

MINUTES
PUBLIC SAFETY COMMISSION
September 20, 2005
Austin, Texas

The Public Safety Commission met in Austin, Texas on September 20, 2005. Attending the meeting were Chairman Colleen McHugh and Commissioners Carlos Cascos and Ernest Angelo, Jr.

DPS Staff members present:

Tommy Davis, Director
David McEathron, Assistant Director
Oscar Ybarra & Tom Haas, Accounting & Budget Control
Randy Elliston, Lamar Beckworth, Danny Knauth & Eugene Summerford, Highway Patrol Division
Gary Stone, Criminal Law Enforcement
Burt Christian, Administration
David Gavin, Crime Records
Judy Brown & Greg Gloria, Driver License
Ray Coffman, Jim Miller, Tony Leal & Dino Henderson, Texas Rangers
Farrell Walker & Robert Hawkins, Office of Audit & Inspection
Mary Ann Courter, General Counsel
Ed Kelly & Bryan Lane, Information Management Service
Lisa Block, Public Information Office
David Outon, Internal Affairs
Janie Smith, Legislative Liaison Office
Dorothy Wright, Secretary

Guests present:

Michael McElhaney, Governor's Office
Brenda Ackarman-Sioson, MCI
Anne O'Ryan, AAA

The meeting was called to order by Chairman McHugh. Proper notice had been posted.

- I. **Minutes.** Upon motion by Commissioner Angelo and seconded by Commissioner Cascos, the minutes of the August 16, 2005 meeting were approved.
- II. **Public comment.** There was no public comment.
- III. **Discharge appeal hearing of DPS employee Luis Rodriguez.** Luis Rodriguez appeared before the Commission to appeal his discharge. He was represented by Louis Leichter. DPS was represented by Phil Adkins. Court reporter was Leslie Kesterson of Esquire Deposition Services. Opening statements were made by both attorneys. All witnesses were sworn. Witnesses appearing for DPS were Mike Lesko, Patricia Molloy, Judith Miller and David Gavin, Crime Records Service. DPS Exhibits #1, 2 & 3 were submitted and accepted by the Commission. Witnesses appearing for appellant were

Luis Rodriguez and J. C. Villanueva and Greg Easley of the Crime Records Service. Closing statements were made by both attorneys.

- IV. **Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of purchase of real property.** The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters, including the Director's action of discharging Luis Rodriguez; Special Ranger and Special Texas Ranger commissions; pending and contemplated litigation; status of purchase of real property; and ongoing criminal investigations. Upon reconvening Regular Session, Commissioner McHugh announced that the Commission had discussed personnel matters, pending litigation and ongoing criminal investigations. A Special Ranger commission had been considered for DPS retiree Dean Rimbach and a Special Texas Ranger commission had been considered for Max M. Hartman of the Texas & Southwestern Cattle Raisers Association. Upon motion by Commissioner Angelo and seconded by Commissioner Cascos, Special Ranger and Special Texas Ranger commissions respectively were approved for the above named individuals. A motion was made by Commissioner Angelo and seconded by Commissioner McHugh affirming the Director's discharge of DPS employee Luis Rodriguez. Motion passed by majority vote with Commissioner Cascos abstaining. (see attached Order).
- V. **Miscellaneous.** Colonel Davis advised the Commission that the State Auditor's Office had sent notice they would be conducting an audit of our Academy Training Program and that we had this date received approval from the Governor's Office to enter into a consultant contract to evaluate our Recruit School active countermeasures training program. Jack Colley, Emergency Management Service, briefed the Commission on activities of EMS and DPS and coordination with other state and local agencies in conjunction with Hurricanes Katrina and Rita.
- VI. **Budget matters.** Oscar Ybarra gave the budget report. There was some discussion on rising gasoline prices and building projects utilizing Texas Public Finance funding.
 - A. **Approval of seized fund purchases.** Colonel Davis briefed the Commission on some proposed purchases utilizing seized funds. There was some discussion on these proposed purchases. Upon motion by Commissioner Angelo and seconded by Commissioner Cascos, the attached seized fund purchases were unanimously approved.
- VII. **Audit & Inspection report.** Farrell Walker gave the audit & inspection report. There was some discussion on the network monitoring audit report, network controls within the Department and the disaster recovery plan.
- VIII. **Division reports.** Burt Christian gave the Administration Division report. There was some discussion on the training academy review, polygraph testing for recruit applicants and ongoing building projects. The Texas Highway Patrol Division report was given by Randy Elliston. There was some discussion on ongoing and available resources for Hurricanes Katrina and Rita. Judy Brown gave the Driver License Division report, including an update on the DL reengineering project, a federal grant for automated

conviction reporting, Patriot Act compliance, the recent CDL mismailing incident, and the temporary identification card issued for Hurricane Katrina evacuees. Judy Brown gave an update on the Driver Responsibility Program. The Criminal Law Enforcement Division report was given by Gary Stone. There was some discussion on criminal intelligence sharing and DNA analysis. Ray Coffman gave the Ranger Division report. The Information Management Service report was given by Ed Kelly. Colonel Davis gave a homeland security update.

