

MINUTES
PUBLIC SAFETY COMMISSION
June 21, 2012
AUSTIN, TX

The Public Safety Commission met in Austin, Texas on June 21, 2012. Attending the meeting were Chairman Cindy Leon, Commissioners Carin Barth, Allan Polunsky, Ada Brown and John Steen. A quorum was present at the meeting. DPS staff members and guests were also present.

Call to Order (0:00:02)

The meeting was called to order by Chairman Leon at 9:05 a.m. Proper notice had been posted.

Discharge Appeal Hearing

Continuance of Discharge Appeal Hearing and possible action regarding DPS employee Michael Deck. **A motion was made by Commissioner Polunsky and seconded by Commissioner Brown to uphold discharge of Michael Deck. Motion passed unanimously.**

Approval of Minutes (0:01:42)

A motion was made by Chairman Leon seconded by Commissioner Barth approving the minutes as submitted for the May 17, 2012 meeting. Motion passed unanimously.

Public Comment (0:02:05)

None

Directors Report (0:02:15)

A. Presentations

- Life Saving Award – Carla Caldwell-Guidry, Customer Service Representative, DLD
- Unit Citation – HP Sergeant Area 5B03

B. DPS Response to Senate Transportation and Homeland Security Committee Regarding Driver License Program

- Director McCraw discussed specific tasks given by Senator Williams for improvements to the Driver License Division
- Director explained steps that are being taken to improve quality of service
- Letter has been forwarded to Senator Williams outlining measures that are being taken to increase capacity
- Commissioner Barth thanked Director McCraw and the DPS team for their work in taking steps to improve service to the driver license customers
- Deputy Director MacBride reported there is an increase in customers utilizing online services

- Chairman Phillips asked DPS to address FTEs that were not covered in the 81st Legislative Session
- Commissioner Polunsky stated he was pleased with where DPS is now compared to 2 – 3 years ago
- Commissioner Steen asked if we had communicated to Washington the problems we are encountering with enforcing the Real ID Act. Director McCraw replied communication has occurred for several years now while he served in the Governor's Office as the Homeland Security Advisor.
- Discussion was held on DHS and the recent executive order for illegal aliens and the impact it has on them receiving a driver license

New Business (1:32:48)

- A. Report, discussion, and possible action on proposed amendments to Inscription on Vehicles Rule for publication to receive comment: Rule 1.151, 37 TAC Sec. 1.151, concerning Exemption of Inscription
General Counsel Phillip Adkins requested approval to post amendments to Inscription on Vehicles Rule requesting exemption for situations where department vehicles may need to be operated in areas where identification as a department vehicle may create risks to the safety of department personnel. **A motion was made by Commissioner Steen seconded by Commissioner Polunsky approving posting of amendment. Motion passed unanimously.**
- B. Report, discussion and possible action regarding current laws pertaining to individuals with multiple offenses and removal of driver license
Colonel Baker and General Counsel Adkins provided information as requested by Commissioner Barth on current law pertaining to individuals with intoxication charges, license suspension and disqualification periods. No further action required.
- C. Report, discussion and possible action to authorize the Director to execute a deed conveying .1503 and .0275 acres of real property for highway purposes in Houston to the Department of Transportation under the authority of Transportation Code, Section 203.055
AD Wayne Mueller, Administration, requested approval to execute a deed conveying property in Houston to TxDOT to expand roadways. **A motion was made by Commissioner Steen seconded by Commissioner Polunsky approving the request. Motion passed unanimously.**
- D. Report, discussion and possible action regarding FY 2013 Internal Operating Budget
AD Denise Hudson, Finance, reported on the FY 2013 Internal Operating Budget. Changes have been made to increase FTEs for Driver License. **A motion was made by Commissioner Barth seconded by Commissioner Brown approving the 2013 operating budget and method of finance. Motion passed unanimously.**

- E. Report, discussion and possible action regarding FY 2014-2015 Exceptional Items to be included in the FY 2014-2015 Legislative Appropriations Request
AD Hudson provided an update on exceptional items. List is broken down into seven categories based on our goals with 30 line items. **A motion was made by Commissioner Brown seconded by Commissioner Steen approving exceptional items and priorities to be included in the LAR. Motion passed unanimously.**
- F. Report, discussion and possible action regarding live streaming video of Public Safety Commission meetings on the DPS website
Chairman Leon tabled this item for the July meeting.
- G. Report, discussion and possible action on Equal Employment Opportunity compliance/refresher training
Rhonda Fleming, EEO Officer, provided an update on New Hire & Compliance Online EEO Training. Since 2009, all employees have had EEO training at least twice. From January 2012 to present there have been 6 allegations, 16 sustained (unprofessional conduct), 44 allegations (no violation of 18.25 – referred to management).
- H. Report, discussion and possible action regarding criminal investigations as provided by Government Code 411.0041. This item may be presented in Executive Session

Executive Session (2:16:37)

The Commission adjourned into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations. Executive Session began at 1:30 p.m.

