

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OPEN MEETING
PUBLIC SAFETY COMMISSION
FEBRUARY 19TH, 2009

On the 19th day of February, 2009, the following meeting was held in Austin, Travis County, Texas.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

COMMISSIONERS OF THE PUBLIC SAFETY COMMISSION:

Allan B Polunsky, Chair

C. Tom Clowe, Jr

Carin Marcy Barth

Ada Brown

John Steen

DIRECTOR'S STAFF OF THE DEPARTMENT OF PUBLIC SAFETY:

Colonel Stanley E. Clark

Lt. Colonel Lamar Beckworth, Assistant Director

1 CHAIRMAN POLUNSKY: Commissioner Barth?

2 COMMISSIONER BARTH: Present.

3 CHAIRMAN POLUNSKY: Commissioner Brown?

4 COMMISSIONER BROWN: Present.

5 CHAIRMAN POLUNSKY: Commissioner Clowe?

6 COMMISSIONER CLOWE: Present.

7 CHAIRMAN POLUNSKY: Commissioner Steen?

8 COMMISSIONER STEEN: Present.

9 CHAIRMAN POLUNSKY: Let the record show
10 that I am present.

11 Pursuant to the relevant provisions of
12 the Texas Open Meetings Act, I now declare this meeting
13 of the Texas Public Safety Commission convened. It's
14 12:15 p.m.

15 The first item on the agenda is public
16 comment. Is there anybody here today who would like to
17 address the Public Safety Commission? And, if so, they
18 will be given five minutes each to address the
19 commission.

20 Mr. Dickson?

21 MR. DICKSON: Good afternoon, Mr.
22 Chairman. Good afternoon, Commissioners and Lieutenant
23 Colonel Beckworth. My name is Don Dickson. I'm an
24 attorney at the Austin office of the Parker Law firm
25 and I'm addressing you on behalf of the Texas State

1 Troopers Association. I had distributed some remarks
2 that I had intend to give today on a completely
3 different subject, but in light of this mornings
4 meeting of the Senate Finance Committee, I'm going to
5 leave those remarks to you to read at your leisure.
6 They are on the subject of discharge appeals and the
7 Just Cause Standard and they make reference to a
8 colloquy which occurred during the last commission
9 meeting -- or during the last discharge appeal, so I
10 commend those to you at your leisure.

11 Let me throw out the first pitch in
12 today's double-header, I think that we had a very
13 exciting meeting of the Senate Finance Committee this
14 morning. I think that the commission and the
15 department were very well received. And I was quite
16 startled, in fact, by the remarks of Senator Whitmire
17 regarding our exceptional Item Number 1. As the
18 commission and the colonels know, originally the first
19 draft of the department had over \$100 million in it for
20 pay raises, and in light of economic realities, the
21 commission, in a move with which we concurred and so
22 did the DPSOA, scaled that recommendation back to
23 reflect the pay raise numbers of the state auditor's
24 office. And I've discussed this with some of you
25 before, one of the pet peeves that I have about the

1 state auditor's process is that they determine the
2 average pay of these agencies and then decide that we
3 should have average pay, and as Senator Whitmire
4 observed, we should not have average pay, we should
5 have the best pay.

6 Earlier this week, I shared with the
7 chairman an anecdote regarding a very, very fine
8 trooper that we just lost to the Secret Service. That
9 is an indication of the cost of not paying competitive
10 wages. We spend millions of dollars training people
11 for the Secret Service and for the FBI and for the
12 Austin Police Department, so I would respectfully urge
13 you to go back, if not to the original number, at least
14 to something in between because it appears that that
15 number will be warmly received by members of the Senate
16 Finance Committee, or at least by some of them.

17 And I would offer a suggestion: One of
18 the things that we addressed to the Senate Finance
19 Committee was a proposal to enlarge the Step Program.
20 The Step Program is a tremendously valuable program
21 both for the department and for the department's
22 personnel. For the department, it gives the department
23 the flexibility to target saturated patrols on
24 stretches of highway where we know we have high
25 incidences of speeding and of drunk driving. From the

1 standpoint of the employees, it's a tremendously
2 valuable program because it affords your troopers the
3 opportunity to have control over how much they work and
4 how much they earn without resorting to secondary
5 employment. So some troopers don't work any step at
6 all because they'd rather spend their time at home with
7 the wife and kids. Some troopers have two house notes
8 and two car notes and four kids and they need the money
9 and they'll work all the step that you can give them.
10 So maybe as part of that exceptional item Number 1, I
11 would propose to you that we enlarge the Step Program
12 both for the benefit of the department and for the
13 benefit of its employees.

14 I was also particularly interested to
15 hear Senator Whitmore's comments about cages. I have
16 had many, many troopers over the years tell me how much
17 they want a cage and they don't understand why they
18 can't have one. I've also had probably an equal number
19 of troopers tell me they don't want one. Now, with the
20 additional cars that it looks like we're going to get,
21 I think that gives us a golden opportunity to allow
22 troopers to decide for themselves whether they want a
23 cage in their car. So whatever the cost of that is --
24 and I don't think the cages are tremendously expensive,
25 but whatever the cost is, you can probably cut it by

1 about half to reflect the officer's choice between
2 having one or not having one.

3 So with that said, I won't take up
4 anymore of your time. I commend these remarks to you
5 at your leisure and I look forward to working with all
6 of you.

7 CHAIRMAN POLUNSKY: Thank you, Mr.
8 Dickson. Let me just briefly respond to you if I
9 could. I think I speak for the commission, and that is
10 that we firmly believe that, in order to obtain the
11 vision that we have for where the department should be
12 and where it should be going into the 21st Century,
13 making it the absolute premiere law enforcement agency
14 in this country, that an important part of that is that
15 our personnel are the best and the brightest and that
16 we retain the best and the brightest, and part of that
17 is compensation. We need to be more than competitive
18 with respect to compensation. I was encouraged by the
19 remarks this morning as well by members of the Senate
20 Finance Committee and Senator Whitmire's in particular.
21 We'll see what we can do with respect to going back and
22 tweaking those numbers, and if they're tweakable, we
23 certainly will make every effort to succeed in doing
24 that, but at least I feel that we've taken a step
25 forward this morning in obtaining some compensation for

1 our people, and that's a good beginning and let's just
2 see if we can improve upon that. Your remarks about
3 the cages are also duly noted.

4 Would anybody else like to address the
5 commission at this time?

6 Sergeant Hawthorne?

7 SERGEANT HAWTHORNE: Mr. Chairman,
8 commission, I will be very brief. First of all, I'd
9 like to thank the commission for the support of
10 everything that you've done in salary compensations
11 with the Senate and the House and we will be there
12 steadfast with you in anything we can to make your goal
13 as a commission successful.

14 The biggest reason I'm here today is to
15 discuss just briefly Item 3B dealing with recruiting.
16 Mr. Chairman, I want you to reminisce a little bit when
17 you had a standing ovation at the Department of Public
18 Safety Officers Association Convention when you made
19 the statement that, as long as you were the chairman,
20 that we would not lower our standards or our trooper
21 training positions, and, once again, I want to thank
22 you for that and also those 200 members that were there
23 want to thank you for that. Over the years, we have
24 lowered our standards obviously I think to fill the
25 vacancies. You and I had a brief conversation, I feel

1 that sometimes those vacancies are what gives us the
2 opportunity to work on salary increases, so lowering
3 our standards or lowering our -- well, we'll just say
4 standards to hire these people I don't think is in our
5 best interest and our board of directors doesn't think
6 it's in our best interest.

7 One of the things that has puzzled a
8 number of people in the field is why the background
9 investigator and the background investigator's first
10 line supervisor no longer has a comments position or
11 has an opinion to whether or not that person is
12 acceptable for hire. It goes above us, and the
13 regional commander, I believe, makes that decision,
14 obviously above my pay grade, of whether they're
15 recommended or whether they're not, but what many
16 sergeants in the field do know is there were people
17 that were hired that had less-than-credible
18 backgrounds, that during the background procedure,
19 investigation procedure, most troopers and most
20 sergeants try and keep a one-on-one conversation with
21 the trooper doing the background -- where they're going
22 that day, who they're going to talk to, what they
23 found -- so most first-line supervisors have a pretty
24 good idea of who the individual is or the type of
25 character or background that the individual has, what

1 their credit report shows. I mean, the sergeants are
2 petty familiar with it, but for some reason, they've
3 been taken completely out of the loop and, like I said,
4 and then we later find that they're in our recruits
5 school. Why, I don't know, but what I do know is, just
6 recently I've polled 24 sergeants to this day from the
7 highway patrol division and I have not found one that
8 would rather have a questionable individual graduate
9 from the academy and come to their sergeant area than
10 carry a vacancy. They would rather have a vacancy,
11 manage their schedule, do whatever is necessary to
12 cover the sergeant area than have a less-than-credible
13 individual put out in the field for them to supervise
14 and manage.

15 And with that being said, thank you.

16 CHAIRMAN POLUNSKY: Thank you, Sergeant
17 Hawthorne. Are there any questions for Sergeant
18 Hawthorne?

19 Thank you, sir.

20 Is there anyone else that would like to
21 address the commission at this time? Thank you.

22 The next item is new business,
23 discussion and possible action regarding the use of
24 technology such as telephonic conferences or
25 videoconferencing for meetings of the Texas Public

1 Safety Commission, including proposing legislative
2 action to that effect for regular commission meetings.

3 MR. PLATT: Mr. Chairman, at the
4 direction of the commission, Commissioner Steen
5 suggested that we look into having other means of
6 meeting and get the transparency to comply with open
7 meetings requirements. What we've done is, in your
8 packets that you have is a legal brief regarding the
9 issues that we would face.. Our personal
10 recommendation, mine specifically, is that as to
11 telephonic hearings, because we're a statewide body, I
12 do not see any advantage to amending or changing the
13 statutory authority that already exists. What I do see
14 is -- because it requires an emergent situation, what I
15 do see is that as far as video conferencing, there is
16 not a requirement of an emergent situation, but there
17 is, because we're a statewide body, a requirement that
18 there be a quorum that would be, in most instances,
19 three commissioner present at a physical location, not
20 necessarily here. I think it would be advantageous for
21 us to explore an amendment or our own statute, such as
22 TDCJ and other agencies have, to carry the day in terms
23 of providing transparency through videoconferencing
24 but, yet, allowing them to use that in a non-emergent
25 circumstance, and that's our recommendation to you. If

1 you look at NXT, I think it explains the law. It was
2 an issue Commissioner Steen brought forward and we
3 researched it and believe that that would be the most
4 feasible and most transparent approach for the
5 commission to take.

6 CHAIRMAN POLUNSKY: Thank you,
7 Mr. Platt.

8 Mr. Steen, do you --

9 COMMISSIONER STEEN: Well, just to make
10 the point that, on this commission, we're volunteers
11 and we're all very busy in our private lives and I just
12 wanted to explore how we could make it easier to take
13 action, and we recently had this telephonic meeting
14 because we came up with this exceptional item that we
15 had to take action on and that's the reason I asked
16 Mr. Platt to look into it.

17 I would like to ask you this question:
18 Right now we have -- in order to have one of these
19 meetings like we had, it has to be deemed an emergency.

20 MR. PLATT: That's correct.

21 COMMISSIONER STEEN: And I read in your
22 briefing paper that, for example, under Government Code
23 551.121, universities may have telephonic special call
24 meetings where immediate action is required. Is there
25 a difference between the standard of immediate action

1 required versus emergency?

2 MR. PLATT: Basically there are very few
3 cases addressing the issue of what an emergent
4 situation is versus what an urgent situation is and
5 what require immediate action is, and so to answer your
6 question, the law is very ill-defined in that regard --
7 there are a couple of attorney generals' opinions out
8 there -- that's why I believe we're best to stay away
9 from making any change that alters the telephonic
10 conference provisions as a statewide body. My thought
11 is, let's always approach -- if we have an urgent
12 situation, we should be able to couch it in terms of
13 emergency and address it that way. Some of these other
14 statutes are pretty vague in that regard and there are
15 some cases in which there's been set aside some of the
16 actions taken by a commission or board. I prefer to
17 stay away from that.

18 COMMISSIONER STEEN: So you're saying
19 that you don't think there's anything to be gained to
20 seek something like what the universities have,
21 immediate action versus emergency?

22 MR. PLATT: I think that is even more
23 ambiguous than the term "emergent" if you look at the
24 advisory opinions.

25 COMMISSIONER STEEN: So you're saying

1 "emergent" but you mean emergency?"

2 MR. PLATT: Emergency, but an emergent
3 set of conditions. Now, I think it's even more
4 ambiguous. I prefer to stay away from being in an
5 ambiguous area of giving reports of the actions we've
6 taken.

7 COMMISSIONER STEEN: Thank you.

8 CHAIRMAN POLUNSKY: Are you satisfied,
9 Mr.. Steen?

10 COMMISSIONER STEEN: Thank you, yes.

11 CHAIRMAN POLUNSKY: Any discussion or
12 questions for Mr. Platt? Thank you.

13 Next item: Discussion and possible
14 action regarding department recruiting polices and
15 procedures, including the discussion of current and
16 future practices in formulation and implementation of
17 recruitment policy.

18 Chief Fulmer?

19 CHIEF FULMER: Good afternoon, Mr.
20 Chairman and commissioners. When we first met -- well,
21 when we met last month, we were going to provide a
22 report on recruiting and that has since expanded. I'm
23 going to introduce a bunch of people. I think we have
24 to bring a few extra chairs up. I think we're ready to
25 have a spirited discussion about the recruiting

1 process. And by "recruiting," we mean, in a larger
2 sense, the applicant acceptance process, how folks get
3 to the training academy and what happens with them when
4 they get there. I would say first up, certainly for
5 myself, I think for all of the folks that are going to
6 be speaking today, I may speak for the administration,
7 I'll let them tell you whether I do or not, that we
8 would echo the comments that DPSOA just made about
9 wanting to have the highest quality of folks and
10 wanting the standards to be high and preferring a
11 vacancy over someone who is not doing the department
12 good, so we certainly would echo that.

13 I have one probably semantics argument
14 with DPSOA. As far as the standards, he said the
15 standards have been lowered. It looks to me from these
16 discussions that what's been lowered is the enforcement
17 of the standards. They have not been being enforced in
18 current years, probably for the reasons that they're
19 looking at numbers. I don't think that's appropriate
20 and I don't think anyone who is involved in it today
21 thinks that's appropriate, so we want to let you guys
22 have sort of a brief background on how it's working
23 today. These folks have a lot of ideas for how they
24 think things should work in order to make sure we get
25 the best qualified individuals, so I'm going to not

1 take up anymore time but I would like to introduce
2 everyone that we've got here today so that you'll know
3 who you can draw on as you have question. I've got my
4 assistant chief, Sandra Fulenwider.

5 COMMISSIONER CLOWE: Before you do that,
6 may I say something?

7 CHAIRMAN POLUNSKY: Absolutely.

8 COMMISSIONER CLOWE: I heard what you
9 said and I think there's another part of that that is
10 extremely important, and for those of you who were at
11 the hearing this morning, the remarks that Chairman
12 Ogden made about integrity and the performance of
13 duties and those individuals who run afoul of the law
14 and misbehave, and that's about as kind as you can
15 label it I think, and when the colonel was answering
16 those questions, I was sitting there sort of
17 [indicating] and I refrained myself because I knew the
18 chairman would hit me over the head if I did, but if I
19 had been in your chair, I would have said, "We are
20 focused on this; it is of great concern; it is a
21 process," and, in my mind, it's a three-step process.
22 It begins with recruiting and the entrance into
23 employment by the DPS whether you're a commissioned
24 officer or noncommissioned, and the standards must be
25 high, and if they are high, then what you deal with

1 later is less problematic, and that goes to the part
2 that you just spoke to.

3 The second step, or second part, of the
4 process is the maintenance of standards, and when you
5 have a professional integrity unit or internal affairs,
6 whatever you call it, whether it reports to the
7 colonel, the director, or the board, or both, those are
8 organizationally determined, but the standards must be
9 maintained, and, in my mind, there's a high code of
10 ethics in this agency, but there are always exceptions
11 and it's the exceptions that reflect negatively and
12 poorly and are brought to the attention in some cases
13 in an unbalanced way by those who are interested in
14 that sort of thing.

15 And then the third step and important
16 part of it is the discipline, and it is the fact that
17 we live in a society where, when you do misbehave,
18 correct and balanced punishment must be sure and swift,
19 so you're dealing in your presentation with us here
20 this afternoon in my mind with the first part, but
21 there are two other parts that are very, very
22 important, and in your continuing conversations with
23 Chairman Ogden, I hope you will go back and use some of
24 what I've said this afternoon because I think that's
25 where I am on this issue. And, you know, I've read and

1 been embarrassed, and I think that's a proper word
2 because we're all embarrassed when somebody who wears
3 our badge or is our employee does something that's
4 illegal, immoral, or unethical, those are our
5 standards, but if we concentrate on these three areas,
6 we can perhaps not eliminate that but reduce it
7 substantially, and that's why the recruiting, as it
8 leads the way and opens the door to the academy and the
9 training, is so very important.

10 CHIEF FULMER: Absolutely. And to go to
11 your point, it is a moral issue for the vast majority
12 of our commissioned officers and our noncommissioned
13 folks who hold themselves to those high standards to
14 read in the paper about a colleague and that reflects
15 DPS, so absolutely.

16 There are several different parts of the
17 process that we're going to show you this afternoon and
18 it -- you're correct, it's a process. There is
19 recruiting that occurs in the field. The application
20 process begins in the field. There is the application
21 acceptance process here at the department at
22 headquarters. There is then the training academy. You
23 know, there are so many potential places where we have
24 got to ensure that we are weeding out the folks who
25 shouldn't be here, and there will always be someone who

1 will get through, and then at that point, we've have to
2 have a very robust and serious internal audit, whatever
3 you want to call them, and ensure that we're getting
4 rid of them at that point.

5 I've got -- I'm not sure the best order
6 to introduce them in. We've got Assistant Chief
7 Fulenwider, as I already mentioned. We also have,
8 representing human resources, Paula Logan, the director
9 of human resources. We also have Norma Cortez who I
10 want to introduce to you. She is our new assistant
11 director of human resources. This is -- this is a bit
12 of a departure for us. There has always been a
13 commissioned officer in that particular position and
14 we've got now someone who is experienced in HR in that
15 position and I think that's going to be a big help to
16 us. We also have Captain Phillip Ayala here. He has
17 recently been promoted to captain. He was our
18 lieutenant over the recruiting process for some time.
19 He is now the captain of HR and recruiting is still a
20 part of his responsibility, so he'll have a lot of
21 background information. We have returning Commander
22 Rodriguez and Captain Houghton and Lieutenant Griffin
23 from the training academy, so they can speak from their
24 perspective. We also have some folks here in the
25 field. We have a couple of our field recruiters. We

1 have Corporal Bill Angle and Corporal Leo Arieto and
2 Lieutenant Bob Gilbert, and then we also have Major Tim
3 Thompson with us. He is a regional commander and he
4 represents sort of the end of the field process and
5 what applications get to headquarters for us to review.

6 COMMISSIONER CLOWE: Is he here
7 illegally from Waco? He managed to leave McLennan
8 County?

9 CHIEF FULMER: Yes. Yes.

10 COMMISSIONER CLOWE: He's been stamped
11 in probably.

12 CHIEF FULMER: Most of the time we don't
13 let him near headquarters, but today he's here.

14 COMMISSIONER CLOWE: That's all right,
15 he's okay.

16 CHIEF FULMER: So I think we can
17 probably speak to every different aspect of the
18 program. So what I'd like to do is have Captain Ayala
19 come up and first give some background about the
20 recruiting process and how it occurs and the applicant
21 acceptance process.

22 CAPTAIN AYALA: Good afternoon. My name
23 is Phillip Ayala. I was recruiting coordinator for the
24 Department of Public safety for the last three and a
25 half years. I'd like to explain the recruitment and

1 also the other duties performed in that section. As I
2 said, I was the statewide coordinator with the
3 department's recruitment program. Part of my duties
4 included providing resource material to field
5 recruiters, testers and guidance to field personnel for
6 applicant testing and background investigations
7 relating to applicant's qualifications and
8 requirements. The other duties we perform down there,
9 we perform ongoing applicant testing for applicants
10 that are approved to receive -- that receive
11 recommended conditional job offers. We do that here at
12 Austin headquarters. That would include the physical
13 readiness testing, polygraph testing, psychological,
14 medical, vision, and any other tests that are required.

15 I'm also the statewide coordinator for
16 the departments physical readiness testing program for
17 incumbent employees, which also oversaw the incoming
18 documents from the field and also the job testing that
19 are performed here in Austin. We also handle
20 reinstatements for former employees, the processing of
21 their applications and the testing they receive to get
22 possibly back into the workforce group. We also handle
23 background investigations for noncommissioned
24 applicants for positions typically here at Austin
25 headquarters. And we do recruitment activities both in

1 and mostly out of state, for our out of state
2 applicants that we're trying to seek as well.. This is
3 done with four sergeants that work directly underneath
4 me that are all licensed polygraph examiners, four
5 corporals, and four clerks. And one thing also I'll
6 mention is, we also do the trooper training internship
7 coordination out in the field.

8 Again, with regards to the steps that we
9 actually handle here at Austin headquarters, we gave
10 you kind of a breakdown on the trooper training
11 applicant process, and typically steps eight through 15
12 are my sections responsibility, so once we receive the
13 files from the field that indicate that they have a --
14 they've been recommended for a conditional job offer,
15 then it's my charge to verify that they meet our
16 requirements, our entry level requirements, and then
17 schedule them for testing and then have all the tests
18 completed on them.

19 CHAIRMAN POLUNSKY: Could you walk us
20 through that?

21 CAPTAIN AYALA: Yes, sir. When the
22 files first come to Austin, we receive files from the
23 field that have been reviewed by the regional
24 commanders and they are indicated that they're
25 recommended for further consideration or that they're

1 not recommended. The ones that are not recommended,
2 typically we don't -- we don't do anything further with
3 them until the end of the process. The ones that
4 receive a recommendation by the regional commanders,
5 again, we scrutinize their files to verify that they
6 have all the basic qualifications that they initially
7 were supposed to have and check that all the documents
8 that they're required to have are in their files, run
9 updated criminal history checks and driver's license
10 checks on them to verify that we haven't had any
11 missteps in between their application with us and the
12 time that their files come to Austin, then we schedule
13 them for testing.

14 CHAIRMAN POLUNSKY: Let me ask you a
15 question: If you're already receiving a
16 non-recommendation, why does it go any further?

17 CAPTAIN AYALA: I'm sorry?

18 CHAIRMAN POLUNSKY: If you have received
19 something from the field from the commander stating
20 that this individual should not be invited to
21 participate in the academy training school, why is
22 that -- why is that not the end?

23 CAPTAIN AYALA: Well, it's --

24 CHAIRMAN POLUNSKY: Do you overturn
25 that?

1 CAPTAIN AYALA: No, sir. No, sir. I
2 don't have that authority to overturn that.

3 CHAIRMAN POLUNSKY: Who does?

4 CAPTAIN AYALA: It would have to be
5 either from the major himself that made the initial
6 recommendation or his chief or somebody up in the
7 higher chain of command.

8 CHAIRMAN POLUNSKY: How often does that
9 happen?

10 CAPTAIN AYALA: Very rarely.

11 CHAIRMAN POLUNSKY: But it does happen?

12 CAPTAIN AYALA: It did happen.

13 CHAIRMAN POLUNSKY: It did happen. What
14 does "it did happen" mean?

15 CAPTAIN AYALA: Meaning it happened in
16 the past but it hasn't occurred under this new
17 administration.

18 COMMISSIONER BROWN: Okay, I've got a
19 question: So when was the last time that this
20 happened, just ballpark, the last time we let somebody
21 in that got the thumbs down?

22 CAPTAIN AYALA: For the school that's
23 currently occurring right now.

24 COMMISSIONER BROWN: Okay. So we have
25 let people in for this current school that someone said

1 thumbs down, they made it in the school anyway?

2 CAPTAIN AYALA: That's correct.

3 COMMISSIONER BROWN: Let me ask you
4 this: Sergeant Hawthorne brought up something that
5 concerns me. What happened to this comment section?
6 Explain to me, in coming up with a recommendation, if
7 somebody who has face-to-face interaction with a
8 potential candidate, am I understanding the time frame,
9 is this where the comment section would come in?

10 CAPTAIN AYALA: On the end of the
11 background investigation, there formerly used to be
12 a -- the front cover page used to have a portion in it
13 where every part of the process -- the investigating
14 trooper, his supervisor, and right up the chain of
15 command had a portion where they could write comments
16 in there to indicate whether they felt the person was
17 suitable for employment or not.

18 COMMISSIONER BROWN: Why is that gone?

19 CAPTAIN AYALA: It was changed in 2006.
20 The exact reasoning, I don't know. I can only surmise.

21 COMMISSIONER BARTH: Can I push a little
22 bit? On a class of 125, what percentage were not
23 recommended?

24 CAPTAIN AYALA: One percent.

25 COMMISSIONER BARTH: So one or two

1 people every time?

2 CAPTAIN AYALA: Yes. There may be no
3 more than a handful, and I'd say maybe less than five.

4 COMMISSIONER BARTH: Thank you.

5 COMMISSIONER BROWN: Just one more
6 question. You mentioned that you were over the
7 polygraph examiners. Question for you: If I'm a
8 potential applicant and you have to polygraph and have
9 a problematic result, does my application go in the
10 special round file or do I keep trucking along through
11 the process? What happens if I flunk the polygraph
12 where there's something ethically questionable about
13 me?

14 CAPTAIN AYALA: Then it's certainly
15 evaluated and it's evaluated the entirety of the
16 process and we try to get every issue cleared up with
17 an applicant during the polygraph investigation phase
18 of it, so it involves additional tests if necessary.

19 COMMISSIONER BROWN: Okay. Let me ask
20 something more pointed: If I fail the polygraph, are
21 their people in this current school that have failed
22 the polygraph?

23 CAPTAIN AYALA: Yes.

24 COMMISSIONER BROWN: Wow. About how
25 many?

1 CAPTAIN AYALA: I don't know the exact
2 number, ma'am.

3 COMMISSIONER BARTH: More than a
4 handful?

5 CAPTAIN AYALA: Yes.

6 COMMISSIONER BROWN: Wow.

7 COMMISSIONER BARTH: What is the reading
8 comprehension test?

9 CAPTAIN AYALA: I'm sorry, ma'am?

10 COMMISSIONER BARTH: What is the reading
11 comprehension test? What level does a person have to
12 read?

13 CAPTAIN AYALA: I would say it's
14 probably closer to -- it's probably maybe at high
15 school level, at best.

16 COMMISSIONER BARTH: Eighth grade?

17 CAPTAIN AYALA: That's sounds about --

18 MS. LOGAN: It's ninth grade..

19 COMMISSIONER BARTH: But I'm sure we
20 have it somewhere where we know exactly what that is,
21 eight, ninth?

22 MS. LOGAN: Yeah, I'd have to look at
23 the old validations, but I believe it's ninth grade.

24 COMMISSIONER BARTH: Well, what about
25 they're writing skills?

1 MS. LOGAN: They're all similar.

2 COMMISSIONER BARTH: Okay. And then --

3 COMMISSIONER CLOWE: For the record, the
4 questions are being answered by Paula Logan, the
5 director of human resources from the audience.

6 COMMISSIONER BARTH: Okay. This
7 information you've provided us is interesting. I'd
8 really like to know what the -- what does the average
9 application look like today in terms of, if there's
10 such a thing as average, educational background, where
11 are they? Any college?

12 CAPTAIN AYALA: Yes. A lot from --
13 well, I mean, we get the applicants from varying
14 backgrounds on there. Some have college; some have
15 military; some have prior law enforcement. Some have a
16 combination of those that we actually use so if they
17 only have a certain number of hours, we can qualify
18 them with --

19 COMMISSIONER BARTH: Qualify them. Tell
20 me, a person who has completed high school -- I assume
21 everybody in this group completed high school. Right?

