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OPEN MEETING

PUBLIC SAFETY COMMISSION

JULY 17, 2008

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On the 17th day of July, 2008, the following  
meeting was held in Austin, Travis County, Texas.

<p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 COMMISSIONERS OF THE PUBLIC SAFETY COMMISSION:</p> <p>5 Allan B. Polunsky, Chair</p> <p>6 C. Tom Clowe</p> <p>7 Elizabeth Anderson</p> <p>8 Carin Mary Barth</p> <p>9 DIRECTOR'S STAFF OF THE DEPARTMENT OF PUBLIC SAFETY:</p> <p>10 Colonel Thomas A. Davis, Jr.</p> <p>11 Lt. Colonel David McEathron, Assistant Director</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 months I have made a number of requests regarding</p> <p>2 administrative matters. To the Department, let me note</p> <p>3 that I'm not asking about ongoing criminal</p> <p>4 investigations in which you have an exemption by State</p> <p>5 law.</p> <p>6 I've had the experience repeatedly in which</p> <p>7 I've asked for e-mails, memoranda, administrative flow</p> <p>8 of funds, matters of this kind in which I've been told</p> <p>9 that there is no documentation existent. I've</p> <p>10 complained to your General Counsel's office. I've been</p> <p>11 told that the situation or the -- the procedure as it</p> <p>12 exists at DPS is the General Counsel sends out on</p> <p>13 e-mail, I imagine, to the responsive Department and it's</p> <p>14 up to the individual commanders to respond to say, we</p> <p>15 have this or that or whatever.</p> <p>16 In each case, there's been -- I've give you</p> <p>17 a quick example. I asked for documentation regarding</p> <p>18 your fusion centers in which you have received a grant</p> <p>19 from the Governor's office of several hundred-thousand</p> <p>20 dollars. I was told -- I wanted to know about staffing,</p> <p>21 purposes, issues, what the purpose of the fusion center</p> <p>22 was, cooperation agreements, things like this.</p> <p>23 I was told by your General Counsel -- I was</p> <p>24 referred by your General Counsel to a website of fusion</p> <p>25 centers and given a CD from the Justice Department, not</p>
<p style="text-align: right;">3</p> <p>1 MR. POLUNSKY: Ms. Anderson.</p> <p>2 MS. ANDERSON: Here.</p> <p>3 MR. POLUNSKY: Ms. Barth.</p> <p>4 MS. BARTH: Here.</p> <p>5 MR. POLUNSKY: Mr. Clowe.</p> <p>6 MR. CLOWE: Present.</p> <p>7 MR. POLUNSKY: I am present. Let the record</p> <p>8 show that the entire Texas Public Safety Commission was</p> <p>9 in attendance this morning. The Texas Public Safety</p> <p>10 Commission is called to order in the course of Chapter</p> <p>11 551 of the Texas Government Code, the Open Meetings Act.</p> <p>12 The quorum of the Commission is present and the meeting</p> <p>13 is now declared open. It is approximately 9:34 a.m.</p> <p>14 First item on the agenda is Public Comment.</p> <p>15 Is there anyone here who would like to provide a public</p> <p>16 comment at this time? Yes, sir. Please identify</p> <p>17 yourself, and we will limit the public comment to five</p> <p>18 minutes.</p> <p>19 LUCIOUS LOMAX: Yes, sir. Mr. Chairman,</p> <p>20 colonels, commissioners, my name is Lucious Lomax. I'm</p> <p>21 a freelance writer here in Austin. I'm a former staff</p> <p>22 reporter for the Chronicle and the Statesman and a</p> <p>23 number of other publications.</p> <p>24 I'm coming to you today to complain about</p> <p>25 Open Records compliance by the Department. In recent</p>	<p style="text-align: right;">5</p> <p>1 propaganda, a public relations CD from the Justice</p> <p>2 Department about fusion centers, but was told there was</p> <p>3 no written documentation regarding these centers, which</p> <p>4 I find a little hard to believe.</p> <p>5 Recently I requested -- I was curious</p> <p>6 because a few years ago when I was covering the</p> <p>7 Department for the Chronicle, I believe Chairman Francis</p> <p>8 was here at that time. I complemented -- I came to a</p> <p>9 meeting, just as I am now, and complemented the</p> <p>10 Department on its compliance with the Texas Public</p> <p>11 Information Act.</p> <p>12 I realize now that I was mistaken. If you</p> <p>13 ask anything in any real detail here, you get no</p> <p>14 answers. You get no documentation. The Department</p> <p>15 doesn't write anything down.</p> <p>16 I'm here today because I wanted to -- I</p> <p>17 checked with the Attorney General's Office. I've also</p> <p>18 consulted with county prosecutors. I wanted to make</p> <p>19 sure that you, the members of the Commission, the</p> <p>20 colonels and the individual commanders are aware that</p> <p>21 you have only limited options in regard to the TPIA</p> <p>22 request.</p> <p>23 You can -- If you have a -- an exemption</p> <p>24 from the Attorney General or from legislation, ongoing</p> <p>25 criminal investigation, you still have to inform me or</p>

<p style="text-align: right;">6</p> <p>1 whoever the requester is that documentation exists, you  2 believe you have an exemption, and go to the Attorney  3 General's Office. But it is not the purview of your  4 commanders to say that there's nothing there or we're  5 not going to give them.  6 This is official misconduct. It is a  7 misdemeanor by State law, and I'm here to remind you of  8 that. I will be turning in an Open Records request to  9 get a copy of today's tape so that it's clear that this  10 has been brought to your attention, brought to the  11 attention of the commanders who are present in this  12 room.  13 As I said, I have discussed this with county  14 prosecutors. It's -- it's inappropriate. This is the  15 worst compliance I've seen. I've been a reporter in  16 Austin since I came to the Statesman in 1977. This, in  17 the recent months, has been the worst compliance with  18 Open Records that I've ever seen in that time. That's  19 the nature of my comment. Do y'all have any questions?  20 MR. POLUNSKY: We may have a few. You write  21 for a newspaper or --  22 LUCIOUS LOMAX: I'm a freelancer now.  23 MR. POLUNSKY: Okay. And who have you  24 furnished these requests to?  25 LUCIOUS LOMAX: Your General Counsel's</p>	<p style="text-align: right;">8</p> <p>1 DPS for any Open Records request. And I believe if you  2 will read beneath -- or between the lines, what  3 they're -- this is an attempt to charge me and scare me  4 off from an Open Records request so that I don't go  5 through with it. Which, I might add, is contrary to  6 statute as well.  7 MR. POLUNSKY: Does the legal staff wish to  8 respond to any of this?  9 DUNCAN FOX: We could -- as far as  10 information we can provide to you, the number of  11 complaints, if the Commission would like to have that.  12 Part of the response, there is -- the Attorney General's  13 Office does maintain the record of all complaints which  14 are filed on -- that are submitted on Open Records, and  15 that is an available resource where he could contact the  16 Attorney General if the complaints that were filed --  17 if -- to the extent there are.  18 The Department, to my understanding, we do  19 not in our office maintain the specific file of  20 complaints that we'd have to process. They are  21 contained individually in -- with the individual files  22 that we have. So the cost that was identified was  23 because of the required searching of the individual  24 files. And that cost time would be -- and to spending,  25 I think we calculated about four days to do the research</p>
<p style="text-align: right;">7</p> <p>1 office. I also -- I've been dealing with a Ms. Pamela  2 Smith who is an assistant General Counsel. She was the  3 one who referred me to a website. I've had a number of  4 Open Records requests in recently. You know, I don't  5 have an issue -- I realize you all have -- must have  6 millions of requests. If there's a time problem,  7 something like that, I'll work with you. I'm not -- I'm  8 not trying to be unreasonable. I know this Department  9 has a lot of things going on.  10 But I even got Mary Ann Courter on the phone  11 a couple -- right before I, guess, she left the  12 Department. And I said, you know, Mary Ann, this is the  13 problem. And I requested, I think I said a couple weeks  14 ago -- just -- I wanted to see how many complaints there  15 have been about Open Records compliance.  16 And this is an interesting thing. I was  17 told -- I asked -- from January of 2006 to now, two-year  18 period, I was told by your new General Counsel's office  19 that in order for me to get that information I would  20 have to pay \$720, I believe, for the Department to  21 search to find out if they've had any complaints of Open  22 Record compliance in recent month -- in the last two  23 years.  24 I mean, that's -- I believe if you read the  25 statute -- this is the most I've ever been asked for for</p>	<p style="text-align: right;">9</p> <p>1 and going through the files to look for the complaint.  2 And that is the legal charge and -- but it  3 is also something that if he believes is inappropriate,  4 he can submit a complaint to the Attorney General. The  5 Attorney General has a process and procedure for  6 investigating.  7 LUCIOUS LOMAX: I'm sorry, I'm at a  8 disadvantage. You're the new General Counsel; is that  9 correct?  10 DUNCAN FOX: No, sir, I'm the Deputy General  11 Counsel acting as the Acting General.  12 LUCIOUS LOMAX: If I may note,  13 commissioners, what he's saying is on the surface  14 correct, but I was not referred to the Attorney  15 General's. You know, when the public addresses a  16 request to your agency, I don't know what the -- the  17 standards are or how -- I did not know that the Attorney  18 General maintains this. And I was not informed in my  19 letter -- in your letter that the Attorney General  20 maintains this information.  21 This was an effort to get me off that issue,  22 and that was plain -- that was plain in the letter. You  23 know, the problem is you're not -- you're not  24 communicating and you're not providing documentation.  25 Part of my difficulty is with the General Counsel's</p>



<p style="text-align: right;">10</p> <p>1 office. But the major part of my difficulty is with  2 your commanders, who seem to believe, as I'm  3 understanding the system, that they don't have to reply  4 to Open Records requests, that this is information that  5 is somehow -- because this is a police agency that this  6 is somehow information that is protected.  7 It is protected if I'm asking about a --  8 ongoing criminal investigation. And there may be other  9 exemptions as well as regard to the Texas Homeland  10 Security Act. And I have no problem with that. I'm not  11 going to win that argument in front of the Attorney  12 General or in the courts.  13 But when it's regarding flow of employees,  14 policies, procedures -- I asked what a pen register -- a  15 pen room is. It's apparently -- and this -- I obtained  16 the information elsewhere, because I saw a reference in  17 the bond issuance that you all had requested a pen room  18 and an undercover telephone room at a new facility in  19 Hidalgo County.  20 I asked your Public Information office what  21 this was and they said it's an investigative tool. I  22 did an Open Records request, I got no information. You  23 know, any time -- the courts have ruled repeatedly that  24 anything regarding an expenditure of public funds is  25 open record. You can't say that is a protected piece of</p>	<p style="text-align: right;">12</p> <p>1 to get somebody put in jail.  2 The TPIA -- this state has the strongest  3 Open Records Act in the country. Stronger even than the  4 Federal Freedom of Information Act. And, you know, the  5 role of this agency is not just to enforce the law, it's  6 to obey the law. And I think there seems to be some  7 disconnect in this regard.  8 The last thing I wanted to say was to speak  9 as a citizen. As I said, I was here for the Statesman  10 20-odd years ago when Bill Clements was in office. And  11 although I had political problems with him as well, I  12 will say that when the Department was in turmoil, as it  13 appears to be now, they went out -- out of the agency  14 for leadership. And I thought that that might be  15 something that the -- the Department might want -- want  16 to look at.  17 But that's the nature of my comments. If I  18 can answer anything else, I'd be glad to, or speak to  19 anyone outside of the office. I don't want to give you  20 all a hard time, and I know what is a difficult time for  21 the Department, but this is something that just can't go  22 on.  23 MR. POLUNSKY: Thank you, Mr. Lomax. Do any  24 of the Commissioners have any question for Mr. Lomax?  25 MR. CLOWE: No questions.</p>
<p style="text-align: right;">11</p> <p>1 information.  2 I couldn't find out from your Department  3 through Open Records or through your Public Information  4 actually what was going on and I had to go to other  5 sources. These are the issues. This has --  6 You know, I have worked with your  7 Department. I've been covering this Department on and  8 off since Jim Adams was installed by Governor Clements,  9 I don't know, 20 more years than I wish to -- wish to  10 remember. Typically in the past, I thought compliance  11 was fine. I have the greatest respect for Tommy Davis.  12 And although I disagree with him on a number of things  13 in the past, and policies and procedures, and I thought  14 that -- that his leadership was honorable in this  15 respect.  16 But in recent months I've discovered the  17 deeper you go, the less information you get. And so I'm  18 leaving this with you all. For all practical purposes,  19 I did not expect a resolution of these issues. But I  20 did think -- as I said, I'm leaving an Open Records  21 request for a copy of today's tape. I want it on the  22 record that this was brought to your attention, to the  23 commanders's attention, to the colonel's attention.  24 Because this is -- can be a criminal offense. It's  25 official misconduct, it's a misdemeanor, and it's enough</p>	<p style="text-align: right;">13</p> <p>1 MR. POLUNSKY: Thank you. I am sorry that  2 you've had this difficulty. I think -- in fact, I would  3 very much like to see what can be done to make this an  4 easier process, and certainly also provide information  5 as to what remedies they may have in the Attorney  6 General's Office so that they know where to go if they  7 can't obtain the information that they are interested in  8 here as more or less the appeal process.  9 But I think that I speak for the  10 Commission -- tell me if I don't -- but we want to be as  11 open as possible. Obviously there are limits. But  12 certainly no blanket whiteout of -- of news and  13 information regarding this Department. So I would hope  14 that when you attend meetings in the future you will  15 hopefully be here complementing the fact that the  16 Department has worked with you as well as they possibly  17 could to get you the information that you're interested  18 in.  19 LUCIOUS LOMAX: That's my wish as well,  20 Mr. Chairman. And I'm sure that with the efforts of the  21 Commission that -- that there will be a turnaround.  22 Thank you.  23 MR. POLUNSKY: Thank you, sir.  24 We're still in public comment. Would anyone  25 else like to make a comment at this time? Yes, ma'am.</p>



<p style="text-align: right;">14</p> <p>1 ALICE TRIPP: Thank you, Chairman Polunsky,  2 and Colonel Davis, and members of the Commission. My  3 name's Alice Tripp. I'm the Legislative Director for  4 Texas State Rifle Association. And I come to you this  5 morning on behalf of concealed handgun licensings, both  6 first time applicants and renewals.  7 I know you're aware that back in January DPS  8 experienced a spike. Without incident driven, we had  9 spikes in applications. When 911 occurred and that  10 tapered off. But starting in January there was a whole  11 lot of new concealed handgun license applications and  12 renewals came in. And we started hearing about people's  13 licenses going beyond the time limit in statute, which  14 is 45 days on a renewal and 60 days on a new  15 application.  16 And the spike didn't go away, and the  17 problem didn't go away. And after seven months, the  18 handout that you've got is something I got from one of  19 my members only last week. People are very frustrated  20 because it is in statute and they think that if it's in  21 the statute, it's law, and the Department of Public  22 Safety was supposed to comply.  23 The reasons that we heard for the processing  24 delays have been, back in April, Chairman Joe Driver,  25 House Law Enforcement Committee, had in Valerie Fulmer,</p>	<p style="text-align: right;">16</p> <p>1 So this is not the first time in the history  2 of concealed handgun license that there's been a slow  3 down. But this is the first time it's been seven months  4 and ongoing. And to the best information I have,  5 there's still more coming in than there are going out.  6 And if there's more coming in, than there are going out,  7 then we're not getting caught up. And I'm here to be a  8 squeaky wheel. Thank you.  9 MR. POLUNSKY: Ms. Anderson.  10 MS. ANDERSON: Thank you for being here this  11 morning. But you know I live in Dallas. And I received  12 a call last week from representative Driver about this  13 topic. And I followed up with staff. And just  14 yesterday I did receive a report from Valerie with --  15 you know, sort of going back to when the problem began  16 and the various steps that the Department has taken to  17 address this, and the steps that are contemplated or in  18 process being taken out to add a second shift, for  19 example.  20 And I spoke to Ms. Fulmer about that this  21 morning. You know, I agree that -- you know, and  22 certainly the Department and I think you know this, too,  23 certainly wants to issue these licenses in compliance  24 with statute.  25 ALICE TRIPP: Absolutely.</p>
<p style="text-align: right;">15</p> <p>1 Jan Coffey -- who by the way, are wonderful and  2 forthcoming and do an excellent job -- and Chief  3 Christian to his office and asked me to attend because  4 law enforcement committee had been getting many, many,  5 many phone calls from frustrated concealed handgun  6 licensee applicants.  7 And when I say many, I mean 10 or 15 a day,  8 wanting to know what was going on. What we were told in  9 April was that there were job openings that weren't  10 filled. They had been posted on the website. Then we  11 were told that temporary employees were being added.  12 I've heard that customer service lines being  13 manned by temporary employees and when the applicant  14 called, the temp said, I don't know. I'm a temp. It's  15 my first day. So every kind of frustration has been  16 heaped onto these people who -- who have turned in  17 perfect applications. Their fingerprints are good, the  18 background checks come through quickly. That's not been  19 the slow down. The slow down has been wholly within  20 DPS's ability to process.  21 Now we find out that more job openings,  22 permanent positions, have been opened. Those openings,  23 I believe, are on the website. We're waiting for those  24 to be filled, those people to be trained. And now seven  25 months later we're in vacation time.</p>	<p style="text-align: right;">17</p> <p>1 MS. ANDERSON: And, you know, I think she,  2 you know, has a game plan, you know, to get caught up.  3 But not today, not this week, but potentially, you know,  4 by -- by, you know -- and it depends on how many  5 applicants, you know, continue to come in, but certainly  6 before the -- certainly before the end of the year.  7 And the -- the thing that I would ask you,  8 because this Department doesn't lobby, we've -- we have  9 borrowed funds from other departments to staff up in  10 this area. So something else is going undone to try to  11 address -- to try to address this issue.  12 And one of the things that I would ask the  13 Texas State Rifle Association to consider is the funding  14 mechanism for this program. You may be aware that --  15 and I can't remember if this was a year to date number,  16 but, you know, there's been something like 10-million in  17 registration and renewal fees that have come into the  18 Department. But our appropriation to run this program  19 is only -- it's under 5-million.  20 And so, you know, that puts -- like I said,  21 it's causing us to have to borrow from Peter to pay Paul  22 to add additional staff in this area, because the method  23 of finance does not allow us to retain those fees and to  24 set those fees so that we could appropriately, you know,  25 staff up. And so it just creates another problem to</p>

<p style="text-align: right;">18</p> <p>1 getting caught up.</p> <p>2 MS. TRIPP: Can I ask a question? Would it</p> <p>3 be correct to say that the appropriations hadn't changed</p> <p>4 just as the number of staff hasn't changed significantly</p> <p>5 since the license first went into play?</p> <p>6 MR. DAVIS: That's correct.</p> <p>7 MS. TRIPP: And yet, we are putting twice</p> <p>8 that amount into general revenue. So general revenue is</p> <p>9 actually seeing a -- a large profit.</p> <p>10 MS. ANDERSON: Like I said, we don't</p> <p>11 advocate for changes in laws in our capacity.</p> <p>12 MS. TRIPP: Oh, no, no, no.</p> <p>13 MS. ANDERSON: But -- but I'm just making --</p> <p>14 I just wanted --</p> <p>15 MS. TRIPP: And if more -- so there are --</p> <p>16 there -- it would not be a hardship on the State because</p> <p>17 licensees are paying more than is being used by the</p> <p>18 Department of Public Safety to administer the program.</p> <p>19 MS. ANDERSON: Right.</p> <p>20 MS. TRIPP: Is that --</p> <p>21 MS. ANDERSON: The excess above our --</p> <p>22 MS. TRIPP: Double.</p> <p>23 MS. ANDERSON: The excess of fees above the</p> <p>24 appropriation are going into GR where they're being used</p> <p>25 for other state purposes.</p>	<p style="text-align: right;">20</p> <p>1 not been contacted. The manual says you have 90 days to</p> <p>2 get back with me. I have not been gotten -- gotten back</p> <p>3 to by internal affairs yet.</p> <p>4 Also, my second item, some of the troopers</p> <p>5 that have earned vacation and putting in requests for</p> <p>6 vacation are being told that their vacation request will</p> <p>7 not be considered unless they are getting a certain</p> <p>8 amount of DWIs.</p> <p>9 My third item is written disciplinary</p> <p>10 policy. The DPS has ten general orders. I brought --</p> <p>11 and I gave this to you before, a disciplinary policy</p> <p>12 from Arkansas State Police that says if you do "X," you</p> <p>13 your punishment is "Y." You don't get any good 'ol boy</p> <p>14 disciplinary policy that, if we like you, we won't do</p> <p>15 much; if we don't like you, we're going to hit you</p> <p>16 pretty hard.</p> <p>17 This policy also has a -- there's four</p> <p>18 different areas of discipline. It's a graduating</p> <p>19 disciplinary policy that has written requirements for</p> <p>20 the troopers and for the supervisors. I had an Arkansas</p> <p>21 State official that said they would come down if y'all</p> <p>22 have any -- if you want to look at it or consider it.</p> <p>23 I'll get down on my knees for the troopers</p> <p>24 on the highway to adopt a written disciplinary policy so</p> <p>25 that everybody will have an equal level playing field</p>
<p style="text-align: right;">19</p> <p>1 MS. TRIPP: Okay. I -- I understand. I --</p> <p>2 I think I had seen those figures, and -- and you can't</p> <p>3 expect people to administer a program when the money</p> <p>4 isn't equitable. Is there anything else I can do?</p> <p>5 MS. ANDERSON: No.</p> <p>6 MR. POLUNSKY: Are there any other</p> <p>7 questions?</p> <p>8 MS. TRIPP: Thank you, sir.</p> <p>9 MR. POLUNSKY: Thank you for being here this</p> <p>10 morning. We appreciate it. Would anyone else like to</p> <p>11 address the Commission at this time? Yes, sir.</p> <p>12 COY LORANCE: My name is Coy Lorange. I'm a</p> <p>13 retired State Trooper with 27 years on, and I would like</p> <p>14 to come for three items, kind of quickly.</p> <p>15 MR. POLUNSKY: Sir, you have five minutes.</p> <p>16 COY LORANCE: Pardon me?</p> <p>17 MR. POLUNSKY: Five minutes.</p> <p>18 COY LORANCE: Yes, sir. In March I filed</p> <p>19 some complaints about falsification of concealed handgun</p> <p>20 background investigations. I advised Lieutenant</p> <p>21 Stafford at a later date of who he needed to talk to to</p> <p>22 prove my allegations.</p> <p>23 The first of June I sent a certified letter</p> <p>24 asking if he had talked to the people that could prove</p> <p>25 my allegations. And as of this week, those people have</p>	<p style="text-align: right;">21</p> <p>1 when they get a complaint. It's written, you do "X,"</p> <p>2 your punishment is "Y." If you want me to get down on</p> <p>3 my knees and beg you to accept this, I'll get down on my</p> <p>4 knees and beg you to accept it.</p> <p>5 MR. POLUNSKY: That won't be necessary, sir.</p> <p>6 Your point's taken. Questions?</p> <p>7 MR. CLOWE: No questions.</p> <p>8 COY LORANCE: Thank you for --</p> <p>9 MR. POLUNSKY: Could you provide us -- I</p> <p>10 assume you have a copy of all of that information?</p> <p>11 COY LORANCE: I brought the certified letter</p> <p>12 that I sent to ask that -- here's the written policy --</p> <p>13 the letter that I wrote asking them to talk to the</p> <p>14 people, I got a copy of that. That's all I brought.</p> <p>15 MR. POLUNSKY: Whatever copies you're</p> <p>16 referencing, if you could reproduce those and provide</p> <p>17 them to Lieutenant Colonel McEathron, I would appreciate</p> <p>18 it.</p> <p>19 COY LORANCE: Okay. Thank you.</p> <p>20 MR. POLUNSKY: Thank you. Further public</p> <p>21 hearing? Mr. Dickson, you understand you're getting</p> <p>22 more publicity these days than I am.</p> <p>23 DONALD DICKSON: I told Senator Parker I</p> <p>24 need a uniform allowance. Mr. Chairman, Commissioners,</p> <p>25 good morning. My name is Donald Dickson. I'm an</p>



