

MINUTES
PUBLIC SAFETY COMMISSION
December 13, 2018
AUSTIN, TX

The Public Safety Commission met in Austin, Texas on December 13, 2018. Attending the meeting were Chairman Steven Mach, Commissioners Cynthia Leon, Manny Flores, and Randy Watson. DPS staff members and guests were also present.

CALL TO ORDER (0:00:00)

The meeting was called to order by Chairman Mach at 9:01 a.m. Proper notice had been posted.

APPROVAL OF MINUTES (0:00:32)

A motion was made by Commissioner Leon, seconded by Commissioner Flores, approving the minutes from the Discharge Hearing held on October 24, 2018, and the Public Safety Commission meeting held October 25, 2018. Motion passed unanimously.

PRESENTATIONS (0:00:59)

Service Awards

James Kilchenstein – 35 years

Sandra Uzzell – 35 years

Patricia Banks – 45 years

Director's Citation

Trooper Ryan Askew

NCFA 2018 Best Collaborative Effort Award

Major David Cabrera and Chief John Jones – Joint Criminal Intelligence Center

(0:10:11) Break 9:11 – 9:18 a.m.

PUBLIC COMMENT (0:13:04)

None

(0:130140) Chairman Mach acknowledged the following in attendance:
Michael Hull – Office of the Governor

DIRECTORS REPORT (0:13:26)

Public Safety Threat Update

Overview provided by Director McCraw:

- Release of the Texas Gang Assessment
- Currently working on the Human Trafficking and Public Safety Threat Assessments
- Sex Trafficking – Troopers have rescued over 400 children
- Reduction in Index Crime Rate (except Violent Crime) in 2017
- Operation North Star (since 4/17) – disrupted 117 robbery crews; 292 felony arrests; 1,162 misdemeanor arrests and 61 weapons seized
- Operation Alamo (since 5/17) - 1,200 felony arrests; 188 weapons seized; 2,704 misdemeanor arrests; violent crime down by 20% and felony arrests up 106% in San Antonio according to Chief McManus
- Killeen Police Department (1/18 – 6/18) – violent crime down 55.1%
- Operation Cow Town (Fort Worth) (started two weeks ago) – 24 criminal felony arrests; 12 drug seizure events; 18 misdemeanor arrests; served 36 warrants; 2 currency seizures; and seized 90 handguns

A. Complex Coordinated Terrorist Attack Exercise Update (0:27:39)

Update provided by Mike George:

- FBI-led exercise conducted October 28 – 30, 2018, along with DPS and local partner agencies
- Events conducted in each FBI SAC area of responsibility (Houston, Dallas, San Antonio and El Paso)
- No cost to State of Texas
- Exercise Locations:
 - *Greenville Airport – active shooter and vehicle-borne IED
 - *Blinn College – active shooters and hostage situation
 - *Government Canyon State Natural Area – downed aircraft due to bomb detonation
 - *El Paso International Airport – active shooters and IED detonation in airport parking garage
- Objectives:
 - *Intel and information sharing
 - *Coordination with federal, state and local stakeholders (law enforcement and emergency management response activation)
 - *Coordinating initial investigation efforts
- Observations:

- *Unified Command at each exercise site was established quickly. Once determined that the attacks were likely terrorism, FBI assumed lead for the investigation.
- *Tactical response to contain and eliminate threats and care for victims was effective.
- *Communications, operability, interoperability, and redundancy allowed agencies to communicate effectively, and communications operators were able to overcome challenges quickly.
- *Situational awareness tools used at various operations centers helped establish an interagency common operational picture, though there were challenges with access and redundancy.
- *DPS analysts were able to connect reports and intelligence information to develop a picture of what was taking place.
- *While crisis management and investigative tasks and consequence management tasks were managed effectively, overall coordination between these efforts was challenging at times due to physical separation. Standard procedures for joint meetings and briefings encompassing all functions could help.
- *Standard procedures for the operational cycle at the DPS Joint Operations Center are needed.
- *FBI and DPS mobile command centers at the attack sites provided critical communications and situational awareness capability, but sites reported that size limitations of these facilities made multi-agency coordination challenging at times.
- *DPS regional headquarters were effective in identifying and planning security operations for additional sites at high risk of attack.
- *While the exercise attempted to replicate some of the demands on public information, this would be a major challenge in any complex attack scenario. DPS and FBI public information personnel need to be prepared to quickly determine what information should be released and develop talking points for use by all partners to anticipate/manage the media surge and public concern.