22 CAPTAIN AYALA: Yes, or has a GED.

23 COMMISSIONER BARTH: GED, okay. Then
24 what qualifies them if they don't have community
25 college?

1 CAPTAIN AYALA: If they don't have
2 college, they have to qualify with three years of -- or
3 36 months of active duty in the military with an
4 honorable discharge or three years of law enforcement,
5 which includes jailer experience, and then we also have
6 some qualifiers for department employees that were
7 noncommissioned employees here that would have
8 qualified with 36 months as well.

9 COMMISSIONER BARTH: So if you worked
10 here 36 month, you're saying you could then apply
11 for --

12 CAPTAIN AYALA: In certain occupations
13 here, yes, ma'am.

14 COMMISSIONER BARTH: Examples of
15 occupations?

16 CAPTAIN AYALA: I have a list of them.
17 Communications operator, driver's license examiner,
18 commercial vehicle enforcement inspector, commercial
19 vehicle enforcement investigator, or vehicle inspection
20 technician.

21 COMMISSIONER BARTH: What does a vehicle
22 inspection technician do? I don't mean to mince words;
23 I'm just trying to understand. You know, if they have
24 no college background, no college, they can serve in
25 the military for three years and we have this list of

1 jobs if you worked at in DPS, you can then apply to
2 officers training school. Is that right?

3 MS. LOGAN: A vehicle technician is the
4 people that go around and inspect the stations to make
5 sure that they're in compliance with our rules and
6 regulations on being a licensed vehicle inspection
7 station.

8 COMMISSIONER BARTH: And I want to make
9 it clear for the record, in no way am I taking any
10 shots at the workers of that job; I'm just trying to
11 understand what that job does. Okay?

12 And did you -- the last pool into this
13 academy, do you keep statistics with respect to how
14 many have come in because of active duty, how many come
15 in because of college graduate, and how many come in
16 because they've worked three years in the department?

17 MS. LOGAN: Yes, and we can get that
18 information to you.

19 COMMISSIONER BARTH: Could you give me
20 an approximate?

21 MS. LOGAN: I think Phil is right
22 probably most people have some college.

23 COMMISSIONER BARTH: Is that 12 hours or
24 is that sixty hours?

25 MS. LOGAN: I'd say, on average,

1 probably sixty hours. We have a pretty good number of
2 people that come in with a bachelor's degree. At a
3 minimum, they have -- if they don't have any of these
4 other experiences, they have to have an associates
5 degree or ninety hours, one of those two options, but a
6 lot of people do actually have bachelor's degrees, but
7 then probably another half of the school come in under
8 one of these other exceptions. A pretty big bunch of
9 those come from the military or have other law
10 enforcement jobs. I would say the people that come in
11 as jailers and department employees, I'm not going to
12 say they make up a real small percentage but probably
13 less than 20 percent.

14 COMMISSIONER BARTH: I think it would
15 be easier to see it, if that's readily available, just
16 to see the profile of the last four schools.

17 MS. LOGAN: Yes, and we can do that.

18 COMMISSIONER BARTH: Okay, that would be
19 very helpful for me to see, thanks.

20 Going back to the applicant pool and the
21 applications, do you verify college credits?

22 CAPTAIN AYALA: Absolutely.

23 COMMISSIONER BARTH: So they have to
24 provide a transcript?

25 CAPTAIN AYALA: Absolutely. It's got to

1 be a certified transcript and it has to be from a
2 college that's accredited through the accreditation
3 agencies.

4 COMMISSIONER BARTH: And how about
5 employment, job employment?

6 CAPTAIN AYALA: If they're coming from a
7 law enforcement background and they're using that as a
8 qualifier, we require a letter from their employer
9 indicating that they've been doing that.

10 COMMISSIONER BARTH: Do you verify the
11 validity of the letter?

12 CAPTAIN AYALA: Well, the background
13 investigator also has a big role in that as well, but
14 usually it's on a letterhead from the agencies.

15 MS. LOGAN: But they -- as part of the
16 background investigation, they interview all of the
17 prior employers.

18 COMMISSIONER BARTH: So they personally
19 interview every prior employer. And let's say they get
20 a mediocre, at best, recommendation from the employer,
21 what happens then? Does it matter?

22 MS. LOGAN: The background investigation
23 goes to the oral board and then the oral board makes a
24 recommendation of the candidate based partly on how
25 they perform at the interview, but probably mainly from

1 all of the information that's been garnered in their
2 file already, like their transcripts and their -- the
3 background investigation, which is like a 40-page form
4 that checks a lot of things, and so the oral board
5 makes a recommendation that's then reviewed by the
6 regional commander.

7 COMMISSIONER BARTH: Can you tell me the
8 composition of the oral board?

9 CAPTAIN AYALA: I'm sorry, the
10 composition of the oral board?

11 COMMISSIONER BARTH: Yes.

12 CAPTAIN AYALA: It's made up of six
13 members on there usually.

14 COMMISSIONER BARTH: So those six
15 members will go through the 150 or more applications.
16 Is that right?

17 MS. LOGAN: We have a board in each
18 region and so each of them will do about -- yes. And,
19 actually, the 120 is the people we get here in Austin.
20 There's probably another 500 files that were
21 interviewed that don't make it to the recommended
22 status.

23 COMMISSIONER BARTH: Okay. And is there
24 like a weight that you assign to each one of these
25 factors such that -- let's just say they got -- they

1 failed the polygraph test, did real well on the writing
2 and reading, and got mediocre job references -- which
3 is sort of hard to believe because no one puts down job
4 references.

5 MS. LOGAN: The reading and writing is a
6 pass/fail test. They either pass it or they don't.

7 COMMISSIONER BARTH: So they pass the
8 reading and writing but they get -- the line that says,
9 I can verify that the person worked during these days,
10 which in this day and age is a signal, and they fail
11 the polygraph, would that person get through?

12 MS. LOGAN: If they were recommended by
13 the oral board as a candidate and by their regional
14 commander and then they came to headquarters and they
15 didn't fail any of the medical or anything like that
16 and they indicated that -- the polygraph indicated
17 deception but we were not able to ever substantiate any
18 of that, then, yes, they would be hired.

19 COMMISSIONER BARTH: I'm just trying to
20 figure out how much is objective and how much is
21 subjective.

22 COMMISSIONER BROWN: Let me chime in for
23 just a moment. On a polygraph, for example -- you
24 know, I used to order polygraphs on defendants. If I
25 hook you up and ask, "Have you ever molested a child

1 and you say no and it indicates deception, the only way
2 that you would have objective proof if I'm right is
3 some child would come forward from somewhere and say,
4 "That man molested me." Right?

5 MS. LOGAN: Well, what we try to do is
6 send the file back out to the field and say, you
7 know -- the polygraph is an investigative process. We
8 actually get a lot of people to admit to a lot of
9 things that you wouldn't even believe that people would
10 admit to because they're somewhat skeptical of how
11 they'll pass the polygraph, but if we get somebody
12 that's adamant they don't know why they're not passing
13 but they have not done any of those things, and there's
14 nothing in their background that indicated it, we will
15 send it back out to the field and say, "This person is
16 showing up and they're showing up in this area, you
17 know, we think it's related to a major felony, can you
18 look at them again? In other words, can you ask a few
19 more questions? Can you see if you can hear any
20 rumors?"

21 And we haven't done that as much in the
22 past, but we're starting to do that even more now, but,
23 ultimately, I guess, if we aren't able to substantiate
24 it at all, then we have no information to go on other
25 than a polygraph where the person may have indicated

1 deception.

2 COMMISSIONER BROWN: I guess my concern
3 is, if I'm Jane citizen with my kid in the car and I'm
4 out in some backwoods in Texas and you've hooked up a
5 guy and asked him, "Have you ever raped a woman and her
6 child?" and he's deceptive and you give him a badge
7 because you can't prove otherwise, I have a problem
8 with that.

9 MS. LOGAN: The polygraph doesn't ask
10 specific questions like that.

11 COMMISSIONER BROWN: Well, I mean, I'm
12 familiar enough with polygraphs. I assume that you're
13 asking specific questions like, "Are you into sex with
14 animals? Are you into sex with children?" I'm not
15 trying to be offensive, but don't you ask poignant
16 questions?

17 MS. LOGAN: As the pre-polygraph
18 portion, yes, we ask like 100 or so of those kinds of
19 questions and then they ask four or five major
20 questions saying, "Are you lying about anything related
21 to your qualifications? Are you lying about anything
22 related to your criminal history? Are you lying about
23 anything about your medical history? Are you lying
24 about your reasons for wanting to come to work for the
25 department?" And so then you're focused down into an

1 area and so then it's -- and Phillip is an actual
2 polygraph operator so he may answer this question
3 better.

4 Do you want to take over?

5 CAPTAIN AYALA: We can certainly -- if
6 we get an area of deception on the test, or multiple
7 areas of deception, based on the scoring criteria on
8 there, we'll go after the area that's the most hottest
9 on it, so if it has to do with drugs, then we'll focus
10 the attention and the questioning so that we're getting
11 close to that, and we get the applicant, once they
12 realize that we are keying in on the area that they're
13 having problems with, to give admissions so we can
14 attempt to clear them up.

15 COMMISSIONER BROWN: Well, and take my
16 example, then, so you're telling me that you don't ask
17 a specific question but you play hot and cold with them
18 with deception, so, for example -- take my example of a
19 woman and child in the backwoods of Texas, and if
20 there's some deception and we're talking about sexual
21 misconduct and you can't disprove it but I can't pass
22 the polygraph, are we still letting these people in?

23 MS. LOGAN: Yes.

24 COMMISSIONER BROWN: One more question:
25 Do we have any idea what percentage of people who are

1 rejected by other agencies are successful applicants
2 with DPS?

3 CAPTAIN AYALA: I don't know the exact
4 numbers.

5 COMMISSIONER BROWN: Ballpark?

6 CAPTAIN AYALA: We've had some that have
7 come to us who have had polygraphs and either passed
8 our examinations or not and there's probably been some
9 that we've hired that were rejected by other agencies.

10 CHAIRMAN POLUNSKY: So why don't you
11 know that?

12 CAPTAIN AYALA: Know what, sir?

13 CHAIRMAN POLUNSKY: Why don't you know
14 whether somebody has been rejected by another agency?

15 CAPTAIN AYALA: Well, I don't know a
16 number for you, sir. I know we have applicants that
17 have been rejected by other agencies that have applied
18 through our process and we're aware of that and we know
19 that they've taken polygraph exams for other agencies
20 as well because it's on the front page, so we know
21 going into it that they have been polygraphed before.

22 MS. LOGAN: We have the raw data, so if
23 you want us to look at those numbers, we can go back to
24 the last school and look at their files and get that
25 information.

1 CHAIRMAN POLUNSKY: I think you should
2 go back to many schools in the past.

3 MS. LOGAN: We haven't been doing the
4 polygraphs but except since 2005.

5 CAPTAIN AYALA: 2006.

6 COMMISSIONER BARTH: Well, one of those
7 should be the polygraph if they've been rejected by
8 another agency and then hired by us. I mean, you
9 wouldn't necessarily --

10 CHAIRMAN POLUNSKY: I mean, don't you
11 have something on your application, "Have you been
12 rejected by another police agency, yes or no?"

13 MS. LOGAN: Yes..

14 CAPTAIN AYALA: Yes.

15 CHAIRMAN POLUNSKY: And if the answer is
16 yes, isn't that enough to disqualify them right there
17 or have some really good reason why they shouldn't be
18 disqualified?

19 MS. LOGAN: That rejection -- or that
20 area is done in the background investigation and
21 they're aware of that, but we don't have any criteria
22 to reject people right now based on not being hired by
23 another agency.

24 CHAIRMAN POLUNSKY: Well, shouldn't you?
25 Doesn't that light a bulb somewhere?

1 MS. LOGAN: I think right now -- I guess
2 there can be a lot of reasons somebody is rejected and
3 we might need to get the oral board to -- or the
4 background investigator to make sure that they
5 investigate that level and make sure that the person
6 making the recommendation, like the regional commander,
7 is aware of that so they can know if it's a reason like
8 they just didn't pass their physical fitness test but
9 then they've gotten in better shape later on, that that
10 wouldn't be an automatic rejection, but if it was based
11 on their criminal history, that we would --

12 CHAIRMAN POLUNSKY: But you don't have
13 that in place now, from what you're saying. Is that
14 correct?

15 MS. LOGAN: No. No, we do not. What
16 I'm saying is that that is certainly something we can
17 do, but, no, we don't have it in place now.

18 COMMISSIONER BARTH: I think I'd like to
19 recommend that we ask Colonel Clark to put a working
20 group together very quickly to take a look at our
21 current recruiting policies, take a look at whatever
22 metrics we use to measure the applicant as well as to
23 be able to, at least myself and I suspect the other
24 commissioners, have some way of seeing what the pool is
25 that's going into the training academy. That would be

1 my recommendation.

2 CHAIRMAN POLUNSKY: Well, that's where
3 this is going to end up, there's no question about
4 that, so, yes, the answer is, we're going to end up
5 doing that, but I'm not done with all of this. I'm
6 very, very troubled by this entire process. There's
7 all sorts of problematic issues that keep bubbling up
8 that I keep hearing about that lead me to believe that
9 we are, in polite terms, lowering our standards by
10 just, to be real blunt about it, letting a lot of
11 people in -- or certainly a number of people into the
12 academy to fill spots, to make numbers. That's not how
13 this department needs to be operated.

14 MS. LOGAN: Right.

15 CHAIRMAN POLUNSKY: Well, you may agree
16 but that's not what's going on.

17 MS. LOGAN: Human resources doesn't set
18 the hiring policy. They're set by the administration.
19 We just implement them.

20 CHAIRMAN POLUNSKY: Do you know of any
21 people who have failed the polygraph, have admitted
22 that they have committed criminal offenses, and yet
23 have been invited to attend the training school?

24 CAPTAIN AYALA: Criminal offenses, yes,
25 sir.

1 CHAIRMAN POLUNSKY: Who have committed
2 felonies? Who have admitted they have committed
3 felonies and yet they have been admitted to the
4 training school? Is that not the case? Are there
5 examples of that?

6 CAPTAIN AYALA: I'd have to look back,
7 but there might be possibly, yes, sir.

8 CHAIRMAN POLUNSKY: This is not a
9 difficult question. You can't remember that?

10 MS. LOGAN: I think there have been,
11 yes.

12 CHAIRMAN POLUNSKY: There have been?

13 MS. LOGAN: Yes.

14 CHAIRMAN POLUNSKY: Okay, there have
15 been. What happens if the major in the field and the
16 interview board recommend no?

17 MS. LOGAN: Right now, nothing happens.
18 We send them a rejection letter.

19 CHAIRMAN POLUNSKY: Are you telling me
20 that there are not people in the training academy now
21 or in the immediate past that have been rejected by
22 both the major in the field and the interview board and
23 still admitted to the academy?

24 MS. LOGAN: Prior to September 1st,
25 there was a different policy in place. Those files

1 were reviewed by the colonel's office and they were
2 sometimes allowed to come into the school.

3 COMMISSIONER BARTH: So it would be this
4 first training academy?

5 MS. LOGAN: This academy that's being
6 looked at now to start on March the 30th is under the
7 new rules.

8 CHAIRMAN POLUNSKY: So everybody from
9 now back have been under this old rule?

10 MS. LOGAN: Where the colonels would
11 review files and make determinations.

12 CHAIRMAN POLUNSKY: And what's the
13 rationale there? How could somebody rationalize that?

14 MS. LOGAN: Some of what was going on
15 was that they were being reviewed for inconsistencies
16 among the regions and those were brought forward to the
17 colonel. The others were just things where the
18 colonels asked us to bring them the file and they
19 reviewed the file and we don't know why they were --
20 they asked to look at the files.

21 COMMISSIONER BROWN: Can I ask a
22 question?

23 CHAIRMAN POLUNSKY: Yes, ma'am.

24 COMMISSIONER BROWN: When was the
25 comment section -- and we're talking about the

1 recommendations of the major, when was the comment
2 section that Sergeant Hawthorne mentioned, when was
3 that removed?

4 MS. LOGAN: I believe it was two years
5 ago.

6 COMMISSIONER BROWN: Why was that
7 removed?

8 MS. LOGAN: The thought at the time was
9 that the oral board was the one that -- was the
10 interviewing authority and that they had all the
11 information that the background investigators gave them
12 and then it was supposed to be their judgment, and so
13 their recommendation was important but then they needed
14 somebody overseeing them to also look at the
15 recommendation, and that was the regional commander's
16 job, and so all of the information was still in the
17 background investigation to be looked at, but what
18 happened was that the comments from the background
19 investigator on their personal opinion was closed,
20 taken off.

21 COMMISSIONER BROWN: I don't understand
22 why. I mean, I still don't understand why that was
23 removed. If I'm having interactions with someone, I
24 wear the badge, I know what it takes, and I say that I
25 don't think this person is suitable, why are we not --

1 why do we not want to know that?

2 MS. LOGAN: The previous administration
3 felt like the interviewing authority should be making
4 that decision.

5 COMMISSIONER BARTH: Do you keep track
6 of when someone asks for a file and then overrules what
7 the recommendation was?

8 MS. LOGAN: We would be able to look at
9 the files that we still have in the file cabinets and
10 tell how they got into the school. I don't know that
11 we keep statistics on it but we could create those
12 statistics.

13 COMMISSIONER BARTH: For this class or a
14 previous class? I'm just wondering how many times
15 someone says, "Hey, let me have this file and then sits
16 back, "Hey, this guy or gal needs to be in the
17 academy."

18 MS. LOGAN: As I think the lieutenant
19 talked about earlier, it's usually a handful, like
20 three, four, or five people in the school make it.

21 COMMISSIONER BARTH: Do you keep track
22 of the files going back and forth like that?

23 MS. LOGAN: It would be notated on the
24 file itself, so, as I said, we can go back through the
25 files that we have still in the file cabinet and tell

1 how they got into the school, so we could create those
2 statistics.

3 COMMISSIONER BARTH: On the last class?

4 MS. LOGAN: How many schools do we keep
5 in the file cabinets?

6 CAPTAIN AYALA: We'd have to go back --
7 we can go back three years.

8 MS. LOGAN: We keep them current plus
9 two, so three years' worth of schools.

10 COMMISSIONER BARTH: I'd like to see
11 that.

12 MS. LOGAN: Okay.

13 CHAIRMAN POLUNSKY: Let me ask you a
14 question about would you all consider law enforcement
15 personnel and somehow exempted individuals by placing
16 them in that category from the educational
17 requirements? If I understood you correctly, you're
18 saying that driver's license examiners and prison
19 guards and correctional officers, prison correctional
20 officers, jail guards, communications officers, you're
21 considering them law enforcement people?

22 CAPTAIN AYALA: They are considered by
23 our current policy qualified to apply for the position.

24 MS. LOGAN: The rule used to be that you
25 either had to have ninety hours of college, three years

1 on active duty in the military, or three years as a
2 peace officer at another agency. About five years ago
3 in an attempt to get more applicants, the first thing
4 that was looked at was jailers and custodial officers.
5 Part of that look at was a result of the fact that, in
6 a lot of -- in a lot of sheriff's offices, they had
7 deputies that are assigned to the jail that they don't
8 consider regular officers and we weren't allowing them
9 to come in under the law enforcement exception, so we
10 decided that they could come in under the law
11 enforcement exception, but then we decided we were
12 taking people that were only acting as jailers, maybe
13 we should look at custodial officers as well, and then
14 the people that worked for the agency, that was just,
15 the administration decided that, well, we know these
16 people and we know what caliber of people they are so
17 we should give them consideration if they want to go to
18 the school.

19 CHAIRMAN POLUNSKY: What does a driver's
20 license examiner do? Although, it's self-explanatory,
21 but explain to me.

22 MS. LOGAN: They give the driver's
23 license testing and they also have duties related to
24 handling suspension hearings and appearing before the
25 justice of the peace in some of those kinds of

1 situations as well.

2 COMMISSIONER BARTH: What is
3 communications?

4 MS. LOGAN: They're dispatcher
5 positions. Communication operators is what we call
6 police dispatchers.

7 CHAIRMAN POLUNSKY: With all due
8 respect, in my opinion and speaking for myself, these
9 are not law enforcement people. I have the greatest
10 respect for people at TDCJ, the correctional officers
11 there. I'm not quite sure that they would be
12 considered law enforcement officers, peace officers, in
13 the definition that you're regionally referring to.
14 These others aren't in the ballpark. I don't
15 understand the rationale whatsoever.

16 MS. LOGAN: Well, the actual minimum
17 requirement is ninety hours of college, and so if they
18 don't have ninety hours of college, all of the other
19 things are exceptions, and the original two exceptions
20 were three years in the military, and you could have
21 zero college and be in the military for three years,
22 and then the other one would be peace officer for three
23 years, so it's actually replacement of college credits,
24 and -- but, again, I don't know that there was really a
25 link between those things. It was more of a, "We know

1 these people because they work for the state and so we
2 know their quality."

3 COMMISSIONER BARTH: I just want to push
4 on one thing, I'm just curious. Suppose you work at
5 this agency two years as, I don't know, I ought to be
6 careful, something other than those exceptions and then
7 you were moved over to communications for a year, would
8 that then qualify you? Are there people that are
9 qualified that way?

10 MS. LOGAN: That would have to be an
11 exception. They would have to petition the colonel to
12 be looked at that way.

13 COMMISSIONER BARTH: Have there been
14 people looked at that way?

15 CAPTAIN AYALA: Yes, there has.

16 MS. LOGAN: There has.

17 COMMISSIONER BARTH: So, conceivably,
18 Dorothy could move over to communications and operate
19 the radio for some period of time and then apply for
20 school. Is that right?

21 MS. LOGAN: Yes. And to be fully
22 straight with you, Dorothy could apply tomorrow if the
23 colonel said that she could do it regardless of going
24 into --

25 (Laughter)

1 COMMISSIONER BARTH: I don't mean to
2 pick on you. I'll be looking for your application.

3 CHAIRMAN POLUNSKY: Dorothy could
4 probably pull it off but I'm not quite sure that this
5 is a generally good policy.

6 Let me deviate just for a second. The
7 80 percent PRT, I know that we've had that in place.
8 Are we actually accepting people that have less than
9 eighty percent?

10 MS. LOGAN: No.

11 CHAIRMAN POLUNSKY: Are you sure about
12 that?

13 MS. LOGAN: No, we have never accepted
14 anybody that couldn't pass the physical readiness test.

15 CHAIRMAN POLUNSKY: I'm sorry, say that
16 again.

17 MS. LOGAN: We've never accepted anybody
18 that couldn't pass the physical readiness test.

19 CHAIRMAN POLUNSKY: We have this 80 --
20 I'm talking about into the academy.

21 MS. LOGAN: Right.

22 CHAIRMAN POLUNSKY: Well, you're
23 obviously accepting people at the 80 percent level?

24 MS. LOGAN: Right, and the prior
25 standard. My comment was, whatever the standard -- the

1 acceptable standard was whenever in history, as long as
2 I've worked for HR, which has been since 1995, that's
3 not something that we've ever waived that I'm aware of.
4 You have to pass it at the standard that's there. In
5 other words, if the standard used to be 15 minutes on
6 the mile and a half, someone did it in 15/30, I don't
7 know of any waiver that any colonel has ever signed to
8 allow somebody in the school that didn't pass that
9 standard.

10 COMMISSIONER BARTH: Would you know
11 that?

12 MS. LOGAN: Yes.

13 COMMISSIONER CLOWE: Tim, you want to
14 get in this?

15 MR. THOMPSON: Whenever you desire, sir.

16 COMMISSIONER CLOWE: Come on up. I want
17 to ask you some questions if you don't mind. I hate
18 like the devil to put you on the spot, but, you know, I
19 think we need somebody here, and you're a person who is
20 a line officer regional commander with a lot of
21 experience. You've been involved in this, and we're
22 obviously looking for answers and we're trying to
23 understand how we got to where we are, and you could be
24 helpful, and I apologize for putting you on the spot,
25 but there are just two or three questions that come to

1 mind.

2 You heard Sergeant Hawthorne talk about
3 his concern about the sergeants who are really
4 important in this first line supervision of the
5 troopers and the removal of the comment section.
6 What's your take on it?

7 MR. THOMPSON: Actually, as I listened
8 to both Sergeant Hawthorne and Mr. Dickson, I had some
9 thoughts that I agreed and disagreed with. As
10 Mr. Dickson pointed out and as Mr. Chairman Polunsky
11 pointed out, just the raise issue today, that's good
12 news. Because one of the things I discussed with the
13 group this morning is -- and I guess it's contrary to
14 Sergeant Hawthorne -- this is not an absolute science,
15 and the truth of the matter is, we don't have an
16 absolute standard in the field, so from that
17 perspective, have we lowered our standards? No,
18 because, frankly, there is no absolute standard. And
19 just as Sergeant Hawthorne said, no one wants to hire a
20 bad -- nobody wants to hire a person that you're going
21 to have trouble with and that is going to harm our
22 citizens, so from that perspective, have we lowered our
23 standards? No.

24 What I think is important about what Mr.
25 Dickson's and Mr. Polunsky's comment is, one of the

1 things I have noticed the last few years, there is no
2 threshold except for what's scored by the interview
3 board. As I said, there are so many things I'd like to
4 be able to tell you, I can't hardly keep it all
5 straight. There is no pass or fail interview board
6 score. There used to be a minimum score of 40 that was
7 considered a, quote, passing score, and when we went
8 through the change in our process in 2006, that was
9 removed. So from that perspective, is there a change
10 or lowered standards? No, because there is no
11 standards.

12 Now, I will tell you what I have told
13 the members of my interview board, and I'll tell you
14 about the board. Understand, we're required to have a
15 particular makeup of our interview board to include
16 both female and male members and an Hispanic member, an
17 African-American member, a white member. In that
18 composition, there's one lieutenant who chairs the
19 board, there's one sergeant, the other members are all
20 troopers, and then there's an alternate who actually is
21 obviously there in case something comes up and a member
22 can't get there, and they assist the board, you know,
23 to go through the file as a way for that to come in.

24 I can tell you what I told my board is,
25 I don't want to have to guess what you think, and, to

1 me, if you've given that applicant a score of score of
2 40, which was our old standard, you've told me that you
3 think this is somebody that's worthy of further
4 consideration. If I don't see a 40, you're telling me
5 that you don't think this is someone we've got to hire.
6 So, you know, from that perspective, at least in my
7 region, there is an unofficial benchmark there. And
8 again, the issue that's came up about the comments from
9 the troops, and again, that was taken out for whatever
10 reason. I tell them the same thing and I tell my
11 captain -- the captain has a section where he makes
12 comments but he doesn't make a recommendation. I tell
13 my captains, "Be clear in your comments. Don't make me
14 guess what you think. If you think we should hire
15 them, say it. If you don't, then make that clear."
16 And you see that with all the investigators. It's
17 generally pretty apparent whether they believe this is
18 a worthwhile candidate or not regardless of whether
19 there's a box that they check, so you have a pretty
20 good idea.

21 I don't know if Lieutenant Jackson is
22 here -- he's with the DPSOA Group -- but he's a
23 lieutenant in Waco. He does the coordination of the
24 entire recruiting process and the hiring process. I
25 asked him to pull, you know, some figures from our last

1 five schools, which would have been the last two
2 schools of 2007, both the 2008 schools, and through the
3 current process, which is near the end, and of that,
4 there were 400-some-odd people who actually gave us
5 completed application packages. Of that, we
6 actually -- from the 400 -- and I have the figures.
7 It's like 408 from the initial group that gave us all
8 the package, then we actually completed 279
9 backgrounds, so in that process, we lost, you know,
10 roughly 100-some-odd candidates that withdraw for
11 various reasons. Sometimes they get hired by another
12 agency. Sometimes as we begin the process and ask the
13 questions that they're not comfortable answering, they
14 drop out. Sometimes as we're doing it, we see this is
15 not a good applicant and the investigator kindly let's
16 them know you're probably wasting your time.

