

MINUTES
PUBLIC SAFETY COMMISSION
May 22, 2009
Austin, Texas

The Public Safety Commission met in Austin, Texas on May 22, 2009. Attending the meeting were Chairman Allan Polunsky, Commissioners Carin Barth, Tom Clowe, Ada Brown and John Steen. DPS staff members and guests were also present.

Call to order

The meeting was called to order by Chairman Polunsky at 10:40 a.m. All members were present. Proper notice had been posted.

Approval of Minutes

A motion was made by Commissioner Barth and seconded by Commissioner Steen approving the minutes for the April 16, 2009 and May 6, 2009 meetings. Motion carried unanimously.

Recognition

Colonel Beckworth recognized Troopers Edwin Carpenter, Diane Riojas and Antonio Rico for their heroic action at the Capitol on May 12, 2009, in a medical emergency involving State Representative Edmund Kuempel. Colonel Beckworth announced that these troopers will be honored on the House Floor next Wednesday. Chairman Polunsky stated he wanted to reiterate that these troopers saved Representative Kuempel's life and we cannot thank them enough. He further stated their actions are representative of what our troopers do on a day-to-day basis throughout Texas and he is happy the members of the legislature will see firsthand how well trained and competent our employees are. Chairman Polunsky thanked these troopers on behalf of the Commission for their professional conduct and quick thinking that saved something from being a catastrophic event.

Public comment

Don Dickson, an attorney from the Parker Law Firm representing the Texas State Troopers Association, commented on the past condescension of DPS employees to the Capitol Troopers. He stated they are outstanding ambassadors to DPS and it is "one DPS." Chairman Polunsky stated the Commission is committed to that statement.

New Business

Bryan Lane, Information Management Service, gave an overview of the recent Conficker virus infection and the proposed purchase of an intrusion detection and vulnerability identification system. There was some discussion on ownership versus leasing of the equipment. Chief Lane advised DPS is requesting the Commission's permission to enter into contract negotiations with AT&T & DIR for approximately \$700,000 per year for a 3 year term. Chairman Polunsky stated this item would be discussed in Executive Session (pursuant to 551.076, Gov. Code) and any action will be deferred until after that. At Chairman Polunsky's request, an explanation of the relationship with the Department of Information Resources (DIR) and contractual obligations was given by Chief Lane and Oscar Ybarra. There was some discussion on the possibility of an interagency contract with DIR for consulting and other services. Chairman Polunsky requested the Commissioners be kept updated on the progress of this possible interagency contract.

Bryan Lane gave an after action report on the computer virus containment. Commissioner Steen inquired if Chief Lane was satisfied with the 2 week lapse between the virus infection and

eradication. Chief Lane responded that it was too long and DPS was vulnerable as we did not have the patches in place to handle it. Commissioner Steen stated he appreciated the update reports made during the situation and he wanted to highlight a comment in the report that "TXDPS is confident that no customer or public data was exposed or compromised during the incident as the Conficker worm did not attack the agency's data, rather its ability to access that data."

Commissioner Barth asked about the DPS policy on use of thumb drives. Chief Lane stated they were to be used for business use only and when inserted these are scanned and any virus is eradicated. There was some discussion on automatic updates of the virus scan software and other agencies' policy regarding thumb drives.

Commissioner Brown stated she and Paula Logan, Human Resources, are continuing to review the DPS overtime and compensatory time policies, as well as that of other state agencies, and she would defer discussion on this item until a future meeting. Commissioner Clowe requested Commissioner Brown, as part of their study, educate the Commission on how DPS relates FLSA requirements to the employees and the history creating the agency's policy on awarding comp time and then paying overtime.

Colonel Beckworth gave an overview of some year-end repair and rehabilitation projects for which DPS requests to use seized funds. There was some discussion on the proposed items, if seized funds could be utilized and the seized fund balance. Commissioner Steen requested additional back-up information on the items. After discussion on the timeline for these proposed procurements, the Commission deferred any action on the item until they received additional information from Chief Ybarra.

