

MINUTES
PUBLIC SAFETY COMMISSION
June 17, 2010
Austin, TX

The Public Safety Commission met in Austin, Texas on June 17, 2010. Attending the meeting were Chairman Allan Polunsky, Commissioners Ada Brown, Carin Barth and C. Tom Clowe. Commissioner John Steen was not present at this time. A quorum was present for the meeting. DPS staff members and guests were also present.

Call to order

The meeting was called to order by Chairman Polunsky at 9:14 a.m. All members were present except Commissioner John Steen, who was expected later. Proper notice had been posted.

Approval of Minutes (00:36 indicates time stamp from audio)

A motion was made by Commissioner Barth and seconded by Commissioner Clowe approving the minutes of the May 20, 2010 meeting. Motion carried unanimously.

Public Comment (01:05)

There was no public comment, however Chairman Polunsky mentioned a group was expected to arrive and he would return to Public Comment after the discharge hearing.

Director's Report (01:54)

The Director gave a detailed presentation on the following: Texas Department of Criminal Justice and gang information sharing initiative with TDCJ; a high speed chase in Laredo resulting in a cash seizure of \$1,198,000; Texas Highway Patrol Commercial Vehicle Enforcement Operation inspecting 6,906 vehicles and placing 1,738 out of services in a three day period; Sex Offender Educational Training Program; and Trooper equipment status update on body armor, ballistic helmets, light rail system, tasers and use training, and utility uniforms, which the Public Safety Commission approved in October 2009.

Chairman Polunsky asked that a meaningful "wish list" of proposed changes in Legislation be put together to bring to the Legislature the next session.

(33:43) Chairman Polunsky stated for the record that Commissioner Brown had stepped out of the auditorium during the Director's Report therefore present and had returned during the Director's Report.

New Business (34:22)

A discharge appeal hearing regarding DPS employee Debra Bohn was conducted. **A motion was made by Commissioner Clowe and seconded by Commissioner Brown affirming the Director's discharge of Ms. Bohn. Motion carried unanimously.**

Public Comment (01:34:47)

Chairman Polunsky returned to Public Comment upon the arrival of a group consisting of one retired Texas Ranger and several business individuals supportive of the Texas Rangers and the Department of Public Safety. The group came in order to make a presentation to the Public Safety Commission. On behalf of the Texas Ranger Association Foundation in Waco, Texas, Gary Crawford, Steve Sikes, Jim Chionsini, retired Captain Richard Sweaney and Randy Watson presented a check for \$10,000. to the DPS 75th Diamond Jubilee. Chairman thanked the group on behalf of the Public Safety Commission, the Department and the Diamond Jubilee Committee for their contribution and their support of the Texas Rangers and the Department of Public Safety.

(01:12:39) Chairman Polunsky then turned the meeting over to Director Stephen McCraw. Director McCraw made a brief statement about Jack Colley, former Assistant Director, Texas Division of Emergency Management who recently passed away and followed by introducing Nim Kidd of San Antonio as the individual named as the interim Chief of the Texas Division of Emergency Management. Mr. Kidd provided a few words and thanked the large group of representatives of the Texas emergency management community who attended the meeting in support of the citizens and State of Texas, and his appointment. The Commission concurred with Director McCraw's appointment of Mr. Kidd and welcomed him to the Department.

Commissioner Steen arrived at this time.

Executive Session (01:22:16)

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 10:35 a.m. and ended at 3:50 p.m.

The Public Safety Commission reconvened at 3:50 p.m. A quorum was present. (01:23:38)

New Business, Cont.

Chairman Polunsky then introduced the agenda item he requested of naming the State Operation Center in honor of Jack Colley former AD Texas Division of Emergency Management. **A motion was made by Commissioner Clowe and seconded by Commissioner Steen to name the SOC the Jack Colley State Operations Center. Motion carried unanimously.**

(01:24:52) Commissioner Ada Brown gave an informational report on the 28-day work cycle and Overtime and Compensatory Time policies. DAD Jesse White gave the basic details of the existing policies. Following the presentation, Chairman Polunsky asked that Commission Brown chair a committee, with Commissioner Clowe serving on the committee, to look at what we have in comparison with what other states and entities have in order to see if a better way might be advisable.