17 Once we get to that interview process,
18 in those last two schools, my interview board -- and
19 this is going off the database. Again, it's that
20 unofficial benchmark I told you of 40, the database
21 still catches that criteria, so of those that had a 40
22 score or above out of the last -- from the 2007 score
23 on, 121 people were recommended by the board, so that's
24 less than half of what they interviewed, and then from
25 the 121 that they gave a 40, I cut it down to 110, so

1 that was actually 39 percent of those who actually we
2 investigated and 25 percent of those who gave us
3 completed packages, so we cut a lot of people out.

4 The question came up about "could have
5 been rejected by other agencies." The primary
6 investigative package is a package called HR-12. The
7 HR-12 contains a section that specifically lists, "How
8 many police agencies have you unsuccessfully applied
9 for?" and you do see that frequently, and why they're
10 cut are varied. You'll see, well, they failed another
11 agency's polygraph or they didn't meet another agency's
12 physical standards or they didn't pass their written
13 test. There's a myriad of reasons why they may have
14 been rejected by another agency, but that alone, while
15 that's not an automatic qualifier -- and, again, I'll
16 speak for what I do, but as that package hits me -- and
17 I do one other things probably differently than some of
18 the others is for two reasons, I review the background
19 investigation before it gets to the interview board.

20 COMMISSIONER CLOWE: Before it gets
21 where?

22 MR. THOMPSON: Before it goes to the
23 board.

24 COMMISSIONER BARTH: Look, can I
25 interrupt?

1 MR. THOMPSON: Yes, ma'am.

2 COMMISSIONER BARTH: Therein I think
3 lies the whole concern, you do something different
4 than --

5 MR. THOMPSON: I do.

6 COMMISSIONER BARTH: Isn't that --

7 COMMISSIONER CLOWE: Yeah, this is good
8 because it's bringing to light some things that we're
9 trying to understand.

10 MR. THOMPSON: What I do is -- because
11 what I found when I first went out there, what would
12 traditionally happen is, you know, we would interview
13 on a fairly -- I can't tell you the time line, but what
14 would usually happen is, all of a sudden I would walk
15 into my office one day and there will be three paper
16 boxes full of backgrounds and now all of a sudden I'm
17 just overwhelmed. And, honestly, I found, when I first
18 went there, I didn't think that that background
19 investigations were as thorough as I believed they
20 should have been, so what I started doing -- for two
21 reasons I started reviewing this beforehand. One, and
22 first what I thought was the most important to look for
23 was a good, thorough background that the interview
24 board gets to make a decision on, whereas, they don't
25 have to basically do some additional investigation

1 during the interview process. And the second thing is,
2 I'm able to look at those and make some notes and make
3 a preliminary evaluation and then, whenever all that
4 comes in, I can do that -- I can process the evaluation
5 in a much more timely manner, because we're asked to
6 get the entire package here within 45 day, so it allows
7 me to speed up the process and, yet, also ensure that a
8 thorough background is what is presented to the board.
9 Where occasionally you would see something in the
10 background that might contain an issue that's an ADA
11 issue or maybe they make mention to a bankruptcy issue,
12 and so I'm able to strike that from the investigation
13 where it doesn't prejudice the interview board and we
14 can send that Captain Ayala as a confidential matter.
15 As I've said, though, what you see, though, is, the
16 board -- the board actually gives an acceptable score
17 to less than half the people.

18 COMMISSIONER CLOWE: Are these boards
19 standing boards?

20 MR. THOMPSON: They are -- the
21 members -- like the Public Safety Commission, a couple
22 of the members will rotate out every few years.

23 COMMISSIONER CLOWE: But they know
24 they're going to be the interview board --

25 MR. THOMPSON: For at least two or three

1 years at a time.

2 COMMISSIONER CLOWE: Okay. Is there
3 ever, you think, an instance where somebody calls
4 somebody on the board and says, "This guy or this lady
5 is coming through and we want -- this is a good person
6 and we want to give them every chance"?

7 MR. THOMPSON: I don't think that. I
8 certainly couldn't -- I've never asked them if they've
9 received calls. I wouldn't believe --

10 COMMISSIONER CLOWE: You've never heard
11 comments like that. How do you feel about your
12 decision making at the regional commander level? Do
13 you feel that you've ever been overruled or there have
14 been bad decisions made following your decision
15 relative to candidates?

16 MR. THOMPSON: Well, as Captain Ayala
17 said, it's obvious, I mean, there are people working
18 that I know I didn't recommend, so, yes, I know that
19 happens. I approach it from the viewpoint, my role in
20 the process is to make a recommendation. I make the
21 best decision I can, and then whatever comes to me,
22 it's my job to make them the best trooper we can.

23 COMMISSIONER CLOWE: You know, it kind
24 of slaps you in the face when Commissioner Brown asked
25 the question about failing the polygraph test on sexual

1 molestation and then that person has entered the
2 academy and that leaves a board member wondering why.

3 MR. THOMPSON: One thing I forgot to --
4 as to Commissioner Barth's interest in failing the
5 other agencies, one thing I do or the captain will do
6 is, if they see something like that, they may put --
7 like, I actually will draw a line by that section to,
8 again, call attention to that section that, "Hey this
9 candidate has been rejected by five other agencies," or
10 whatever the matter may be, and then that is certainly
11 something that weighs heavily in my decision,
12 particularly if they failed a polygraph at another
13 agency.

14 COMMISSIONER CLOWE: What have you --
15 some tough questions and I don't really want to put you
16 on the spot but I want to ask the questions: What do
17 you think about Chairman Polunsky's comment, and I
18 share it, that we have a sense that we've been trying
19 to make the numbers?

20 MR. THOMPSON: I think a lot about it,
21 and I've discussed this with Captain Ayala today, it
22 seems to me -- and I hear so many things talking to the
23 troops, you know. You hear on one hand -- this week I
24 got it from one guy two different ways, actually. He
25 made that comment that, "Oh, we're hiring a bunch of

1 people that we shouldn't hire," but then he turned
2 right back around and questioned about, well, these two
3 guys that he wanted to hire didn't get hired and he was
4 upset they didn't get hired, and it's almost as
5 though -- what I've just come to learn is that I'm
6 going to make at least one person probably unhappy
7 every time I check a box, but I just -- again, I make
8 the best recommendation I can. I tell my interview
9 board, "Remember --" I tell them, "This is what I think
10 of and I'm going to ask you to think of, when you make
11 your score, when I sign that box, we're making a
12 30-year commitment to the citizens of this state, to
13 the Department of Public Safety, and to all of the
14 people that make up the Department of Public Safety,
15 and make your decisions based upon that thought process
16 because we may have that --" and I tell them, "Make the
17 best decision you can and we'll go from there." That's
18 all we can do.

19 CHAIRMAN POLUNSKY: With all due
20 respect, I'm not sure you answered the question. Do
21 you think decisions have been made in recent years that
22 were motivated for the goal of filling the recruitment
23 class?

24 MR. THOMPSON: I suspect that, yes. And
25 another thing I saw -- I'm sorry, I kind of got off

1 track, but another one of the things that I've seen
2 is -- again, going back to this interview board score,
3 what I see now is a lot of 40 scores. Well, that's
4 basically the bottom of the acceptable standard, and I
5 think that -- you know, I sat there during one process
6 and I just thought, "My gosh, how many 40's am I going
7 to get?" You know, because from my position, it's easy
8 when a see a very top score or a very bottom score, but
9 it's the 40's that are so difficult. And, again, I do
10 feel sometimes like, man, it's almost a roll of the
11 dice you feel sometimes, but, likewise, I've got to put
12 confidence in the trooper who did that investigation,
13 I've got to put confidence in the captain who made his
14 comments, and I've got to put confidence in my oral
15 interview board members, and that's -- I feel that if
16 this candidate has convinced them, I have to have
17 faith.

18 MS. LOGAN: Can I make a comment?

19 CHAIRMAN POLUNSKY: Yes.

20 MS. LOGAN: I don't -- one of the things
21 that I think might be important for you to know that we
22 haven't talked about is that prior to nineteen -- well,
23 probably 2001 or two, we did not accept all of the
24 recommended candidates. We had a number of slots in
25 the school, we kind of took people in the order of

1 their scores, and we had more applicants than we had
2 slots for, and so that kind of went away in the 2000's
3 and we no longer have more applicants than we have
4 slots for, so it may very well be that, you know, based
5 on what Major Thompson is saying now, where they're
6 sending applicants in with 40's, but they've probably
7 always done that --

8 MR. THOMPSON: Yeah, that's what I told
9 Captain Ayala today.

10 MS. LOGAN: -- but we're not -- but
11 those people didn't make the school before because we
12 had more -- we had more applicants than we had slots
13 for, so that might be important.

14 CHAIRMAN POLUNSKY: And I think we all
15 understand the numbers and so on, but that gets us to
16 other areas as to how good our recruitment policies and
17 practices are here, and we're going forward on this as
18 well. We're in a different role now and I would
19 imagine that maybe more -- it will be easier because
20 we'll have a larger pool to choose from to get the
21 cream of the crop. We just need to get there. We need
22 to, you know, have policies in place and vigorous
23 recruitment policies and groups of people out there
24 recruiting for the department to bring in the best and
25 the brightest so that we get to the level that we

1 expect.

2 Let me ask you one last question and
3 move on unless they are other questions here. I want
4 you to clarify something on this 80 percent thing. You
5 told me that no one is in the training school that
6 scored less than 80 percent. Those people who were
7 admitted at the 80 percent, were they given more than
8 one shot?

9 CAPTAIN AYALA: Yes. Yes.

10 CHAIRMAN POLUNSKY: Is that the policy
11 within the department?

12 CAPTAIN AYALA: Yes.

13 CHAIRMAN POLUNSKY: For the PRT?

14 CAPTAIN AYALA: Yes.

15 CHAIRMAN POLUNSKY: So you have multiple
16 times to take the PRT?

17 CAPTAIN AYALA: Yes.

18 MS. LOGAN: Excuse me, and I will tell
19 you one more thing in the interest of disclosure.
20 Prior to the implementation of the new standards two
21 years ago, when you had to take them before, you had to
22 take the whole series, and if you flunked any one of
23 them, when you came back a couple of weeks later to try
24 again, you still had to take the same series. Another
25 change that was made when we implemented the new

1 standard was, now if you flunk just the sit-ups, you
2 could come back and just take the sit-ups, and so
3 that's another change that was made.

4 CHAIRMAN POLUNSKY: So that's further
5 relaxation?

6 MS. LOGAN: Yes.

7 CHAIRMAN POLUNSKY: So we're doing lots
8 of relaxing?

9 MS. LOGAN: I believe that's a true
10 statement.

11 CHAIRMAN POLUNSKY: Relaxation
12 everywhere?

13 MS. LOGAN: Well, they wanted to make it
14 consistent with the incumbent standards, but -- and
15 that was the rule they adopted on the incumbent
16 standards.

17 CHAIRMAN POLUNSKY: Okay. Any other
18 questions?

19 COMMISSIONER CLOWE: Major, thank you
20 very much, appreciate it.

21 CHAIRMAN POLUNSKY: Thank you all.

22 COMMISSIONER BARTH: I don't want to
23 belabor this, but that's not the only test that they're
24 allowed to re-take. I mean, you've hit on a lot of the
25 issues that this particular group has a problem with,

1 and allowing people to take these tests over and over
2 again and the written test and these others -- how many
3 times can you take the written test?

4 MS. LOGAN: I think until you pass it.

5 COMMISSIONER BARTH: Let me ask you this
6 question --

7 COMMISSIONER CLOWE: Sorry, I can't hear
8 the answer. We have to get on the mic and get it on
9 the record.

10 COMMISSIONER BARTH: I don't want to
11 belabor this, but what I hear you saying is that you
12 can just take it until you pass it?

13 MS. LOGAN: Because that's at the very
14 front end of the process.

15 COMMISSIONER BARTH: Just out of
16 curiosity, does the test change?

17 MS. LOGAN: No.

18 COMMISSIONER BARTH: Okay. And so you
19 fail the test, when you fail the test, do you give them
20 the answers?

21 MS. LOGAN: No.

22 COMMISSIONER BARTH: Do the multiple
23 choice -- I'm --

24 MS. LOGAN: Yeah, it's multiple choice.
25 If you take it often enough, you can memorize it.

1 COMMISSIONER BARTH: That's my question.

2 MS. LOGAN: Under our old process where
3 we only tested twice a year, you had a limited
4 opportunity to take that test and still get in the
5 process, so you could only take it once or twice, but
6 now with the ongoing process, that turns out to be
7 something else.

8 COMMISSIONER BARTH: So you can take the
9 test multiple times so you've memorized all the answers
10 and you can talk to someone who knew all the answers
11 and memorize the right answers?

12 MS. LOGAN: Yes.

13 COMMISSIONER BARTH: The same way with
14 everything else?

15 MS. LOGAN: Well, that's --

16 COMMISSIONER BARTH: Well, and if you
17 fail the polygraph, you can't take that again to try
18 and pass it, can you?

19 MS. LOGAN: No.

20 COMMISSIONER BARTH: I don't know, some
21 people may be able to figure it out.

22 COMMISSIONER BROWN: Just so I'm clear,
23 even if you fail it, that doesn't mean you don't get to
24 become a trooper. Right?

25 MS. LOGAN: Right.

1 COMMISSIONER STEEN: Ms. Logan, before
2 you go, you say they relaxed the standards. Who is
3 "they"?

4 MS. LOGAN: The administration, the
5 colonels. I don't set agency policies. I implement
6 agency policies.

7 COMMISSIONER STEEN: You say these
8 colonels that are sitting up here?

9 MS. LOGAN: No. The Prior
10 administration.

11 COMMISSIONER STEEN: Specifically who?

12 MS. LOGAN: The committee that worked on
13 a number of these changes were Chief Christian and
14 Colonel McEathron.

15 CHAIRMAN POLUNSKY: Do we have any
16 representatives for the academy?

17 COMMISSIONER CLOWE: Commander
18 Rodriguez.

19 CHAIRMAN POLUNSKY: Commander, thank you
20 for being here again. We don't want to be repetitious
21 here, but we asked you questions at the last meeting,
22 but are you troubled by this process?

23 COMMANDER RODRIGUEZ: Not at all. Not
24 at all.

25 CHAIRMAN POLUNSKY: You're not troubled

1 by this process? So we're sending you recruits you're
2 happy with?

3 COMMANDER RODRIGUEZ: Oh, I'm sorry,
4 about this process? Yes, I am troubled by the process
5 that's in place.

6 (Laughter)

7 CHAIRMAN POLUNSKY: I know the opposite
8 answer would be kind of a career type --

9 COMMANDER RODRIGUEZ: I'm troubled by
10 these meetings.

11 (Laughter)

12 CHAIRMAN POLUNSKY: Are we -- is this
13 thing broken?

14 COMMANDER RODRIGUEZ: And I'll answer it
15 this way, that I feel that the part that's broken has
16 been the enforcement part from our perspective by way
17 of the consequences. You asked me last time if we had
18 lowered our standards, and I took it to mean the
19 training academy had lower standards. We have not. We
20 have always made recommendations when we detect ethical
21 issues, immoral issues. It is the enforcement part
22 that's been a failure. And I can tell you, to date,
23 the present administration has been the opposite to
24 that. They've been very positive and we've made
25 recommendations and our recommendations were followed

1 up on.

2 COMMISSIONER BARTH: But you don't think
3 today -- I mean, I guess I'm troubled by using the word
4 enforcement being a problem and I'm looking at it
5 thinking that criteria is the problem. Okay? I mean,
6 that's where I'm coming from. So we set the criteria
7 and, you know, I just heard --

8 What was your name again, I'm sorry?

9 MR. THOMPSON: Tim Thompson.

10 COMMISSIONER BARTH: Tim came up here
11 and said, "Well, I do it this way and I do it that way
12 and someone else does it this way and 40, in my mind,
13 is one signal," but, to me, I'm more troubled by the
14 criteria, which I think has become unbelievably
15 subjective, and, in fact, some of it may not be because
16 I guess you can take the written test 50 times and
17 finally pass it and that's not subjective. Does that
18 criteria not bother you?

19 COMMANDER RODRIGUEZ: Yes, definitely it
20 bothers me. I was answering specifically to the --
21 yes, it's very problematic for us when that occurs by
22 way of --

23 COMMISSIONER BARTH: That's not
24 enforcement. That is, this person took 20 times to
25 pass the written, took ten times to pass whatever next,

1 they flunked the polygraph, but the criteria allows
2 them to be admitted.

3 COMMANDER RODRIGUEZ: And that's very
4 troubling and, believe me, that causes us major
5 problems at the training academy because what we see is
6 continued failures in examinations. And the second
7 step to that, we would make recommendations and they
8 weren't followed up on by way -- but the same problems
9 that were detected initially and failure to pass,
10 whether it was an unethical issue, then it manifested
11 itself during the training academy when we would make
12 recommendations and they weren't followed up on. So
13 that's -- it's kind of a two-part process. No doubt it
14 bleeds right into the training academy since we see the
15 same issues. So, yes, it's very troubling and causes a
16 lot of problems. It would make our job a lot easier if
17 there were some set standards for them to meet and they
18 were not deviated.

19 CHAIRMAN POLUNSKY: Once these recruits
20 get over to the training academy, are you under
21 pressure to get them out?

22 COMMANDER RODRIGUEZ: Well, I'll say it
23 this way: We were told at one point not to submit a
24 written recommendation, to only submit an oral
25 recommendation.

1 COMMISSIONER CLOWE: To wipe somebody
2 out?

3 COMMANDER RODRIGUEZ: Yes, sir. So if
4 that was pressure, yes. We were told don't submit a
5 written, submit a -- make a call and let us know what
6 you're feelings are.

7 COMMISSIONER BARTH: If you have someone
8 who you think can't cut it. Is that right or --

9 COMMANDER RODRIGUEZ: Correct.

10 COMMISSIONER BARTH: Only if you had
11 someone who you thought couldn't cut it?

12 COMMANDER RODRIGUEZ: And it had to do
13 with academic issues, it had to do with ethical issues,
14 the whole spectrum, psychomotor skills, so just the
15 character and cognitive skills and psychomotor skills.
16 We've seen the whole spectrum where we've made
17 recommendations.

18 CHAIRMAN POLUNSKY: Once they're in?

19 COMMANDER RODRIGUEZ: Yes, sir. Once
20 they're in, obviously we detect these issue and we make
21 our recommendations.

22 CHAIRMAN POLUNSKY: And do you feel
23 that, in the past, there have been cases where people
24 have been socially promoted?

25 COMMANDER RODRIGUEZ: Oh, no doubt.

1 CHAIRMAN POLUNSKY: So there are people
2 who have come through the academy that are commissioned
3 officers from the DPS who should not have made it?

4 COMMANDER RODRIGUEZ: That's correct,
5 sir.

6 CHAIRMAN POLUNSKY: You may have had --
7 not you, but the academy training school may have made
8 certain concessions, adjustments, looked the other way,
9 however you might want to say it?

10 COMMANDER RODRIGUEZ: Well, we made
11 our --

12 CHAIRMAN POLUNSKY: People who pass
13 certain components?

14 COMMANDER RODRIGUEZ: I don't think we
15 make adjustments. We would make a recommendation and
16 their decision was contrary to what we had recommended
17 and they followed the course, but we did not make any
18 concessions by way of lowering the standards of what
19 was passing or not passing.

20 CHAIRMAN POLUNSKY: Are you familiar
21 with the term "magic berm"?

22 COMMANDER RODRIGUEZ: Magic berm? No,
23 sir.

24 CHAIRMAN POLUNSKY: Any questions?

25 COMMISSIONER STEEN: Mr. Chairman, this

1 has been a useful discussion, but where is this
2 leading?

3 CHAIRMAN POLUNSKY: I think where it's
4 leading is where Commissioner Barth has suggested we go
5 with it, and I'd like to see her recommendations
6 implemented.

7 COMMISSIONER BROWN: I do have a
8 question, if it's okay.

9 CHAIRMAN POLUNSKY: Yes, ma'am.

10 COMMISSIONER BROWN: At the last
11 meeting, we talked a little bit about ramping and I
12 asked you about -- I believe you had talked to people
13 from other states and, if I recall, you said that
14 whoever it was you talked to was in favor of this. I
15 asked for you to provide some research on ramping. Can
16 I see some of that today?

17 COMMANDER RODRIGUEZ: We're presently
18 doing that as a result of the last meeting that my
19 staff had with you. We're presently researching that.
20 At this time, we've put that on hold by way of
21 implementing that particular recommendation and we're
22 doing research on it.

23 COMMISSIONER BROWN: Okay.

24 COMMANDER RODRIGUEZ: And we'll
25 definitely present it when it's put together.

1 COMMISSIONER BROWN: I guess I was
2 unclear. I wanted to see the research that you did
3 before you -- I mean, my understanding was that, in
4 this upcoming March class, the plan was, until
5 recently, to do ramping. Is that right?

6 COMMANDER RODRIGUEZ: It was a
7 recommendation. It was a recommendation not
8 necessarily of positively doing it, but it was a
9 recommendation that this could possibly help us with
10 our attrition break.

11 COMMISSIONER BROWN: Got you. Okay, let
12 me ask it more pointedly. Was the plan to do ramping
13 in the March class?

14 COMMANDER RODRIGUEZ: Initially, it was,
15 yes, ma'am.

16 COMMISSIONER BROWN: Okay. And whose
17 decision was that?

18 COMMANDER RODRIGUEZ: Actually, it was a
19 recommendation. The decision had not been made to
20 implement it.

21 COMMISSIONER BROWN: Whose
22 recommendation was that?

23 COMMANDER RODRIGUEZ: I guess it was
24 mine, but obviously my staff researched that by way of
25 what was being done in other state police academies.

1 COMMISSIONER BROWN: Got you. That's
2 the research I wanted to see today. Can I see that?

3 COMMANDER RODRIGUEZ: We don't have it
4 available. And it was based on the North Carolina
5 format when they did their recommendations. The staff
6 did that research and put that together and they
7 patterned that after the North Carolina State Patrol.

8 COMMISSIONER BROWN: Okay. Well, I'm a
9 little disappointed because I wanted to see the
10 research that went into -- the research that you saw
11 before you made the recommendation, and I thought that
12 that -- it didn't get made on the agenda but that's
13 what I was hoping to see today. Can I see that by the
14 end of business today?

15 COMMANDER RODRIGUEZ: Commissioner, I
16 don't think there was actual research. It was a
17 recommendation made by the staff to me that this is
18 what other state agencies have done, so there was no
19 research by way of statistical data that I know of,
20 unless Lieutenant Griffin has -- because he did the
21 research on that and compiled the report together. So
22 there was -- to my understanding, there was not
23 statistical data on ramping. And I believe that that's
24 what you asked for and that's why we put it on hold, to
25 research that area.

1 COMMISSIONER BROWN: Okay. Who was it
2 that you talked to? You represented to me in the last
3 meeting that you talked to someone and that they --
4 that worked for their state. Who did you talk to?

5 COMMANDER RODRIGUEZ: It was actually
6 Lieutenant Griffin that did that research and
7 contacted, I believe, North Carolina.

8 LIEUTENANT GRIFFIN: And I didn't do all
9 the research myself. This is a compilation of several
10 folks from the training academy who have talked to --
11 and a lot of it was verbal phone conversations.. Like
12 the commander said, it's not statistical data. It's
13 not put in a chart or anything. It's just talking to
14 other agencies, "What works for you, what doesn't work
15 for you," enough to give us -- this may be something we
16 want to try.

17 COMMISSIONER BROWN: Got you. And that
18 was before the last meeting?

19 COMMANDER RODRIGUEZ: This was done in
20 preparation for this report, which was before the last
21 meeting.

22 CHAIRMAN POLUNSKY: Do you have
23 anything?

24 COMMISSIONER STEEN: Could Commissioner
25 Barth repeat her recommendations as a way of kind of

1 capping this off?

2 COMMISSIONER BARTH: I'd like to
3 recommend that we form a subcommittee to -- perhaps
4 even one of the commissioners being a part of that
5 subcommittee, but to take a look very closely at the
6 policies, procedures, applications, acceptances,
7 everything that goes into someone getting into the
8 academy and then someone graduating from the academy.
9 I had to actually ask the chairman what ramping was
10 because I missed the last meeting. I understand the
11 importance of it, so that would be my recommendation.
12 And I would also urge that we perhaps find someone from
13 the outside to go on this committee to help us in that
14 area.

15 COMMISSIONER STEEN: All right. They
16 look into it, and then what does the committee do?

17 COMMISSIONER BARTH: Come back with
18 recommendations.

19 COMMISSIONER STEEN: They would come
20 before the committee?

21 COMMISSIONER BARTH: They would come
22 before the committee.

23 COMMISSIONER STEEN: For adoption by
24 this commission?

25 COMMISSIONER BARTH: Right. In terms of

1 what I think would be their criteria where we -- do you
2 agree with the criteria today with respect to accepting
3 an applicant, as well as the metrics that I think we
4 desperately need rather than -- ask Paula. I mean,
5 we're here and she's over here trying to figure out,
6 "Okay, I need this; I need that." Maybe that committee
7 also can do some metrics that we can follow down the
8 road like the -- I call it the dashboard.

9 CHAIRMAN POLUNSKY: I think we need to
10 do something because, in my opinion, this process is
11 dysfunctional. It's not serving the department as it
12 should. Not to say that, you know, we're turning out
13 hordes of bad troopers or anything like that, I don't
14 want to give that impression, but, nevertheless, I want
15 to make sure that we have a process in place that we
16 recruit, we select, we train, and we commission the
17 cream of the crop, the best and the brightest, the top
18 professionals in law enforcement. That's what this
19 department needs to be all about and that's where I'd
20 like to make sure that we are.

21 COMMISSIONER BARTH: And I agree with
22 you 100 percent.. I'd rather see us have less people in
23 the academy, significantly less people in the academy,
24 where they're qualified candidates or candidates --
25 from what I'm hearing today, okay, I think probably

1 from your end, it would help your situation immensely?

2 COMMANDER RODRIGUEZ: And just for
3 informational purposes, one of the things that we've
4 been putting together for the last three or four months
5 is standards that the academy would have in place to
6 evaluate character, ethical standards, cognitive
7 ability, and psychomotor skills, a roadmap that would
8 get us to a recommendation to submit to the director
9 upon -- if they don't meet these standards, and we've
10 developed a 12-page report, or recommendation, should I
11 say, on standards in those three areas, three major
12 areas.

13 COMMISSIONER BARTH: And I hear what
14 you're saying, but you're giving -- you have your
15 standards. I'm starting all the way back here, you
16 know, in sort of a "go, go, go" on operation
17 management, and I'm starting all the way back here
18 saying those standards need to be closely looked at,
19 perhaps changed, before you even get the individual,
20 and that's where, you know I -- we can do them both at
21 the same time, but I'm real concerned with respect to
22 criteria, subjectivity, and these oral boards, for lack
23 of a better --

24 COMMISSIONER STEEN: You said a
25 subcommittee, but what would it be a subcommittee of?

1 I mean, you recommended a committee.

2 COMMISSIONER BARTH: A committee -- a
3 subcommittee can be -- it's some small group of people,
4 very rapidly. I who would love to see this set for the
5 next -- when is the next commission -- or academy?

6 COMMANDER RODRIGUEZ: March 29th is when
7 the next school is.

8 COMMISSIONER BARTH: And then the one
9 after that?

10 COMMANDER RODRIGUEZ: I believe in
11 September.

12 COMMISSIONER BARTH: So, realistically,
13 the September class. Although, I have to tell you, me
14 personally, I'd like to see an exception, whoever is
15 handling the applications.

16 COMMISSIONER STEEN: Mr. Chairman, who
17 would be on the committee? And are we taking action
18 today? Is this a motion?

19 CHAIRMAN POLUNSKY: I'm -- you tell me.
20 I think we're directing the colonel to put together a
21 committee. It's not our committee, necessarily.
22 Although, we can place a representative on it, but it
23 would be very much like the committees we've had in
24 place for some of these other issues, like promotions
25 and so on.