B. DPS Body Camera Program (0:43:00)

Brief provided by Director McCraw:

- Video was displayed to show difference from Standard vs High Definition resolution cameras.
- Body and dash camera videos provide best evidence in court and protect our troopers.
- In process of updating body camera equipment (i.e., box clip on belt and magnet on camera to provide troopers the ability to place camera in a position that works best for them and the ability for the dash and body cameras to sync).

C. Threat Update (Executive Session)

To be discussed during Executive Session.

NEW BUSINESS

A. Report, discussion, and possible action regarding the University of North Texas Study on Racial Profiling and Internal Results of Directed Performance Audits regarding Traffic Stop Demographics (1:00:37)

UNT brief provided by Chief Ron Joy:

-The University of North Texas conducted a study to perform an analysis of traffic stop data, by race and ethnicity, collected by the Texas Department of Public Safety, which was released in November 2018.

-2,171,021 traffic stops were conducted by DPS troopers in 2017; only 11,209 times (0.52%) did troopers know the ethnicity/race of the violator prior to the stop.

-Percentage is consistent across the law enforcement agencies throughout Texas. Annual racial profiling report from 2014 submitted by the Texas Commission on Law Enforcement (TCOLE) found 97.1% of the traffic stops, the officer did not know race/ethnicity.

-Disparities across regions/districts:

*Border initiatives approved by Texas Legislature in 2015 added 250 troopers for border security and to conduct Operation Secure Texas.

*Strategic initiatives such as Violent Crimes Task Force operations in San Antonio and Harris County.

-Texas DPS 05.01.05 Enforcement Policies, provides troopers direction on factors to consider when making an enforcement action decision:

*Officers in deciding on enforcement action to be taken shall be guided by the policies enunciated in the Manual and shall disregard irrelevant factors such as:

- >intention to violate the law,
- >attitude exhibited by the violator,
- >lack of actual hazard, and
- >frivolous excuses

*The type of enforcement action taken shall be based only on:

- >the seriousness of the offense,
- >the degree of the violation, and
- >the conditions and circumstances surrounding the offenses that might aggravate its potential effect

-Texas DPS 05.01.02 Type of Enforcement Action

*Written warnings will not be issued under any circumstances for:

- >Driving While Intoxicated
- >Public Intoxication
- >No driver license when not licensed
- >Any non-traffic offense
- >Violations which contribute to a traffic crash

- Since most of the factors considered by the officer before taking the enforcement action are unknown, it is invalid to state the factor that explains the disparity in enforcement actions is race/ethnicity.
- If disparity alone is an indication of discrimination, then police in the United States discriminate based on gender when making arrest decisions.
 - *According to 2015 Uniform Crime Reports, of the 8.3 million arrests in the U.S., 73.1% of the arrestees were male while 26.9% were female. However, the 2010 Census illustrates that 49.2% of the U.S. population is male.
 - *This disparity is clearly not evidence of gender discrimination by the police, but is the same analysis done by some to claim racial profiling.
 - *Another example, according to the 2016 Uniform Crime Reports, 30.4% of the arrests in the U.S. were of 15-24 years old. However, the 2010 Census shows that only 14.1% of the U.S. population is 15-24 years old.
 - *It is invalid to conclude that any racial disparity in enforcement action is due to racial profiling.
- Of the 2,171,021 traffic stops conducted by DPS troopers in 2017, only 99,322 of the stops included a search (4.57%).
- UNT separated the justifications for the searches into two categories: discretionary and non-discretionary.
 - *Searches conducted incident to arrest, based on probable cause, and pursuant to a vehicle inventory are classified as non-discretionary.
 - *Consent searches, since they are discretionary actions, are particularly scrutinized in racial profiling analyses.
 - *Consent searches occur in approximately two or fewer stops for every 100 stops regardless of race/ethnicity.
 - *With over 2 million traffic stops in 2017 and less than 35,000 consent searches, this is an indication to the UNT research team of the judicious use of consent searches by DPS troopers across all racial/ethnic groups.
- Texas DPS has implemented proactive, internal controls in support of its zero-tolerance regarding racial profiling:
 - *Troopers are required to record audio and video of each traffic stop.
 - *Troopers must set the audio/video recording unit's operator selector switch to "automatic mode" so that as the patrol vehicle's emergency lighting equipment is activated, the audio/video recording unit will automatically activate to begin recording the entire contact or event.
 - *Patrol vehicle recording units are set to capture at least two minutes prior to the activation of the video unit so that events occurring immediately prior to a public contact are recorded.
 - *Note: In 2018, the Department purchased and implemented a body camera program for every trooper.