<p style="text-align: right;">22</p> <p>1 associate attorney in the Austin office of the Parker 2 Law Firm, and I appear before the Commission on behalf 3 of the Texas State Trooper's Association. I wanted to 4 just take a brief moment to congratulate Colonel Davis 5 on a remarkable career at this agency. 6 He has been a good steward of this agency. 7 And even though he and I are in adversarial positions, 8 we've -- we've butted heads many times over the last 9 eight years, but he has always been cordial, and 10 professional, and -- and courteous in all of his 11 dealings with me, and I have the utmost respect for the 12 man. 13 And -- and Colonel, as you well know, and as 14 I'm finding out, the -- the press is going to report 15 what the press is going to report. But I want it stated 16 in the public record that on August 9, 2005 on the TSTA 17 website I predicted the precise date of your retirement. 18 And I know that it has nothing do with the mansion fire, 19 or Sunset review, or -- or because you're being forced 20 out or anything else. 21 You have never surged from any challenge and 22 if you had not been with this agency for 44 years, I 23 know you would not have surged from this challenge. I 24 salute you, Colonel, and I wish you peace and joy in 25 your retirement. Thank you.</p>	<p style="text-align: right;">24</p> <p>1 Code, the Open Meetings Act. A quorum of the Board is 2 present and the meeting is now declared reopened. It is 3 11:27 a.m. 4 Next item on the agenda is the discussion 5 and possible action on the Directors action of 6 discharging probationary employees Robin Phillips and 7 David Pratt according to Texas Government Code Section 8 551.074. Colonel Davis. 9 MR. DAVIS: Mr. Chairman, members, Robin 10 Phillips came to work for the agency in February of -- 11 February 29 of '08 and has had unacceptable performance 12 of her work, and numerous attempts to correct that have 13 failed. That's why she's discharged. 14 David Pratt, the maintenance technician at 15 the Houston office, had an -- a work-related accident, 16 is still off from work with a shoulder injury, not able 17 to return. He'd exhausted all his sick leave and all 18 medical leave. He was discharged. 19 MR. POLUNSKY: Thank you, Colonel Davis. Is 20 there action that need to be taken on that? 21 MR. DAVIS: I would ask that the -- the 22 Commission affirm my decision to discharge these 23 employees. 24 MS. ANDERSON: So moved. 25 MR. POLUNSKY: It has been moved by</p>
<p style="text-align: right;">23</p> <p>1 MR. POLUNSKY: Mr. Dickson, I can honestly 2 state that the Commission and your association has 3 finally come to complete agreement on our -- 4 MR. DICKSON: That was beautifully said. 5 MR. POLUNSKY: This issue's better than any 6 other issue, and I cannot agree enough with what you've 7 said. I guess there'll be a time and a place in the 8 near future when the members of this Commission and 9 other members and employees of the Department will be 10 able to thank Colonel Davis personally or in some type 11 of presentation. 12 Because what Mr. Dickson said is exactly the 13 case. Colonel Davis is, from what I can see and from 14 what I've been told, the classiest, most honorable 15 director that this Department has ever had. And he will 16 be missed. And the shoes we're going to try to fill are 17 quite large. So we'll do our best. But I can honestly 18 say that Colonel Davis is an institution in this state. 19 Any other public comment at this time? If 20 there is none, next item is item three, the discharge 21 appeal hearing of Milton Phillips. 22 (Discharge Appeal Hearing proceedings) 23 MR. POLUNSKY: The regular session of the 24 Texas Public Safety Commission is reconvened in 25 accordance with Chapter 551 of the Texas Government</p>	<p style="text-align: right;">25</p> <p>1 Commissioner Davis to -- It has been moved by 2 Commissioner Anderson that the discharges effectuated by 3 Colonel Davis for employees Robin Phillips and David 4 Pratt be confirmed. Is there a second to Ms. Anderson's 5 motion? 6 MR. CLOWE: Second. 7 MR. POLUNSKY: It has been seconded by 8 Commissioner Clowe. Is there any discussion on the 9 motion? There is no discussion. All those in favor 10 please say, "Aye." 11 ALL COMMISSIONERS: "Aye." 12 MR. POLUNSKY: Any against, no? Motion 13 passes. Next item, budget matters. First will be the 14 discussion and approval of the 2009 DPS internal budget. 15 OSCAR YBARRA: Good morning, Mr. Chairman, 16 Commissioners, Colonel. My section has presented to the 17 Commission the internal budget for fiscal year 2009. 18 This budget is in the amount of \$674,764,482. It covers 19 8,207 FTEs. It is derived from the General 20 Appropriations Act, and broken down into agency -- by 21 the agency divisions into -- into units which the 22 divisions utilize to break down funding into salary, 23 travel, operating capital levels. And the divisions 24 staff will monitor this information and limit spending 25 according to this budget. It is presented to the</p>



<p style="text-align: right;">26</p> <p>1 Commission for their consideration. I'd be glad to  2 answer any questions if you have any in regard to this  3 information.  4 MR. POLUNSKY: Thank you, sir. I assume  5 there may be questions on this. Who might be the first  6 to go?  7 MS. BARTH: I have some questions that  8 are -- have to do with --  9 MR. POLUNSKY: Ms. Barth.  10 MS. BARTH: -- carry-overs from '08 to '09.  11 OSCAR YBARRA: Unexpended balance?  12 MS. BARTH: Unexpended balances.  13 OSCAR YBARRA: Yes, ma'am.  14 MS. BARTH: And -- and how those unexpended  15 balances are either lost or reallocated.  16 OSCAR YBARRA: The agency has authority to  17 move funds forward in a few categories. The seized fund  18 rider in our bill pattern allows us to do that. The  19 Article 9 capital rider allows us to use these funds for  20 capital items. And there's one more. It's driver's  21 license reengineering rider allows us to move these  22 funds forward.  23 Over the last two bienniums the agency has  24 been very good about spending all the State funds that  25 are coming and are available for spending without</p>	<p style="text-align: right;">28</p> <p>1 information at this time.  2 MS. ANDERSON: Yeah, I have -- I have a  3 follow-up about '08. So we set aside funds in '08 back  4 several months ago for the audit assessment, the  5 organizational assessment, and the IT assessment. And  6 we now, you know, are beginning to move on one of them,  7 we're in final negotiations on another, and we're -- and  8 RFP scoring on the third.  9 And so the money that we set aside in '08  10 based on the size of what those assessments are, we're  11 not going to get all that money spent in '08 because all  12 the services are not going to be provided. They're  13 going to bleed over.  14 OSCAR YBARRA: That is correct.  15 MS. ANDERSON: So -- but we reserved -- I  16 use that term loosely -- money for those assessments in  17 '08. So how do we then forecast, well, we're only going  18 to spend a third of those assessment dollars in '08 so  19 that frees up two-thirds that we reserved aside, and,  20 you know, that amounts to real money. And how do we get  21 that -- what is permissible between now and August 31st  22 to spend that money on in '08.  23 OSCAR YBARRA: Well, you know, time is of  24 the essence with all the procurement rules and the time  25 lines of involved with that. There we can spend some of</p>
<p style="text-align: right;">27</p> <p>1 restrictions. We foresee that we will probably spend  2 the majority of our funds in '08. So as far as the --  3 the items that I present to you that are -- that have  4 (Inaudible) authority, there aren't any that I'm aware  5 of.  6 MS. BARTH: I guess my question in terms of  7 unexpended balances for '08 really addresses perhaps the  8 amount of money being spent in '09 on deferred  9 maintenance, and how the unexpended balances would be  10 allocated in that area first, and then with respect to  11 going forward, the deferred maintenance projects that  12 would be taken care of in the '09 budget.  13 OSCAR YBARRA: As far as the deferred  14 maintenance budget, that's overseen by the  15 administrative division. The deferred maintenance  16 capital budget is roughly \$2.6 million, and that  17 provides the 25 percent -- we are able to go by 25  18 percent, the Article 9.  19 Normally, the division will bring things to  20 the director that may need to be considered in the  21 current year, '08, and decisions are made as to how to  22 proceed. As far as '09, they will begin working -- or  23 may have already -- working on a budget of what they're  24 going to utilize '09 funds as far as deferred  25 maintenance is concerned. I am not aware of that</p>	<p style="text-align: right;">29</p> <p>1 this money on some deferred maintenance that would fit  2 into the time lines that are still available as far as  3 spending some of this money. And we always do look at  4 deferred maintenance.  5 We did put a hold on any overspending above  6 the 2.6 million this year because of all of these  7 markers that we had in place. So, again, I -- I would  8 foresee that -- and we already started some  9 communications with -- with Chief Mills as to what can  10 we do at this point.  11 And it's a matter of getting together,  12 communicating what's available. And we're waiting on  13 one more projection, as we want to make sure that --  14 that money's really there with gasoline and a lot of  15 things that have been going on this year. And then we  16 will -- we will present that -- that information, we'll  17 present it to the directors which direction we want to  18 go, what takes priority.  19 We also have quite a few emergencies that  20 come up during the summer. We were talking about  21 air-conditioners going down in El Paso, things of that  22 sort, that -- that we have some contingencies set up  23 for, but sometimes we don't have enough. This money  24 will also help for that. So -- so these are some of the  25 things that we'll probably be able to spend this money</p>

<p style="text-align: right;">30</p> <p>1 on.</p> <p>2 And -- and, again, that information will be</p> <p>3 presented to the director and decisions will be made as</p> <p>4 to what direction we want to go, any funds that are</p> <p>5 available.</p> <p>6 MS. ANDERSON: We just need to -- and I know</p> <p>7 this is your objective to get the '08 moneys spent --</p> <p>8 OSCAR YBARRA: Yes, ma'am.</p> <p>9 MS. ANDERSON: -- legally, appropriately in</p> <p>10 '08. And perhaps -- so by the August Commission</p> <p>11 meeting, certainly, with only ten years left -- ten days</p> <p>12 left of the fiscal year by that point, would you be able</p> <p>13 to report what sort of late fiscal '08 --</p> <p>14 OSCAR YBARRA: Sure.</p> <p>15 MS. ANDERSON: -- commitments of spending are</p> <p>16 under way to give us -- to help us understand that we</p> <p>17 are, in fact, using all the --</p> <p>18 OSCAR YBARRA: We also --</p> <p>19 MS. ANDERSON: -- possible '08 moneys.</p> <p>20 OSCAR YBARRA: We also have to cover federal</p> <p>21 grants that will not be reimbursed on the current year.</p> <p>22 MS. ANDERSON: Right.</p> <p>23 OSCAR YBARRA: So that's another thing that</p> <p>24 we have to consider.</p> <p>25 MS. ANDERSON: Accrue for. Okay.</p>	<p style="text-align: right;">32</p> <p>1 This system can be put on any laptop that they already</p> <p>2 have. So we're not going to purchase the expensive new</p> <p>3 laptop to do that. It's basically a software issue of</p> <p>4 getting it put on the machines, and then there's some</p> <p>5 connectivity costs, monthly costs, reoccurring costs,</p> <p>6 that go along with it. But there's not a lot of cost in</p> <p>7 doing that for them. So --</p> <p>8 MS. BARTH: How about with our troopers in</p> <p>9 terms of the in-car?</p> <p>10 RANDY ELLISTON: We have money allocated</p> <p>11 from the legislature that came to do that project.</p> <p>12 We're on track. In fact, we're actually on schedule on</p> <p>13 the deployment and implementation of that system.</p> <p>14 And -- and we're good with money to -- to finish out the</p> <p>15 program, looks like. So we're in good shape with that.</p> <p>16 MS. BARTH: Okay. Then I want to go back to</p> <p>17 the deferred maintenance list. Well, as I understand,</p> <p>18 really have not had a third party review the deferred</p> <p>19 maintenance for some period of time; is that correct?</p> <p>20 OSCAR YBARRA: Best of my knowledge, no.</p> <p>21 LESTER MILLS: Let me address that. Chief</p> <p>22 Mills. We -- we have not had a third party review of --</p> <p>23 of the third party. Typically, my building program</p> <p>24 manager work with the adjutants in our field -- in our</p> <p>25 regional offices to identify problems that they -- that</p>
<p style="text-align: right;">31</p> <p>1 MS. BARTH: Let me -- let me ask you a</p> <p>2 specific question on the '08 spending with respect to</p> <p>3 rangers and laptops. Where are we on that spending and</p> <p>4 making sure that it's taken care of?</p> <p>5 OSCAR YBARRA: It's my understanding that</p> <p>6 that project is moving forward. And I think they're</p> <p>7 targeting, I think probably, October that -- that</p> <p>8 they'll have -- and I'm not real clear on the dates, but</p> <p>9 that project just moved forward. I don't have a lot of</p> <p>10 details. My understanding is --</p> <p>11 MS. BARTH: Tell me what that means. Does</p> <p>12 that mean -- because I look at this, and I know we have</p> <p>13 these unexpended balances. Does that mean that if we</p> <p>14 spent the money it has to be rolled out, or we're still</p> <p>15 kind of trying to decide what we're going to do there.</p> <p>16 OSCAR YBARRA: It's my understanding that</p> <p>17 that's being coordinated and that the rangers -- and I'd</p> <p>18 have to defer to THP as to how that's being handled.</p> <p>19 But it's my understanding that is moving forward and</p> <p>20 the -- the funds are set aside and equipment is being</p> <p>21 set aside. So that is moving forward.</p> <p>22 RANDY ELLISTON: Commissioner, if I could</p> <p>23 answer your question, quickly. The -- the -- putting</p> <p>24 the in-car system with the rangers is a very minimal</p> <p>25 cost at this point. They already have laptop computers.</p>	<p style="text-align: right;">33</p> <p>1 they have. Estimate cost and we comprise a list. You</p> <p>2 know, several years ago, the TH -- Texas Facility</p> <p>3 Commission now did a study of their -- bills that they</p> <p>4 are responsible for. But we were not in that study. So</p> <p>5 we have not did an independent third party review of</p> <p>6 our -- of our maintenance list.</p> <p>7 MS. BARTH: Because when I reviewed the list</p> <p>8 there were projects that were multiple years old that</p> <p>9 seem to me should rise to the level of being taken care</p> <p>10 of. And I'm just trying to understand prioritization</p> <p>11 and with the unexpended balances, how that's going to</p> <p>12 work on the projects.</p> <p>13 LESTER MILLS: Again, prior to -- prior to</p> <p>14 this -- this legislative -- last legislative session, we</p> <p>15 were only appropriated 1.125 -- 1 million 125</p> <p>16 thousand-dollars to address deferred maintenance. Part</p> <p>17 of that money, obviously, we -- we set aside to address</p> <p>18 contingencies when we had air-conditioning going out in</p> <p>19 August -- July and August is the week we set aside some</p> <p>20 contingency cost for that.</p> <p>21 But we tried to address the life safety</p> <p>22 issues within our buildings, leaking roofs, mold,</p> <p>23 air-conditioning systems going out, and systems, you</p> <p>24 know, needing to be replaced. So we had -- we tried</p> <p>25 to -- to -- to at the beginning of the fiscal year</p>



<p style="text-align: right;">34</p> <p>1 identify what needs to be done, prioritize those,  2 (Inaudible) the regions and headquarters and stuff. So  3 we tried to do that.  4 This -- this particular fiscal year, we --  5 we had additional money that was appropriated by the --  6 by the legislation, and -- and we continue with that  7 process. But, again, a lot of the -- a lot of the  8 unknown things that occur, some immediate renovation  9 projects and stuff that are unexpected, again, we try to  10 address those things also. So --  11 We also are -- again, are bound by the -- by  12 the 25 percent cap, you know, that Oscar had mentioned  13 that limit us on what we can do. We did try to  14 include -- that was included in the LAR request the last  15 time and we were fortunate to get some money and stuff,  16 and we're trying to get that increased next time.  17 MR. CLOWE: Mr. Chairman, may we have the  18 last two speakers identify themselves for the record.  19 RANDY ELLISTON: I'm Randy Elliston, Chief  20 of the Texas Highway Patrol Division.  21 LESTER MILLS: I'm Lester Mills, Assistant  22 Chief of the Administration Staff.  23 MR. POLUNSKY: And I would appreciate anyone  24 who comes up to testify henceforth identify themselves.  25 CALVIN VANDERWAL: Excuse me, my name's Cal</p>	<p style="text-align: right;">36</p> <p>1 same -- would -- would your answer be the same -- for  2 example, on page 278 where there's a reduction in this  3 cost setter of five-and-a-half FTEs and the salary  4 dollars don't change at all.  5 OSCAR YBARRA: And that, I can answer.  6 MS. ANDERSON: Okay.  7 OSCAR YBARRA: What happened in the 79th  8 legislative session, the agency was required to reduce  9 FTEs by 2 percent, 155.1 FTE. They did not reduce our  10 appropriation. So that may be the reason why they chose  11 to leave the salaries there.  12 Now, remember in THP, that they had the most  13 of agencies. And -- and the division is traditionally  14 provided funding for shortfalls within -- within the --  15 within the agency. And most of that money's coming from  16 salary. So that may be another reason why that money  17 stays at that level.  18 MS. ANDERSON: Okay. I think I can  19 understand why -- for example, I see across the CLE area  20 in most cases I see -- I can -- I can see that there are  21 salary increases. Some of them aren't very big, but I  22 can see, you know, salary increases in CLE and I don't  23 see those in DL, at least not in DL customer service in  24 headquarters functions. Is that because of this  25 appropriated amounts for Schedule A, B and C pay raises</p>
<p style="text-align: right;">35</p> <p>1 VanderWal, Manager of Budgeting.  2 MR. POLUNSKY: It'll help in the minutes.  3 Thank you.  4 MS. ANDERSON: I have a couple questions,  5 please. As I look through, you know, all the -- all the  6 cost setters, you know, hundreds pages of cost setters.  7 OSCAR YBARRA: 300 plus.  8 MS. ANDERSON: It looks -- you know, to  9 the -- to the casual observer with a calculator, it --  10 things -- some of the things, particularly around the  11 salary line item, looked inconsistent to me. So I'm  12 trying to understand the reasons for some things.  13 For example, in highway patrol in Midland on  14 page 257, the FTE reduction was one FTE. So we have one  15 FTE fewer, yet the reduction in the salary line item --  16 unless I did my -- could've done my math wrong -- looks  17 to me like the reduction salary line item is \$502,000.  18 Page 257.  19 OSCAR YBARRA: Okay. Commissioner, the only  20 thing I can think of is that the division has made a  21 decision that they had sufficient salary funding in this  22 particular area to cover the 21 FTEs and has made a  23 decision to move funding elsewhere. That's all I can  24 tell you at this point, unless we can get some info.  25 MS. ANDERSON: Okay. So then is that the</p>	<p style="text-align: right;">37</p> <p>1 is why?  2 OSCAR YBARRA: Yes, ma'am. They make less.  3 That's the only thing I can say, is they make less.  4 MS. ANDERSON: But I'm not talking about  5 what the average -- I'm not talking about taking the  6 salary dollars and dividing it by the FTEs, I'm saying  7 in DL headquarters in customer service, you got the same  8 number of FTEs and no salary change. So I'm seeing  9 no -- so let's see.  10 Like, on page 400, that's the page on DL  11 customer service. I mean, I understand when they make  12 less then I would expect their raises to be less. And I  13 did some, sort of, sanity checking on -- on that, too.  14 But I'm just wondering if we got -- if there are -- if  15 there is fiscal '09, according to the summary, there is  16 estimated Schedule A and B and C pay raises. And so I'm  17 seeing that reflected, you know, in some departments,  18 and -- and nothing in DL, like page 400.  19 OSCAR YBARRA: We did -- we did provide the  20 division with the pay raises, and -- and we provided  21 them with do not exceed figures for each one of their  22 division. And the divisions make a decision --  23 MS. ANDERSON: Okay.  24 OSCAR YBARRA: -- on how that would be  25 allocated within these cost categories. So I believe</p>