1 Is that what you're thinking?

2 COMMISSIONER BARTH: That's exactly what

3 I'm thinking.

4 COMMISSIONER STEEN: And do we want to

5 take formal action? Is that a motion that you --

6 CHAIRMAN POLUNSKY: Well, I --

7 COMMISSIONER BARTH: Yes.

8 COMMISSIONER STEEN: All right. I'll

9 second.

10 CHAIRMAN POLUNSKY: Okay. And one other

11 thing, Ms. Barth, we might want to include in this the

12 comment that Chairman Ogden made this morning with

13 respect to looking at our criteria or requirements for

14 possibly bringing people in from other law enforcement

15 agencies who are commissioned officers who might go

16 through another reduced track or something like that.

17 COMMISSIONER CLOWE: And I think the

18 colonel said we were doing that, didn't he?

19 MR. CLARK: If I might, I told Senator

20 Ogden that we had visited with Albert about the

21 possibility of having an abbreviated school with TCLOSE

22 certified officers who are out there in our

23 communities. We have difficult duty stations that are

24 hard to find, revolving doors. If we can find a good

25 sheriff's deputy or a good police officer who can meet

1 our standards and who is already TCLOSE certified and
2 send him to -- I think we've just kind of discussed
3 maybe a 12-week school. It's an abbreviated school, a
4 12-week school, that would eliminate a lot of the
5 TCLOSE required courses that they already have and
6 bring them up to speed on DPS policy and procedure and
7 our way of doing business, then we could implement
8 those people and integrate them into our patrol duties.
9 This has been -- I've been approached by several
10 representatives about this, and so we have not formally
11 assigned -- signed off on that school, the
12 authorization, but we have discussed it in great detail
13 and even have a curriculum.

14 CHAIRMAN POLUNSKY: Okay. So we don't
15 need to necessarily make that part of this, then?

16 MR. CLARK: No. Your charge is
17 sufficient. I mean, you've told us exactly what you
18 expect and I believe I have a working group that I can
19 put together and address those issues and make the
20 recommendations that we all want.

21 COMMISSIONER BARTH: Can I ask you a
22 question, though? I would like to see the criteria on
23 what I call the fast track. Okay? I think we're
24 putting it on the fast track.

25 MR. CLARK: On who?

1 CHAIRMAN POLUNSKY: On what you come up
2 with.

3 COMMISSIONER BARTH: Yeah, uh-huh.

4 MR. CLARK: Oh, okay. We can do that.

5 CHAIRMAN POLUNSKY: Okay. There's a
6 motion that's been made by Commissioner Barth and
7 seconded by Commissioner Steen. Is there any
8 discussion with respect to the motion, which is the
9 recommendation for a committee to be formed, selected
10 by the director, and if any member of this commission
11 wishes to participate, then we'll arrange for that to
12 take place.

13 COMMISSIONER STEEN: Commissioner Barth,
14 can you participate in it?

15 CHAIRMAN POLUNSKY: Well, we'll--

16 COMMISSIONER BARTH: I'll be glad to
17 participate. Just wait, Commissioner Steen.

18 CHAIRMAN POLUNSKY: All in favor, please
19 say aye. Any against, no. The ayes have it.

20 I've said it earlier, but quickly let me
21 repeat, in the year 2009, in my opinion, there's no
22 reason why there is not a large enough labor pool out
23 there of extremely well-qualified people to fill up
24 this academy with highly-qualified individuals that we
25 can be proud to be wearing these uniforms, and so I,

1 you know --

2 COMMISSIONER CLOWE: But if there isn't?

3 CHAIRMAN POLUNSKY: If there isn't, then
4 let those chairs be vacant.

5 COMMISSIONER CLOWE: And, you know, just
6 to kind of put a fine point on it, we've heard a lot of
7 interesting answers to many questions. There's a sense
8 in my mind that there's some variation in the regions
9 in the qualifying process and there's been a different
10 policy in the recent past than there is today, and
11 that's reflected on the product that's come out of the
12 academy, the graduates, and I think it's clear to this
13 whole board, and we got it very clearly stated in the
14 Senate Finance Committee this morning, the chairman has
15 made the promise to the DPOSA. I was there and I heard
16 him making it. I was there this morning and I heard
17 him make it again. We are not going to have a policy
18 that allows graduates that do not meet our standards
19 take our vehicles and go out on the highway or anyplace
20 else, so there should be no doubt in anybody's mind
21 where we're headed with this, and I think that's what
22 you wanted to hear.

23 COMMANDER RODRIGUEZ: That's exactly
24 right, Commissioner. It makes our job a lot easier, no
25 doubt.

1 CHAIRMAN POLUNSKY: Thank you. Thank
2 you very much.

3 The next item: Discussion and possible
4 action regarding the appointment of the director of the
5 department.

6 Mr. Platt?

7 MR. PLATT: Mr. Chairman, we have
8 provided in Annex C the summary for temporary
9 assignment of individuals to the director's position.
10 I think we reviewed this in executive session last
11 month. I was not here but Mr. Fox was here with you.
12 We were given some options here. Because of the time
13 constraints provided under the law, we are rapidly
14 approaching at the end of this month our current
15 interim director's end of term. He cannot be
16 re-appointed. There are other options which we have
17 set out for the commission, and if you'd like me to
18 elaborate on those publicly, I will, or they're set
19 forth in the brief here. Basically, if you want them
20 set out openly in the forum here?

21 CHAIRMAN POLUNSKY: Does anybody need
22 them set out?

23 COMMISSIONER CLOWE: I'm prepared to
24 make a motion.

25 CHAIRMAN POLUNSKY: All right,

1 Mr. Clowe?

2 COMMISSIONER CLOWE: I move that Colonel
3 Clark be appointed director of the Department of Public
4 Safety.

5 CHAIRMAN POLUNSKY: Is there a second to
6 that motion?

7 COMMISSIONER STEEN: There's a second,
8 but I want to make a in point that, in this
9 recommendation we're trying to deal with this six-month
10 rule, and that option was that the commission may
11 appoint the director to his position on a non-temporary
12 basis. This would remove the applicability of 659.260,
13 and service would be as provided by Government Code
14 411.0058, which states, the director serves until
15 removed by the commission. I think it needs to be made
16 clear since we're going through a process of selecting
17 a new director.

18 CHAIRMAN POLUNSKY: That is correct. I
19 think it's certainly the understanding of the
20 commission that we're complying with state laws, that
21 Colonel Clark will be made the permanent director, but
22 we are going through a process of soliciting
23 applications from individuals for the position, and at
24 some point in time, that process will come to a
25 conclusion and Colonel Clark at that time might be

1 selected or somebody else might be selected. If
2 someone else is selected, then Colonel Clark at that
3 time will be terminated and the new person would come
4 in and be the permanent director.

5 COMMISSIONER CLOWE: Maybe not the word
6 "terminated," but would be replaced in that position.

7 CHAIRMAN POLUNSKY: I'm not quite sure
8 there's a lot of difference there, but okay.

9 COMMISSIONER CLOWE: Well, it's kind of
10 like getting killed or wounded.

11 MR. PLATT: Mr. Chairman, I will note
12 that, statutorily, in this current interim position, he
13 cannot be reduced to a position lower than the ranks he
14 held previously, so there is some risk involved, but I
15 think the commission understands that, by law, he could
16 not be reduced when he was interim. Now that he's
17 permanent, his protections are less present. He's
18 aware of that and we've discussed it.

19 COMMISSIONER CLOWE: Wait a minute, I'm
20 not sure I understand what you said. Do you mean --

21 MR. PLATT: He's protected in an interim
22 position, he cannot be reduced below his prior grade as
23 a matter of law. Now, in a permanent status --

24 COMMISSIONER CLOWE: His prior grade was
25 major.

1 MR. PLATT: Major, excuse me. He cannot
2 be reduced below that grade. Once he's permanent, he
3 doesn't have that statutory protection. It doesn't
4 mandate that you reduce him.

5 COMMISSIONER CLOWE: That's very
6 helpful, thank you.

7 CHAIRMAN POLUNSKY: Okay. It's been
8 moved by Commissioner Clowe and seconded by
9 Commissioner Steen that Stanley Clark remain the
10 permanent director of the Department of Public Safety.
11 Discussion?

12 Being no discussion, all those in favor,
13 please say aye. Against, no.

14 COMMISSIONER STEEN: Mr. Chairman, it
15 might also be helpful just to put in the record how
16 this works in terms of Colonel Beckworth. It's also in
17 your --

18 CHAIRMAN POLUNSKY: Yeah, it reserves
19 the pleasure of the director.

20 COMMISSIONER STEEN: It might be helpful
21 to just explain that.

22 MR. PLATT: The statute makes reference
23 to the director or assistant director, but the
24 appointment is of the director, who, again, in turn,
25 appoints the assistant director, so what I would

1 anticipate is that the director, in the next few days,
2 would make a formal appointment to remove Colonel
3 Beckworth from his current status.

4 COMMISSIONER CLOWE: And that would
5 apply to other active chiefs as well?

6 MR. PLATT: That's correct.

7 COMMISSIONER STEEN: And then if the
8 director we ultimately select is not the
9 currently-serving director, then what happens in terms
10 of the --

11 MR. PLATT: Those individuals would be
12 subject to Ms. Berg's [phonetic] decision as to whether
13 they continue.

14 COMMISSIONER STEEN: Thank you.

15 CHAIRMAN POLUNSKY: Congratulations.

16 (Clapping)

17 MR. CLARK: And I think I'm going to
18 have some lunches bought for me during the next few
19 days.

20 CHAIRMAN POLUNSKY: Thank you. Eat
21 well.

22 Next item: Discussion and possible
23 action on the residence policy.

24 Colonel Clark?

25 MR.. CLARK: Yes, sir. In your book,

1 you'll see a letter from Chief Baker, who has done a
2 study, if you will, on the residency policy of the
3 agency. For a number of years, we've had a residency
4 policy that if you are assigned a state vehicle, you
5 must reside within 20 miles of your residence. Much
6 discussion has occurred over the years about amending
7 that policy. I asked Chief Baker to look at that, do
8 some research, and in his study, he visited with other
9 state agency personnel, and to make a long story short,
10 Chief Baker has completed his study and has made a
11 recommendation to me to amend the residency policy,
12 whereby, we would extend the mileage limit. His
13 recommendation is 25 miles. I looked at that and I
14 reviewed it personally and I believe, and it's my
15 recommendation, and I'll make this recommendation to
16 the commission, that we have a 30-mile residency
17 policy.

18 I think in this day and age, with the
19 agency, the numbers that we have, and especially as I
20 look to the future, and I expect -- I fully expect the
21 legislature to give us those 450 units. If not this
22 year, we may get half this year and maybe half in the
23 next biennium, but I believe that that will go a long
24 way in accomplishing what we're trying to do here as an
25 agency. We want maximum exposure for safety purposes,

1 for security, and by having those additional vehicles,
2 where every trooper has a black and white parked at
3 their residence, I think there's so many benefits to
4 that, and so, thereby, extending the requirement to
5 live within 30 miles of your duty station I think is
6 reasonable, and for basically the same reasons that
7 Chief Baker eluded to in his memo, I agree with, but I
8 just believe that a 30 mile radius or limit is
9 reasonable, and that is the suggestion I would make to
10 the commission this morning.

11 COMMISSIONER BARTH: I have a question.
12 I'm not really sure -- I'm drawing one conclusion which
13 I think is probably wrong. In the memo it says it
14 takes 20 and a half minutes on average to get to a
15 crash. Now, does that mean if we go to 30 miles that
16 it now moves up a third more, so we're now like at 33
17 minutes to get to a crash scene? Is that the wrong
18 conclusion?

19 MR. CLARK: I think that's the wrong
20 conclusion, and I'll let Chief Baker address this,
21 also, but --

22 COMMISSIONER BARTH: Is this number
23 meaningful to the evaluation?

24 MR. CLARK: Well, it is, the -- and that
25 is drawn off of crash reports, from the time that a

1 trooper is notified until the time they arrive at the
2 accident scene. Now, many times -- and I can speak
3 from experience -- you're at home in bed, you get a
4 call, you have to get up and go pick up your partner
5 before you actually go to the crash scene. This
6 translates into more time from the time you're notified
7 until the time that you arrive at the crash scene.
8 Many of our people work two-man units. We have so many
9 individuals that come out of school and they're -- on
10 their training programs, they're prohibited from
11 driving by themselves. They may take a car home, but
12 if they get an accident call, they've got to go pick up
13 their partner, and so by having a unit directly
14 available to them where they can be directly to the
15 crash scene, it should reduce our response time.

16 COMMISSIONER BARTH: And I'll -- again,
17 pick of words, if they're prohibited from driving by
18 themselves, how do they get to take the car home?

19 MR. CLARK: Well --

20 COMMISSIONER BARTH: I'm just trying to
21 figure that one out.

22 MR. CLARK: Well, they can take the car
23 home. They are prohibited from working routine patrol
24 by themselves or responding to an accident. On
25 occasion, they can be directed -- like I was when I was

1 a rookie, my partner told me, "You drive straight to
2 your house, you do not stop anybody," and they meant it
3 and you knew that, because you're not ready to go out
4 and conduct traffic stops without supervision, but
5 there are times when they are directed for reasons to
6 take the car home.

7 COMMISSIONER BARTH: So the answer is,
8 conceivably, by going to 30 miles, a half hour is
9 reasonable to assume it's going to take to get to the
10 crash site?

11 MR. CLARK: David? He's got some
12 additional comments.

13 MR. BAKER: David Baker, chief of
14 highway patrol. In the light of the Senate Finance
15 Committee meeting this morning, I'd like to change my
16 recommendation as well to 30.

17 Commissioner Barth, I don't think that
18 we're going to see a significant increase in response
19 times by increasing to 30 miles.

20 COMMISSIONER BARTH: Decrease.

21 MR. BAKER: Or a decrease.

22 COMMISSIONER BARTH: Like a significant
23 increase in how long it takes us --

24 MR. BAKER: To get to an accident or to
25 any other incident that we're called out for. This

1 information I got -- and, honestly, I'm not 100 percent
2 comfortable in that 20 and a half minutes because a lot
3 of --

4 COMMISSIONER BARTH: Where did that come
5 from? Did you do a study?

6 MR. BAKER: Yes, I queried all of our
7 communications facilities to get this data. And the
8 problem with that lies with our troopers who are
9 stationed in the rural areas who are dispatched by
10 counties and cities, and what I mean by that is, a
11 police department or a sheriff's office will get the
12 call to let the trooper know at the house that, "Hey,
13 we've got an accident, we need you to come out and
14 work," and our DPS dispatch will not get that call a
15 lot of times, so there's a little disparity or
16 discrepancy in the numbers.

17 COMMISSIONER BARTH: So err on the side
18 of taking longer?

19 MR. BAKER: It could, but I don't think
20 it would be the --

21 COMMISSIONER BARTH: Which way does it
22 err on the side of?

23 MR. BAKER: Probably on -- probably on
24 the lesser.

25 COMMISSIONER BARTH: So less than 20

1 minutes to get to a --

2 MR. BAKER: I don't think the number is
3 a significant concern.

4 COMMISSIONER STEEN: Chief, I think you
5 did an outstanding job on summarizing this. I will say
6 that I wish that the people sitting out in the audience
7 had the benefit of seeing your analysis of this, and
8 I'll ask again if we can go to PowerPoint or something
9 where people can follow along with this, but I think it
10 would be worthwhile because I think you've done a great
11 job of summarizing it, where you've got the pros and
12 cons. Could you just go through that? It won't take
13 very long.

14 MR. BAKER: The other division chiefs
15 and I met to kind of hash this out and we basically
16 came up with two scenarios. The first one would be to
17 increase the 20 mile residence policy to 25 miles. The
18 pros to increasing it to 25 is that it would improve
19 the employee morale and another pro would be that it
20 would enable the agency to reimburse all reasonable and
21 necessary expenses incurred in moving the household
22 property for employees as per DPS and state comptroller
23 policy. And what that means is, we have a residence
24 policy that says that you have to live within 20 miles
25 of your duty station but we have a policy concerning

1 paying for movement of household goods, and that if an
2 employee promoted and his duty station was less than
3 25 miles from where he's moving to, then the agency
4 would not pay for that move, which I thought that was
5 kind of funny.

6 The cost to increasing to 25 miles is,
7 it is a 25 percent increase over our current policy.
8 The increase of mileage will result in an increase in
9 fuel consumption and fuel expenditures. It may
10 increase the response time to calls for service and it
11 would increase the time spent in shuttling patrol units
12 to partners in a two-unit situation. One of the
13 reasons that I lean towards the 25-mile policy is
14 because I am the only division in the agency that does
15 not have a one-to-one ratio officer per vehicle. All
16 of the other divisions officers have their own
17 take-home cars.

18 Increasing the residence policy to 30
19 miles, the pros, it greatly would improve the employee
20 morale. It would enable the agency to reimburse all
21 reasonable and necessary expenses incurred in moving
22 the household property for employees and per DPS and
23 state comptroller policy. The third pro is that it
24 would mirror other state law enforcement agencies, even
25 though those agencies have a vehicle per officer ratio

1 of one to one. The cons to the 30 mile policy, 50
2 percent increase over our current policy, and again, an
3 increase in mileage results in an increase in fuel
4 consumption and fuel expenses, increase in THP response
5 times for calls for services, a definite increase in
6 time spent shuttling patrol units to partners. If
7 you've got one partner that lives 30 miles south of his
8 duty station and the other partner lives 15 or 20 miles
9 north, then you've got 50 miles that you're putting on
10 that vehicle.

11 The last con in this policy is that it
12 may allow employees to live in communities other than
13 which they are assigned, thus impeding their
14 involvement in their assigned community. What I mean
15 by that is, we encourage our troopers to become solid
16 community members and be involved in community
17 activities, and the first thing that came to my mind
18 was my former duty station as a trooper. I was a
19 trooper in Perrington, which is the northern most
20 County seat in Texas, and the duty station to the west
21 of me was in Spearman, which is in Hansford County.
22 It's 27 miles from Perrington to Spearman. Had I been
23 stationed in Spearman, there's no doubt in my mind, I
24 would have lived in Perrington, and even though my duty
25 station is in Spearman, my time is going to be spent in

1 Perrington. And that was the thought philosophy on
2 that.

3 COMMISSIONER STEEN: What about -- if
4 you're -- so now both you and the Colonel are
5 recommending the 30 mile --

6 MR. BAKER: In light of the Senate
7 Finance Committee hearing this morning, I think that we
8 are going to get the 450 additional vehicles so that
9 everyone in the highway parole will have their take on
10 a car and, therefore, there will not be shuttling of
11 vehicles between partners putting additional mileage on
12 those vehicles and additional time spent in that
13 activity.

14 COMMISSIONER STEEN: We have to consider
15 the fiscal impact. Can you address that, if you went
16 to the 30 mile?

17 MR. BAKER: There would be --

18 COMMISSIONER BARTH: Where do we get the
19 money?

20 MR. BAKER: There would be a fiscal
21 impact. In fiscal year 2008, we spent \$16.4 million
22 for gasoline. If we were just to increase that amount
23 by five percent, our expenditure would go up to \$17.2
24 million. If it resulted in a ten percent increase in
25 expenditures, it would go up to \$18 million. So there

1 could be a fiscal impact.

2 COMMISSIONER BARTH: Where do we get the
3 money?

4 MR. CLARK: We did build into the
5 request for the 450 vehicles, it's \$27 million
6 exceptional item. Those operating costs and gasoline
7 costs are included in that proposal, all of the
8 operations costs.

9 COMMISSIONER BARTH: Well, let me
10 understand this. I didn't realize this, that we build
11 in -- going to a ten percent additional increase in 30
12 miles, we build that into the exceptional items
13 request?

14 MR. YBARRA: Not from a perspective of
15 this change, no, we didn't. What they're talking about
16 is, in those vehicles, there's gasoline dollars
17 appropriated to cover the gas that these vehicles would
18 need to operate. There's not anything in the current
19 exceptional items that covers this. However, if we do
20 receive the gasoline rider, if we were able to get that
21 in our bill pattern, we would be able to cover
22 ourselves with that rider in ten and 11 if we fell
23 short on funding.

24 COMMISSIONER STEEN: You all have to
25 help me with this: Would it be wise to wait until we

1 see what happens with that until we -- and then
2 implement a policy like this?

3 MR. CLARK: When did we order
4 the vehicles, Lamar?

5 MR. BECKWORTH: We are in the process of
6 negotiating and ordering the vehicles for 2009 as we
7 speak. We're going to have another meeting next week
8 to finalize the number that we need for 2009. However,
9 Commissioner Steen, we won't know -- if we get the
10 funding for these particular cars, it will take us a
11 two-year process to transition these many cars out, or
12 even longer than that, so we're talking about a period
13 of two year time for 450 new cars, that's going to take
14 us some time to transition those out.

15 COMMISSIONER STEEN: But I think what I
16 hear him saying is, we're asking for a gasoline rider?

17 MR. YBARRA: Yes, sir.

18 COMMISSIONER STEEN: And we may or may
19 not get that?

20 MR. YBARRA: We may or may not get
21 there.

22 COMMISSIONER STEEN: I'm talking about
23 this specific thing we're talking about today, this
24 30-mile rule, would it be -- would it be wise to wait
25 to see if we're going to get the gasoline rider before

1 we take action? I'm just asking.

2 MR. BECKWORTH: I think it would be
3 prudent for us to take this action today, I mean, take
4 this action upon y'all's approval and we move forward
5 on it. Gasoline prices have come down significantly.
6 We process gasoline at \$3 a gallon as related to this
7 particular component in the bill pattern and gasoline
8 right now is \$1.71 I think is what we're paying for it
9 today, and I think we have enough to manage that going
10 forward to September 1st of 2009 if we can get this
11 particular funding.

12 COMMISSIONER BARTH: Well, the only
13 thing I'll say -- and I don't mean to -- in the
14 interest of full disclosure to the legislature, their
15 intention wasn't to fund on gasoline because we changed
16 our policies. Is that correct?

17 MR. BECKWORTH: That's correct.

18 COMMISSIONER BARTH: It's not that I'm
19 against this, it's just -- it's really not built into
20 our exceptional items. Is that correct?

21 MR.. YBARRA: This particular increase is
22 not built into our exceptional items. It is from the
23 rider perspective. It was covered but not planned, if
24 makes sense. It wasn't planned to be included. The
25 rider would pick it up and cover it.

1 COMMISSIONER CLOWE: Could I ask a
2 question?

3 CHAIRMAN POLUNSKY: Yes, sir.

4 COMMISSIONER CLOWE: As you put these
5 new cars in the system, what happens when a graduating
6 class goes out and they run with somebody for six
7 months?

8 MR. BECKWORTH: We have -- this is
9 information that helps us put this information
10 together. We currently have 1,800 -- a little over
11 1,800 highway patrol troopers assigned, we have a
12 little over 1,200 cars, which computes to be about a
13 600 vehicle difference. We're asking for 450 cars
14 because of the issue you just identified. When a
15 trooper graduates from the trooper school, they
16 actually go into an FDO program. They can't drive by
17 themselves. They won't have the luxury of having have
18 a car for 12 months, sometimes even up to a year,
19 because of the 12 month FDO program, and so we figured
20 that reduction in there. We also -- in a normal
21 process, we'll have approximately 110 to 115 vacancies,
22 and those things are also figured, so that's why we're
23 asking 450 cars rather than 650 cars. So there's a
24 process in there that allows us to not have all this
25 sitting around waiting on --

1 COMMISSIONER CLOWE: I understand.

2 I move the commission adopt the 30 mile
3 residency rule.

4 COMMISSIONER BROWN: I'll second.

5 CHAIRMAN POLUNSKY: It's been moved by
6 Commissioner Clowe and seconded by Commissioner Brown
7 that the residency rule be expanded from 20 miles to 30
8 miles. Is there discussion on this motion?

9 COMMISSIONER STEEN: I have a question.
10 We currently -- we currently are operating under a
11 gasoline rider?

12 MR. YBARRA: Yes, sir, but not like the
13 one we're requesting. The rider that is in place right
14 now would not provide any funding in the out year.
15 What the current rider does is, in the early year,
16 would allow us to transfer funds in the out year to the
17 earlier to cover our shortfall, but there's no
18 mechanism in the out year other than going to the
19 legislature for an emergency request to see if we get
20 it. And I will be discussing that very thing in one of
21 my presentations here.

22 COMMISSIONER STEEN: So if we implement
23 this policy today, somebody tell me what it's going to
24 cost this agency. And I know it has to be --

25 MR. BAKER: I can't put a dollar figure

1 on it, but let me -- let me tell you, my 2,700
2 commissioned employees that work in this division,
3 there's not going to be a mass migration out to that 30
4 mile limit. A lot of those folks are set within that
5 20 mile policy. I don't think -- I really do not think
6 that it will be a significant issue. This will be more
7 for folks who are transferring. There's not going to
8 be a mass migration out in that ten mile condition.

9 COMMISSIONER STEEN: In your summary,
10 you put some attention-grabbing numbers in there. Give
11 me a ballpark.

12 MR. BAKER: I wouldn't have any idea.

13 COMMISSIONER STEEN: So we're
14 implementing a policy that will have a fiscal impact
15 but we don't have any idea what it's going to cost us?

16 MR. BAKER: I couldn't give you -- I
17 could go back and look at the mileage and --

18 COMMISSIONER STEEN: Colonel, can you
19 help me there?

20 MR. CLARK: Well, I was just going to
21 say, if we implement this -- if it is implemented
22 today, I don't know how we would even canvass our
23 people to see who would sell their house or go rent
24 another ten miles from where they are if they are, in
25 fact -- at the limit right now, I would think it would

1 be a very small number of -- and this is just those
2 people who have a vehicle, you know, assigned to them
3 at this point, 2,700 in the THP.. You know, if we said
4 that within the next three months, we'll have
5 three percent of our --

6 We could just do that, David. We could
7 take --

8 MR. BAKER: I'd say it would be less
9 than five percent.

10 MR. CLARK: Yeah, maybe two and a half
11 to three percent of our people might take advantage of
12 this new resident policy. We could give some
13 estimations of what that additional mileage might cost
14 from that location to their duty station. We can put a
15 pencil to it, but I really believe it's minimal.

16 COMMISSIONER CLOWE: But that would be a
17 guess. That's not based on anything that --

18 MR. CLARK: And that's a guess. I don't
19 know.

20 COMMISSIONER BARTH: And I guess that's
21 the reality of the housing the market. Okay? I swear
22 to God, you know, that's where I'm at on all this, is
23 that I think, that how the housing market is, that this
24 may apply mostly to those coming out of the academy.

25 CHAIRMAN POLUNSKY: Our transfers.

1 COMMISSIONER CLOWE: Or promotions.

2 Move the question.

3 CHAIRMAN POLUNSKY: Are you done, Mr.

4 Steen?

5 COMMISSIONER STEEN: Yes. Thank you.

6 CHAIRMAN POLUNSKY: It's been moved and
7 seconded. The question has been called. All in favor,
8 please say aye. Any against, no? Motion passes.

9 Thank you.

10 Next item: Update report, discussion
11 and possible action on driver's license office
12 closures.

13 MR. GLORIA: Good afternoon, Polunsky,
14 Commissioners. Dorothy will be giving you an update.
15 Within the last three hours, there's one that's up and
16 one that's down on that report.

17 CHAIRMAN POLUNSKY: I'm sorry to
18 interrupt you, I apologize, but Commissioner Steen
19 asked a question with respect to the overhead
20 audio/visual. Where is all that? Where are we on
21 that?

22 MR. LANE: Chairman Polunsky, Bryan Lane
23 with IMS. We're in the middle of a review of an
24 engineering plan. While it's two screens that we'll
25 been able to project back to the entire commission this

1 afternoon, we do have a single ELMO device that will
2 allow you to project on the screen behind you, but, as
3 you can see, the legibility is pretty difficult at this
4 point.

5 COMMISSIONER STEEN: Who can read that?
6 I mean, can you read it?

7 CHAIRMAN POLUNSKY: If you're in the
8 first row, you're in great shape. How quickly will
9 this be done?

10 MR. LANE: I anticipated it being done
11 today, sir. They're very aware of our disappointment
12 and they're delivering an engineering plan this week to
13 get this thing set up for us.

