance. This activity is new activity
2 based on activity in both the House and the Senate.
3 This information is provided to the Commission based on
4 hearings that have been provided by these committees,
5 testimony in these committees, and written information
6 that is provided by the LBB. With all that information,
7 we consolidated to this report. The agency has not
8 officially received notification of these items. Again,
9 it's testimony and bits and pieces of information. So
10 we've done the best we can to get the proper updates.
11 This particular spreadsheet is laid out to identify the
12 rankings of these exceptional items that we have, and
13 the Commission has adopted over this last summer the
14 original amounts. If there's columns in here with the
15 letter C, that means commissioned positions, N/C
16 non-commissioned positions. As far as some of the
17 language that's on this document, I would like to define
18 a few of these things. You'll see some -- the term
19 "adopted." That means it's been approved by the
20 committee for their particular version of the
21 appropriations bill. If the item is pending, that means
22 that the committee has pretty much pended this item and
23 waiting to take action, and whether this item is going
24 to be added to the bill, it maybe rejected, or sent to
25 Article XI. Article XI is pretty much what they call

1 the wish list. I think in the House they are calling it
2 the hope chest.

3 COMMISSIONER BARTH: Can I ask a question?
4 For example, under DL, both the House and the Senate,
5 that's what they have adopted and now they are going to
6 get together and decide which of the numbers they like?

7 OSCAR YBARRA: I think Michael is going to
8 cover that a little bit at the end of this, but we would
9 like to cover that as far as how that's done in each
10 house. There will be a conference. So you want to
11 cover that?

12 MICHAEL KELLEY: Sure. Just so you
13 understand, let me just do an overview of this process
14 just to put it all in perspective. Last session -- or
15 the last session there was a House Bill 1 and that was
16 carried by Chairman Chisum in the House and that became
17 the General Appropriations Act. Well, by tradition, the
18 next year it becomes Senate Bill 1. So the Senate Bill
19 1 version will be the Senate's version that you see over
20 here on the right hand column. That will be Senate Bill
21 1, the Senate's version. So the Senate Finance
22 Committee will finish on Monday, and this is what we
23 believe the final numbers will be its version of the
24 General Appropriations Act. It will then pass the full
25 body of the Senate, and by tradition, the Senate and the

1 House do not amend Appropriations Act on the floor of
2 the House or the Senate. So whatever comes out of
3 committee is pretty much what you expect. That Senate
4 Bill 1 will then go to the House, it reverts through the
5 House Appropriations Committee, and then it will be
6 completely substituted by all the numbers you see in the
7 middle column, which is the House version of that bill.
8 Then it will pass the House. Again, traditionally, they
9 do not amend the bill on the floor of the House, but now
10 you've got two versions of the bill, and that's when a
11 conference committee will be appointed to iron out these
12 differences. The conference committee will consist of
13 10 members, five House members, five Senate members, and
14 by tradition, the leader of each delegation is going to
15 be for the Senate, the finance committee chair, that's
16 Senator Steve Ogden, a republican out of Bryan, and then
17 you'll have Representative Jim Pitts, a Republican of
18 Waxahachie. He's the chairman of Appropriations leading
19 the House delegation. Also by tradition on that
20 conference committee the other four members are going to
21 be members of House Appropriations and Senate finance
22 respectively. So it's going to be individuals who have
23 already seen our budget and worked with it. Those 10
24 members have to come to some kind of agreement where
25 they will iron out between the two figures here which

1 number they are going to give us. So it could be the
2 House version, it could be the Senate version, or it
3 could be something in between if they were to try and
4 negotiate down the price. So that's why once we get to
5 the conference committee, it's going to be very
6 important that we work really hard with the conferees to
7 make sure they understand our needs and don't back out
8 any of the dollars once we get there.

9 COMMISSIONER BARTH: Hang on one second
10 before you go further. So just as DL as an example --

11 MICHAEL KELLEY: Yes.

12 COMMISSIONER BARTH: -- we ask for 62, it
13 looks like the greatest number is 45, and we could
14 potentially be compromising on that number. Is that
15 right? I just want to make sure I'm reading that right.

16 OSCAR YBARRA: That is correct.

17 COMMISSIONER BARTH: Okay.

18 MICHAEL KELLEY: And the way the
19 Appropriations Act is written, the conferees have room
20 to play with the number. So you could say House
21 version, Senate version, or they can try and work
22 somewhere in between, but once you see the numbers on
23 here, you -- it's kind of a given you're not going to
24 probably get more. So that's the highest they are
25 offering at this point.

1 COMMISSIONER STEEN: Mr. Kelley, what does
2 "GR" mean?

3 MICHAEL KELLEY: That's general revenue.

4 COMMISSIONER STEEN: And then when you
5 have "Fed," that's federal?

6 MICHAEL KELLEY: F-T-E?

7 COMMISSIONER STEEN: F-e-d.

8 OSCAR YBARRA: That's federal dollars.

9 MICHAEL KELLEY: Federal dollars. And the
10 way that works, just so you understand, too, the new
11 dollars that you're looking at on here, none of those
12 coming from Highway Fund 6. The legislature and the
13 Governor's office, Lieutenant Governor have all visited
14 and decided their interest is not adding new funds -- is
15 to try to eventually wean DPS off of Fund 6, but not to
16 take us off (inaudible). In other words, the current
17 funding net for which we receive Fund 6, they will allow
18 that to stay for this session, but that they are going
19 to look for new dollars from general revenue, general
20 revenue dedicated and federal dollars that are not
21 highway funds to pay for that. So you'll see a lot of
22 this -- the reason the numbers are is because it's based
23 on what's available in general revenue rather than
24 federal dollars. In the end all of this has to match up
25 under the biennium revenue estimate that the Comptroller

1 has said is available because we do not allow deficit
2 spending. So Article 3, Section 49(a) of the
3 Constitution says that this bill cannot even go to the
4 Governor's desk until the Comptroller says there's
5 enough money available. So that's why the legislature
6 has to be sure, and that's why we're going to be limited
7 because they have to make sure all the numbers we get
8 plus what all the other agencies get add up to less than
9 that 77.1 billion dollars for the biennium that
10 Comptroller Combs has said is available. And then later
11 it would go to the governor's office, and then the
12 Governor will have the option to either sign the whole
13 bill, to veto the whole bill, or what he typically does
14 will be a line-item veto, and on the line-item veto he's
15 not allowed to strike out any words, but he is allowed
16 to strike out any numbers. So that means any numbers
17 that's in our budget he could line through and zero out
18 the funding for those items unlike what the president
19 who does not have line-item veto authority, the governor
20 does, and so therefore it can go through a line out.
21 And that's why it's important to continue working with
22 Kyle and the Governor's office to let them know why we
23 need this funding and where it's going because they,
24 too, are concerned about expenditures and want to make
25 sure that we're only getting the dollars that we truly

1 need.

2 COMMISSIONER STEEN: Mr. Kelley, on the
3 chart, just look at that first item where it says, "1A,
4 additional personnel" --

5 MICHAEL KELLEY: Yes, sir.

6 COMMISSIONER STEEN: -- and so that shows
7 on the -- we'll start with the Senate, and it says
8 "Adopted," and then it says "General Revenue," but it
9 says on the House side "Article XI." So what does that
10 mean?

11 OSCAR YBARRA: That is -- Article XI is
12 basically -- it is an item waiting --

13 COMMISSIONER STEEN: They are not saying
14 no. They are just saying if there's enough money,
15 somehow we'll consider it.

16 OSCAR YBARRA: There is actually one more
17 article that is being utilized in the Senate, Article
18 XII. Article XII is -- are items that the Senate
19 Finance Committee has approved but will be funded out of
20 the stimulus dollars, and we do have one example in
21 here.

22 (At this time Commissioner Clowe and
23 Commissioner Barth leave the meeting.)

24 COMMISSIONER STEEN: Mr. Chairman, by the
25 way, you might want to reflect for the record what just

1 happened.

2 CHAIRMAN POLUNSKY: I'm sorry. What?

3 COMMISSIONER STEEN: We just --

4 CHAIRMAN POLUNSKY: We've just had two
5 commissioners leave the meeting. They had to -- they
6 had previous commitments and had to leave at 4:15. So
7 Commissioner Clowe and Commissioner Barth have left the
8 meeting.

9 COMMISSIONER STEEN: And the three of us
10 will continue. There's a quorum.

11 CHAIRMAN POLUNSKY: A quorum still exists.

12 OSCAR YBARRA: Mr. Chairman, there's a lot
13 of information on this particular document. If you
14 would like, I will try to summarize it or I can field
15 questions as you desire, sir.

16 CHAIRMAN POLUNSKY: Well, I've seen the
17 document, but the other two probably have not.

18 COMMISSIONER STEEN: You mentioned there
19 was one art -- what did you say? It was Article XII?

20 OSCAR YBARRA: Yes, sir.

21 COMMISSIONER STEEN: Where is that?

22 OSCAR YBARRA: If you look at Number 6 at
23 the very bottom of the first, border security, that
24 particular item has about 11 and a half million dollars
25 that is in Article XII.

1 COMMISSIONER STEEN: Not to -- I don't
2 think we want to go over it item by item, but any big
3 picture comments on this from either of you?