<p style="text-align: right;">38</p> <p>1 what may be happening is that the million-593506 is  2 sufficient to cover the pay raises for the number of  3 FTEs they have in there and they made a decision to  4 leave that alone.  5 MS. ANDERSON: Okay. So they have this  6 discretion at the --  7 OSCAR YBARRA: Yes, ma'am.  8 MS. ANDERSON: Okay. And then also in DL  9 reengineering, you know, the -- we -- we -- I expected  10 to see this, but the appropriate -- or the budget amount  11 went from 11-and-a-half million down to just shy of 4  12 million because we're -- you know, through that  13 development process. And -- and I just want to ask  14 Chief Brown if she's going to be able to make that  15 number work.  16 JUDY BROWN: Judy Brown, Chief of Driver's  17 License Division. The reason you see the -- the --  18 the -- the significant drop is the 11 million contains  19 the UB authority for the -- the funding to move into  20 this biennium. The remaining of that 3 million is what  21 we were appropriated for maintenance.  22 MS. ANDERSON: Okay.  23 JUDY BROWN: And no, we will not be able to  24 get this project out with those dollars.  25 MS. ANDERSON: Okay. Thank you. I also</p>	<p style="text-align: right;">40</p> <p>1 system?  2 MS. BARTH: Or like a person within the  3 headquarters being paid out of another division, so to  4 speak, in order to make the budget work in the  5 divisions.  6 OSCAR YBARRA: The -- the -- that can happen  7 during the year if -- if a determination is made that  8 there's a need and -- and the divisions make a decision  9 that, you know, this is going to benefit me and I'm  10 willing to give up an FTE in salaries or an FTE and you  11 pay for the salaries. But in this particular budget,  12 these FTEs -- these FTEs -- well, that could be -- that  13 could be because of the change I made. That could be.  14 I -- I attempted -- and you'll see there's a  15 big change in FTEs from one year to the next in the  16 summary, and I wanted to make this an internal budget.  17 What was done in the past is the FTEs were pretty much  18 put into divisions and how they were funded by strategy.  19 And -- and that was not real clear.  20 Like, I'll give you an example. In-car  21 computers got 15 FTEs, okay. Those FTEs -- you'll --  22 you'll -- would've be in THP in '08. Well, really  23 they're being overseen by IMS. And the budget is now in  24 IMS and the FTEs are now in IMS because they're overseen  25 by Chief Brubaker because this in an internal budget.</p>
<p style="text-align: right;">39</p> <p>1 just -- I have questions on -- and this be my last  2 one -- questions on page 345 and 347 wherein San Antonio  3 and McAllen narcotics, we've essentially doubled, or  4 almost doubled, the FTEs and there's no change in the  5 travel expense line item. That doesn't stand to reason  6 if we double the FTEs that we wouldn't have some change  7 in travel. Again, was that just a discretion at the  8 division level.  9 OSCAR YBARRA: Yes, ma'am. Yes, ma'am. I  10 don't -- I don't see where I could answer that question  11 unless I can get some input from the Division.  12 That's -- that's left up to their discretion.  13 MS. ANDERSON: Okay. Thank you.  14 MR. POLUNSKY: Thank you, Ms. Anderson. Do  15 you have any other questions, Ms. Barth?  16 MS. BARTH: I have one more overwriting  17 question. Are there any salaries or administrative  18 costs associated with headquarters that are being  19 charged in other areas in this budget?  20 OSCAR YBARRA: That are being charged to  21 other areas?  22 MS. BARTH: Someone --  23 OSCAR YBARRA: Like an FTE being moved into  24 another area?  25 MS. ANDERSON: Like an internal chargeback</p>	<p style="text-align: right;">41</p> <p>1 Now, we may have missed a couple that we didn't pick up  2 where I made the decision that I want the FTEs to be  3 reflective of what's going on within the division.  4 And we may not have picked up the -- the --  5 the budget to go with it. But I would say it's a few.  6 But the major ones are there, I.E. DL reengineering.  7 You'll see a big jump there.  8 You'll see in-car computers is another one.  9 That were shifted and the moneys followed. The others,  10 we're going to have do to post budget transfers when we  11 get agreements between two divisions on how much needs  12 to be moved in.  13 MS. BARTH: So let me just go back and make  14 sure I understand and you understand my question, which  15 is are there divisions absorbing expenses of  16 headquarters make their budgets and headquarters'  17 budgets work?  18 MS. ANDERSON: Let me give you an example, I  19 mean, how -- how are we funding concealed handguns  20 spending to process the license backlog guide that we're  21 doing that within the appropriated amount.  22 OSCAR YBARRA: The budgets that we provide  23 you today are made to fund what's included in this  24 information. If that were to happen, and it's happened,  25 then the divisions and the directors would get involved</p>

<p>42</p> <p>1 as to how that's going to be funded. Could be that --  2 that the colonel gets with Chief Elliston. I'm going to  3 need some money to cover the additional -- additional  4 temps that are going to work, or additional hires, that  5 are going to work.  6 But this budget is reflective of the do not  7 exceed figures that were provided to the divisions that  8 were provided to their division that they're responsible  9 for. So I don't believe that there's anything here that  10 covers something already that's going to be outside of  11 their realm.  12 MS. BARTH: Let me go back again. Have you  13 looked at the actual expenditures for this year when you  14 projected out for next year's and seen whether or not in  15 fact there were expenditures this year made in other  16 areas that you can tell already is probably going to  17 happen next year?  18 OSCAR YBARRA: Okay. I follow. Yes. Yes,  19 that's going to happen. Yes. In accounting, for  20 example, you know, accounting and budget control, we  21 know we're going to have a shortfall of around about  22 \$700,000 and THP's going to have the cover the expense.  23 Yes.  24 MS. BARTH: And have you reflected it in  25 this budget today?</p>	<p>44</p> <p>1 OSCAR YBARRA: Ms. Barth, may -- may I ask  2 your permission to -- we were working on the LAR at this  3 point on very sensitive time. So we can issue a draft  4 budget to the division and then maybe straighten this  5 out after the LAR is submitted?  6 MS. BARTH: I guess I -- I first heard we  7 weren't under a constraint but now I hear we are under a  8 constraint? What are we on? We are, right?  9 OSCAR YBARRA: Well, it's two different  10 things. This is an internal budget and you have the  11 LAR. The LAR will be for 10 and 11. This is for 2009.  12 This is an internal document. If we invest a lot of  13 time in making this change, I'm concerned about making  14 the deadlines for the LAR. This does not -- this  15 information --  16 MS. BARTH: My only comment, which I, you  17 know, obviously you're on a time constraint here, is  18 that in order to put a budget together, going forward  19 and 10 and 11, you would hope you'd be looking at your  20 actuals and reflect it in the budget's going forward.  21 So I'd like to have some degree of confidence that --  22 that -- that we're doing that --  23 OSCAR YBARRA: Well --  24 MS. BARTH: -- that we're actually going  25 back and seeing what we're spending in those particular</p>
<p>43</p> <p>1 OSCAR YBARRA: No.  2 MS. BARTH: I really believe we need to get  3 these budgets correct based on actions, and where we are  4 spending today, where we know, as you've already said,  5 there's going to be a shortfall, that that budget needs  6 to be moved over to that specific area as opposed to,  7 you know, in the middle of the year saying, oh, yeah, we  8 knew we were going to do this. I think we need to go  9 back and look at the actuals.  10 MR. POLUNSKY: What would you recommend,  11 Ms. Barth?  12 MS. BARTH: To look at the actuals and  13 forecast the budget in those divisions where we know  14 already, based on this year's expenditures, that budget  15 is either overfunded or underfunded.  16 OSCAR YBARRA: Any of the givens, is what  17 you're saying.  18 MS. BARTH: Yes, sir.  19 MR. POLUNSKY: Do we have time constraints  20 in place here?  21 OSCAR YBARRA: Internal budget, sir.  22 MR. POLUNSKY: Okay. So there would --  23 there would be no problem in pulling this from the  24 agenda and addressing the concerns that Ms. Barth has  25 put forth and possibly advise.</p>	<p>45</p> <p>1 arenas and making sure at least we try to line up our  2 funding accordingly. I mean, a perfect example's the  3 concealed handgun situation.  4 OSCAR YBARRA: Well, those funds were  5 appropriated by the legislature within those strategies.  6 And we had 25 percent transferability. So when we  7 report in the LAR we're required to identify where those  8 funds have been appropriated. And we do identify  9 transferability to the LBB. And that's how we record  10 where we're spending our dollars outside of the bill  11 pattern.  12 If we indeed are moving funds out of the THP  13 strategy into the direct staff it's my -- it's my belief  14 that the LBB and the legislature requires to provide  15 that be an exceptional item, which we have. I think  16 that's a process we're supposed to utilize. So correct  17 me if I'm wrong.  18 CALVIN VANDERWAL: This -- this report is  19 reflecting where the money has been appropriated. The  20 accounting's only been appropriated such amount. Yes,  21 it means this budget will run in the red and we will  22 have to find a way during the year to find funding  23 elsewhere in the agency. But as to transfer the funding  24 upfront is not how the money was appropriated to DPS.  25 This is what was reflected upon of what we've been</p>



<p style="text-align: right;">46</p> <p>1 appropriated. So if do have a shortfall, it's going to  2 be, yes. We realize we're going to --  3 MS. BARTH: I understand what you're saying.  4 Just because we have this 25 percent flexibility doesn't  5 necessarily mean we use it because we don't know how to  6 forecast it. And -- and so, in my mind, it's really  7 looking at what we're spending and what we spent in the  8 past in the various areas. And I think we can do a  9 better job, and I think we can produce a better internal  10 document to use to manage the divisions. And so --  11 MS. ANDERSON: It would seem -- I mean, I  12 understand that we have to follow the bill pattern. And  13 I think Ms. Barth's made a really good point. And I'm  14 less -- I'm left -- sort of picking up on what she said,  15 if -- if for purposes of building the LAR -- and I know  16 you've got to put it in ABEST and -- you know.  17 But perhaps the exceptional item request or  18 somewhere between now and the 20th of August, if you  19 could even identify major areas, not every area where  20 we're going to -- you know -- but I mean, what are the  21 big areas that we know because they happen --  22 Now, let's go after the big low-hanging  23 fruit, okay. And -- and say by for this strategy we are  24 consistently underfunded, you know, \$4 million or  25 whatever, so that we can at least get that in the</p>	<p style="text-align: right;">48</p> <p>1 MR. POLUNSKY: -- and address or resolve  2 some of these questions and issues that she's brought  3 forth today.  4 MS. BARTH: Which sounds to me like a lot of  5 it is internal that we need to -- internal, meaning you  6 can go forward with your LAR which you're working on  7 now, but to make sure --  8 OSCAR YBARRA: Yeah. We ca -- I can -- I --  9 I see what you're saying about that. We can work that  10 out, no problem.  11 MS. BARTH: Okay. Thank you.  12 MR. POLUNSKY: Okay. So are you okay with  13 that --  14 MS. BARTH: Yes, sir.  15 MR. POLUNSKY: -- Ms. Barth? Okay.  16 MR. CLOWE: And I'd just like to ask Oscar,  17 would your answers be the same in regard to the  18 increased cost in motor fuel?  19 OSCAR YBARRA: Well, that is mostly covered  20 by THP anyway, sir, so that's where it is already. So  21 they're covering it. And the expenses, you know,  22 they -- they -- they're -- basically, these funds have  23 been appropriated in salary, sir, you know. And -- and  24 the expense in operating is going up. And that's how  25 it's going to get covered right now with the vacancies</p>
<p style="text-align: right;">47</p> <p>1 exceptional item request, and it gives us talking points  2 about the big areas where the needed spending is outside  3 the bill pattern, and try to get that reflected in the  4 LAR so we're sending an early warning signal to the LBB,  5 etcetera in sort of major -- I don't mean scrub 800 cost  6 setters to find five cents a piece.  7 OSCAR YBARRA: Commissioner Barth and  8 Commissioner Anderson, that actually does show up in the  9 LAR in the actual expenditures in fiscal year 2008, that  10 will be reflected. That shows up in our -- our 2007  11 expendit (sic) and our 2008 budget. That information  12 does actually -- is advertised to the LBB and the  13 legislature. It is.  14 MR. POLUNSKY: Ms. Barth, do you want to  15 take the opportunity to meet with Oscar and his people?  16 MS. BARTH: I'd like to know the given items  17 that you could look at through this book and say already  18 the back of your mind you know we're not going to --  19 OSCAR YBARRA: Sure.  20 MS. BARTH: -- I'd like to understand that.  21 OSCAR YBARRA: Sure.  22 MR. POLUNSKY: Okay. So you could --  23 assume -- make a trip over to Houston the next few days,  24 sit down with Carin --  25 OSCAR YBARRA: Absolutely.</p>	<p style="text-align: right;">49</p> <p>1 that we have in place. The agency's funding, mainly  2 salaries.  3 MS. BARTH: Could you state for the record  4 what we are funded at per gallon right now.  5 OSCAR YBARRA: The last time this agency was  6 given additional dollars the rider reflected that we  7 were appropriated at \$1.38. Anything above that we  8 would be eligible for funds. That riders no longer in  9 our bill pattern. That rider was changed. It was  10 changed this last session.  11 MS. ANDERSON: But that was still our  12 budgeting assumption by this biennium, right?  13 OSCAR YBARRA: With a couple of exceptional  14 items that came into place, because we were able to get  15 some operating dollars, probably got up to about \$1.44.  16 MS. BARTH: And what is fuel costing you  17 today?  18 OSCAR YBARRA: The last report we got,  19 ma'am, was -- was, I believe June, was -- for the  20 average of that month was \$3.63.  21 MS. BARTH: Thank you.  22 OSCAR YBARRA: And that's because we get  23 a -- we don't have to pay the federal tax on that. It's  24 about 18.4 cents.  25 MS. BARTH: But we are paying the state tax.</p>



<p style="text-align: right;">50</p> <p>1 OSCAR YBARRA: Yes, ma'am, we are. It's 20 2 cents. 3 MR. POLUNSKY: Okay. So essentially we're 4 going to put this item on hold. You're going to meet 5 with Ms. Barth. We will address this at our next 6 meeting. 7 OSCAR YBARRA: Yes, sir. 8 MR. POLUNSKY: That my understanding? 9 OSCAR YBARRA: Yes, sir. 10 MR. POLUNSKY: Is that your understanding, 11 Carin? 12 MS. BARTH: Yes. 13 MR. POLUNSKY: Okay. Next item would be the 14 time line for fiscal year 2010-2011 legislation 15 appropriation request submission. 16 OSCAR YBARRA: Mr. Chairman, commissioners, 17 I provided you with a -- kind of a brief time line of 18 what -- what remains for the legislative appropriation 19 request. It's a pretty tight time line. We have one 20 other thing that we've already done is we submitted our 21 base reconciliation to the LBB. We are awaiting 22 approval of that base request as we cannot enter any 23 information until that is approved. 24 We received information on our budget 25 structure. There were some minimal changes. Basically</p>	<p style="text-align: right;">52</p> <p>1 date? 2 MR. POLUNSKY: Late August. 3 MS. ANDERSON: Under that scenario, how 4 would the Commission provide input on the LAR? 5 OSCAR YBARRA: I would have to ask -- we 6 are -- as you see on the time line, we identified the 7 divisions are submitting their -- their base submissions 8 for 10 and 11 right at the end of July. There is a 9 window in there where there could be some discussion of 10 what was being submitted right through probably 11 August 4th through the 5th of getting input and then 12 getting that information if there's major changes into 13 ABEST. 14 And then the next week, spending that week 15 auditing the information and getting ready for the 16 August 20th deadline. Luckily, I think the 31st is a 17 Friday. I think the 3rd, the 4th and the 5th's a 18 Monday, Tuesday, Wednesday, if I'm not mistaken. 19 MS. ANDERSON: Well, Mr. Chairman, you know, 20 we've had this discussion before where we've asked that 21 we back into calenders to give the Commission an 22 opportunity to have input and not sort of end up in a 23 calender crunch. And I know accounting and budget 24 control this time every other year, you work under 25 incredible conditions and do a great job, you know. But</p>
<p style="text-align: right;">51</p> <p>1 the ones we requested which was combining the UCIT in 2 the rangers, and the rangers' creation of a BIA strategy 3 to name a few. So that was really causing us a little 4 bit of concern. If that changed then that would cause 5 us some additional allocations if -- if we had a 6 dramatic change. But it didn't change very much. 7 The date that we're proposing to submit a 8 draft to the Commission is August 8th. That's a pretty 9 aggressive time line. And the report is due to the LBB 10 in the Governor's office on August 20th. 11 This is a pretty aggressive time line. I'm 12 assured by my budget staff that we're going to do our 13 best to meet it. And the question being is when we'll 14 be able to approve this submission of the LAR to the LBB 15 by the Commission is to be determined on my schedule. 16 MR. POLUNSKY: Questions? 17 OSCAR YBARRA: Mr. Chairman, I have one more 18 comment. It's my understanding, also, that -- that you, 19 sir, can sign off on a document that -- that's submitted 20 to -- to the LBB in the Governor's office. The director 21 can sign, I can sign, and that is our official 22 submission. The approval of the LAR's traditionally 23 been done here at DPS by the Commission. But I just 24 want to make you aware of that, sir. 25 MS. ANDERSON: We have an August meeting</p>	<p style="text-align: right;">53</p> <p>1 I'm concerned we have put ourselves back in that same 2 position. Because the LAR is a policy document, and 3 this commissioner feels -- feels a responsibility to -- 4 MR. POLUNSKY: What about the other two? 5 MR. CLOWE: Yes. 6 MR. POLUNSKY: You agree? 7 MR. CLOWE: Yes. 8 MR. POLUNSKY: Carin? 9 MS. BARTH: I agree. 10 MR. CLOWE: So we need to have a meeting. 11 MR. POLUNSKY: Well, that's fine. 12 MS. ANDERSON: I mean, if we're sending it 13 to the print shop on the 8th of August, that sounds like 14 we're sending it to the print shop before the 15 Commission's had an opportunity. Or do we send it to 16 the print shop again on the 19th? 17 OSCAR YBARRA: That's an aggressive time 18 line. We can -- we can fudge with that, you know, 19 with -- with y'all's input and push it off to the next 20 week. 21 MR. CLOWE: Didn't you say you had a window 22 around the 4th? 23 OSCAR YBARRA: Yes, sir. I think Friday's 24 the 31st. That Thursday, Friday and Monday, Tuesday, 25 Wednesday is a window that -- that I'm thinking about.</p>