14 CHAIRMAN POLUNSKY: All right. So we
15 should anticipate this set up for the March meeting?

16 MR. LANE: Absolutely, yes, sir.

17 COMMISSIONER BARTH: Where's your bid?

18 MR. LANE: I'm working through a resell
19 place, which is Austin Ribbon & Computer, or ARC.
20 They're on the hour or go direct contract.

21 COMMISSIONER BARTH: Do they get
22 penalized for not being on time?

23 MR. LANE: No, because this is a bid
24 process for them at this point. They're being
25 penalized by having to take our phone calls, but we

1 have not actually entered into a contract with them on
2 the delivery. We wanted to look at their final numbers
3 on what the -- from a bid perspective.

4 COMMISSIONER BARTH: So you don't have a
5 bid yet?

6 MR. LANE: No.

7 COMMISSIONER BARTH: Is that right?

8 MR. LANE: You're exactly right.

9 CHAIRMAN POLUNSKY: Okay. Well, we
10 would certainly like to see this system in place for
11 the March meeting.

12 MR. LANE: Yes, sir.

13 COMMISSIONER STEEN: Could you identify
14 yourself for the record?

15 MR. LANE: Yeah. Again, Bryan Lane,
16 chief IMS.

17 COMMISSIONER STEEN: I apologize, Chief.
18 I just didn't want to lose --

19 MR. LANE: That's okay.

20 MR. GLORIA: Greg Gloria, assistant
21 chief of the driver's license division.

22 MR. KILCHENSTEIN: My name is Jim
23 Kilchenstein, information Management Services.

24 MR. GLORIA: What's presented here in a
25 copy that was given to the panel reflects that we have

1 three offices that we're currently working on that are
2 down. Since the meeting started today, the Denton
3 office is up and running, but we've also added one of
4 the El Paso offices that went down. It officially went
5 down while we were here in the meeting. They were
6 going through a transition process with it and it looks
7 like it's permanently down until we get that back up so
8 we'll add that to the list. As you can see, we've also
9 reflected in there four offices statewide that have
10 been permanently shut down due to us having to scavage
11 parts for those offices to bring up higher volume and
12 more priority offices, and this has happened over the
13 course of the last several years. Those offices, of
14 course -- and all these offices will come up once we
15 implement our driver's license re-engineering project.

16 We understand the sensitivity of this
17 issue and how important it is to have every office in
18 the state. We also understand that there is a priority
19 in offices based on volume, based on geographics and
20 how far people have to go in reference to this, so we
21 have an escalation process that's been in place. We
22 also have a contingency plan if we have to go further
23 into cutting other offices or shutting other offices
24 down to be able to keep our high volume offices up.
25 There is a major concern that we have, in that, parts

1 are very, very, very limited, and that's why IMS is on
2 board with us. Also, we've utilized our highway patrol
3 folks field wise that will assist us in getting our
4 equipment back up as fast as possible.

5 As the commission may recall, our
6 contract that we had up until August 31st of last year
7 was not renewed, so no one was willing to go out and
8 repair any of our equipment that we have in our offices
9 or the portions of DPS that are actually ours. We
10 still have a contract with our current vendor that
11 takes care of our equipment pertaining to L-1, the
12 company that does that for us, that takes our images,
13 our thumb prints, and our signatures. We are very
14 aware of the process and what we have to do to escalate
15 it to make sure that keep offices functioning. When we
16 have a critical office, which all of them are, but we
17 come to the point to where someone is complaining
18 constantly through that office and sometimes we come to
19 within 24 hours, we escalate that immediately to the
20 colonels. But this report, what we're doing now is
21 just a weekly process to let you know what is still
22 down at the end of -- or by noon on Friday just to give
23 y'all an update of the offices.

24 We'll address any questions that you may
25 have.

1 COMMISSIONER CLOWE: So the
2 commissioners will get this every week?

3 MR. GLORIA: We can put you on the CC or
4 the colonel will --

5 MR. CLARK: What I will ask for you to
6 do is, when you e-mail me this update, if you would
7 e-mail the commissioners directly?

8 MR. GLORIA: We can.

9 MR. CLARK: And if you don't have their
10 e-mail addresses, I've got them.

11 MR. GLORIA: Okay.

12 COMMISSIONER CLOWE: Will we hear under
13 this item or under item D under Roman numeral four
14 about the current DLR situation?

15 MR. GLORIA: That will be under D.

16 CHAIRMAN POLUNSKY: Any other questions?
17 All right, thank you.

18 Next item: Discussion and possible
19 action regarding security measures for the department.
20 Chief Fulmer?

21 MS. FULMER: Commissioners, you'll
22 recall that we met in closed session, in executive
23 session, to discuss this last time. I do have some
24 updates and I think they're all things I can discuss in
25 open session. We were able to determine that there is

1 not a direct state contract for security consulting.
2 We were hoping there would be to speed up the process,
3 but there is not. We have determined there are certain
4 things that we can directly purchase, one of which
5 being balers, which are the big cement things that go
6 in front of the glass doors. They're not particularly
7 expensive. We can have one installed for \$2,500, so
8 we're in the process of costing them and determining
9 where all we need them and we'll get those ordered
10 immediately.

11 In other news, we have determined that
12 the Fusion Center meets FDI security requirements, so
13 nothing -- as far as speccing this out, there won't be
14 anything we have to do to meet FDI requirements.
15 However, there is a federal program that's called a
16 Protective Security Adviser Program. They are housed
17 with Homeland Security and the Secret Service
18 throughout the states. The closest office to us is San
19 Antonio. We've contacted them and they are scheduling
20 a vulnerability assessment, which is something they
21 will do for statewide agencies. They're going to come
22 out and assess all of our physical security and make a
23 determination as to what they would suggest that we
24 would need. I have conveyed to them the commission's
25 sense of urgency on this and they've assured me that

1 they're going to schedule us as soon as possible, and I
2 expect to hear either tomorrow or Monday what the
3 schedule will be, and then we'll take their
4 demonstration and use that to spec out the work that
5 we're going to have do. And that's all I've got for my
6 report unless you guys have questions.

7 CHAIRMAN POLUNSKY: Questions?

8 COMMISSIONER BARTH: I just want to make
9 sure that you've got an offering with respect to a
10 budget.

11 CHIEF FULMER: Yeah, there won't be
12 anything of any large expense that we can do prior to
13 the end of the fiscal year, but in order to have them
14 come out and do the assessment and then put the RFP in
15 place, it will be after September, prior to any large
16 expenses other than the balers.

17 COMMISSIONER BARTH: So we can't do
18 anything around here until September about the front of
19 the --

20 CHIEF FULMER: Yeah, the balers and
21 perhaps some other smaller items.

22 COMMISSIONER CLOWE: There might be some
23 federal money that could be used in that regard.

24 COMMISSIONER BARTH: Isn't that stimulus
25 money?

1 (Laughter)

2 CHIEF FULMER: Yeah, we're counting on
3 the stimulus money to do everything. And that is
4 possible. I mean, it is possible.

5 CHAIRMAN POLUNSKY: We're going to be
6 talking about that later.

7 CHIEF FULMER: And we're going to -- we
8 took I believe it was commissioner Steen's advice from
9 the last meeting that we had on this to see what we can
10 do for free, to see what we can get money for.

11 COMMISSIONER BARTH: I was just
12 concerned really to, you know, put the appropriate
13 security, and we're talking about the earliest is
14 October. Is that realistic? Is that at the earliest?

15 CHIEF FULMER: I think that's the
16 earliest. I mean, we can take some interim measures
17 now, but in order to do full security, it's going to
18 take that long.

19 COMMISSIONER STEEN: Do you have a feel
20 for how quickly they'll schedule this?

21 CHIEF FULMER: They promised me very
22 quickly, but he said it would probably be today or
23 Monday before they could get back to -- they have a
24 team that comes out and they do a three-day assessment.

25 COMMISSIONER STEEN: I'm just asking how

1 long it takes.

2 CHIEF FULMER: Yeah.

3 COMMISSIONER STEEN: It may be, at the
4 end of that three-day assessment, they'll identify
5 other things that we can other than the balers.

6 CHIEF FULMER: Right. Right. And I
7 will tell you that they actually provide their
8 recommendation at the end of the third day. It's not
9 something where they have to go back and put together a
10 report and we don't get it for three or four months.
11 They actually do -- they ask security questions of us.
12 They'll spend half a day asking us questions, they'll
13 spend another day actually out doing the physical
14 survey, and then they'll go back to wherever it is they
15 are staying and they'll come on the last day and
16 they'll actually provide us a report at that time and
17 recommendations and actually have a sit-down meeting
18 with the directors and with all the involved parties,
19 so if they can get it scheduled, you know, within the
20 next month or so, we will have their information very
21 quickly.

22 COMMISSIONER STEEN: Thank you.

23 CHAIRMAN POLUNSKY: Anything else?

24 Thank you.

25 The next item: Discussion and review of

1 pending contracts, commitments and change orders,
2 including the following as set out in the agenda.

3 Chief Ybarra?

4 MR. YBARRA: Oscar Ybarra, chief of
5 finance. One of the commission's requirements is that
6 the agency disclose any of the contracts that meet the
7 criteria that was laid out in a meeting earlier this
8 year. There are four contracts that met that criteria.
9 The 3130 DNA Kits and Consumables for the crime labs.

10 COMMISSIONER STEEN: Sir, what's the
11 criteria?

12 MR. YBARRA: The criteria is that any
13 contract in excess of a million dollars will be
14 presented in front of the commission, also amendments
15 or any kind of adjustments to contracts that exceed
16 \$500,000 cumulatively or at a one-time shot will be
17 presented to the commission for their review.

18
19 MR. JONES: Kevin Jones, contract
20 administrator. Also, we need a change order
21 individually or a combination of \$100,000 or more and
22 increase the original contract policy by 50 percent.

23 COMMISSIONER STEEN: Thank you.

24 MR. YBARRA: The other contract was also
25 the crime lab, the Identifier, the DNA Amplifier Kits.

1 The third one is the DNA Extraction Robot. Lastly, an
2 online Database service for inquiries such as driver's
3 license, vehicle registration, Real Property,
4 Bankruptcies, and Tax liens.

5 COMMISSIONER CLOWE: No objections.

6 CHAIRMAN POLUNSKY: Any problems with
7 any of this?

8 COMMISSIONER STEEN: Mr. Chairman, do
9 you all know something about these contracts?

10 CHAIRMAN POLUNSKY: Just what's been
11 presented here.

12 MR. YBARRA: There's information within
13 your packet, also, specifically a little summary which
14 has been requested by the commission.

15 COMMISSIONER STEEN: Oh, thank you.

16 MR. YBARRA: Item H? Is that right?

17 CHAIRMAN POLUNSKY: We're at H, okay.

18 Discussion and possible action on DPS methodology for
19 identifying and securing federal and state grant
20 funding to support department plans and operations.

21 And I think that's Colonel Beckworth.

22 MR. BECKWORTH: That's correct.

23 Chairman and Commissioners, I've done quite a bit of
24 research to look at methodology and the guidelines that
25 we need to follow as it relates to seeking funding from

1 federal a perspective and a state perspective based on
2 grants, and the decision to move forward and look at
3 this was all based on the federal stimulus package,
4 whereby, several states received significant funds from
5 the federal government based on the economic downturn
6 that's going on across the nation. Texas has the
7 possibility of receiving around 126 -- or in state
8 funds, \$116 million, possibly \$210 million for the use
9 of Texas. From this perspective and from a law
10 enforcement perspective, that would afford us an
11 opportunity to be able to focus on -- what we currently
12 look at is like \$2 billion worth of funds. We normally
13 look at that right now.

14 There is a provision in the government
15 code that stipulates that was forwarded to the
16 governor's office. The governor's office contact's
17 name is Judy Switzer, and her role to seek out and
18 contact the state agency, forward them the information
19 and follow up and help them to try to seek and achieve
20 these particular funds. And there's a provision that
21 prohibits us from actually hiring a person to do this
22 from the state agency. We currently have two people
23 within our agency that does this for us right now.
24 Janet Espinoza in our finance department is the person
25 that is over this program and Debra Ray Taylor works

1 for David Gary in crime records because we get a lot of
2 federal dollars out of that program right now. They
3 want this program to work with Judy Switzer to ensure
4 that we don't miss out on any funds. We're going to
5 step up a rigorous effort to watch this extremely close
6 and have weekly discussions with those particular
7 entities to make sure we don't miss out on any
8 opportunity of getting federal and state funds, and
9 that's why we'd like to keep the ball rolling to be
10 ensured that we can identify federal and state funds to
11 help us move forward. That's my comments. If you have
12 any questions.

13 CHAIRMAN POLUNSKY: Mr. Platt, do you
14 have anything else on that?

15 MR. PLATT: Colonel Beckworth addressed
16 the prohibition against hiring someone to be designated
17 solely for this responsibility, and he's absolutely
18 correct. The government code provision Chapter 772 has
19 a provision and it states essentially that it mandates
20 us to designate an employee to fulfill some of the
21 management and coordination of functions. It's
22 specific by identifying that it should be an employee
23 on the management or senior staff level. Now, the
24 catch is that this same statute that enables us to
25 designate someone to coordinate federal funds prohibits

1 us from hiring someone for this sole purpose. It must
2 be an additional duty of the person, so that's the
3 limitation. Our current practice is set forth in our
4 general manual under Chapter 10. We tried to examine
5 how we're functioning in relationship to the -- with
6 what Colonel Beckworth touched on, the general manual
7 has basic -- I think we've got two employees carrying
8 out the functions. The position right now does not --
9 from our understanding does not clearly oversee and
10 coordinate the agency's functions for discretionary
11 federal funds.

12 The possible action I think that could
13 be taken by the commission or by the department is to
14 expand that role, but again, it needs to remain as an
15 additional duty. It cannot be a new-hire position. It
16 must be an additional duty for an individual. The
17 expansion of the role could add responsibilities to an
18 existing position to centralize the function of
19 overseeing and coordinating the agency's efforts to
20 acquire discretionary federal funds, and that is
21 permitted by law. I know that's a little bit
22 convoluted, but the bottom line is, we can't hire
23 someone solely for that purpose. It must be an
24 additional duty. And right now our government manual
25 allows us to carry out several of these functions, and

1 one function, the acquisition of discretionary federal
2 funds, is not being overseen, and that could be taken
3 care of by the director asking that that be
4 accomplished for the commission.

5 CHAIRMAN POLUNSKY: Thank you,
6 Mr. Platt. Any questions?

7 COMMISSIONER CLOWE: Very good.

8 CHAIRMAN POLUNSKY: As an aside, I've
9 had some discussions with people over in the governor's
10 office, and Homeland Security is charged with -- or
11 very involved in obtaining grant money and I've been
12 assured that the department will be in their thoughts
13 and in their efforts.

14 At this time, the Public Safety
15 Commission will move to executive session pursuant to
16 relevant provisions of the Texas Open Meetings Act.
17 You don't need to leave this room. We'll be going to
18 another room. And it's 2:45 p.m.

19 (Executive session from 2:45 to 4:26)

20 CHAIRMAN POLUNSKY: The meeting of the
21 Texas Public Safety Commission is now reconvened. It's
22 4:26.

23 The next item: Reports, discussion,
24 deliberation and possible action regarding the
25 following: Discussion of possible action concerning

1 the organization structure study of the department and
2 procurement of a project manager to implement
3 organizational changes.

4 Colonel Clark?

5 MR. CLARK: Mr. Chairman, I would ask
6 that we table this item until next month.

7 CHAIRMAN POLUNSKY: And you're referring
8 to the organization structure study?

9 MR. CLARK: Yes, sir.

10 CHAIRMAN POLUNSKY: But we do want to
11 discuss the procurement of a project manager?

12 Paula Logan?

13 COMMISSIONER CLOWE: I can bring you up
14 to date on that. Paula Logan has been very helpful..
15 And there was a meeting last week of the Selection
16 Committee and there were six qualified respondees.
17 That ranking resulted in four entities being selected
18 for oral presentations. Commissioner Steen and I have
19 scheduled that for March the 6th. If Commissioner
20 Steen is not available, Commissioner Brown has
21 volunteered to sit with me for those interviews.

22 And, Paula, at this time is it proper to
23 announce those companies?

24 MR. JONES: I probably wouldn't.

25 COMMISSIONER CLOWE: I will not announce

1 those companies at this time, but when we have
2 completed the oral interviews, hopefully our March
3 meeting, I think will be able to give you an up-to-date
4 report.

5 Paula, do you have anything to add to
6 that?

7 CHAIRMAN POLUNSKY: Thank you,
8 Mr. Clowe. Internal Audit Services Contract. Mr.
9 Walker?

10 MR. WALKER: Farrell Walker, director of
11 audit inspection. Our audit has been posted in the
12 Texas Register. We will be able to conduct our initial
13 evaluation of responses on or about March 11th. The
14 earliest we can award the contract will be around
15 March 24th. I'm working with Commissioner Barth to get
16 through this process. We'll have an oral presentation
17 to evaluate as well.

18 COMMISSIONER BARTH: I would like to see
19 us appoint a committee to interview for presentation
20 [inaudible].

21 CHAIRMAN POLUNSKY: I will be appointing
22 a committee to accomplish that.

23 MR. WALKER: Thank you.

24 CHAIRMAN POLUNSKY: The next item:
25 Executive search firm services for executive director

1 and management positions. Ms. Logan?

2 MS. LOGAN: At our last meeting, Carn
3 Ferry [phonetic] had been hired and they were talking
4 to the various estate holders in the commission about
5 his qualifications. The commission approved
6 qualification standards to go out. We have posted the
7 position. It was posted at the beginning of the month
8 and it closes at the end of the month, and they're in
9 the process of doing their search. We'll be talking
10 with Commissioner Clowe and Commissioner Barth sometime
11 after the end of the month to start talking to them
12 about their short list of candidates.

13 CHAIRMAN POLUNSKY: Thank you.

14 Mr. Clowe, do you want to bring up another item or --

15 COMMISSIONER CLOWE: I can add to what
16 Ms. Logan just reported, that I received a verbal
17 report from Carn Ferry yesterday and they have been
18 moving forward with their search and they plan to be in
19 Texas the first week in March to conduct interviews
20 here in the state and they do anticipate that they will
21 be contacting Commissioner Barth and myself sometime in
22 the month of March to discuss the next step.

23 Did you have another subject in mind,
24 Mr. Chairman?

25 Additionally, the task has been assumed

1 that we're going to move forward with the employment of
2 a director for the Management Information Services
3 Division, and the colonel is going to work with us on
4 that and Commissioner Barth and I and he will get
5 together and begin the process, with your help, Paula,
6 of identifying the job description, the job duties.
7 We'll discuss the compensation, the posting, and open
8 negotiations with Carn Ferry under their contract.

9 And, Stuart, you'll help us on that and
10 be an active member of that team?

11 MR. PLATT: I will, sir.

12 CHAIRMAN POLUNSKY: Thank you. Next
13 item: Discussion and possible action regarding the
14 employment of an assistant for the commission. Ms.
15 Brown?

16 COMMISSIONER BROWN: I can report back
17 to the commission that I have interviewed myriad
18 qualified applicants. We were fortunate in that we had
19 an incredible pool from which to choose. I've narrowed
20 down, I would say, approximately 100 applications down
21 to a final handful, interviewed all those people
22 individually and live. I was very impressed with all
23 the candidates, and I do have a recommendation of a
24 particular candidate that I would recommend to the
25 commission.

1 CHAIRMAN POLUNSKY: And would you go
2 ahead and make that recommendation?

3 COMMISSIONER BROWN: Sure. I recommend
4 that the commission instruct the Colonel to enter into
5 negotiations for employment with Linda Dougherty to be
6 hired as the assistant to the commission.

7 MR. CLARK: All right. There is a
8 motion and a second. The motion made by Commissioner
9 Brown, the second by Commissioner Barth that the
10 commission direct Colonel Clark to enter into
11 negotiations with Linda Dougherty for employment as the
12 assistant to the Public Safety Commission.

13 COMMISSIONER BROWN: Let me chime in,
14 for the record, that's L-i-n-d-a; D-o-u-g-h-e-r-t-y.

15 CHAIRMAN POLUNSKY: Any discussion on
16 the motion? No discussion, then all in favor, please
17 say aye. And against, no.

18 COMMISSIONER STEEN: No. Mr. Chairman,
19 just a brief explanation of my no vote. I respect
20 Judge Brown's work on this and I respect the outcome,
21 but I had an issue with regard to this, that's why I
22 voted no.

23 CHAIRMAN POLUNSKY: Duly noted. Thank
24 you, Mr.. Steen, and thank you, Judge Brown.

25 The next item: Discussion and possible

1 action regarding the ongoing sunset Review
2 recommendations and other legislation affecting the
3 department and the Public Safety Commission.

4 Mr. Kelley?

5 MR. KELLEY: Mr. Chairman,
6 Commissioners, I'm Michael Kelley, chief of government
7 relations, and today I'd like to brief you and update
8 you on the DPS Sunset legislation; e-mail updates
9 providing you -- from here at the headquarters; DPS
10 legislative committee presence; bills that we've
11 requested, the status of the bills we've requested from
12 the legislation; an update on the DPS budget status of
13 where we are in that process; and then a go of the
14 nominations process, where we are today.

15 For the DPS Sunset bill, this morning we
16 found out that Representative Lois Kolkhorst,
17 republican from Brenham, will be picking up a Sunset
18 bill and authoring that in the House of
19 Representatives. Although not officially announced by
20 the Sunset commission, Senator Chuy Hinojosa, a
21 democrat from down in the Valley, has offered to pick
22 up the bill in the Senate, and we have no reason to
23 believe that that won't be the case. We do understand
24 that this legislation will consist of both the DPS and
25 private security, it will be as one, so you have the

1 Government Code, Chapter 411, and Occupations Code 1702
2 all included in that, and part of the recommendation is
3 to take the Polygraph Examiners Board and move them out
4 of the agency.. Amy Trose [phonetic] continues to
5 update me on anything she has. I will update you
6 accordingly so, that way, you'll know firsthand what's
7 happening with Sunset.

8 Next, as far as the commission e-mail
9 updates, the Offices of General Counsel, Office of
10 Audit Inspection, and the Office of Government
11 Relations continues to meet with individuals from
12 across the agency representing the different divisions
13 and special sections on Friday mornings at 9:00 to
14 review both the bills that we've requested to see where
15 we are on getting them enacted and also working on the
16 legislation that we're tracking. That's the high,
17 medium, and low priority bills that we send you. Once
18 that meeting is done and we make any corrections, I
19 then e-mail any updates on Friday and I'll continue
20 doing that throughout the session. I just want you to
21 know that that is done in conjunction with across the
22 agency, so you're not just getting it from my office.
23 That work is representative of all the different groups
24 around the agency working. I'm just the person sending
25 to you. I appreciate the fact that all the divisions

1 have worked very hard with us on that

2 Next, as far as the periodic e-mails, I
3 know, Commissioner Barth, you asked the other day,
4 because I kept sending e-mails every time the House
5 Subcommittee changed. I'm trying to send only the most
6 important items to you and I just knew that some of you
7 wanted to be at the budget hearing, so I apologize if
8 some days are like that, because we're going to get
9 multiple changes and I just wanted to give you guy the
10 latest information as possible. I also did talk to
11 Linda in your office as well and she had a problem with
12 some of the attachments because we had switched to
13 Outlook and Word 2007. So I'm assuming you've been
14 able to get all the documents that we've sent? I've
15 worked with her to fix that.

16 COMMISSIONER STEEN: Yes, thank you.

17 MR. KELLEY: Next, each one of the
18 divisions has decided to make sure that we have a
19 positive and very well-known presence at the major
20 committees at which we're going to have legislation.
21 In the past, the committees -- we've had individuals
22 from DPS attend committee meetings periodically. It
23 really wasn't well organized, and I dare say that that
24 kind of hurt us at times because it would catch us
25 flat-footed and off guard when an issue would come up

1 related to DPS but no one was in the room to represent
2 the agency. In order to rectify the situation to make
3 sure we are being proactive and positive with
4 lawmakers, the highway patrol is going to make sure
5 they cover transportation and public safety in the
6 House; transportation Homeland Security in the Senate..
7 The driver's license division will have someone present
8 at Transportation and Public Safety meetings and
9 transportation Homeland Security in the Senate.
10 Criminal law enforcement will have someone at public
11 safety in the senate. The Texas Rangers will monitor
12 the public safety meetings, the House public safety and
13 Senate criminal justice. The rangers will do the same,
14 public safety and criminal justice. Administration
15 will be at the public safety in the House,
16 transportation Homeland Security in the Senate. And
17 then emergency Management, because all emergency
18 management legislation goes through Defense and
19 Veterans Affairs, they will monitor that committee in
20 the House with the transportation Homeland Security in
21 the Senate.

22 And what I mean by monitoring, we're
23 monitoring all bills and all legislation but we will
24 actually have an official in the room that the
25 legislators will know they represent DPS, and that

1 includes Chief Baker having someone in uniform,
2 because, obviously, seeing that uniform has great
3 representation of all of DPS, but I will work with each
4 one of the division's coordinators that go to these
5 meetings to make sure and introduce them to the members
6 of the committee so they will know that that is DPS
7 present in the room at all times.

8 Next is on bills requested by DPS.
9 Senator Carona has completed with the legislative
10 counsel all but two bills, and that's because they're
11 still finalizing a few tweaks on the draft amongst
12 counsel, but we're almost done with all the bills we've
13 requested being drafted. That being said, he is
14 allowing members of his committee as well as himself to
15 decide which bills they want to actually author. On
16 the House side, with the guidance of the chairman this
17 week, the colonels and I went and met with Tommy Merit,
18 the new chairman of the House Public Safety Committee.
19 He has allowed us to work with him and Joe Driver, the
20 former chairman of that committee when it was called
21 the Law Enforcement Committee. Since the former
22 Chairman Driver has such institutional knowledge about
23 our operations and about our legislation, the current
24 chairman is going to allow Driver to carry a lot of the
25 bills that he had already worked on and then pick up

1 the remaining bills, so I'm set to meet -- once
2 Chairman Merit coordinates for Representative Driver to
3 meet with me and him and we're going to sit down and go
4 through the bill chart and let them kind of hash out
5 which once they'll pick up and who else on that
6 committee they think ought to be picking up the
7 remainder of the DPS bills. Senator Carona, chairman
8 of transportation Homeland Security, let us know that
9 is fine, he will work with Chairman Merit. He has no
10 problem of, if he's carrying a bill, that Merit would
11 carry it over on the House side, so that should make it
12 easy, so we don't have to find different sponsors once
13 the bill has passed one body.

14 The next update is on the budget. As
15 you know, we had our first budget meeting this morning
16 in the Senate, and then on Monday, we're scheduled to
17 appear before the House. Understand that the process
18 in the Senate and the House are different. The Senate
19 wanted us to meet before the full body and then we're
20 going to go before a subcommittee. Typically that's
21 Senator Whitmire chairing it since his expertise is
22 criminal justice. Senator Williams and Senator
23 Hinojosa will likely be on that. And so that's where
24 they do the markup of the legislation, is going in that
25 subcommittee after we've met today. On the House side,

1 it's just the opposite. We meet first with the
2 subcommittee; they will do a markup; then they will
3 present that to the full committee for them to agree to
4 adopt, and so we're going to start off in the House
5 directly with a subcommittee and then move our way into
6 the full committee. We expect to be down to actually
7 helping work with the subcommittees to decide in the
8 next couple weeks so they can go ahead and formally
9 pass the House and Senate versions of the legislation,
10 which will then lead to a conference committee next
11 month which they'll have to sit down and iron out the
12 difference between the two versions of the bill.