(01:34:15) Commissioner Barth asked AD MacBride to discuss positions open, commissioned and non-commissioned, and where the department was with consideration of the budget. She addressed the problem with looking at the budget and variances and reconciling. AD MacBride stated there was another analysis that may provide a better picture of where the department budget/spending stood. At this time, an estimated balance of \$5-7M was anticipated for hiring during the remainder of the fiscal year. Commissioner Barth questioned if additional hires through the remainder of the FY were going to fit into the budget, which AD MacBride replied yes. AD MacBride further stated that the finance group was still working to fine tune their reports, talking with each area to align each division's expenses and making sure everything was accounted for in the budget categories but the process was not yet complete.. Commissioner Barth questioned the seized funds balance inquiring if these amounts were accounted for in the budget, as the list did not seem to account for all the projects the Commission had approved. AD MacBride stated the report did not include some capitol, project expenditures or encumbrances. Commissioner Barth stated based on the discussion, a hiring freeze on non-commissioned personnel would not be necessary to implement since the consensus was the year would finish out fine.

AD MacBride followed with a brief report on the budget variance items.

(01:46:06) OGC Stuart Platt and AD Baker, Texas Highway Patrol reported on the responsibility of the Department to investigate rural motor vehicle crashes occurring on places other than public highways. OGC Platt provided the details of the request. **A motion was made by Commission Brown and seconded by Commissioner Steen as follows: "This motion contains two parts: Both parts address the immediate problem created by encumbering our limited Texas**

Highway Patrol resources in parking lot crashes in unincorporated areas of the State, unless the crashes involve serious bodily injury or death.

The first part of my motion addresses an immediate solution to the problem and the second part proposes a rule amendment to provide clear and unequivocal language which allows Texas Highway Patrol to use the limited resources we have prudently for parking lot crash investigations.

I MOVE that the current implementation of the Rule printed in 37 Texas Administrative Code Section 3.1(b) be applied by THP in the manner suggested by AD Baker. I would ask the Commission to join me in formally finding that it is NOT Practicable for Highway Patrol to investigate every private property and private parking lot crash occurring in unincorporated areas, particularly where the population has grown exponentially. By officially blessing this interpretation and implementation of the provisions of Rule 3.1(b) it allows THP to free up valuable resources with our support. Certainly this implementation would not be the best practice when serious bodily injury or death has occurred in a crash on private property. So I would encourage investigation of these parking lot crashes where there has been serious bodily injury or death if Troopers are authorized by law to perform the investigation under the Transportation Code.

Additionally, since most parking lots are public places, I encourage THP to continue to aggressively enforce DWI laws on those premises.

Secondly, I MOVE that the Commission adopt (subject to proper publication) the proposed rule amendments to 37 Texas Administrative Code Sections 3.1 and 3.4 which are located in our notebooks. The essential change in language of those rules is to remove the suggestion that it is practical for THP to investigate private parking lot crashes unless serious bodily injury or death occurs. I further MOVE that the proposed amendments be published in the Texas Register for the required time and thereafter be adopted as a rule of this Commission.” Motion passed unanimously.

(01:53:59) AD Valerie Fulmer, Administration presented two pending standard contracts to the Commission for renewal. The Commission had no objections to either.

Ongoing Business (01:55:33)

Commissioner Barth welcomed Steve Goodson, previously with TCEQ, as the new Director of Audit and Inspection reporting to the Commission. Director Goodson came forward and thanked the Commission for this opportunity. Mr. Goodson further detailed his vision, goals and objectives in his function. Commissioner Steen had several inquiries of his audit procedures. AD Goodson responded the audits were a requirement and presented responses to each including a detailed follow-up procedure with management, which he proposed. Commissioner Barth inquired about the electronic software currently used. AD Goodson stated he was hopeful to use a State Auditors software package which he had previously used and hoped to piggyback on their software. Chairman Polunsky stated he had full support of the Commission and wished him luck.