4 OSCAR YBARRA: Well, from a financial
5 perspective, we do see some agreement in both houses.
6 For example, we're glad to see some activity in the
7 restructure of driver's license in both the Senate and
8 the House. I don't like seeing hardly any activity on
9 Item Number 3, the operating shortfall. Our Item Number
10 1, the House has pretty much put that entire item in the
11 wish list, but we will be listening tomorrow to the
12 House Appropriations Committee, who will be going over
13 Article IX. So hopefully we'll be hearing something
14 positive there.

15 MICHAEL KELLEY: If I can add on that.
16 When I spoke earlier to Kathy Panaszek when you asked me
17 to call her, she let me know that Chairman Pitts is
18 looking at trying to fund salaries, that that's not --
19 in the past sessions if something was in Article XI, it
20 was very difficult to get it funded. He truly does want
21 to look at providing funds for peace officer pay raises
22 and also for non-commissioned, but he's been waiting to
23 try and work through and see what dollars are available
24 for that. They are doing it a little differently than
25 the Senate. The Senate went ahead and had an Article IX

1 meeting the other day. We attended and listened and all
2 the division chiefs and the colonels. That was all
3 public. Apparently what Chairman Pitts is trying to do
4 is work through the rest of the budget and then go back
5 to Article IX with dollars that are available. So just
6 because it says Article XI now, we do expect that there
7 will be some dollars offered by the House.

8 CHAIRMAN POLUNSKY: That's reassuring.

9 MICHAEL KELLEY: Yes, sir. One thing I
10 will say, too -- we visited about this -- Oscar and I
11 talked. If you look at it and you watched the other
12 agencies' budget hearings, even though this looks like
13 we're not getting much, percentagewise and total
14 dollarwise, we're getting a lot more compared -- if you
15 look at -- we're about 10 -- we're getting about 10
16 percent less monies available according to the biennium
17 revenue estimate. DPS is not doing badly when it comes
18 to being able to get dollars compared to when you look
19 at other agencies when they got their wish list and
20 there's nothing on it. Again, Mr. Chairman, you've come
21 to town, some of the other commissioners have come to
22 town and visited. It's meant a lot having the presence
23 of the Public Safety Commission with the colonels and
24 the chiefs attending these hearings in order to ensure
25 they know how important these dollars are for us.

1 OSCAR YBARRA: And if y'all have any
2 questions on this document, by all means, you can call
3 either one of us to try to clarify any of this
4 information.

5 COMMISSIONER STEEN: Y'all are changing
6 this sometimes daily?

7 MICHAEL KELLEY: Sometimes hourly.

8 OSCAR YBARRA: Hourly.

9 COMMISSIONER STEEN: On the gasoline
10 rider, we -- we're operating now with a gasoline rider;
11 is that correct?

12 OSCAR YBARRA: That is correct. It's a
13 rider that with allow -- at the beginning of the
14 biennium, it would allow you to transfer funds from the
15 out year back into the first year, but in the second
16 year of the biennium, it does not have any funding
17 mechanism other than that the agency would request some
18 kind of special appropriation if we were in dire and --

19 COMMISSIONER STEEN: But with gasoline
20 prices when they spiked, it really helped us?

21 OSCAR YBARRA: Because of the state of the
22 agency at the time, we did not have to request -- or we
23 did not have to transfer any money back into the '08
24 fiscal year. We didn't have to do that. We were able
25 to cover it.

1 COMMISSIONER STEEN: I guess I'm asking
2 why we -- we've just been turned down by the Senate
3 Finance Committee on it. Can you explain that to me?

4 OSCAR YBARRA: I believe in some meetings
5 that we've had with the Senate, I believe that they
6 understand the need for gasoline and that if the agency
7 would request an emergency appropriation, their ears
8 would listen and provide it. That's what I have heard.

9 COMMISSIONER STEEN: Thank you.

10 CHAIRMAN POLUNSKY: Are there other
11 questions? Mr. Steen, anything else?

12 COMMISSIONER STEEN: No, Mr. Chairman.

13 CHAIRMAN POLUNSKY: Thank you. Next item
14 is discussion and possible action regarding review and
15 reconsideration of physical readiness standards for
16 commissioned officers of the department. Chief Fulmer.

17 VALERIE FULMER: Good afternoon, Chairman,
18 Commissioners. I'm Valerie Fulmer, Chief of the
19 Administration Division. As you directed, Chairman, we
20 put together a committee to look at some specific issues
21 regarding recruitment and training. There are some very
22 specific charges to the committee and there are some
23 other additional issues that will be determined by the
24 committee. Commissioner Brown is the commission
25 representative on the committee.

1 CHAIRMAN POLUNSKY: Well, what -- one
2 moment. Is that the item I just called?
3 VALERIE FULMER: Perhaps it's not. Which
4 item did you call? I thought it was this one.
5 CHAIRMAN POLUNSKY: I thought it was the
6 physical readiness standards test, but --
7 VALERIE FULMER: I apologize. We're out
8 of order?
9 CHAIRMAN POLUNSKY: Yeah, we're out of
10 order, but that's fine.
11 VALERIE FULMER: Sorry about that. I can
12 talk about both of them.
13 CHAIRMAN POLUNSKY: Let's do both.
14 COMMISSIONER STEEN: I think you did --
15 you did ask for the physical readiness standards.
16 CHAIRMAN POLUNSKY: That's fine.
17 VALERIE FULMER: Which one would you
18 prefer to do first?
19 CHAIRMAN POLUNSKY: Let's do them both.
20 Finish the --
21 VALERIE FULMER: Sorry about that.
22 CHAIRMAN POLUNSKY: -- PR team.
23 VALERIE FULMER: I was going down the
24 list. We put together a list of individuals to be on
25 the committee, and in addition Commissioner Brown has

1 come up with a list of individuals that she's interested
2 in being on the committee. Our lists actually are very
3 similar. So we're going to put those together and come
4 up with a -- we have representatives from both the
5 training academy and human resources and we have some
6 at-large representatives from all over the department.
7 Another thing we've done is we've added a public member
8 to this committee. We thought it would be a good idea
9 to have someone from the public to -- you know, who is a
10 taxpayer and a citizen of Texas to see kind of what
11 their perspective is on our current practices and what
12 they are looking for from the state. And then several
13 of us would be serving as advisors on this committee.
14 Chief Fulenwider will actually be the chair of the
15 committee. I'll be sitting on as an advisor, as well as
16 Stuart Platt, our general counsel, and Commander
17 Rodriguez, and Director Logan with human resources. So
18 we will -- as soon as we have our list put together, we
19 will be setting up the first committee meeting.

20 CHAIRMAN POLUNSKY: And that should be
21 when?

22 VALERIE FULMER: I guess it -- it will
23 depend on the commissioner's schedule, but I would think
24 within the next week to two weeks.

25 COMMISSIONER BROWN: Perfect. I'm

1 available.

2 CHAIRMAN POLUNSKY: And not to be
3 repetitive, but you understand the importance of this
4 issue?

5 VALERIE FULMER: Absolutely.

6 CHAIRMAN POLUNSKY: Okay.

7 VALERIE FULMER: And then to the question
8 that you asked about the PRT committee. Colonel Clark
9 sent out a memo on March 13th to all employees of the
10 department making the changes to the physical readiness
11 testing policy that we discussed during the last
12 commission meeting. The response has been very good to
13 those. To remind you of them, it allows employees to
14 choose whether they are going to take the field exercise
15 test or the job task scenario test. It gives employees
16 90 days from the initial test date to retake failed
17 portions of the test. It provides for a mandatory
18 training and wellness education program for any employee
19 who has not met the current minimum standards by April
20 30th, and it provides a six month grace period prior to
21 a final determination after the August 31st date if an
22 individual is in this training wellness education
23 program. Currently our human resources section is
24 working on the final requirements for the program and we
25 are bringing in experts from -- from several different

1 fields. We've got new nutritionists. We've got folks
2 who are experts in training in several different areas.
3 So we're hoping that this will be useful. Then our next
4 meeting is set for the -- I believe the first week in
5 April, and at that point now that we've gotten sort of
6 the initial recommendations out of the way, then we're
7 going to look more at the long-term issues involving the
8 policy.

9 CHAIRMAN POLUNSKY: And the associations
10 are participating or involved?

11 VALERIE FULMER: Yes. Each of the
12 associations are participating. They've actually had
13 some very good feedback. We are -- we've got about 22
14 members, and I guess six of those are from the
15 associations, and they've had some very good interaction
16 and feedback. I don't know if anybody that's on the
17 committee is here. I don't think we've got any of them
18 here today. But, yes, we're actually getting a lot of
19 good input from them. That's all I have unless you have
20 questions. Unless there were any other items that I
21 want to randomly talk about.

22 CHAIRMAN POLUNSKY: Well, do you want to
23 just take some other items while you are there? Thank
24 you.

25 Update report, discussion and possible

1 action to develop an approach for transforming the
2 administration of the Driver License Division to a
3 civilian model. Chief Brown.