*DPS sergeants are required to conduct 20 hours of video observation review every six months.

*DPS citations and warnings are printed with a toll-free phone number to the DPS Office of Inspector General. The Inspector General is appointed by and reports directly to the Public Safety Commission and independently receives and investigates complaints, including complaints of racial profiling brought against DPS commissioned officers.

*Although not required by Texas law, DPS requires reasonable suspicion for consent searches that provides additional protection to Texas motorists.

*DPS has an Early Intervention System (EIS), which is designed to assist supervisors with timely identification of employees whose performance warrants review and, where appropriate, intervention. An alert for supervisory review generated by the EIS when an employee meets, or exceeds, an established threshold in the following areas: informal citizen concerns, counseling/coaching record, use of force incident, vehicle crashes, vehicle pursuits, and Equal Employment Opportunity complaints.

*DPS 05.01.02 Types of Enforcement Action policy requires troopers write a written warning if the violator is not arrested or issued a citation.

-Conclusion:

*UNT research team concludes that the DPS internal controls align with documented best practices and do not offer any recommended changes to its current practices, policies, and protocols.

*UNT research team also concludes that some of the DPS internal controls exceed documented best practices. For example:

>Requiring reasonable suspicion for consent searches is uncommon among law enforcement agencies and provides additional protection to Texas motorists. Due to this requirement, troopers must identify legal, articulable factors to believe the violator may be engaged in criminal activity before asking for permission/consent to search.

>By requiring a written warning, DPS collects the race/ethnicity of the violator on all traffic stops which provides the most comprehensive data available for racial profiling analysis.

Early Intervention System (EIS) Related to Traffic Stop Demographics brief provided by Chief Joy:

-What data was used:

*2017 Traffic stop data

*Trooper initiated stops resulting in tickets or warnings

>No tickets related to a crash

>No tickets for "Failure to Pay Toll"

>No activity as a result of an inspection area stop

- >Only commissioned officer activity, no non-commissioned inspectors
- >Activity from within that trooper's Region only

-Demographics:

- *All six races/ethnicities
 - >Alaska Native or American Indian
 - >Asian or Pacific Islander
 - >Black
 - >Hispanic or Latino
 - >Middle Eastern
 - >White

-Analysis Overview and Steps:

- *To account for randomness in traffic stops, the Office of Inspector General utilizes statistical methods to create confidence intervals for the percent of stops by each trooper for each race. (Exact percent \pm margin of error)

Confidence Interval (CI)

Lower bound = Exact percent – Margin of error

Upper bound = Exact percent + Margin of error

The margin of error decreases as the number of total stops increases.

- *Each trooper is analyzed separately according to assigned Sergeant Area and each specific race/ethnicity.

- *Two levels of confidence intervals are made

- >Race per Trooper
- >Race per Sergeant Area

- *Each trooper's confidence interval for every race is compared to his/her Sergeant Area's confidence interval.

- *If a trooper's confidence interval is completely above the Sergeant Area confidence interval, then he/she is flagged as an outlier for that race.