13 One thing about our legislation, so
14 you're aware, if you get any questions about DPS, about
15 what we're currently doing -- because, you know, with
16 our budget and with our legislative requests, that's
17 tied in greatly to the studies that have been done
18 recently. Bryan Lane, our Chief of IMS, has put on the
19 DPS website all the different studies on the left-hand
20 side. Because I know, in taking some of the
21 commissioners around, we get questions and it's real
22 easy now to say, "We've got that on the website, you'll
23 find it there, and we can get back with you if you need
24 anything further." So you'll notice our LAR
25 exceptional items are first on the website, followed by

1 the base budget, then you've got Deloitte, Gartner, the
2 study for the driver's license reorganization civilian
3 model, Sunset, and then the two studies with
4 commissioned and non-commissioned personnel actions.
5 This ties in directly to the items we're asking for in
6 our budget and to those items to the authority we're
7 asking for in statute.

8 The last item I'd like to review is
9 nominations for process. I spoke to Robert, the
10 director of the committee, and he does not have an
11 answer yet as far as next week's meeting. That's the
12 earliest that you would be up, would be next Wednesday.
13 The committee only meets on Wednesday afternoons, and
14 other than Commissioner Brown, the other three have
15 met, and I will work with you to get you around to meet
16 the members on the staff like we've done with the other
17 three that are up for the appointments. Understand
18 that the governor has filled most all his vacancies, so
19 we're looking at over 1,600 total persons to be
20 approved, so it may be a fast and furious process.
21 We're trying to get you guys in as early as possible so
22 we can go ahead and get that off the table and know
23 that you guys have been confirmed and start working on
24 Sunset and other issues.

25 If I can also comment as well, I will

1 say that, in talking back to some of the members who
2 you three met with, they thought it was very positive
3 because they have not heard from many of the others
4 that are up for nominations and they appreciated that
5 you took the time to come visit, and, plus, we were to
6 able to hear from some of members their concerns,
7 including this Chicago plan and other issues that
8 Senator Shapleigh brought up, so we can go ahead and
9 iron those out now and you don't get stuck in front of
10 a nominations committee trying to answer those
11 questions.

12 Last is Stuart Platt, as general
13 counsel, has offered, and I've worked with him, to meet
14 with you individually to go over kind of a war game of
15 possible questions that might come up both legal and
16 statutory nature, so he, I believe, has met and let you
17 know that, and I will continue to work with him to make
18 sure that we're in sync as far as the information
19 you're getting and that you're best prepared for when
20 you do have to go before the nominations committee.

21 With that, that concludes my comments
22 and I'll be glad to take any questions.

23 CHAIRMAN POLUNSKY: Thank you,
24 Mr. Kelley. Are there any questions?

25 COMMISSIONER CLOWE: Michael, you had

1 commented on uniformed officers in the committee
2 hearing rooms?

3 MR. KELLEY: Yes, sir.

4 COMMISSIONER CLOWE: I was in the
5 Capitol the other day and I noticed that all of
6 officers in the Capitol division now are wearing
7 long-sleeved shirts and neckties?

8 MR. KELLEY: Yes, sir.

9 COMMISSIONER CLOWE: And I think that
10 is marvelous, a more formal appearance, and I think it
11 bodes well for the image of the Department of Public
12 Safety.

13 MR. KELLEY: Yes, sir, and I heard that
14 from Senator Ogden himself. He mentioned that in
15 passing, that he thought the troopers looked good
16 wearing that type of uniform, so -- and I know the
17 colonel has worked with Chief Baker to make that
18 happen, and that does present a positive image for all
19 the agency.

20 COMMISSIONER CLOWE: Thank you.

21 MR. KELLEY: Thank you, sir.

22 CHAIRMAN POLUNSKY: Thank you,
23 Mr. Kelley.

24 COMMISSIONER STEEN: Mr. Chairman, I've
25 got a comment. I just want to say what an outstanding

1 job Michael Kelley is doing. As we heard today and
2 other times he's reported, he's on top of the issues
3 and the legislative processes, and I've been doing the
4 government thing a long time, but just walking around
5 the Capitol with him, everywhere we went, he seems like
6 he knows everyone over there and he's highly regarded,
7 and so we're just so fortunate to have you. I just
8 want to thank you for the good job you're doing.

9 MR. KELLEY: Thank you, I appreciate
10 that.

11 CHAIRMAN POLUNSKY: The next item:
12 Update report, discussion and possible action to
13 develop an approach for transforming the administration
14 of the driver's license division to a civil model.

15 Chief Brown?

16 MS. BROWN: Good afternoon, Chairman,
17 Commissioners. There are two issues that I would like
18 to report today with regard to the reorganization and
19 the restructure of the division. As we spoke last
20 month about the trooper staffing and commissioned
21 officer staffing, I've provided you in a report today a
22 chart that lays out exactly where the troopers are --
23 where the 117 trooper are stationed now and what it
24 would look like if we were to reduce those numbers.. In
25 that chart, we lay out that the majority of our offices

1 are one man trooper stations. We have 34 offices that
2 have two troopers and then we have the one large office
3 in Houston that has four, so that gives you an
4 opportunity to see specifically where those troopers
5 were assigned, what it would look like if we were to
6 reduce those numbers. It would be my recommendation to
7 you today that we leave those troopers assigned at the
8 117 Compliment at least as we make this transition over
9 to highway patrol so that we have some stability, we
10 have job knowledge, and we don't have any additional
11 transition that we -- you know, that's unnecessary at
12 this point. Once we get through that transition, then
13 that would give us an opportunity for Chief Baker to
14 come back in and re-look at those numbers as their
15 assignment in the highway patrol division and determine
16 at that point if we would want to reduce those or
17 utilize those troopers in another manner.

18 CHAIRMAN POLUNSKY: Anybody want to
19 discuss this?

20 MS. BROWN: The second issue would be,
21 the division chiefs and I have worked together on the
22 process that we would work through for transfer of the
23 staffing the sergeants, lieutenants, and captains both
24 for THP as well as for the fraud unit. We have come to
25 agreement with a recommendation provided to Colonel

1 Beckworth with regards to how that transfer process
2 could look and how it would work. It's my assumption,
3 unless you tell me differently, that you would like us
4 to start moving forward with that process, not waiting
5 for the legislative decision, and what that means is
6 that we could go ahead and begin to move forward and
7 progress in the transfers, backfill those positions
8 where they take vacancies. Those positions that
9 would -- the sergeants that would remain primarily
10 assigned to a driver's license function, we could go
11 ahead and name those sergeants so they had some
12 identification of where they would remain or if they
13 would remain, but allow those positions to continue to
14 supervise driver's license offices at least until we
15 can backfill with a civilian supervisor and get that
16 supervisor trained.

17 In addition, we have identified a method
18 where we would test and interview for the positions
19 that would promote into the fraud unit or transfer into
20 the fraud unit of the CLE Division, and again, we've
21 identified kind of the same theory with those
22 positions, is that we could go ahead and take those
23 people through the testing process, through the
24 interview process, identify them, let them know what
25 their future role will be but continue to use those

1 people in the driver's license position. Those spots
2 would be more critical to us because we don't have the
3 funding to backfill those and won't know until we get
4 through the legislative process, but if it's your will
5 that we continue to move forward with this process,
6 we've got it in place. We believe we can do it with
7 minimal risk and allow us to at least allow these
8 commissioned officers in our driver's license division
9 to begin to get a feel for where they might be, place
10 those in those positions and allow us to maintain some
11 ability to function until we get to the end of the
12 session and then we may have to regroup based on how
13 the funding comes out.

14 CHAIRMAN POLUNSKY: I think that's a
15 good plan. Anybody think otherwise?

16 MS. BROWN: Very good.

17 CHAIRMAN POLUNSKY: Thank you.

18 MS. BROWN: Do you want the DLR report
19 now or are we going to get to division reports? I know
20 Commissioner Clowe is interested in the report on our
21 re-engineering project. I'm going to pass it off to my
22 technical and my other project manager, Jimmy wise and
23 Linda Boline.

24 MS. BOLINE: Just to update you on where
25 we are -- I'm sorry, Linda Boline, DPS.

1 MR. WISE: Jimmy Wise, IMS.

2 MS. BOLINE: We are excited right now
3 because we believe we have a date that we can begin
4 rolling our system out. We would like to offer that we
5 could put the new system out beginning a pilot here at
6 headquarters on April the 20th. That said, that backs
7 our training up to the middle of next month, so we're
8 working pretty aggressively now that we've gotten to
9 the confident stage that we've got a platform. We're
10 getting our communication links set up and we're pretty
11 excited. We have right now an outstanding request to
12 exceed our capital budget to cover the cost of our new
13 platform and our communication links. That is at LBD
14 right now, so we appreciate any contacts to push that
15 along.

16 CHAIRMAN POLUNSKY: Could you tell us
17 how much that --

18 MS. BOLINE: It's \$7.9 million.

19 CHAIRMAN POLUNSKY: Could you elaborate
20 a little on that?

21 MS. BOLINE: Certainly. To break it
22 down, there was \$4 million on the platform change
23 that -- when we decided to move from the mainframe
24 because it wasn't given us the horsepower that we
25 needed, or the CPU that we needed, to have the

1 application run adequately, we switched to a
2 distributed environment. Jimmy is certainly more
3 qualified to talk about that than I and he can give you
4 more details. We also, after a lot of testing and hair
5 pulling to get the satellite link to work as
6 proficiently as we needed because of our document
7 images that we will be transmitting across, it simply
8 would not support our application, so we have -- we're
9 in conversation now with AT&T and they're ready to move
10 aggressively once we can give them the go-ahead, so
11 that's \$3 million. We did a proof of concept this week
12 that we saw tremendous success. I don't think I will
13 quote what Jimmy said, but the system was working
14 really fast, so we're really excited. The people who
15 were involved in the tests were all hi-fiving, and so
16 we're -- we feel like we have some long-overdue
17 successes that have just recently happened. We have
18 some software maintenance costs in there that were
19 about \$200,000 and then some programming updates that I
20 believe were in the SLA that we extended the SLA
21 because of the lack of resources within IMS to support
22 our system ongoing. That piece was \$659,000. That's
23 the breakdown of the RTD.

24 COMMISSIONER CLOWE: If we could go into
25 a little more detail on the transition schedule and

1 then the two options you're facing for ultimate
2 implementation, please.

3 MS. BOLINE: Yes, sir. When we begin
4 our pilot, that will be April the 20th, we will pilot
5 headquarters for three weeks. We intend to begin a
6 six-office pilot within the field, and that will take
7 place over a period of three weeks as well. Two
8 offices each week will come online, and then after
9 that, that's June 1st, and then we will begin deploying
10 throughout the state. Of course, in between that, we
11 will be looking at any issues and fixing any bugs that
12 we haven't already tested, some how, some way we
13 haven't tested. And the two options left there before
14 we actually -- when we migrate our data are to leave
15 the offices open and migrate the data during that time
16 and the other option would be to close offices for a
17 period of days, suggestion of three, to get all the
18 data migrated and then come up on Monday, April the
19 20th.

20 MS. BROWN: What we've got to do is take
21 the 26 million records, the data and the images, and
22 migrate them from the old mainframe platform over to
23 this AIX distributed server environment. While it
24 sounds pretty simplistic, you move it from this box to
25 this box, when we're talking that many records, that

1 many images, that will take a significant time frame to
2 actually move those records over. Once we move them
3 over, then we've got to test that platform, test those
4 records, ensure everything migrated in the proper
5 format, all the records are accurate, before we can
6 begin the actual implementation of the pilot of the new
7 system.

8 Jimmy, anything you want to add on that?

9 MR. WISE: Yeah. It's the 26 million
10 deal and then plus 80 million images. I mean, before,
11 it was going to take -- it was estimated to be 12-plus
12 days to complete and then merge them and we got it down
13 now to about four. What we need to be able to do is to
14 have enough time to do a smoke test prior to turning it
15 on and make sure that everything -- all the -- it's not
16 just the NBLIS application. We've got a TUS interface,
17 SAM interface, the Texas Online, things that we have to
18 make sure that are working, and we need time to
19 coordinate with all of those interfaces uninterrupted
20 to make sure that, 8:00 Monday morning, everything can
21 be turned on.

22 COMMISSIONER CLOWE: And, Commissioners,
23 what we're talking about here is a more challenging
24 migration if the offices stayed open and continued to
25 issue driver's licenses and perhaps make that more

1 problematic. On the other hand, the second option is
2 to close those offices, as they have said, for three
3 days. I guess that would be Wednesday, Thursday, and
4 Friday, and there will be no driver's licenses issued
5 in the state of Texas those three days, and that's a
6 very sensitive decision. And, in my understanding, you
7 haven't made a recommendation at this point in time,
8 but I think it's proper to give the commission this
9 information early on and let them be aware of it and
10 perhaps give you some feedback on that.

11 MR. WISE: And then by closing the
12 business, there's going to be a public spotlight on the
13 application come Monday morning at 8:00. If we don't
14 close, then if we have any type of integrity issue that
15 was not uncovered during this, now it's going to be
16 very difficult to return back to the legacy application
17 if that were the actual requirement and to recover all
18 of the data that would have been captured in the new
19 system. There's not a two-way synchronization process
20 that was ever designed for this process.

21 COMMISSIONER BARTH: Well, we could
22 close a Friday, Saturday, and Sunday?

23 MR. WISE: I can't -- I mean, right now
24 with our -- just the conversion process itself, the
25 network requirement of moving all of the data and

1 images from the mainframe to this environment, just
2 those two things with zero problem, I mean if
3 everything is perfect, is greater than 48 hours alone.
4 That's not any of the post-conversion processes that
5 have to take place nor any of the interface preps or a
6 smoke test of the application.

7 COMMISSIONER BARTH: My question is, why
8 couldn't we just close Friday, Saturday, and Sunday?

9 MS. BROWN: That Wednesday, Thursday,
10 and Friday, we'll be working 24 hours a day through
11 Saturday and Sunday to be ready to come back up and
12 running Monday morning. Now, the alternative to
13 closing is, you migrate the data while we're still
14 operational, which requires then a second migration of
15 data after we come up running, because we've got the
16 data that we would have gathered those three days while
17 we're trying to do the migration.

18 COMMISSIONER BARTH: What's the
19 probability of doing this simultaneously and wind up
20 shutting down the system anyway?

21 MR. WISE: I don't understand.

22 COMMISSIONER BARTH: I mean, do you see
23 where I'm going? I know it could be potentially a big
24 issue for the citizens of Texas, but what I'd like to
25 avoid is -- are we better off shutting it down, going

1 out during the media blitz and we shut down Wednesday,
2 Thursday, and Friday, where we start it and wind we up
3 shutting it down anyway and we have no chance of
4 reaching out to --

5 MS. BROWN: Starting the migration -- if
6 we failed in that migration, it would not require that
7 we shut down a state. We wouldn't have that as a
8 dilemma. We could start the migration and we could
9 have -- the sensitive part would come in for those
10 people who were processed Wednesday, Thursday, and
11 Friday is that we not be able to get their data
12 transferred over and we have to re-serve that group of
13 customers. There's a lot of risk with shutting down
14 those three days, and I think the biggest risk there is
15 the public eye and the sensitivity that we go through.
16 Because we're going to shut down, and when we come up
17 operational Monday morning, that does not mean every
18 office in the state has new equipment and a new system.
19 That means that the pilot has begun here at
20 headquarters, and so it is a huge public risk, but,
21 yet, it's very little public gain as we open the doors
22 Monday morning. They won't see that.

23 MR. WISE: And the other thing that you
24 need to understand is, on the first day, all of the
25 remote field sites are still using the Legacy system

1 but they're connected to the new database, so that
2 environment itself has also changed. They're no longer
3 hitting the Legacy actual database. Okay? So once we
4 turn headquarters pilot on, the database of record is
5 the new NBLIS database.

6 COMMISSIONER BARTH: Let's just say you
7 turn it on and it doesn't work, do you just turn it
8 off?

9 MR. WISE: Well, if we shut down, you
10 have until 7:59 a.m. that Monday morning to --

11 COMMISSIONER BARTH: If you don't shut
12 down.

13 MR. WISE: If you don't shut down, it
14 depends when you discover an issue on how much you have
15 to retrofit back into the system, so if you go three
16 days with no problems, no integrity issues, and then on
17 the fourth day, all of a sudden, we hit a problem,
18 we've got four days' worth of data that somehow we've
19 got to either re-key or recover, depending on what the
20 situation is.

21 MS. BROWN: Potentially 60,000 updates
22 is about our average for those three days.

23 COMMISSIONER BARTH: And you haven't
24 recommended yet to us which way you would want to go.

25 MR.. WISE: I will. Shut it down and

1 come up Monday morning live.

2 COMMISSIONER BARTH: Shut it down like
3 Wednesday, Thursday, and Friday?

4 MR. WISE: Correct. I mean,
5 unfortunately, we don't have a holiday anywhere in that
6 month that we can take advantage of.

7 COMMISSIONER BARTH: When is Good
8 Friday?

9 MR. WISE: It's not a holiday, though.

10 MS. BROWN: I think it's the 6th of
11 April. It makes more sense and we looked at that date
12 but it really --

13 MR. WISE: You know, the other thing is,
14 around the middle of March, we will have a definite go
15 or no-go. If we don't know by the middle of March that
16 it's a 100 percent go, then we have to back off of it.
17 We can't wait until April 1st or April the 15th.

18 MS. BROWN: And what we can do in our
19 March report is give you more comprehensive detail and
20 advantages and disadvantage to allow you an opportunity
21 to think about it over this time frame and then make
22 that call at the March meeting.

23 MR. WISE: Now, the other big impact is
24 what was spoken awhile ago, if the RTE doesn't come
25 through and we weren't able to complete the AT&T

1 contracts prior to then, then that's going to be a show
2 stopper.

3 COMMISSIONER BARTH: Well, what's the
4 probability of not being able to complete this process?

5 MR. WISE: Well, until the RTE is
6 approved, we can't get a commitment from the vendors to
7 actually sit down with Colonel Bryce and real
8 contracts. I mean, up to this point, it's all
9 vaporware, isn't it?

10 MS. BROWN: They're ready. We've
11 negotiated the contracts out.

12 MR. WISE: We've got things going. You
13 know, the test that we did locally and in Garland, they
14 have total transaction round trip from the second day
15 we entered on the browser back. The longest
16 transaction is three and a half seconds. Most of them
17 are running right at a second or a little bit under.
18 Internally, they're in the milliseconds.

19 COMMISSIONER BARTH: I think it's moot
20 to make a decision about shutting down until we see
21 where we are. I lean towards what you're saying with
22 respect to shutting down and trying to get some sort of
23 media campaign out so that people realize it. I mean,
24 whatever sources are out there, a public service
25 message.

1 MS. BROWN: You know, during that time
2 frame, if we choose to shut down, in addition to the
3 media, we'll be there, the doors will be open, we'll be
4 serving in anyway we can, but we'll have some
5 escalating complaints if that's the case.

6 MR. WISE: And we've considered shutting
7 down like at 9:00 on Wednesday, but then if the line is
8 out the door and then with the mountain time, it could
9 be after 5:00 before we could even get going, and then
10 we still have to process all of that day's worth of
11 work verses all of the processing being completed, you
12 know, 8:00, 9:00 the previous night and then we get
13 going.

14 COMMISSIONER CLOWE: I'd like to make
15 this comment, and I made it to you all when we sat
16 down. I understand that this is a decision that you
17 have to make as the steps are made and you're not in a
18 position yet to make a recommendation, but if the
19 decision is made to shut down, then I think that this
20 board ought to be aware of that and enter into that
21 process with you along with the colonels. You can't
22 announce on Monday that on Wednesday we won't be
23 issuing driver's licenses. You know, the leadership,
24 the members of the House and the Senate should be made
25 aware of it. Other agencies should be made aware of

1 it. We ought to advertise that a month ahead of time.
2 It's like changing over from analog to digital. You
3 know, they've been telling us that for months and there
4 are people still running around the street saying, "I
5 can't use my TV set." This is a big deal and the more
6 notice you give people and you take the excitement out
7 of it and the surprise, if that's the decision, the
8 better it will go, so assign somebody to give that
9 careful thought. You know, we ought to look at some TV
10 ads maybe, some newspapers ads. Let people know what
11 you're going to do, and certainly the elected
12 representatives in those districts because they will be
13 the first ones to get calls.

14 COMMISSIONER STEEN: Mr. Clowe, I agree
15 with you 100 percent, but is that something they should
16 try to handle or do we need to get somebody from the
17 outside to help us with that campaign?

18 COMMISSIONER CLOWE: That's a very good
19 question, Commissioner Steen. And probably, no, they
20 can't handle it and somebody who is well equipped and
21 skilled and experienced should be involved in that, and
22 that's why I wanted it brought to the commission at
23 this time because, you know, we're going to be there
24 before you know it.

25 COMMISSIONER STEEN: You're talking

1 about the month of April?

2 MS. BOLINE: We would have to be ready
3 with the next commission meeting. We would have to be
4 well prepared to start advertising just right after.

5 MR. WISE: Yeah, by the 15th of March.
6 I mean, regardless of which way we go on the
7 implementation, in order just to make the 20th day of
8 April, then we have to know by March 15th that it's a
9 go or no it's not. And I know we've got some testing
10 that we have to complete as well as some interface and
11 Lotus testing. After that, we're ready to go.

12 COMMISSIONER STEEN: Colonel Clark, do
13 we have somebody within the agency that could help us
14 implement this?

15 MR. CLARK: Chief Maze, with out media,
16 she's our media chief, public information office. We
17 have access to every newspaper, radio station, and TV
18 station in the state.

19 COMMISSIONER STEEN: Maybe she should
20 work with you all and maybe at the next meeting come up
21 with a plan.

22 MR. CLARK: We've already started that.
23 Colonel Beckworth has met with her and they're working
24 on this.

25 CHAIRMAN POLUNSKY: Anything else?

1 COMMISSIONER BARTH: I guess this is an
2 appropriate time to bring it up, I'd like a backup
3 plan.

4 CHAIRMAN POLUNSKY: Ms. Brown, do you
5 understand what we're talking about?

6 MS. BROWN: Absolutely.

7 CHAIRMAN POLUNSKY: And could you
8 communicate that to Commissioner Barth?

9 MS. BROWN: I'd be glad to do that.

10 CHAIRMAN POLUNSKY: Okay. The next item
11 is: Discussion and possible action regarding review
12 and reconsideration of physical readiness standards for
13 commissioned officers of the department. Chief Fulmer.

14 CHIEF FULMER: Good afternoon again.
15 We've had several committee meetings already and we
16 have another one coming up next week. The committee
17 has come up with several recommendations for immediate
18 implementation that really don't require anything other
19 than an internal policy change. As you know, there was
20 a study done by an outside entity that validated our
21 physical readiness testing and we'll have a large set
22 of recommendations that we'll be providing on that.
23 However, there were certain issues that were simply
24 internal policy choices as far as how we implemented it
25 and we believe that making these policy changes will

1 make this a much fairer process for individuals. And
2 we have spoken with the major division chiefs and with
3 the colonels about this and I don't think we have any
4 opposition to any of these policy changes. And they're
5 simply things such as allowing individuals to choose
6 between whether to take the exercise test in the field
7 or whether to come to headquarters for the job scenario
8 tests. Currently, that is -- it's not a choice. You
9 have to take the field exercise tests first, and if you
10 fail those, then you can come to headquarters for the
11 job security test scenarios. Apparently, there's a
12 stigma attached to that, you have to come to Austin
13 because you couldn't pass the others. There are a lot
14 of folks who would like to take the job scenario tests
15 and feel like they would do better on them, so that's
16 an easy fix that we can do.

17 There's also an issue with re-taking
18 failed portions of the exercise tests. We'll have
19 folks who will go through all of the tests and then
20 they'll pull a hamstring doing the sprint and they
21 can't continue with the tests. Currently, they only
22 have 30 days to make up that portion and, oftentimes,
23 that's simply not enough time to rehab, so our
24 suggestion would be to give people 90 days to complete
25 that testing.

1 The other thing that we are working
2 on -- and Captain Ayala, who you met with earlier
3 today, I think he's gone through the many tests that
4 we've tasked him with, is putting together a pilot
5 training and wellness program, which we currently don't
6 have, and what we would like to do is just sort of do
7 it as a pilot so that we can see -- we've got a lot of
8 folks who haven't tested above the 90 percent level and
9 we'd like to have them come in and try this training
10 program and wellness testing and see if they see any
11 improvement from that. And if that's successful, our
12 recommendation would be -- right now, after August 31st
13 of 2009, we have to take some sort of permanent
14 personnel action against anybody who has not passed the
15 test, and what we would propose is that we would
16 postpone the final action for six months if they
17 participate in this training and wellness program.
18 This is something that we would like to implement and I
19 suspect our recommendation will be eventually that we
20 implement it for all employees, that we actually do
21 much more training and much more -- not only exercise
22 but nutrition and that sort of thing, but right now,
23 what we were just looking at is some things that didn't
24 really have anything to do with the requirements of the
25 statute or even the study that was done, but just

1 simply internal policy choices that we had made that
2 make things more difficult for people. So we've
3 discussed that with them and we're going to put
4 together a memo that suggests all of those things and
5 presume that the director does not have any issues with
6 it at that time, then we could get that out to the
7 employees.

8 Another thing that we've done is -- I
9 probably told you last time that we've put folks in
10 subcommittees to look at several different issues and
11 they have all provided questions that we can put
12 together on a survey to ask all of our commissioned
13 folks, so we'll be putting that together in the next
14 week or so and getting that out to our commissioned
15 folks so that we can see about not only these issues
16 but all of the issues surrounding the physical
17 readiness testing.

18 I believe I said we have a March 6th
19 meeting as our next meeting. It's been -- so far it's
20 been a very productive experience for everyone. We've
21 got a lot of folks who are participating and have some
22 great ideas, so I feel like we're going to come to some
23 really good recommendations. Do you have any
24 questions?

25 CHAIRMAN POLUNSKY: Questions? Thank

1 you.

2 CHIEF FULMER: Thank you.

3 CHAIRMAN POLUNSKY: Reports, budget
4 matters. Mr. Ybarra?

5 MR. YBARRA: Chief Ybarra. As far as my
6 report, Mr. Chairman, Commissioners, I'd like to update
7 the commission on the agency's based budget as
8 presented by the legislative budget board. Provided in
9 your notebooks is an executive summary and then I also
10 provided some detail. Overall, the LBB has accepted
11 the agency's legislative appropriation requests with
12 very few reductions. There have been some adjustments.
13 As you can see, between DPS, there would be a
14 difference of about \$787,000. The major part of that
15 \$787,000 is \$450,000 of base reduction fund Six for
16 motorcycle strategy. The agency, in the LAR,
17 identified requesting additional motorcycle purchase
18 under capital, about an additional, I want to say,
19 about 2000, if I'm not mistaken, motorcycles, and
20 that's to add to the existing motorcycles that are out
21 there for the loaner program. The agency -- I believe
22 the LBB identified that as the agency overstated its
23 base request, and I believe that, in the past, what's
24 happened is, the division chief and the administration
25 in the past had transferred 25 percent of that to cover

1 operating shortfalls, and they did that, and I believe
2 that's one of the reasons why they looked at that and
3 made that reduction. In our 10 and 11 base request, we
4 were proposing to buy additional motorcycles and that's
5 what we had put in there..

6 The other change is about \$123,000 for a
7 Master Lease Purchase Program. It was for our TLX
8 program. We've had this for several years. That
9 program is basically coming to an end and the
10 expenditures that are projected for ten and 11, based
11 on working with the Texas Public Finance Authority, are
12 not as large as we expected, so that's the reduction
13 for that.

14 With that said, the major highlights of
15 what's happened is, the LBB has moved a significant
16 amount of our method of finance and general revenue
17 into a general revenue dedicated fund 99. As I show in
18 my report, there's a difference of \$70 million and I
19 believe this has a lot to do with the GR crunch. They
20 have moved funds and basically funded them with a
21 dedicated fund to DPS, but only about \$2.4 million in
22 the past has been appropriated to DPS for the governor
23 to do his emergency management strategy. The other
24 difference is the state highway fund six, about
25 \$623,000. As I mentioned earlier, that has a lot to do

1 with the Master Lease Purchase Program and the
2 motorcycle strategy reduction. There is detail behind
3 there. I'd be glad to answer any questions you may
4 have.

