

MINUTES
PUBLIC SAFETY COMMISSION
September 17, 2009
Austin, Texas

Call to order

The Public Safety Commission met in Austin, Texas on September 17, 2009. Attending the meeting were Chairman Allan Polunsky, Commissioners Tom Clowe, Carin Barth, John Steen and Ada Brown. DPS staff members and guests were also present. The meeting was called to order by Chairman Polunsky at 10:45 a.m. Proper notice had been posted.

Approval of Minutes (01:07 – indicates time stamp from audio)

A motion was made by Commissioner Steen and seconded by Commissioner Brown approving the minutes for the August 21, 2009 meeting. Motion carried unanimously.

Public comment (01:41)

No public requested comment. Stuart Platt noted the availability of a Public Safety Commission Public Comment Registration Card. The card is to be filled out by any individual making public comment in order to document the speaker's contact information and to encourage candor in comments before the Public Safety Commission. The cards will be on the entry table next to the sign in sheet and once completed should be given to the Liaison of the Public Safety Commission prior to the start of the meeting.

Director's Report (02:15)

Colonel Steven McCraw gave a detailed report on the equipment needs of the department consisting of tactical body armor, ballistic helmets, tactical light and rail system, tasers, and utility uniforms for commissioned officers. He explained available funding and need for additional capital. The Commission requested the Director bring this item back to the next meeting for action with Chairman Polunsky stating "we want to do what we can to protect the lives of our officers in the field". Colonel McCraw concluded his report advising of the strategic plan and transformation milestone process.

New Business (27:17)

Commissioner Brown stated her presentation for discussion regarding the recruitment policy committee would be ready by September 24th. This item will be on the October agenda with the results.

Commissioner Brown requested the discussion and possible action on overtime and compensatory time policies for Department employees be deferred to the November agenda.

Chairman Polunsky stated the agenda item regarding Executive Management Team Salaries would be deferred to discuss after Executive Session.

Colonel McCraw and Assistant Director David Baker reported on hardship duty station stipends at the 40 Legislative approved areas. They requested action by the Commission to change the current \$2400, end-of fiscal year payment be paid monthly and instead of paying a maximum of two years that it be paid as long as the trooper remains in a hardship duty station. **A motion**

was made by Commissioner Steen and seconded by Commissioner Clowe to approve both the monthly stipend payment and extend the stipend to be paid as long as a trooper remained in a hardship duty station. Motion passed unanimously.

General Counsel Stuart Platt made a recommendation the proposal for the executive/officer insurance renewal be discussed later in the afternoon after Executive Session stating Phillip Adkins would provide legal advice at that time. Chairman Polunsky agreed with the recommendation.

Brad Rable, AD IT and General Counsel Stuart Platt presented the department procurement process created to date, at the request of the Commission from the August meeting. Brad Rable stated he felt it would be functional in one month. A lengthy discussion ensued detailing the goals, membership, tasks and challenges. Assistant Director Administration, Valerie Fulmer joined part of the discussion at the request of the Commission, and provided the steps taken to date in developing the process indicating it was both an IT Procurement and Commodity service. The Commission requested this item be included on the October agenda in order for the Commission to discuss and take possible action.

Executive Session (01:09:04)

The Commission went into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; and ongoing criminal investigations. Executive Session began at 12:10 p.m. and ended at 3:13 p.m.

Ongoing Business (01:09:57)

Upon reconvening regular session, **a motion was made by Commissioner Barth and seconded by Commissioner Clowe to empower the Chairman to work with the Director with regards to formulating a salary schedule for the appointees making up the command structure. Commission Brown was not present for this motion. Motion passed 4-0.** (01:10:42)

A motion was made by Commissioner Clowe and seconded by Commissioner Barth to not renew the Executive/Officer insurance policy issued by AIG. Commission Brown was not present for this motion. Motion passed 4-0. (01:11:11)

Commission Brown returned to the meeting. (1:13:10)

Colonel McCraw gave an update report on the Physical Readiness Test commenting there would no longer be a time limit for the sit-ups effective immediately. He continued stating the working group was looking into several other changes to the PRT process transitioning from sit up to crunches as part of the field exercises, adding fitness goals based on age and gender above the minimum standards for each field exercise and selecting an acceptable level of body fat as well as an appropriate method of measurement as a component of the PRT.

