
OPEN MEETING

PUBLIC SAFETY COMMISSION

AUGUST 25, 2008

On the 25th of August, 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 COMMISSIONERS OF THE PUBLIC SAFETY COMMISSION:</p> <p>4 Allan B. Polunsky, Chair</p> <p>5 C. Tom Clowe</p> <p>6 Elizabeth Anderson</p> <p>7 Carin Marcy Barth</p> <p>8</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 Advisory Board for Texas (Inaudible) College.</p> <p>2 Recently, I have filed some complaints with</p> <p>3 the Department of Public Safety. I filed them, Audra</p> <p>4 Livingston and Tim Smith for aiding and abetting to</p> <p>5 falsification of state documents. They required their</p> <p>6 troopers to falsify their weekly reports by showing</p> <p>7 times that were not correct. There was four certified</p> <p>8 documents given by people that were in these classes.</p> <p>9 I get a letter back saying that Internal</p> <p>10 Affairs could not find any violation of State policy or</p> <p>11 DPS policy by doing this practice. TCLEOSE rules and</p> <p>12 regulation says that they have to certify these records.</p> <p>13 Apparently, these records were falsified also by the</p> <p>14 certification of training.</p> <p>15 Also, I filed on Sergeant Harvey Stamper for</p> <p>16 falsification of concealed handgun background</p> <p>17 investigation. At the time that Lieutenant Stafford</p> <p>18 interviewed me, I gave him some general names, but not</p> <p>19 specific. Later on I called him on the phone and told</p> <p>20 him who he needed to contact. He told me that he was</p> <p>21 going to do the best investigation he could with the</p> <p>22 material he had, and it would be a thorough</p> <p>23 investigation.</p> <p>24 I get a letter back saying that no</p> <p>25 violations of State policy or DPS policies was found.</p>
<p style="text-align: right;">3</p> <p>1 MR. POLUNSKY: (Roll call) I am present.</p> <p>2 There is a quorum present. The Texas Public Safety</p> <p>3 Commission is called to order in accordance with Chapter</p> <p>4 551 of the Texas Government Code, the Open Meetings Act.</p> <p>5 The quorum of the Commission is present and the meeting</p> <p>6 is now declared open. It is 9:30 a.m.</p> <p>7 First item on the agenda is public comment.</p> <p>8 Is there anybody here who would like to address the</p> <p>9 Public Safety Commission at this time? Yes, sir.</p> <p>10 You'll be limited to five minutes.</p> <p>11 COY LORANCE: Thank you.</p> <p>12 MR. POLUNSKY: Please identify yourself and</p> <p>13 give your address.</p> <p>14 COY LORANCE: My name is Coy Lorange, P.O.</p> <p>15 Box 1281, Nash, Texas. I am retired from the Department</p> <p>16 of Public Safety with 27 years on, and 13 years with the</p> <p>17 highway patrol, and 14 years with license and weight. I</p> <p>18 served four years in the marine core. I was a platoon</p> <p>19 leader in Vietnam, had five tanks and 22 men under my</p> <p>20 command.</p> <p>21 While with the Department of Public Safety,</p> <p>22 I worked with a lot of good supervisors. I enjoyed my</p> <p>23 job, loved my job. I lived my dream by working for this</p> <p>24 Department. I am a city counselor on the -- in the</p> <p>25 city where I live. I am on the Criminal Justice</p>	<p style="text-align: right;">5</p> <p>1 He did not go talk to the people that I asked him to go</p> <p>2 talk to that could prove these allegations. I believe</p> <p>3 that you four commissioners are honorable people and</p> <p>4 you're going to do what you think is right by the</p> <p>5 information that is given you.</p> <p>6 Six months ago, I was sitting here and I</p> <p>7 told you that these allegations were going to be swept</p> <p>8 under the rug, and, Mr. Chairman, you assured me that</p> <p>9 they would not. And I'm sure with the information that</p> <p>10 was given you, that you believe that they were not.</p> <p>11 But what I would like to do, and I've got</p> <p>12 statements and documents and DPS investigations here</p> <p>13 that nobody's looked at or will take the time to look</p> <p>14 at. So what I would like to do in honor of Internal</p> <p>15 Affairs, I would like to give you this rug to present to</p> <p>16 Internal Affairs, and this broom so they can sweep all</p> <p>17 of the complaints that I've made under the rug.</p> <p>18 MR. POLUNSKY: Thank you, sir. Your five</p> <p>19 minutes is concluded. Is there anybody else who would</p> <p>20 like to address the Public Safety Commission at this</p> <p>21 time? There being no one else, going on to the next</p> <p>22 item on the agenda, that being the discharge appeal</p> <p>23 hearing of DPS employee Peter Mason.</p> <p>24 (Discharge appeal hearing proceedings)</p> <p>25 MR. POLUNSKY: The next item on the agenda</p>

<p style="text-align: right;">6</p> <p>1 is the Executive Session. But let me also mention that 2 Chief Elliston has brought to our attention the fact 3 that there is a display on the outside called the 4 standard display of specialized equipment; is that 5 correct, sir? 6 RANDY ELLISTON: That's correct. 7 MR. POLUNSKY: And we may want to recess and 8 go out and see what we have out there so that they're 9 not sitting out there. 10 RANDY ELLISTON: It's getting a little warm 11 out there. 12 MR. POLUNSKY: So unless someone has on 13 objection, and I'm certainly willing to hear any, I 14 think it might be appropriate for us to recess and go 15 out and see the demonstration and the equipment that has 16 been brought here this morning. Is that okay with 17 everybody? We will recess to go outside and see what 18 they have. 19 (Meeting recessed) 20 MR. POLUNSKY: The Commission now adjourns 21 to Executive Session, which is closed to the public in 22 accordance with the Texas Government Code Sections 23 55.071 and 55.074. I would ask everybody to leave the 24 room, please. 25 (Break for Executive Session)</p>	<p style="text-align: right;">8</p> <p>1 should identify where the money was going into and where 2 it was coming from. I submit this report for your 3 consideration and approval. 4 MR. POLUNSKY: Thank you, sir. Ms. Barth. 5 MS. BARTH: Thank you. 6 MR. POLUNSKY: You all wish to discuss this 7 in any manner? 8 MS. ANDERSON: The only -- I just have one 9 question, and that is, you know, we had budgeted the 10 assessment, part of the shortfall, or the Commission's 11 procurements for the three different assessments, and we 12 originally thought we'd fund those out of '08 dollars. 13 Because most of those -- most of that will be funded 14 with '09 dollars. And so what my -- my question is how 15 were these '08 moneys redeployed to minimize the 16 unexpended or anything that might lapse this year? 17 OSCAR YBARRA: Specifically to those 18 dollars, I had a discussion with the Colonel and chief 19 Mills and identified that they had roughly \$500,000 to 20 approach projects, deferred maintenance. And it's my 21 understanding that they have taken steps to utilize 22 those dollars for certain projects, and they have been 23 moving forward on those projects, best of my knowledge. 24 MS. ANDERSON: To get those committed with 25 '08 --</p>
<p style="text-align: right;">7</p> <p>1 MR. POLUNSKY: The regular session of the 2 Texas Public Safety Commission is reconvened in 3 accordance with Chapter 551 of the Texas Government 4 Code, the Open Meetings Act. During this meeting the 5 Commission will be conducting business from the agenda 6 posted in the Texas Register. A quorum of the Board is 7 still present and the meeting is now reopened. It is 8 ten minutes till 3. Next item on the agenda is budget 9 matters. Chief Ybarra. 10 OSCAR YBARRA: Oscar Ybarra, 11 Chief of Finance. Good afternoon. Mr. Chairman, 12 Commissioners, on the end of July meeting I was asked to 13 take a look at the 2009 internal budget and report to 14 Commissioner Barth on items that we could identify that 15 were shortfalls within the agency and provide dollars 16 into these agency budgets. We have done that. 17 I provided you with a document in my report 18 which identifies where the moneys are coming from and 19 where they're flowing into, specific budget areas. We 20 also took the liberty to identify how the bureau 21 information analysis was funded through the other 22 divisions, and create a 2009 budget as the bureau was 23 created in 2008. 24 There has been a transfer of about -- close 25 to \$16 million. I provided an additional report that</p>	<p style="text-align: right;">9</p> <p>1 OSCAR YBARRA: Yes. 2 MS. ANDERSON: -- monies? 3 OSCAR YBARRA: That's correct. 4 MS. ANDERSON: Okay. Follow up on that, 5 back a couple months ago you had given us a 6 reconciliation of where you thought the Department, in 7 general, would finish the year based on the cent rate at 8 that time, and there was another 12- or \$14 million that 9 looked like it was -- we were -- based on the run rate, 10 we would not spend those dollars. Were plans made to 11 the extent permissible and possible to spend those funds 12 on deferred maintenance or other items? 13 OSCAR YBARRA: Well, I'm not quite sure why 14 the 12 million. I think the majority of those items did 15 indeed transpire, if I remember correctly. I think the 16 Commission procurements, maybe the dollars associated 17 with the assessment made for the scheduled training 18 academy in Florence, there was a little bit of money 19 left over there. 20 But for the most part, most of those items 21 have transpired. I think I mentioned in the last 22 meeting that we -- that money that we set aside, we have 23 quite a few federal programs that the agency seeks 24 reimbursement for at the end of the year. Those dollars 25 would most likely be utilized to cover --</p>

<p style="text-align: right;">10</p> <p>1 MS. ANDERSON: Float.</p> <p>2 OSCAR YBARRA: -- those expenditures. You</p> <p>3 know, this last -- this year, 2008, well, 1 percent of</p> <p>4 our total budget is roughly 6 or 7, \$8 million. You</p> <p>5 know, that -- what we have left over right now is less</p> <p>6 than that.</p> <p>7 MS. ANDERSON: Okay.</p> <p>8 OSCAR YBARRA: So --</p> <p>9 MS. ANDERSON: Okay.</p> <p>10 OSCAR YBARRA: -- we're being very careful.</p> <p>11 Those dollars will be utilized to carry the agency in</p> <p>12 2009.</p> <p>13 MS. ANDERSON: Okay. Thanks.</p> <p>14 MR. POLUNSKY: Mr. Clowe?</p> <p>15 MR. CLOWE: Nothing.</p> <p>16 MR. POLUNSKY: Thank you, sir. Next item,</p> <p>17 reports, discussion, deliberation and possible action</p> <p>18 regarding the following: RFQ to study the management</p> <p>19 and organizational structures of DPS. Chief Beckworth.</p> <p>20 LAMAR BECKWORTH: Yes. Lamar Beckworth,</p> <p>21 Assistant Chief of Texas Highway Patrol. Mr. Chairman,</p> <p>22 Commissioners, I'd like to provide you with a</p> <p>23 established report from the DPS management and</p> <p>24 organizational study being conducted by Deloitte.</p> <p>25 To give you an overview of how this</p>	<p style="text-align: right;">12</p> <p>1 be doing gap analyses. And these gap analyses are going</p> <p>2 to be involving several state agencies and also federal</p> <p>3 agencies. And if you look at work stream number two,</p> <p>4 you'll identify the different states that they've</p> <p>5 identified to evaluate and analyze along with our</p> <p>6 agency, and also the federal agencies that was conducted</p> <p>7 there.</p> <p>8 And the final thing that they have provided</p> <p>9 us is a environmental scan and best practice which</p> <p>10 enlists all of the statement work requirement and the</p> <p>11 categories. And they're going to align each one of</p> <p>12 these categories with our agency and see what ways we</p> <p>13 can improve the organization. And that's an update on</p> <p>14 the Deloitte study. Any questions?</p> <p>15 MR. POLUNSKY: Thank you, Chief. Are there</p> <p>16 any questions? Thank you, sir. RFQ for internal audit</p> <p>17 and risk assessment services. Mr. Walker.</p> <p>18 FARRELL WALKER: Farrell Walker, Director of</p> <p>19 Audit Inspection. Working closely with Commissioner</p> <p>20 Barth, we have negotiated a contract with Clifton</p> <p>21 Gunderson that is ready for your approval. They have</p> <p>22 virtually no changes to our draft documents, a few legal</p> <p>23 issues here and there that were easy to live with. So</p> <p>24 we got everything we asked for.</p> <p>25 MS. BARTH: I think that your group has done</p>
<p style="text-align: right;">11</p> <p>1 particular study is going, if you'll flip over to the</p> <p>2 first page, we had four objectives that the agency was</p> <p>3 tasked with asking Deloitte to address. They identified</p> <p>4 these particular objectives as work streams, and there</p> <p>5 are four work streams. They have completed work stream</p> <p>6 number one which entails gathering all of the agency's</p> <p>7 data, all of its document files, and conducting</p> <p>8 interviews, and starting the process of conducting</p> <p>9 interviews.</p> <p>10 Currently, they have conducted 54</p> <p>11 interviews. If you'll see on the second page, 24 group</p> <p>12 interviews with over 300 DPS staff members. They were</p> <p>13 complete with field interview process on Wednesday in</p> <p>14 Corpus Christi. And on Wednesday of this week, I'm</p> <p>15 scheduled to meet with their program director and we're</p> <p>16 going to talk about providing draft findings on the</p> <p>17 environmental scan of DPS. And also, findings dealing</p> <p>18 with best price analysis and operational structure.</p> <p>19 And I'm going to get that information on</p> <p>20 Wednesday along with James Hooten and myself, we are</p> <p>21 going to ensure that they're meeting the work streams</p> <p>22 that we tasked them to meet, and move forward on the</p> <p>23 project. So far, things seem to be going extremely</p> <p>24 well.</p> <p>25 Also, in addition to this, they're going to</p>	<p style="text-align: right;">13</p> <p>1 a magnificent job in working with the contract. So I'd</p> <p>2 like to make a motion to go ahead and approve the</p> <p>3 contract with -- is it Gunderson Clifton?</p> <p>4 FARRELL WALKER: Clifton Gunderson.</p> <p>5 MS. ANDERSON: Second.</p> <p>6 MR. POLUNSKY: Okay. It's been moved by</p> <p>7 Ms. Barth and seconded by Ms. Anderson that the contract</p> <p>8 for the internal risk assesses be awarded. If you need</p> <p>9 more information beyond that, or just --</p> <p>10 FARRELL WALKER: No, that's all we need.</p> <p>11 MR. POLUNSKY: Okay. Any discussion? There</p> <p>12 being none, all in favor please say, "Aye."</p> <p>13 ALL COMMISSIONERS RESPOND "Aye."</p> <p>14 MR. POLUNSKY: Any against? No. Motion</p> <p>15 passes. Thank you, sir. RFQ for IT optimization</p> <p>16 assistance in the development of IT strategy. Mr. Lane.</p> <p>17 BRYAN LANE: Good afternoon, Chairman</p> <p>18 Polunsky, Commissioners. I wanted to give you a brief</p> <p>19 update. And I asked Mr. Carlos Hernandez from Garner to</p> <p>20 give you a little bit more detail on the deliverables</p> <p>21 and where we are to date on the project. I'm happy to</p> <p>22 report that we are on target for the project</p> <p>23 budgetarily, both financially as well as a time line.</p> <p>24 The agency leadership has been very responsive to our</p> <p>25 needs.</p>