-Response to Identified Outlier

- *Multiple filters were applied to remove any false positive indications. A minimum of 510 traffic stops per trooper for the year were required in order to be included in the analysis.

- *Although a trooper may be identified as an outlier through this process, it will not identify if there is an actual problem.

- *In order to investigate an outlier further, each identified trooper's performance must be audited.

Brief on Directed Performance Audit by Inspector General Rhonda Fleming:

- A Directed Performance Audit is an audit conducted by a Texas Highway Patrol (THP) Sergeant on a specific trooper after that individual has been flagged by a statistical analysis as an outlier for a given race/ethnicity.

-A sergeant that does not directly supervise the trooper under review is assigned to perform the audit.

-Focus of the audit:

- *Proper reasonable suspicion for a traffic stop is present;
- *Adherence to the 7-Step Violator Contact;
- *Proper and consistent enforcement action is taken;
- *Articulable reasonable suspicion is developed prior to asking for consent to search;
- *Courtesy and professionalism are exhibited.

-Method of conducting the audit:

- *Videos from a minimum of 50 traffic stops are reviewed covering a variety of data ranges and to include both day and nighttime traffic stops.
- *Observations from the videos were recorded on a check list.
- *Videos reviewed during the analysis are maintained until final OIG review of the audit findings.
- *Traffic stops that contain questionable actions of either a management issue or policy violation were highlighted on the check list and referenced by number in the audit
- *A report indicating the audit findings was generated for each outlier identified and forwarded through the chain of command to OIG for review.

-Audit Results:

- *Out of over 2,614 troopers in THP in 2017, only 107 troopers were identified as outliers for at least one of the five minority race/ethnicity groups.
- *After OIG review of the 107 Directed Performance Audits:
 - 74 No Action Required
 - 15 Division Referrals
 - 18 Formal Administrative Investigations
- *The 18 troopers resulting in a formal OIG investigations equates to 16.8% of the 107 outliers and 0.68% of all troopers in THP.

-Lessons learned:

- *Training – revealed opportunities to reinforce consistent application of law, policy and patrol procedures.
- *Audit Report – revealed a need to streamline the audit to matters which may be indicative of racial profiling or, which rise to a level deserving OIG consideration.
- *Identified 5 essential elements which may be indicative of racial profiling:
 - >Selecting a violator prior to identifying a violation
 - >Probable cause not clearly evident on video
 - >Consent search not based on articulable reasonable suspicion and/or applied inconsistently
 - >Audio/Video equipment manually manipulated (not a malfunction)
 - >Enforcement methods and actions not applied consistently across all protected race

classifications

B. Report, discussion, and possible action on Use of Seized Funds (1:34:48)

Brief provided by Chief Tom Ruocco and Chief Suzy Whittenton:

-Federal Seized Funds Uses for FY 2019:

*Make-Ready for seized vehicles

*Hazmat clean-up

*Law enforcement equipment

*Software maintenance fee for Seized Funds database

*Total \$3,144,630 (remaining funds available after distribution \$2,010,909)

-State Seized Funds Uses for FY 2019:

*Law enforcement equipment

>Daniel Defense Rifles

>Ballistic Vests

>Night Vision

*Total \$914,002

A motion was made by Commissioner Leon, seconded by Commissioner Watson, approving the Use of Federal and State Seized Funds for FY 2019. Motion passed unanimously.

(1:46:56) Break 10:52 – 11:02 a.m.

C. Report, discussion, and possible action on the following rule proposals for publication to receive public comment:

1. New 37 TAC Section 15.50, concerning State-to-State Verification Service (1:47:30)

A motion was made by Commissioner Flores, seconded by Commissioner Watson, to approve New Business Item C1, to receive public comment. Motion passed unanimously.

2. New 37 TAC Section 37.3, concerning Minimum Required Registration Period

A motion was made by Commissioner Flores, seconded by Commissioner Watson, to approve New Business Item C2, to receive public comment. Motion passed unanimously.

D. Intelligence Threat Briefing (Clearance Required – Executive Session)

To be discussed in Executive Session.