<p style="text-align: right;">54</p> <p>1 MS. ANDERSON: Could it be sent to us 2 electronically? 3 MR. CLOWE: It's the same trap we got in on 4 Sunset. And, you know, we -- in my mind, we were not 5 prepared for the Sunset hearing like I would've liked us 6 to have been. And I think Commissioner Anderson's 7 pointing out the same thing here. And if we have to 8 have a meeting in that window so the commissioners can 9 come together and deliberate this, I think it ought to 10 before it goes to the printer. 11 MR. POLUNSKY: Before the train leaves, you 12 know, the station. 13 MS. ANDERSON: We tried to be clear about 14 that before. So let me be clear about it again that, 15 you know -- 16 MR. POLUNSKY: Well, I think what I'm 17 hearing is we have need to have a special meeting in 18 order to address this within the next couple of weeks. 19 MR. CLOWE: And, Mr. Chairman, it doesn't 20 have to be an emergency meeting. Really, you could just 21 call it with ten days' notice and check with the 22 register. 23 MS. ANDERSON: But I think we ought to set 24 a -- a date, certainly. 25 MR. CLOWE: Yeah.</p>	<p style="text-align: right;">56</p> <p>1 MR. POLUNSKY: Well, Mr. Clowe, I would hope 2 that we could all be present and I will endeavor to get 3 this scheduled in a manner that we're all available to 4 attend. 5 MR. CLOWE: Thank you for that 6 consideration. But if it's not possible -- 7 MR. POLUNSKY: Well, I -- I appreciate -- 8 MS. ANDERSON: Can we try it, Mr. Chairman, 9 try to do that here today? I mean, we don't -- I mean, 10 maybe we can do it informally and we don't have to take 11 up time in open session on it. 12 MR. POLUNSKY: I just think we need to do it 13 and -- and find out whatever else Carin's got on her 14 mind. But before everyone leaves this afternoon, then I 15 think we ought to try to identify a date and just go 16 forward on that, if that's all right with y'all. To be 17 continued. 18 OSCAR YBARRA: Yes, sir. 19 MR. POLUNSKY: Next item on the agenda 20 reports, discussion, deliberation and possible action 21 including award regarding selection committee 22 recommendations for the following RFQs. Which one would 23 be the RRQ to study the management and organizational 24 structure of the Department of Public Safety. 25 OSCAR YBARRA: Talk about the organization,</p>
<p style="text-align: right;">55</p> <p>1 MS. ANDERSON: Today. I mean -- or -- or -- 2 MR. POLUNSKY: Okay. Well, then the 3 consensus, as I understand it, is that we will have a 4 special or a called meeting of the Public Safety 5 Commission as the lone agenda item. Agenda item will be 6 the LAR request submission for fiscal year 2010-2011; is 7 that correct? 8 MS. BARTH: I wouldn't mind adding another 9 item to that agenda. 10 MR. POLUNSKY: Okay. Well, will that come 11 later? 12 MS. BARTH: On today's agenda? 13 MR. POLUNSKY: Yes. 14 MS. BARTH: Yes. 15 MR. POLUNSKY: Okay. 16 MR. CLOWE: Mr. Chairman, having said what I 17 did about having a meeting, I'm reminding myself that I 18 have a commitment from the 4th through the 14th where I 19 will be out of the state and unable to attend the 20 meeting. And I'd be happy for the Commission to meet, 21 and I know my concerns will be well represented and 22 dealt with. 23 MR. POLUNSKY: By who? 24 MR. CLOWE: My fellow commissioners, my 25 colleagues.</p>	<p style="text-align: right;">57</p> <p>1 yes, sir. I believe that Chief Lamar Beckworth was 2 saying some words about that particular study. 3 LAMAR BECKWORTH: Mr. Chairman, 4 Commissioners, Lamar Beckworth, Assistant Chief of Texas 5 Highway Patrol and the project manager for the 6 organizational structure for Department of Public Safety 7 project. A successful vendor was selected and contract 8 was awarded. 9 The vendor is the Deloitte Consultant, 10 they're based out of Chicago, Illinois. Several of the 11 members of that particular team are here today, and I 12 would like to introduce them in a moment. 13 On Tuesday at 1 p.m. here at headquarters we 14 had a kickoff meeting with the team, and also with the 15 top members of the agency to talk about what our overall 16 objective was and the successes which we hope to 17 achieve. So we had an excellent relationship, hope to 18 have a cooperative effort in all our personnel. We 19 provided them space on the complex. They've already 20 begun this process. 21 And so I'd like right now to introduce the 22 team that are with us today. There are five individuals 23 here today. Mr. Robert Cooper is the project director. 24 Robert, would you stand? Okay. We have Chip Blagg, who 25 is the lead client server. We have Rob Cooper is here</p>



<p style="text-align: right;">58</p> <p>1 with us as well. We have Jim Mazur.  2 UNIDENTIFIED MALE SPEAKER: Jim had to step  3 out.  4 LAMAR BECKWORTH: And we also have Matt  5 Benton is here with us as well. So I'd like to welcome  6 you here. And they're available for any question you  7 might have for them at this time.  8 MR. POLUNSKY: Are there any questions from  9 the commissioners? We welcome you to the Department of  10 Public Safety. We have tasked you with one of the most  11 important issues and projects that this Department has  12 endeavored to address probably in the last 25 years.  13 This is of the utmost importance that it be done  14 professionally, and well thought out, and really serve  15 as a blueprint for the Department as we go forward  16 further into the 21st century.  17 So we are certainly putting a lot of  18 confidence in your track record, your expertise, and  19 your ability to come in and give us a document that will  20 be relevant and something that we could really use in  21 this Department to make the necessary changes to bring  22 it up to a high level in the 21st century.  23 Let me just briefly make a statement in the  24 sense that we're very pleased to have Chief Beckworth  25 involved in the process here. Beyond that, because of</p>	<p style="text-align: right;">60</p> <p>1 audit and risk assessment, that particular procurement  2 closed last Friday. It's my understanding that a team  3 will be reviewing and scoring that tomorrow. And we'll  4 have the result hopefully by tomorrow or Monday. And  5 Carin, we'll -- I'm sure we'll be discussing that with  6 Commissioner Barth on what the results are. That's my  7 update on this particular procurement.  8 MS. BARTH: And I would request that at the  9 meeting that we will be doing, the LAR, that the  10 Commissioners take up the approval of that contract so  11 that we could get that started.  12 MR. POLUNSKY: Okay. And that's the  13 additional item you were --  14 MS. BARTH: Yes, it is.  15 MR. POLUNSKY: Okay. Thank you. Next item  16 on the agenda is the discussion on investigation into  17 and results from the fire at the Governors Mansion.  18 This is an oral report and will be provided by Colonel  19 Davis.  20 MR. DAVIS: Mr. Chairman, members, as you're  21 aware, we have two investigations that are occurring at  22 this time. One is a criminal investigation into the  23 allegation of an arsonist setting fire to the mansion.  24 We are currently -- the Department is currently working  25 with the Alcohol, Tobacco, Firearms and Explosives, and</p>
<p style="text-align: right;">59</p> <p>1 the importance of this matter, we may bring in an  2 outside manager who would be working with Lamar. This  3 will in no way depreciate Lamar's contribution or his  4 position in this process. But it may bring some  5 additional expertise and experience that would be  6 helpful.  7 Beyond that, once the -- once the assessment  8 is completed in draft form, it is our intention to  9 provide a copy of it to Admiral Bobby Inman who has  10 agreed to review the document and provide any critiques  11 that may be appropriate. So we're trying to do  12 everything we can to make sure that this document is  13 done correctly, with enough support, and enough urgency,  14 and enough expertise to ensure that the investment the  15 State of Texas and the taxpayers are making in the  16 development of this report will be very well spent.  17 Thank you.  18 OSCAR YBARRA: Mr. Chairman, commissioners,  19 as far as the IT optimization, it's my understanding  20 that this particular procurement is -- is still under  21 negotiations and we're moving forward. As far as the  22 internal audit and risk assessment --  23 MS. ANDERSON: No, it -- certainly hope it's  24 close.  25 OSCAR YBARRA: Hope so, too. As far as the</p>	<p style="text-align: right;">61</p> <p>1 also the State fire marshall in that investigation.  2 I'll be glad to update you in executive session about  3 where we're at when we get to executive session.  4 The other investigation by Sergeant  5 Escalante is almost complete. He's submitted a draft  6 report of some corrections, some historical information  7 that we have to correct. And he also has a couple of  8 computer data bases that he's seeking information from  9 that he hadn't quite got yet that we will include in  10 that report. And that should be finished in ten days,  11 certainly by next week.  12 MR. POLUNSKY: So if I understand this  13 correctly, we will not have a formal report presented to  14 the Commission today, but you feel confident that you  15 will have a formal report generated under the auspices  16 of Sergeant Escalante for review by the Commission. And  17 for that matter, for dissemination, if appropriate, to  18 the general public?  19 MR. DAVIS: That is correct.  20 MR. POLUNSKY: Any questions?  21 MS. ANDERSON: Is Sergeant Escalante here  22 today?  23 MR. POLUNSKY: No, he's not.  24 MS. ANDERSON: I just wanted to thank him  25 for his work on the investigation.</p>



<p style="text-align: right;">62</p> <p>1 MR. POLUNSKY: All right. There'll be no  2 further discussion on this item. Next item will be the  3 discussion of possible action on review of DPS promotion  4 policy. That is on oral discussion.  5 MS. ANDERSON: Mr. Chairman.  6 MR. POLUNSKY: Ms. Anderson.  7 MS. ANDERSON: You know, the -- the  8 promotional opportunities in the Department are a key  9 element of integrated talent development strategy that  10 I've talked about before. And on June the 24th, prior  11 to the Sunset hearing, the Public Safety Commission  12 voted to support, at least broadly, the sentiments, if  13 not the prescriptions, of the Sunset staff's  14 recommendation regarding a promotion policy.  15 And in so doing, I believe we indicated that  16 a review, you know, is needed, can be helpful. We  17 should be open to refinements and ideas for management  18 and from the field (Inaudible) for improvements. And  19 speaking for myself, I believe the Department, you know,  20 the Commission should take this on and not wait for  21 others to impose it on us because we are closer to the  22 issues.  23 And so I believe that, you know, the men and  24 women of the Department are in the best position to  25 review the policy and propose alternatives for</p>	<p style="text-align: right;">64</p> <p>1 the nature of that process.  2 And beginning in August, report monthly to  3 Public Safety Commission with an -- with an eye to --  4 depending on how that goes -- to seeing or formal  5 recommendations and options with pros and cons,  6 barriers, concerns about implementation to the  7 Department prior to the end of the year.  8 MR. POLUNSKY: All right. So you have a  9 wide-ranging set of recommendations here. How would you  10 like to implement them, Ms. Anderson?  11 MS. ANDERSON: I would just -- I would ask  12 the leadership and the Department to form a working  13 group. And I'll give you this -- we don't have to wait  14 for the court reporter. I can give you all these --  15 sort of scope points. If the other commissioners have  16 things to add or think this is a bad idea.  17 MR. POLUNSKY: Do y'all wish to comment?  18 MS. BARTH: I think it's a good idea. I was  19 wondering where we were in surveying other agencies  20 outside the State of Texas with respect to their  21 promotion policy and information on how they handle it.  22 MR. McEATHRON: We've -- we're doing that  23 right now. We're -- we're handling it several ways  24 where we get the same information and all the  25 information from every agency. Major David Baker is</p>
<p style="text-align: right;">63</p> <p>1 improvement. So I would ask staff to form a working  2 group with broad representation across the Commission  3 divisions including field representation from various  4 ranks in the field to solicit ideas from Department  5 employees, you know, through a web survey or other broad  6 ways to solicit ideas.  7 Survey other states' law enforcement  8 organizations promotion policies; focus on ideas from  9 those who accepted promotions as well as those who  10 didn't accept promotions and what some of the factors  11 were there; consider each Sunset recommendation and how  12 it might be included in whole, in part, with  13 modifications as one component.  14 Evaluate the need for compensation and  15 benefit adjustments that -- that might impinge on  16 people's willingness to compete for and accept  17 promotions, whether that's relocation payments,  18 compensation adjustments for serving in underserved  19 areas or what have you.  20 Review the examination component of the  21 policy including the current practice of rank order  22 scoring that -- and create for commission consideration  23 a list of alternatives, like looking at scoring above a  24 threshold that would creat a pool of candidates; review  25 the interview panel makeup, the nature of the questions,</p>	<p style="text-align: right;">65</p> <p>1 heading that with a group of about five or six people  2 from across the agency. They've got about 30-some  3 responses back already.  4 And so by your next meeting -- well, the  5 true August meeting -- by the true August meeting we  6 hope to have a -- a booklet put together of what the  7 survey shows, some executive summary of what the  8 different options that they use are and maybe possibly  9 some ideas of things that we can do.  10 MS. BARTH: Okay.  11 MR. POLUNSKY: Well, Tom, do you have  12 anything?  13 MR. CLOWE: Did you say a report in the  14 August meeting?  15 MS. ANDERSON: I said to start giving us a  16 monthly update report in the August meeting, not a final  17 report like before the end of the year. So -- but just  18 monthly update.  19 MR. CLOWE: Well, the thought comes to mind  20 that this could come within the lawyer consulting the  21 scope of their project. And what would your comment be  22 in regard to that?  23 MS. ANDERSON: I think it could be done  24 concurrently and with some connection between the two.  25 But I don't -- well, I mean, I -- I don't have the scope</p>

<p style="text-align: right;">66</p> <p>1 of that engagement in front of me. But I think some  2 components of what I -- I have suggested ought to be  3 done with regard to gathering ideas and so forth is  4 probably outside the scope of what's inside the Deloitte  5 study. They clearly need to be aligned.  6 MR. CLOWE: Well, the reason I ask that  7 question is the promotion policy was one area that I was  8 going to talk with them about. And I would like to  9 bring their expertise to bear in a number of areas and  10 this would be one.  11 I'm certainly supportive of the Department  12 reviewing the promotional policy along the lines that  13 you laid out in coming forward with suggestions for  14 improvement. But I'd also like to have the Deloitte  15 group look at it and have their input. Because my hope  16 is that their view will be broadest of all.  17 Sunset has spoken, and I think we need to  18 look at every suggestion of value to come forward. And  19 I'm not so much concerned with doing it real quick as I  20 am doing it right. This is a big deal. And I want to  21 get everybody's input and make a very careful judgment  22 decision when we change the promotion policy and make  23 sure we get it right.  24 MS. ANDERSON: I certainly agree with those  25 sentiments, and I don't think anything I proposed is in</p>	<p style="text-align: right;">68</p> <p>1 is a real problem for us. My comments were really about  2 the commission side. I -- I would not object to a --  3 a -- to a non-commission component to that at all.  4 MR. CLOWE: I would urge --  5 MR. DAVIS: I believe in issues and those  6 things that are -- are related to non-commissions.  7 MS. ANDERSON: Right.  8 MR. DAVIS: Like the crime lab and some of  9 those other places that certainly, if we're going to  10 address that we need to look at both sides.  11 MR. CLOWE: Absolutely.  12 MR. McEATHRON: And just for your  13 information, in our opening statement, Deloitte, we  14 talked about this, and we'll offer up the survey that we  15 get back and anything we get back while they're still  16 here to help them, what we've got.  17 MR. POLUNSKY: That's good because it should  18 be across the board.  19 MR. McEATHRON: We can do it.  20 MR. POLUNSKY: And let me more or less  21 second Ms. Anderson's comments. I think this is an  22 extremely important area. It is certainly a very vital  23 component in the larger picture when we are likely to go  24 to the legislature and ask for assistance in helping  25 improve new troopers and employees to the Department of</p>
<p style="text-align: right;">67</p> <p>1 conflict with them. I also, as I said, agree with you  2 that they -- they absolutely need to be aligned. And so  3 I would ask, you know, in the context of an internal  4 working group to be, you know, soliciting ideas, you  5 know, internally that the leadership of that group be  6 directed to, you know, to work closely with Deloitte in  7 terms of one keeping the other advised of progress.  8 But -- but I would prefer not to see it done in a serial  9 way. I would prefer to see it done concurrently.  10 MR. POLUNSKY: I would agree with  11 Ms. Anderson.  12 MR. DAVIS: You're talking about both  13 commission and non-commission, because there's a little  14 bit of difference --  15 MS. ANDERSON: It is. And -- and the issues  16 are different in non-commission, too. I'm very  17 concerned -- you know, and what Sunset was really  18 talking about was commission.  19 MR. DAVIS: Right.  20 MS. ANDERSON: I'm very concerned about some  21 of our commission policies in the non-commission side.  22 For example, the fact that when you promote someone from  23 a strong individual performer role, the first line  24 supervisors, there's no salary dollars that go along  25 with that. And I -- I think that is another area that</p>	<p style="text-align: right;">69</p> <p>1 Public Safety in retainment, and get the very best  2 people possible, make sure that we don't have empty  3 positions out there that we are suffering from.  4 I think this all kind of comes together in  5 what I feel is the consensus of the Commission.  6 Although, please -- you know, please tell me if I am  7 speaking out of turn here.  8 But I do feel that the Commission is  9 committed to put together a number of recommendations  10 that would improve the attractiveness of working with  11 the Department of Public Safety and continuing to work  12 for the public -- Department of Public Safety for many  13 years to come. So I -- I think this is probably going  14 to be step one.  15 MS. ANDERSON: We also, to that point, have  16 a Sunset -- there's a Sunset Commission meeting on  17 September the 20-something, which is their decision  18 meeting. You know, and so this -- you know, this not  19 only -- the Deloitte study being under way, the IT and  20 audits being under way, and this effort being under way,  21 you know, concurrently it's a lot of -- lot of plates  22 spinning. But I think also demonstrates to the Sunset  23 Commission, the legislature, the people of Texas about,  24 you know, our commitment to continue to do everything we  25 can to make this department, you know, the leader in</p>



<p style="text-align: right;">70</p> <p>1 state law enforcement.</p> <p>2 MR. POLUNSKY: Well, we're all on that page.</p> <p>3 Any discussion? Okay. Let me ask the question, does</p> <p>4 the Commission wish to break for lunch or do you want to</p> <p>5 continue?</p> <p>6 The Public Safety Commission now adjourns to</p> <p>7 executive session which is posted in accordance with the</p> <p>8 Texas Government Code, Sections 55.071 and 55.074.</p> <p>9 (BREAK)</p> <p>10 MR. POLUNSKY: The regular session of the</p> <p>11 Texas Public Safety Commission is reconvened in</p> <p>12 accordance with Chapter 551 of the Texas Government</p> <p>13 Code, the Open Meetings Act. During the meeting the</p> <p>14 Commission will be conducting business from the agenda</p> <p>15 posted in the Texas register. A quorum of the board is</p> <p>16 present and the meeting is now once again open. It is</p> <p>17 3:25 p.m. I would like to ask the members of the</p> <p>18 Commission, is there any action to be taken as a result</p> <p>19 of the executive session?</p> <p>20 MS. BARTH: Mr. Chairman, I'd like to make a</p> <p>21 motion to authorize the chairman to name an interim</p> <p>22 director.</p> <p>23 MR. CLOWE: Second.</p> <p>24 MR. POLUNSKY: It has been moved by</p> <p>25 Ms. Barth and seconded by Mr. Clowe that the Commission</p>	<p style="text-align: right;">72</p> <p>1 MS. ANDERSON: And I haven't -- I haven't</p> <p>2 looked at it to see if there's any different responses</p> <p>3 that correlates anyway with the difference in response</p> <p>4 (Inaudible)</p> <p>5 The other thing that I would be looking for,</p> <p>6 if not today, with some reasonable expeditiousness, is</p> <p>7 some plan to cascade the results of this survey. I</p> <p>8 think it goes out on the internet or something, but some</p> <p>9 plan to cascade the results of the survey down to the</p> <p>10 employee rank in employee meetings or something and --</p> <p>11 and potentially the formulation of -- you know, of</p> <p>12 action plans if there are, you know, things that could</p> <p>13 be accomplished at the division level to address some of</p> <p>14 the responses of the survey.</p> <p>15 MR. POLUNSKY: Is there any other discussion</p> <p>16 on this?</p> <p>17 MR. DAVIS: Well, I think that exactly what</p> <p>18 the plan should be, I think Colonel McEathron, you --</p> <p>19 you gave us some comments on this in our earlier</p> <p>20 meeting. Is there a plan for employee meetings and that</p> <p>21 sort of thing?</p> <p>22 MR. McEATHRON: Well, I've got Paula Logan</p> <p>23 here who coordinated it.</p> <p>24 MR. DAVIS: Good.</p> <p>25 MR. McEATHRON: Yeah.</p>
<p style="text-align: right;">71</p> <p>1 delegate to the chairman the responsibility of selecting</p> <p>2 an interim director to serve until such time as a</p> <p>3 permanent director is named. Any discussion on the</p> <p>4 motion? There being none, all in favor, please say,</p> <p>5 "Aye."</p> <p>6 ALL COMMISSIONERS: "Aye."</p> <p>7 MR. POLUNSKY: Any against, no? Motion</p> <p>8 passes. Next item on the agenda is item ten, discussion</p> <p>9 of the DPS Survey of Organizational Excellence.</p> <p>10 Ms. Anderson, is that yours?</p> <p>11 MS. ANDERSON: I don't think so. But I</p> <p>12 think the last time we were together, I had sort of</p> <p>13 separately requested a copy of all the details and the</p> <p>14 other commissioners had not seen it. I think Ms. Logan</p> <p>15 was going to send it to them.</p> <p>16 MR. CLOWE: We all received that, didn't we?</p> <p>17 MS. ANDERSON: The only thing I would add is</p> <p>18 when you look at sort of the participation across</p> <p>19 divisions, some divisions have very high rates of</p> <p>20 participation, others have very low rates of</p> <p>21 participation. I subsequently asked for and received --</p> <p>22 and I don't know if everybody received this -- the cross</p> <p>23 tabs that show the difference in responses by divisions</p> <p>24 so -- did you all get that?</p> <p>25 MS. BARTH: Yeah.</p>	<p style="text-align: right;">73</p> <p>1 PAULA LOGAN: We've been in contact with UT,</p> <p>2 and they have some people that can come out and talk to</p> <p>3 us about what would be good ways to roll it out and look</p> <p>4 at our agency and see -- you know, maybe help us tailor</p> <p>5 a plan for our agency to do that. And I'm going to be</p> <p>6 getting together with Colonel McEathron to figure out</p> <p>7 who from the different divisions can be in at least that</p> <p>8 start-off committee and hear some of those</p> <p>9 presentations, and at least formulate the plan which</p> <p>10 will likely include, you know, more localized things</p> <p>11 and, you know, a wide -- a wider spread thing later on</p> <p>12 as a result of the initial -- initial one. But we're in</p> <p>13 the process of getting together with UT and then coming</p> <p>14 out and doing a -- talking to us about what would be the</p> <p>15 best way to roll that out.</p> <p>16 MR. CLOWE: Good. Thank you.</p> <p>17 MR. POLUNSKY: Further discussion? Okay.</p> <p>18 We'll move on. Next item is discussion on possible</p> <p>19 action reference driver's license checkpoints. Mr. Fox,</p> <p>20 DUNCAN FOX: And I have nothing to report on</p> <p>21 that one. Try to provide a memorandum from last week</p> <p>22 and (Inaudible)</p> <p>23 MR. POLUNSKY: Why don't you refresh our</p> <p>24 memory. Your memo from last meeting essentially stated</p> <p>25 what?</p>