(2:16:45) The Public Safety Commission reconvened this open session at 2:54 p.m.

Ongoing Business (02:30:02)

Reports, discussion and possible action regarding the following:

- A. Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements
Chief of Staff, Robert Bodisch, reported the proposed comprehensive policy will be submitted to other divisions for input to be reported at the next meeting.
- B. Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071
No action.
- C. Report, discussion and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team
No action.

D. Report, discussion and possible action regarding discharge appeal hearing process and scheduling

- General Counsel Phillip Adkins advised that the Commission has discretion on appeal process policy (last revision was 7/15/10)
- Commissioner Brown stated we would not have the authority we have now if we transfer appeals to SOAH
- District Court appeal is only available to commissioned officers
- Discussion held on having separate date for discharge appeal hearings and there would be at least three hearings per meeting in addition to the one during the regular PSC meeting
- Commissioners Brown and Polunsky will work to consider statutory changes to the appeal process
- July 20th was suggested as the tentative date for the first discharge appeal hearing date
- Office of General Counsel will prepare three cases for July 20th

E. Report, discussion and possible action regarding communications from Texas Facilities Commission regarding leasing practices

- TFC Director Terry Keel and Mike Lacy discussed the Capitol Complex District
- Praised DPS for their presence in the Capitol Complex District which has resulted in a lower crime rate in the area
- Legislators are interested in making improvements to the underutilized properties in the District
- Legislature has formed a committee to work with the private sector to develop and lease space owned by the State
- TFC is also looking at the needs of the North Lamar location
- PSC Commission would like to be presented with a 10 year plan at a later date to discuss the vision for the future
- TFC is working on response to PSC on concerns
- Commissioner Polunsky requested a list of everyone who receives RFPs
- Commissioner Barth requested a list of recipients on the RFP for the mega centers
- Mega center updated included discussion on problems associated with Fort Worth mega center

F. Update, report, discussion and possible action on the presentation of the Office of Inspector General 2011 Annual Report of Operations and OIG resource allocations/regional assignments of personnel

- Inspector General Stuart Platt discussed proposal for additional FTEs for OIG
- Adequate resources and staff are not available to carry out the program
- Presented justification for moving away from the TAIG program (48 day average)
- IG Platt discussed quotes from Representative Kolkhorst and her vision for the OIG
- Commissioner Brown and Director McCraw would like to keep TAIG and conduct a pilot program with assigned staff
- Commissioner Barth tasked Amanda Arriaga to set up a meeting with Representative Kolkhorst to further discuss OIG vision

- G. Report, discussion and possible action on Driver License monthly updates**
No further discussion based on information already submitted in the binder.
- H. Report, discussion, and possible action regarding the adoption of reorganized Chapter 15, Driver License Rules, Subchapter J, Driver Responsibility Program, including: amendments to Rule 15.161 and Rule 15.162, 37 TAC Sec. 15.161 and Sec. 15.162, repeal of Rule 15.163, 37 TAC Sec. 15.163, and new Rules 15.163 – 15.166, 37 TAC Secs. 15.163 – 15.166, as previously published in the Texas Register**
AD Rebecca Davio, Driver License, requested adoption of Driver License Rule, Driver Responsibility Program. No comments received. **A motion was made by Commissioner Barth seconded by Commissioner Steen approving adoption of rule. Motion passed unanimously.**
- I. Report, discussion, and possible action regarding adoption of amendments to Safety Responsibility Regulations: Rule 25.7, 37 TAC Sec. 25.7 concerning the application for a self-insurance certificate, as previously published in the Texas Register**
AD Rebecca Davio requested adoption of amendments to Safety Responsibility Regulations regarding self-insurance certificates. No comments received. **A motion was made by Commissioner Steen seconded by Commissioner Polunsky approving adoption of amendments. Motion passed unanimously.**
- J. Report, discussion and possible action on the Fiscal Year 2012 Operating Budget**
- K. Report, discussion and possible action regarding purchases using seized funds**
- L. Update report, discussion and possible action regarding recruitment**
-DAD Frank Woodall discussed pending applications that have been submitted for consideration for recruit school
-Only 1% of applications submitted are cleared for the application process
-There are approximately 75 – 80 recruits for the school scheduled to begin in July (graduation 12/19/12)
-Proposed date for next school is mid January 2013
-We have some employees who are eligible for the \$2,000 recruitment bonus that have requested money be given to the recruit
-The A-2012 recruit class is scheduled to graduate on June 22nd at 10 a.m.
- M. Report, discussion and possible action regarding Emergency Management's procurement status of RFP for audit services with respect to Federal monies for past grants**
AD Nim Kidd, Emergency Management, had nothing to report except they are working with the Chief Auditor's Office on audit services
- N. Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office. Updates regarding status of semi-annual follow-up, contract management, emergency response supplies, compliance audit of records retention requirements, internal control/risk management and bulk fuel tanks-cost benefit audits**
Chairman Leon tabled this item for the July meeting and it will be given priority on the agenda.