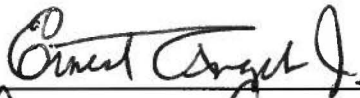
- IX. Discussion and ratification of suspension of Department rules, regulations and policies in response to the Governor's Emergency Proclamation of September 1, 2005, declaring a state of disaster.** Mary Ann Courter briefed the Commission on this item advising that DPS had suspended some rules and procedures in conjunction with the Hurricane Katrina evacuation. A motion was made by Commissioner Cascos, seconded by Commissioner Angelo and unanimously passed to ratify the suspension of statutes, rules and regulations that were implemented by the department in response to the Governor's September 1, 2005 Proclamation of emergency disaster and emergency conditions, which suspension of these statutes, rules and regulations to expire when the Governor's declaration of state of disaster expires.
- X. Billboard Advertising.** Colonel Davis and Chief Elliston updated the Commission on the proposal by Anheuser-Busch to use DPS insignia or the likeness of a DPS officer on billboards to promote public safety. A motion was made by Commissioner Angelo, seconded by Commissioner Cascos and unanimously passed approving the Anheuser-Busch proposal.
- XI. For publication for public comment.**
- A. Proposed amendments to Rules 23.1, 23.3, 23.8, 23.12-23.15, 23.21, 23.28, 23.51-23.53, 23.61, 23.73, 23.75, 23.76, 23.79 & 23.94 37 TAC Secs. 23.1, 23.3, 23.8, 23.12-23.15, 23.21, 23.28, 23.51-23.53, 23.61, 23.73, 23.75, 23.76, 23.79 & 23.94, relating to implementation of the automation of the motor vehicle inspection program requiring inspection stations to use TexasOnline to purchase inspection certificates and send records, reports and other required information to the Department**
 - B. Proposed repeal of Rule 23.17, 37 TAC Sec. 23.17, relating to Vehicle Inspection Station Licensing and the lease or sale of Inspection Station during suspension**
 - C. Proposed repeal of Rule 23.25, 37 TAC Sec. 23.25, relating to Vehicle Inspection Station Licensing and safeguarding certificates**
 - D. Proposed new Rules 23.18, 23.19, 23.25 & 23.81, 37 TAC Secs. 23.18, 23.19, 23.25 & 23.81, relating to implementation of the automation of the motor vehicle inspection program requiring inspection stations to use TexasOnline to purchase inspection certificates and second records, reports and other required information to the Department**
- Danny Knauth briefed the Commission on the above proposed amendments, repeals and new rules. Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the attached amendments, repeals and new rules were unanimously approved for publication for public comment.

XII. For adoption.

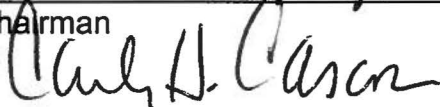
- A. Proposed amendment to Rule 35.39, 37 TAC Sec. 35.39, relating to Private Security and Uniform Requirements, as published in 30 TexReg 3979, July 8, 2005.** Burt Christian briefed the Commission on the proposed amendment. Upon motion by Commissioner Cascos and seconded by Commissioner Angelo, the attached amendment was unanimously approved for final adoption.
- B. Proposed new Rule 35.233, 37 TAC Sec. 35.233, relating to Private Security and Subscription Fee for Employee Information Updates, as published in 30 TexReg 4320, July 29, 2005.** Burt Christian briefed the Commission on the proposed new rule. Upon motion by Commissioner Angelo and seconded by Commissioner Cascos, the attached rule was unanimously approved for final adoption.

A motion was made by Commissioner Cascos and seconded by Commissioner Angelo adjourning the meeting.

Read and approved this 3rd day of November, 2005.