Assistant Chief Mike Lesko was recognized for recently being elected to serve as Chair of the Advisory Policy Board.

ONGOING BUSINESS

A. Report, discussion, and possible adoption of the following previously published rules:
(1:50:40)

1. Amendments to 37 TAC Section 15.25, concerning Address

One comment deemed non-responsive.

2. Repeal of 37 TAC Section 15.119, Clearance Report When No Fee Is Required

No comments.

3. Amendments to 37 TAC Section 15.142, Agreement to Monitor Certain Records and Purchase Driver Record Information

One comment in support of program.

4. New 37 TAC Section 15.173, concerning Issuance to Civilly Committed Individuals/Memorandum of Understanding

No comments.

A motion was made by Commissioner Watson, seconded by Commissioner Flores, to approve Ongoing Business, Items A1 – 4, for adoption. Motion passed unanimously.

5. Amendments to 37 TAC Section 21.3, concerning Standards for Sunscreening and Privacy Window Devices (1:56:04)

No comments.

6. Amendments to 37 TAC Section 23.5, concerning Vehicle Inspection Station and Vehicle Inspector Disqualifying Criminal Offenses

No comments.

7. Amendments to 37 TAC Section 23.41, concerning Passenger (Non-Commercial) Vehicle Inspection Items

No comments.

8. Repeal of 37 TAC Section 23.74, concerning Manner of Reporting

No comments.

A motion was made by Commissioner Watson, seconded by Commissioner Flores, to approve Ongoing Business, Items A5 – 8, for adoption. Motion passed unanimously.

B. Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team (1:57:52)

Director McCraw sought advice and consent for the following items:

-Move Capitol Region under Homeland Security Operations branch to consolidate all Capitol-related functions to include Office of Government Relations and the Executive Protection Bureau.

- Administration Division was changed to Infrastructure Operations Division in an effort to consolidate core functions.
- Public Safety Communications Services (PSCS) will be moved from Law Enforcement Support Division to the Infrastructure Operations Division. Todd Early will continue to serve as the Assistant Chief over PSCS and will absorb Fleet Operations and Facilities. By combining the roles of Assistant Chief – Law Enforcement Support and Assistant Chief – Infrastructure Operations (Fleet/Facilities) into one, an assistant chief position is eliminated.
- Wayne Mueller, currently serving as an Assistant Chief in Administration, is now the Chief of the Regulatory Services Division.
- Creation of the Human Resource Operations Division to centralize all the units responsible for DPS employees. This new division will encompass the major personnel units including Human Resources, Dispute Resolution, Equal Employment Opportunity, Law Enforcement Promotions, and Victims and Employee Support Services.
- Chief RenEarl Bowie, who led the Regulatory Services Division, will lead the Human Resource Operations Division.
- Suzannah Jones has been selected to serve as the Assistant Chief of the Emergency Management Division.
- Megan Sanchez has been selected as the new Assistant Chief of Finance (Budget).
- The position of Assistant Chief – Education, Training and Research (ETR) is being eliminated. ETR will revert to its original structure with a Major overseeing operations and report to the Division Chief.

A motion was made by Commissioner Leon, seconded by Commissioner Watson, to approve the personnel and organizational modification changes as stated.

Motion passed unanimously.

Director McCraw announced the upcoming retirement of Assistant Chief Tom Polonis, of the Emergency Management Division.

Assistant Chief Todd Early was recognized for being elected to serve as the Chair of the Public Safety Advisory Committee through the FirstNet National Program.

C. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session)

To be discussed during Executive Session.

REPORTS (2:07:26)

A. Commission member reports and discussion - none

B. Finance Report – none

C. Chief Auditors Office – none

D. Division status reports on activities and action - none

CONSENT ITEMS (2:07:38)

A. Advice and consent regarding director's determination that a certain probationary employee was found unsuitable for work during October 2018

B. Donations:

1. Texas Rangers Company "CD" – use of Sandhill Ranch for meeting/lodging

2. Law Enforcement Support – donation of use of New Boston tower site communication tower/equipment shelter

3. Texas Highway Patrol – donation of replacement service animal by The 100 Club

4. Additional donation items, as needed

A motion was made by Commissioner Leon, seconded by Commissioner Watson, approving Consent Items, A - B. Motion passed unanimously.