(02:06:09) Director McCraw introduced Rebecca Davio the new AD of Drivers License requesting advice and consent of the Commission for the appointment. Dr. Davio explained how her time had been used during her 3 week tenure and expressed her excitement in being with the department. Commissioner Steen inquired what her top three priorities were and she responded: improving customer service, improving document security and improving the work environment and training tools for our employees. Commissioner Barth asked that credit cards be implemented and DD Brad Rable stated he intentionally was holding this up due to training. He stated it was entirely too much to be put on them while training on the new system. It will be the next part for the future, but on-line reservation system took priority to credit cards.

(02:19:23) EEO Officer Major Rhonda Fleming gave a presentation on the Sexual Harassment Policy which recapped the Employment and supplemental training required every 2 years. As of June, 2010

DPS is in compliance. Commissioner Steen commended Major Fleming for bringing the compliance up. He did ask if top leadership understood Sexual Harassment Policy in relation to outsourcing in-house training which would cost \$1200 for four hours of this type of management training by Sheila Gladstone. Commissioner Barth pointed out that for this office to be vacant for three years and Major Fleming only in this role for one year she felt it may be too early to bring in outside training but Commissioner Steen had spoken with Major Fleming prior who was looking forward to the outsourced training so that she could learn how to deal with Management training going forward. Commissioner Clowe asked that the reporting be continued measuring progress semi-annually.

For the record, Chairman Polunsky briefly left the room at 5:05 p.m. Commissioner Clowe continued the meeting co-chairing.

(02:41:42) Rebekah Hibbs provided detail on the Driver Responsibility program which published the proposed indigency rule in March. The rule is being withdrawn. The DL division and Public Safety Commission held a public hearing and based on comments and request for innovative ideas a working group was developed. The working group developed ideas for Amnesty, Incentive and Indigency programs to offer reductions to all surcharge participants. A new rule should be presented to the Commission in July; with new reduction programs scheduled for implementation by January 1, 2011. Commissioner Barth inquired about the third party handling the program, which was presently under evaluation. Mrs. Hibbs stated the contract expired in 2013 and foresaw no change. Follow up will be provided at the July meeting.

(02:47:46) Commissioner Steen stated the LAR is due to the LBB August 23rd and wondered if a dollar amount for implementing the plan for security of the headquarters would be available by that date. Commissioner Clowe asked that the lump sum estimate be broken down to specifics if possible. AD MacBride stated a dollar amount reservation line item could be in the LAR so that the actual amount could be provided at a later time. The Commission will decide on placing the item in the LAR once the amount is provided.

(02:52:17) DAD Jesse White updated the Commission on recruiting – 39 applicants had been accepted with 41 in process for the 6/27-8/13 school. For the 18-week school 50 applicants had been accepted and 403 in process for the 7/18-11/19 school. He commented further on the items for upgrading the recruiting efforts such as the table skirts, Hummer with DPS recruiting wrap and the recruiting video. Commissioner Clowe inquired about the better quality of candidates provided by moving the polygraph up in the process and DAD White stated the psychologist said this was the best school yet!

(02:59:40) Chairman Polunsky returned to the auditorium.

(03:00:00) Diamond Jubilee Chairwoman stated there were 51 days until the celebration which was on time and under budget thanks to the Texas Ranger Foundation Association donation today. There is \$26,525 in the account with expenses kept at \$21,232. She continued with a presentation on the Sig Sauer commemorative firearm. She presented a special donated gift which DAD Woodall was given, a signed 1958 Norman Rockwell rendition signed by Trooper Clements, who was illustrated in the print. DD Lamar Beckworth stated a sample of the firearm may be available at the July Public Safety Commission meeting.

(03:05:50) No further reports were presented on: Finance, Audit, Criminal Investigation, Government Relations, Highway Patrol, Information Technology, Intelligence & Counter Terrorism, Law Enforcement Support, Regulatory Licensing or Texas Rangers.

AD Valerie Fulmer, Administration, presented a chart for insight to average commissioned personnel attrition rates. The chart was broken down to retired, resignations, and other. For the 6 month FYTD the average seed to be lower compared to FY 2007-2009. This chart will be included in the member's reports monthly ongoing.

A report was provided by DAD Russ Lecklider from Emergency Management on the June 9th storms in the San Antonio area.