<p style="text-align: right;">14</p> <p>1 We are asking for a tremendous amount of 2 information. From each of the chiefs, as we go through 3 looking at shadow IT spend and business imperatives, 4 which are basically the drivers of the business to align 5 the IT shop with the actual strategy of the agency. 6 And, Mr. Hernandez, could you give us an update on some 7 of the specifics. 8 CARLOS HERNANDEZ: Yes. Commissioner, my 9 name is Carlos Hernandez with Garner Consulting. We've 10 been working with Chief Lane and the IT Department 11 throughout this project. We kicked it off on 12 August 4th. We had a kick-off meeting with all the 13 chiefs and then we had a kick-off meeting with the 14 internal IMS team. 15 We conducted interviews with all the chiefs 16 and the internal staff from the IMS team, and other 17 personnel that is responsible for IT services through 18 the the divisions. We have been collecting information, 19 not only from the cost perspective but from the overall 20 IT environment associated, not only with MIS services 21 provide to the agency, but also other IT services that 22 are being performed by other personnel or external 23 service providers in different divisions. 24 So the objective here is to capture not only 25 the services that IMS is providing to the divisions, but</p>	<p style="text-align: right;">16</p> <p>1 PAULA LOGAN: Prior to the last Commission 2 meeting, I did a number of research into -- on the 3 internet trying to find firms that specialized in 4 finding police chiefs. In addition, I was looking for 5 RFPs to see what their requirements are usually when 6 they do those kinds of searches. I also called the 7 eighth largest cities in the country and talked to the 8 HR directors, everybody but New York and Houston, who I 9 couldn't get to call me back, and found a number of 10 firms that have worked for them. 11 Some of them have done their own search, 12 Philadelphia, and Phoenix, and San Antonio at, least the 13 last time they went out, did their own search. 14 Although, Phoenix, I think they said hired from within. 15 And we prepared a draft RFP and had to send it out for 16 comment. And we were just waiting back from the 17 Commission to see what the pleasure was on moving 18 forward with that RFP. 19 MR. POLUNSKY: Discussion? I think we need 20 to give some direction here. 21 MS. BARTH: I'd like to hold off on that RFP 22 for now. 23 MS. ANDERSON: I agree with that. I think 24 we haven't, as a Commission, had an opportunity to look 25 at the implications of the search in general, how it</p>
<p style="text-align: right;">15</p> <p>1 also any other IT services the divisions are managing 2 themselves with other personnel or different moneys. 3 We conducted a business imperative session 4 last week to validate our understanding of where the 5 agency's going from the business standpoint, information 6 that was collected from the divisions. We are 7 finalizing the identification of the IT implications of 8 those business imperatives and the definition of the 9 overall IT direction for IMS, essentially identifying 10 what are going to be the key guiding principles and 11 parameters in which IMS is going to provide or should be 12 providing services to different divisions of the agency. 13 And we're going to be having that session 14 here coming up in the next few days. And we are on 15 target to finalize the (Inaudible) findings for the week 16 of September 8th, in which we're going to probably 17 provide a summary update at the IT board session. 18 So we are (Inaudible) and I appreciate all 19 the cooperation. And I (Inaudible) that Chief Lane is 20 going along with Chief Brown and rest of the IMS team 21 and the divisions, and providing us information and 22 working with us to get everything we need. 23 MR. POLUNSKY: Thank you. Discussion? 24 Thank you, sir. Procurement of executive search 25 services for appointment of director. Ms. Logan.</p>	<p style="text-align: right;">17</p> <p>1 plays with the six-month limitation on interim ED; how 2 it might play into compensation aspirations that we 3 might want to be engaging the legislature with. I have 4 severe doubts as to whether, you know, at the current 5 posted salary, you know, we're going to interest a 6 search firm. I'm not prepared to vote on that today. 7 MR. POLUNSKY: Okay. Why don't we defer 8 this item till September, and then we'll get with you, 9 Paula, and discuss some of the issues that need to be 10 addressed. 11 PAULA LOGAN: Okay. 12 MR. POLUNSKY: That okay with y'all? Energy 13 savings performance contract. Mr. Mills. 14 LESTER MILLS: Lester Mills, Chief of Staff 15 Support Service. Mr. Chairman, I'd like to give y'all a 16 brief document we got from our firm last week. 17 Mr. Chairman, Commissioners, we have been working with 18 TAC Americas as the company that was selected to do our 19 detail utility audit for looking at our energy usage and 20 determine what we can implement as part of this program 21 to reduce our energy conservations. 22 They have come back with a document that we 23 met with Commissioner Barth with on last Friday. We are 24 now prepared to move forward with this at this time. 25 But we want to give y'all a sort of heads-up and update</p>

<p style="text-align: right;">18</p> <p>1 on where we are in this process.</p> <p>2 Based on the bullet items, we -- doing this</p> <p>3 project in two phases. Phase one being the headquarters</p> <p>4 region two and parts of region one. And then phase two</p> <p>5 would be the rest of the state. And this report is</p> <p>6 based upon phase one. And what TAC is recommending is a</p> <p>7 project of \$8.6 million in energy related improvements,</p> <p>8 which includes 1.2 million that's on our deferred</p> <p>9 maintenance list.</p> <p>10 At the back of your report there is a</p> <p>11 document that shows what those deferred maintenance</p> <p>12 items are. Those are based upon our estimates of what</p> <p>13 those projects would be. But also, prior to (Inaudible)</p> <p>14 project and to -- in reducing our energy savings stuff</p> <p>15 there, they're looking at doing some chillers and air</p> <p>16 units and air-conditioning units in phase one buildings</p> <p>17 that will do about 1.2 million in deferred maintenance.</p> <p>18 They are guaranteeing that \$811,000 in</p> <p>19 energy savings will occur each year over the life of</p> <p>20 this project, 20 years. Although they're guaranteeing</p> <p>21 this, their actual projections are 839,000 in energy</p> <p>22 savings every year. We have been working with them, and</p> <p>23 right now the -- our recommendation is to go with the</p> <p>24 funding through the Texas Public Finance Authority which</p> <p>25 is a 20-year program.</p>	<p style="text-align: right;">20</p> <p>1 work with TAC to refine -- to refine this project. Some</p> <p>2 of their -- some of their costs figures in here are</p> <p>3 based upon starting this project in December. So may</p> <p>4 get to a point where we are pushing up against that</p> <p>5 timelines and those -- those -- you know, their cost</p> <p>6 from their subcontractors may be impacted there.</p> <p>7 There was one item that we do want to try to</p> <p>8 move on. When we were going for funding on the LoanSTAR</p> <p>9 program, they had third-party reviewers under contract</p> <p>10 and we were hoping to utilize one of those. By</p> <p>11 eliminating LoanSTAR funding, then DPS will have to go</p> <p>12 out and get a third-party reviewer.</p> <p>13 That process along in writing RFQ and going</p> <p>14 through selection process, it's going to take about a</p> <p>15 two-month time frame. And we would ask that we be</p> <p>16 allowed to issue that RFP and go through that election</p> <p>17 process, but not get into any financial obligation with</p> <p>18 them until after the SAO report is finished and the</p> <p>19 Commission is okay with moving forward with the project.</p> <p>20 Happy to answer any questions you may have.</p> <p>21 MR. POLUNSKY: Thank you, Chief Mills.</p> <p>22 Ms. Barth?</p> <p>23 MS. BARTH: Chief Mills and I spent some</p> <p>24 some time on this the last couple weeks. And I raised a</p> <p>25 number of issues, one of which is just the guarantee</p>
<p style="text-align: right;">19</p> <p>1 We had applied for funding of \$5 million</p> <p>2 through the LoanSTAR program that's regulated by the</p> <p>3 State Energy Conservation Office, but that was a</p> <p>4 ten-year payback, and they tried to fit part of this</p> <p>5 project in there and could not -- could not do so</p> <p>6 without including some of the projects we wanted -- we</p> <p>7 wanted in it. So by eliminating the LoanSTAR, it gave</p> <p>8 us more opportunity to address some of the deferred</p> <p>9 maintenance.</p> <p>10 We believe that the project that they have</p> <p>11 presented to us is -- is good. There are some things</p> <p>12 that we wanted in it that we just couldn't. But there's</p> <p>13 an opportunity for us to try to pick those up in phase</p> <p>14 two -- phase two of it. The State Auditor's Office</p> <p>15 right now is looking at this program, performance --</p> <p>16 energy's performance program. Through TPFA they are</p> <p>17 going out for sort of comments on their recommendations</p> <p>18 right now. We anticipate getting those issues by State</p> <p>19 Auditor's Office probably sometime next month, maybe in</p> <p>20 October.</p> <p>21 So based on our conversations -- my</p> <p>22 conversation with Commissioner Barth last -- last</p> <p>23 Friday, we're prepared to put this project on hold until</p> <p>24 those responses come out and we see what the impact is</p> <p>25 on this. And as we wait for those, we will continue to</p>	<p style="text-align: right;">21</p> <p>1 itself from TAC as opposed to a parent company, and have</p> <p>2 asked that any contracting we do, we would have that</p> <p>3 guarantee from the parent company as opposed to TAC</p> <p>4 guaranteed for 85 percent.</p> <p>5 The reason we were going through TPFA was</p> <p>6 because they don't pay out. It's a 20-year type payout</p> <p>7 on this type of investment. It's not significantly</p> <p>8 high. However, it does, based on the projections, would</p> <p>9 suggest that some of the deferred maintenance would be</p> <p>10 covered by this type of a program where the energy</p> <p>11 efficiencies would cover the equipment purchases and</p> <p>12 installations plus debt service, which is the idea</p> <p>13 behind this project.</p> <p>14 I have talked to Chief Mills about not doing</p> <p>15 anything obligating the agency until we see where SAO</p> <p>16 comes out on these performance contracts. Which is, I</p> <p>17 understand, will be in the next couple of months. And</p> <p>18 what that does is it then backs this particular proposal</p> <p>19 up against a guarantee by TAC of the cost through</p> <p>20 December 31. Which, you know, has me concerned right</p> <p>21 off the bat just because of the payout on this deal that</p> <p>22 we are going to be going into a new set of costs, which</p> <p>23 one would probably argue would go up as opposed to go</p> <p>24 down.</p> <p>25 And so I think we ought to continue to work</p>

<p style="text-align: right;">22</p> <p>1 forward, although everything be contingent on both the 2 SAO and the cost estimates going forward. Because I 3 think we're going to be significantly -- we will fall 4 behind on the timing to make this whole deal work going 5 forward. So --</p> <p>6 MR. POLUNSKY: So your recommendation is --</p> <p>7 MS. BARTH: My recommendation is that we 8 continue to move, but everything -- anything we execute 9 would be contingent on one, we -- we're happy with the 10 outcome of SAO, and number two, the cost estimates under 11 this scenario would hold going forward. I don't know if 12 that will be so come December 31, and that we have the 13 parent company guarantee to make a guarantee.</p> <p>14 LESTER MILLS: We have talked with TAC 15 about -- again, about the concern about the their 16 pricing based upon starting in December and they are 17 prepared to, as we get closer to that date, that if it 18 is going to be an impact where we look at the numbers, 19 chances are, we'll just have to see where we are when we 20 get to that point. But they are aware of that.</p> <p>21 And I have talked with my contact with TAC 22 about the parent company guaranteeing the project. 23 There is some concern there that, again, they would like 24 to, you know, discuss. And one of the documents that's 25 in the report is a sheet that they provided me this</p>	<p style="text-align: right;">24</p> <p>1 in equipment and everything else for this whole agency. 2 And we owe him a great gratitude for his efforts and his 3 service to the state.</p> <p>4 MR. POLUNSKY: Next item on the agenda is 5 discussion and possible acts regarding the protection of 6 third party private information in Department contracts 7 with vendors. Mr. Fox.</p> <p>8 DUNCAN FOX: Yes. At the last Commission 9 meeting in July you tasked the Office of General Counsel 10 with the responsibility of looking -- reviewing the past 11 contracts that we executed. And looking at whether -- 12 what the effect of those contacts are as to third party 13 beneficiaries, specifically the members of the public 14 when we are managing data that is sensitive information 15 that can effect parts of the public.</p> <p>16 We reviewed our contracts and we provided 17 what is our standard confidentiality that we use where 18 we do obligate the contractor to protect the 19 confidential information that they're provided. But we 20 don't really have a provision about actually taking 21 steps where we enable that number of the public to have 22 any specific rights or essentially be a third party 23 beneficiary to the contract to ensure that their private 24 information is protected.</p> <p>25 So one of the things that we looked at, and</p>
<p style="text-align: right;">23</p> <p>1 morning about their standing company wide, they're, I 2 think, 1.2 or \$2.3 billion a year company. Again, one 3 of the subsidiaries of Snyder.</p> <p>4 But they are the energy performing branch of 5 this company. And they would, over a period of time 6 between now and the time that we enter into a contract 7 would like to address that with the Commission, see if 8 that's something that could be worked out. They are 9 looking to see, again, what hurdles they have to jump 10 internally to make that happen. But if they can't, 11 they'd like to talk about it.</p> <p>12 MS. BARTH: And Chairman, in talking with 13 TAC on projects -- earlier projects, they in fact, the 14 agency's moving to put up an insurance policy. So -- to 15 cover the guarantee.</p> <p>16 MR. POLUNSKY: Okay. Well, I think we have 17 a sense of where you'd like to go with it. Does anybody 18 have any problem with that? Okay. I think that's what 19 we're going to go ahead and do.</p> <p>20 LESTER MILLS: Okay. Thank you.</p> <p>21 MR. McEATHRON: Chairman, if I may; Chief 22 Mills is retiring at the end of this month after 23 29 years. And he has done -- you heard the technical 24 part of what he just explained, he's done that kind of 25 work for us for the last eight years on buildings, and</p>	<p style="text-align: right;">25</p> <p>1 I worked with Eileen Aucoin, our Assistant General 2 Counsel in this matter, we contacted the Department of 3 Information Resources and reviewed with them, what's the 4 industry practice, what's -- what do we see is being 5 done by other state agencies. And the DIR position was 6 that it wasn't really standard practice.</p> <p>7 But they did point us to the -- there is a 8 state law which businesses are subject to that we could 9 model our particular statute on the Identity Theft 10 Prevention Act. So we have concluded and developed some 11 new language which follows the DIR recommendation about 12 protecting sensitive information.</p> <p>13 We have also included a number of choices 14 that we can ratchet up protection if we are concerned 15 that we want to heighten the protection on a particular 16 matter so we can impose requirements such as encryption 17 or requirements of actual -- of greater amounts of 18 notice. And also requirement of audit, because 19 sometimes when we're dealing with security breaches, 20 there is a dispute about whether or not there is a 21 security breach. And so we want to have audit rights in 22 some cases.</p> <p>23 And so those are options that we would like 24 to -- to add onto that. And with the Commission's 25 approval, then we would begin ensuring that this is</p>

<p style="text-align: right;">26</p> <p>1 included -- the baseline is included in all contracts 2 where we are -- where the Department is managing or 3 administering third-party information, specifically 4 members of the public's information, if that's 5 acceptable. 6 MS. ANDERSON: Mr. Chairman, I really 7 appreciate the Office of General Counsel going to work 8 on this. And -- and I support the things that are in 9 annex three on page -- well, it says page two on the 10 left-hand side of the page, and page ten on the 11 right-hand side of the page. But the things including 12 encryption, but -- but further, that in the case of a 13 breach, that -- that that contractor agrees to, you 14 know, "5A" and "C," at least, which is they provide a 15 credit monitoring service to all the effected parties 16 for 12 months and they provide call centers for -- to 17 the effected people for 30 days. 18 That is -- I have been a victim of this kind 19 of a breach where those services were provided to me. 20 And I'm mindful of the June break-in to IBT's office 21 where, you know, these fingerprint -- you know, the IBT 22 where we're fingerprinting teachers and everybody, and 23 IBT, of its own free will, did the one-year's credit 24 monitoring. They did one year identity theft 25 protection. And, you know, I -- I think it's -- I think</p>	<p style="text-align: right;">28</p> <p>1 recommendations in annex three to include, you know, 2 encryption. You know, and the rest of that document, 3 and "5A" and "5C." 4 MR. POLUNSKY: All right. There's a motion 5 on the floor. Is there a second to Ms. Anderson's 6 motion? 7 MR. CLOWE: Second. 8 MR. POLUNSKY: Seconded by Mr. Clowe. Any 9 discussion on the motion? There is no discussion. All 10 in favor, please say, "Aye." 11 MS. BARTH: Aye. 12 MR. POLUNSKY: Any against, no. Motion 13 passes. Thank you, Mr. Fox. 14 MS. ANDERSON: Have either of the other 15 Commissioners given this individual's letter, that's the 16 real estate broker, that's -- have you given this to 17 anybody on staff to respond to? We probably all got 18 this letter. And I don't know who should respond on -- 19 with regard to this fingerprinting stuff. I think 20 Mr. Gavin has volunteered to make sure it gets done. 21 MR. POLUNSKY: Okay. Discussion and 22 possible action to review and approve a Commission 23 policy concerning the approval of -- approval of 24 contacts and limits of authority for the Department. 25 Mr. Fox, again.</p>
<p style="text-align: right;">27</p> <p>1 it's becoming more and more industry standard to expect 2 the suppliers to do that. 3 I got a letter -- we all get the same 4 letters -- but I got a letter just this past week from a 5 realtor who was highly incensed because, you know, when 6 she went to have her fingerprints taken, we took her 7 Social, we took, you know, 42 personal identifiable -- 8 and she's like, the realtors already have my Social. 9 They don't understand why we're collecting this data. 10 And so I support implementing, you know, all of what -- 11 what is proposed in in this annex three. 12 DUNCAN FOX: Very good. So, and also 13 includes a standard "5A," and "C." 14 MS. ANDERSON: And "C." Yeah, I don't -- 15 I'm not so sure about "5B." I wasn't persuaded about 16 identify theft insurance. But -- but clearly, a year of 17 credit monitoring services and the call center support 18 for kind of the first 30 days, that's at a minimum what 19 we should expect our suppliers to do. So that'd be a 20 great start. 21 MR. POLUNSKY: Ms. Anderson, you -- 22 MS. ANDERSON: I would sort of put that in a 23 form of a motion, that we -- that we -- that we ask the 24 Department to implement the recommendation to the Office 25 of General Counsel with regard to the -- those</p>	<p style="text-align: right;">29</p> <p>1 DUNCAN FOX: Good afternoon. In your 2 packets, in annex two of the OGC report, is a -- the 3 Office of General Counsel's proposed modification of the 4 current DPS contracting authority provisions I wish to 5 present to you. The -- in August 4th, as you recall, I 6 think we mentioned to the Public Safety Commission a 7 requirement that contracts are commitments with 8 obligations by DPS of one million over the life of the 9 contract must be approved by the Commission. 10 We also imposed a requirement that change 11 orders, or the total of all change orders to a senior 12 contract exceeding 50 percent or \$500,000, whichever's 13 less, must be approved. And we implemented that policy. 14 And one of the requirements was to present to you for 15 approval contracts meeting those requirements as well as 16 to prepare a report for you which will be in another 17 agenda item of contracts meeting these criteria in the 18 past 90 days. 19 What I would like to present to you now is 20 the General Counsel's recommendations for your 21 consideration of tweaking the policy somewhat to remove 22 or to cut out some of the contracts that you would have 23 to take a look at. The main change that we are 24 recommending is not requiring the Commission approval of 25 change orders exceeding 50 percent. And instead,</p>