ITEMS FOR FUTURE AGENDA (2:08:22)

DATE FOR FUTURE MEETING (2:08:28)

Any discharge hearings will be scheduled on February 20, 2019, and the regular Public Safety Commission meeting is scheduled for February 21, 2019.

ADJOURN INTO EXECUTIVE SESSION

The Commission adjourned 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; ongoing criminal investigations. Executive Session began at 11:24 a.m.

(2:09:15) The Public Safety Commission reconvened in open session at 1:53 p.m. Commissioners present were Chairman Steven Mach, Commissioners Cynthia Leon, Manny Flores, and Randy Watson.

ADJOURN

A motion was made by Commissioner Flores, seconded by Commissioner Watson, to adjourn the meeting. Motion passed unanimously.

The meeting was adjourned at 1:53 p.m.

Read and approved this 21st day of February, 2019.



Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter B
Section 15.25

The Texas Department of Public Safety (the department) adopts amendments to §15.25, concerning Address. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7446) and will not be republished.

The United States Postal Service (USPS) has adopted standards for address correction software to increase the accuracy of addresses. The use of address-matching software that meets certification standards under the Coding Accuracy Support System (CASS) adopted by the USPS will ensure that driver license address records are CASS compliant. These amendments are necessary to inform the public of the address validation system currently being used for conformation of driver license and identification card addresses to USPS standards. These amendments also update the peace officer alternative address program to add special investigators and inform the public of changes to the program made by the 85th Texas Legislature.

The department accepted comments on the proposed amendments through December 10, 2018. Mr. Casey Dean Alani, Esq. submitted comments regarding §15.25(1), (4), and (5). These existing rules have been in place since May 20, 2008. Since the comments received do not pertain to proposed changes to the rule text, the department will make no changes in response to these comments.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §521.063, which authorizes the department to adopt rules to implement mailing address verification; and Texas Transportation Code, §521.1211, which authorizes the department to issue driver licenses to peace officers or special investigators using an alternative address.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter G
Section 15.119

The Texas Department of Public Safety (the department) adopts the repeal of §15.119, concerning Clearance Report When No Fee Is Required. This repeal is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7448) and will not be republished.

The 85th Legislature passed Senate Bill 1913 and House Bill 351 which amended §706.006 of the Transportation Code to expand the conditions under which persons who fail to appear in a court would not be required to pay an administrative fee to the department. The repeal of this rule is necessary because the changes to §706.006 eliminated the need for this rule.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §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, §706.012, which authorizes the department to adopt rules necessary to administer Chapter 706 of the Texas Transportation Code.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter I
Section 15.142

The Texas Department of Public Safety (the department) adopts amendments to §15.142, concerning Agreement to Monitor Certain Records and Purchase Driver Record Information. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7449) and will not be republished.

Section 521.062 of the Transportation Code authorized the department to establish a driver record monitoring pilot program by rule. At the conclusion of the term of pilot program, the statute authorized the Public Safety Commission to implement a permanent driver record monitoring program. This amendment removes the pilot program designation from the rule text to provide for the permanent program.

The department accepted comments on the proposed amendments through December 10, 2018. A written comment was submitted by Explore Information Services, LLC in support of the amendments to §15.142 which establishes a permanent Driver Record Monitoring program.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; and Texas Transportation Code, §521.062, which authorizes the driver record monitoring program.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter K
Section 15.173

The Texas Department of Public Safety (the department) adopts new §15.173, concerning Issuance to Civilly Committed Individuals/Memorandum of Understanding. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7450) and will not be republished.