Chairman



Member

Member

2

**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 08/23/05

Division/Service/Section making request:

Texas Highway Patrol / Dive Team

Description Title: Dive Team Replacement Equipment

Description of Item(s) requested (attach request memo):

20' Zodiac boat	1 x \$30,000 =	\$30,000.00
15' Zodiac boat	2 x \$15,000 =	30,000.00
Surface-supplied air control system	1 x \$6,000 =	6,000.00
Bauer air compressor	1 x \$27,500 =	27,500.00
Diver buoyancy and breathing control system	14 x \$1,361 =	19,054.00
Aqua Pro Plus dry suits	20 x \$900 =	18,000.00
Pro HD Haz-mat dry suits	2 x \$2,000 =	4,000.00
Underwater metal detectors	6 x \$600 =	3,600.00

Describe Overall Impact of Request:

Replace aging equipment used by the Dive Team.

Equipment Location (circle one): Field Headquarters Both

Estimated Cost of this Request: \$138,154.00

RECOMMENDATION OF COMMITTEE:

☒ Approved

☐ Not Approved

Fund _____
Budget No. _____
Control Number _____

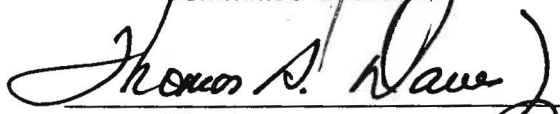
Reason if NOT Approved:



Committee Chairman

8.23.05

Date



Director

9-20-05

Date



for the Public Safety Commission

9.20.2005

Date

1

**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 08/23/05

Division/Service/Section making request:

Administration / Staff Support Service / Building Program

Description Title: Agency Telephone Replacement

Description of Item(s) requested (attach request memo):

Replace manufacturer discontinued Panasonic telephone systems with new technology that is supported by vendors and manufacturers.

Describe Overall Impact of Request:

The new telephone systems include direct inward dial and voice mail capabilities that will enable the agency to better serve the public 24/7. The proposed systems will meet the current and future needs of the office, i.e. voice over Internet protocol capability.

Equipment Location (circle one): Field Headquarters Both

Estimated Cost of this Request: \$668,100.00

RECOMMENDATION OF COMMITTEE:

☒ Approved

☐ Not Approved

Fund _____
Budget No. _____
Control Number _____

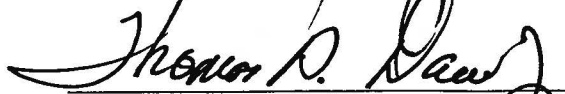
Reason if NOT Approved:



Committee Chairman

8.23.05

Date



Director

9.20.05

Date



for the Public Safety Commission

9.20.2005

Date

**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 08/23/05

Division/Service/Section making request:

Driver License Division / Field Service

Description Title: Digital Video surveillance systems

Description of Item(s) requested (attach request memo):

Digital video surveillance systems for field offices

Describe Overall Impact of Request:

The Driver License office is one of the state's first line of defense against terrorism and identity theft. The use of video surveillance equipment has proven to be effective in identifying fraud as it is happening and has been instrumental in identifying those perpetrating fraud.

Equipment Location (circle one): Field Headquarters Both

Estimated Cost of this Request: \$415,120.00

RECOMMENDATION OF COMMITTEE:

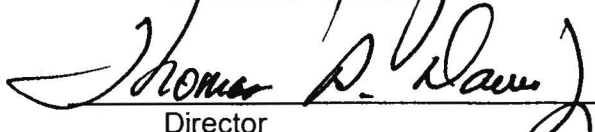
☒ Approved
☐ Not Approved

Fund _____
Budget No. _____
Control Number _____

Reason if NOT Approved:



Committee Chairman



Director



for the Public Safety Commission

8-23-05

Date

9-20-05

Date

9.20.2005

Date

**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 08/23/05

Division/Service/Section making request:

Driver License Division / Fraud Investigation Unit

Description Title: DL Investigation and Training Equipment

Description of Item(s) requested (attach request memo):

Fraudulent Document Recognition tools and covert surveillance equipment

Describe Overall Impact of Request:

Field offices need tools available in every office to detect fraudulent documents presented for original Texas driver licenses and identification cards. Employees continuously receive training, but will be unable to inspect documents without proper tools. Covert equipment will be used by DL Fraud Troopers to investigate internal fraud.