4 JUDY BROWN: We have -- as we spoke last
5 week, we had select -- last month, we had selected our
6 first mid level manager for the Garland area. We have
7 gone through -- successfully gone through the background
8 with him and brought him on. He is now quickly learning
9 the driver's license process, how it works amongst the
10 offices in the Dallas region. We have finalized the job
11 description for this line level civilian supervisor and
12 expect to get that job posted over the next week. We'll
13 be filling four positions in the Dallas area where we
14 currently have vacancies in our sergeant ranks, filling
15 those with civilians and putting those offices under the
16 civilian mid level manager that we have in place in
17 Dallas. Once we get those positions filled, then we
18 will begin to look at our other vacancies that we have
19 in our commission supervisory ranks and begin to fill
20 those as well. As we currently stand, we have five
21 lieutenants and five sergeant vacancies in the division
22 that are not being filled, and we will fill those with
23 the civilian positions as the job descriptions are
24 finalized and posted in those regional areas.

25 CHAIRMAN POLUNSKY: Thank you. Are there

1 questions for Chief Brown?

2 COMMISSIONER STEEN: No questions.

3 COMMISSIONER BROWN: No.

4 CHAIRMAN POLUNSKY: Department
5 organization structure. Colonel Clark, do you want to
6 address that at this time?

7 COLONEL CLARK: Yes, sir. I will get the
8 organizational chart up on the screen. I don't know how
9 well people can see that. It's been a while since we
10 discussed this, and we took the advice of the
11 commission, and you have a copy of this in your packet.
12 It might be easier to see. But I just want --

13 CHAIRMAN POLUNSKY: It definitely would
14 be.

15 COLONEL CLARK: Yeah. I guess
16 Commissioner Steen could have got us a little larger
17 screen.

18 (Laughter)

19 COLONEL CLARK: Again, I would like to
20 just make a few comments about this recognizing that
21 we're not asking for any adoption of this org chart
22 today. This is a framework to build on, and let me just
23 make a few comments about this. You'll notice that it's
24 color coded and it builds on the recommendations by
25 Deloitte, and that fleshes them out to apply to all the

1 DPS functions that we are currently involved in. And it
2 includes the recommendations of not just Deloitte, but
3 by the commissioners, the agency management, and other
4 stakeholders all in keeping with the Deloitte findings.
5 And the chart that you're looking at is actually a
6 snapshot of a living document that's intended to provide
7 a framework that we can build on as we go forward. It
8 can be used by our PMO if we end up going that
9 direction. You'll notice he is listed there on the
10 right-hand side. He could use this chart to build on
11 and flesh out as that person sees fit in working with
12 the administration. And I want you to know that we will
13 continue to refine this chart as needed. The major
14 changes that you'll see on this particular chart from
15 our first presentation that we made is that it's
16 organized the agency by functional lines into three
17 major areas, and each one of these areas is managed by a
18 deputy director. And the functions that interact with
19 the public as violators and victims you'll see as the
20 Law Enforcement Deputy Director.

21 The second one is functions that interact
22 with the public as clients and customers, and that would
23 be under your deputy director of licensing or License &
24 Regulations.

25 And Number 3, functions that provide the

1 infrastructure to the agency so that all the functions
2 can be performed, and that would be under our
3 Administrative Deputy Director. You'll notice the
4 addition of the PMO to the chart, which is in blue.

5 Thirdly, the division of the current
6 training academy into law enforcement and administrative
7 training and movement of the law enforcement academy to
8 the Law Enforcement Services Division to acknowledge the
9 function that they actually perform in providing
10 training to other law enforcement agencies. This was a
11 direct recommendation from Commissioner Clowe which we
12 felt was good, and we implemented it here.

13 Number 4, this was Commissioner Barth's
14 recommendation. Movement of the agency's procurement
15 and contract management function to the agency support
16 division, and you'll see that under the deputy director
17 of administration. The consolidation of licensing and
18 regulation attorneys into a special section to allow for
19 cross training and career development, as well as an
20 inclusion -- and we think this is real important -- of a
21 regional counsel to work with the regional director as
22 we go into this theater of operations. And we renamed
23 the divisions to more closely represent the functions
24 that they actually perform.

25 And lastly, the point I would like to make

1 is that the addition of communication lines to describe
2 the relationship between the regional directors and the
3 law enforcement divisions. So it may look a little
4 confusing at first glance, but the way we color coded
5 it, I think it simplifies certainly what we had before.
6 Now, we also presented this to Deloitte. Drew Beckley
7 looked at this. He reviewed it. We visited with him.
8 He basically gave it his blessing. He felt like we
9 included all of the findings that Deloitte included in
10 their report, and he had a few observations that were
11 basically in line with ours. But one thing, for
12 example, he still didn't quite understand about the
13 relationship of the Texas Ranger Division having a
14 direct report to the director by statute, and they
15 didn't quite understand that. But other than that,
16 Deloitte was pleased with this organizational chart, and
17 we just wanted you to look at that today, and it would
18 serve as a platform we can build on. It's a living,
19 breathing document that I believe we can go forward on
20 and work with as we move forward. End of story.

21 COMMISSIONER STEEN: Colonel, I just --

22 CHAIRMAN POLUNSKY: That's actually the
23 beginning of the story.

24 COMMISSIONER STEEN: This is good work,
25 and it's -- I think it's great you're taking into

1 account people's input, and this thing is evolving and I
2 like the way it's presented today. I think that the
3 color coding really helps us understand it. Just a
4 comment. On the communication lines, you know, you've
5 got the solid line and then you've got the dotted line,
6 so to speak. Articulate that for me.

7 COLONEL CLARK: Okay. The solid lines are
8 your direct reports. For instance, pencil me in as the
9 director here for right now and you will see that the
10 Office of General Counsel is a direct report to me, as
11 well as media relations and government relations. They
12 report directly to me, but simultaneously you see a
13 dotted line that comes to each one of you on the
14 commission. They are going to keep you involved as they
15 can find you. I mean, you're not a full-time person
16 here. They've got to be able to contact me directly and
17 so that's the reason for the solid line. The change we
18 made from the big chart that I had prepared is that in
19 our Sunset meeting it was understood that internal
20 affairs would be a direct report to the commission.
21 Before we had internal affairs as a direct report to the
22 director and then dotted line to the commission, but we
23 clearly understood what Sunset's recommendations were
24 and we changed that. So we'll have a larger picture of
25 this on a larger board to bring from now on just to kind

1 of set it off to the side in case we have questions
2 about it.

3 COMMISSIONER STEEN: On the direct report
4 of internal affairs to the Public Safety Commission,
5 tell me what the Sunset Commission's thinking is there.

6 COLONEL CLARK: They -- and that name, for
7 example, we've had it -- it currently is internal
8 affairs. When we started building this new chart, we
9 wanted to try to professionalize our Internal Affairs
10 Division. So we've renamed it Office of --

11 STUART PLATT: Professional
12 Responsibility.

13 COLONEL CLARK: -- Professional
14 Responsibility. Representative Kolckhorst was not
15 thrilled with that name. She -- that didn't have enough
16 punch to it, she said. So she actually preferred the
17 model that was in TDCJ and in some other places where it
18 would be called the inspector general. Now, we can
19 change that name later on if that's the will of the
20 commission. But internal affairs, what their thinking
21 is there, that those -- they would have the ability to
22 be an independent body where they would report to the
23 Public Safety Commission where they would -- it would
24 take away any idea that there was some kind of cronyism,
25 brother-in-law going on from my perspective. That's the

1 best way I can -- in other words, I would be subject to
2 the IG investigating me or Lamar or any of the chiefs
3 and it would take me out of the picture and it would be
4 a direct report to the commission where it would
5 eliminate any sense of impropriety on the part of the
6 director or other of the upper management. So by
7 separating it into its own investigative entity, they
8 would eliminate that.

9 COMMISSIONER STEEN: Thank you. Also, you
10 said something that Deloitte didn't understand about the
11 direct report of the Rangers to the director. But what
12 don't they understand about that? It's in the statute.

13 COLONEL CLARK: It is. Now, you talked
14 with Drew quite a bit about that.

15 LIEUTENANT COLONEL BECKWORTH: Well, they
16 believe -- Drew believed that the process should afford
17 the deputy director of law enforcement to have
18 day-to-day interaction with this, and we believe that we
19 can still accomplish that by the process in place based
20 on the relationship we have with the Rangers. However,
21 under certain circumstances we believe -- and that's why
22 the law is specific -- that they should have direct
23 contact with the director. So they are willing to work
24 with us on that. I would also add that there's a bill
25 passed by Representative (inaudible) asking that all

1 large law enforcement -- excuse me -- all large state
2 agencies have the office of inspector general. She
3 filed a bill to try to get all state agencies lined up
4 that same way and she attributes that to Chairman
5 Polunsky.

6 (Laughter)

7 COLONEL CLARK: One of the other issues
8 that I -- I had a note here from Drew Beckley with
9 regards to the direct reports to the director. He
10 thought it was unnecessary for the media and government
11 relations to report directly to the director, to me, and
12 I feel that's very important. Tela and Michael, they
13 keep me informed 24 hours a day because I'm readily
14 available and anything of importance you're going to
15 find out about it quickly. But Deloitte just felt like
16 that should be really not a direct report to the
17 commission, but to a chief of one of these divisions and
18 we disagreed with that.