<p style="text-align: right;">30</p> <p>1 putting in a fixed dollar amount on that as the change 2 orders. And that, we recommended in our proposed 3 policy, being \$500,000 change orders to a contract 4 commitment or. That would go to the Commission. 5 Change orders for less than that amount, 6 would not be presented to the Commission (Inaudible) 7 the other change that I've recommended in the annex is 8 any contract that contains a renewal or extension 9 provision is to be approved by the Commission if the 10 total renewal or extension exceed \$1 million. 11 The other change is to formalize that change 12 orders or contracts that need to be approved on an 13 expedited basis prior to the Commission meeting may be 14 approved by the Chair of the Commission and gratified by 15 the Commission. 16 And in the final change, would be to clearly 17 state that division reports to the Commission by 18 division reps shall contain status reports on 19 procurement and pre-procurement activities so that you 20 can be apprised of contracting activity by the 21 Department. 22 So those are the proposed modifications that 23 our office would pose to you to consider for the -- as 24 to contracting authority. Also have two -- a couple of 25 questions to have you consider is to interpretations on</p>	<p style="text-align: right;">32</p> <p>1 we wanted a little sharper picture of what contracts 2 would come under this. And, also, there was a 3 discussion about, on new contracts, which contracts 4 would fall above a million, maybe three and five 5 million. 6 And my hope would be, as one commissioner, 7 that we might see that list and understand what that 8 includes before we take action. 9 MS. ANDERSON: Do we have any kind of 10 contracts data base so that one can pull for the last 11 12 months, here are the contacts above five million, 12 here are the contracts above three, here are the 13 contracts above one to give us some assistance in the -- 14 because we don't want to see lawn service contracts like 15 are on this list in the next agenda item. 16 But it's hard to know where to set the 17 threshold, you know. You know, in IMS, a contract is a 18 \$900,000 contract, which would fall below some 19 thresholds, might be a particular interest just at this 20 point in time when we're about to get a road map, and I 21 might be interested in that because I don't want to 22 commit us for 24 months and tie our hands behind our 23 back on any subsequent IT assessment recommendation. 24 So we are struggling with how to set the 25 threshold so that we are seeing the significant activity</p>
<p style="text-align: right;">31</p> <p>1 those proposed modifications. Specifically, whether the 2 Commission should -- whether it's the will of the 3 Commission to review GDEM contracts, governor's Division 4 on Emergency Management and grant -- particular grants. 5 Because although -- 6 MS. ANDERSON: Those are pass through 7 moneys -- 8 DUNCAN FOX: Pass through -- 9 MS. ANDERSON: -- to locals -- 10 DUNCAN FOX: Right. 11 MS. ANDERSON: Federal money coming through 12 us being granted to locals. 13 DUNCAN FOX: Right. In some -- we receive 14 grants in a variety of situations, and some situations 15 we're passing on grant money. And the GDEM chief can 16 probably speak to this more particularly. But 17 generally, we -- we can create and become obligated for 18 financial responsibility, both from the on the 19 Department side, as well as GDEM. So in an abundance of 20 caution, I wanted to mention that this is an area of 21 arise. 22 MR. CLOWE: Well, we had a spirited 23 discussion during the executive session about this 24 subject, which was authorized according to their acting 25 general counsel. And my sense of the outcome was that</p>	<p style="text-align: right;">33</p> <p>1 so that we have more forward visibility without getting 2 a four-page spreadsheet of the wheeler tower lease. 3 MR. CLOWE: And just to further extend on 4 what Commissioner Anderson said, the sense of this 5 discussion is the Commission wants to come down in 6 exactly the right place on the responsibilities of 7 management of the agency relative to their activities 8 and their responsibilities, and those are the 9 Commission. 10 And there are situations where the 11 Commission feels they can bring their expertise to bear, 12 and support and assist a more artful choice of not only 13 the selection of the vendor, but the terms of the 14 contract. And the Commission wishes to be proactive 15 where it can be productive and helpful in that area. 16 And we're trying to define where that line is. 17 And there was a very helpful and, as I say, 18 spirited discussion about that which helped me, as one 19 commissioner, get that in focus. And the sense is we 20 want to do what Commissioner Anderson said and pull that 21 data up and look at it before we make a further 22 determination; is that a fair statement? 23 MR. POLUNSKY: Yeah, I think it's accurate. 24 DUNCAN FOX: So I can prepare for the next 25 meeting, we will generate some reports for you of</p>

<p style="text-align: right;">34</p> <p>1 different -- and just different formats with different 2 information, ranging values of contracts, categories of 3 contracts, so that you can have a better picture from 4 which we can look at building a policy that will work 5 for you. So I will -- that will be my task item. 6 MR. POLUNSKY: That's what we're asking for, 7 Mr. Fox. 8 DUNCAN FOX: Okay. And as far as the 9 current practice, we will continue to follow the policy 10 as provided on the August 4th, which is the change -- 11 which would include the change orders. Any change order 12 with 50 percent change, we would include and provide. 13 MS. ANDERSON: Could we make a blanket 14 exclusion for janitorial, lawn care, radio tower leases? 15 MR. CLOWE: Neckties. 16 MS. ANDERSON: Uniform slacks. 17 MR. CLOWE: Yeah. The kinds of things that 18 we were furnished with, which are not substantive 19 enough. They're all important contracts, but we're 20 trying to identify the more substantive items. And 21 Commissioner Anderson pointed out one contract that she 22 very much involved in and very concerned about. I think 23 all the commissioners joined her in that. We want to 24 focus in on those more substantive contracts. And I 25 think, Duncan, because you were there in executive</p>	<p style="text-align: right;">36</p> <p>1 submittal, hope you all received those. Which, those 2 contracts would require Commissions's -- the 3 Commission's approval before we can proceed. If you 4 have any questions regarding the individual contracts 5 that need to be approved, we've advised the Divisions 6 that they would need to be prepared inform the 7 Commission or answer any questions that you have. 8 MS. ANDERSON: I have a question about the 9 Bearing Point change order. 10 JUDY BROWN: Judy Brown, Chief of Driver's 11 License. Yes, ma'am. 12 MS. ANDERSON: Good afternoon, Chief Brown. 13 This *berry point* change order which Assistant Chief 14 Gloria actually gave me at the August 4th meeting, this 15 change order number 29. And so it's for some money for 16 professional services to support the system for a period 17 of 12 months. This is, I guess, 12 months after go live 18 of the pilot. 19 JUDY BROWN: Yes, ma'am. 20 MS. ANDERSON: So this is what we talked 21 about several months ago, about retaining them to keep 22 providing, sort of level two, the three -- not 23 application development, but really application 24 support -- 25 JUDY BROWN: Right.</p>
<p style="text-align: right;">35</p> <p>1 session, you have probably a very good understanding of 2 where we're headed trying to develop this sharper focus. 3 DUNCAN FOX: Right. I understand the task. 4 MR. POLUNSKY: Okay. So you can take care 5 of that for us and bring -- bring it back next time. 6 DUNCAN FOX: Yes, sir. 7 MR. POLUNSKY: All right. Good. Next item 8 on the agenda, discussion and possible action, including 9 approval, of pending contracts, commitments, and change 10 orders and review of agency contracts meeting Commission 11 established approval limitations for the past 90 days. 12 Mr. Ybarra, Chief of Finance. 13 OSCAR YBARRA: Oscar Ybarra, Chief of 14 Finance. To answer your question, Commissioner 15 Anderson, we do have a data base and we pull that 16 information. The Commission, on the August 4th meeting, 17 requested a list of contracts that were executed for the 18 past 90 days. That was provided to the Commission in -- 19 as one of the agenda items. It is a spreadsheet that 20 was provided, and we put as much on one page as we 21 could. 22 We also were instructed to provide a list of 23 contracts that were eligible for -- or that fell under 24 the Commission's conditions for contracts to be approved 25 by the Commission. We also provided a kind of a late</p>	<p style="text-align: right;">37</p> <p>1 MS. ANDERSON: Rather than having IMS do 2 that. Okay. And then there's a reference in here to 3 maintenance cost for defect correction, which is 4 described in Exhibit "F" of the DLR contract. And it's 5 a total -- and I don't know if that's a different set of 6 FTEs, this one year of support, which is really, I 7 think, what this change order's about. Apparently, it 8 appears to have 6.1 FTEs in it. And I'm just trying to 9 back in to understanding the level of support we're 10 going to have. My question is the defect correction, is 11 that a different group of dedicated people? 12 JUDY BROWN: I've got both of the project 13 managers here. 14 MS. ANDERSON: I just want to make sure we 15 are adequately -- 16 LINDA BOLINE: Linda Boline, driver license 17 reengineering and project manager. What this contract 18 will support, the SLA, which is appendix "F" of our 19 original contract. This will be -- we're in the middle 20 right now of combining appendix "F" to this SLA as well. 21 The defect correction was only -- was what we were going 22 to be using for defect correction. 23 MS. ANDERSON: Okay. 24 LINDA BOLINE: This support will bring -- 25 this support contract brings it up to the level two.</p>

<p style="text-align: right;">38</p> <p>1 MS. ANDERSON: Okay.</p> <p>2 LINDA BOLINE: So it not only is the defect</p> <p>3 correction, but then everything else that's listed out</p> <p>4 of -- in that support contract.</p> <p>5 MS. ANDERSON: Including 24/7 --</p> <p>6 LINDA BOLINE: Yes.</p> <p>7 MS. ANDERSON: Okay. And then it says that</p> <p>8 this contract, meaning the cost proposal contract, okay,</p> <p>9 includes 2,080 hours of changes or enhancement. So I</p> <p>10 basically get one man year to do changes of enhancements</p> <p>11 in addition to whatever we're paying for for defect</p> <p>12 correction.</p> <p>13 LINDA BOLINE: Correct.</p> <p>14 MS. ANDERSON: Okay. All right. That's it.</p> <p>15 Thanks.</p> <p>16 MR. POLUNSKY: Chief Brown, we're going to</p> <p>17 skip around here a little because we're not going to be</p> <p>18 able to address all the items on the agenda. But one of</p> <p>19 the more important ones is item 21, the discussion and</p> <p>20 possible action to develop an approach for transforming</p> <p>21 the administration of the Driver's License Division to a</p> <p>22 civilian model. Would you address that for us, please?</p> <p>23 Or would you like to lead that?</p> <p>24 MS. ANDERSON: We've actually had a</p> <p>25 conversation about it in the last week or so, and I</p>	<p style="text-align: right;">40</p> <p>1 Commission, and what the Commission's desire is, if I</p> <p>2 had a very clear understanding of what that was.</p> <p>3 I know we're in a bit of a time crunch. So</p> <p>4 I don't mind doing that one-on-one at some other time if</p> <p>5 you'd like to do that, or here.</p> <p>6 MR. POLUNSKY: Well, this is an important</p> <p>7 issue and it -- I'd like to have some movement on it</p> <p>8 before the Sunset Commission hearing next month.</p> <p>9 Personally, I would like to see us go forward with</p> <p>10 keeping the Driver's License Division hearing at DPS,</p> <p>11 and probably utilize the model of recommendation at the</p> <p>12 Sunset Commission staff move forward, which would</p> <p>13 essentially be to civilianize the Division.</p> <p>14 We're not talking about removing Commission</p> <p>15 officers from the vary -- from various driver's license</p> <p>16 offices, but at least on the administration side. This</p> <p>17 way, I think I'd like to see it go. But maybe the</p> <p>18 others see it differently.</p> <p>19 MS. ANDERSON: Yeah. Is that -- my thought,</p> <p>20 right. They're in the offices to provide security,</p> <p>21 serve warrants, et cetera. I think there's some work to</p> <p>22 be done with the highway patrol about what -- what could</p> <p>23 staffing model options be for that. Can you take</p> <p>24 already in-district people and rotate them through. You</p> <p>25 know, how do you do that. How do we transition the a</p>
<p style="text-align: right;">39</p> <p>1 think she's looking for -- she has maybe two or three</p> <p>2 questions for the Commission where she's kind of looking</p> <p>3 for some guidance from the Commission. I think she</p> <p>4 understands we want to move toward this model and we</p> <p>5 want to begin to put the direction in place and have the</p> <p>6 Commission briefed monthly so that we can have an</p> <p>7 implementation plan or strategy, at least, ready to --</p> <p>8 you know, by the end of the year.</p> <p>9 But I think she had some specific questions</p> <p>10 where she's looking for guidance from the Commission.</p> <p>11 Maybe that's where we should focus so that you're not</p> <p>12 developing six alternative models, but fewer.</p> <p>13 JUDY BROWN: As I explained to Commissioner</p> <p>14 Anderson, we've had a number of interested parties come</p> <p>15 to us requesting us to begin to do cost analyses, all</p> <p>16 the way from creating the DMV inclusive of Driver's</p> <p>17 License Division, vehicle inspection and TxDot to</p> <p>18 creating a deal structure within DPS without commission,</p> <p>19 with limited commission. There's been a number of</p> <p>20 avenues.</p> <p>21 And as I was explaining to Commissioner</p> <p>22 Anderson, is I had looked at all the different questions</p> <p>23 that had been asked of me. I was looking at about five</p> <p>24 or six models for cost proposals and analyses. So it</p> <p>25 would be very advantageous for me to respond to the</p>	<p style="text-align: right;">41</p> <p>1 civilian chain of command, and what do we then -- how do</p> <p>2 we then best redeploy those commissioned officers that</p> <p>3 are in the chain of command today, whether whether it's</p> <p>4 using them to support regular highway patrol functions,</p> <p>5 CVE, Audit Inspection, Internal Affairs.</p> <p>6 I mean, you know, we're looking for some</p> <p>7 sort of loose -- you know, for some -- some creative</p> <p>8 thinking and alternatives. You know, how would we</p> <p>9 propose, you know, to reduce wait times. I'm mindful of</p> <p>10 the recent inspection report on the DL Customer Service</p> <p>11 Bureau that talked about meantime, to -- hold times that</p> <p>12 are, you know, petty long.</p> <p>13 I mean, I think where we -- where the Sunset</p> <p>14 Commission asked us to head was a civilian managed,</p> <p>15 consumer oriented -- I mean, clearly we have huge</p> <p>16 identity need for proper identity, and the -- because of</p> <p>17 the use of the driver's license. And we need to protect</p> <p>18 that part of the Commission carefully. But given that,</p> <p>19 how do we build, you know, a driver's license operation</p> <p>20 that -- that, you know, creates the best possible</p> <p>21 customer experience.</p> <p>22 JUDY BROWN: Would you be willing to look</p> <p>23 at -- just wanting to clarify here, do we want to look</p> <p>24 specifically at all commissioned officers working out of</p> <p>25 the Highway Patrol Division and offering service to</p>