Greg Gloria, DAD Drivers License, and Rebecca Davio, AD DL presented the metrics on Drivers License. 50 offices were surveyed throughout the six regions. The survey provided the February – May, 2010 wait and process time averages. The combined time went from 53.12 minutes to 43.12, an improvement with a long way to go per DAD Gloria. Commissioner Steen complimented AD Gloria on his report.

(03:23:25) Suzanne Lowe (Birdwell), Texas Ranger Forensic Artist, gave a captivating presentation on the types of forensic hand drawn art she provides. These are: composite drawings, age-progressions of adults (missing persons or fugitives), image enhancements, graphic facial comparison analysis, post mortem drawings, facial reconstruction on the skull, facial approximations from the skull and associated-articles exhibits. She assists in request from well over 11,000 law enforcement agencies across the state (local, county, state, university, federal and military establishments). Chairman Polunsky inquired if those outside of DPS were done free of charge. Ms. Lowe replied they were and that approximately 85% were done outside of DPS/Ranger requests. He requested OCG Stuart Platt check into if the outside agencies could be charged for services of the DPS forensic artist. Commissioner Steen thanked Ms. Lowe for her presentation and services and inquired if she spoke to outside groups as he wished more people knew of her. Commissioner Brown spoke of the amazing diversity in the department and thought it was a great area for recruitment. Chairman Polunsky thanked her for her amazing presentation and stated the Department was pleased she did what she did for the department. He then addressed Director McCraw about DPS providing this service to other agencies across the state free of charge, including transportation. Director McCraw stated he would work with OGC and see if it would be possible to start charging, but that we currently had no process in place to be able to charge at minimum, travel expenses.

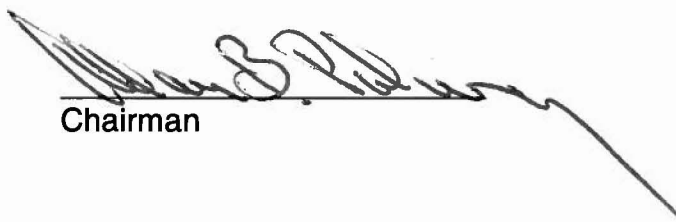
(03:57:18) A motion was made by Commissioner Clowe and seconded by Commissioner Brown to approve IX. Consent Items A, B, C 1, 2, and 3. Motion carried unanimously.

Commissioner Barth inquired if the exceptional items could be ready to look at in July.

A Committee Report to be given by Commissioner Brown on the 28-work week and Overtime, Compensatory time at the July meeting.

The next Public Safety Commission meeting was scheduled for July 15, 2010.
The meeting was adjourned at 6:26 p.m.

Read and approved this 15th day of July, 2010.



Chairman

IN THE MATTER OF

THE APPEAL OF DISCHARGE OF

DEBRA BOHN

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§
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§
§

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 Debra Bohn, on the 17th day of June, 2010. Ms. Bohn 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 Debra Bohn and affirms the Director's decision in this matter.

On motion of Commissioner C. Tom Clowe, seconded by Commissioner Ada Brown, the discharge was affirmed.

ENTERED AND SIGNED on the 17th day of June, 2010.


Allan B. Polunsky, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On June 17, 2010, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Organization And Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter R
Section 1.231

The Texas Department of Public Safety (the department) adopts amendments to Section 1.231, concerning Procedures for Vendor Protests of Procurements without changes to the proposed text as originally published in the April 16, 2010 issue of the *Texas Register* (35 TexReg 3015).

The amendments are necessary to change the title of the department individual to whom a solicitation, evaluation, or award of a contract may formally be protested.

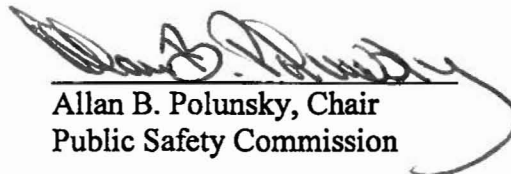
No comments were received regarding the adoption of these amendments.

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 2155.076, which requires the department to develop and adopt protest procedures for resolving vendor protests relating to purchasing issues.