<p style="text-align: right;">74</p> <p>1 DUNCAN FOX: The basic conclusion of that is  2 the long-term department position has been the driver  3 license checkpoint would not be authorized by the Court  4 of criminal -- based upon a prior decision by the Court  5 of Appeals. And that has been the historic  6 interpretation of the department.  7 If one option could be considered by  8 Commission is we could ask for Attorney General to give  9 us guidance about whether or not the Public Safety  10 Commissions itself could authorize the use and  11 (Inaudible) of driver's license checkpoints. And that's  12 what I wanted to present to you as an option.  13 MR. POLUNSKY: I think that's a good option.  14 MS. ANDERSON: I actually like that idea  15 very much because I think it's a law enforcement tool  16 that can be helpful to our troops in the field if  17 it's -- you know, if it would be deemed permissible.  18 And if not, then it would be up to, you know, the will  19 of the legislature to decide if they wanted our -- our  20 law enforcement, you know, folks to have that tool.  21 I -- as part of the some of the reading I do  22 every month, there was an article in the El Paso Times  23 on Monday, May the 19th quoting someone from the El Paso  24 County Sheriff's office about the fact that that office  25 does occasionally conduct checkpoints to see if driver's</p>	<p style="text-align: right;">76</p> <p>1 MR. POLUNSKY: How about sending it to me  2 next week sometime?  3 MR. FOX:***Great.  4 MR. POLUNSKY: Any other discussion on that?  5 MR. DAVIS: Let me ask one question.  6 MR. POLUNSKY: Yes, sir.  7 MR. DAVIS: Is that for DPS officers or for  8 all of them?  9 MR. POLUNSKY: Well, we're asking -- I would  10 assume we're asking for DPS officers. But I would  11 assume it would be for all officers.  12 MR. DAVIS: Well, you got to be careful how  13 you word it. If you -- if you ask the opinion, does the  14 Public Safety Commission have the authority to grant  15 that authority to DPS officers, that probably is not  16 going to apply to the local police and sheriff's office.  17 You know, might want to ask it two ways, specifically  18 like that or the other way that you're talking about.  19 MS. ANDERSON: It would be broader.  20 MR. DAVIS: Right.  21 MS. ANDERSON: Can local county  22 commissioners, for example -- or -- yeah.  23 MR. POLUNSKY: All right. That's fine.  24 That's good. Thank you for bringing that up. Okay.  25 Next item on the agenda, discussion and possible action</p>
<p style="text-align: right;">75</p> <p>1 are licensed and insured. So somebody's got a different  2 interpretation. And I -- I -- I would support directing  3 the general counsel's office to --  4 MR. POLUNSKY: What about y'all, are you  5 okay with that?  6 MR. CLOWE: Yes.  7 MS. BARTH: Agreed.  8 MR. POLUNSKY: Mr. Fox, we are hereby  9 directing you to ask for the AG's opinion on this -- on  10 this issue.  11 MR. FOX: Very good. Will this be prepared  12 for the -- to be requested by the Public Commission?  13 MR. POLUNSKY: Public Safety Commission.  14 MS. ANDERSON: And -- and I assume you'll  15 allow Chairman Polunsky to review your draft to the AG.  16 I would not only be asking the question about whether  17 the Commission has the authority to permit checkpoints,  18 but to the point in the -- you know, are there other  19 sources of authority such as the gubernatorial executive  20 order, let's get -- let's be sure that the letter to the  21 AG asks that specific question as well. Can we get this  22 letter out, like, can we set some expectation? Can we  23 have that on a 30-day fuse?  24 DUNCAN FOX: Could I have that opinion for  25 you as a draft presented at the special called meeting?</p>	<p style="text-align: right;">77</p> <p>1 on driver's license testing in multiple languages.  2 Ms. Brown. Or Chief Brown, I'm sorry.  3 JUDY BROWN: Judy Brown, Chief of Driver's  4 License Division. Commissioner, with regards to the  5 multiple driver's license -- multiple languages in -- in  6 the examination process in driver's license, I've  7 provided a white paper sometime back to the Commission.  8 I did not refresh that this time. But the statute  9 requires that the department give testing in English and  10 in Spanish. That's the limitation of the statute.  11 As a customer service effort, many, many  12 years ago we attempted to put testing in -- in multiple  13 languages. We found that to be extremely cumbersome  14 both from cost, effort, interpretation, to continue  15 those examinations in different languages.  16 Again, as a means to continue that  17 availability, we gave the opportunity for an applicant  18 to bring in an interpreter to interpret for a (sic) oral  19 examination to be given. We have found that that opens  20 up avenues for potential criminal activity, cheating,  21 however you want to look at that. But it opens up a  22 risk. It is a potentially volatile subject. It can be  23 changed with policy. It can be changed at the level of  24 the Commission.  25 But I wanted to make you aware as well that</p>

<p style="text-align: right;">78</p> <p>1 we've got the number of constituent groups that would  2 like to see us put it out -- put testing out in multiple  3 languages. We did some studies. There's about 15  4 different languages reported in the State of Texas.  5 They make up -- that -- that number makes up less than 1  6 percent of our population, however. And so from a  7 safety perspective, from a security perspective, I think  8 that we have the opportunity to address that and limit  9 our testing just to Spanish and English.  10 MR. POLUNSKY: And I would assume, also from  11 a customer service perspective as well, even though it  12 started out as a customer service initiative, but if you  13 are having to pull somebody off and stand with a  14 "interpreter" and someone who doesn't speak English to  15 get her driver's license test, I would assume, and tell  16 me if I'm wrong, that will cause delays that in turn  17 back people further up behind them and there is more  18 problem that we've been criticized for.  19 JUDY BROWN: Yeah, you make a very valid  20 point. As opposed to putting somebody on a machine to  21 take a test or giving them a piece of paper to take the  22 test, you are taking somebody off of an ability to  23 process the public for, you know, longer periods of time  24 depending upon the interpretation. You're absolutely  25 correct.</p>	<p style="text-align: right;">80</p> <p>1 opinion.  2 JUDY BROWN: It does. You're absolutely  3 accurate.  4 MR. POLUNSKY: Do y'all have anything?  5 MS. BARTH: I agree with the comments.  6 MR. POLUNSKY: Well, this is an issue that I  7 raised months ago. In my opinion, I would like to see  8 the driver's license division do away with this -- this  9 process, this procedure. People come back later and  10 there are ways to address large groups that speak a  11 particular foreign language where that language can be  12 translated to comply with our test materials, and there  13 are people who work for the Department of Public Safety  14 that understand what's going on and the language itself  15 and so on, then that's one thing.  16 But right now we're just flying blind and I  17 see nothing good coming out of it. So I would ask the  18 Commission to entertain the -- the thought of filing --  19 making a motion to direct the director -- to direct the  20 Chief of Driver's License to eliminate this procedure.  21 MS. ANDERSON: The use of these translators.  22 MR. POLUNSKY: Right.  23 MS. ANDERSON: Right.  24 MR. CLOWE: And -- and how could you couch  25 those terms so our new policy in our meeting would be</p>
<p style="text-align: right;">79</p> <p>1 MS. ANDERSON: Are the volunteer translators  2 that we encounter that come into -- are they -- are  3 they -- do they show up all over the state, are they  4 concentrated in, you know, a few offices or is it not a  5 predictable pattern?  6 JUDY BROWN: I would tell you that I don't  7 see it as a predictable pattern. We see in some cases  8 where the same interpreter shows up in particular  9 locations where they've developed their business there.  10 But we do see it across the state and -- and in our  11 metropolitan areas it's probably more pervasive.  12 MR. POLUNSKY: Would I be correct in  13 assuming that there's a very high probability of someone  14 who doesn't speak English in some esoteric language  15 bringing an interpreter into the driver's license office  16 and our person having to rely on the veracity of the  17 interpreter or the integrity of the interpreter -- and  18 that may not be the case -- that there would be  19 certainly a large possibility or big possibility of  20 cheating going on because our person may not speak one  21 of these dialects, probably doesn't.  22 So they're having to rely what the  23 "interpreter" is telling them the -- the applicant is --  24 is saying or answering or whatever. So it -- it --  25 it -- it really guts the entire process, at least in my</p>	<p style="text-align: right;">81</p> <p>1 clear that the applicant must make their own answers --  2 I'm just -- you know --  3 MR. POLUNSKY: I think -- I think you just  4 comply with the statute, really. The statute gives you  5 two options, and they need to chose "A" or a "B." If  6 they don't -- if they can't do it either using "A" or  7 "B," then they're out of luck.  8 MR. CLOWE: So we're -- we would be  9 eliminating a policy that we created allowing  10 interpreters; is that the motion that you're asking for?  11 MR. POLUNSKY: I'm not sure this was a  12 formal policy that was ever passed by the Public Safety  13 Commission. I think this may have just grown out of a  14 custom or request or whatever. But -- but there is a --  15 a (Sic) unofficial policy out there from what I can  16 tell. And I would like to officially go on the record  17 as eliminating that.  18 MR. CLOWE: Is -- is that our understanding,  19 Chief Brown?  20 JUDY BROWN: Yes, sir. That's been a policy  21 that was created within the driver's license division  22 and -- and continued for -- till this point.  23 MR. CLOWE: So it's a practice.  24 JUDY BROWN: Uh-huh.  25 MS. ANDERSON: How would you envision making</p>



<p style="text-align: right;">82</p> <p>1 the transition? Because we're, you know, now the  2 commission's -- we're -- we're taking something away  3 from the -- some permission that has been out there.  4 And so what are your thoughts about how you communicate  5 that to the people that are effected which is  6 potentially maybe -- you know, unless the individual  7 drivers and more of the community, the volunteers that  8 represent these people in these other dialects.  9 JUDY BROWN: As I said, we've got a couple  10 of -- of constituency groups that -- that maintain  11 pretty frequent contact with us in attempting to -- they  12 want to interpret our test, they want to provide our  13 test in difference language, they want to provide us the  14 services that -- as a volunteer. Which, again, I think  15 adds to the same level of risk that we have with  16 translators.  17 We could begin to put notices out. I would  18 expect pretty quickly these communities will go to the  19 media as well. So I think the -- it won't take long for  20 the word to get out if we begin to deny the services.  21 MR. CLOWE: Can I ask a question? I just  22 wonder, from a practical standpoint, how a person who  23 does not speak English and has to call upon this  24 methodology to obtain a driver's license deals with  25 signs that are in English. I suppose they can memorize</p>	<p style="text-align: right;">84</p> <p>1 JUDY BROWN: You're correct.  2 MR. CLOWE: I think you should have the  3 motion. I'm just wondering what the verbiage is on it  4 to order the -- direct the driver's license division to  5 comply with the statute fully. Is that the verbiage  6 that would be correct?  7 MS. ANDERSON: Or cease allowing the  8 volunteer translators to come in and assist with  9 providing the knowledge exam.  10 JUDY BROWN: Or I would maybe offer --  11 because it's not just the translating services. If we  12 were too limiting then we open up the argument to use  13 the funding that we do not have to automate those tests  14 or translate those and -- and -- on paper form. If I  15 could suggest, you -- you may want to consider it that  16 we limit it to Spanish knowledge and driving  17 examinations limited to Spanish and English only as  18 allowed by the law.  19 MR. POLUNSKY: I would be happy with that.  20 MR. CLOWE: I think it's important to get  21 the language right. Because we're obviously going to  22 make some folks unhappy. And we want to be able to  23 explain our policy and have the statute to rely on. And  24 if that's the language that is in the statute, then I  25 think that's what we want to set.</p>
<p style="text-align: right;">83</p> <p>1 a stop sign and they can see the signal lights. But  2 when they come into a construction site, for example,  3 and there's a flashing sign giving instructions, or if  4 they are stopped by a trooper and they are addressed in  5 English and the citation is in English -- if you have  6 the knowledge, tell us what the practicalities of those  7 situations are.  8 JUDY BROWN: Well, you know, I can tell you  9 Commissioner Clowe, that you've raised the safety  10 concerns that we raised in our white paper. When the  11 test is actually given, the sign is displayed in  12 English. The question is asked in their native language  13 and answered in the native language. But the safety  14 portion of that is the ability to understand the  15 irregular signs, the specific instructions, the verbal  16 instructions. And -- and you raise the same points that  17 we provided in our response.  18 MR. POLUNSKY: Plus, TxDot now has, you  19 said, electronic signs that give out all sorts of  20 information. At least in the larger cities. If you  21 can't read English, you're not going to be able to tell  22 that there's a -- construction going on in the left two  23 lanes or there's a -- there's an accident ahead or  24 whatever. I mean, you're just -- you have no idea what  25 that says, I would imagine.</p>	<p style="text-align: right;">85</p> <p>1 MR. POLUNSKY: I agree.  2 MR. CLOWE: So moved.  3 MS. ANDERSON: Second.  4 MR. POLUNSKY: It has been moved by  5 Mr. Clowe and seconded by Ms. Anderson that the Public  6 Safety Commission direct the director who in turn will  7 provide instructions to the division chief of driver's  8 license to henceforth adhere only to the presenting  9 driver's license tests in languages covered by the  10 statute as it's presently written; is that what we're  11 looking at, Chief Brown?  12 JUDY BROWN: Yes, sir.  13 MR. POLUNSKY: Okay. Any discussion? All  14 in favor, please say, "Aye."  15 ALL COMMISSIONERS: "Aye."  16 MR. POLUNSKY: Any against, no? Motion  17 passes. Thank you. Discussion of enforcement actions  18 for commercial drivers convicted of smuggling humans  19 and/or drugs. Chief Brown.  20 JUDY BROWN: As I reported to the Commission  21 last month, we have partnered with the U.S. Border  22 Patrol to implement a program that they have so  23 eloquently labeled the Texas Hold 'Em Program. It's an  24 opportunity to educate the commercial driver community  25 with response to the penalties applied to those who are</p>



<p style="text-align: right;">86</p> <p>1 convicted of smuggling either drugs or aliens with use 2 of a commercial motor vehicle. 3 We have continued -- we had a press release 4 here in Austin at the last Commission meeting with the 5 Governor's office, and one was held last week in Laredo. 6 We have offered to continue in any capacity that we can 7 to be present or assist with any of the press releases 8 in conjunction with Border Patrol. 9 We are still at five CDL drivers that have 10 been reported to us with those convictions. I have been 11 asked to determine are there any legislative 12 recommendations that may support this program or may 13 enhance that program, and I would tell you that in my 14 opinion, the transporting undocumented aliens, the 15 statute says that we have a one-year automatic 16 disqualification on the first conviction, and a 17 lifetime on the second. 18 However, if you're convicted of transporting 19 drugs, it's a lifetime disqualification on the first 20 offense. And I think those should be similar. So we 21 have added to our legislative agenda to work with the 22 different committees in the legislature to offer 23 language that would allow a lifetime conviction on the 24 conviction -- on the -- a lifetime suspension on the 25 record upon conviction of first time conviction of</p>	<p style="text-align: right;">88</p> <p>1 They're -- they're taking the labor side of it to 2 provide certified copies of the court conviction along 3 with their case report which then allows us to take 4 action. 5 We've attempted to educate for FMCSA through 6 some other federal partners that this process could be 7 utilized in all of the nation, and -- and specifically 8 on the border communities where they could also suspend. 9 So the statute always existed, the 10 convictions were not being reported, and we have now 11 developed a way in which those convictions can be 12 reported and we can take action. 13 MR. POLUNSKY: Sounds good. Any questions? 14 MR. CLOWE: No. 15 MR. POLUNSKY: All right. Next item on the 16 agenda, discussion and possible action on improvements 17 in the driver's license division customer service. Now 18 you're on the hot seat. 19 JUDY BROWN: The target appears again. I 20 will tell you from the last meeting that -- that we have 21 put together a couple of groups and we talked about the 22 things that we can do within the confines of our current 23 staffing and our current budget to try to enhance 24 customer service. 25 We -- what you may not be aware of is in the</p>
<p style="text-align: right;">87</p> <p>1 smuggling aliens. 2 MS. ANDERSON: And you don't need any 3 enabling rules or anything to -- to be able to enforce 4 it and suspend -- 5 JUDY BROWN: We would have to have 6 legislation to -- to make that change. 7 MR. POLUNSKY: Right. But do you need 8 something from the Public Safety Commission asking you 9 to go forward? 10 MS. ANDERSON: And the statute, as it is, 11 lets you go ahead and suspend based on the way the 12 statute's written today, you don't need any other 13 rule-making for that purpose. 14 JUDY BROWN: The statute is always 15 existent. What -- what has occurred is those offenses 16 go to the federal courts for conviction. And the 17 federal courts were not submitting those as an 18 administrative process, they were only handling the 19 criminal side of that and not submitting those 20 convictions to the department. 21 And in any other state that I've talked to, 22 the federal courts are doing the same thing. They're 23 not submitting those so the administrative process can 24 take place. As we became aware of that through the 25 Border Patrol, then we worked up a process with them.</p>	<p style="text-align: right;">89</p> <p>1 years past the Commission charged us with creating kind 2 of a peak -- a process that we put into place during the 3 summer months when we have our peak volumes. And 4 because of that process we've taken on some additional 5 hours, some additional times. 6 We've in many cases taken those same efforts 7 and conveyed them across the entire calendar year rather 8 than just -- just in our increased processing times. 9 Those things like, although our posted hours are 8 to 5, 10 we open up at 7:30, 7:15, 7:45. My direction to my 11 staff in the field is that if there's a line outside, 12 open the door. If at all possible, open the door. Let 13 people into the lobbies. 14 So in most cases, unless I am reported 15 differently, we're asking the doors to be open 7:30, 16 7:45. We are going through an effort right now to look 17 at -- as Commissioner Barth raised the issue that one 18 of -- one of the staff indicated that they are 19 working -- it's their flex schedule, which doesn't mean 20 anything to the public. 21 We've addressed that with that particular 22 office but we've always addressed it across the -- the 23 state to look at the opportunity to do split shifts 24 where when we have a late day and we don't have staff 25 that can work the 14-hour day, they come in early split</p>

<p style="text-align: right;">90</p> <p>1 their shift by taking a two or three-hour lunch, and  2 then begin to be there back late in the afternoon.  3 We're going to pilot that in a couple of  4 offices and see if it helps at all. The problem, as I  5 see it, although we're going to pilot it anyway and see  6 what can do, again, in the summer our process changes.  7 We're busy all day long. During the school year we have  8 some downtime in between, you know, 9:00 and 11 and  9 again between 1 and 3 till the students are out of  10 school. Summer, it's a little bit harder to see that as  11 being a possible value.  12 But we're going to try, we're going to  13 monitor our wait times as well. We do not have an  14 automated mechanism to monitor our wait times, so what  15 we've implemented is some periodic checks of wait times.  16 We've -- we've done some manual studies of what our wait  17 times are. We're going to take those back, try to look  18 at staffing to see if there's any flexibility, maybe one  19 office has an extra body that we can move to an office  20 that maybe has maybe an excess of an hour wait time.  21 MS. BARTH: Chief Brown, with respect to  22 this idea of a two-hour break, so to speak, I guess the  23 person going back on, is that what you are thinking  24 here?  25 JUDY BROWN: What we were considering is</p>	<p style="text-align: right;">92</p> <p>1 staff those hours. It's not going to help expand the  2 hours and not have bodies there to -- to fill the lanes  3 and be able to process the public.  4 MS. BARTH: Did we ever survey as they come  5 through to see if they were aware they could actually  6 renew online?  7 JUDY BROWN: We've done a number of surveys.  8 And at Commissioner Anderson's request, I added to my  9 report this month some information about the online  10 process.  11 MS. ANDERSON: And I appreciate you doing  12 that, and I read that with interest. And, you know, so  13 then I realized the Sunset report was a little  14 misleading, that only 16 percent were using that  15 channel. Because as it turns out, only half of the --  16 because the math ought to be done based on who was  17 eligible to use the alternate channel.  18 But, boy, we are not doing a good enough job  19 there. And -- and I don't know -- and I don't know if  20 the statute would let us do this -- can we discount the  21 renewal fee if they renew online. I mean, that's the  22 kind of thinking that -- you know, that we need to be,  23 you know, thinking about.  24 I was very interested your report to see  25 that we're getting a -- when we do the notice where we</p>
<p style="text-align: right;">91</p> <p>1 having them work to 7:30 to 1:30 and then having them  2 take a break from 1:30 to 4, and then work again 4 to  3 7:30.  4 MS. BARTH: The only observation I -- I will  5 make on that is the increase in fuel cost, someone going  6 back and forth from -- you know, that's out of pocket  7 expense that we need to take into consideration because  8 that does -- you know, perhaps \$1.50 or \$2.00 a gallon  9 is less of a factor. At \$4.00 a gallon, to me, it's a  10 bigger factor. Something to be cognizant of.  11 JUDY BROWN: You speak the same concerns I  12 did. But it's tough in -- in where we are, not just  13 because the summer months and our increased volumes, but  14 because of gas prices.  15 We believe we have a couple of line  16 employees that would be willing to go home and spend a  17 couple hours with their kids during the summer -- and  18 and might -- we've had a couple that said they'd  19 volunteer to try it. So again, I think we have a  20 management meeting next week where we'll do a much  21 larger discussion of what all the alternatives we have  22 and then the opportunity to look at those.  23 We've estimated out roughly that if we ran  24 ten hours -- ten-hour days, five days a week, we're  25 talking another almost 200 bodies that we need to fully</p>	<p style="text-align: right;">93</p> <p>1 send them about the alternate renewal that we get a  2 postal return rate of 30 percent, and I'm wondering --  3 when you're saying implement an address verification  4 program, I assume you mean, like, national change of  5 address. We absolute -- I mean --  6 JUDY BROWN: We have that now. What we  7 really need is a true address verification.  8 MS. ANDERSON: Okay.  9 JUDY BROWN: The national change of address  10 is a requirement that we do today --  11 MS. ANDERSON: But for, like, a realtime age  12 certification that does batch address verifications?  13 JUDY BROWN: It says it's a valid address,  14 but it doesn't say that -- that Judy Brown lives at that  15 address. There are address verification programs that  16 would say, no, Judy Brown doesn't live there, she's  17 forwarded and lives -- or she has credit --  18 MS. ANDERSON: And that's what the national  19 change of address schemes that I'm familiar with do do  20 that.  21 JUDY BROWN: They do mail forwarding, in my  22 understanding, but they don't do the long term if it's  23 so many months out after the mail forward has occurred.  24 I can go back and verify that. But we do do the --  25 MS. ANDERSON: They used to maintain voter</p>