<p style="text-align: right;">42</p> <p>1 driver's license, or a reduced level of management with 2 troopers remaining in the driver's license? 3 MR. POLUNSKY: I think I would lean towards 4 having the commissioned officers out of the Highway 5 Patrol Division, staffing various driver's license 6 offices civilianizing the Driver's License Division is 7 my opinion. What do y'all think? 8 MS. ANDERSON: The scope would include what 9 kinds of skill sets do you need to supplement the 10 division with, you know. You know, to bring in those 11 people with call center front -- you know, those kinds 12 of new skills you might need. 13 MR. POLUNSKY: You okay with that -- 14 MR. CLOWE: Well -- 15 MR. POLUNSKY: -- Commissioner Clowe? 16 MR. CLOWE: -- I have a question about how 17 does this fit with the Deloitte study that's going on. 18 I spoke at length with them when I had my interview 19 about this problem. And are we -- are we running ahead 20 of them to get to Sunset with a proposal or are we 21 running with them? Or how do you see this fitting in? 22 MR. POLUNSKY: This may be an exception to 23 our policy, so to speak, that we don't want to be 24 tampering with any prior to the Deloitte study coming 25 back. I think we're going to have to have some type of</p>	<p style="text-align: right;">44</p> <p>1 them into a five-year plan. All of those addressing the 2 efficiency and the modification to become a more 3 customer eccentric operation. We -- we succeed with 4 some of the LAR requests, I think we'll be far more 5 successful. But we are laying those things out. And I 6 think we can additionally lay out some of the other 7 requests that you have (Inaudible) 8 MS. BARTH: Have we thought about a beta 9 test on, maybe one site or two sites, before we just 10 blow on with this new plan? 11 MS. ANDERSON: That might be something that 12 she might want to put -- 13 MS. BARTH: You know, just to -- 14 MS. ANDERSON: -- you know, in part of her 15 approach. 16 MS. BARTH: Just to take one or two states 17 where we know we have large issues and receive lots of 18 publicity. You know, let's try something out for 60 or 19 90 days and see what comes out of this opposed to -- 20 MS. ANDERSON: Big bang. 21 MS. BARTH: Yeah. 22 JUDY BROWN: We've got outlines to address 23 just that. So it's a really a matter of -- 24 MS. BARTH: I mean, I would prefer to see us 25 test it a couple times, couple places before we do some</p>
<p style="text-align: right;">43</p> <p>1 response to the Sunset Commission. 2 MS. ANDERSON: We're not going to have a 3 detailed plan by -- 4 MR. POLUNSKY: No. 5 MS. ANDERSON: -- September the 24th. 6 MR. POLUNSKY: But I think we need to show 7 that we're having -- that we've initiated some moves. 8 MS. ANDERSON: You know, we'd like you to 9 put together a committee, you know, so that when we go 10 to Sunset we can say the Commission directed this, the 11 Deloitte study's going on in parallel. We put 12 together -- you know, we don't expect -- because I think 13 you're right, we don't want to get ahead of those 14 headlights. But just like we're doing to promotion 15 thing in parallel so that we're gathering input for the 16 field, your team ought to have people from the field in 17 it. And -- 18 JUDY BROWN: And -- and in response, just so 19 you're aware, we -- there's several teams that are 20 working in parallel right now. We've got a team working 21 on customer service initiatives that can be done now 22 versus those that we need LAR support to do. 23 We're working on additional online 24 initiatives. We're taking what we call -- what we have 25 called in the past our projects in progress and moving</p>	<p style="text-align: right;">45</p> <p>1 major roll out, just cause I worry about the major roll 2 out being a major disaster, and rather try and do a 3 couple sites right and learn from them. 4 MR. POLUNSKY: Yeah. I don't think we're 5 doing any major roll out any time soon. I think we're 6 just conceptionalizing here. 7 MS. BARTH: Well, we could -- we could test 8 some of these things out -- 9 MR. POLUNSKY: I mean, we could. 10 MS. BARTH: -- and -- and -- but note the 11 progress towards -- whether it be Sunset or just in 12 general. 13 MR. POLUNSKY: Once -- once there is a plan, 14 absolutely. I think we just -- we need to -- 15 JUDY BROWN: The pieces put together in a 16 plan. 17 MR. POLUNSKY: Yeah. Exactly. 18 JUDY BROWN: I'll be glad to get that to 19 you. 20 MR. POLUNSKY: Okay. 21 MR. CLOWE: Well, I'd like to mention a 22 couple items that are important to me, if I may. 23 MR. POLUNSKY: Certainly. 24 MR. CLOWE: The integrity of the meeting of 25 the requirements for the issuance of the driver's</p>

<p style="text-align: right;">46</p> <p>1 license. Because I see it as an identity card now, in 2 fact, more than a a license to driving a vehicle in 3 matter of importance. And those requirements, in my 4 mind, should not be sacrificed for expediency. By 5 statute, we're required to meet those requirements. 6 I think the employment of senior 7 commissioned officers in the administration of the 8 Driver's License Division system is an issue that needs 9 to be carefully evaluated relative to the command 10 structure and the command presence that exists on the 11 floor of the examining rooms, whereas the presence of a 12 commissioned officer seems to be of critical importance 13 to me. 14 If I remember, there are more arrests made 15 by those commissioned officers per officer than there is 16 by the Texas Highway Patrol. I'm -- I'm not certain of 17 that, but I think that's correct. My impression is that 18 we have one of the two highest turnover rates in the 19 Department in this area, in the examiners. And the low 20 pay and the instability is an issue in customer 21 satisfaction. And there's an area that I would ask you 22 to focus on. 23 The other is variable work hours and the 24 hours set at the driver's license offices and in the 25 call center, which don't seem to accommodate the public,</p>	<p style="text-align: right;">48</p> <p>1 ask that this come back to the -- you know, to the 2 Commission because we don't -- I mean, it hadn't been 3 bid. It feels like it's too early for this to be on the 4 list. But with -- with the elimination of court ID and 5 crime records service web -- and cutting -- cutting in 6 half the length of time on the crime records service 7 website, I move adoption of this list -- approval of 8 this list. 9 MR. POLUNSKY: Okay. With the modifications 10 that were set forth by Commissioner Anderson, we have a 11 motion on the floor. Is there a second? 12 MS. BARTH: Second. 13 MR. POLUNSKY: Seconded by Ms. Barth. 14 MR. CLOWE: Could I ask, what schedule -- 15 I'm not sure I have the correct schedule in front of me. 16 MS. ANDERSON: Okay. The crime records 17 service website, it's actually on two lists. It's -- 18 one says that it was signed. And then it's also on the 19 pending contracts requiring -- 20 MR. CLOWE: I missed it, I guess. I'm 21 sorry. It's my fault. I'll just not vote on it. 22 MR. POLUNSKY: All right. There's a motion. 23 Second? Discussion? All in favor, "Aye." 24 MS. ANDERSON: Aye. 25 MR. POLUNSKY: Against, no. Extension?</p>
<p style="text-align: right;">47</p> <p>1 to me, at all. So if that's using a business model, I'm 2 for that. But I think it is an issue of more people, 3 better paid to accommodate the public at the level of 4 the statutory requirements to get us where we're trying 5 to be to satisfy the public and keep those driver's 6 license identification cards in the hands of the people 7 who are entitled to have them. 8 MR. POLUNSKY: Thank you, Mr. Clowe. Thank 9 you. Going to move on real quick. 10 MS. ANDERSON: Mr. Chairman, I move adoption 11 of this order -- of this agenda item on -- on the 12 approval of pending contracts to commitments change 13 orders and review with the following exceptions. I 14 would move the -- or I would -- I would ask Mr. Gavin 15 that the extension with Micro Assist be reduced from one 16 year to six months. Because we have multiple website 17 contracts all over the Department, and we need to be 18 taking a look at whether that makes sense, and we're not 19 getting any leverage there. 20 So, you know, I would ask you to work with 21 this wonderful longstanding vendor and just do a 22 six-month extension so we're not locked in for an entire 23 year on that, okay, and just have the dollar amount or 24 whatever. 25 And on the court ID project, I would also</p>	<p style="text-align: right;">49</p> <p>1 MR. CLOWE: Present. 2 MR. POLUNSKY: Okay. Quickly, to item 24, 3 the rules for final adoption. Mr. Fox, can we just go 4 ahead with "A," "B" and "C" and vote on that? 5 DUNCAN FOX: That's correct. They're all 6 proposed for final adoption. 7 MR. POLUNSKY: Okay. I'll entertain a 8 motion for -- 9 MS. ANDERSON: Move for adoption of the 10 rules. 11 MR. POLUNSKY: I'm sorry? 12 MR. CLOWE: Commissioner Barth, I think, 13 made a motion. 14 MR. POLUNSKY: Okay. Commissioner Barth 15 made a motion for approval of Rules "A," "B" and "C" -- 16 MR. CLOWE: Second. 17 MR. POLUNSKY: -- Rule 24. And was seconded 18 by Mr. Clowe. All those in favor, please say, "Aye." 19 COMMISSIONERS: Aye. 20 MS. ANDERSON: She's desperate to say 21 something. 22 JUDY BROWN: Chairman Polunsky, with regards 23 to the supplemental expiration date on the ID card, on 24 the current card, if we begun to put that on the current 25 card today, the driver's license is a work-around that's</p>

<p style="text-align: right;">50</p> <p>1 fairly easy to do. If we try to do that on the ID card, 2 we have run into several dead ends that would require 3 the migration programs for NDLS to be significantly 4 impacted. So my recommendation today is can we 5 implement -- it would be whatever days in the 6 register -- but implement on the DL only until we get 7 the NDLS system up and running and then put it on the DL 8 or ID?</p> <p>9 MR. POLUNSKY: What do you want to do here?</p> <p>10 JUDY BROWN: On the -- we've got a current 11 card that we're issuing today, and the new system we'll 12 have a new card.</p> <p>13 MR. POLUNSKY: Correct.</p> <p>14 JUDY BROWN: We've got everything moving 15 forward to be able to roll the system out and 16 incorporate this on both the driver's license and the ID 17 on the new system. On the current system today, we have 18 to do work-arounds cause we don't -- we cannot program 19 in that system or change the programs in that system. 20 So we have to use existing --</p> <p>21 MR. POLUNSKY: Right.</p> <p>22 JUDY BROWN: -- fields to do that. The 23 driver's license, we can do with some work-around, but 24 relatively little impact on the new system. The ID card 25 does not carry the same fields. So we do not have a</p>	<p style="text-align: right;">52</p> <p>1 longer should have them be presented and take the time. 2 Because it is hard. I know you all just got the TAC or 3 whatever, and we just got something from Audit, and 4 we're getting something from somewhere else.</p> <p>5 And, I mean, I was looking at this box full 6 of stuff that I'm filling up that Dorothy sent back to 7 me, and I'm thinking that if this stuff isn't to the 8 Commissioners prior to the meeting to give us ample time 9 to review it, I think it should be pulled from the 10 agenda.</p> <p>11 MR. POLUNSKY: Okay. Well, I'm -- I'm 12 working on a solution to that.</p> <p>13 MS. BARTH: Okay.</p> <p>14 MR. POLUNSKY: So duly noted. Thank you. I 15 mean, it's a valid point. All those in favor say, 16 "Aye."</p> <p>17 MS. ANDERSON: Aye.</p> <p>18 MR. POLUNSKY: Against, no?</p> <p>19 MR. CLOWE: I thought you took that vote.</p> <p>20 MR. POLUNSKY: I did.</p> <p>21 MR. CLOWE: Present.</p> <p>22 MR. POLUNSKY: Take it again.</p> <p>23 DOROTHY WRIGHT: That was on the contracts.</p> <p>24 MS. BARTH: That's on the contracts.</p> <p>25 MR. CLOWE: On the rules, Aye.</p>
<p style="text-align: right;">51</p> <p>1 work-around on the ID card that would not have a 2 significant impact on our migration program, thereby 3 pushing our NDLS system further --</p> <p>4 MR. POLUNSKY: Okay. So -- so what are you 5 saying, that -- that these rules -- one of these rules 6 has to be modified or not?</p> <p>7 JUDY BROWN: No. The rules can stand.</p> <p>8 MR. POLUNSKY: You're just telling us what's 9 going to happen.</p> <p>10 JUDY BROWN: As we post the adoption, we can 11 either choose -- at the will of the Commission -- choose 12 to implement with the new system that will roll out 13 January-ish, or we can implement on the driver's license 14 today and under the driver's license and the ID with the 15 new system.</p> <p>16 MR. POLUNSKY: Okay.</p> <p>17 JUDY BROWN: Excuse me for the interruption.</p> <p>18 MR. POLUNSKY: It's all right. We're 19 running out of time, so I'm going to move to item number 20 23.</p> <p>21 MS. BARTH: Chairman Polunsky, may I make a 22 statement here?</p> <p>23 MR. POLUNSKY: Yes.</p> <p>24 MS. BARTH: I think if we don't have these 25 materials for our meetings ahead of time, that we no</p>	<p style="text-align: right;">53</p> <p>1 MR. POLUNSKY: All right. Just got too much 2 going on. All right. Item 23, discussion and possible 3 action of renaming a building located on DPS Austin 4 Headquarters. Like to read a short biography of the 5 person that we would like to consider renaming Building 6 "A" after.</p> <p>7 Colonel Tommy Davis joined the Department of 8 Public Safety shortly after the fall of the Alamo. I'm 9 sorry. On November 18, 1964, and was assigned to the 10 driver's license service in Houston after graduating 11 from the DPS academy on March 5, 1965. Assigned to the 12 Highway Patrol Service in Houston from July 1967 until 13 August 31, 1971.</p> <p>14 On September 1, 1971, he was promoted to 15 investigator Criminal Intelligence Service remaining in 16 Houston. He was promoted to sergeant August 1, 1983 in 17 Austin, and to Administrative Service Commander on 18 April 18, 1986. He served as assistant chief as Chief 19 of the Criminal Law Enforcement Division from August 1, 20 1988 until September 5, 1996. He was then appointed 21 assistant director on September 6, 1996 and director on 22 March 1, 2000.</p> <p>23 Colonel Davis was raised near Houston and 24 attended Reagan High School, South Texas Junior College, 25 and University of Houston. He has served as a board</p>

<p style="text-align: right;">54</p> <p>1 member on the Board of Private Investigators, and 2 private security agencies, and the Auto Theft Prevention 3 Authority. He's a member of several police 4 organizations and associations including the 5 International Association of Chiefs of Police -- 6 Association of Chiefs of Police. He's currently serving 7 on the Board of Directors for the Fleetwood Foundation. 8 He holds a master and instructor licenses 9 with the Texas Commission of Law Enforcement Officer 10 Standards and Education. Colonel Davis is married to 11 Claire Rayborn and has three children, one living in 12 Austin and two in Houston. 13 As you know, this is Colonel Davis's last 14 meeting as the director of the Department of Public 15 Safety, and I want to personally thank him for his many 16 years in service to the State of Texas and to the 17 Department and for the many good things that he has 18 done, and they are very many, without question. 19 Because of his service to the Department and 20 to State of Texas, I put on the agenda this item that we 21 would rename Building "A" on the DPS Austin Headquarters 22 complex to the Thomas A. Davis, Jr. Building. I would 23 entertain a motion for approval. 24 MS. BARTH: So moved. 25 MS. ANDERSON: Second.</p>	<p style="text-align: right;">56</p> <p>1 to your outstanding leadership and personal integrity. 2 During your tenor as director, you have made unselfish 3 contributions to numerous dimensions and have earned the 4 respect and admiration of the Department's employees and 5 law enforcement community as a whole. 6 I know that as you leave the Department and 7 enter the well earned years of retirement that you will 8 look back with great pride at the many accomplishments 9 that were made in your years in service to the 10 Department and the citizens in the State of Texas. I 11 wish for you and your family many more years of health 12 and happiness, and hope that you can enjoy more 13 leisurely pace finding time to do those things that you 14 enjoy the most. 15 I know that your interest and involvement in 16 law enforcement -- in the law enforcement profession 17 will continue to manifest itself as years go by. Signed 18 by myself, Allan Polunsky, and the Public Safety 19 Commission on behalf of the Texas Public Safety 20 Commission. Thank you, Colonel Davis. 21 Also, I would like to present to you this 22 certificate of retirement from all of us at the Public 23 Safety Commission and the Department of Public Safety, 24 and also this retired Colonel badge. 25 Also, I would also like to take this</p>
<p style="text-align: right;">55</p> <p>1 MR. POLUNSKY: It's been moved by Ms. 2 Anderson and seconded by Ms. Barth. Excuse me? 3 MS. ANDERSON: We're fighting over it. 4 MR. POLUNSKY: All right. Well, who wants 5 to be the person -- 6 MS. ANDERSON: She actually spoke. 7 MR. POLUNSKY: All right. Ms. Barth is the 8 person who made the motion, seconded by Ms. Anderson. 9 Any discussion? All right. There is no discussion. 10 All those in favor, please say, 'Aye.' 11 COMMISSIONERS: Aye. 12 MR. POLUNSKY: Any against, no. Motion 13 passes. I have another letter from the Commission. I'd 14 like to read it to you. On behalf of the Public Safety 15 Commission, speaking for the people of the State of 16 Texas and the employees of the Department, I want to 17 take this opportunity to express our appreciation to 18 you -- this is addressed to Colonel Davis -- for the 19 fine job you have done in leading this Department. 20 While under your effective leadership, the 21 Department has continued to grow and to meet the 22 challenges it faces from day-to-day in a positive and 23 affective way. The Department is recognized as being 24 one of the greatest law enforcement agencies in the 25 world, and a lot of this recognition can be attributed</p>	<p style="text-align: right;">57</p> <p>1 opportunity -- there are others who are attending their 2 last meeting today, and I would like to thank them as 3 well. Our assistant director, David McEathron, is 4 retiring at the end of this month. And I would like to 5 take this opportunity to thank David for his many years 6 of service to the Department as well. I think it's 7 31 years. 8 MR. McEATHRON: Yes, sir. 9 MR. POLUNSKY: And, David, you've done an 10 excellent job, set a unbelievable standard and provided 11 great leadership to this Department, and great 12 dedication to the State of Texas and the citizens of our 13 great state. I would like to thank you for everything 14 you've done and wish you the best as you enter 15 retirement. 16 MR. McEATHRON: Thank you. Appreciate it. 17 MR. POLUNSKY: Unfortunately, I'm not done. 18 This is also the last meeting for Chief Elliston. He 19 will be retiring at the end of the month, and I would 20 like to also take this opportunity on behalf of the 21 Public Safety Commission and the Department of Public 22 Safety to thank Chief Elliston for everything he's done 23 over the years at DPS, and certainly in the Highway 24 Patrol Division. A vision that he's built into a model 25 highway patrol division, highway patrol entity that I</p>