Valerie Fulmer, Administration, and Melissa Atwood, Victim Services Coordinator, gave an overview of the department's Other Victim Assistance Grant application to the Office of the Attorney General. **Commissioner Steen moved for approval of this application and Commissioner Barth seconded the motion. For clarification of the motion, Stuart Platt read the attached resolution into the record. Commissioner Steen stated the wording in the Resolution is his motion and Commissioner Barth seconded it. Motion passed unanimously.**

Executive Session

The Commission went into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; and ongoing criminal investigations. Executive Session began at 11:50 a.m. and ended at 3:20 p.m.

New Business

Upon reconvening Regular Session, Bryan Lane, Information Management Service, stated he had no firm proposal at this time on the procurement of an information management intrusion detection system. Commissioner Clowe suggested he and Commissioner Barth be given authority to approve the contract when it is finalized as was done in the case of recent DL expenditures. **Commissioner Steen made a motion to that effect and Commissioner Brown seconded it. Motion carried unanimously.**

Oscar Ybarra gave a breakdown of the year-end projects that needed to be purchased in FY09 and those that could wait until next fiscal year. These will be discussed further at the July meeting at which time DPS will have definite dollar amounts. Chairman Polunsky asked Jack Colley, Emergency Management Division, to see if federal funds were available for the Galveston building repair.

Ongoing Business

Commissioner Clowe advised there would be a project management workshop on June 17 at 10:30 a.m. for planning regarding the development and administration of the project management plan and implementation of organizational changes.

Colonel Beckworth advised the Department defers any update on the revised organizational chart until after the PMO workshop.

Farrell Walker updated the Commission on the Internal Audit Services contract with Deloitte stating the audit is 80% complete.

Judy Brown, Linda Boline and Jimmy Weise gave an update on implementation of driver license reengineering and the new driver license system. Chief Brown gave an overview of difficulties with the new system installation at the Garland office. She stated DPS has delayed timelines for statewide roll-out of the system until all problems were resolved. There was some discussion on the length of processing time in the DL offices. Commissioner Barth suggested DPS continue to work on ways to decrease this processing time.

Commissioner Clowe stated he'd been advised the new DL did not read on the in-car computers. Linda Boline stated it does read the DL but there was some confusion on the new message and record format. Commissioner Clowe requested the Commission be kept informed if there were continuing problems with this. Chief Brown updated the Commission on the backlog on mail out of processed driver licenses.

Chief Brown gave an update on the transformation of the Driver License Division to a civilian model. She stated the legislature reduced the supervisory positions to 160 and those positions will be posted as soon as the skill sets had been determined.

Commissioner Brown stated she had held the first recruiting and training committee meetings wherein goals had been established and she defers any report until future meetings are held.

Michael Kelley provided an updated status regarding the ongoing Sunset Review bills and other legislation affecting the Department. He advised a house concurrent resolution was being considered in the legislature officially renaming Bldg. A to the Thomas A. Davis, Jr. Building as previously approved by the Commission. Commissioner Steen stated he was impressed with the power point presentation prepared by the Government Relations office.

Oscar Ybarra, Chief of Finance, updated the Commission on the status of the Department's Exceptional Items request.

Chief Valerie Fulmer gave an update on review and reconsideration of physical readiness standards for commissioned officers of the department.

Chief Fulmer advised a DHS security assessment team would be on campus June 9 through June 11 with an initial debriefing to be held on June 11.

Reports

Chief Oscar Ybarra briefed the Commission on projected budget shortfalls

Farrell Walker gave the Audit and Inspection report. He will begin to work with Commissioner Barth to develop the 2010 Audit Plan and appropriate staffing.

Valerie Fulmer gave the Administration Division report, including an update on the backlog of CHL issuance due to increased applications. There was some discussion on the length of time for CHL issuance and strategies to alleviate the backlog. Commissioner Steen requested an ongoing graph on the CHL process. Chief Fulmer gave an update on recruiting efforts, campus beautification and generator purchases.

Tom Ruocco, Criminal Law Enforcement Division, briefed the Commission on a recent kidnapping arrest, TDEX, and crime lab audit.