<p style="text-align: right;">94</p> <p>1 list among other things. Yeah, I don't -- I don't know  2 the details. But, you know, that's clearly an option.  3 That ought to pay for itself and just not spend the  4 money on return mail. But we need to be very aggressive  5 in looking at our alternate channels. Because we need  6 to take traffic out of those offices.  7 JUDY BROWN: And one of the things that I  8 suggest we're going to look at, those offices where they  9 have information desks, when that person gets to the  10 information desk and there's a -- any line, if we can  11 check the eligibility at that point, is the person  12 eligible to renew by mail, hand them an envelope and --  13 and suggest that they may -- rather than go to a  14 different office and get in line, if you'd like to --  15 MS. BARTH: Then just put up a sign when you  16 get -- as you open the door, okay, as opposed to wait 45  17 minutes before you get up to the information desk. Just  18 a sign up this that says, you know, really bright  19 letters, if "A" "B" "C," you can do this online.  20 JUDY BROWN: We've got signs posted in the  21 office, but we can look at -- look at modifying those so  22 that it's very obvious when somebody comes in. That's  23 very doable.  24 MS. BARTH: I would like to raise one other  25 issue along the way in terms of customer satisfaction.</p>	<p style="text-align: right;">96</p> <p>1 MR. POLUNSKY: Or we could make everybody in  2 Texas a Public Safety Commissioner so everyone in this  3 room would have just a few more people to meet with.  4 MS. BARTH: Something, that I think --  5 MR. POLUNSKY: A Rolands moment.  6 JUDY BROWN: Thank you for the levity.  7 Commissioner Barth, Texas does a central issued license.  8 That means you don't get your license in the driver's  9 license office while you wait. We believe, and most  10 states believe, that is the most secure method to issue  11 a license. There are some states who do the -- the  12 over- the-counter or instant issue. The fraud, the --  13 the criminal element is -- is exacerbated greatly in  14 that process.  15 We've had a long-standing, we -- we do  16 research frequently to see what other states are doing,  17 how processes are working. And -- and I'm still pretty  18 confident that the only way to issue a license and keep  19 security with that is a central issue system.  20 The new system, when we get it rolled out,  21 we'll put a photo on your permit. In some places, TSA's  22 going to accept that and some are not.  23 MS. BARTH: Well, I think what they're doing  24 is using that little -- that new little device they use  25 to look at the license.</p>
<p style="text-align: right;">95</p> <p>1 I went and got my daughter's permit, and the lady behind  2 the desk was kind enough to look at mine and say, by the  3 way, you can renew your license. While you're here do  4 you want to do that? I said, yes, great idea, I won't  5 have to do it for -- then I won't even have to deal with  6 it. Well then they gave me back a piece of paper and a  7 snipped-in-half driver's license, okay. So then you'll  8 get your -- you'll get your permanent license within two  9 weeks.  10 So I happened to have to travel during that  11 period of time. At Hobby they wouldn't accept it, okay.  12 And they accepted my Commissioners ID instead, okay.  13 And, you know, which sort of surprised me along the way.  14 At Love Field, when I was coming back, the person said,  15 yeah, this is fine.  16 And so I guess my question is is there some  17 other interim type piece we can give versus a piece of  18 paper that, you know, clearly someone could actually  19 just Xerox when you really look at it, or something we  20 can do there? Because it is a little bit -- it was  21 disconcerting to me along the way if I'd lose that  22 little piece of paper. It seems like if I'm renewing my  23 license right then and there, they ought to be able to  24 give it to me. We shouldn't have to wait a two-week  25 period.</p>	<p style="text-align: right;">97</p> <p>1 JUDY BROWN: They're looking for the UV ink  2 on the laminate.  3 MS. BARTH: Yeah. Uh-huh. And so I think  4 it's cut off.  5 JUDY BROWN: No, it's not. It's -- it's on  6 the -- it's on the entire laminate on your license. The  7 new license will probably invalidate different  8 lengths --  9 MS. BARTH: Okay.  10 JUDY BROWN: Because there are security  11 features in different places that -- that we won't want  12 to cut off.  13 MS. BARTH: Okay.  14 JUDY BROWN: But whether we clip a corner,  15 clip the top, the attempt to invalidate that so you're  16 not carrying two valid licenses in your possession is --  17 is the goal there. And we do -- we do recognize that it  18 creates a problem when you leave with that clipped-off  19 license. I've traveled with them and -- and most of the  20 times they're acceptable along with the receipt.  21 MS. ANDERSON: Do we just need to write TSA  22 in Texas? I mean, I guess --  23 MS. BARTH: They should be aware of it.  24 MS. ANDERSON: They should be aware of it.  25 But --</p>



<p style="text-align: right;">98</p> <p>1 JUDY BROWN: And, again, it's all states are 2 a little bit different. 3 MS. ANDERSON: But we ought to fix our 4 problem in Texas before we worry about whether they 5 accept it in other states. 6 MR. CLOWE: Well, if you fly outside of the 7 state you've got to get back. 8 MS. ANDERSON: But she was -- she was flying 9 in an airport, you know, 30 miles from her house. Got 10 to start somewhere. 11 MR. POLUNSKY: I would encourage you to be 12 as precedent and creative as possible. PSA 13 announcements, I know that we ran those -- those 14 announcements on TV with various houses and such where 15 you could "renew your license from." 16 JUDY BROWN: Right. 17 MR. POLUNSKY: More of that, whatever we can 18 do. Because quite frankly, we're going to need to be 19 able to go to the Sunset Commission and give them 20 some -- some remedies to what they perceive to be a very 21 large problem. And I think they're probably correct, it 22 is a large problem. 23 So, I mean, this is a time when everyone 24 really needs to kind of think outside the "box" and come 25 up with initiatives ideas, recommendations, whatever,</p>	<p style="text-align: right;">100</p> <p>1 item on the agenda, report, discussion and possible 2 action regarding the Texas Fusion Center and status of 3 participation of other agencies. Chief Mawyer. 4 KENT MAWYER: My name's Kent Mawyer, I'm the 5 Chief of Criminal Law Enforcement. Good afternoon, 6 Mr. Chairman, Commissioner, the Bureau of Information 7 Analysis is completing the -- the last of the analyst 8 relocations to complement the -- the Fusion Center 9 within this facility building. 10 In addition, continuing the construction 11 phase of the secure information area for the classified 12 section. The construction bid is out on the market, as 13 I understand it. So as soon as that is let, then we'll 14 have a crew come in and finish the physical construction 15 aspects. Once that's done then there -- we will ask for 16 a certificate of approval from the feds. 17 And then after that point then they will 18 come in and begin their -- their technology 19 infrastructure, adding their data circuits and things of 20 that nature. I'm told -- not really what I want to 21 hear -- but that's probably five or six weeks off to 22 complete all those processes. 23 The -- recently, the -- the BIA facilitated 24 a high level analyst training back in June and invited 25 some agencies from across the state to participate in</p>
<p style="text-align: right;">99</p> <p>1 innovations, so that we can show that we are 2 implementing a plan that will eliminate a lot of the 3 wait time or address the customer service issue as best 4 we can under the circumstances that we find ourselves in 5 today. And then maybe go back to the next session and 6 get some help over and above what we're doing now. 7 MS. ANDERSON: And more likely to get the 8 kind of help we want for the next biennium if we show 9 them this fall, you know, if -- if you're able to have 10 this group that's going to meet, put together some 11 thoughts that you can, you know, get in front of the 12 Commission members before that decision meeting in late 13 September, to show that we -- that we hear their 14 concerns, we take them seriously, and that even short 15 of, you know, funding increase the next biennium, here 16 are the things we're thinking of we can do given our 17 current constraints. Even in our current constraint 18 environment there's something we can do. 19 MR. POLUNSKY: And if we have more money we 20 can do a whole lot more. 21 JUDY BROWN: Thank you. 22 MR. POLUNSKY: Are there any other questions 23 for Chief Brown? 24 MR. CLOWE: No. Thank you. 25 MR. POLUNSKY: Thank you very much. Next</p>	<p style="text-align: right;">101</p> <p>1 that. It was designed to facilitate, you know, common 2 skill sets, mentoring and just strengthening the 3 relationships between the agencies. 4 As to other agency participation and the 5 status as it relates to the Fusion Center, presently 6 Austin PD has been agreeable but has made no commitment 7 to co-locate. It is our impression that they still 8 desire to do their own thing. The Travis County 9 Sheriff's Office has agreed to do it, but they have no 10 personnel to place in the Center. The drug enforcement 11 administration currently has two personnel assigned to 12 the Center. 13 Immigration, Customs and Enforcement has 14 made no formal commitment but is continuing to work with 15 us even though they're not physically in the Center. 16 Financial Crime, they are fenced in as an analyst in the 17 Center. The FBI has toured the Center. They are also 18 part of the process for -- for putting their technology 19 in place. They have hired an analyst; that analyst is 20 in training and it's their anticipation that they'll be 21 available in September. 22 MS. ANDERSON: I'm sorry, what agency was 23 that? 24 KENT MAWYER: FBI. The Department of 25 Homeland Security is also in -- or actually is in the</p>

<p style="text-align: right;">102</p> <p>1 process of hiring an analyst for the Center. And then  2 once they hire and train, then -- then they will be  3 available. We have no time line for that. I can tell  4 you that I was told as long as three months ago that  5 they were hiring an analyst. So we're -- again, we're  6 at their mercy.  7 In addition to that, DHS is also  8 considering -- still considering putting a reports  9 officer in the facility as well. Texas Parks &amp; Wildlife  10 has dedicated one sergeant to place in the Center. To  11 my knowledge, he's not physically there yet but they  12 have indicated that they will put one person in. The  13 Texas Department of Criminal Justice has indicated that  14 they will place an analyst in the Center beginning  15 September 1.  16 Again, it's my understanding that this  17 person has to be hired over the next month, probably  18 will post and then place that person in the Center. And  19 finally, the Alcoholic Beverage Commission has -- as  20 we've talked with them several times, made the  21 invitation, but they have not committed at this point  22 to -- to add anybody.  23 In addition, we've had some meetings with a  24 third party contractor, if you will, to facilitate the  25 growth and the ability of the Fusion Center to -- to</p>	<p style="text-align: right;">104</p> <p>1 is pending, and five of those it's -- are pending appeal  2 to the Public Safety Commission. We have one person  3 that's on military leave and that has stopped his appeal  4 until he returns from military leave.  5 MR. POLUNSKY: And they're scheduled or not?  6 MR. DAVIS: They're -- we have a list and  7 the next Commission meeting, we'll take the next one on  8 the list. We had Milton Phillips today. It's my belief  9 the next one's Tim Mason.  10 MR. POLUNSKY: Questions?  11 MR. CLOWE: No questions.  12 MR. POLUNSKY: Thank you, sir. Next item,  13 Commission member reports. Ms. Anderson, do you have a  14 report?  15 MS. ANDERSON: Just a couple of things on  16 racing for the Commissions' information. One is that --  17 I wasn't aware of this, but you may or may not be  18 aware -- but the -- the way that we support the Racing  19 Commission in terms of inspections at the tracks for  20 various compliance types of -- of issues, is with staff  21 for motor vehicle theft, okay. So they're kind of  22 wearing two hats.  23 I became aware of disparity in both the  24 frequency and the intensity of the manner of which those  25 track inspections were going on. The disparity in terms</p>
<p style="text-align: right;">103</p> <p>1 enhance their abilities, enhance their knowledge base,  2 things of that nature. That resulted in a unsolicited  3 proposal that has been provided to the director as well  4 as Mr. McCraw, who's at the office of Homeland Security.  5 At this point, the feedback that we've gotten from Steve  6 McCraw has -- has been, I will say back and forth.  7 We're in discussions to try and -- because  8 the proposal was pretty wide-ranging, it accomplished a  9 little more than just the Fusion Center. So -- so our  10 discussions have centered around how best to utilize  11 what dollars he seems to think he has available to fund  12 this particular project, and then how fast we implement  13 that.  14 And that concludes my report, unless you  15 have any questions.  16 MR. POLUNSKY: Thank you, Chief Mawyer. Are  17 there any questions?  18 MR. CLOWE: No questions.  19 MR. POLUNSKY: Thank you, sir.  20 KENT MAWYER: Thank you.  21 MR. POLUNSKY: Next item, discussion and  22 possible action on Internal Affairs complaint cases  23 pending for more than 360 days. Colonel Davis.  24 MR. DAVIS: Chairman, we have six  25 individuals that have been discharged, that their appeal</p>	<p style="text-align: right;">105</p> <p>1 of, you know, how -- that they're sort of four -- three  2 major tracks, a couple of minor horse tracks in Texas.  3 And so Captain Babbitt, who is responsible  4 for this area, met with his team. They talked about how  5 different regions were defining things differently. And  6 so I think they came to an agreement on, you know, what  7 was going to constitute a rail inspection, you know,  8 not -- not just to walk by or something.  9 I think we still have work to do in this  10 area to, you know, to reduce the disparity and to  11 achieve consistency across regions in the -- because  12 just like with any other law enforcement, the presence  13 of these people on these tracks, you know, is key. And  14 we had a, you know, excellent example of that recently  15 at Lone Star Park where an illegal item was found, the  16 trainer was fined. And if you're not there, you're not  17 going the find those things.  18 And the racing public expects integrity of  19 the process. So I, you know, continue to kind of be  20 focussed on that. There is a new director of  21 enforcement at the Racing Commissions who came from  22 criminal intelligence, Mike Gougler.  23 MR. POLUNSKY: Gougler.  24 MS. ANDERSON: And so that's good for Racing  25 Commission because he knows, you know, who to call over</p>



<p style="text-align: right;">106</p> <p>1 here, you know, when he needs something. So I'm pleased  2 that, you know, he has that opportunity to serve over  3 there.  4 Second issue in racing is about  5 fingerprinting for the track employees. Everybody has  6 to be fingerprinted. They're using these hard copy,  7 old-fashioned, you know, card prints. They take longer  8 in turn around here in terms of running the background  9 checks.  10 And so there's discussion going on with our  11 vendors and Captain Babbitt and the racing team to try  12 to figure out can we get some electronic fingerprint  13 kinds of capabilities there so we can speed that up.  14 And that would address a Sunset Commission report in the  15 Sunset report on racing. So we'll work on those two  16 things.  17 MR. POLUNSKY: Anything else? Mr. Clowe.  18 MR. CLOWE: No report.  19 MR. POLUNSKY: Ms. Barth?  20 MS. BARTH: I have nothing.  21 MR. POLUNSKY: Okay. Thank you.  22 MR. DAVIS: Mr. Chairman.  23 MR. POLUNSKY: Sorry. Yes.  24 MR. DAVIS: Can I make one statement?  25 There's a guy just walked in the room that I don't mean</p>	<p style="text-align: right;">108</p> <p>1 perspective on that. So I think we need to respond.  2 Numbers I've seen say we're continuing to lose ground  3 relative to large metro PD and the FBI.  4 The legislature's been really good to DPS,  5 money for the troopers, money for border star. And --  6 and so we're sort of the victim of our own success in  7 that we're stretched thin by this expanding mission and  8 our successes on the border.  9 So I -- you know, I think we owe Sunset an  10 answer. And mindful that they're meeting again on the  11 24th of September, I ask this agenda item be placed on  12 the agenda so that the Commission member could provide  13 input from a policy perspective and then with the  14 Commission's concurrence I would ask the staff, you  15 know, to take that policy direction, collect data from  16 the state Auditor's Office, other sources that you have.  17 And -- and, you know prepare a draft for the Commission  18 to review in -- in -- at the August meeting so that we  19 then could provide it to the Sunset Commission well in  20 advance of the late September meeting.  21 And, you know, it's about -- and it was in  22 the context of employer retention. You know, do we need  23 better pay to retain people. And the thing that  24 occurred to me, besides just straight pay issues that we  25 might want to put in here or think about putting in</p>
<p style="text-align: right;">107</p> <p>1 to embarrass, but the guy's named Ted Wilson. He was  2 assistant district attorney in Harris County who is  3 retiring at the end of this month, and is up here  4 teaching a search warrant school. Ted, would you stand  5 up?  6 I will tell you that this is probably as  7 good a friend as DPS has as far as prosecutor goes in  8 the state. And I'll tell you I taught him everything he  9 knows.  10 MR. POLUNSKY: Thank you very much for  11 everything you've done both in Harris County and for the  12 Department. If Colonel Davis is vouching for you, I  13 think that pretty much says it all.  14 Discussion and possible action on employee  15 retention. That -- that's yours, Ms. Anderson.  16 MS. ANDERSON: It is. You know, again, I'm  17 reacting to the Sunset meeting on June the 24th where a  18 member -- and I believe it was Representative Kolkhorst.  19 I'm not sure about that. But the tape will tell us  20 that. Specifically asked the Commission for our  21 thoughts on the need for better pay and so forth to  22 retain our troopers.  23 And, again, I haven't listened to the tape.  24 But my sense of that, was she was asking this  25 Commission, you know, to respond, you know, our</p>	<p style="text-align: right;">109</p> <p>1 here, was the notion of one of the retention issues --  2 just fighting the, you know, never ending battle around  3 vacancies, would be a -- a -- I hesitate to call it a  4 retiree hire program because I know that we were told  5 that we couldn't -- it had to be done in a way that  6 would be ERS compliant.  7 But I think something that would  8 be considered -- that would be ERS compliant that would  9 give us the opportunity to bring people back that wanted  10 to come back, you know, is a way to -- is a way to sort  11 of indirectly get it retention issues or get it raw  12 numbers and lower the vacancy rate. So, you know, I  13 would include that in this charge.  14 MR. POLUNSKY: Further discussion?  15 MR. CLOWE: Well, could you clearly define  16 what it is you want done? I -- I understand the  17 description of the situation.  18 MS. ANDERSON: We were asked for our  19 thoughts on do they need better pay, what do we need to  20 retain employees and so forth. And -- and the way I  21 heard it in the hearing was that was a request of the  22 Commission. But obviously, you know, it's hard for us  23 to take the time -- real time to sit down and write a  24 letter.  25 So I would like the staff to draft that for</p>