<p style="text-align: right;">58</p> <p>1 think, in my opinion, and I feel that the other 2 commissioners share my opinion, is a model for the 3 entire country.</p> <p>4 Sorry to see you leave, Randy. You've done 5 an excellent job, and I wish you best in your future 6 endeavors. I know there will be others down the road. 7 And if you do half as well there as you've done here, 8 then you're going to make a lot of people happy wherever 9 you may go. But you'll always be remembered here and we 10 really appreciate everything you've done for DPS. So 11 good luck.</p> <p>12 RANDY ELLISTON: May I make a speech?</p> <p>13 MR. POLUNSKY: Absolutely.</p> <p>14 RANDY ELLISTON: I was going to have a -- I 15 had about a 30-minute speech set up but I know we've 16 got -- I've got about ten seconds. Colonel, I didn't 17 have anything to do about that age deal. But actually, 18 I've lived my dream as a State Trooper in Texas. That's 19 all I ever wanted to do when I came here. And I've been 20 fortunate enough to be -- get to the position I am.</p> <p>21 But I didn't do that by myself. I had great 22 leaders ahead of me, and the people that work in my 23 division are the best in the world. And they'll -- 24 they'll do -- do great. I can't take the credit because 25 they're the ones that actually deserve it. But it's</p>	<p style="text-align: right;">60</p> <p>1 Division. You've brought the Aircraft Division to a 2 level that's unequalled in this country from what I can 3 see, from what I understand. And it's quite a -- quite 4 a testament to you. And you've done an excellent job. 5 And, you know, again, we would like to thank you for 6 what you've done. It has set an unbelievable standard. 7 It's certainly one of the great assets of the 8 Department. And wish you the best wherever you end up, 9 wherever it may be. Who knows where it may be. So 10 thank you very much and good luck, Jack.</p> <p>11 MR. POLUNSKY: Okay. Y'all need to leave?</p> <p>12 MR. CLOWE: Do we need to affirm and take 13 action on the appointment of the interim director?</p> <p>14 MR. POLUNSKY: I would like to have that 15 done, yes. Somebody -- somebody make a motion, please.</p> <p>16 MR. CLOWE: So moved.</p> <p>17 MS. ANDERSON: Second.</p> <p>18 MR. POLUNSKY: It has been moved by 19 Mr. Clowe and seconded by Ms. Anderson that Stan Clark 20 be appointed the interim director, and he will serve the 21 pleasure of the Public Safety Commission. Discussion? 22 All in favor, please say, "Aye."</p> <p>23 COMMISSIONERS: Aye.</p> <p>24 MR. POLUNSKY: Any against, no. Motion 25 passes. I apologize, everyone. We're not going to be</p>
<p style="text-align: right;">59</p> <p>1 been my privilege to serve in this capacity, and I wish 2 the Department well and great things in the future. So 3 thank you.</p> <p>4 MR. POLUNSKY: Thank you, sir. Assistant 5 Chief Miller, this is your last -- your last meeting as 6 well? As you enter retirement, I'd like to thank you 7 for everything you've done with the Texas Rangers 8 Division. As we all know, it's -- it's extremely elite 9 law enforcement division and group of people that has a 10 long history, and you have contributed to the 11 continuation and improvement of that history over the 12 years that you've spent at DPS.</p> <p>13 And once more, I'm sorry that you'll be 14 leaving, but I would like to thank you for everything 15 you've done for the Department and for the Rangers 16 Division, and wish you the best of luck in what you do 17 next. I'm sure, again, there'll be something else in 18 your future. So very much good luck and thank you. 19 Thank you for what you have done for us.</p> <p>20 JIM MILLER: Thank you, Mr. Chairman. I 21 appreciate it.</p> <p>22 MR. POLUNSKY: Chief Reichert, this is your 23 last meeting, too. There may not be anyone, you know, 24 sitting here when this is all said and done, but I would 25 like to thank you for what you've done at the Aircraft</p>	<p style="text-align: right;">61</p> <p>1 able to finish all the items on the agenda. We -- we 2 got a couple of people that need to leave, and we're 3 going to lose our quorum, which is why I was kind of in 4 a hurry here at the end. But I just want to recognize 5 the very important people that have made such 6 contributions to the Department over the years before 7 everybody had to leave and we were forced to adjourn. 8 So there will be some items on the agenda that will have 9 to be carried over to our next meeting. All right. 10 That being the case, Commission now adjourns. It is 11 4:14.</p> <p>12 (PUBLIC SAFETY COMMISSION MEETING ADJOURNED)</p> <p>13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1 THE STATE OF TEXAS)

2 COUNTY OF TRAVIS)

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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
CSR No. 8391 - Expires 12/31/09
Integrity Legal Support Solutions
Firm Registration No. 528
114 West 7th Street, Suite 240
Austin, Texas 78701
(512) 320-8690
(512) 320-8692-Fax

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\$		academy 9:18 53:11
\$1 30:10	3	acceptable 26:5
\$14 9:8	3 7:8	accommodate 46:25 47:3
\$16 7:25	30 26:17 27:18	accomplishments 56:8
\$2.3 23:2	300 11:12	accordance 3:3 6:22 7:3
\$5 19:1	30-minute 58:15	according 31:24
\$500,000 8:19 29:12	31 21:20 22:12 53:13	accurate 33:23
30:3	57:7	Act 3:4 7:4 25:10
\$8 10:4	320-8690 62:18	acting 31:24
\$8.6 18:7	320-8692-Fax 62:19	action 10:17 28:22 32:8
\$811,000 18:18		35:8 38:20 53:3 60:13
\$900,000 32:18	4	activities 30:19 33:7
	4:14 61:11	activity 30:20 32:25
0	42 27:7	acts 24:5
08 8:12,15,25	4th 14:12 29:5 34:10	actual 14:5 18:21 25:17
09 8:14 44:19	35:16 36:14	actually 24:20 36:14
		38:24 48:17 55:6
1	5	58:17,25
1 10:3 53:14,16,19,22	5 53:11,20	add 25:24
1.2 18:8,17 23:2	50 29:12,25 34:12	addition 11:25 16:4
114 62:17	512 62:18,19	38:11
12 9:8,14 26:16 32:11	528 62:17	additional 7:25 43:23
36:17	54 11:10	additionally 44:6
12/31/09 62:16	55.071 6:23	address 3:8,13 5:20
1281 3:15	55.074 6:23	11:3 19:8 23:7
13 3:16	551 3:4 7:3	38:18,22 44:22
14 3:17	5A 26:14 27:13 28:3	addressed 17:10 55:18
18 53:9,18	5B 27:15	addressing 44:1
1964 53:9	5C 28:3	adequately 37:15
1965 53:11		adjourn 61:7
1967 53:12	6	ADJOURNED 61:12
1971 53:13,14	6 10:4 53:21	adjourns 6:20 61:10
1983 53:16	6.1 37:8	administering 26:3
1986 53:18	60 44:18	administration 38:21
1988 53:20		40:16 46:7
1996 53:20,21	7	Administrative 53:17
	7 10:4	admiration 56:4
2	78701 62:18	adoption 47:10 48:7
2,080 38:9	7th 62:17	49:3,6,9 51:10
20 18:20		advantageous 39:25
2000 53:22	8	advised 36:5
2008 1:11,14 7:23	839,000 18:21	Advisory 4:1
10:3 62:12	8391 62:5,16	Affairs 4:10 5:15,16
2009 7:13,22 10:12	85 21:4	41:5
20-year 18:25 21:6	8th 15:16	affective 55:23
21 38:19		affirm 60:12
22 3:19	9	afternoon 7:11 13:17
23 51:20 53:2	9:30 3:6	29:1 36:12
24 11:11 32:22 49:2,17	90 29:18 35:11,18	against 13:14 20:4
24/7 38:5		21:19 28:12 48:25
240 62:17	A	52:18 55:12 60:24
24th 43:5	a.m 3:6	age 58:17
25 1:11	abetting 4:4	agencies 12:2,3,6
25th 1:14	able 38:18 50:15 61:1	25:5 54:2 55:24
27 3:16	above-captioned 62:8	agency 7:15,16 9:23
29 23:23 36:15	absolutely 45:14 58:13	10:11 11:2 12:6,12
	abundance 31:19	13:24 14:5,21 15:12

21:15 24:1 33:7 35:10	22:8 58:17	Auditor's 19:14,19
agency's 11:6 15:5	apologize 60:25	Audra 4:3
23:14	Apparently 4:13 37:7	August 1:11,14 14:12
agenda 3:7 5:22,25	appeal 5:22,24	29:5 34:10 35:16
7:5,8 24:4 29:17	appears 37:8	36:14 53:13,16,19
32:15 35:8,19 38:18	appendix 37:18,20	Austin 1:15 53:3,17
47:11 52:10 54:20	application 36:23	54:12,21 62:9,18
61:1,8	applied 19:1	authority 18:24 28:24
ago 5:6 9:5 36:21	appointed 53:20 60:20	29:4 30:24 54:3
ahead 13:2 23:19	appointment 15:25 60:13	authorized 31:24
42:19 43:13 49:4	appreciate 15:18 26:7	Auto 54:2
51:25 58:22	57:16 58:10 59:21	avenues 39:20
aiding 4:4	appreciation 55:17	awarded 13:8
air 18:15	apprised 30:20	aware 22:20 43:19
air-conditioning 18:16	approach 8:20 38:20	Aye 13:12,13 28:10,11
Aircraft 59:25 60:1	44:15	48:23,24 49:18,19
Alamo 53:8	appropriate 6:14	52:16,17,25
align 12:11 14:4	approval 8:3 12:21	55:10,11 60:22,23
Allan 2:4 56:18	25:25 28:23	
allegations 5:2,7	29:15,24 35:9,11 36:3	
allowed 20:16	47:12 48:7 49:15	
already 27:8 40:24	54:23	
alternative 39:12	approve 13:2 28:22	
alternatives 41:8	approved 29:9,13	
am 3:1,15,24,25 58:20	30:9,12,14 35:24 36:5	
Americas 17:18	April 53:18	
amount 14:1 30:1,5	area 31:20 33:15	
47:23	46:19,21	
amounts 25:17	areas 7:19	
ample 52:8	argue 21:23	
analyses 12:1 39:15,24	arise 31:21	
analysis 7:21 11:18	arrests 46:14	
analyze 12:5	artful 33:12	
Anderson 2:6 8:8,24	aside 9:22	
9:2,4 10:1,7,9,13	aspirations 17:2	
13:5,7 16:23 26:6	assesses 13:8	
27:14,21,22 28:14	assessment 8:10 9:17	
31:6,9,11 32:9	12:17 32:23	
33:4,20 34:13,16,21	assessments 8:11	
35:15 36:8,12,20	assets 60:7	
37:1,14,23	assigned 53:9,11	
38:1,5,7,14,24	assist 33:12 47:15	
39:14,22 40:19 42:8	assistance 13:16 32:13	
43:2,5,8	assistant 2:11 10:21	
44:11,14,20 47:10	25:1 36:13 53:18,21	
48:10,16,24 49:9,20	57:3 59:4	
52:17 54:25	associated 9:16 14:20	
55:2,3,6,8 60:17,19	Association 54:5,6	
Anderson's 28:5	associations 54:4	
annex 26:9 27:11 28:1	assured 5:8	
29:2 30:7	attended 53:24	
answer 20:20 35:14 36:7	attending 57:1	
anticipate 19:18	attention 6:2	
Antonio 16:12	attributed 55:25	
anybody 3:8 5:19	Aucoin 25:1	
23:17 28:17	audit 12:16,19 17:19	
anyone 59:23	25:18,21 41:5 52:3	
anything 8:16 21:15		
		B
		background 4:16
		backs 21:18
		badge 56:24
		bang 44:20
		Barth 2:7 7:14 8:4,5
		12:20,25 13:7 16:21
		17:23 19:22
		20:22,23 22:7 23:12
		28:11
		44:8,13,16,21,24
		45:7,10 48:12,13
		49:12,14 51:21,24
		52:13,24 54:24 55:2,7
		base 32:10 35:15
		based 9:7,9 18:2,6,12
		19:21 20:3 21:8 22:16
		baseline 26:1
		basically 14:4 38:10
		basis 30:13
		bat 21:21
		bear 33:11
		Bearing 36:9
		Beckworth 10:19,20
		become 31:17 44:2
		becoming 27:1
		begin 25:25 39:5,15
		begun 49:24
		behalf 55:14 56:19
		57:20
		behind 21:13 22:4 32:22
		believe 5:2,10 19:10
		beneficiaries 24:13
		beneficiary 24:23
		berry 36:13
		best 4:21 8:23 11:18
		12:9 41:2,20 57:14
		58:5,23 59:16 60:8

beta 44:8	care 34:14 35:4	cities 16:7
better 34:3 47:3	careful 10:10	citizens 56:10 57:12
beyond 13:9	carefully 41:18 46:9	city 3:24,25
bid 48:3	Carin 2:7	civilian 38:22 41:1,14
billion 23:2	Carlos 13:19 14:8,9	civilianize 40:13
biography 53:4	carried 61:9	civilianizing 42:6
bit 9:18 13:20 40:3	carry 10:11 50:25	Claire 54:11
blanket 34:13	case 26:12 61:10	clarify 41:23
blow 44:10	cases 25:22	Clark 60:19
board 4:1 7:6 15:17 53:25 54:1,7	categories 12:11,12 34:2	classes 4:8
Boline 37:16,24 38:2,6,13	cause 45:1 50:18 62:8	clear 40:2
box 3:15 52:5	caution 31:20	clearly 27:16 30:16 41:15
branch 23:4	cent 9:7	Clifton 12:20 13:3,4
breach 25:21 26:13,19	center 27:17 42:11 46:25	close 7:24
breaches 25:19	centers 26:16	closed 6:21
Break 6:25	certain 8:22 46:16	closely 12:19
break-in 26:20	certainly 6:13 45:23 57:23 60:7	closer 22:17
brief 13:18 17:16	certificate 56:22	Clowe 2:5 10:14,15 28:7,8 31:22 33:3 34:15,17 42:14,15,16 45:21,24 47:8 48:14,20 49:1,12,16,18 52:19,21,25 60:12,16,19
briefed 39:6	certification 4:14	Code 3:4 6:22 7:4
bring 33:11 35:5 37:24 42:10	certified 4:7 62:4	collected 15:6
brings 37:25	certify 4:12 62:6	collecting 14:18 27:9
broker 28:16	cetera 40:21	College 4:1 53:24
broom 5:16	chain 41:1,3	Colonel 2:10,11 8:18 53:7,23 54:10,13 55:18 56:20,24 58:16
brought 6:2,16 60:1	Chair 2:4 30:14	combining 37:20
Brown 15:20 36:10,12,19,25 37:12 38:16 39:13 41:22 43:18 44:22 45:15,18 49:22 50:10,14,22 51:7,10,17	Chairman 5:8 7:11 10:21 13:17 17:15,17 23:12,21 26:6 47:10 49:22 51:21 59:20	comes 21:16 44:19
BRYAN 13:17	challenges 55:22	coming 7:18 8:2 15:14 31:11 42:24
budget 7:8,13,19,22 10:4	chances 22:19	command 3:20 41:1,3 46:9,10
budgetarily 13:23	change 29:10,11,23,25 30:1,3,5,7,11,16 34:10,11,12 35:9 36:9,13,15 37:7 47:12 50:19	Commander 53:17
budgeted 8:9	changes 12:22 38:9,10	comment 3:7 16:16
budgets 7:16	Chapter 3:3 7:3	comments 19:17
build 41:19	chief 6:2 7:9,11 8:18 10:19,21 12:15 14:10 15:19,20 17:14 20:21,23 21:14 23:21 31:15 35:12,13 36:10,12,13 38:16 53:18 57:18,22 59:5,22	commission 1:10 2:3 3:3,5,9 5:20 6:20 7:2,5 9:16 16:1,17,24 20:19 23:7 24:8 28:22 29:6,9,24 30:4,6,9,13,14,15,17 31:2,3 33:5,9,11,14 35:10,16,18,25 36:7 39:2,3,6,10,18,19 40:1,8,12,14 41:14,18 43:1,10 48:2 51:11 54:9 55:13,15 56:19,20,23 57:21 60:21 61:10,12 62:9
building 34:4 53:3,5 54:21,22	chiefs 14:2,13,15 16:4 54:5,6	commissioned 41:2,24
buildings 18:16 23:25	children 54:11	
built 57:24	chillers 18:15	
bullet 18:2	choice 33:12	
bureau 7:20,22 41:11	choices 25:13	
business 7:5 14:3,4 15:3,5,8 47:1	choose 51:11	
businesses 25:8	Christi 11:14	
<hr/>		
C		
capacity 59:1		
capture 14:24		
card 46:1 49:23,24,25 50:1,11,12,24 51:1		
cards 47:6		