19 COMMISSIONER BROWN: I think that's a good
20 call. Just in our experiences when there are
21 emergencies or safety issues, it's been, I think, pretty
22 effective to have a point person, which is you, who gets
23 all of the relevant media information so you can
24 disseminate it quickly.

25 COLONEL CLARK: Well, we like to sift out

1 the fluff before we -- we want to send you the facts and
2 we're not always successful, but most of the time we
3 are. And I will -- I would like to thank Chief Fulmer
4 and her white board because we have scribbled all over
5 that in working on this particular chart and she has
6 solicited input from a lot of people in this room and
7 anybody that walked by her office, she would bring them
8 in, get their thoughts on it, and I thank all of our
9 employees who had input into that.

10 COMMISSIONER STEEN: Colonel, on the media
11 relations and government relations, I think you were
12 persuasive on that, but where did Drew Beckley want to
13 place those, just out of curiosity?

14 COLONEL CLARK: Originally I think he
15 had -- do you remember, Valerie?

16 VALERIE FULMER: I believe it was under
17 administration.

18 COLONEL CLARK: It was under
19 administration under -- it may have been one -- either
20 information management chief or agencies --

21 VALERIE FULMER: It's probably what we're
22 calling employee support division.

23 COLONEL CLARK: Yeah. The one on the far
24 right over there.

25 COMMISSIONER STEEN: So Deloitte would

1 have as a box under the employee support division chief?

2 COLONEL CLARK: Right. Answering to that
3 chief and then that chief would have to notify me, I, in
4 turn, would notify the chair, and we just don't believe
5 that that's good business. Our business is critical and
6 fast and we need to get information out in a hurry.

7 COMMISSIONER STEEN: Where do they have
8 government relations?

9 VALERIE FULMER: In the same place.

10 COLONEL CLARK: Same place. Now, that
11 won't work. We've got to have Michael on the front
12 line. And really there is a solid line to me and to the
13 chair on that I can tell you. Anything else?

14 COMMISSIONER BROWN: No.

15 COLONEL CLARK: You can just kind of take
16 that home and chew on it and ask me something next time.

17 CHAIRMAN POLUNSKY: Anything else,
18 Mr. Steen?

19 COMMISSIONER STEEN: No. I think this is
20 very helpful. Thank you, Colonel Clark.

21 CHAIRMAN POLUNSKY: Thank you, Colonel
22 Clark. Let me state that I'm glad that this is being
23 advanced. We did sit on this for a month or two waiting
24 for a couple of things, primarily the progress with
25 respect to the project management office and some other

1 factors, but let me make it very clear that it is the
2 intent of the Public Safety Commission to go forward
3 vigorously in implementing the general recommendations
4 that came out of Deloitte and certainly come forward
5 with a new structure for this department. That will be
6 done and it will be done in a timely manner, and this
7 is -- this is something that, as I mentioned to Colonel
8 Clark when I told him I was putting it on the agenda, I
9 just wanted to put it out for initial discussion and
10 then as we go forward in the next month or two, then
11 this will become much more serious of an issue that
12 we'll start taking action on. So if anyone had the
13 misimpression that this was somehow not going to happen
14 or it no longer was a priority, that is incorrect. This
15 is the highest priority that the Public Safety
16 Commission has at this point. I just wanted to make
17 those brief comments. Thank you very much for the work
18 that you and Colonel Beckworth and others have --

19 COLONEL CLARK: And my chiefs.

20 CHAIRMAN POLUNSKY: Chief -- well, all of
21 the individuals who have contributed to this, thank you
22 very much for the work that has been done so far, and it
23 looks like a very good starting point in what we'll be
24 doing going forward.

25 We've discussed the security measures in

1 executive session.

2 We will go to reports. Budget matters.

3 You've done enough?

4 OSCAR YBARRA: I think so unless you want
5 me to say something up here.

6 CHAIRMAN POLUNSKY: Why don't we just pay
7 you by the hour and make you rich.

8 OSCAR YBARRA: I think that's a
9 compliment.

10 CHAIRMAN POLUNSKY: Division reports. In
11 Administration. Chief Fulmer, do you want to come back?
12 Do you have other --

13 VALERIE FULMER: I'll tell you one brief
14 thing. You've got my report. I do have a continuing
15 concern about concealed handgun licensing. We have had
16 another spike in applications over the last month or two
17 and we are doing our best to keep up with it, but I just
18 want to make the commission aware that it's happening
19 again for reasons unknown and we'll keep up with as best
20 we can. This kind of ties back to what Chief Ybarra was
21 telling you about on the side by sides. We have a
22 request for additional entries in the concealed handgun
23 listening bureau and if we don't get those, it's going
24 to be very difficult for us to keep up with these. I
25 just wanted to make the commission aware of that. But I

1 have nothing else unless you have questions about my
2 report.

3 CHAIRMAN POLUNSKY: Questions?

4 COMMISSIONER BROWN: No, sir.

5 CHAIRMAN POLUNSKY: Thank you, Chief.

6 VALERIE FULMER: Thank you.

7 CHAIRMAN POLUNSKY: Criminal law
8 enforcement. Chief Ruocco.

9 THOMAS RUOCCO: Tom Ruocco, Chief of
10 Criminal Law Enforcement. You got my report. I told
11 you it wouldn't take me long to learn this process.

12 (Laughter)

13 THOMAS RUOCCO: But I do want to bring to
14 your attention on this report we've added a column to it
15 where we're comparing our numbers from last fiscal year
16 to this fiscal year so you could see the month last year
17 where we are and where we are total. And then I will
18 just bring in here on Page 3 it talks about the
19 (inaudible) and the additional systems that we're
20 buying, which we get from federal grant money, which
21 looks very high, but also if you look at the bottom of
22 Page 1, that the backlog without additional FTEs has
23 been going down because of this type of, you know, what
24 they call robots (inaudible) robotics because I just
25 picture robots and with Star Wars days. It's not that

1 kind of stuff. That's all I have unless you have any
2 questions.

3 COMMISSIONER BROWN: I've got a question.
4 So on Page 3, just to make sure I'm understanding this
5 correctly, the CODIS database has now helped solve 52
6 burglaries, 39 sex assaults, eight robberies, eight
7 homicides, four thefts, and so on; is that right?

8 THOMAS RUOCCO: That's correct. From cold
9 cases.

10 COMMISSIONER BROWN: Wow. So those are
11 cases then that you had no suspect until the information
12 was put in CODIS?

13 THOMAS RUOCCO: That's correct.

14 COMMISSIONER BROWN: That's awesome.

15 CHAIRMAN POLUNSKY: Thank you.

16 THOMAS RUOCCO: Thank you.

17 CHAIRMAN POLUNSKY: Driver's license.
18 Chief Brown.

19 JUDY BROWN: I have nothing else to add
20 unless you have questions about my report.

21 CHAIRMAN POLUNSKY: Are there questions
22 for Chief Brown?

23 COMMISSIONER BROWN: I have none.

24 CHAIRMAN POLUNSKY: Thank you. Texas
25 Highway Patrol. Chief Baker.

1 DAVID BAKER: Good afternoon,
2 Mr. Chairman, members. I'm David Baker, Chief of the
3 Highway Patrol. You have my report. I would be glad to
4 answer any questions that you might have about the
5 information contained in the report. I would like to
6 talk to you about a couple of things that are not in the
7 report, the first being an incident that occurred
8 yesterday in Junction. One of my troopers by the name
9 of Mormon turned on a vehicle for a minor speeding
10 violation, 10 miles over the limit. Nothing just
11 terribly out of the ordinary. That traffic stop evolved
12 into a major pursuit incident. The vehicle evaded him
13 for several miles and about five miles south of Menard
14 on US 83, another highway patrol unit and the sheriff
15 set up stinger spikes to stop the pursuit. The evading
16 vehicle dodged the stingers and spikes and in the
17 process ran into the sheriff's vehicle, veered into a
18 pasture through some fences, and when the cavalry
19 arrived to arrest him, he got out of the vehicle and
20 began firing on the officers with a .380 caliber pistol,
21 and the law enforcement officers there immediately
22 returned fire. The suspect took his own life by
23 shooting himself in the head with the pistol that he
24 had. He had a 16-year-old runaway female in the vehicle
25 with him and we believe that that was the reason that he

1 took his life, that he knew that he was facing some
2 serious jail time as a result of those actions. So
3 another incident where a routine traffic stop became
4 very nonroutine.

5 I would like to give you a report on our
6 monthly crash activity. The summaries that we've been
7 doing we -- we have taken action to reduce errors on the
8 eight data points on the crash reports training. This
9 month all of our troopers have received that additional
10 training. We have a few troopers who were absent during
11 the scheduled classes and we are in the process of
12 scheduling those makeup classes. The first month's
13 activity that we looked at, the month of February, our
14 personnel reviewed 4,847 crash reports. Of those
15 reports, 1,532 contained an error in one of those eight
16 data points, and that calculates into an error rate of
17 31.6 percent. When I first saw that number, I was kind
18 of taken aback a little bit, but that indicated to me
19 that there was no brother-in-lawing going on on
20 reporting those errors, and that's one thing that I
21 stress to my supervisors, that I did not absolutely want
22 to see any brother-in-lawing going on. If an error was
23 submitted, I want it counted, and I want to point it
24 out. When the accident report does get to TxDOT into
25 the database, that means it's going to be thoroughly

1 reviewed, and I fully expect the error rate to be much
2 lower the next time OAI goes in and audits those crash
3 reports. And I'll provide the Commission with a monthly
4 report. If it's the will of the Commission, I can
5 include this in the monthly report or just give you a
6 verbal report. Whichever you would prefer.