<p style="text-align: right;">110</p> <p>1 us to -- you know, and provide it to us before the  2 August meeting so that we could make some comments  3 about -- to make sure that it reflected our policy  4 consensus and what we wanted to be saying back to Sunset  5 so we could speak with one voice.  6 MR. CLOWE: I certainly agree with that.  7 MR. POLUNSKY: I feel that I'm speaking for  8 the Commission, but for the record, I'm speaking for  9 myself. I agree with commissioner Anderson that we need  10 to start compiling information that can be provided, not  11 only to the Sunset Commission but the state legislature  12 when it meets in January.  13 I don't think this department can -- can  14 operate on any type of top level unless all vacant  15 employee positions, all FTEs are -- are filled and  16 additional FTEs are authorized. And in order to do  17 that, several things need to be done.  18 But at the top of that list, I feel that our  19 employees need to be paid at a level that is  20 commensurate with at least large police departments in  21 the State of Texas. I think that we're extremely  22 fortunate -- I think I might have mentioned about, you  23 know, the old saying, you get what you pay for.  24 Well, actually, here at DPS we're getting  25 way more than we're paying for. But that's probably a</p>	<p style="text-align: right;">112</p> <p>1 Anything else? Next item, audit and  2 inspection report. Mr. Walker.  3 FARRELL WALKER: Farrell Walker Director of  4 Audit Inspection. Included with my report were several  5 complete audits and audit reports in one inspection  6 report. The only thing I would add to the report that I  7 gave you is that of the 73 recommendations included in  8 the unverified implementation status report, 58 were  9 reported by management as being implemented at this  10 point, 58 percent. 37 percent remained in process and  11 the other 5 percent are split between two  12 recommendations that no longer make sense to implement,  13 and two that are pending funding. With that, I conclude  14 my report.  15 MS. ANDERSON: Just very -- very -- very  16 quickly, good job on the follow-up audits. I know I had  17 asked for, you know, follow-up audits, and I think, you  18 know, the case probably if not -- not thinking through  19 what it was I asked for, I think if you do follow-up  20 audits on all those pages, on all those 95 pages where  21 it said do a follow-up audit, that would be all that you  22 do.  23 And I -- so I think -- and you'll never get  24 to all of it. So I -- I believe, as you've begun to do,  25 that you must determine what follow-ups are sort of</p>
<p style="text-align: right;">111</p> <p>1 finite number. There are many, many people here that  2 work for DPS who do it somewhat or completely out of the  3 love they have for the department and serving the  4 public, and the money is secondary.  5 But we can't go on and on and on with that  6 type of situation. So I, for one, feel that we need to  7 really construct a very strong case and argue it  8 vigorously at the Sunset Commission, and also in  9 January, so that we can have a pay scale that will  10 attract the best of the best and retain them as -- as  11 members of this department along with other reforms and  12 other things that we need to do in order to make working  13 conditions more than tolerable and have them work in an  14 environment that they're happy to come to every day they  15 report.  16 MR. POLUNSKY: So whatever I would --  17 somewhat second with Ms. Davis -- with Ms. Anderson said  18 here and ask that the director and staff start compiling  19 information that we'll be able to -- to utilize in  20 making arguments for help from, particularly the  21 legislature, in putting together financial support for  22 both the department and the employees to ensure that we  23 can -- can recruit and retain very best people possible  24 for what I consider one of the very best state police  25 agencies in the country.</p>	<p style="text-align: right;">113</p> <p>1 overtaken by events where management assertion of  2 completion is sufficient. I -- I would give you this  3 piece of paper. I have suggestions of ones that I think  4 may fit that category.  5 And I'm the one that asked for the status of  6 prior audit items to be presented quarterly, because I  7 wanted the division heads to know that we took these  8 findings seriously and expected progress.  9 But 95 pages is a little more than I had in  10 mind, you know. So the reports, you know, need to  11 continue to refine this process, get things condensed.  12 There's a lot of -- you know, from a Commissioner's  13 perspective, a lot of minutia on a lot of pages. You  14 know, we've got an audit that was in 1999 and we still  15 are tracking open audit findings. We really need to  16 take a look at whether that makes any sense. So obvious  17 to my specific suggestions, offline. But if --  18 you're -- you're -- you're doing what we asked you to  19 do; we just need to refine the process to make it a  20 little more practical, a little more management  21 information oriented.  22 FARRELL WALKER: I understand. Thank you.  23 MR. POLUNSKY: Are there any other  24 questions?  25 MS. BARTH: I --</p>

<p style="text-align: right;">114</p> <p>1 MR. POLUNSKY: Ms. Barth.  2 MS. BARTH: I just have one comment, and  3 maybe it's more directed towards procurement than to  4 audit. It's -- it's completely unacceptable that the  5 end user will not give us feedback on who we're using.  6 And, you know, I noticed in there that we're receiving  7 very few preventive performance evaluations back from  8 the end user, and how when we go out for new contract,  9 we should be able to have in the file, you know, whether  10 this group was good or bad.  11 MS. ANDERSON: Agreed.  12 MS. BARTH: And so somehow we need to  13 rectify that situation.  14 OSCAR YBARRA: Oscar Ybarra, Chief of  15 Finance. We are -- we're making extra efforts to get  16 with the end user, or the customer that's procuring, to  17 inform them that the information they provide is  18 necessary to complete the file. That's a step -- an  19 additional step that we're doing. And also, during the  20 conversations we're having with the consumer in the  21 initial purchase -- procurement process, excuse me. So  22 we're taking those steps.  23 One of the things we -- we put in that audit  24 was that if we don't receive any feedback, we're going  25 to make an assumption that no feedback means they were</p>	<p style="text-align: right;">116</p> <p>1 VALERIE FULMER: I'm Valerie Fulmer. I'm  2 one of the assistant chiefs of the Administration  3 Division. You have our reports. Chief Gavin and Chief  4 Mills are also here. So between the three of us, I hope  5 we can answer any questions that you have.  6 MR. POLUNSKY: Questions?  7 MS. ANDERSON: The only --  8 MR. POLUNSKY: I knew you would --  9 MS. ANDERSON: It's not a question. Well --  10 well, I guess I actually have two questions. Under the  11 I -- first topic on the fingerprinting, in the IBTs, and  12 the last paragraph of that talks about 92 public  13 terminals for customers to use, are these out in these  14 satellite offices? I mean, what are the 92 public  15 terminals?  16 DAVID GAVIN: David Gavin, Assistant Chief  17 of Administration. Yes, ma'am, those are the -- the 92  18 sites that are -- that IBT has placed around. They  19 have, I think it's 87 sites. So those are just  20 the locations for --  21 MS. ANDERSON: They're like little in-store  22 front --  23 DAVID GAVIN: Yes.  24 MS. ANDERSON: -- offices and strip  25 centers --</p>
<p style="text-align: right;">115</p> <p>1 satisfied, in order to close the file.  2 MS. BARTH: I don't think that's -- I don't  3 think that's good. It's just -- because -- I think that  4 there should be feedback with respect to the end user  5 here. Just by no -- no feedback -- you ought to be able  6 to learn something from procurement process from start  7 to finish, and especially on larger procurements.  8 OSCAR YBARRA: Yes, ma'am. I will be --  9 MS. BARTH: Maybe -- maybe there's a  10 threshold there.  11 OSCAR YBARRA: I will commit to you that I  12 will work with the division chiefs and identify how  13 important this is and -- and utilize this process and  14 improve the response.  15 MS. BARTH: I think it's -- it's -- it's  16 really good information going forward to be able to look  17 back through a file and say they did a good job, they  18 did a bad job, maybe they did a bad job because we  19 scoped it wrong.  20 OSCAR YBARRA: I totally agree.  21 MS. BARTH: That's all I have.  22 MR. POLUNSKY: Thank you. Thank you, Ms.  23 Barth. Next item, division reports. The administration  24 division, I guess that's either going to be Ms. Fulmer,  25 Mr. Mills, Mr. Gavin.</p>	<p style="text-align: right;">117</p> <p>1 DAVID GAVIN: Yes.  2 MS. ANDERSON: -- or something?  3 DAVID GAVIN: Yes.  4 MS. ANDERSON: And are those limited just to  5 the teachers that are doing the teaching fingerprint  6 thing?  7 DAVID GAVIN: No. That -- that was -- those  8 are for --  9 MS. ANDERSON: I need to go get  10 fingerprinted.  11 -- DAVID GAVIN: -- anybody who wants to get  12 fingerprinted for any purpose.  13 MS. ANDERSON: Okay. Also with respect to  14 IBT, the other thing that I would ask you all to  15 consider, I am very concerned about the breach of  16 personal information that occurred in the -- with the --  17 with the driver's license records of the traveling  18 fingerprint technician.  19 And I'm not just concerned about it from the  20 perspective of this vendor, but we have a lot of system  21 vendors that -- by virtue of what they do have access to  22 and have control data bases with a lot of personal  23 information on them. And we all can pick up the paper  24 too often and see about visa or MasterCard or Ross  25 stores or whatever losing personal data.</p>



<p style="text-align: right;">118</p> <p>1 And I would like to -- to ask the Office of  2 General Counsel on some kind of a -- not a fire drill,  3 but on some kind of -- put it on a to do list, to go  4 through -- and let's do it in a priority fashion -- of  5 all the contracts that we have with vendors -- it's  6 mostly in the IT -- I'm assuming -- in the IT space  7 where we've got, you know, individually identifiable  8 personal information in those data bases; look at our  9 contracts and our rights to remedy if that personal  10 identification is breached.  11 I mean, what normal personal contracts are  12 doing today, is that if the commercial vendor does that  13 to you they have to at least pay for identity theft,  14 monitoring services for the effected individuals for a  15 period of a year.  16 You know, there's some standard language out  17 there when this has happened to other people. And I  18 just think we need the same kind of contract protection.  19 MR. POLUNSKY: Other questions? Thank you.  20 VALERIE FULMER: That was easy. Thanks.  21 MR. POLUNSKY: Criminal Law Enforcement,  22 Chief Mawyer.  23 KENT MAWYER: Mr. Chairman, I have no (sic)  24 further to report unless you have questions.  25 MR. POLUNSKY: Is this your last meeting?</p>	<p style="text-align: right;">120</p> <p>1 process, should -- we go all the way through  2 successfully.  3 I would ask that the Commission consider the  4 terminology to put on the face of the license so that we  5 can begin to, you know, move a little forward with our  6 vendors on -- on design of the new license for the  7 terminology.  8 My recommendation would be that we use the  9 terminology, temporary visitor, in the header and then  10 use the language, temporary visitor status expires with  11 the date. I can provide you a sample of --  12 MR. POLUNSKY: Thank you.  13 JUDY BROWN: In looking at what other states  14 displayed on the license, it's all across the board.  15 Many just put either "NR" for "Nonresident," or "FN" for  16 "Foreign National." Some just put "Temporary" on the  17 license.  18 Again, we think we can modify the language  19 at your desire. But if we could understand what your  20 pleasure is with regards to the language, then we can  21 begin to plan and do our artwork and be closer to that  22 should the rule pass.  23 MR. POLUNSKY: It looks good to me. What do  24 y'all --  25 MR. CLOWE: Uh-huh.</p>
<p style="text-align: right;">119</p> <p>1 KENT MAWYER: Yes, sir.  2 MR. POLUNSKY: I kind of got the idea.  3 Thank you very much for your years of dedication to the  4 Department of Public Safety.  5 KENT MAWYER: Thank you very much.  6 MR. POLUNSKY: I hope you do well at  7 Washington Mutual and are happy, so on. But in any  8 event, we all thank you for everything you've done.  9 KENT MAWYER: Thank you.  10 MR. POLUNSKY: Driver's license, Chief  11 Brown.  12 JUDY BROWN: You have my report before you.  13 I am pleased to report to you that we had a very quiet  14 public hearing this week on the rule posted in reference  15 to a supplemental expiration date. We had one appearing  16 before the public hearing who did not want to comment,  17 came to monitor people who did not appear.  18 So we are monitoring closely the written  19 comment that will be provided, is being provided. We've  20 got two more weeks on that comment. It will be the  21 August meeting that we will be able to entertain a  22 possible motion to accept that rule. With the posting  23 date it looks like it's probably going to be a  24 October -- if we -- we try to implement on the first of  25 the month of October 1 time line to actually begin that</p>	<p style="text-align: right;">121</p> <p>1 MS. ANDERSON: It's the first time I've seen  2 the incremental cost of doing this. I almost had to put  3 on my glasses to make sure I was looking at it right.  4 Is this in the proposed internal fiscal 2009 budget or  5 is this one of these things where we'll see that as a  6 transfer when we see that budget again.  7 JUDY BROWN: This dollar amount would be in  8 excess of what my budget cap is at the moment.  9 MS. ANDERSON: Okay.  10 JUDY BROWN: And, again, the two costs are  11 the change to do it immediately upon the current card  12 that we're issuing, and then the next cost would be for  13 the software change on the new system as well as the  14 change to a card design that we had already finalized.  15 MS. ANDERSON: One other question, what is  16 our time frame for getting to test the comfort and a  17 decision around the satellite in DL versus needing land  18 lines?  19 JUDY BROWN: We have set a -- a date of  20 August 15th as a -- kind of a deadline date for  21 ourselves to make that decision and recommendation.  22 We've been looking both sides of that to know that if we  23 choose to go land line what that cost will be, both for  24 termination of the contract and a new contract for land  25 lines. We continue to do some testing on some movement</p>



<p style="text-align: right;">122</p> <p>1 forward some movement backwards.  2 MS. ANDERSON: You think we're going to land  3 lines, if I don't hold you to your answer? If the  4 decision were being made today, which it's not --  5 JUDY BROWN: My personal opinion, from  6 someone who doesn't even profess to understand satellite  7 and the difficulties that we're having with it, I  8 believe we need to move to land line or some approach  9 that allows us to put land lines in our larger offices  10 at least.  11 MS. ANDERSON: Okay. It's a very critical  12 decision. So maybe at the end of August that could be  13 part of your report for the Commission meeting at the  14 end of August.  15 JUDY BROWN: Any questions?  16 MR. POLUNSKY: Questions? Chief Brown, you  17 may want to share that information -- information that  18 you provided to the Commission to Mr. Erinakus who can  19 pass it onto Senator Corona, because I know that they  20 have been interested in this particular issue.  21 JUDY BROWN: I'll be glad to do that. Kyle  22 Mitchell has looked over my shoulder last month and seen  23 some of the -- some of the design work we were doing.  24 But I'll be glad to pass it on Mr. Erinakus as well.  25 MR. POLUNSKY: Okay. Thank you. Texas</p>	<p style="text-align: right;">124</p> <p>1 greatly impacted our troopers' ability on the road to do  2 their job, both on the traffic side of it but also on  3 the criminal side.  4 We had a trooper that was working border  5 star in Kennedy County, and because of sensitivity of  6 the criminal activity, I won't go into great detail.  7 However, we had made a stop on another individual back  8 in June that had narcotics and was able to turn into a  9 confidential informant. We got some more information in  10 on another suspect.  11 Our trooper actually checked on duty at 6  12 p.m. and when he turned on his computer he had a -- he  13 had some intelligence information that was posted on his  14 computer from noon that day. Now, in the old days  15 before the computer was in his car, there'd been a radio  16 broadcast, probably with this information around noon.  17 When he checked on at 6 he had had no  18 information about the intelligence information that was  19 put out, and so he would not have had that information.  20 He subsequently stopped the vehicle and made a large  21 cash seizure. It is believed this individual had been  22 running cocaine one direction and cash back the other  23 way.  24 So another fine example how this system's  25 working very well for us. And with that, unless you</p>
<p style="text-align: right;">123</p> <p>1 Highway Patrol, Chief Elliston. I'm sorry. Well,  2 that's all right. We'll come back to Jack.  3 RANDY ELLISTON: Mr. Chairman,  4 Commissioners, as you can see, I don't have a beard. I  5 do plan on being here next month. So --  6 MS. ANDERSON: You don't have a tan, either.  7 RANDY ELLISTON: Well, if it's touch and go,  8 well, I'll make this very brief. You have my report  9 before you, and I will be brief. But one thing I'd like  10 to point out is the fifth item on the first page, the  11 Texas Association of State Systems for Computing  12 Communications has awarded the -- the department  13 their -- one of their excellence awards for our  14 designing of a wireless data card solution with global  15 position systems for our in-car system.  16 I'll have to tell you, I don't know that I  17 had heard the Texas Association of State Systems for  18 Computing Communications. But when they called and said  19 they wanted to give us an excellence award, we said we'd  20 gladly accept it. So -- but I think that's a big deal  21 that somebody took notice of our program and -- and that  22 we received that award.  23 And to go along with that, something that's  24 not in my report that we got, actually this morning,  25 yesterday we had an example of how this system has</p>	<p style="text-align: right;">125</p> <p>1 have any questions about my report, I conclude my  2 comments.  3 MR. POLUNSKY: Questions?  4 MR. CLOWE: No questions.  5 MR. POLUNSKY: Thank you, Chief. Chief  6 Colley.  7 JACK COLLEY: Mr. Chairman, Commissioners,  8 I'm Jack Colley, Chief of Emergency Management Division.  9 State of Texas faces two threats, natural threats, one  10 immediate, and that's wild fires. Governor has declared  11 and President has also declared a presidential disaster  12 emergency of 229 counties in Texas. We have a request  13 into the president to declare 25 other counties which  14 would make it 254 counties. That's all of 254 counties  15 in Texas which is unprecedented.  16 Give you a perspective on this. We've got a  17 total of 10,367 fires destroyed about 1.3 million acres.  18 We've lost 170 homes. That's tragic. But at the same  19 time, we saved 16,000 homes by direct operations across  20 the state.  21 I know a lot's said about the California  22 fires, and it should be, but we've got 2,900  23 firefighters in the state today, 18 helicopters, 17  24 fixed wing, 15 heavy tankers, and 12 single engine air  25 tankers along with 110 dozers and 83 engines. A unify</p>

<p style="text-align: right;">126</p> <p>1 of command that's at Granbury, Texas. It's been ongoing  2 for some time.  3 We've flown 2,452 air drops and dropped 7.5  4 millions gallons of retardant and water. This has cost  5 the State of Texas 60. -- \$64.7 million. DPS aviation's  6 involved in this. To give you a perspective, they've  7 flown over 205 hours of reconnaissance operations to  8 assist with these fires when they occur.  9 The other threat that's this time of year is  10 hurricanes. Now there's a system that's moving to the  11 west northwest through the Caribbean Strait and we  12 expect that system to cross into the Gulf of Campeche  13 either late Monday night or Tuesday. A lot's not known  14 about it as it gets closer. We put a lot of effort into  15 hurricane preparation as you know.  16 We've conducted almost \$2.74 million worth  17 of exercises and other drills. We continue to do that  18 all here during the summer. Our next state level drill  19 is the 12th through the 13th of August. We had a  20 hurricane conference, as you're aware of, at 4,160  21 attendees and conducted 69 workshops. We had a BOAD  22 conference here, workshops 38 volunteer organizations,  23 735 participants. Very well done.  24 One of the things we do not -- (Inaudible)  25 by my good friend of the highway patrol -- we also</p>	<p style="text-align: right;">128</p> <p>1 training in emergency operation, emergency management  2 across the state. We will have that first class, if you  3 will, the 28th and 29th of July. We have 20 county  4 judges, mayors, state representatives who will attend  5 that. This will be a pilot course. These are people  6 who have gone through these disasters, and we'll have  7 them sort of validate, coach, mentor us on whether we're  8 on the right track here.  9 We're very excited about this program. We  10 intend to run one a quarter and offer that to the union  11 elected officials at the local and state level. That  12 will begin the 28th and 29th this month. We put a lot  13 of effort into this. And, again, we'll run that pilot  14 force this summer, in two weeks. That ends my comments,  15 Mr. Chairman. If there are any questions.  16 MR. POLUNSKY: Are there questions for Chief  17 Colley?  18 MR. CLOWE: Jack, it's a good report. My  19 wife's been trying to put one of those yellow bands on  20 me for five years. Don't let her have one.  21 JACK COLLEY: Yes, sir. Thank you.  22 MS. ANDERSON: Thank you, sir.  23 MR. POLUNSKY: Chief Coffman, Texas Rangers.  24 RAY COFFMAN: Mr. Chairman, I have nothing  25 to add in my report, unless there's some questions.</p>
<p style="text-align: right;">127</p> <p>1 received an Award of Excellence from the Texas  2 Association of State Systems for Computing and  3 Communications. We're very proud of that, as we did for  4 a national award from the Computer -- Computer World  5 Foundation, and that is for our tracking system for  6 special needs citizens that are evacuated off the coast.  7 And the simple thing is they get -- this is what it  8 looks like.  9 Very simple thing, but it's a very important  10 process we learned out of Katrina, and that is to be  11 able to track those who cannot self-evacuate or who are  12 disabled, or infirm, and we have that. We could also do  13 this for pets.  14 But we have -- we've gone to a bar code  15 sticker now for wheelchairs and walkers, which is a very  16 important part of this. We're able to use GPS tracking  17 to move -- track busses from the time they depart to the  18 time they arrive. And with that on buses, a lot said  19 about the price of fuel and the impact it may have on  20 the evacuation decisions by citizens to evacuate. We've  21 added 250 more buses to our state contract for a total  22 of 1,350 buses in anticipation of that, not knowing what  23 that would be.  24 The other point I want to make is SB11,  25 Senate Bill 11, directed us to begin public official</p>	<p style="text-align: right;">129</p> <p>1 MR. POLUNSKY: That's the best report all  2 day. Thank you. Next item is discussion of possible  3 action on publication of proposed rules.  4 MR. CLOWE: Chief Brubaker's got a big grin  5 on his face.  6 JAMES BRUBAKER: Mr. Chairman,  7 Commissioners, I don't have anything to the report. But  8 I do have an update on RFQ, if I may.  9 MR. POLUNSKY: Yes.  10 JAMES BRUBAKER: This morning we received  11 the latest draft of the terms and conditions and about  12 an hour ago the statement of work was returned from the  13 vendor. We have a 9 a.m. call scheduled in the morning,  14 and I hope to have that thing finished tomorrow, sir.  15 That's all I have, sir.  16 MR. POLUNSKY: Thank you. All right. We  17 get all the chiefs now? Next item, discussion and  18 possible action on publication rule -- proposed rules.  19 Chief Brown.  20 JUDY BROWN: Judy Brown, Chief of Driver's  21 License Division. Mr. Polunsky, I'll be brief. These  22 are safety responsibility rules contained in Sections  23 25.1 through 25.8 and 25.19 through .21. This language  24 comes from our regularly scheduled review of rules.  25 There's very minor changes in it, general cleanup and</p>