42:4 46:7,12,15	continued 55:21	Criminal 3:25 53:15,19
commissioner 7:14 12:19	contract 12:20 13:1,3,7	criteria 29:17
14:8 17:23 19:22 32:6	17:13 20:9 23:6 24:23	critical 46:12
33:4,19,20 34:21	29:9,12 30:3,8	crunch 40:3
35:14 39:13,21	32:17,18 33:14	CSR 62:15,16
42:15 48:10 49:12,14	34:21 37:4,17,19,25	current 17:4 29:4
commissioners 2:3 5:3	38:4,8	34:9 49:24 50:10,17
7:12 10:22 13:13,18	contracting 21:2 29:4	currently 11:10 54:6
17:17 28:15 34:23	30:20,24	customer 41:10,21 43:21
49:19 52:8 55:11 58:2	contractor 24:18 26:13	44:3 46:20
60:23	contracts 21:16	cut 29:22
Commission's 8:10 25:24	24:6,11,16 26:1	cutting 48:5
35:24 36:3 40:1	29:7,15,17,22 30:12	CVE 41:5
Commissions's 36:2	31:3	
commit 32:22	32:1,3,10,12,13,14	
commitment 30:4	34:2,3,19,24	
commitments 29:7 35:9	35:9,10,17,23,24	
47:12	36:2,4 47:12,17 48:19	
committed 8:24	52:23,24	
committee 43:9	contributed 59:10	
community 56:5	contributions 56:3 61:6	
company 17:18 21:1,3	conversation 19:22	
22:13,22 23:1,2,5	38:25	
compensation 17:2	conversations 19:21	
complaints 4:2 5:17	cooperation 15:19	
complete 11:13	core 3:18	
completed 11:5	Corpus 11:14	
complex 54:22	correct 4:7 6:5,6 9:3	
concealed 4:16	38:13 46:17 48:15	
conceptionalizing 45:6	49:5 50:13 62:7	
concern 22:15,23	correction	
concerned 21:20 25:14	37:3,10,21,22 38:3,12	
34:22	correctly 9:15	
concerning 28:23	cost 14:19 20:5 21:19	
concluded 5:19 25:10	22:2,10 37:3 38:8	
conditions 35:24	39:15,24	
conducted 10:24 11:10	costs 20:2 21:22	
12:6 14:15 15:3	counsel 24:9 25:2	
conducting 7:5 11:7,8	26:7 27:25 31:25	
confidential 24:19	counselman 3:24	
confidentiality 24:17	Counsel's 29:3,20	
Conservation 19:3	country 16:7 58:3 60:2	
conservations 17:21	County 1:15 62:2	
consider 30:23,25 53:5	couple 9:5 20:24	
consideration 8:3 29:21	21:17 30:24 44:25	
Consulting 14:9	45:3,22 61:2	
consumer 41:15	court 47:25 48:4	
contact 4:20 22:21	cover 9:25 21:11 23:15	
contacted 25:2	covered 21:10	
contacts 24:12 28:24	Coy 3:11,14	
32:11	create 7:22 31:17	
contain 30:18	created 7:23	
contains 30:8 62:6	creates 41:20	
contingent 22:1,9	creating 39:16,18	
continuation 59:11	creative 41:7	
continue 19:25 21:25	credit 26:15,23 27:17	
22:8 34:9 56:17	58:24	
	crime 48:5,6,16	
		D
		data 11:7 24:14 27:9
		32:10 33:21 35:15
		date 13:21 22:17 49:23
		David 2:11 57:3,5,9
		Davis 2:10 53:7,23
		54:10,22 55:18 56:20
		Davis's 54:13
		day 62:11
		days 15:14 26:17
		27:18 29:18
		35:11,18 44:19 50:5
		day-to-day 55:22
		dead 50:2
		deal 21:21 22:4 39:18
		58:17
		dealing 11:17 25:19
		debt 21:12
		December 20:3 21:20
		22:12,16
		declared 3:6
		dedicated 37:11
		dedication 57:12
		defect 37:3,10,21
		38:2,11
		defer 17:7
		deferred 8:20 9:12
		18:8,11,17 19:8 21:9
		define 33:16
		definition 15:8
		deliberation 10:17
		deliverables 13:20
		Deloitte 10:24 11:3
		12:14 42:17,24 43:11
		demonstration 6:15
		Department 2:9
		3:15,21,24 4:3 9:6
		14:10 24:6 25:2
		26:2 27:24 28:24
		30:21 31:19 46:19
		47:17 53:7
		54:14,17,19
		55:16,19,21,23

56:6,10,23 57:6,11,21	dollar 30:1 47:23	elite 59:8
59:2,15 60:8 61:6	dollars 7:15	Elizabeth 2:6
Department's 56:4	8:12,14,18,22	Elliston 6:2,6,10
described 37:4	9:10,16,24 10:11	57:18,22 58:12,14
deserve 58:25	done 7:16 12:25 16:11	else 5:19,21 24:1
desire 40:1	23:23,24 25:5 28:20	38:3 52:4 59:17
desperate 49:20	40:22 43:21 54:18	Emergency 31:4
detail 13:20 17:19	55:19 57:9,14,17,22	employee 5:23
detailed 43:3	58:4,7,10	employees 55:16 56:4
detect 37:22	59:7,15,19,24,25	employment 46:6
determination 33:22	60:4,6,15	enable 24:21
determine 17:20	Dorothy 52:6,23	encryption 25:16
develop 35:2 38:20	doubts 17:4	26:12 28:2
developed 25:10	DPS 4:11,25 5:12,23	endeavors 58:6
developing 39:12	10:19,23 11:12,17	energy 17:12,19,21
development 13:16 36:23	20:11 29:4,8 39:18	18:7,14,19,21 19:3
different 8:11 12:4	40:10 53:3,11 54:21	21:10 23:4
14:23 15:2,12 34:1	57:23 58:10 59:12	energy's 19:16
37:5,11 39:22	draft 11:16 12:22 16:15	enforcement 53:19
differently 40:18	dream 3:23 58:18	54:9 55:24 56:5,16
dimensions 56:3	driver 37:16	59:9
DIR 25:5,11	drivers 14:4	engaging 17:3
directed 43:10	driver's 36:10 38:21	enhancement 38:9
direction 15:9 16:20	39:16 40:10,15	enhancements 38:10
39:5	41:17,19 42:1,2,5,6	enjoy 56:12,14
director 2:11 11:15	45:25 46:8,24 47:5	enjoyed 3:22
12:18 15:25 53:21	49:25 50:16,23	enlists 12:10
54:14 56:2 57:3	51:13,14 53:10	ensure 11:21 24:23
60:13,20	driving 46:2	ensuring 25:25
directors 16:8 54:7	duly 52:14	entails 11:6
DIRECTOR'S 2:9	Duncan 24:8 27:12	enter 23:6 56:7 57:14
disaster 45:2	29:1 31:8,10,13 33:24	59:6
discharge 5:22,24	34:8,25 35:3,6 49:5	entertain 49:7 54:23
discuss 8:6 17:9 22:24	during 7:4 31:23 56:2	entire 47:22 58:3
discussion 8:18 10:17		entitled 47:7
13:11 15:23 16:19		entity 57:25
24:5 28:9,21 31:23		environment 14:20
32:3 33:5,18 35:8		environmental 11:17
38:19 48:23 53:2 55:9		12:9
60:21		equipment 6:4,15
display 6:3,4		21:11 24:1
dispute 25:20		essentially 15:9
division 30:17,18		24:22 40:13
31:3 38:21 39:17		established 10:23 35:11
40:10,13 41:25		estate 28:16
42:5,6,10 46:8		estimates 18:12 22:2,10
53:19 57:24,25		et 40:21
58:23 59:8,9,16 60:1		evaluate 12:5
divisions 7:22		evaluated 46:9
14:18,23,25		everybody 6:17,23
15:1,6,12,21 36:5		16:8 26:22 61:7
DL 41:10 50:6,7		everyone 60:25
DLR 37:4		everything 12:24
DMV 39:16		15:22 22:1,8 24:1
document 7:17 11:7		38:3 50:14 57:13,22
17:16,22 18:11 28:2		58:10 59:7,14
documents 4:5,8 5:12		exactly 33:6 45:17
12:22 22:24		

E

earlier 23:13
early 48:3
earned 56:3,7
easy 12:23 50:1
eccentric 44:3
ED 17:1
Education 54:10
effect 24:12,15
effected 26:15,17
effective 55:20
efficiencies 21:11
efficiency 44:2
efforts 24:2
eight 23:25
eighth 16:7
Eileen 25:1
either 28:14 51:11
election 20:16
eligible 35:23
eliminating 19:7 20:11
elimination 48:4

examiners 46:19
examining 46:11
exceed 30:10
exceeding 29:12,25
excellent 57:10 58:5
 60:4
exception 42:22
exceptions 47:13
exclusion 34:14
Excuse 51:17 55:2
execute 22:8
executed 24:11 35:17
executive 6:1,21,25
 15:24 31:23 34:25
Exhibit 37:4
existing 50:20
exists 46:10
expect 27:1,19 43:12
expediency 46:4
expedited 30:13
expenditures 10:2
experience 41:21
expertise 33:11
expiration 49:23
Expires 62:16
explained 23:24 39:13
explaining 39:21
express 55:17
extend 33:3
extension 30:8,10
 47:15,22 48:25
extent 9:11
external 14:22
extremely 11:23 59:8

F

faces 55:22
fact 6:2 23:13 46:2
fair 33:22
fairly 50:1
fall 22:3 32:4,18 53:8
falsification 4:5,16
falsified 4:13
falsify 4:6
family 56:11
Farrell 12:18 13:4,10
fault 48:21
favor 13:12 28:10 48:23
 49:18 52:15 55:10
 60:22
federal 9:23 12:2,6
 31:11
feel 58:1
feels 33:11 48:3
fell 35:23
fewer 39:12
field 11:13 43:16

fields 50:22,25
fighting 55:3
figures 20:2
filed 4:2,3,15
files 11:7
filling 52:6
final 12:8 30:16 49:3,6
finalize 15:15
finalizing 15:7
Finance 7:11 18:24
 35:12,14
financial 20:17 31:18
financially 13:23
finding 16:4 56:13
findings 11:16,17 15:15
fine 55:19
fingerprint 26:21
fingerprinting 26:22
 28:19
fingerprints 27:6
finish 9:7 61:1
finished 20:18
firm 17:6,16 62:17
firms 16:3,10
first 3:7 11:2 27:18
fit 19:4 42:17
fitting 42:21
five 3:10,19 5:18
 32:4,11 39:23
five-year 44:1
fixed 30:1
Fleetwood 54:7
flip 11:1
Float 10:1
floor 28:5 46:11 48:11
Florence 9:18
flowing 7:19
focus 33:19 34:24
 35:2 39:11 46:22
forced 61:7
foregoing 62:6
form 27:23
formalize 30:11
formats 34:1
forth 48:10
fortunate 58:20
forward 8:23 11:22
 16:18 17:24 20:19
 22:1,2,5,11 33:1
 40:9,12 50:15
Foundation 54:7
four-page 33:2
Fox 24:7,8 27:12
 28:13,25 29:1
 31:8,10,13 33:24
 34:7,8 35:3,6 49:3,5
frame 20:15

free 26:23
Friday 17:23 19:23
front 42:11 48:15
FTEs 37:6,8
full 52:5
functions 41:4
fund 8:12
funded 7:21 8:13
funding 18:24 19:1
 20:8,11
funds 9:11
furnished 34:18
future 58:5 59:2,18

G

gap 12:1
Garner 13:19 14:9
gathering 11:6 43:15
Gavin 28:20 47:14
GDEM 31:3,15,19
general 4:18 9:7
 16:25 24:9 25:1
 26:7 27:25 29:3,20
 31:25 45:12
generally 31:17
generate 33:25
gets 28:20
getting 6:10 19:18 33:1
 47:19 52:4
given 4:8 5:5,10 9:5
 28:15,16 41:18
glad 45:18
Gloria 36:14
Government 3:4 6:22 7:3
governor's 31:3
graduating 53:10
grant 31:4,15
granted 31:12
grants 31:4,14
gratified 30:14
gratitude 24:2
great 24:2 27:20 56:8
 57:11,13 58:21,24
 59:2 60:7
greater 25:17
greatest 55:24
group 11:11 12:25 37:11
 59:9
grow 55:21
guarantee 20:25 21:3,19
 22:13 23:15
guaranteed 21:4
guaranteeing 18:18,20
 22:22
guess 36:17 48:20
guidance 39:3,10
guiding 15:10