5 CHAIRMAN POLUNSKY: Any questions?

6 COMMISSIONER STEEN: What is general
7 revenue dedicated fund 99?

8 MR. YBARRA: That fund is appropriated
9 by 11 percent of fees generated from certain felonies
10 that are assessed in a Class A and B, misdemeanors,
11 also. About 11 percent of that goes into that fund.
12 There's about \$100 million in there right now. That
13 fund just kind of accumulated that money and I believe
14 the legislature made a decision to utilize it through
15 the GR crunch.

16 COMMISSIONER STEEN: Thank you.

17 CHAIRMAN POLUNSKY: Any other questions?

18 Thank you, Chief.

19 MR. YBARRA: The other thing I was going
20 to bring up, sir, was the agency's budget forecast for
21 2009 as of December 31st, 2008, and we've gone over
22 this information prior to meeting with Commissioner
23 Barth to advice her of the details behind this
24 information. There's an executive summary, and again,
25 I've provided you all with more detail behind in my

1 report, but, overall, the agency is looking at having a
2 positive balance at the end of the year. There are
3 some fairly large expenditures that are being incurred
4 that were not part of the approved budget process that
5 we identified over the summer for 2009. If you'll turn
6 over to page three of my report, there's \$650,000 that
7 we had proposed to pay in 2008 for the training academy
8 assessment for the \$577 million in exceptional items
9 that we have in our current exceptional items. The
10 cost of that assessment is \$650,000. The services
11 didn't actually incur until 2009, so the expenditure
12 shows up in 2009, so we have to cover it with 2009
13 expenditures.

14 As Chief Brown and her staff mentioned,
15 there's an additional \$3 million that we're going to
16 need to finish out the driver's license re-engineering
17 project. Over the summer, we identified \$5 million.
18 Over certain commission meetings and meetings in our RT
19 group and Commissioner Anderson, we identified those
20 additional charges that Linda Boline mentioned, and the
21 additional cost to finish out the program was
22 \$3 million. And, of course, the project management for
23 the Lloyd Study, the projected cost and estimate at
24 this point RFP is about \$1 million.

25 And, lastly, the Lieutenant Governor

1 Dewhurst and Speaker Straus sent out a letter to all
2 state agencies about identifying a reduction in
3 scheduled GR funds of two and a half percent. The
4 agency has identified those funds as the motor vehicle
5 inspection strategy and plans to leave those dollars
6 there so they can lapse and help with this new budget
7 10 and 11. A letter was sent out here recently and is
8 going to be part of our report to the House and the
9 Senate when we present our budget.

10 One of the larger negative numbers on my
11 report is nine and a half million dollars of what we
12 project in grant expenditures at the end of the fiscal
13 year that were probably incurred in June, July, and
14 August. A lot of our programs are reimbursable
15 programs, so that's really more of a cash flow item.
16 Traditionally, the agency has to cover that expense of
17 existing funds. We do deposit funds that come into the
18 next year and reserve them to cover some of this, but
19 the amount that we are spending nowadays pretty much
20 exceeds what we have in reserve. That leaves a little
21 bit of a negative balance there based on current
22 operations, but as I mentioned on page four, there's
23 potential funding that comes in that we need to discuss
24 probably in the next commission meeting.

25 And, Colonel Beckworth, did you want to

1 talk a little bit about the seize funds here?

2 MR. BECKWORTH: At the next commission
3 meeting, our plans are to bring to you some
4 recommendations, and we have a seize funds committee
5 meeting and that recommendation is going to come to use
6 some of the \$17 million from the seize fund account to
7 address some of the shortfall issues, specifically to
8 TD, and we know of that particular funding mechanism
9 that we had that was not funded so we're having to fund
10 that on the agency, and so we're going to try to manage
11 that by asking the Public Safety Commission to use I
12 think it's 4.3 to \$4.9 million of those funds to help
13 us get through this particular year. That's what we're
14 going to be bringing before you in the March meeting.

15 MR. YBARRA: The other potential funding
16 is the Bryan -- during the -- on page four, the Bryan
17 office, we reserved -- and the Garland office, we
18 reserved \$2 million to finish out those programs. To
19 this point, we haven't spent any of those dollars, but
20 I just got some projections from the building program
21 that they plan to spend at least \$1.2 million of those
22 dollar, so \$1.2 million of those dollars are no longer
23 available. We also project that we're going to be
24 receiving close to \$3 million from Hurricane Ike and
25 expenditures, for example, are for mileage

1 reimbursement, comp time, of which they're not real
2 dollar-for-dollar reimbursements where the agency could
3 use them for shortfalls that exist in the agency. And,
4 lastly, about \$807,000 of our motor vehicle inspection
5 fund. If you lay those figures into that negative
6 balance, the agency is going to have about a \$6 million
7 surplus, but, basically, that's less than one percent
8 of our total budget. That's cutting it kind of close,
9 but we feel comfortable the numbers will get better and
10 they'll be telling a better story in the future.
11 There's probably going to be some things we don't do
12 and maybe some things we are going to do that may
13 affect these figures, but for now, this activity looks
14 pretty normal for the agency outside of some of these
15 big expenditures that we're dealing with.

16 CHAIRMAN POLUNSKY: Thank you, Chief.

17 MR. YBARRA: That concludes my report.

18 CHAIRMAN POLUNSKY: Audit and inspection
19 report? Mr. Walker?

20 MR. WALKER: Farrell Walker, director of
21 audit inspections. Mr. Chairman and Commissioners, my
22 report has a number of completed audit inspection
23 reports for your review. I'd like to go over a few of
24 those, in particular the systems monitoring audit
25 report. You'll notice that issues were raised

1 regarding various aspects of system monitoring,
2 including analyzing incident data, analyzing system
3 utilization, and capacity planning issues, and the
4 supervision of the monitoring processes that they have.
5 Management has agreed to implement the recommendations
6 that are included in the report in a reasonable time.
7 Similarly, we looked at land, wind configuration
8 management and made recommendations to improve the
9 management of those processes. And, again, management
10 has agreed to implement those recommendations in a
11 reasonable time. Finally, I'd like to point out the
12 THP Region Three Inspection Report. There are a number
13 of things that I think are important in that. First of
14 all, the inspectors noted that THP has taken positive
15 steps to improve the crash records accuracy in that
16 area. Also, all recommendations included in the report
17 were reported as implemented on or before February 1st
18 of this year.

19 Some things that aren't in the report
20 that I think you may find interesting is, the Region
21 Three folks took the initiative to consult with our
22 inspectors regarding another issue that has been
23 recurring over several years, and that has to do with
24 entrusted property. When our inspectors actually got
25 out in the field, as you see in the report, they

1 reported that they found entrusted property in good
2 shape and well managed. We like to be in a position to
3 consult with our customers and we're glad to do it and
4 we think that worked out really well. Also, another
5 initiative that the THP division has taken to improve
6 crash record accuracy has been taken -- they have had
7 their first Train the Trainer Program recently, and so
8 we expect to continue to see improvement in those
9 statistics over the coming inspections. That would
10 conclude my report unless you have some questions.

11 CHAIRMAN POLUNSKY: Questions? Thank
12 you, Mr. Walker.

13 MR. WALKER: Sure.

14 CHAIRMAN POLUNSKY: Division reports Ms.
15 Fulmer?

16 MS. FULMER: I think everyone has heard
17 enough from me. You've got our division reports in
18 front of you. I don't think I have anything in
19 particular to add, so if you have any questions, I'll
20 be happy to answer them.

21 CHAIRMAN POLUNSKY: We're moving forward
22 on the A&M building. Right?

23 MS.. FULMER: Yes. Correct. There
24 are -- the bids closed last Friday and we only had one
25 bidder. Our building program bureau is working with

1 Dorothy on that, and they only had one bidder, so I
2 think they may have to re-bid it, but, yes, they are
3 keeping up with that and moving forward.

4 COMMISSIONER BARTH: Can I just ask
5 you -- and maybe I missed it. I missed the last
6 meeting. Does Houston have like a general rate?

7 MR. BECKWORTH: Could I speak to that?

8 MS. FULMER: Yes.

9 MR. BECKWORTH: One of the
10 recommendations -- we're bringing some information to
11 you at the audit commission meeting based upon seized
12 funds, and one of the recommendations was that, from
13 those seized fund dollars, that all of the costal
14 regional offices will receive general ratings, and
15 that's going to be a recommendation presented to you in
16 the March meeting along with all the seized funds.

17 COMMISSIONER BARTH: And would that be
18 in the forefront?

19 MR. BECKWORTH: That's our challenge.
20 We're going to do our very best to get it going before
21 hurricane season.

22 COMMISSIONER CLOWE: Is there a plan to
23 do anything about that building in Garland that the
24 floor is shifting and the building is out of kilter?

25 MR. CLARK: That would be the CLE

1 building?

2 COMMISSIONER CLOWE: Yes.

3 MR. CLARK: Sandra, can you address
4 that?

5 MS. FULENWIDER: TMC has done a study on
6 that.

7 MR.. CLARK: We have a prior resident of
8 that building also that's pursuing it, and Valerie can
9 address that issue also.

10 COMMISSIONER CLOWE: I've been in that
11 building, it's sort of like a Halloween house.

12 MS. FULMER: TFC had a study done on
13 that building and they do have recommendations on some
14 remedial work. Remedial work has been performed in the
15 past, by the way, and the building repairs lasted about
16 one year. I think the day after the warranty period
17 expired, the foundation sank again. Off the top of my
18 head, I do not recall the cost estimate that they gave
19 us for those repairs. As it stands right now, there
20 has been no funding identified to make those repairs.

21 COMMISSIONER CLOWE: We need to be
22 thinking about that and keep that in mind. That's not
23 a good situation. Thank you, ma'am.

24 CHAIRMAN POLUNSKY: Anything else,
25 Chief?

1 MS. FULMER: Any questions? I promise I
2 won't come up here anymore this afternoon.

3 COMMISSIONER CLOWE: Don't say that.

4 CHAIRMAN POLUNSKY: CLE. Mr. Ruocco?

5 MR. RUOCCO: Tom Ruocco, chief of CLE.
6 First I want to say good afternoon, and I realize this
7 is my first opportunity to address the commission and I
8 realize it appears customary that I say, "You have my
9 report, and if you have any questions." I'd like to
10 share some of the things at least in these first two to
11 three weeks I've been here. I had the opportunity to
12 listen on two hearings, the security and transportation
13 hearing and Homeland Security and Finance, and I heard
14 some members express some concerns about our desire,
15 the DPS desire, and some even the willingness of us to
16 share between ourselves within and outside this agency,
17 and I draw your attention to the report to page two,
18 paragraph five where, as I was reviewing it, I noticed
19 that CLE personnel worked together without federal
20 partners in focusing on this edit, which is the law
21 enforcement arm for the drug cartel, and then I look at
22 paragraph four, same page, two, you have the CIS and
23 motor vehicle and you have the ranger division
24 participating in multi-agency task force, and then
25 finally on page three, paragraph two, you have

1 narcotics personnel sharing with the troopers, and in
2 that case, you have the troopers make a stop, get a
3 consent, pretty significant accomplishments, and while
4 I understand the importance of the accomplishments,
5 what I really wanted to focus on was the collaborative
6 effort and the mechanisation of our resources
7 prevailing against the negative elements in the state,
8 and my hope is to build on those while I'm here, those
9 events, and let the commission and those in attendance
10 know that the level of cooperation between divisions
11 and subsequently our partners in local and state and
12 federal, that is more -- what's important to me is that
13 it's the accomplishments that we achieve, and ideally,
14 I would like to see the three divisions, CLE, the
15 troopers, the rangers working seamlessly together to
16 combat the problems against the state, and that
17 basically is my goal that I hope to achieve, and I will
18 strive to accomplish that as long as I'm trusted with
19 the lead for CLE. And with that, I open it up to
20 questions.

21 CHAIRMAN POLUNSKY: Are there questions?

22 COMMISSIONER BROWN: Glad to have you
23 here.

24 COMMISSIONER CLOWE: That's the spirit.
25 That's what we want.

1 CHAIRMAN POLUNSKY: We're very happy to
2 have you here and so far it has sounded very positive
3 and we're quite confident that you will do an excellent
4 job.

5 MR. RUOCCO: Thank you. And I figure I
6 am -- probably, since everybody seems to be going over
7 to other agencies, I'm likely to tow more that I came
8 over here from the FBI, so thank you.

9 CHAIRMAN POLUNSKY: Chief Bradley, he's
10 done everything but driver's license review.

11 Emergency management. Chief Colley?

12 MR. COLLEY: Mr. Chairman and
13 Commissioners, we're focused in four operational areas
14 now. First and foremost is the recovery of the coast
15 of Texas, obviously a major operation. We've sort of
16 past from emergency response to recovery and permanent
17 work. Much is going on. Much good work is going on as
18 we do that effort. Second is drought. 198 counties
19 out of 254 in Texas declared drought for -- disaster
20 for drought and wildfire in Texas. Obviously, where
21 you're at now, Central Texas is the tip of the spear
22 for that. That's going to become a very serious
23 problem as we move into the summer months. You'd
24 probably have to go back to, you know, 1998, 1999,
25 2000, that time frame, to match anything that's similar

1 to this. The other area is border operations and
2 that's ongoing. The next area is our preparation. In
3 90 days, we'll be back into the window for severe
4 weather. My bumper sticker now, "It's tough to get
5 ready." People tire. We've gone through quite a bit
6 but, at the same time, we'll begin that in earnest. In
7 March, we'll begin our training program and our
8 exercise programs to prepare the state for that
9 catastrophic event.

10 A couple of significant events: On the
11 25th, the House Defense and Veterans Affairs
12 Committee -- Michael mentioned you have some committee
13 that oversees the House. Homeland Security and
14 emergency management is what we do. Chairman Core
15 [phonetic] was asked to come down to SOC and bring the
16 entire committee on the 25th at 8:00 for an orientation
17 and briefing and that kind of thing, so we'll do that.
18 On the 26th, we have 14 legislators currently scheduled
19 to go to Del Rio for a board orientation. Then we have
20 our Homeland Security conference the 23rd to the 26th
21 of March. We're combining that conference with our --
22 we usually have two conferences -- actually, three
23 conferences every year, Homeland Security, hurricane,
24 and volunteer organizations. We're combining the
25 hurricane conference with our Homeland Security

1 Conference simply because of all the events that
2 occurred and we run out of time and it's just a matter
3 of people are very busy in the recovery process. And
4 then we have our annual volunteer organization. That's
5 all our volunteer agencies in Texas will be here in
6 Austin the 1st and 2nd of June. That concludes my
7 report, Mr. Chairman.

8 CHAIRMAN POLUNSKY: Thank you, Chief
9 Colley. Any questions? Thank you.

10 Texas highway patrol. Chief Baker?

11 MR. BAKER: Hello, Mr. Chairman and
12 Commissioners. You have my report. I'd like to
13 elaborate on a paragraph on page three of my report
14 entitled significant arrest report. This kind of goes
15 to show that troopers' routine duties are not always
16 routine. On the 27th of January, Trooper Keith Prader
17 was called to an accident. When we got to the accident
18 and began his investigation, he started noticing that
19 things were not adding up and got a little suspicious
20 and asked for consent to search and he found 11 guns
21 that were broken down, wrapped in tinfoil and duct
22 tape, and concealed in electronic components. Kind of
23 odd. The driver claimed that he was shipping these
24 guns back to his company in Florida, and I don't know
25 how many persons ship weapons in that manner, but our

1 trooper contacted criminal law enforcement, and as a
2 result, the Immigration and Customs Enforcement Agency
3 became involved, and they had an ongoing investigation
4 with this company, so it kind of fell right into their
5 lap. The next incident occurred on the 31st of January
6 in Webb County. Trooper Luis Guzman rolled up on a
7 school bus that he thought he was going to do a
8 motorist assist on at about 5:00 in the morning, and
9 when he walked up to the school bus, the school bus was
10 vacated. There was no driver around, but he found
11 9,200 and some-odd pounds of marijuana concealed in the
12 school bus. So a couple of interesting --

13 COMMISSIONER BROWN: No VCR with guns,
14 though?

15 MR. BAKER: No, ma'am, just lots of
16 marijuana. That's all I have that I'd like to talk
17 about in our division report. I would like to bring
18 the commission up to speed on what Mr. Walker touched
19 on earlier about the accident error rate, crash report
20 error rate. We kicked off our efforts to reduce those
21 error rates on January 26th with a video teleconference
22 with all of the patrol sergeants, and I understand that
23 it was fairly well received. Some of the sergeants
24 felt like I was kind of stepping on their toes a little
25 bit, but that's okay..

1 The next thing that we did was on the
2 12th of February. We held a Train the Trainer Meeting
3 in San Antonio where my state reconstruction team
4 members brought in two sergeants from each district to
5 get everyone on the same sheet of music, to let them
6 know what we were looking for, to let them know that
7 the eight data points that we were looking at and what
8 the critical errors were, and training went well. That
9 was well received. I'll have a snapshot for you all
10 next month as to the results of this training. I'll be
11 collecting data the first part of March and will be
12 able to give that to you at the commission meeting.

13 COMMISSIONER STEEN: Chief, this is
14 training to what?

15 MR. BAKER: This is training to educate
16 our troopers on the importance and the errors that are
17 being made in these eight data fields on the crash
18 reports so that they don't make those errors.

19 COMMISSIONER STEEN: And this effort
20 that you're doing sprang from what?

21 MR. BAKER: It sprang from an audit of
22 our production force conducted by the Office of Audit
23 Inspections.

24 COMMISSIONER STEEN: When was that audit
25 done and what did it conclude?

1 MR. BAKER: The audit was done in --
2 Farrell, you may have to help me out.

3 MR. WALKER: Three months ago. It was
4 concluded about three months ago.

5 MR. BAKER: The last part of last year,
6 and it indicated that we had about a 33 percent error
7 rate on crash reports and about a 19 percent error rate
8 in these eight critical data fields, which was not
9 acceptable.

10 COMMISSIONER STEEN: Thank you.

11 MR. BAKER: You're welcome. The last
12 thing I would like to address the commission about is,
13 the first part of the month, during the emergency
14 meeting, I submitted a report and some information
15 regarding our 450 vehicles and referred to some studies
16 that had been done on one-man versus two-man patrols,
17 and I did not have copies of those studies at hand. I
18 do have those copies now with me. There have been
19 about five studies done on that issue and I've been
20 able to lay my hands on three of those studies. I have
21 a copy for each member if you're interested in those.

22 CHAIRMAN POLUNSKY: We're more than
23 interested.

24 COMMISSIONER BARTH: Mr. Chairman?

25 CHAIRMAN POLUNSKY: Yes, ma'am.

1 COMMISSIONER BARTH: I think this
2 morning, I know I would like to find ways to hear
3 testimony and rules about texting and talking on the
4 phone and waiting to be impaired, so to speak. I look
5 at it as being compared to drinking and driving. I
6 would really like to -- once we, as a commission, are
7 comfortable that those studies, and I think I am, are
8 robust, I would like to think we could take on the
9 media blitz with represent to the public and public
10 awareness as we're trying to get legislation passed in
11 this area of talking and texting. We were talking
12 about it at lunchtime when you come to a red light and
13 you look over and see people talking, I come to a red
14 light and see people texting.. Okay? That's beyond
15 talking. I think it's the safety of the public
16 citizens of Texas. I just think it's something that
17 we -- it's almost like a click it ticket.

18 CHAIRMAN POLUNSKY: Click it or ticket?

19 COMMISSIONER BARTH: And, you know, it's
20 just something that I think we, as commissioners, you
21 know, ought to try and get that word out in terms of,
22 some of the -- still, Commissioner Clowe's one is a
23 media person, but, you know, stop talking and texting
24 dropped. It's just -- I think it would be very
25 eye-opening, especially as a parent. It would be nice

1 to be able to try and help get that covered and know
2 that, intuitively, it doesn't make sense to text and
3 drive or talk and drive, but I think if we have
4 statistics out there and some sort of public service
5 messages, we ought to be doing that as long as we are
6 comfortable the studies are robust.

7 MR. BAKER: We can work with our safety
8 education component and media relations.

9 CHAIRMAN POLUNSKY: I would agree with
10 that. It seems odd to me that the Click it or Ticket
11 Media Campaign is from the Department of Transportation
12 as opposed to the Department of Public Safety.

13 MR. BAKER: Well, I think it was because
14 the Department of Transportation had the bucks. We
15 appear with the organizers of Click It or Ticket during
16 their annual blitz and make an appearance. I think I
17 struck a nerve here.

18 MR. YBARRA: Oscar Ybarra, chief of
19 finance. The Texas Department of Transportation is the
20 cognizant agency that deals with the Highway Traffic
21 Safety Administration. They were funded a significant
22 amount of money, federal dollars, for that advertising
23 campaign, and I mean significant. It was probably half
24 enforcement, half PSA, so it was a pretty big -- and
25 they do a lot of what you were talking about,

1 Commissioner Barth, already. They do PSA, look into
2 that, so the DPS is piggy-backed on many occasions.

3 COMMISSIONER BARTH: I just have seen
4 nothing on texting or talking in terms of public
5 service announcements or messages. I think, as an
6 agency, we could get ahead of the game here.

7 MR. YBARRA: Did that answer your
8 question as far as how --

9 COMMISSIONER BARTH: [Inaudible]

10 (Laughter)

11 CHAIRMAN POLUNSKY: I hope she'll find
12 out.

13 COMMISSIONER STEEN: Chief, I was
14 glancing at these studies and I think this came up
15 because I think there was a sentence in that report
16 that said a one-officer patrol was safer than a
17 two-officer patrol, and just glancing, it looks like
18 maybe the issue there is, they're talking about when
19 it's one person, he performs more safely. Is that
20 right?

21 MR. BAKER: That's in terms of driving.
22 That, and just generally he has got -- he has got one
23 pair of eyes and he is --

24 COMMISSIONER STEEN: Is it safer for the
25 officer according to the studies?

1 MR. BAKER: According to the studies.
2 According to the studies, there is no more inherent
3 danger for a one-officer unit than there is a
4 two-officer unit.

5 COMMISSIONER STEEN: Well, I thought
6 that might be the answer because this first study just
7 talks about one officer in a patrol car.

8 MR. BAKER: One is more safer.

9 COMMISSIONER STEEN: I can see how that
10 makes sense because you're distracted by having
11 somebody else in the car with you. It may be safer
12 when you're driving to be by yourself.

13 COMMISSIONER CLOWE: Chief Baker, we
14 heard this earlier today, not this morning earlier
15 today, about a trooper who was shot. It came up
16 through discussion about the driver's license in-car
17 computer.

18 MR. BAKER: Yes, sir.

19 COMMISSIONER CLOWE: And that trooper
20 was shot in the waist by a 12-gauge shotgun.

21 MR. BAKER: That is correct.

22 COMMISSIONER CLOWE: And his magazine
23 pouch took the full force of that charge from a
24 12-gauge shotgun and then he returned fire..

25 MR. BAKER: Yes, sir.

1 COMMISSIONER CLOWE: And we had another
2 trooper, also, I believe, who exchanged gunfire and was
3 struck in the calf.

4 MR. BAKER: That is correct.

5 COMMISSIONER CLOWE: And you didn't
6 report on either one of those, but we --

7 MR. BAKER: Did I not bring those up
8 during the last commission meeting?

9 COMMISSIONER CLOWE: Well, you may have,
10 but I want to re-emphasize that those are so important
11 that we all stay aware of the risk and the danger that
12 our troopers are facing every day on the highway, and I
13 don't want to have that forgotten. I'd like those
14 kinds of things to be reminded to the people who attend
15 these meetings and to the board that our officers go in
16 harm's way every day.

17 MR. BAKER: Yes, sir, and I agree with
18 you 100 percent, Commissioner, and we reiterate to our
19 troopers that there is no such thing as a routine
20 traffic stop..

21 COMMISSIONER CLOWE: Let us hear from
22 you on that every month when there's something that's
23 current or there's something that we talked about
24 prior, just keep reminding us about that. That's real
25 important I think.

1 MR. BAKER: Okay.

2 CHAIRMAN POLUNSKY: Thank you very much,
3 Chief Baker.

4 Next item is rangers division. Chief
5 Leal?

6 MR. LEAL: Tony Leal, chief of the
7 rangers. Y'all have our statistical reports here on
8 the front. On the significant report, I just want to
9 point out two things. On the special investigation
10 we've got going on, I haven't reported on this report.
11 I started back in December but it was not something
12 that was public here until after the last commission
13 meeting. We were asked to investigate a sheriff's
14 department up in Monte County. As part of that
15 investigation, we now have what's going to look like
16 100 federal and state charges involving twenty suspects
17 that work at that sheriff's department, including the
18 sheriff and a couple of outsiders. That was an
19 investigation we worked with the FBI out of Dallas.
20 Particularly, they were running a brothel out of the
21 jail, is what they were doing, and had -- when you
22 walked in there, they had La-Z-boy chairs in the cells
23 and TV's and everybody was having a good time, so a
24 good time was had by all, but that is over with.
25 They've got a new sheriff there now.

1 Now, the jail was closed, and I pointed
2 out to Chairman Polunsky at that time that we weren't
3 closing that jail. I knew that it would hit the media
4 and I advised the colonels of that. That sheriff that
5 took over took it upon himself to call the jail
6 commission and have a complete inventory done of the
7 jail for any type of disease or infection, you know,
8 get it cleaned up, moved everybody to a neighboring
9 jail, and they're going to be moving back in I think
10 this month, at the beginning of March.

11 The other thing I wanted to update y'all
12 on is on the --

13 COMMISSIONER STEEN: That was -- is this
14 the one that's Monte County?

15 MR. LEAL: Monte, yes, sir.

16 COMMISSIONER STEEN: And how was the
17 sheriff replaced there?

18 MR. LEAL: How was the sheriff replaced
19 there?

20 COMMISSIONER STEEN: Right. I mean, how
21 did you get a new sheriff?

22 MR. LEAL: They had elected another
23 sheriff.

24 COMMISSIONER STEEN: Oh, so he had
25 already --

1 MR. LEAL: Yes, sir. So this guy was
2 going out January 1st anyway and so he went out in
3 December.

4 On the FLDS investigation in West Texas
5 that's been on TV a lot with the -- at this point, we
6 have been assisted in that. Of course, and that's one
7 of the things that Tom was speaking of that I want to
8 point out, that's not a ranger investigation. That is
9 a Texas Ranger Investigation, a CLE investigation. CLE
10 has helped quite a bit in that as well as the BIA.
11 We've got analysts going out there and helping us with
12 that investigation. But as a result of that
13 investigation, at this point we've had 12 men indicted,
14 over 26 felony violations that are, you know, sexual
15 calls, bigamy, and failure to report child abuse, that
16 range of offenses, so it's supposed to go to discovery,
17 I believe, next month or maybe -- no, I'm sorry, May,
18 in May, and that's why we have asked BIA to let us
19 borrow a couple of analysts. We've got them out there
20 working full time on that so that we make sure we get
21 the defense everything they need on this.

22 Other than that, I'd just like to say,
23 I'd like to welcome Tom, also, as y'all did. We seem
24 to get along very well together and I'm looking forward
25 to -- we've already started some initiatives with the

1 G-Down and THP and CLE working on some issues trying to
2 get ahead of the curve on it, and I think we're going
3 to work very well together and we're kind of on the
4 same page on what we all want to do, so I look forward
5 to that.

6 CHAIRMAN POLUNSKY: Sounds good.

7 Yes, sir, Mr. Clowe?

8 COMMISSIONER CLOWE: And, Chief, you did
9 some very nice work on that Chicago plan information
10 that Senator Shapleigh brought to our attention, and I
11 wanted to thank you for that. Don't ever worry about
12 sending too many e-mails when you're working on that
13 kind of data. And I hope that you shared that with the
14 other commissioners.

15 MR. LEAL: Yes, sir.

16 COMMISSIONER CLOWE: Good. Because, you
17 know, that was a hot subject and I think this
18 department reacted to it very quickly and properly and
19 I think the senator now feels a lot better about what's
20 going on.