7 COMMISSIONER STEEN: I would like you to
8 include it --

9 DAVID BAKER: Okay.

10 COMMISSIONER STEEN: -- if that's all
11 right with the rest of the commissioners.

12 COMMISSIONER BROWN: Sure.

13 DAVID BAKER: We can do that. The last
14 thing I have --

15 COMMISSIONER STEEN: Chief, before you go
16 on, I commend you for that, the training you're giving
17 and the way you're approaching it and not trying to push
18 it to the side, but say this is an issue we have and
19 let's get on top of it. I commend you for that.

20 DAVID BAKER: I appreciate it. During our
21 first meeting with the Senate Finance Committee, we were
22 kind of -- it was pointed out to us by the Senate --
23 Senator Whitmire that there was a concern about our
24 patrol cars not having cages. I had already asked my
25 highway patrol equipment committee to do a feasibility

1 study on the cages for our patrol cars. I have a copy
2 of that for each of you. Mr. Chairman, with your
3 permission, I'll just walk y'all through this fairly
4 quickly. The committee looked at four points to
5 determine feasibility. They looked at the officer's
6 safety concerns and our line personnel. They looked at
7 prisoner escapes and the effectiveness of the partitions
8 in preventing escapes. They looked at damage to patrol
9 vehicles caused by prisoners. And they looked at other
10 considerations. Under officer safety, the FBI and the
11 Department of Justice statistics showed that 59,201
12 officers were assaulted in the U.S. and of those 7,347
13 were assaulted while handling, transporting, and
14 maintaining custody of prisoners. That's about 12.4
15 percent. They broke down the 12.4 percent into the
16 categories there that have the double asterisks by it,
17 and the reason those asterisks are there is because
18 those three duties are the duties that our personnel are
19 more involved in. Of course in my division we don't
20 have detectives or special assignments. The majority of
21 (inaudible) personnel that are normally assigned in one
22 of those categories, there were 4,184 officers that were
23 assaulted, and that's only 7 percent of that total
24 number of assaulted officers, which is relatively low.
25 The committee also polled each trooper to get their

1 input on whether they would prefer to have the cage or
2 not and there was an overwhelming response of no, we
3 don't want a cage. It was over a two to one ratio. So
4 they did take the --

5 CHAIRMAN POLUNSKY: And why is that? I
6 know there's probably multiple reasons, but is there one
7 reason in particular that stands out?

8 DAVID BAKER: No, sir. There's no one
9 reason that really stuck out. It is just a combination
10 of when you put a cage in a patrol car, some of our
11 larger troopers are limited on how far back the seat
12 would go. They didn't like that. A lot of the troopers
13 use the backseat for storage, and they didn't like
14 losing that additional space. Some of the troopers even
15 brought up the fact that the partition creates blind
16 spots where they can't see through the rearview mirror,
17 and they thought that that would be a safety concern.
18 Some of those reasons are all pointed out in this
19 report.

20 COMMISSIONER BROWN: Chief, I've got a
21 question for you.

22 DAVID BROWN: Yes, ma'am.

23 COMMISSIONER BROWN: On the 2007 reported
24 escape events from news reports, I'm assuming that --

25 DAVID BAKER: From the Google News

1 reports?

2 COMMISSIONER BROWN: Uh-huh. I'm assuming
3 that's nationwide, correct?

4 DAVID BAKER: Yes.

5 COLONEL CLARK: Chief, where would we put
6 the shotgun?

7 DAVID BAKER: That follows in -- that
8 comes into the other findings. They looked at prisoner
9 escapes and they looked at DPS escapes for three years.
10 2006 through 2008 there were 200 escapes involving our
11 personnel. The way our data is collected, they
12 couldn't -- they couldn't distinguish if the prisoner
13 had already been placed in the car or if during an
14 arrest outside of the car he bolted and ran or something
15 like that. So we don't know exactly the number that was
16 in the car. But --

17 COMMISSIONER BROWN: I'm sorry. I didn't
18 mean to interrupt you.

19 DAVID BAKER: According to the Google News
20 reports, the 2,007 reported escapes, you can see that of
21 those that escaped, there were 364 prisoners that
22 escaped that were in a cage, 11 were in no cages, and 18
23 were unknown. So the reliability and the effectiveness
24 of the prisoner partition systems, they are not without
25 issue. A lot of the -- and then this came up in talking

1 to some of our troopers and it also came up in this
2 Google News report that there is a sense of false
3 security and safety by placing a prisoner in that cage.
4 Some of our troopers who were former police officers who
5 had cages said that, you know, they were lax in
6 searching prisoners when they put them in the cage. So
7 that's another safety issue. They looked at damage to
8 our patrol vehicles and they looked at seven years of
9 statistics and in those seven years, there were only 121
10 instances of criminal mischief involving putting a
11 criminal in a car and that criminal kicking the radio or
12 kicking the radar or kicking the windshield. Also, the
13 other considerations that they looked at, again, by
14 placing a partition system in the vehicles, it
15 effectively reduces the amount of office space. And I
16 use that term "office space" because that is the office
17 for our troopers. And it cuts it in half basically.
18 Again, safety concern for the visibility from within the
19 vehicle. Another safety concern involves crash
20 protection. And I'm just hitting the highlights here.
21 One concern is that with the prisoner partition
22 installed, the air bag may not be able to inflate
23 correctly. That was an issue. There is a pretty
24 substantial physical impact by doing this. We have
25 approximately 1,950 vehicles right now that those things

1 would go in and that does not include the additional
2 vehicles that the legislature will be giving us in the
3 future. The average cost is between \$370 to \$450 for
4 the prisoner partition systems. If we were to contract
5 the installation by an outside entity, we would be
6 looking at about a million and seventy two thousand
7 dollars to do that. And DPS shop said that they could
8 do the installation, and if they were to do the
9 installation, we would be looking at about \$780,000.
10 Colonel, that does not include the shotgun lock that
11 would be compatible with a prisoner partition system.
12 We would be looking at an additional \$325 per unit,
13 which totals up to \$494,000.

14 COMMISSIONER BROWN: A question for you
15 about the shotgun lock. Would that be -- I mean, I'm
16 assuming the shotgun would be accessible to you in the
17 front seat?

18 DAVID BAKER: Yes, ma'am. It would have
19 to be moved up front. Another significant issue is that
20 prisoner partition systems are not generic for any type
21 of vehicle. They are made for certain vehicles. Ford
22 Motor Company tells us that in 2011 that they will no
23 longer make the Crown Victoria as a pursuit vehicle. So
24 that means that if we invest this money, it's about a
25 one year investment, and then in 2012 when we get

1 another type of pursuit vehicle, then we've just scraped
2 a lot of money on those prisoner partition systems. The
3 recommendation of the equipment committee and then my
4 recommendation is that we not look at prisoner partition
5 systems at this time. And with that, I'll close and be
6 glad to answer any questions.

7 COMMISSIONER BROWN: Can you -- you
8 initially gave some numbers about the number of groups
9 on the ground who wanted it and didn't. Can you go --

10 DAVID BAKER: Yes, I can. I have that
11 broken down by --

12 CHAIRMAN POLUNSKY: It's in there.

13 COMMISSIONER BROWN: What page number?

14 DAVID BAKER: The pages are not numbered,
15 but the results of the survey are in there. If highway
16 patrol --

17 CHAIRMAN POLUNSKY: Columns.

18 COMMISSIONER BROWN: Okay. I see it.

19 DAVID BAKER: Do you see that?

20 COMMISSIONER BROWN: Yes, sir. Thank you.
21 Partition survey results. I'll look that over.

22 DAVID BAKER: Okay.

23 COMMISSIONER STEEN: Chief, you studied
24 this because Senator Whitmire brought up the issue?

25 DAVID BAKER: No. Actually I heard some

1 grumbling about we don't have cages and I wanted to just
2 get a little information to see if that's something that
3 we needed to look at. I had asked the captains to start
4 the study before that meeting. It just was
5 coincidental.

6 COMMISSIONER STEEN: Did we want to get
7 back to him at all with the results of this, Colonel?

8 COLONEL CLARK: Well, he's already aware.
9 He approached me and said, Hey, I've done some research
10 on my own and it appears that the majority of the
11 troopers do not want this. He didn't pursue it, but I
12 think it would be good to give him a -- we'll give him a
13 copy of this.

14 COMMISSIONER BROWN: Chief, I have one
15 more question.

16 DAVID BAKER: Okay.

17 COMMISSIONER BROWN: Region 7B, I think
18 it's interesting looking at the chart, they
19 overwhelmingly seem to be a little different than all
20 the other regions in that they overwhelmingly did
21 request it.