<p style="text-align: right;">130</p> <p>1 clarification.</p> <p>2 MS. ANDERSON: Move adoption.</p> <p>3 MR. CLOWE: Second.</p> <p>4 MR. POLUNSKY: It's been moved and seconded</p> <p>5 in the proposed rule be approved. All those in favor,</p> <p>6 please say, "Aye."</p> <p>7 ALL COMMISSIONERS: "Aye."</p> <p>8 MR. POLUNSKY: All those against -- it</p> <p>9 passes. Next item on the agenda is discussion and</p> <p>10 possible action on adoption of proposed rules. And what</p> <p>11 I would like to do, unless Mr. Fox objects, is just lump</p> <p>12 these all together. Unless somebody wants to pull one</p> <p>13 for discussion.</p> <p>14 MR. CLOWE: Mr. Chairman, I'd move the</p> <p>15 adoption of the proposed rules represented by letters</p> <p>16 "A" through "M."</p> <p>17 MS. ANDERSON: Second.</p> <p>18 MR. POLUNSKY: It has been moved by</p> <p>19 Mr. Clowe and seconded Ms. Anderson that the rules as</p> <p>20 set out in Section 23 "A" through "M" on the agenda be</p> <p>21 approved. Discussion? There be no discussion, all in</p> <p>22 favor please say, "Aye."</p> <p>23 ALL COMMISSIONERS: "Aye."</p> <p>24 MR. POLUNSKY: Any against, no. Motion</p> <p>25 passes. Next item on the agenda, discussion and</p>	<p style="text-align: right;">132</p> <p>1 for the position of director. I envision his duties to</p> <p>2 basically consist of deciding what method we use in</p> <p>3 order to advertise candidates -- advertise for</p> <p>4 candidates for this position.</p> <p>5 And then after whatever process is selected</p> <p>6 is put into place, have Commissioner Clowe interview</p> <p>7 those candidates and reduce them to a number somewhere</p> <p>8 between two and five that would then be interviewed and</p> <p>9 action taken by the full Commission who would select a</p> <p>10 permanent director for the Department of Public Safety.</p> <p>11 So I am hereby appointing you with that</p> <p>12 responsibility, or asking you to accept that</p> <p>13 responsibility, Mr. Clowe.</p> <p>14 MR. CLOWE: Certainly. Thank you.</p> <p>15 MR. POLUNSKY: Secondly, I am going to</p> <p>16 myself oversee the selection -- or at least -- not a</p> <p>17 selection, but compile a list of candidates for the</p> <p>18 position of general counsel, much under the same method</p> <p>19 that I've just set out for Commissioner Clowe.</p> <p>20 Again, in this situation, I will receive</p> <p>21 applications through a process that I set up. I will</p> <p>22 cull that number down to a manageable number which will</p> <p>23 probably be somewhere between two to five and then</p> <p>24 present those candidates to the full Public Safety</p> <p>25 Commission, and then the Public Safety Commission will</p>
<p style="text-align: right;">131</p> <p>1 possible action on appointments of Special Rangers and</p> <p>2 Special Texas Rangers pursuant to Government Code 411,</p> <p>3 Sections 411.023 and 411.024. Colonel McEathron.</p> <p>4 MR. McEATHRON: Yes, sir. You can see by</p> <p>5 your agenda we have eight people who have applied for</p> <p>6 Special Rangers. The names are listed. There's one</p> <p>7 Special Texas Ranger, that is Richard Shing, and there's</p> <p>8 two company Special Texas Rangers, that's the National</p> <p>9 Insurance Crime Bureau, Ronald Rice Sullivan, and Texas</p> <p>10 (Inaudible) Association, Emil Seewald. They all meet</p> <p>11 the qualifications and are being recommended.</p> <p>12 MR. POLUNSKY: Thank you, Colonel McEathron.</p> <p>13 MR. CLOWE: Move the appointments of these</p> <p>14 Special Rangers and Special Texas Rangers.</p> <p>15 MS. BARTH: Second.</p> <p>16 MS. POLUNSKY: Moved by Mr. Clowe and</p> <p>17 seconded by Ms. Barth that the Special Rangers and</p> <p>18 Special Texas Rangers set out on today's agenda all be</p> <p>19 approved. Any discussion? There be none, all in favor</p> <p>20 please say, "Aye."</p> <p>21 ALL COMMISSIONERS: "Aye."</p> <p>22 MR. POLUNSKY: Any against, no? Motion</p> <p>23 passes. At this time I would like to make a couple of</p> <p>24 appointments, actually. I would like to appoint</p> <p>25 Commissioner Clowe to oversee the selection of finalists</p>	<p style="text-align: right;">133</p> <p>1 either make their selection or recommendation depending</p> <p>2 on what the statute requires here.</p> <p>3 I just wanted to make that announcement at</p> <p>4 this time. Date for the next meeting, do we have a date</p> <p>5 for the next meeting?</p> <p>6 MR. CLOWE: August 21st is that Thursday, I</p> <p>7 believe, Mr. Chairman, that we had generally agreed</p> <p>8 upon.</p> <p>9 MS. BARTH: Colonel Davis, are you in the</p> <p>10 State of Texas on August 21st?</p> <p>11 MR. DAVIS: No, ma'am.</p> <p>12 MR. POLUNSKY: When -- when you will you be</p> <p>13 here?</p> <p>14 MR. DAVIS: I'll be here -- I'll be back</p> <p>15 that day.</p> <p>16 MR. POLUNSKY: How about the 22nd?</p> <p>17 MR. CLOWE: Sure.</p> <p>18 MS. BARTH: Hang on one second.</p> <p>19 MR. POLUNSKY: You checking, Carin?</p> <p>20 MS. BARTH: I don't think I'm going to be</p> <p>21 available on that date.</p> <p>22 MR. POLUNSKY: Okay. After that date, when</p> <p>23 would you be available? Is that the following week?</p> <p>24 MS. BARTH: Monday the 25th will work.</p> <p>25 MR. POLUNSKY: Will work?</p>



<p style="text-align: right;">134</p> <p>1 MS. BARTH: Yes.</p> <p>2 MR. POLUNSKY: What about y'all?</p> <p>3 MR. CLOWE: Yes.</p> <p>4 MR. POLUNSKY: Is that okay? All right.</p> <p>5 Then designate August 25th for our next meeting. Items</p> <p>6 for future agendas.</p> <p>7 MS. ANDERSON: Mr. Chairman, are we also not</p> <p>8 going to potentially have an early August meeting with a</p> <p>9 very limited agenda to review the LAR. I don't know,</p> <p>10 maybe hear about the status of the RFP on the audit.</p> <p>11 MR. POLUNSKY: Yes. And that -- remind me,</p> <p>12 what day is that?</p> <p>13 MS. ANDERSON: I'm not sure.</p> <p>14 MR. POLUNSKY: Last I heard, it was a</p> <p>15 Sunday.</p> <p>16 MS. ANDERSON: Well, Commissioner Clowe is</p> <p>17 is out from the 4th through the 14th and -- and I'm out</p> <p>18 part of that time. We -- you know, we tried to get</p> <p>19 our -- have accounting and budget control to figure out</p> <p>20 when he thinks that he could have something substantive</p> <p>21 for us to review. And while half the Commission was,</p> <p>22 you know, off the days, the other half of the Commission</p> <p>23 determined, you know, that we could -- that we could</p> <p>24 meet on Sunday, August 3rd.</p> <p>25 We're trying -- because we'd like to have</p>	<p style="text-align: right;">136</p> <p>1 OSCAR YBARRA: Yes, that's correct. We</p> <p>2 can -- we can see what we can do to get some stuff</p> <p>3 early.</p> <p>4 MS. ANDERSON: Well, it sounds to me like</p> <p>5 our alternatives are Friday the 1st of August, or he's</p> <p>6 out to the 14th. I'm out through the 15th. Monday the</p> <p>7 18th of August when you've got to turn -- you know, your</p> <p>8 computer work's going to be done by then. So something</p> <p>9 in the schedule has to give.</p> <p>10 MR. CLOWE: And -- and I would certainly be</p> <p>11 pleased if the Commissioners would go forward without</p> <p>12 me. I certainly don't want to be an obstacle to that.</p> <p>13 MR. POLUNSKY: Can you get it done, Oscar?</p> <p>14 MS. BARTH: Well, if we're going to get the</p> <p>15 right product. I just -- I want to be realistic on what</p> <p>16 kind of quality of product and what's going to happen.</p> <p>17 OSCAR YBARRA: We -- we plan to be entering</p> <p>18 the division data at around the 3rd. So that means we</p> <p>19 could have -- we could have summaries built off of the</p> <p>20 data for the -- from the divisions for the Commission to</p> <p>21 review which would fit what was going to go into ABEST.</p> <p>22 And it would be -- Chief Haas and I were</p> <p>23 just discussing how we would present that, and we</p> <p>24 believe we could present that from perspective -- from</p> <p>25 the strategy FTE perspective where you all could see how</p>
<p style="text-align: right;">135</p> <p>1 Commissioner Clowe included in the meeting. But -- but</p> <p>2 we need to have it -- we need to give the accounting</p> <p>3 organization as much time as possible to put something</p> <p>4 together for us that lets us have enough to look at that</p> <p>5 we know what -- to have a reason for a meeting.</p> <p>6 MR. POLUNSKY: So --</p> <p>7 MR. CLOWE: So we would need to publish in</p> <p>8 the Texas register ten days prior --</p> <p>9 DOROTHY WRIGHT: Eight days.</p> <p>10 MR. CLOWE: Ma'am?</p> <p>11 DOROTHY WRIGHT: Eight days.</p> <p>12 MR. CLOWE: Eight days. What -- what would</p> <p>13 that date be, Dorothy, if you would, please?</p> <p>14 DOROTHY WRIGHT: If it's before the 3rd?</p> <p>15 MR. CLOWE: Say again.</p> <p>16 DOROTHY WRIGHT: If we publish for August</p> <p>17 the 3rd --</p> <p>18 MR. CLOWE: Yes, ma'am.</p> <p>19 DOROTHY WRIGHT: -- which is a Sunday? It</p> <p>20 would be Friday July 25th.</p> <p>21 MR. CLOWE: That's a week from today.</p> <p>22 Tomorrow, sorry.</p> <p>23 MS. ANDERSON: But you're not expecting to</p> <p>24 have information from divisions until the day before</p> <p>25 that.</p>	<p style="text-align: right;">137</p> <p>1 the spending is going to be -- excuse me, a program, not</p> <p>2 strategy.</p> <p>3 And also, from some kind of cost category,</p> <p>4 salary, operating travel. That's what we're going to</p> <p>5 propose to submit to you all for your review. And you</p> <p>6 would have the previous year available, the '07</p> <p>7 available expended, the '08 budgeted, and then what the</p> <p>8 divisions are projecting for 10 and 11.</p> <p>9 The special items, they've already been</p> <p>10 approved. We feel that we'll move forward and enter</p> <p>11 those in ABEST, and we'll be glad to provide you with</p> <p>12 what we have. That's what's going to go into the LAR.</p> <p>13 What's left for you all to see is what the divisions</p> <p>14 submitting for 10 and 11 for the base that we are --</p> <p>15 that we are requesting in our LAR. That's what's left</p> <p>16 for y'all to see.</p> <p>17 MS. ANDERSON: And you will -- because</p> <p>18 you'll show us prior year for '08 then we can have</p> <p>19 discussions about variances.</p> <p>20 OSCAR YBARRA: Correct.</p> <p>21 MS. BARTH: But you wouldn't be able to give</p> <p>22 us that information till that meeting; is what you're</p> <p>23 saying.</p> <p>24 OSCAR YBARRA: I'm sorry?</p> <p>25 MS. BARTH: You would not be able to give us</p>

<p style="text-align: right;">138</p> <p>1 that information till the meeting; is that what I'm 2 hearing? 3 OSCAR YBARRA: Close it to, yes, ma'am. 4 MS. BARTH: So when we'd be first looking at 5 it which is -- I don't want to do. 6 MS. ANDERSON: Well, I know. Back in April 7 I asked that this calender be built so we had proper 8 review. So I'm disappointed. 9 OSCAR YBARRA: The -- the time line that 10 we're working on is common through all state agencies. 11 The base reconciliation is the beginning point of when 12 agencies can can start working with their figures of 13 what's going to be projected for 10 and 11. The 14 deadline for submission of the base rec (six) was 15 June 23rd. Soon after that, as you can see from the 16 time line, we started working with the division. 17 As far as the base is concerned, as I was 18 discussing earlier, for the 10 and 11 years, it's 19 very -- it's very limited on what we can do within the 20 structure. But if there's some things you want to 21 change, we'll be glad to talk about those and identify 22 if there are certain policies, regulations through 23 general appropriations act that would allow us to move 24 things around. But for the most part, these dollars are 25 being regulated by the way they were appropriated.</p>	<p style="text-align: right;">140</p> <p>1 THE STATE OF TEXAS ) 2 COUNTY OF TRAVIS ) 3 4 I, Joy N. Quiroz-Hernandez, Certified Shorthand 5 Reporter No. 8391 in and for the State of Texas, do 6 hereby certify that the above and foregoing contains a 7 true and correct transcription of my stenographic notes 8 taken in the above-captioned cause at the Texas Public 9 Safety Commission meeting in Austin, Texas. 10 11 Witness my hand this the _____ day of 12 _____, 2008. 13 14 15 16 Joy N. Quiroz-Hernandez, CSR 17 CSR No. 8391 - Expires 12/31/09 18 Integrity Legal Support Solutions 19 Firm Registration No. 528 20 114 West 7th Street, Suite 240 21 Austin, Texas 78701 22 (512) 320-8690 23 (512) 320-8692-Fax 24 25</p>
<p style="text-align: right;">139</p> <p>1 MR. POLUNSKY: Items for future agendas, 2 anything else here? Okay. Anything else? There'll be 3 no further business. The Texas Public Safety Commission 4 is now adjourned. It is 5:06 p.m. 5 (PUBLIC SAFETY COMMISSION 6 MEETING ADJOURNED) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	

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IN THE MATTER OF

THE APPEAL OF DISCHARGE OF

MILTON PHILLIPS

§  
§  
§  
§  
§

BEFORE THE

PUBLIC SAFETY COMMISSION

IN AUSTIN, TRAVIS COUNTY, TX


**ORDER**

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Milton Phillips, on the 17th day of July, 2008. Mr. Phillips received adequate notice of the hearing on this matter and did appear in person. Pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above-captioned matter.

After reviewing all of the evidence presented at the hearing, the Commission finds that there is just cause to discharge Milton Phillips and affirms the Director's decision in this matter.

On motion of Commissioner Clowe, seconded by Commissioner Anderson, the discharge was affirmed.

ENTERED AND SIGNED on the 17 day of July, 2008.

  
Allan B. Polunsky, Chair  
Public Safety Commission









TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization And Administration  
Title 37 T.A.C. Part I, Chapter 1  
Subchapter U  
Section Number 1.261

The Texas Department of Public Safety adopts the repeal of Section 1.261, concerning Historically Underutilized Business Program Policies, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3896).

Adoption of the repeal is necessary due to substantial changes being made. Adoption of the repeal is filed simultaneously with the adoption of a new Section 1.261 which will promulgate the department's rules regarding Historically Underutilized Businesses.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, Section 2161.003.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization And Administration  
Title 37 T.A.C. Part I, Chapter 1  
Subchapter U  
Section Number 1.261

The Texas Department of Public Safety adopts new Section 1.261, concerning the Historically Underutilized Business (HUB) Program, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3897).

Adoption of new Section 1.261 is necessary in order to promulgate rules to comply with Texas Government Code, Section 2161.003, which requires the department to adopt the Comptroller's HUB Program rules as our own. The new section is being filed simultaneously with the adopted repeal of current Section 1.261.


No Comments were received regarding adoption of the new section.

The new section is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, Section 2161.003.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Regulations and Enforcement Procedures  
Title 37 T.A.C. Part I, Chapter 4  
Subchapter C  
Section Number 4.37

The Texas Department of Public Safety adopts an amendment to Section 4.37, concerning Acceptance of Out-of-State Commercial Vehicle Inspection Certificate, without changes to the proposed text as published in the March 28, 2008, issue of the *Texas Register* (33 TexReg 2678).

Adoption of the amendment to Section 4.37 is necessary in order to remove the State of Arkansas from the list of jurisdictions certified by the Federal Motor Carrier Safety Administration as meeting the requirements of Title 49, Code of Federal Regulations, Section 396.23.

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, Section 548.002, which authorizes the department to adopt rules to administer and enforce the compulsory inspection of vehicles.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chairman  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter A  
Section Number 6.1 and Section 6.2

The Texas Department of Public Safety adopts amendments to Chapter 6, Section 6.1 and Section 6.2, concerning General Provisions, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3897).

Adoption of the amendments to Section 6.1 is necessary in order to delete redundant information which is already contained in the Act and to provide for clarification. Adoption of the amendments to Section 6.2 is necessary in order to update the rule to reflect current statutory requirements and practices.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter A  
Section Numbers 6.3 – 6.5

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.3 – 6.5, concerning General Provisions, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3899).

Adoption of repeal of the sections is necessary in order to delete redundant information which is already contained in the Act.


No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter B  
Section Numbers 6.11 – 6.21

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.11 – 6.21, concerning Eligibility And Application Procedures, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3899).

Adoption of repeal of the sections is necessary in order to delete redundant information already contained in the Act or because it does not reflect current practices. Adoption of the repeals is filed simultaneously with the adoption of new Sections 6.11 – 6.15 which will promulgate eligibility and application procedures.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter B  
Section Numbers 6.11 – 6.15

The Texas Department of Public Safety adopts new Chapter 6, Sections 6.11 – 6.15, concerning Eligibility And Application Procedures, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3900).

Adoption of the new sections is necessary in order to set forth eligibility and application procedures for licensing persons to carry concealed handguns. Adoption of the new sections is filed simultaneously with the adopted repeal of current Sections 6.11 – 6.21.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter C  
Section Number 6.31 and Section 6.32

The Texas Department of Public Safety adopts the repeal of Chapter 6, Section 6.31 and Section 6.32, concerning Procedures On Denial Of License, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3902).

Adoption of the repeal of Section 6.31 and Section 6.32 is necessary in order to delete redundant information which is already contained in the Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter E  
Section Numbers 6.51 – 6.54

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.51 – 6.54, concerning Enforcement Procedures, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3902).

Adoption of the repeal of Sections 6.51 – 6.54 is necessary in order to delete redundant information which is already contained in the Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter F  
Section Numbers 6.61 - 6.63

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.61 – 6.63, concerning Suspension And Revocation Procedures, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3903).

Adoption of the repeal of Sections 6.61 – 6.63 is necessary in order to delete redundant information which is already contained in the Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter G  
Section Numbers 6.71 – 6.74, 6.76, 6.77, 6.79 – 6.92

The Texas Department of Public Safety adopts amendments to Chapter 6, Sections 6.71 -6.74, 6.76, 6.77, 6.79 – 6.81 and new Sections 6.82 – 6.92, concerning Certified Handgun Instructors, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3904).

Adoption of the amendments to the sections is necessary in order to provide relevant information regarding current requirements. Adoption of the new sections is necessary in order to update the rules to reflect current statutory requirements and practices.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter G  
Section Numbers 6.82 – 6.96

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.82 – 6.96, concerning Certified Handgun Instructors, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3907).

Adoption of the repeal of Sections 6.82 – 6.96 is necessary in order to delete redundant information which is already contained in the Act or because it does not reflect current practices.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

License To Carry Handguns  
Title 37 T.A.C. Part I, Chapter 6  
Subchapter H  
Section Numbers 6.111 – 6.116

The Texas Department of Public Safety adopts the repeal of Chapter 6, Sections 6.111 – 6.116, concerning Information And Reports, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3907).

Adoption of the repeal of Sections 6.111 – 6.116 is necessary in order to delete redundant information which is already contained in the Act.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the Department's work; and Texas Government Code, Section 411.197.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission





TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Public Safety Communications  
Title 37 T.A.C. Part I, Chapter 9  
Subchapter C  
Section Number 9.22

The Texas Department of Public Safety adopts amendments to Section 9.22, concerning the Amber Alert Network For Abducted Children, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3908).

Adoption of amendments to the section is necessary in order to update the form number needed for requesting an Amber Alert. In addition, amendments to the graphic material contained in Section 9.22 are necessary in order the form number and to outline additional information requested from local law enforcement when they request activation of the statewide Amber Alert Network. The graphic material has been revised to include a date of request, a phone number for media inquiries, and a National Crime Information Center Identification Control number for the victim, as well as reorganizing some of the information gathered about the victim and suspect.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, Section 411.353(b), which requires the director to adopt rules and issue directives as necessary to ensure proper implementation of the alert system with the rules and directive to include instructions on the procedures for activating and deactivating the alert system; and Texas Government Code, Section 411.353(c), which requires the director to prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



TEXAS DEPARTMENT OF PUBLIC SAFETY  
ORDER ADOPTING A RULE

On July 17, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Public Safety Communications  
Title 37 T.A.C. Part I, Chapter 9  
Subchapter D  
Section Number 9.32

The Texas Department of Public Safety adopts amendments to Section 9.32, concerning the Silver Alert Network, without changes to the proposed text as published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 3909).

Adoption of amendments to the section is necessary in order to update the form number needed for requesting a Silver Alert. In addition, amendments to the graphic material contained in Section 9.32 are necessary in order to outline additional information requested from local law enforcement when they request activation of the statewide Silver Alert Network. The graphic material has been revised to include an additional criterion for activation of the Silver Alert. This additional criterion confirms that local law enforcement have conducted an investigation verifying that the senior citizen's disappearance is due to his/her impaired mental condition, and that alternative reasons for the senior citizen's disappearance have been ruled out. The revised form also includes a date of request, a phone number for media inquiries, a National Crime Information Center Identification Control number, and the race of the senior citizen, as well as reorganizing some of the information gathered about the missing senior citizen.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, Section 411.383(b), which requires the director to adopt rules and issue directives as necessary to ensure proper implementation of the alert system with the rules and directive to include procedures to be used by local law enforcement; a description of the circumstances under which local law enforcement is required to report a missing senior citizen; and the procedures to be used to notify designated media outlets in Texas.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

  
Allan B. Polunsky, Chair  
Public Safety Commission