O. Review of pending contract/renewal/change order/awards from Contract Review Board

1. Airplane – Pilatus Single Engine, High Altitude

AD Wayne Mueller, Administration, reported the Contract Review Board approved a contract for \$7.46 million for the purchase of a high altitude plane and are awaiting final sign off from General Counsel to proceed. Chief Nabors estimates delivery of plane in March 2013.

Reports (04:35:52)

- A. Commission member reports and discussion** - None
- B. Finance Report** - None
- C. Chief Auditors Office** - None
- D. Division status reports on activities and action** - None

- Commissioner Barth would like a one-page summary on contracts needing to be presented to the PSC (Phillip Adkins)
- Commissioner Brown requested weekly updates for the Garland office (Rebecca Davio)
- Commissioner Barth requested update on MSB (Rebecca Davio)
- Commissioner Barth requested PSC members be copied on all letters responded by the Department that are addressed or forwarded to them from the public
- Commissioner Steen requested investigation on employees accepting gratuities as stated during the Michael Deck hearing

Consent Items (04:36:02)

- A. Discussion and possible action on the Director's action of discharging probationary employee Debra Walker**
- B. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024; Special Ranger: Edgar A Brecher Jr, Edward L Duncan, Michael E Gullledge, Joel D McKinney, James W Morgan, Jose Munoz, James L O'Shields, Kent A Paluga, Richard Ray and Juan M Rodriguez; Special Texas Ranger: Arthur J Miller**

A motion was made by Commissioner Steen seconded by Commissioner Brown approving Consent Items A and B. Motion passed unanimously.

Items for Future Agenda

- Live Streaming Video of PSC Meetings
- Ethics Policy
- OIG Personnel Allocations
- Recruitment – move up on the agenda
- CAO Report – move up on the agenda

Date for Future Meeting

The next Public Safety Commission meeting is scheduled for July 19, 2012 starting at 9:00 a.m. in Austin, Texas and will include a discharge appeal hearing. In addition, three discharge appeal hearings will be held on July 20, 2012.

Adjourn (04:37:39)

The meeting was adjourned at 5:14 p.m.

Read and approved this 19th day of July, 2012.


Chairman

IN THE MATTER OF

THE APPEAL OF DISCHARGE OF

MICHAEL DECK

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§
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§
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BEFORE THE

PUBLIC SAFETY COMMISSION

IN AUSTIN, TRAVIS COUNTY, TX

ORDER

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Michael Deck, on the 21st day of June, 2012. Mr. Deck received adequate notice of the hearing on this matter and did appear in person and through counsel. Pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above-captioned matter.

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

On motion of Comm. Polunsky, seconded by Comm. Brown, the discharge was affirmed.

ENTERED AND SIGNED on the 21st day of June, 2012.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On June 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter J
Sections 15.161 – 15.166

The Texas Department of Public Safety (the department) adopts amendments to Section 15.161 and Section 15.162 and new Sections 15.163 – 15.166, concerning Driver Responsibility Program. These sections are adopted without changes to the proposed text as published in the May 11, 2012 issue of the *Texas Register* (37 TexReg 3522) and will not be republished.

The adoption of this proposal is necessary to reorganize existing language, improve the clarity of Subchapter J, and is required by House Bill 2730 enacted during the 81st Legislative Session and House Bill 588 and House Bill 2851 enacted during the 82nd Legislative Session. The statutory changes required by these bills were effective September 1, 2011.

The amendments to Section 15.161, concerning General Information, are adopted to conform to the statutory changes of House Bill 2730. Texas Transportation Code, Sections 708.056, 708.151 and 708.159 were amended to allow the department to reduce points; extend the period before payment is required after the notification of the surcharge assessment; and allow for advance payment of all three years of surcharges; respectively.