Gunderson 12:21 13:3,4	hurdles 23:9	42:8
H	hurry 61:4	included 25:13 26:1
half 48:6 58:7	I	includes 18:8 27:13
hand 62:11	IBT 26:21,23	32:8 38:9
handgun 4:16	IBT's 26:20	including 19:6 26:11
hands 32:22 47:6	I'd 10:22 13:1 16:21	35:8 38:5 54:4
happen 23:10 51:9	17:15 40:7,17 45:21	inclusive 39:16
happiness 56:12	55:13 59:6	incorporate 50:16
happy 13:21 20:20	ID 47:25 48:4 49:23	indeed 9:15
22:9 58:8	50:1,8,16,24 51:1,14	in-district 40:24
hard 32:16 52:2	idea 21:12	individual 36:4
Harvey 4:15	identifiable 27:7	individual's 28:15
haven't 16:24	identification 15:7	industry 25:4 27:1
having 15:13 37:1	47:6	inform 36:6
42:4 43:7	identified 8:19 11:3	information 5:5,9
head 41:14	12:5	7:21 11:19 13:9
headed 35:2	identifies 7:18	14:2,18 15:5,21
headlights 43:14	identify 3:12 7:14,20	24:6,14,19,24 25:3,12
headquarters 18:3	8:1 12:4 27:16 34:20	26:3,4 34:2 35:16
53:4 54:21	identifying 15:9	initiated 43:7
heads-up 17:25	identity 25:9 26:24	initiatives 43:21,24
health 56:11	41:16 46:1	input 43:15
hear 6:13	I'll 45:18 48:21 49:7	inspection 12:19
heard 23:23	I'm 5:9 6:13 9:13	39:17 41:5,10
hearing 5:23,24 40:8,10	11:14,19 13:21 17:6	instability 46:20
heighten 25:15	26:20 27:15 37:8 41:9	installations 21:12
held 1:15	46:16 47:1 48:15,20	instead 29:25
helped 33:18	49:11 51:19 52:6,7,11	instructed 35:22
helpful 33:15,17	53:8 57:17 59:13,17	instructor 54:8
hereby 62:6	impact 19:24 22:18	insurance 23:14 27:16
Hernandez 13:19	50:24 51:2	integrity 45:24 56:1
14:6,8,9	impacted 20:6 50:4	62:16
he's 23:24 54:3,6	imperative 15:3	Intelligence 53:15
57:22,24	imperatives 14:3 15:8	interest 17:5 32:19
high 21:8 53:24	implement 17:20 27:24	56:15
highest 46:18	50:5,6 51:12,13	interested 32:21 39:14
highly 27:5	implementation 39:7	interim 17:1 60:13,20
highway 3:17 10:21	implemented 29:13	internal 4:9 5:14,16
40:22 41:4,25 42:4	implementing 27:10	7:13 12:16 13:8
46:16 53:12 57:23,25	implications 15:7 16:25	14:14,16 41:5
hired 16:14	importance 46:3,12	internally 23:10
history 59:10,11	important 34:19 38:19	International 54:5
hold 16:21 19:23	40:6 45:22 61:5	internet 16:3
22:11 41:11	impose 25:16	interpretations 30:25
holds 54:8	imposed 29:10	interruption 51:17
honor 5:14	impression 46:17	interview 11:13 42:18
honorable 5:3	improve 12:13	interviewed 4:18
Hooten 11:20	improvement 59:11	interviews 11:8,9,11,12
hope 32:6 36:1 56:12	improvements 18:7	14:15
hoping 20:10	IMS 14:14,16,25	investigation
hours 38:9 46:23,24	15:9,11,20 32:17 37:1	4:17,21,23
Houston 16:8	Inaudible 4:1	investigations 5:12
53:10,12,16,23,25	15:15,18,19 18:13	investigator 53:15
54:12	30:6 44:7	Investigators 54:1
HR 16:8	incensed 27:5	investment 21:7
huge 41:15	include 28:1 34:11,12	involved 34:22
		involvement 56:15

involving 12:2	large 44:17	limitations 35:11
isn't 52:7	largest 16:7	limited 3:10 39:19
issuance 45:25	last 9:21 10:3 15:4	limits 28:24
issue 20:16 40:7	16:1,13 17:16,23	Linda 37:16,24
46:8,20 47:2	19:22 20:24 23:25	38:2,6,13
issues 12:23 17:9 19:18	24:8 32:10 38:25	line 13:23 33:16
20:25 44:17	54:13 57:2,18 59:5,23	list 18:9 32:7,15
issuing 50:11	late 35:25	35:17,22 48:4,7,8
item 3:7 5:22,25 7:8	Later 4:19	listed 38:3
10:16 17:8 20:7	law 25:8 53:19 54:9	lists 48:17
24:4 29:17 32:15 34:5	55:24 56:5,16 59:9	little 6:10 9:18
35:7 38:19 47:11 49:2	lawn 32:14 34:14	13:20 32:1 38:17
51:19 53:2 54:20	lay 44:6	50:24
items 7:14 9:12,14,20	laying 44:5	live 3:25 12:23 36:17
18:2,12 34:20 35:19	lead 38:23	lived 3:23 58:18
38:18 45:22 61:1,8	leader 3:19	living 54:11
I've 5:11,17 30:7 37:12	leaders 58:22	Livingston 4:4
58:16,18,19	leadership 13:24	LoanSTAR 19:2,7 20:8,11
	55:20 56:1 57:11	locals 31:9,12
J	leading 55:19	located 53:3
Jack 60:10	lean 42:3	locked 47:22
James 11:20	learn 45:3	Logan 15:25 16:1 17:11
janitorial 34:14	lease 33:2	long 41:12 59:10
January-ish 51:13	leases 34:14	longer 52:1
JIM 59:20	least 16:12 26:14	longstanding 47:21
job 3:23 13:1 55:19	39:7 40:16	loose 41:7
57:10 58:5 60:4	leave 6:23 56:6 58:4	Lorance 3:11,14
joined 34:23 53:7	60:11 61:2,7	lose 61:3
Joy 62:4,15	leaving 59:14	lot 3:22 55:25 58:8
Jr 2:10 54:22	left-hand 26:10	lots 44:17
Judy 36:10,19,25	legal 12:22 62:16	loved 3:23
37:12 39:13 41:22	legislature 17:3	low 46:19
43:18 44:22	leisurely 56:13	Lt 2:11
45:15,18 49:22	length 42:18 48:6	luck 58:11 59:16,18
50:10,14,22	less 10:5 29:13 30:5	60:10
51:7,10,17	Lester 17:14 22:14	
July 7:12 24:9 53:12	23:20	M
jump 23:9	let's 44:18	ma'am 36:11,19
June 26:20	letter 4:9,24 27:3,4	magnificent 13:1
Junior 53:24	28:15,18 55:13	main 29:23
Justice 3:25	letters 27:4	maintenance 8:20 9:12
	level 36:22 37:9,25	18:9,11,17 19:9
K	42:1 47:3 60:2	21:9 37:3
key 15:10	leverage 47:19	major 45:1,2,5
kicked 14:11	liberty 7:20	majority 9:14
kick-off 14:12,13	license 3:17 36:11	man 38:10
kinds 16:6 34:17	37:16 38:21 39:17	managed 41:14
42:9,11	40:10,15 41:17,19	management 10:18,23
knowledge 8:23	42:1,2,5,6	31:4 33:7 42:1
	46:1,2,8,24 47:6	manager 37:17
L	49:25 50:16,23	managers 37:13
Lamar 10:20	51:13,14 53:10	managing 15:1 24:14
Lane 13:16,17 14:10	licenses 54:8	26:2
15:19	Lieutenant 4:17	manifest 56:17
language 25:11	life 18:19 29:8	manner 8:7
lapse 8:16	likely 9:25	map 32:20
LAR 43:22 44:4	limitation 17:1	March 53:11,22

Marcy 2:7	model 25:9 38:22 39:4	objection 6:13
marine 3:18	40:11,23 47:1 57:24	objective 14:24
married 54:10	58:2	objectives 11:2,4
Mason 5:23	models 39:12,24	obligate 24:18
master 54:8	modification 29:3 44:2	obligated 31:17
material 4:22	modifications 30:22	obligating 21:15
materials 51:25	31:1 48:9	obligation 20:17
matter 25:2,16 44:23	modified 51:6	obligations 29:8
46:3	money 8:1 9:18,22	occur 18:19
matters 7:9	31:11,15 36:15	October 19:20
may 6:7 20:3,6,20 23:21	moneys 7:18 8:15 15:2	offering 41:25
30:13 42:22 45:22	31:7	office 19:3,14,19
51:21 58:9,12 59:23	monies 9:2	24:9 26:7,20 27:24
60:9	monitoring 26:15,24	29:3 30:23
maybe 9:16 19:19 32:4	27:17	officer 46:12,15 54:9
39:1,11 40:17 44:9	month 19:19 23:22	officers 40:15
mceathron 23:21 57:8,16	40:8 57:4,19	41:2,24 42:4 46:7,15
McEathron 2:11 57:3	monthly 39:6	offices 40:16,20 42:6
mean 41:6,13,15 44:24	months 5:6 9:5 21:17	46:24
45:9 48:2 52:5,15	26:16 32:11,22	OGC 29:2
meaning 38:8	36:17,21 47:16	okay 6:16 9:4 10:7,9,13
meantime 41:11	morning 6:16 23:1	13:6,11 17:7,11,12
meet 11:15,22 46:5	motion 13:2,14 27:23	20:19 23:16,18,20
55:21	28:4,6,9,12	28:21 34:8 35:4
meeting 1:9,15 3:5 6:19	48:11,22 49:8,13,15	37:2,23 38:1,7,8,14
7:4,7,12 9:22 11:21	54:23 55:8,12	42:13 45:20 47:23
14:12,13 16:2 24:9	60:15,24	48:9,16 49:2,7,14
29:15,17 30:13	move 11:22 17:24 20:8	51:4,16 52:11,13
33:25 35:10,16	22:8 39:4 40:12	60:11
36:14 45:24 52:8	47:9,10,14 48:7	one-on-one 40:4
54:14 57:2,18 59:5,23	49:9 51:19	ones 38:19 58:25
61:9,12 62:9	moved 13:6 54:24 55:1	one-year's 26:23
meetings 3:4 7:4 51:25	60:16,18	online 43:23
member 54:1,3	movement 40:7	onto 25:24
members 11:12 24:13	moves 43:7	open 1:9 3:4,6 7:4
26:4	moving 8:23 16:17 20:19	operation 41:19 44:3
men 3:19	23:14 43:25 50:14	operational 11:18
mention 6:1 31:20 45:21	multiple 47:16	opinion 42:7 58:1,2
mentioned 9:21 29:6	myself 11:20 56:18	opportunity 16:24
met 17:23	58:21	19:8,13 55:17
Micro 47:15		57:1,5,20
middle 37:19		opposed 21:1,3,23 44:19
migration 50:3 51:2		optimization 13:15
Miller 59:5,20		options 25:23 40:23
million 7:25 9:8,14		order 3:3 34:11
10:4 18:7,8,17 19:1		36:9,13,15 47:11
29:8 30:10 32:4,5,11		orders 29:11,25
Mills 8:19 17:13,14		30:2,3,5,12 34:11
20:21,23 21:14		35:10 47:13
22:14 23:20,22		order's 37:7
mind 40:4 46:4		organization 12:13
mindful 26:20 41:9		organizational 10:19,24
minimize 8:15		organizations 54:4
minimum 27:18		oriented 41:15
minutes 3:10 5:19 7:8		original 37:19
MIS 14:20		originally 8:12
missed 48:20		Oscar 7:10 8:17

9:1,3,13 10:2,8,10 35:13 others 40:18 57:1 58:6 ought 21:25 43:16 outcome 22:10 31:25 outlines 44:22 outside 6:3,17 outstanding 56:1 overall 14:19 15:9 overview 10:25 owe 24:2	person 53:5 55:5,8 personal 27:7 56:1 personally 40:9 54:15 personnel 14:17,22 15:2 perspective 14:19 persuaded 27:15 Peter 5:23 petty 41:12 phase 18:3,4,6,16 19:13,14 phases 18:3 Philadelphia 16:12 Phoenix 16:12,14 phone 4:19 pick 19:13 picture 32:1 34:3 pieces 45:15 pilot 36:18 places 44:25 plan 39:7 43:3 44:1,10 45:13,16 plans 9:10 platoon 3:18 play 17:2 plays 17:1 please 3:12 6:24 13:12 28:10 38:22 49:18 55:10 60:15,22 pleasure 16:17 60:21 plus 21:12 point 20:4 22:20 25:7 32:20 36:9,13 52:15 pointed 34:21 police 16:4 54:3,5,6 policies 4:25 policy 4:10,11,25 23:14 28:23 29:13,21 30:3 34:4,9 42:23 Polunsky 2:4 3:1,12 5:18,25 6:7,12,20 7:1 8:4,6 10:14,16 12:15 13:6,11,14,18 15:23 16:19 17:7,12 20:21 22:6 23:16 24:4 27:21 28:4,8,12,21 33:23 34:6 35:4,7 38:16 40:6 42:3,13,15,22 43:4,6 45:4,9,13,17,20,23 47:8 48:9,13,22,25 49:2,7,11,14,17,22 50:9,13,21 51:4,8,16,18,21,23 52:11,14,18,20,22 53:1 55:1,4,7,12 56:18 57:9,17 58:13 59:4,22	60:11,14,18,24 pose 30:23 position 25:5 58:20 positive 55:22 possible 9:11 10:17 24:5 28:22 35:8 38:20 41:20 53:2 post 51:10 posted 7:6 17:5 practice 4:11 12:9 25:4,6 34:9 prefer 44:24 prepare 29:16 33:24 prepared 16:15 17:6,24 19:23 22:17 36:6 pre-procurement 30:19 presence 46:10,11 present 3:1,2,5 5:15 7:7 29:5,14,19 49:1 52:21 56:21 presented 19:11 30:6 52:1 Prevention 25:10 54:2 price 11:18 pricing 22:16 pride 56:8 principles 15:10 prior 16:1 18:13 30:13 42:24 52:8 private 24:6,23 54:1,2 privilege 59:1 proactive 33:14 probably 15:16 19:19 21:23 28:17 31:16 35:1 40:11 problem 23:18 42:19 proceed 36:3 proceedings 5:24 process 11:8,13 18:1 20:13,14,17 procurement 15:24 30:19 procurements 8:11 9:16 productive 33:15 profession 56:16 professional 36:16 program 11:15 17:20 18:25 19:2,15,16 20:9 21:10 50:18 51:2 programs 9:23 50:3,19 progress 43:25 45:11 project 11:23 13:21,22 14:11 18:3,7,14,20 19:5,10,23 20:1,3,19 21:13 22:22 37:12,17 47:25
P		
P.O 3:14 pace 56:13 packets 29:2 page 11:2,11 26:9,10,11 35:20 paid 47:3 parallel 43:11,15,20 parameters 15:11 parent 21:1,3 22:13,22 particular 11:1,4 21:18 25:9,15 31:4 32:19 particularly 31:16 parties 26:15 39:14 party 24:6,12,22 pass 31:6,8 passes 13:15 28:13 55:13 60:25 passing 31:15 past 24:10 27:4 29:18 35:11,18 43:25 patrol 3:17 10:21 40:22 41:4,25 42:5 46:16 53:12 57:24,25 Paula 16:1 17:9,11 pay 21:6 46:20 payback 19:4 paying 38:11 payout 21:6,21 pending 35:9 47:12 48:19 people 4:8 5:1,3 26:17 37:11 40:24 42:11 43:16 47:2,6 55:15 58:8,22 59:9 61:2,5 per 46:15 percent 10:3 21:4 29:12,25 34:12 performance 17:13 19:15,16 21:16 performed 14:22 performing 23:4 period 23:5 36:16 permissible 9:11		

projections 18:21 21:8
 projects 8:20,22,23
 18:13 19:6 23:13
 43:25
 promoted 53:14,16
 promotion 43:14
 proper 41:16
 proposal 21:18 38:8
 42:20
 proposals 39:24
 propose 41:9
 proposed 27:11 29:3
 30:2,22 31:1 49:6
 protect 24:18 41:17
 protected 24:24
 protecting 25:12
 protection 24:5
 25:14,15 26:25
 prove 5:2
 provide 7:15 10:22
 14:21 15:11,17
 26:14,16 34:12
 35:22 40:20
 provided 7:17,25 12:8
 22:25 24:16,19
 26:19 34:10
 35:18,20,25 57:10
 providers 14:23
 providing 11:16 14:25
 15:12,21 36:22
 provision 24:20 30:9
 provisions 29:4
 public 1:10 2:3,9
 3:2,7,9,16,21 4:3
 5:20 6:21 7:2 18:24
 24:13,15,21 29:6
 46:25 47:3,5 53:8
 54:14 55:14
 56:18,19,22,23
 57:21 60:21 61:12
 62:8
 publicity 44:18
 public's 26:4
 pull 32:10 33:20 35:15
 pulled 52:9
 purchases 21:11
 pushing 20:4 51:3
 putting 30:1

 Q

question 8:9,14 35:14
 36:8 37:10 42:16
 54:18
 questions 12:14,16
 20:20 30:25 36:4,7
 39:2,9,22
 quick 47:9
 Quickly 49:2