The 85th Legislature passed Senate Bill 1576 which requires the department, the Texas Civil Commitment Office (TCCO), and the Department of State Health Services (DSHS), by rule, to adopt a memorandum of understanding that establishes their respective responsibilities with respect to the issuance of a personal identification certificate to a civilly committed person, including responsibilities related to verification of the person's identity. This new rule is intended to provide the information for review of that interagency agreement.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522 of the Texas Transportation Code; and Health and Safety Code, §841.153(c), which authorizes the agreement relating to issuance of driver licenses and identification cards to civilly committed individuals.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Equipment and Vehicle Safety Standards
Title 37 T.A.C. Part I, Chapter 21
Section 21.3

The Texas Department of Public Safety (the department) adopts amendments to §21.3, concerning Standards for Sunscreening and Privacy Window Devices. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7451) and will not be republished.

This amendment repeals language duplicative of federal regulations and simplifies the process by which a driver or vehicle owner may establish entitlement to a medical condition-based exemption from the window tint requirements of Transportation Code, §547.613. Current rule language requires a driver present a department issued letter of authorization to law enforcement in order to establish entitlement to the exemption. Current rule language also describes the process by which the department issues such letters of authorization, following the review of documentation submitted by the vehicle owner establishing a medical reason to be shielded from the direct rays of the sun. The proposed amendment eliminates this process, instead requiring the driver present the documentation from a physician directly to law enforcement upon request.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §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, §547.101, which authorizes the department to adopt rules to administer and enforce Chapter 547.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter A
Section 23.5

The Texas Department of Public Safety (the department) adopts amendments to §23.5, concerning Vehicle Inspection Station and Vehicle Inspector Disqualifying Criminal Offenses. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7453) and will not be republished.

Currently, the rule provides that a felony conviction for an offense that does not relate to the occupation of vehicle inspector is disqualifying for five years from the date of conviction. However, pursuant to Texas Occupations Code, §53.021(a)(2), the disqualification period should run from the date the offense was committed. The proposal changes "conviction" to "commission," to accurately reflect the language of Occupations Code, §53.021(a)(2).

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer Chapter 548, and Texas Occupations Code, §53.021.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter D
Section 23.41

The Texas Department of Public Safety (the department) adopts amendments to §23.41, concerning Passenger (Non-Commercial) Vehicle Inspection Items. This rule is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7455) and will not be republished.

The inspection items are listed in the DPS Training and Operations Manual which is included by reference in this rule. Section 4.20.35 in the Manual is amended to simplify the process by which a vehicle owner may obtain a safety inspection of a vehicle in the event the vehicle is equipped with window tint in violation of Transportation Code, §547.613. Current language describes a process by which the department issues letters of authorization following the review of documentation submitted by the vehicle owner establishing a medical reason to be shielded from the direct rays of the sun. The proposed amendment eliminates this process, instead requiring the driver present the documentation directly to the vehicle inspector. In addition, Section 4.15.6 in the Manual is amended to clarify the manner in which safety inspections are to be conducted on "glider trucks" (a new truck cab and chassis built by the original equipment manufacturer assembled with an earlier model engine), providing the exhaust and emissions systems are to be inspected based on the requirements in place at the time of the engine's manufacture.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §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, §547.101, which authorizes the department to adopt rules to administer Chapter 547.

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.



Steven P. Mach, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On December 13, 2018, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Vehicle Inspection
Title 37 T.A.C. Part I, Chapter 23
Subchapter G
Section 23.74

The Texas Department of Public Safety (the department) adopts the repeal of §23.74, concerning Manner of Reporting. This repeal is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7456) and will not be republished.

The repeal of this rule will simplify and generally clarify the responsibilities of the committee. The rule imposed requirements on the committee determined to be unnecessary.

No comments were received regarding the adoption of this repeal.

This rule is adopted pursuant to Texas Government Code, §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, §706.012, which authorizes the department to adopt rules necessary to administer Chapter 706 of the Texas Transportation Code.

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.



Steven P. Mach, 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 discharge this employee:

Employee Name	Employee Title/Division	Date of Discharge
Jonathan Lopez	Trooper Trainee/Education, Training and Research	10/26/2018

Approved:



Steven P. Mach, Chairman
Public Safety Commission
Date: December 13, 2018