Texas Transportation Code, Chapter 708 requires an individual to be assessed a surcharge annually during a 36-month period. The statute was revised to provide an individual the ability to pay all three years in advance. This requires the department to assess all three years up front and discontinue annual surcharge notices. Currently, an individual receives one notice and has 30 days to comply with the surcharge before suspension action. The adopted revisions provide an individual more time to comply before driving privileges are suspended. Furthermore, the adopted revisions allow the department the ability to reduce points accumulated on an individual's record, as required by statutory amendment.

The amendments to Section 15.162, concerning Surcharge Payments, are adopted to conform to the statutory changes of House Bill 2730 and House Bill 588. Texas Transportation Code, Section 708.153 and Section 708.154 were amended to require the costs associated with credit card payments to be paid by the customer and extend the monthly installment agreement periods for payment respectively. Currently, an individual has a limited number of months to pay, which results in higher monthly installment payment amounts. The adopted revision increases the time an individual has to pay and reduces the overall monthly payment amount. The revision for credit card payments was implemented as an operating process in 2010, and any individual paying by credit card also pays associated costs. The language for payments due on the 29th, 30th or 31st of each month is removed as those days are not assigned as due dates.

New Section 15.163, concerning Military Deployment Deferral Program, is adopted to conform to the statutory changes of House Bill 2851. Texas Transportation Code, Section 708.106 was added to allow the department to defer payment for active duty military deployed outside the continental United States. Currently, there is not a process available to delay payments for deployed United States Armed Forces

personnel. The adopted revision provides a deferral period to allow deployed military personnel to remain in compliance with the law.

New Section 15.164, concerning Amnesty Program, is the original language from former Section 15.163(a) and has been moved to reorganize and improve the clarity of Subchapter J. Other than deleting the words amnesty program from the beginning of the section no changes have been made to the original text.

New Section 15.165, concerning Incentive Program, incorporates language added to Texas Transportation Code, Section 708.157 by HB 588 which requires the implementation of the department's incentive program. The adopted revisions allow for immediate implementation of the incentive program. The language was also revised to reduce it to one program and streamline the process to match the advance payment revisions in Section 15.162.

The incentive program will apply only to individuals who are living above 125% and below 300% of the poverty level and pay a one-time reduced amount in full. In 2010, it was estimated that 39% of individuals would be eligible for the incentive program. The estimated fees waived annually would be approximately \$23 million. The 2010 estimate is consistent with current department projections under the new adopted rules. The department does not anticipate a revenue gain or loss with the other rule revisions as the changes do not significantly impact the overall process.

New Section 15.166, concerning Indigency Program, is the original language from former Section 15.163(c) and has been moved to reorganize and improve the clarity of Subchapter J. Other than deleting the words indigency program from the beginning of the section no changes have been made to the original text.

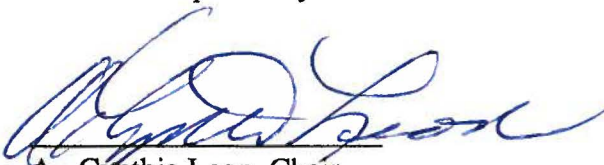
No comments were received regarding the adoption of these amendments and new sections.

These amendments and new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Transportation Code, Chapter 708, Sections 708.056, 708.105, 708.106, 708.151, 708.153, 708.154, 708.157 and 708.159.

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.



A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On June 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter J
Section 15.163

The Texas Department of Public Safety (the department) adopts the repeal of Section 15.163, concerning Amnesty, Incentive and Indigency Programs. This repeal is adopted without changes to the proposed text as published in the May 11, 2012 issue of the *Texas Register* (37 TexReg 3525) and will not be republished.

The repeal of this section is adopted simultaneously with amendments to Section 15.161 and Section 15.162 and new Sections 15.163 - 15.166 and is necessary to reorganize existing language and improve the clarity of Subchapter J.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Transportation Code, Chapter 708, Sections 708.056, 708.105, 708.106, 708.151, 708.153, 708.154, 708.157 and 708.159.

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.

A handwritten signature in blue ink, appearing to read 'Cynthia Leon', is written over a horizontal line.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On June 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Safety Responsibility Regulations
Title 37 T.A.C. Part I, Chapter 25
Section 25.7

The Texas Department of Public Safety (the department) adopts amendments to Section 25.7, concerning Self-Insurance. This section is adopted without changes to the proposed text as published in the May 11, 2012 issue of the *Texas Register* (37 TexReg 3526) and will not be republished.