22 DAVID BAKER: 7B is the patrol section at
23 the capitol.

24 COMMISSIONER BROWN: Got you. Okay.

25 DAVID BAKER: And they are in a very urban

1 (inaudible) type of environment.

2 COMMISSIONER BROWN: So different needs?

3 DAVID BAKER: Yes.

4 COMMISSIONER BROWN: Thank you.

5 COMMISSIONER STEEN: Chief, I think this
6 is a very good report. I want to pass along my
7 compliments to the Highway Patrol Equipment Committee.
8 David Salmon, chairman, Captain Bill Snyder, and Captain
9 Michael Bradley. They did an excellent job.

10 DAVID BAKER: This was presented to me
11 yesterday during the regional commanders meeting, and I
12 was extremely impressed with their work as well.

13 COMMISSIONER STEEN: I am impressed, too.

14 DAVID BAKER: And I will pass your
15 comments on to them.

16 CHAIRMAN POLUNSKY: Chief, I want to ask
17 you just a question. Brief answer -- you don't need to
18 get in a lot of detail. Nothing to do with this, but
19 could you give me a little historical background as to
20 how the department evolved from the patches -- the
21 different patches? I know that the highway patrol at
22 one point had red patches and CVE had gray patches.

23 DAVID BAKER: Yes, sir.

24 CHAIRMAN POLUNSKY: And now where one
25 wears the same --

1 DAVID BAKER: Everyone has the same patch.

2 I can't tell you, Commissioner, when the original
3 service patches were -- well, I guess in 1968 during
4 that reorganization each service within the highway
5 patrol -- within the old traffic law enforcement
6 division had their own service patch. In 2003, there
7 was a reorganization of the Traffic Law Enforcement
8 Division. It was -- it was -- that name -- that
9 division name was not synonymous of the work that the
10 troopers in that division did. They are not speed cops.
11 And traffic law enforcement gives the connotation or it
12 sounds like that's what they do is speed cops. Our guys
13 do a lot more than that, as you are fully aware of. Not
14 only do we enforce traffic laws, we enforce criminal
15 laws and lots of other types of duties. In 2003, the
16 chief of the division at that time put a plan together
17 to rename the division and to consolidate some of the
18 services so that we just have two services in the
19 division, highway patrol service and commercial vehicle
20 enforcement, and put them all under the same patch.

21 CHAIRMAN POLUNSKY: And people are happy
22 with that?

23 DAVID BAKER: As far as I know, they are.
24 You've got your die-hard red patchers and then your old
25 license and weight troopers who like that gray patch.

1 I've not heard any comments from any of the troops
2 about --

3 CHAIRMAN POLUNSKY: It was just -- no one
4 has said anything to me either, but I just wondered why
5 that happened.

6 DAVID BAKER: I have a copy of that
7 reorganizational study if you would like to have a copy
8 of it.

9 CHAIRMAN POLUNSKY: If there's one
10 floating around. I mean, it's not super urgent or
11 anything like that.

12 DAVID BAKER: This patch is a lot prettier
13 than that old red patch.

14 CHAIRMAN POLUNSKY: It's got a lot going
15 on it. That's for sure.

16 DAVID BAKER: Yes, sir.

17 CHAIRMAN POLUNSKY: Okay. Thank you very
18 much.

19 DAVID BAKER: Thank you.

20 CHAIRMAN POLUNSKY: IMS. Chief Lane.

21 BRYAN LANE: Bryan Lane, Chief of IMS.
22 Mr. Chairman, members, I plan to give you a brief update
23 on the disaster recovery process as we move forward. To
24 date we've reviewed our current disaster recovery
25 contract with our vendor, and we're working with Chief

1 Platt's office. We're looking at opportunities to tweak
2 that contract where it's more appropriate for our
3 current configurations on our system. Additionally, we
4 have visited -- we have toured four different facilities
5 in the Central Texas region looking at where we can
6 locate our disaster recovery hardware equipment,
7 including our network infrastructure. All four of these
8 facilities are very interested in our business and are
9 doing everything they can to provide us an opportunity
10 to join in with them. One of the four is a city owned
11 disaster recovery site that houses not only the City of
12 Austin Police Department and Travis County Police
13 Department, but also TxDOT. So we're engaged in four
14 different conversations there as we look at
15 opportunities. We've had a committee or a cross
16 functional team that's been working also towards
17 identifying the fundamental disaster capabilities that
18 we would need as quickly as we can stand those up. We
19 received a response to our request from the vendor this
20 week that has shown us that we have some significant
21 challenges around the budgetary outlays for the disaster
22 site. We took that forward to the IT board, which is,
23 as you know, the governing body of the division chiefs
24 and the colonels, who reviewed that, and based on the
25 design that was provided by the group of vendors and

1 business requirements, we have determined that we just
2 don't -- we're not getting enough for our money, to be
3 very blunt. The functionality that they were going to
4 be able to provide us for about double our budget outlay
5 was not going to meet the requirements of the division
6 chiefs and their missions on a day-to-day basis if we
7 did in the event had a disaster. In a disaster recovery
8 scenario, one of the first things you do is a business
9 impact analysis, which helps you identify the
10 requirements of each of your major divisions or your
11 operating divisions on what they need in the event of a
12 disaster. We have a second proposal due today to us on
13 that. We've had one proposal from -- I believe that's
14 about two months old. And it's my recommendation that
15 we continue to look at our network configuration and our
16 lease site where we will actually store our equipment
17 and be able to respond to and drive through the business
18 impact analysis so that we ensure that we have a full
19 understanding of where we need to be before we put the
20 cart in front of the horse, if you will, and go out and
21 drop funds into a solution that doesn't meet our
22 requirements or needs. That said, the business impact
23 analysis is estimated to be able to be completed within
24 30 to 45 days once we sign the contract. Both the
25 vendors that have responded so far are in the DIR and Go

1 DIRect contracting capabilities. So that's not an RFP
2 scenario. We can actually go directly with a purchase
3 order if we find their statement of work and their
4 proposal to be acceptable. That concludes my update.
5 I'm happy to answer questions.

6 CHAIRMAN POLUNSKY: Questions?

7 COMMISSIONER STEEN: No questions.

8 CHAIRMAN POLUNSKY: Thank you.

9 BRYAN LANE: Thank you.

10 CHAIRMAN POLUNSKY: Texas Rangers. Chief
11 Leal.

12 COMMISSIONER STEEN: Mr. Chairman, I think
13 we have moved on in the agenda and so maybe if we could
14 put the second page up there.

15 CHAIRMAN POLUNSKY: I'm sorry? Oh. Well,
16 I -- that's probably my fault. I've been bouncing
17 around there.

18 COMMISSIONER STEEN: Thank you.

19 CHAIRMAN POLUNSKY: Chief.

20 TONY LEAL: Tony Leal, Texas Rangers.
21 Chairman, Commission, we have our report there and
22 worked quite a few murders since our last meeting.
23 We've been involved in a lot of capital murder
24 investigations. There are two things I wanted to point
25 out to you that aren't on this report. I had

1 something -- I've been in the rangers 15 years and I've
2 talked to rangers that have been in the rangers over 25
3 years who had never heard of this happening. We have a
4 ranger at each one of the executions in Huntsville to
5 witness it, write a report on it, and make sure
6 everything went well. It's just a policy with TDCJ as a
7 witness to their execution. Well, an inmate that was
8 being executed earlier this month started talking to the
9 ranger during the deal and then they went in another
10 room and read him his rights because he was in custody
11 and he confessed to two murders in San Antonio that were
12 20 years old.

13 COMMISSIONER BROWN: Wow.

14 TONY LEAL: We got -- we kind of -- I
15 don't know how legal it was, but we -- it doesn't really
16 matter. The guy is dead. But we postponed the
17 execution for a little bit and took a confession from
18 him on both those murders, a guy in desperation type
19 statement, and then contacted our cold case rangers in
20 San Antonio, who contacted the San Antonio Police
21 Department, and they matched up the murders to the
22 murders that this guy was talking about. One to a woman
23 that he had worked with in a Stop-N-Go that he had
24 murdered and then another violent type episode on the
25 road where he had beat someone to death and they still

1 had those two -- you know, he was able to provide enough
2 information in his confession where he said these are
3 those two cases. So it cleared those two old murders.
4 And I just had never heard of that happening on death
5 row before. They will say they are sorry or not.

6 On another note, we had been working on a
7 murder out of Waller County. That's out of Houston. We
8 knew it was a dump murder and could tell it was
9 execution murder and here -- and I won't go into great
10 details. Some of it is still open. But when we went to
11 the house to arrest one of the three suspects, there at
12 the house, among other people, was a Mexican policeman
13 with his Mexican credentials from Mexico who we think is
14 part of one of the cartel enforcers working in the
15 Houston area as part of the organized crime initiatives
16 that we have going on. So it is a border problem, but
17 it is a Houston problem and a San Antonio problem and a
18 Dallas problem and the rest of the state problem also
19 and I think we're going to continue to see that. That's
20 what I have. Do you have any questions?

21 COMMISSIONER BROWN: I just have a
22 question. Do you know the name of the unit where the
23 inmate was --

24 (Laughter)

25 CHAIRMAN POLUNSKY: (Inaudible). I'll

1 tell you where it was. It was the Huntsville unit.