(1:15:30) Assistant Director Michael Kelley presented the Driver Responsibility Program stating the fiscal impact of the proposed rule presented at the last meeting did not match expectations and requested the rule posting revision be postponed until a completed business model for proposed rules was finished. His detailed report included a program for indigency for

surcharges assessed on or after September 1 2009; and amnesty for surcharges assessed prior to September 1 2009. In the revised rule indigency would be based on Lone Star Card eligibility and indigency would require proof of insurance. AD Kelley then outlined indigency and amnesty required one-time payments of: DWI=\$500; No Ins/DWLI = \$250; and No DL = \$150. The new program would mean an estimated \$2 million loss/gain during 2010-11 biennium. General Counsel, Stuart Platt addressed the forgiveness of debt issue stating DPS could waive surcharges after 180 days and not violate the Texas Constitution. He stated the proposed rules from the last PSC meeting had not been published. **Motion was made by Commissioner Clowe and seconded by Commissioner Barth to approve the standing proposal by Assistant Director Kelley modifying the prior two indigency and amnesty motions by integrating the prospective (after September 1, 2009) indigency proposal and the retroactive amnesty proposal from last month into one motion with the new plan. The motion included the public hearing and comment requirement remaining intact. Motion passed unanimously.**

Chairman Polunsky asked AD Kelley to confirm he was confident in the fiscal impact of the program stating he did not want to have to explain any shortfall.

(1:31:18) Chairman Polunsky reported on the 75th Diamond Jubilee Anniversary of the Department. He announced Barbara Hinesley's name was brought to him to Chair the committee and thanked her for her commitment in accepting the milestone anniversary planning. He asked that Deputy Director Colonel Beckworth Co-chair and Commissioner Clowe serve as Commission Liaison to work closely with this committee and serve in helping to celebrate this endeavor. The date of the anniversary is August 10, 2010, which was the date the Department of Public Safety began.

REPORTS (01:35:42)

John Jones, the new Assistant Director of Regulatory Licensing gave a report that included the organizational structure in that division, an update of the CHLB streamlining application process for the six months forward. By FY2010 the entire application process, including fingerprints, should be fully available online.

Ranger Captain Hank Whitman, Interim Office of Inspector General, introduced a new system model for in field discipline for violations and a training school implementation. He outlined his recommendations that would mean services of an outside vendor with a proposed hotline.

Fred Burton, the new Assistant Director Intelligence & Counter Terrorism gave a status report. He stated since joining he had evaluated programs at the State Capitol, fusion center and other divisions and thought we were in pretty good shape.

Consent items (1:50:23)

- A. Discussion and possible action on the Director's action of discharging probationary employee: Anthony Morales (Tx Gov Code 551.074) **Motion was made by Commissioner Clowe and seconded by Commissioner Barth to approve the action. Motion passed unanimously.**
- B. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024: Special Rangers: Steven E. Davis, Francisco Elizondo, Jr., Mario C. Escobedo, Reginald B. Fields, George Olivo, Martin C. Santiago, Estella Valenzuela; Special Texas Ranger: Charles R.

Brune. **Commissioner Brown made a motion seconded by Commissioner Clowe to approve the individuals listed in her oral motion. Motion passed unanimously.** John Steen asked that Colonel McCraw look into Special Ranger and Special Texas Ranger appointments.