Quiroz-Hernandez
 62:4,15
 quite 9:13,23 60:3
 quorum 3:2,5 7:6 61:3

 R

radio 34:14
 raised 20:24 53:23
 Randy 6:6,10 58:4,12,14
 Rangers 59:7,15
 ranging 34:2
 ratchet 25:14
 rate 9:7,9
 rates 46:18
 rather 37:1 45:2
 Rayborn 54:11
 ready 12:21 39:7
 Reagan 53:24
 real 28:16 47:9
 really 24:20 25:6
 26:6 36:23 37:6 44:23
 58:10
 realtor 27:5
 realtors 27:8
 reason 21:5
 recall 29:5
 receive 31:13 44:17
 received 36:1
 recent 41:10
 Recently 4:2
 recess 6:7,14,17
 recessed 6:19
 recognition 55:25
 recognize 61:4
 recognized 55:23
 recommendation 18:23
 22:6,7 25:11 27:24
 32:23 40:11 50:4
 recommendations 19:17
 28:1 29:20
 recommended 30:2,7
 recommending 18:6 29:24
 reconciliation 9:6
 reconvened 7:2
 records 4:12,13
 48:5,6,16
 redeploy 41:2
 redeployed 8:15
 reduce 17:21 41:9
 reduced 42:1 47:15
 reducing 18:14
 reengineering 37:17
 reference 37:2
 refine 20:1
 regard 27:25 28:19
 regarding 10:18 24:5
 36:4

regards 49:22
 region 18:4
 register 7:6 50:6
 Registration 62:17
 regular 7:1 41:4
 regulated 19:2
 regulation 4:12
 Reichert 59:22
 reimbursement 9:24
 related 18:7
 relative 33:7 46:9
 relatively 50:24
 remaining 42:2 53:15
 remember 9:15 46:14
 remembered 58:9
 remove 29:21
 removing 40:14
 rename 54:21
 renaming 53:3,5
 renewal 30:8,10
 reopened 7:7
 report 7:13,17,25 8:2
 10:23 13:22 18:5,10
 20:18 22:25 29:2,16
 41:10
 Reporter 62:5
 reports 4:6 10:17
 30:17,18 33:25
 reps 30:18
 requested 35:17
 requesting 39:15
 requests 44:4,7
 require 36:2 50:2
 required 4:5 46:5
 requirement 12:10 25:18
 29:7,10
 requirements 16:5
 25:16,17 29:14,15
 45:25 46:3,5 47:4
 requiring 29:24 48:19
 research 16:2
 Resources 25:3
 respect 56:4
 respond 13:13
 28:17,18 39:25
 response 43:1,18
 responses 19:24
 responsibilities 33:6,8
 responsibility 24:10
 31:18
 responsible 14:17
 responsive 13:24
 rest 15:20 18:5 28:2
 retaining 36:21
 retired 3:15 56:24
 retirement 56:7,22
 57:15 59:6

retiring 23:22 57:4,19	seconded 13:7 28:8	significantly 21:7 22:3
review 28:22 31:3 35:10	48:13 49:17 55:2,8	50:3
47:13 52:9	60:19	sir 3:9 5:18 6:5 8:4
reviewed 24:16 25:3	seconds 58:16	10:16 12:16 13:15
reviewer 20:12	Sections 6:22	15:24 35:6 57:8 59:4
reviewers 20:9	security 25:19,21 40:20	site 44:9
reviewing 24:10	54:2	sites 44:9 45:3
RFP 16:15,18,21 20:16	seeing 32:25	sitting 5:6 6:9 59:24
RFPs 16:5	seeks 9:23	situations 31:14 33:10
RFQ 10:18 12:16 13:15	seem 11:23 46:25	six 5:6 39:12,24 47:16
20:13	seems 46:12	six-month 17:1 47:22
right-hand 26:11	selected 17:18	skill 42:9
rights 24:22 25:21	selection 20:14 33:13	skills 42:12
risk 12:17 13:8	send 16:15	skip 38:17
road 32:20 58:6	senior 29:11 46:6	SLA 37:18,20
roll 3:1 45:1,5 50:15	sense 23:17 31:25	slacks 34:16
51:12	33:4,19 47:18	Smith 4:4
room 6:24	sensitive 24:14 25:12	Snyder 23:3
rooms 46:11	sent 52:6	Social 27:7,8
rotate 40:24	September 15:16 17:8	solution 52:12
roughly 8:19 10:4	43:5 53:14,20,21	Solutions 62:16
rug 5:8,15,17	sergeant 4:15 53:16	somebody 60:15
Rule 49:17	serve 40:21 59:1 60:20	someone 6:12
rules 4:11 49:3,10,15	served 3:18 53:18,25	sometime 19:19
51:5,7 52:25	service 14:23 17:15	somewhat 29:21
run 9:9 50:2	21:12 24:3 26:15	somewhere 52:4
running 42:19,21 50:7	32:14 41:10,25	sorry 48:21 49:11
51:19	43:21 48:5,6,17	53:9 58:4 59:13
	53:10,12,15,17	sort 17:25 19:17
	54:16,19 56:9 57:6	27:22 36:22 41:7
<hr/>	services 12:17	South 53:24
sacrificed 46:4	14:17,20,21,25	speak 31:16 42:23
Safety 1:10 2:3,9	15:1,12,25 26:19	speaking 55:15
3:2,9,16,21 4:3	27:17 36:16	specialized 6:4 16:3
5:20 7:2 29:6 53:8	serving 54:6	specific 4:19 7:19
54:15 55:14	session 6:1,21,25 7:1	24:22 39:9
56:18,19,23	15:3,13,17 31:23 35:1	specifically 8:17 24:13
57:21,22 60:21	sets 42:9	26:3 31:1 41:24
61:12 62:9	several 12:2 36:21	specifics 14:7
salary 17:5	43:19 50:2 54:3	speech 58:12,15
San 16:12	severe 17:4	spend 9:10,11 14:3
SAO 20:18 21:15 22:2,10	shadow 14:3	spent 20:23 59:12
satisfaction 46:21	share 58:2	spirited 31:22 33:18
satisfy 47:5	sharper 32:1 35:2	spoke 42:18 55:6
savings 17:13	sheet 22:25	spreadsheet 33:2 35:19
18:14,19,22	she's 27:8 39:1,2,10	staff 2:9 11:12 14:16
scan 11:17 12:9	49:20	17:14 28:17 40:12
scenario 22:11	shop 14:5	staffing 40:23 42:5
schedule 48:14,15	short 53:4	Stafford 4:17
scheduled 9:17 11:15	shortfall 8:10	Stamper 4:15
School 53:24	shortfalls 7:15	Stan 60:19
scope 42:8	Shorthand 62:4	stand 51:7
search 15:24	shortly 53:8	standard 6:4 24:17 25:6
16:11,13,25 17:6	showing 4:6	27:1,13 57:10 60:6
searches 16:6	shows 18:11	Standards 54:10
second 11:11 13:5	signed 48:18 56:17	standing 23:1
28:5,7 48:11,12,23	significant 32:25 51:2	standpoint 15:5
49:16 54:25 60:17		

start 27:20	swept 5:7	they'll 58:23,24
starting 11:8 20:3	system 36:16 46:8	they're 6:8 7:19
22:16	50:7,11,15,17,19,24	11:21,25 12:11
state 4:5,10,25 12:2	51:3,12,15	18:15,20 23:1 24:19
18:5 19:3,14,18		34:19 40:20 49:5
24:3 25:5,8 30:17	<hr/> T <hr/>	58:25
54:16,20 55:15	TAC 17:18 18:6 20:1	they've 12:4
56:10 57:12,13	21:1,3,19 22:14,21	third 24:6,12,22
58:18 62:1,5	23:13 52:2	third-party 20:9,12
statement 12:10 33:22	taking 24:20 43:24	26:3
51:22	47:18	Thomas 2:10 54:22
statements 5:12	talk 5:1,2 11:16 23:11	thorough 4:22
states 12:4 44:16	talked 16:7 21:14	threshold 32:17,25
status 30:18	22:14,21 36:20 41:11	thresholds 32:19
statute 25:9 46:5	talking 23:12 40:14	throughout 14:11
statutory 47:4	tampering 42:24	tie 32:22
stenographic 62:7	tanks 3:19	till 7:8 17:8
steps 8:21 24:21	target 13:22 15:15	Tim 4:4
strategy 13:16 14:5	task 34:5 35:3	timelines 20:5
39:7	tasked 11:3,22 24:9	today 17:6 41:3 49:25
stream 11:5 12:3	TCLEOSE 4:11	50:4,11,17 51:14 57:2
streams 11:4,5,21	teachers 26:22	Tom 2:5
Street 62:17	team 14:14,16 15:20	Tommy 53:7
structure 11:18 39:18	43:16,20	total 10:4 29:11
46:10	teams 43:19	30:10 37:5
structures 10:19	technical 23:23	toward 39:4
struggling 32:24	ten 7:8 26:10 58:16	towards 42:3 45:11
study's 43:11	tenor 56:2	tower 33:2 34:14
stuff 18:14 28:19	ten-year 19:4	TPFA 19:16 21:5
52:6,7	terms 33:13	training 4:14 9:17
subcontractors 20:6	test 44:9,25 45:7	transcription 62:7
subject 25:8 31:24	testament 60:4	transfer 7:24
submit 8:2	Texas 1:15 3:2,4,15 4:1	transforming 38:20
submittal 36:1	6:22 7:2,3,6 10:21	transition 40:25
subsequent 32:23	18:24 46:16 53:24	transpire 9:15
subsidiaries 23:3	54:9,16,20 55:16	transpired 9:21
substantive 34:18,20,24	56:10,19 57:12	Travis 1:15 62:2
succeed 44:3	58:18 59:7	tremendous 14:1
successful 44:5	62:1,5,8,9,18	tried 19:4
suggest 21:9	thank 3:11 5:18 8:4,5	Trooper 58:18
Suite 62:17	10:16 12:15,16	troopers 4:6 42:2
summary 15:17	13:15 15:23,24	true 62:7
Sunset 40:8,12 41:13	20:21 23:20 28:13	try 19:13 20:7 44:18
42:20 43:1,10 45:11	47:8 52:14 54:15	45:2 50:1
supervisors 3:22	56:20 57:2,5,13,16,22	trying 16:3 33:16 34:20
supplement 42:9	59:3,4,6,14,18,19,20,	35:2 37:8 47:4
supplemental 49:23	25 60:5,10	turnover 46:18
suppliers 27:2,19	Thanks 10:13 38:15	tweaking 29:21
support 17:15 26:8	that'd 27:19	two-month 20:15
27:10,17 33:12	theft 25:9 26:24	TxDot 39:17
36:16,24	27:16 54:2	type 21:6,7,10 42:25
37:6,9,18,24,25	themselves 15:2	
38:4 41:4 43:22 62:16	thereby 51:2	<hr/> U <hr/>
sure 5:9 9:13 27:15	there'll 59:17	unbelievable 57:10 60:6
28:20 37:14 48:15	there's 19:12 28:4 37:2	understand 21:17 27:9
59:17	39:19 40:21 43:19	32:7 35:3 60:3
sweep 5:16	46:21 48:22	understanding 8:21 15:4
	they'd 23:11	

35:1 37:9 40:2	weekly 4:6	
understands 39:4	weeks 20:24	<hr/> Y <hr/>
unequaled 60:2	weight 3:17	y'all 17:12,15,25
unexpended 8:16	we'll 17:8 22:19 44:4	42:7 60:11
Unfortunately 57:17	50:11	Ybarra 7:9,10 8:17
Uniform 34:16	we're 10:10 11:15	9:1,3,13 10:2,8,10
units 18:16	15:13,16 17:5 19:23	35:12,13
University 53:25	22:3,9 23:19 25:19	York 16:8
unless 6:12	26:22 27:9 31:15	you'll 3:10 11:1,11
unselfish 56:2	32:20 33:16 34:6,19	12:4 58:9 59:13
update 12:13 13:19 14:6	35:2 37:9,19	yourself 3:12
15:17 17:25	38:11,16,17 40:3,14	you've 57:9,14
upon 18:6,12 20:3 22:16	41:6 42:25	58:4,7,10
usage 17:19	43:2,7,14,15,23,24	59:7,12,15,25
usually 16:5	45:4,5 46:5	60:1,4,6
utility 17:19	47:4,18,22 50:11	
utilize 8:21 20:10	51:18 52:4 55:3 60:25	
40:11	61:2	
utilized 9:25 10:11	West 62:17	
<hr/> V <hr/>	we've 14:9 36:5 38:24	
valid 52:15	39:14 43:7,20 44:22	
validate 15:4	50:10,14 58:15	
values 34:2	whatever 38:11 47:24	
variable 46:23	50:5 52:3	
variety 31:14	wheeler 33:2	
various 40:15 42:5	whereas 46:11	
vary 10:10 40:15	wherever 58:8 60:8,9	
vehicle 39:17 46:2	whether 17:4 24:11	
vendor 33:13 47:21	25:20 31:1,2 41:3	
vendors 24:7	45:11 47:18	
versus 43:22	whichever's 29:12	
victim 26:18	whole 22:4 24:1 56:5	
Vietnam 3:19	wide 23:1	
violation 4:10	willing 6:13 41:22	
violations 4:25	wish 8:6 29:4 56:11	
virtually 12:22	57:14 58:5 59:1,16	
visibility 33:1	60:8	
vision 57:24	wishes 33:14	
volunteered 28:20	Witness 62:11	
vote 17:6 48:21 49:4	wonderful 47:21	
52:19	work 11:4,5,21	
<hr/> W <hr/>	12:3,10 20:1 21:25	
wait 19:25 41:9	22:4 23:25 26:7	
waiting 16:16	34:4 40:21 46:23	
Walker 12:17,18 13:4,10	47:20 58:22	
warm 6:10	work-around 49:25 50:23	
warrants 40:21	51:1	
wasn't 25:6 27:15	work-arounds 50:18	
ways 12:12	worked 3:22 16:10	
web 48:5	23:8 25:1	
website 47:16 48:7,17	working 3:23 12:19 13:1	
we'd 8:12 43:8	14:10 15:22 17:17	
Wednesday 11:13,14,20	18:22 41:24	
week 11:14 15:4,15	43:20,23 52:12	
17:16 27:4 38:25	world 55:25 58:23	
	worry 45:1	
	WRIGHT 52:23	
	writing 20:13	

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 25, 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 P
Section Number 1.211

The Texas Department of Public Safety adopts amendments to Section 1.211, concerning Dishonored Check Fee, without changes to the proposed text as published in the July 4, 2008, issue of the *Texas Register* (33 TexReg 5269).

Adoption of amendments to the section are necessary in order to change the subchapter and section title in order to address other types of payments, such as electronic. In addition, the section has been reformatted to add new subsection (a) which addresses electronic payments, and new subsection (c) which addresses how reimbursement payments are to be applied.


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 411.0135(a).

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 August 25, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter A
Section Number 15.1

The Texas Department of Public Safety adopts amendments to Section 15.1, concerning Who Must Be Licensed, without changes to the proposed text as published in the July 4, 2008, issue of the *Texas Register* (33 TexReg 5269).

On April 24, 2008, the Public Safety Commission adopted changes to 37 TAC Section 15.24 and Section 15.25. Those changes became effective May 20, 2008. Adoption of amendments to Section 15.1 is necessary in order to conform to the recent rule changes made in Section 15.24 and Section 15.25. In addition, the department proposes adding the term "personal identification certificate, to paragraph (2) so that the definition of resident is uniformly applied to applicants for a driver license and applicants for a personal identification certificate.

On July 15, 2008, the department held a public hearing to receive comments from all interested persons regarding adoption of the amendments. Mr. Kevin Cooper of US Custom Harvesters appeared at the hearing but provided no comments.

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 Transportation Code, Section 521.005.

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 August 25, 2008, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter K
Section Number 15.171

The Texas Department of Public Safety adopts new Subchapter K, Section 15.171, concerning the issuance of driver licenses and identification certificates to non-citizens, without changes to the proposed text as published in the July 4, 2008, issue of the *Texas Register* (33 TexReg 5270).

The Public Safety Commission directed the Driver License Division to draft a rule requiring applicants who are not citizens or lawful permanent residents of the United States to present proof of their lawful status in order to obtain a Texas driver license or identification certificate. (For ease of reading, driver licenses and identification certificates are hereinafter collectively referred to as a "license" or "licenses.")

A state-issued driver license or identification certificate is a key link to public safety, privacy and national security. For the safety, security and peace of mind of its residents, Texas must produce a recognizably reliable source of identification in issuing licenses and, at the same time, reduce exposure to identity theft and fraud. Licenses are routinely used by the department, financial institutions, retailers, law enforcement, and other entities to establish a cardholder's identity. To protect the integrity of Texas licenses, the department believes it must make permanent changes that strengthen identity and residency requirements.

Adoption of the new section is necessary in order for the department to verify residency in the State, to enhance security and identity features of state-issued licenses, to address issues of fraud and misrepresentation in the application process and to help protect the integrity of Texas licenses for those who rely upon the licenses' authenticity.

In addition, adoption of the new section is necessary in order to provide the department the ability to require applicants with lawful status to present valid documentation demonstrating such lawful status and thus ensuring that licenses are issued only to applicants who are eligible for a Texas driver license or identification certificate. An individual with lawful temporary admission status of at least six months would be issued a license that displays the end date of the admission period authorized by the U.S. government. An individual who is not legally present in the United States because the individual has entered the country without permission or has stayed beyond the period authorized by federal authorities, or an individual whose lawful admission period is less than six months, will not be granted a license.

Further, adoption of the new section is necessary in order to require a cardholder whose lawful status has been updated or extended to present valid documentation of such status change or

extension before a duplicate license will be issued. This in effect provides the department the ability to ensure that the cardholder is still eligible for and entitled to the license. The license will be cancelled if the cardholder is unable to present valid documentation that indicates federal approval to remain in the United States beyond the status date.

On July 15, 2008, the department held a public hearing to receive comments from all interested persons regarding adoption of the amendments. Mr. Kevin Cooper of US Custom Harvesters appeared at the hearing but provided no comments.

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 Transportation Code, Section 521.005, authorizing the department to adopt rules to administer the issuance of driver licenses and personal identification cards, including information required to be furnished by applicants.

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