2 TONY LEAL: The Walls Unit is where they
3 put him down. Polunsky just fattens them up.

4 (Laughter)

5 CHAIRMAN POLUNSKY: The gourmet cooking
6 there. Thank you for that insightful question.

7 COMMISSIONER BROWN: You're welcome.

8 CHAIRMAN POLUNSKY: Emergency management.
9 Chief Colley.

10 JACK COLLEY: Good afternoon,
11 Mr. Chairman, Commissioners. Jack Colley, Chief of
12 Emergency Management Division. We had a pretty active
13 week. We finished our annual homeland security
14 conference in San Antonio. We had 4,263 attendees, plus
15 we had -- we opened it up to volunteer organizations and
16 we had another 565 members of volunteer organizations.
17 So we had about 4,800 attendees over a five day period,
18 about 300 workshops, and in our estimation it was very
19 successful. We also unveiled our new mobile command
20 center to the department. This is a very high tech
21 capability the department now has to literally move the
22 state operations center anywhere in Texas and conduct
23 operations just like we do anywhere else. A typical day
24 in Texas. We've got tornados in Corpus, wildfires in
25 East Texas, we have a blizzard that's fixing to happen

1 in the Panhandle tonight. So we're working all of those
2 right now. We had 254 counties declared by the governor
3 a disaster for drought and about 208 counties declared
4 for wildfires. The governor is in -- he was supposed to
5 meet Secretary (inaudible) today. She did not come
6 and -- but the governor went ahead and went on the visit
7 to the Ike area, if you will, and met with local
8 officials there. We have some significant appeals in to
9 FEMA. I think you're aware of they have major financial
10 impact on communities and that is the appeal to extend
11 debris removal at a hundred reimbursement for six months
12 for these counties on the coast. If that is not
13 approved, then that goes to a 75/25 percent, 25 percent
14 local, 75 percent federal. They don't have the 25
15 percent. So that will -- places like (inaudible) and
16 Chambers County, that will have a significant impact.
17 So the governor is -- obviously has a lot of interest in
18 that appeal right now to get that approved. We continue
19 to support, as Michael said, any number of efforts in
20 legislation. I guess there's good news and bad news,
21 however you want to look at it, but I'm very encouraged.
22 This is the first time since I have been here that there
23 has been so much interest in emergency management and
24 what we do. It may be a good bill or a bad bill, but
25 it's a bill in terms of what we do. The two ticker

1 bills I mentioned is House Bill -- or Senate Bill 985 by
2 Senator Davis and Senate Bill 1474 by Senator Nichols,
3 which impacts on employees. One lifts the ban on the
4 current cap on hotel/motel during a disaster and allows
5 us to use all facilities, just not those that meet
6 that -- many times in a disaster people will not give
7 you the state rate and you have to -- and it has an
8 impact on our responders. The other one is Senator
9 Nichols 1474, which will allow our employees who accrue
10 comp time to extend that out 18 months versus a year and
11 also it will allow the (inaudible) DPS at his discretion
12 during a declared disaster to allow us to pay overtime
13 for comp time, which in many of these disasters is
14 reimbursable from the federal government. So we're very
15 encouraged by that because there's a lot of support to
16 get those through. Mr. Chairman, that concludes my
17 report.

18 COMMISSIONER BROWN: That reminds me of
19 something. Who is it that I need to talk about -- I
20 have some questions about -- generally, not specific to
21 your department -- overtime and comp time use? Who
22 would be my go-to guy on that or gal?

23 COLONEL CLARK: Paula Logan.

24 COMMISSIONER BROWN: Got you. Thanks.

25 CHAIRMAN POLUNSKY: I had the opportunity

1 to take a tour of the mobile command center in San
2 Antonio. Pretty amazing. I think everyone should
3 examine that piece of equipment or actually a couple of
4 pieces. It's really state of the art, and it's
5 something the state should be proud of, and y'all did a
6 great job in putting that together.

7 JACK COLLEY: Thank you, Mr. Chairman.

8 CHAIRMAN POLUNSKY: And beyond that, the
9 conference itself from what I briefly saw and what I
10 heard was as usual a great success. So great job there
11 as well.

12 JACK COLLEY: Thank you, sir.

13 CHAIRMAN POLUNSKY: The next item would be
14 consent items. Are there any items anybody would like
15 to pull for individual discussion?

16 COMMISSIONER STEEN: What is Item A about?

17 STUART PLATT: Mr. Steen, when -- on
18 February 19th when (inaudible) Clark was moved in
19 interim to director status, he had several individuals
20 who were in an interim status as well or temporary
21 appointment status. The provisions of the Government
22 Code 411.006 state that he may appoint with the advice
23 and the consent of the commission the head of the
24 division or bureau provided for under the chapter.
25 Thereafter he provided letters appointing Lieutenant

1 Colonel Lamar Beckworth as assistant director, Chief
2 Valerie Fulmer as admin chief, assistant chief -- Sandra
3 Fulenwider as assistant chief, and Chief David Baker for
4 THP, assistant chief, Luis Gonzalez for HPD, chief
5 pilot, Phil Nabors, and assistant chief pilot, John
6 Brannon. So those letters were provided to them, and
7 it's on here as a consent item simply because the
8 statute says it's with the advice -- with the
9 appointment and consent of the commission.

10 COMMISSIONER STEEN: Thank you. Colonel
11 Clark, anything on here we ought to be concerned about?

12 COLONEL CLARK: No, sir. As a side note,
13 just FYI, at our April promotional ceremony I will
14 formally recognize the chiefs now that they've had their
15 interim tag removed. We'll have a little promotional
16 ceremony for them and express my gratitude for their
17 hard work. The other consent items just concern some
18 discharges of employees, most of them job abandonment,
19 probationary employees. They have no rights of appeal.
20 And the Special Rangers, they've all been -- they are
21 qualified to be Special Rangers recommended by their
22 previous supervisors. No problems with any of them.

23 COMMISSIONER STEEN: And then the last
24 item?

25 COLONEL CLARK: The proposed rules, no

1 problems with those. David, you might want to mention
2 those.

3 DAVID BAKER: David Baker, Chief of
4 Highway Patrol. Mr. Steen, these proposed rules are
5 just a cleanup to the Administrative Code. DPS used to
6 have the responsibility of accident reports. That duty
7 was transferred to TxDOT and we're just cleaning up our
8 administrative rules and remove that from our
9 responsibility.

10 COMMISSIONER STEEN: Thank you for that
11 clarification. Then I move for adoption of the consent
12 items as a group.

13 CHAIRMAN POLUNSKY: Is there a second to
14 Mr. Steen's motion?

15 COMMISSIONER BROWN: Second.

16 CHAIRMAN POLUNSKY: Seconded by Ms. Brown.
17 The motion is to approve all of the items under the
18 consent item section. Discussion? There is no
19 discussion. All in favor, please say "aye." Any
20 against, "no." Motion passes unanimously.

21 The next item would be items for future
22 agendas. Anybody have any items that they want to put
23 forth at this time for next month's agenda or any agenda
24 thereafter?

25 COMMISSIONER BROWN: I would like on the

1 next agenda to have some discussion about or some
2 information presented about the amount of comp time
3 that's actually redeemed to be under overtime policies.

4 CHAIRMAN POLUNSKY: Okay. Dorothy, could
5 you make note of that, please. Anything else?
6 Mr. Steen?

7 COMMISSIONER STEEN: No.

8 CHAIRMAN POLUNSKY: Okay. Date for future
9 meetings. Any problem with the usual -- the unusual or
10 usual date?

11 COLONEL CLARK: The 16th?

12 CHAIRMAN POLUNSKY: The 16th will be our
13 next meeting.

14 COMMISSIONER STEEN: Mr. Chairman, before
15 we adjourn, Colonel Clark, thank you for doing this. I
16 think we're making a lot of progress in terms of being
17 very public friendly here. I would hope that as we move
18 forward we have more and more reports that are sort of
19 PowerPoint presentations where we can have more
20 information up on the screen as we move along in the
21 meeting. Just something to strive for.

22 COLONEL CLARK: Bryan did a good job of
23 putting this together. We'll continue to work on it.
24 First time out, I'm pretty pleased with it.

25 COMMISSIONER STEEN: I am, too. Thank

1 you.

2 COLONEL CLARK: I may have to borrow a
3 little more money from Tony to put one more monitor. We
4 need one right there for Don Dickson.

5 DON DICKSON: I couldn't see it anyway.

6 COLONEL Clark: But I think seriously we
7 may want to put one more for that side of the room
8 because y'all are having to look across.

9 COMMISSIONER STEEN: Well, I've noticed
10 that as we put things up, it seems like you-all in the
11 audience were looking at it and I think it -- I hope it
12 was helpful to you.

13 COLONEL CLARK: Before I say that, once --
14 I know we have classes in here. Does that pivot, Bryan?
15 Disregard.

16 BRYAN LANE: The commission doesn't have a
17 view.

18 COLONEL CLARK: Well, I'm talking about
19 when we use it for classes.

20 BRYAN LANE: It will move.

21 CHAIRMAN POLUNSKY: Anything else?

22 COMMISSIONER BROWN: No.

23 CHAIRMAN POLUNSKY: The Texas Public
24 Safety Commission is now adjourned for this meeting.
25 The time is 5:34 p.m. Thank you.