Equipment Location (circle one): Field Headquarters Both

Estimated Cost of this Request: \$109,606.00

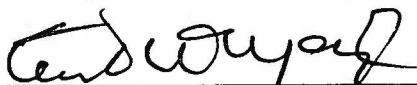
RECOMMENDATION OF COMMITTEE:

☒ Approved

☐ Not Approved

Fund _____
Budget No. _____
Control Number _____

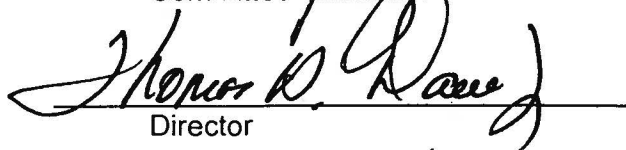
Reason if NOT Approved:



Committee Chairman

8.23.05

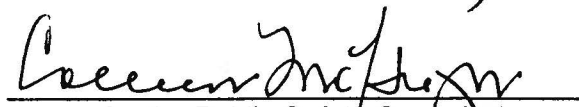
Date



Director

9-20-05

Date



for the Public Safety Commission

9.20.2005

Date

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**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 08/23/05

Division/Service/Section making request:

Criminal Law Enforcement

Description Title: M4 Rifle Case

Description of Item(s) requested (attach request memo):

Rifle case for purchase of M4 Carbine distributed throughout the agency.

Describe Overall Impact of Request:

With the expected purchase of the M4 Carbine, the present Mini-14 rifle case will not accommodate the new weapon.

Equipment Location (circle one): **Field** **Headquarters** **Both**

Estimated Cost of this Request: \$60,000.00

RECOMMENDATION OF COMMITTEE:

☒ Approved
☐ Not Approved

Fund _____
Budget No. _____
Control Number _____


Reason if NOT Approved:



Committee Chairman

8-23-05

Date



Director

9-20-05

Date



for the Public Safety Commission

9.21.2005

Date

**FORFEITED FUNDS EXPENDITURE REVIEW COMMITTEE
COMMITTEE ACTION REPORT**

Date: 04/20/04

Division/Service/Section making request:

Administration, Criminal Law Enforcement, Driver License, Texas Highway Patrol, and Texas Ranger Divisions

Description of Item(s) requested (attach request memo):

M-4 Carbine rifles

Describe Overall Impact of Request:

Ruger Mini-14 needs to be replaced by a gun that is accurate, durable, reliable, and resistant to rust and corrosion. The M-4 Carbine is compatible to several types of systems should gun attachments be necessary.

Equipment Location (circle one): Field Headquarters Both

Estimated Cost of this Request:

~~\$1,064,700~~

\$1,473,450 *Due*

RECOMMENDATION OF COMMITTEE:

 X Approved

 Not Approved

Fund

Budget No.

Control Number 04-017

Reason if NOT Approved:

Committee Chairman

Thomas P. David

Director

for the Public Safety Commission

Cecilia McPherson

for the Public Safety Commission

Date

9-20-05

Date

9.20.2005

Date

IN THE MATTER OF

THE APPEAL OF DISCHARGE OF

LUIS RODRIGUEZ

§
§
§
§
§

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 Luis Rodriguez, on the 20th day of September, 2005. Mr. Rodriguez 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 Luis Rodriguez and affirms the Director's decision in this matter.

On motion of Comm. Angelo, seconded by Comm. McHugh, the discharge was affirmed.

ENTERED AND SIGNED on the 20 day of September, 2005.



Colleen McHugh, Chairman
Public Safety Commission

MLA

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On September 20, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter O
Section Number 35.233

The Texas Department of Public Safety adopts new Section 35.233, concerning Subscription Fee for Employee Information Updates, without changes to the proposed text as published in the July 29, 2005, issue of the Texas Register (30 TexReg 4320).

Adoption of the new section is necessary in order for the department to provide a mechanism for the payment of a subscription fee for online employee information updates. This fee is in addition to the fee charged for the employee information updates. The Texas Online Authority has determined that the \$2.00 fee is reasonable.

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 Occupations Code, Chapter 1702, and Government Code, Section 2054.252(g), which allows the increase of fees by the Texas Online Authority.

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.


Colleen McHugh, Chairman
Public Safety Commission

MRP

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On September 20, 2005, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Private Security
Title 37 T.A.C. Part I, Chapter 35
Subchapter C
Section Number 35.39

The Texas Department of Public Safety adopts amendments to Section 35.39, concerning Private Security, without changes to the proposed text as published in the July 8, 2005, issue of the Texas Register (30 TexReg 3979).

Amendments to the section are necessary in order to delete subsections (e) and (f) and reformat current subsection (g) as new (e). The deletion of subsections (e) and (f) are necessary in order to eliminate a portion of the rule which has created confusion for the public and law enforcement.

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 Occupations Code, Section 1702.061(b), which authorizes the department to adopt rules to administer this chapter.

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.


Colleen McHugh, Chairman
Public Safety Commission