Judy Brown, Driver License Division, advised DPS had received notice of eviction from the Katy DL location and that other locations were being researched.

The Emergency Management Division report was given by Chief Jack Colley. He updated the Commission on the H1N1 virus operation and hurricane preparedness activities.

Chief David Baker presented the Texas Highway Patrol Division report with a briefing on the proposed recruiter vehicles. In response to Commissioner Steen's request for an update on crash activity reporting, Chief Baker stated there has been a decrease in errors in those reports.

Chief Tony Leal, Texas Rangers, gave an update on cold case hits and a recent DPS success story involving an Amber Alert where several DPS divisions had been involved. Commissioner Brown commented on the outstanding work of the forensic artist. Commissioner Clowe expressed his appreciation to Chief Leal for setting up a recent meeting between Ranger Captains and other division captains. He further stated this type of meeting is exemplary of the cooperation between the divisions and the relay of information to the field is very significant and important. Chief Leal stated the sharing of information with all employees was very important to Colonel Beckworth and the Division Chiefs are all attempting to make this happen.

Bryan Lane, Information Management Service, gave an update on the U.S. Marshall Service disconnecting from the computer information network due to a virus infection.

Consent items

1. Discussion and possible action on the Director's action of discharging probationary employees Lucy Gunter, Bethany Zabcik and Esther Galloway
2. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers
3. Discussion and possible action on adoption of proposed rules:
SCHOOL BUS SAFETY STANDARDS. Proposed new Rule 14.14, 37 TAC Sec. 14.14, regarding Minimum Driving Record Qualifications, as published in 34 TexReg 1789, March 13, 2009

Commissioner Brown moved to approve items 1 & 3 above. Commissioner Clowe seconded. Commissioner Steen asked Colonel Beckworth if there was anything in these items over which they should be concerned. Colonel Beckworth stated there was not. **Motion carried unanimously.**

Commissioner Brown moved that the following persons be appointed as Special Rangers and Special Texas Rangers: Jerry Allen, James Cochran, Carlos DeLaRosa III, Joseph Fedor III, Charles Gunn, David Hammonds, Curtis Hollis, Dennis Land, Ronald Morris, Armando Saenz, John Allen, Barry Caver and William Cawthon. Motion was seconded by Commissioner Clowe. Motion passed unanimously.

Future meeting date

A PMO workshop will take place on June 17, 2009 and the next regular meeting will be June 18, 2009.

Commissioner Steen challenged Colonel Beckworth to make the meetings more public friendly and urged future presentations of the type made by Michael Kelley. He also congratulated Colonel Beckworth on the birth of his first grandchild.

There being no further business, the meeting was adjourned at 5:03 p.m.

Read and approved this 18 day of June, 2009.


Chairman

IN THE MATTER OF § BEFORE THE

THE DISCHARGE OF § PUBLIC SAFETY COMMISSION

PROBATIONARY EMPLOYEES § IN AUSTIN, TRAVIS COUNTY, TX

Advice and Consent

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

Employee Name	Employee Title/Division	Date of Discharge
Lucy Gunter	Asst. Public Assistance Officer, Emergency Mgt.	04/14/09
Bethany Zabcik	Research Specialist I, Criminal Law Enforcement	04/17/09
Esther Galloway	Receptionist, Criminal Law Enforcement	04/30/09

Approved:

Allan B. Polunsky, Chairman
Public Safety Commission
Date: May 22, 2009

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On May 22, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Driver Qualifications
Title 37 T.A.C. Part I, Chapter 14
Subchapter B
Section Number 14.14

The Texas Department of Public Safety adopts new Chapter 14, Subchapter B, Section 14.14, concerning Minimum Driving Record Qualifications, without changes to the proposed text as published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1789).

Adoption of the new section is necessary in order to set forth minimum driving record requirements for drivers of school buses, school activity buses, and multifunction school activity buses.


No comments were received regarding adoption of the new section.

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; Texas Transportation Code, Section 521.005 which authorizes the Department to adopt rules necessary to administer this chapter; and Texas Transportation Code, Section 521.022, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses.

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