1 THE STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3
4
5 I, Lisa Minister, Certified Shorthand Reporter in
6 and for the State of Texas, do hereby certify that the
7 above and foregoing contains a true and correct
8 transcription of my stenographic notes taken in the
9 above-captioned cause at the Texas Public Safety
10 Commission meeting in Austin, Texas
11

12 Witness my hand this 13th day of April, 2009.
13
14
15

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IN THE MATTER OF § BEFORE THE

THE DISCHARGE OF § PUBLIC SAFETY COMMISSION

PROBATIONARY EMPLOYEES § IN AUSTIN, TRAVIS COUNTY, TX

BEFORE THE

PUBLIC SAFETY COMMISSION

Allan B. Polunsky, Chairman
Public Safety Commission
Date: March 26, 2009

**TEXAS DEPARTMENT OF PUBLIC SAFETY
FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 2/20/2009

Division/Service/Section making request: THP

Project Manager David Baker 512/424-2110
Name Contact Number

Description of Item(s) requested (attach request memo): 4 400Kw Portable Back-up Emergency Generator

Describe Overall Impact of Request: To provide emergency back-up power during outages from natural disasters such as hurricanes and flooding.

Equipment Location:

Mark one - Field Headquarters BOTH x

Estimated Cost of this Request: 4@ \$148,000 \$592,000.00

RECOMMENDATION OF COMMITTEE

APPROVED x Fund No. _____
NOT APPROVED Budget No. _____
Control No. _____

ITD No. _____ Capital Project No. _____
Does this project have Capital Items? ☐ Yes ☐ No
(attach price list for Capital Items)

Reason if NOT Approved:

Thomas D. Ruess 2/26/09
Committee Chair Date
James Beckworth Lt. Col. 3/2/09
Director Date
Don D. [Signature] 3/26/09
Public Safety Commission Date

BM

TEXAS DEPARTMENT OF PUBLIC SAFETY

Request for Forfeited Funds

Date: 11-10-08

Division/Service/Section making request:

Texas Highway Patrol

Description of Item requested (list only one type item per request):

400Kw Portable Back-up Emergency Generator

Justification/Need for requested items (include additional pages, if necessary):

The Department has experienced a number of power outages over the years in different locations from natural disasters. The outages have been from both hurricanes and flooding. Severe weather is always a threat. The citizens of the State of Texas depend on the Department of Public Safety to bring stability back in the impact zones as soon as possible.

The world we live in today leaves us faced with the possibility of an act of terrorism in the State of Texas. If the loss of power occurred from a Terrorist Act the Department would be in a much better position to respond if portable generators are available.

Quantity requested (if applicable):

4

Unit cost:

\$148,000

Estimated total cost:

\$ 592,000

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**TEXAS DEPARTMENT OF PUBLIC SAFETY
FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 2/20/2009

Division/Service/Section making request: ADMINI

Project Manager Valerie Fulmer 512/424-2100
Name Contact Number

Description of Item(s) requested (attach request memo): 4 Generators for Houston, Corpus Christi,
McAllen and Beaumont

Describe Overall Impact of Request: Generators for these areas that are often impacted by emergencies when
hurricanes make landfall along the Texas Coast

Equipment Location:

Mark one - Field ☒ Headquarters ☐ BOTH ☐

Estimated Cost of this Request: \$1,152,000.00

RECOMMENDATION OF COMMITTEE

APPROVED ☒ Fund No. _____
NOT APPROVED ☐ Budget No. _____
Control No. _____

ITD No. _____ Capital Project No. _____
Does this project have Capital Items? ☐ Yes ☐ No
(attach price list for Capital Items)

Reason if NOT Approved:

Thomas P. Russo 2/26/09
Committee Chair Date

Lamar Berberoth Lt. Col. 3/2/09
Director Date

[Signature] 3/26/09
Public Safety Commission Date

TEXAS DEPARTMENT OF PUBLIC SAFETY

REQUEST FOR FORFEITED FUNDS

Date: 12-11-08

Division/Service/Section requesting funds:

Administration/Staff Support Service/Building Program Bureau

Description of Item requested (list only one type item per request):

Generators for Houston, Corpus Christi, McAllen, and Beaumont offices

Justification/Need for requested item (include additional documentation, if necessary):

The Houston, Corpus Christi, McAllen, and Beaumont offices are critical operations centers for emergencies along the coastal area. These offices, however, are often impacted by the emergencies for which they must respond. When a hurricane makes landfall along the Texas Coast, these offices are generally without electricity, sometimes for extended periods, which severely hampers the response and recovery efforts. Emergency electrical power is needed to better direct response and recovery actions and to provide a safer, more hygienic environment for the personnel working the emergencies. Permanent (fixed) generators are requested for these offices to meet the electrical power needs. Emergency power at these offices is a high priority for the Public Safety Commission.

Quantity requested:4

Unit cost:.....Varies

Estimated TOTAL cost:.....\$1,152,000.00

Cost Breakdown:

Beaumont	\$222,000
Corpus Christi	\$240,000
McAllen	\$230,000
Houston	\$460,000
Total	\$1,152,000

**TEXAS DEPARTMENT OF PUBLIC SAFETY
FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 2/20/2009

Division/Service/Section making request: IMS/THP/ADMIN

Project Manager Bryan Lane
Name

512/424-7760
Contact Number

Description of Item(s) requested (attach request memo): Sergeant Area Office Connectivity Upgrade

Describe Overall Impact of Request: Replaces obsolete hardware and accessed remotely

Equipment Location:

Mark one - Field Headquarters BOTH x

Estimated Cost of this Request: \$836,842.00

RECOMMENDATION OF COMMITTEE

APPROVED x

NOT APPROVED

Fund No. _____

Budget No. _____

Control No. _____

ITD No. _____ Capital Project No. _____

Does this project have Capital Items? ☐ Yes ☐ No
(attach price list for Capital Items)

Reason if NOT Approved:

Thomas P. Lewis
Committee Chair

2/24/09
Date

Lamar Berkworth Lt. Col.
Director

3/2/09
Date

Walter D. ...
Public Safety Commission

3/26/09
Date

TEXAS DEPARTMENT OF PUBLIC SAFETY
REQUEST FOR FORFEITED FUNDS

Date: 12/1/08

Division/Service/Section making request:

THIS IS A JOINT PROJECT INVOLVING IMS, BPB, AND THP.

Description of Item requested (list only one type item per request):

\$ 1,836,842.00 required for Completion of the Remote Sites and Sgt Areas

Justification/Need for requested items (include additional page, if necessary):

DIR Controlled Penetration Tests and OAI Audits have documented the need for these hardware upgrades. In addition, failure rates have contributed to the critical need to replace failing hardware on a planned and accelerated basis.

1. Required router replacements of obsolete hardware
2. Required replacements of security vulnerable wireless routers
3. New hardware can be remotely administered.

Quantity requested (if applicable):

n/a - See attached Spreadsheets

Unit cost:

n/a - See attached Spreadsheets

Estimated total cost:

\$1,836,842.00

Amount Available from Technology Refresh Budget

\$1,000,000.00

Requested from Forfeited Funds:

\$ 836,842.00

**TEXAS DEPARTMENT OF PUBLIC SAFETY
FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 2/20/2009

Division/Service/Section making request: THP

Project Manager David Baker
Name

512/424-2110
Contact Number

Description of Item(s) requested (attach request memo): DUO Dote Injector

Describe Overall Impact of Request: Replaces Mark I Kits for Weapons of Mass Destruction Bags. Injectors are the antidote for Sarin, VX or Soman Nerve Agents. Replace for all commissioned officers within the Dept.

Equipment Location:

Mark one - Field Headquarters BOTH x

Estimated Cost of this Request: \$419,328.00

RECOMMENDATION OF COMMITTEE

APPROVED x

NOT APPROVED

Fund No. _____

Budget No. _____

Control No. _____

ITD No. _____ Capital Project No. _____

Does this project have Capital Items? ☐ Yes ☐ No
(attach price list for Capital Items)

Reason if NOT Approved:

Thomas S. Russo
Committee Chair

2/24/09
Date

Lamar Berkworth Lt. Col.
Director

3/2/09
Date

[Signature]
Public Safety Commission

3/26/09
Date

DM

TEXAS DEPARTMENT OF PUBLIC SAFETY

Request for Forfeited Funds

Date: 11-10-08

Division/Service/Section making request:

Texas Highway Patrol

Description of Item requested (list only one type item per request):

Duo Dote Injector (currently on State Contract)

Justification/Need for requested items (include additional pages, if necessary):

The current WMD Bags have (3) Mark I Kits in them. The expired Mark I Kits will be replaced with Duo Dote Injectors. The Duo Dote Injectors are the antidote for Sarin, VX, or Soman nerve agents. The 9,100 requested will account for all commissioned officers within the Department who have expired Mark I kits. Duo Dotes have a three year manufactures expiration.

Quantity requested (if applicable): 9,100

Unit cost: \$46.08

Estimated total cost: \$ 419,328

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