The adopted amendments are necessary to change the liability amount for self-insurance to conform to the minimum liability amounts reflected in Transportation Code, Section 601.072. The liability limits for motor vehicle insurance coverage increased to \$30,000 for bodily injury to or death of one person in one crash, \$60,000 for bodily injury to or death of two or more persons in one crash and \$25,000 for damage to or destruction of property of others in one crash effective January 1, 2011.

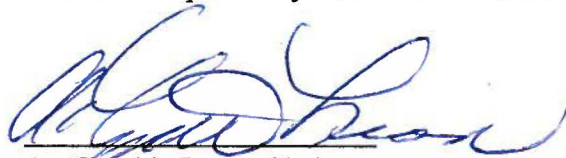
No comments were received regarding the adoption of these amendments.

This amendment is adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work, and Transportation Code, Section 601.072.

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.

A handwritten signature in blue ink, appearing to read 'A. Cynthia Leon', is written over a horizontal line.

A. Cynthia Leon, Chair
Public Safety Commission

**RESOLUTION BY THE PUBLIC SAFETY COMMISSION
OF THE STATE OF TEXAS**

WHEREAS, .1503 acres of real property, located at 10080 Northwest Freeway, Houston, Texas (Parcel 331B) currently deeded to the State of Texas for the Texas Department of Public Safety ("TXDPS") and .0275 of an acre located at 4545 Dacoma, Houston, Texas (Parcel 331A) currently deeded to the State of Texas for the use and benefit of the Texas Department of Public Safety ("TXDPS");

WHEREAS, the Texas Department of Transportation ("TXDOT") has requested to purchase fee simple title to each parcel for state highway purposes in exchange for consideration of \$77,383;

WHEREAS, the authority for TXDOT to acquire state agency real property and for a state agency to convey real property to TXDOT is found in Chapter 203 of the Texas Transportation Code, Subchapter D;

WHEREAS, Texas Transportation Code, Section 203.055 authorizes a state agency to convey to TXDOT real property that may be necessary to accomplish TXDOT's purposes—on terms the state agency determines to be reasonable and fair and without advertisement or other action, other than the regular and formal action of the agency concerned;

WHEREAS, Texas Transportation Code, Section 203.058 requires that TXDOT adequately compensate a state agency for real property acquired by TXDOT under Subchapter D; and

WHEREAS, an independent, certified appraiser has appraised the value of Parcel 331B at \$113,214 and the value of Parcel 331A at \$20,776, which is equal to the consideration offered by TXDOT;

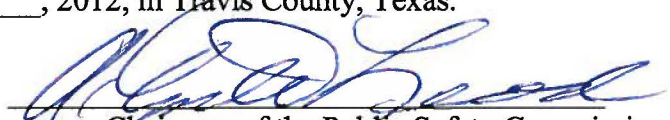
BE IT RESOLVED BY THE PUBLIC SAFETY COMMISSION OF THE STATE OF TEXAS:

That the conveyance of the Property by TXDPS to TXDOT is hereby approved.

That the Director of Public Safety is hereby authorized to execute all necessary documents and instruments to effectuate the conveyance of the Property to TXDOT.

This resolution was considered and approved by a majority of the members of the Public Safety

Commission of the State of Texas at its Open Meeting held on the 21st day of
June, 2012, in Travis County, Texas.


Chairman of the Public Safety Commission

SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS
June 2012


Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Brecher, Edgar A., Jr.	THP	CVE/Kerrville	09/30/93	31 years	✓
Duncan, Edward L.	THP	CVE/Brownwood	08/31/03	28 years	✓
Gulledge, Michael E	CID	Kerrville	08/31/02	29 years	✓
McKinney, Joel D.	THP	CVE/State Capitol	06/30/08	33 years	✓
Morgan, James W.	CID	Hurst	04/30/12	27 years	✓
Munoz, Jose	THP	CVE/Fort Stockton	04/30/12	27 years	✓
O'Shields, James L.	THP	CVE/Coleman	08/31/03	22 years	✓
Paluga, Kent A.	RSD	McKinney	08/31/03	28 years	✓
Ray, Richard	THP	CVE/Amarillo	04/06/12	23 years	✓
Rodriguez, Juan M.	CID	McAllen	08/31/03	21 years	✓

Special Texas Ranger Applicant:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Miller, Arthur J.	Rangers	Del Rio	01/31/12	29 years	✓

Approved by the Public Safety Commission


Chairman

Date 6/21/12