- C. Advice and consent by the Commission regarding appointment of deputy directors, assistant directors and heads of divisions and bureaus pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071. Colonel McCraw listed the proposed Regional Commanders: Lubbock- Billy Fulton; El Paso – Skylor Hearn; Dallas- Jack Webster; Houston – L.C. Wilson; McAllen – Jose Rodriguez III; San Antonio – Luis Gonzalez. He followed with a request for approval to move Brad Rable to Deputy Director Services. **A motion was made by Commissioner Clowe and seconded by Commissioner Barth to approve the Regional Commanders and move Brad Rable to Deputy Director Services. Motion passed unanimously.** Colonel McCraw then proposed that the Assistant Director IT position vacated by Brad Rable would change to report to the Deputy Director of Services, not the Director. The Assistant Director IT position would remain open at this time. This proposal and other personnel changes to the organization chart would be on future agendas. The Chief of Staff stated he would keep the chart updated.
- D. Contracts for review by Commission (2:01:18)
 - 1. Review of signed contract renewal for forensic DNA kit. **A motion was made by Commission Barth and seconded by Commissioner Clowe approving the renewal for forensic DNA kits. Motion passed unanimously.**
- E. Discussion and possible action on adoption of proposed rule:
 - 1. Proposed amendments to Rule 28.93, 37 TAC Sec. 28.93, regarding Policy, Procedure and Rule Compliance for DNA laboratories, as published in 34 TexReg 4626, July 10, 2009. **A motion was made by Commissioner Clowe seconded by Commissioner Barth to adopt the proposed rule. Motion passed unanimously.**
- F. Discussion and possible action on proposed rules for publication:
 - 1. Proposed amendment to Rule 14.52, 37 TAC Sec. 14.52, regarding Texas School Bus Specifications
 - 2. Proposed amendments to Rule 27.121, 37 TAC Sec. 27.121, regarding Sexual Assault Reporting

A motion was made by Commissioner Clowe and seconded by Commissioner Barth to the publication of the two proposed rules. Motion passed unanimously.

Items for future agenda (02:02:40)

Commissioner Clowe requested an update report with possible action on the 75th Anniversary to be on every agenda ongoing.

Commission Barth requested the status of the search for Office of Inspector General candidate discussion, report and possible action be placed on the agenda until filled.

Future meeting date (02:03:24)

It was stated the academy graduation was October 9th.

The next regular meeting will be Thursday, October 15, 2009.

There being no further business, the meeting was adjourned at 4:10 p.m.

Read and approved this 23rd day of October, 2009.



Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On September 17, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

DNA, CODIS, Forensic Analysis, and Crime Laboratories
Title 37 T.A.C. Part I, Chapter 28
Subchapter F
Section Number 28.93

The Texas Department of Public Safety adopts an amendment to Section 28.93, concerning Policy, Procedure, and Rule Compliance, without changes to the proposed text as published in the July 10, 2009, issue of the *Texas Register* (34 TexReg 4626).

Adoption of amendment to Section 28.93 is necessary in order to reduce the number of documents that DNA laboratories are required to submit to the Department of Public Safety (DPS) every two years. DPS does not need the fifty plus page Quality Assurance Audit Document, but merely needs the final determination report by the Federal Bureau of Investigation that the DNA laboratory audited met all of the quality assurance requirements for forensic DNA testing laboratories.

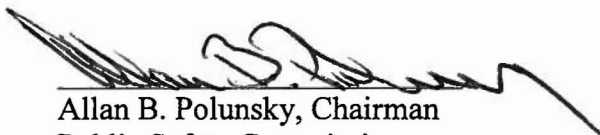
No comments were received regarding adoption of the amendment.

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 Government Code, Section 411.0205(b)(1) which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

IN THE MATTER OF § **BEFORE THE**

THE DISCHARGE OF § **PUBLIC SAFETY COMMISSION**

PROBATIONARY EMPLOYEE § **IN AUSTIN, TRAVIS COUNTY, TX**

Advice and Consent

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

| Employee Name | Employee Title/Division | Date of Discharge |
|-----------------|--|-------------------|
| Anthony Morales | Victim Services Counselor, Administration Division | 08/24/09 |

Approved:

Allan B. Polunsky, Chairman
Public Safety Commission
Date: September 17, 2009