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 June 17, 2010, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Supchapter D
Section 15.89

The Texas Department of Public Safety (the department) adopts amendments to Section 15.89, concerning Moving Violations without changes to the proposed text as originally published in the April 16, 2010 issue of the *Texas Register* (35 TexReg 3016).

The 81st Legislature, 2009, enacted House Bill 3389, creating Code of Criminal Procedure, Section 102.022, requiring Texas state and local courts to assess a fine of ten cents for any moving violation conviction defined by Texas Transportation Code, Section 708.052. Section 15.89 was originally published in the April 16, 2004, issue of the *Texas Register* (29 TexReg 3776) to provide a definition of a moving violation and identify by rule a listing of moving violations applicable to the Driver Responsibility Program.

The department adopts these amendments to remove discontinued moving violations and to incorporate new moving violations that result in a driver being assigned points under the Driver Responsibility Program, as defined by Texas Transportation Code, Section 708.052.

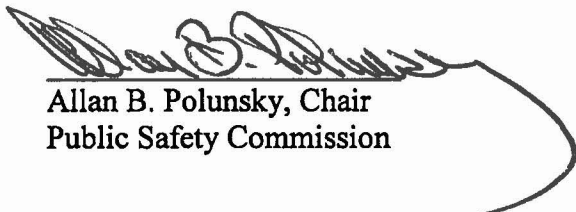
No comments were received regarding the adoption of these amendments.

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 along with Texas Transportation Code, Section 708.052, which requires the department to designate offenses that constitute moving violation of the traffic law.

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 June 17, 2010, the Public Safety Commission (the commission) by majority vote approved rules concerning:

DNA, CODIS, Forensic Analysis, and Crime Laboratories
Title 37 T.A.C. Part I, Chapter 28
Subchapter K
Sections 28.171 – 28.175

The Texas Department of Public Safety (the department) repeals Sections 28.171 - 28.175, concerning Preservation of Biological Evidence without changes to the proposed text as originally published in the April 16, 2010 issue of the *Texas Register* (35 TexReg 3017).

Repeal of these sections is necessary due to the addition of new Subchapter E and subsequent renumbering to leave room for later expansion within Chapter 28. The repealed rules are renumbered as new Sections 28.181 - 28.185 in a simultaneous filing. New Section 28.181 and Section 28.184 (former Section 28.171 and Section 28.174) are adopted with nonsubstantive changes to the text of the original sections and new Sections 28.182, 28.183, and 28.185 (former Sections 28.172, 28.173, and 28.175) are adopted without changes to the text of the original sections.

No comments were received regarding the repeal of these sections.

The sections are repealed 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 411.052, which states the department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under these sections.

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 June 17, 2010, the Public Safety Commission (the commission) by majority vote approved rules concerning:

DNA, CODIS, Forensic Analysis, and Crime Laboratories
Title 37 T.A.C. Part I, Chapter 28
Subchapter K
Sections 28.181 – 28.185

The Texas Department of Public Safety (the department) adopts new Sections 28.181 - 28.185, concerning Preservation of Biological Evidence without changes to the text as originally published in the April 16, 2010 issue of the *Texas Register* (35 TexReg 3018).

New Sections 28.181 - 28.185 (former Sections 28.171 - 28.175) set forth the preservation and transfer of biological evidence as specified in Code of Criminal Procedure, Article 38.43. New Section 28.181 and Section 28.184 (former Section 28.171 and Section 28.174) are adopted with nonsubstantive changes to the text of the original sections and new Sections 28.182, 28.183, and 28.185 (former Sections 28.172, 28.173, and 28.175) are adopted without changes to the text of the original sections.

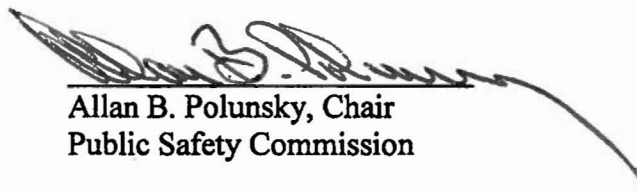
No comments were received regarding the adoption of these new sections.

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 411.052, which states the department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under these sections.

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