21 MR. LEAL: Yes, sir.

22 COMMISSIONER CLOWE: It's important to
23 get that information out. It's important for all of us
24 to know about it.

25 MR. LEAL: Yes, sir.

1 COMMISSIONER CLOWE: So thanks for your
2 good work on that.

3 MR. LEAL: Thank you, sir.

4 CHAIRMAN POLUNSKY: Other questions?
5 Thank you, Chief.

6 IMS. Chief Lane?

7 MR. LANE: Bryan Lane, chief IMS. Good
8 afternoon. You have my report and I just want to add a
9 couple of comments. We had a, I think, very exciting
10 morning this morning with the Senate Finance Committee.
11 I think, for the first time, this agency stands on the
12 brink of actually bringing the information technology
13 that we need and have needed for the last ten years
14 into reality. In meeting with the new chiefs and Chief
15 Brown, we had talked at a high level in an IT project
16 board meeting this week about how information
17 technology today and tomorrow can bring together some
18 of the visions that you've heard today from Chief Ayala
19 and Chief Ruocco. They are two very demanding
20 individuals when it comes to what they need from
21 technology and we stand ready with the LAR to approach
22 that and meet those demands. However, that said,
23 there's a lot of things that we can do between now and
24 the actual budget authorization that we hope to receive
25 between now and May.

1 I want to give you an update on the
2 three little things that are ongoing within the
3 operation of IMS. The first one is, we continue to
4 have our IT board meetings. In those meetings, they --
5 it's a meeting of the senior leaders within the
6 agency -- prioritize the projects that we have,
7 reviewing the procurement and the processes for
8 information technology as directed by House Bill 1516
9 from the 79th Legislative Session, as well as keeping
10 them updated on the operation and challenges that we're
11 having with the IMS and how we can best meet their
12 immediate and strategic needs.

13 Secondly, we have made a couple of
14 changes within my operation that have made us a more
15 affective and efficient team. We've taken a network
16 team that was -- that's traditionally a combined
17 operation that has been split for several years within
18 the agency. Gardner recommended that we bring those
19 teams back together and we forwarded the recommendation
20 to the leadership and we made that change. It impacted
21 11 individuals that I think we're going to see --
22 impacted means they're living in a new home. That was
23 a change we could do with no physical impact that we
24 have absolutely already seen in the last two weeks an
25 increase in communication between our team and our

1 ability to deliver those network services.

2 Third, in my report that I gave you for
3 this month, I indicated we were updating 93 critical
4 servers. We found that within our agency refresh
5 scholars. Those are servers that carry critical
6 information for every one of our different divisions
7 because that's a deployed environment. We'll be
8 updating those with Blade Servers. That contract, I
9 believe, was estimated at \$1.8 million. It's a DIR
10 contract, so that's the direction we're going with
11 that, but we have an ongoing process.

12 The challenge we have with these servers
13 is they're at end of life and end of service, which
14 means if one goes down, then we are up the creek
15 without a paddle until such time as we can get it
16 replaced. It's an aggressive schedule but we believe
17 we can execute that in the next two months, have that
18 in place, which establishes the beginning of our
19 enterprise architecture, which brings us from an agency
20 perspective of building to leverage information and
21 sharing initiative that we want to move forward with as
22 well as similar technologies and similar skills so that
23 we can begin to rebuild some recurrency in our staff to
24 support these critical systems moving forward. So I
25 wanted to update you on that.

1 We continue to look for ways that we can
2 improve our service without the dollars. In the
3 springtime, we continue to work with the chiefs and the
4 colonels to ensure that we're doing what they need us
5 to do from a service organizational perspective and we
6 look forward to a pretty exciting spring, I think.
7 That concludes my comments unless you have questions.

8 CHAIRMAN POLUNSKY: Questions? Thank
9 you.

10 Next item: Special report on strategic
11 statewide and interagency coordination of law
12 enforcement plans, i.e., Chicago Plan and other
13 initiative. Colonel?

14 MR. CLARK: Mr. Chairman, briefly, as
15 the commission is aware, our intense dedication, if you
16 will, to Border Star, as a result of a lot of that
17 work, Senator Shapleigh in El Paso is acutely aware of
18 our efforts and interested in those efforts. He
19 recommended to the agency, as we attempt to do our best
20 to try to attack these cartels, that we implement plans
21 similar to the Rico investigations. Fortunately, Tom
22 Ruocco, Chief Ruocco, and Chief Platt, who came to us
23 from a federal system, were able to quickly address
24 this issue. As soon as Commissioner Clowe got the
25 information, these two gentlemen -- we all sat down and

1 were able to discuss this. And at this time, I would
2 ask Tom and Stuart -- or, Stuart, you might want to
3 give an overview and, Tom, you can add any comments you
4 might have about this.

5 MR. PLATT: Senator Shapleigh's request
6 was for us to look at developing a strategic
7 prosecution plan for transnational crimes specifically
8 focused on the Republic of Mexico. I need to emphasize
9 something that the law enforcement division chiefs have
10 already mentioned. The indirect benefit of that was
11 that we have three new chiefs, and I got to be a
12 participant with them. Chief Leal, Chief Ruocco, and
13 Chief Baker sat down and compiled all of the
14 information of what we're doing to combat violent crime
15 and narcotics trafficking particularly as it relates to
16 the border. The degree of cooperation among those
17 gentlemen as we worked on that project was phenomenal.
18 The amount of data that we put together to show and
19 demonstrate what this department has been doing is
20 phenomenal.

21 As a leadership group with the colonels,
22 we made a decision not to get into the details with
23 Senator Shapleigh, but we went prepared and equipped to
24 the committee meeting yesterday with all of that data.
25 What we decided to do was to present to him the fact

1 that we were assessing our strategic plan statewide and
2 developing a statewide strategic plan to cover all
3 areas of law enforcement. We also overviewed with the
4 committee and Senator Shapleigh our assessment of the
5 benefits of the Deloitte transformational process and
6 new leadership, and it was well received so we never
7 got into the details, but the side or second order
8 effect, side benefit, was that we had three law
9 enforcement commission chiefs who got together and put
10 forth an incredible effort and presented to the
11 leadership and to the colonels the amount of work that
12 we are doing to stop violent crime and transnational
13 crimes, and that was a benefit that I don't think
14 Senator Shapleigh fully appreciated. Maybe we did. He
15 was extremely gracious but, for us, it was an internal
16 benefit, a great value, and I've mentioned that to
17 several people. But the long and short of it is that I
18 think it was extremely well received by Senator
19 Shapleigh and we will stay in contact with him, and
20 Mike Kelley has been an integral part of that process

21 I don't know if Chief Ruocco has any
22 comments.

23 MR. RUOCCO: Stuart Platt did great at
24 the hearing and I don't know what more I can add right
25 now, I mean, unless you want to get into the Rico

1 violation itself, which I don't think we're here to do
2 today, are we?

3 COMMISSIONER CLOWE: Let me make a
4 comment while he's coming up. You reminded me of what
5 a team effort this was. I got more e-mails from Chief
6 Leal than I did from -- well, I got a bunch from you,
7 too, Stuart, and phone calls from you, Colonel, because
8 you had everybody in your office. I kind of got caught
9 up in this and it was a whirlwind. Senator Shapleigh
10 was evangelical about this problem and, you know, he
11 gave me a stack of material and I sat down and read
12 every page of it. You know, this is a serious problem,
13 what's going on at Warez in Mexico and the fear of it
14 coming across the border and going through Houston and
15 Dallas to Chicago, and the chairman called this to my
16 attention early on when I came on this board and he
17 took me on some Border Star trips, but you have to stay
18 close to this and you have to touch it, I guess, a lot
19 to understand just how serious it is. The question
20 that comes to my mind is, you know, is Mexico on the
21 verge of anarchy? And those cartels fighting each
22 other down there is a problem that we must be aware of
23 and what it's doing coming across the border, and I was
24 reminded by Chief Leal that there are members of the
25 legislature that say, "Not all the problems in this

1 state are on the border, we got problems in East Texas,
2 Central Texas, and West Texas." But the comment that
3 you've made about the cooperation in the DPS, this
4 wasn't here when I came on this board in March of last
5 year and I think that's really something that came out
6 of this whirlwind of activity. You all came together
7 and pulled together and presented a real factual case,
8 and it's impressive, and Senator Shapleigh, I think,
9 was pleased to hear your presentation. I don't think
10 he's satisfied and I think he'll be back, but we're
11 doing what he wants us to do and we're doing what other
12 elected representatives want us to do. This is
13 cooperation that we want to see in the DPS. It's
14 really significant. Thank you for calling our
15 attention to it.

16 CHAIRMAN POLUNSKY: What do you say
17 after that?

18 MR. RUOCCO: I'd like to end on that
19 note.

20 CHAIRMAN POLUNSKY: Thank you.

21 COMMISSIONER CLOWE: Keep it up.

22 CHAIRMAN POLUNSKY: Thank you very much.

23 The next item would be the consent
24 items. Would anybody like to pull any of the consent
25 items?

1 COMMISSIONER STEEN: Mr. Chairman, I
2 have a question. On C, there are a number of rules
3 that we're going to adopt and who can assure us that
4 we're okay doing that? Colonel?

5 MR. CLARK: You've asked me that
6 question before. I'll defer to our legal staff who
7 have reviewed these. Duncan, you're moving toward the
8 mic.

9 COMMISSIONER STEEN: Mr. Fox, I just
10 wanted to know, did we have any comments on these, any
11 objections?

12 MR.. FOX: We did receive comments
13 regarding the school bus safety standards from a number
14 of school districts with regard to the rules that we
15 were wanting to adopt. One of them in particular is
16 the number of comments out. That particular rule,
17 rather than adopting the proposed rule, we withdrew it
18 and the division is actually re-proposing a new rule
19 based on those comments, which is identified in
20 Subsection D, so we believe, by and large, we're
21 addressing the comments that were raised. And I do
22 have David Palmer who is here to speak with you if you
23 want to discuss it.

24 COMMISSIONER STEEN: Well, I just want
25 to be sure that, in doing this in one fell swoop, we're

1 not adopting in there something that's controversial.

2 MR. FOX: No, you are not. The captain
3 probably can speak to that more specifically, but, by
4 and large, these adoptions, there were comments that
5 were received and my understanding when I reviewed the
6 rules is that the department, by and large, has been
7 responsive to the comments that we received and made
8 changes to those comments from the school districts.

9 COMMISSIONER STEEN: In that case, Mr.
10 Chairman, are you looking for a motion on all these
11 items?

12 CHAIRMAN POLUNSKY: Unless somebody
13 wants to pull anything out.

14 COMMISSIONER STEEN: So moved.

15 COMMISSIONER BARTH: Second.

16 COMMISSIONER CLOWE: That's on all of
17 the consent items A through D. Is that right?

18 COMMISSIONER STEEN: One of them has to
19 do with discharging a probationary employee and then an
20 appointment of special rangers and special Texas
21 rangers and then a number of rules and then a proposed
22 rule.

23 Mr. Chairman, I was concerned that
24 somebody has waited through this meeting to talk about
25 one of these things. I don't think we've got anybody

1 out there, do we, who is here on any of these?

2 CHAIRMAN POLUNSKY: Anybody here
3 interested in any of these items?

4 COMMISSIONER STEEN: Mr. Chairman, I'm
5 having -- Mr. Chairman, since nobody indicated from the
6 audience that they wanted to address any of these
7 issues, I call the question.

8 CHAIRMAN POLUNSKY: You call the
9 question on your own motion? Okay, it's been moved and
10 seconded. Moved by Commissioner Steen and seconded by
11 Commissioner Barth, that the consent items be approved.
12 All those in favor, say aye. Against, no? Motion
13 passes.

14 Also, let the record show that everybody
15 in the audience was very interested in all of this.

16 Items for future agendas?

17 COMMISSIONER BARTH: Mr. Chairman, I do
18 have one which I think Senator Ogden alluded to. I
19 would like to see what we did with the unused dollars
20 for salaried positions that weren't filled over the
21 last five years. At a hearing, as we were asking for
22 more people, he eluded to the fact that we had
23 300-something positions open right now. It seems to
24 be, as we testified, that this isn't normal, so it
25 sounds to me like somewhere between 15 to \$20 million a

1 year. Is that right?

2 MR. YBARRA: Yes.

3 CHAIRMAN POLUNSKY: Well, hopefully we
4 will not have those vacancies going forward, but that
5 is a legitimate issue and I'm glad that you raised it
6 or reminded us that Senator Ogden raised it this
7 morning. So can we have a report on that next week?

8 MR. YBARRA: Sure.

9 CHAIRMAN POLUNSKY: Anything else?

10 COMMISSIONER STEEN: Mr. Chairman, just
11 the issue that I discussed with you about the
12 transcripts of the meetings. If we're going to use the
13 transcript method, if we could make an effort to get
14 those up to speed. I think that the most recent one
15 that's available now is November. I see some members
16 of the audience nodding their head.

17 COMMISSIONER BARTH: Well, we didn't
18 approve one today. We have to approve the comments.
19 Right?

20 COMMISSIONER STEEN: Well, no, we don't
21 have minutes, but we've got transcripts but they're not
22 being --

23 CHAIRMAN POLUNSKY: That's a very valid
24 point. If we're going to be using these transports,
25 then they need to be available from one meeting to the

1 next, otherwise --

2 COMMISSIONER BARTH: Especially if you
3 miss one.

4 MR. PLATT: I was informed that the
5 individual who has been transcribing, she's doing
6 that -- she's doing it on a part-time basis now and
7 that slowed down the process.

8 CHAIRMAN POLUNSKY: Okay. Well, that's
9 not going to work in the future. Of course, I believe
10 Commissioner Steen would still like to propose a
11 summary method and this is something we can talk about
12 in the future if you'd like at the next meeting or now.

13 COMMISSIONER STEEN: Well, I'd like to
14 talk about it. I didn't get my support last time.

15 CHAIRMAN POLUNSKY: Another bite at the
16 apple.

17 COMMISSIONER STEEN: You know, I'm still
18 working on it, but I think it would be very helpful to
19 have minutes that we can --

20 COMMISSIONER CLOWE: Wait a minute. Is
21 it on the agenda or are we --

22 COMMISSIONER STEEN: No, but we're
23 talking about what we can put on our future agenda.

24 COMMISSIONER CLOWE: Let's put it on the
25 agenda. Commissioner Steen has given me a copy of the

1 minutes that he likes from the TABC from a prior
2 meeting. Have you been favored?

3 CHAIRMAN POLUNSKY: I have one as well.

4 COMMISSIONER CLOWE: And that will give
5 us a chance to look at them and study them and we'll
6 put it on the agenda.

7 CHAIRMAN POLUNSKY: Okay, that will be
8 on the agenda for March as well.

9 COMMISSIONER CLOWE: Mr. Chairman, we
10 want to give a report on where we were on the project
11 management office search and we want to give an updated
12 report on the search for the director and the search
13 for the IT division chief as well. That's a new
14 subject.

15 CHAIRMAN POLUNSKY: I'm sorry, I was
16 visiting someone.

17 COMMISSIONER CLOWE: Do you want me to
18 repeat it for you?

19 CHAIRMAN POLUNSKY: Do I need to know?

20 Dorothy, do we have -- do we have a date
21 for March? All right, the regular date is not going to
22 work as we discussed back in December, I guess, so what
23 date would be good for y'all? The previous -- the
24 Thursday -- the second Thursday?

25 COMMISSIONER STEEN: Mr. Chairman, do

1 you have a conflict on the regular date?

2 CHAIRMAN POLUNSKY: I don't but

3 Ms. Barth does.

4 COMMISSIONER STEEN: Are you out that

5 whole week?

6 COMMISSIONER BARTH: I am.

7 COMMISSIONER STEEN: What's the second

8 Thursday? What's the date?

9 CHAIRMAN POLUNSKY: The 12th.

10 COMMISSIONER BARTH: Is that a conflict?

11 COMMISSIONER STEEN: I think that will

12 be fine.

13 COMMISSIONER BARTH: Do you want to wait

14 and see?

15 CHAIRMAN POLUNSKY: Is that okay with

16 you?

17 COMMISSIONER BARTH: The one thing I'll

18 say is, we are going to be here potentially on the

19 11th. We may have a nomination hearing, so it seems

20 like we could schedule it on the 11th and work with

21 that. The three of us may be here for a confirmation

22 hearing and maybe set the meeting at the Capitol

23 extension. Just a thought.

24 CHAIRMAN POLUNSKY: Yeah, but --

25 COMMISSIONER BARTH: Because that would

1 make it --

2 CHAIRMAN POLUNSKY: Michael, when do
3 they usually have those committee meetings? Is that in
4 the afternoons usually or --

5 MR. KELLEY: Michael Kelley, chief of
6 government relations. The reason I think that wouldn't
7 be a good idea is because the committee rooms are being
8 used at all times. I'm not sure there would be a place
9 for us to meet if you want to meet down at the Capitol.

10 COMMISSIONER BARTH: What about
11 nominations?

12 MR. KELLEY: Nominations will meet in
13 the afternoon typically 2:00ish, because it's going to
14 be a polygermant [phonetic] of the Senate, so they'll
15 say 2:00 or 2:30 are polygermant of the senate, so the
16 afternoon of a Wednesday is when you're going to up for
17 your nominations..

18 COMMISSIONER BARTH: Could we not meet
19 that morning?

20 CHAIRMAN POLUNSKY: Well, that's a
21 pretty small window. If we start at 10:00 and you need
22 to be there at 2:00, that gives us less than four
23 hours. I would prefer to do it on the 12th.

24 COMMISSIONER STEEN: Mr. Chairman, is
25 there a way if we moved it to the next week, the week

1 after, say, that Monday? I don't have a calendar.

2 COMMISSIONER CLOWE: The 23rd.

3 COMMISSIONER STEEN: Do you think that's
4 too late in the month?

5 CHAIRMAN POLUNSKY: I don't think it is
6 necessarily too late in the month, however, we might
7 want to be ahead of the curve as far as the legislature
8 being in session where issues may be coming up that may
9 be of relevance to us or that we want to get involved
10 in, and so I'd rather meet earlier rather than later,
11 if that makes sense.

12 COMMISSIONER BARTH: Is that a conflict?

13 COMMISSIONER STEEN: No, no, I'm just --
14 well, I can't say.

15 CHAIRMAN POLUNSKY: Well, why don't we
16 just right now say the 12th, then if there's a problem,
17 then we'll start calling everyone and get it so that
18 everyone will be able to meet on the same day.

19 COMMISSIONER STEEN: All right, thank
20 you.

21 CHAIRMAN POLUNSKY: So it's just
22 tentative right now.

23 COMMISSIONER STEEN: Thank you.

24 CHAIRMAN POLUNSKY: Okay. Anything
25 else?

1 All right. This meeting of the Texas
2 Public Safety Commission is adjourned. It is 6:20 p.m.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 THE STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

4

5 I, Kim Furr, Certified Shorthand Reporter in and
6 for the State of Texas, do hereby certify that the
7 above and foregoing contains a true and correct
8 transcription of my stenographic notes taken in the
9 above-captioned cause at the Texas Public Safety
10 Commission meeting in Austin, Texas.

11

12

13 Witness my hand this 9th day of March,
14 2009.

15

Kim Furr, CSR, RPR

16

CSR No. 6997, Expires 12/31/09

Integrity Legal Solutions

17

Firm Registration No. 528

114 West 7th Street, Suite 240

18

Austin, Texas 78701

(512) 320-8690

19

(512) 320-8692 (Fax)

20

21

22

23

24

25

IN THE MATTER OF § BEFORE THE
THE DISCHARGE OF § PUBLIC SAFETY COMMISSION
PROBATIONARY EMPLOYEE § 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 employee was unsuitable for continued employment in the Department of Public Safety. The Public Safety Commission has consented to the discharge of this employee:

| Employee Name | Employee Title/Division | Date of Discharge |
|----------------------|---------------------------------------|--------------------------|
| Meryal Johnson | Custodian II, Administration Division | 01/12/09 |

Approved:



Allan B. Polunsky, Chairman
Public Safety Commission
Date: February 19, 2009

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Texas Highway Patrol
Title 37 T.A.C. Part I, Chapter 3
Subchapter D
Section Number 3.51

The Texas Department of Public Safety adopts amendments to Section 3.51, concerning Traffic Supervision on Interstate Highways in Cities of 50,000 Population or Less, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9938).

Adoption of the amendments to the section are necessary in order to change the word “accident” to “crash” in order to bring the rule into compliance with national standards.

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 411.006(4), which authorizes the Director to adopt rules, subject to commission approval, considered necessary for control of the department.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Commercial Vehicle Regulations and Enforcement Procedures
Title 37 T.A.C. Part I, Chapter 4
Subchapter C
Section Number 4.37

The Texas Department of Public Safety adopts amendments to Section 4.37, concerning Acceptance of Out-of-State Commercial Vehicle Inspection Certificate, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9939).

Adoption of the first amendment to Section 4.37 is necessary in order to remove the State of Oklahoma from the list of jurisdictions certified by the Federal Motor Carrier Safety Administration as meeting the requirements of Title 49, Code of Federal Regulations, Section 396.23. Adoption of the second amendment to the section is necessary in order to add the State of Massachusetts to the list of jurisdictions certified by the Federal Motor Carrier Safety Administration as meeting the requirements of Title 49, Code of Federal Regulations, Section 396.23. Adoption of the final amendments to the section is necessary in order to clarify that only the bus inspection programs in the States of Connecticut and Wisconsin have been certified by the Federal Motor Carrier Safety Administration as meeting the requirements of Title 49, Code of Federal Regulations, Section 396.23.

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 Transportation Code, Section 548.002, which authorizes the department to adopt rules to administer and enforce the compulsory inspection of vehicles.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter A
Section Numbers 14.1 and 14.2

The Texas Department of Public Safety adopts the repeal of Chapter 14, Subchapter A, Section 14.1 and Section 14.2, concerning General Provisions of the School Bus Safety Standards, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9940).

Adoption of repeal of the sections is necessary in order to delete obsolete language and because the text of the sections no longer reflect current statute and practices. Adoption of this repeal is filed simultaneously with the adoption of a new Subchapter A, Section 14.1 which promulgates revised general provisions for school bus safety standards.

No comments were received regarding adoption of the repeals.

The repeals 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; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter A
Section Number 14.1

The Texas Department of Public Safety adopts new Chapter 14, Subchapter A, Section 14.1, concerning General Provisions, with changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9943) and will be republished.

Adoption of new Section 14.1 is necessary in order to establish definitions for certain terms that are used throughout Chapter 14 – School Bus Safety Standards. The new section is filed simultaneously with an adoption for the repeal of current Subchapter A, Section 14.1 and Section 14.2 and is necessary in order to delete obsolete language and because the text of the current sections no longer reflect current statute and practices.

The department accepted comment on the proposed rules through January 5, 2009. Written comments were submitted by Jim Dunlap and Keith A. Kaup representing Texas Association for Pupil Transportation (Gulf Coast Chapter); Patrick Garcia representing Education Service Center Region XI; Lou Autry representing Education Service Center Region X; Carolyn Tipton representing Education Service Center Region XV; Charley Kennington representing Education Service Center Region IV; Don Archer representing Education Service Center Region VI; Crystal Dockery representing Education Service Center Region XVI; Kenneth L. Coleman representing Borger Independent School District; and Kirk A. Self representing Canyon Independent School District.

The substantive comments, as well as the department's responses thereto, are summarized below:

COMMENT: Regarding Section 14.1. "Could examples of the Department's interpretation of "any communication brought to the attention of the public in return for public recognition in connection with an event" be given? For example, is the school logo considered advertisement?"

RESPONSE: The department agrees with the comment and clarifies a school districts name and/or school or manufacturer logos are not to be considered advertisement for the purposes of compliance with Section 14.61 (School Bus Advertisement Applicability). The necessary change to the definition of "Advertisement" has been made in paragraph (1).

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 Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which

authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter B
Section Numbers 14.11 – 14.13

The Texas Department of Public Safety adopts the repeal of Chapter 14, Subchapter B, Sections 14.11 – 14.13, concerning School Bus Driver Eligibility and Application Procedures, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9940).

Adoption of repeal of the sections is necessary in order to delete obsolete language and because the text of the sections no longer reflect current statute and practices. Adoption of this repeal is filed simultaneously with the adoption of a new Subchapter B, Sections 14.11 – 14.13, which promulgates revised regulations for school bus driver qualifications.


No comments were received regarding adoption of the repeals.

The repeals 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; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter B
Section Numbers 14.11 – 14.13

The Texas Department of Public Safety adopts new Chapter 14, Subchapter B, Sections 14.11 – 14.13, concerning School Bus Driver Qualifications, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9944).

Adoption of the new sections is necessary in order to set forth employment qualification requirements for drivers of school buses, school activity buses, and multifunction school activity buses. The new sections are adopted simultaneously with an adoption for repeal of current Subchapter B, Sections 14.11 – 14.13 and are necessary in order to delete obsolete language and because the text of the current sections no longer reflect current statute and practices.


The department accepted comment on the proposed rules through January 5, 2009. No comments were received regarding adoption of new Sections 14.11 – 14.13.

The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter C
Section Numbers 14.31 - 14.36

The Texas Department of Public Safety adopts the repeal of Chapter 14, Subchapter C, Sections 14.31 – 14.36, concerning School Bus Driver Safety Training Program, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9941).

Adoption of repeal of the sections is necessary in order to delete obsolete language and because the text of the sections no longer reflect current statute and practices. Adoption of this repeal is filed simultaneously with the adoption of a new Subchapter C, Sections 14.31 – 14.36, which promulgates revisions to the school bus driver safety program.

No comments were received regarding adoption of the repeals.

The repeals 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; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter C
Section Numbers 14.31 – 14.36

The Texas Department of Public Safety adopts new Chapter 14, Subchapter C, Section 14.31, and Section 14.33, concerning School Bus Driver Safety Training Program, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9947) and will not be republished. Sections 14.32 and 14.34 – 14.36 are adopted with changes and will be republished.

Adoption of the new sections is necessary in order to set forth the requirements of the driver safety training program for drivers of school buses, school activity buses, and multifunction school activity buses. The new sections are adopted simultaneously with an adoption for repeal of current Subchapter C, Sections 14.31 – 14.36 and are necessary in order to delete obsolete language and because the text of the current sections no longer reflect current statute and practices.

The department accepted comment on the proposed rules through January 5, 2009. Written comments were submitted by Jim Dunlap and Keith A. Kaup representing Texas Association for Pupil Transportation (Gulf Coast Chapter); Patrick Garcia representing Education Service Center Region XI; Lou Autry representing Education Service Center Region X; Carolyn Tipton representing Education Service Center Region XV; Charley Kennington representing Education Service Center Region IV; Don Archer representing Education Service Center Region VI; Crystal Dockery representing Education Service Center Region XVI; Kenneth L. Coleman representing Borger Independent School District; and Kirk A. Self representing Canyon Independent School District.

The substantive comments, as well as the department's responses thereto, are summarized below:

COMMENT: Regarding Section 14.32. Requests were received to modify the current thirty five (35) individual class sizes to a range of eighteen (18) to sixty (60) trainees per certified instructor.

RESPONSE: The department disagrees with the comment and feels a maximum classroom size of thirty five (35) per certified instructor is optimal to ensure the best possible learning environment. Therefore, no change was made to the rule based on this comment.

COMMENT: Regarding Section 14.32. Requests were received to include the wording "a minimum of" twenty (20) and eight (8) clock hours of instruction shall consist of the safety training program.

RESPONSE: The department agrees with the comment and has amended the language.

COMMENT: Regarding Section 14.32. Depending on the location and resources available it could take more than two (2) business days notification to accommodate the needs for persons with certain disabilities. Requests were received to extend the current two (2) business days to seven (7) business days or twenty (20) business days.

RESPONSE: The department agrees with the comment and feels seven (7) business days is a sufficient amount of time. Therefore, the language has been amended.

COMMENT: Regarding Section 14.32. Education Service Centers would have a financial hardship in sending the department the enormous amount of evaluations given each year. In addition, due to Education Service Center in-house processing procedures, it would not be possible to send course evaluations within fourteen (14) calendar days.

RESPONSE: The department agrees to withdraw the proposed language for submission of evaluation reports to the department.

COMMENT: Regarding Section 14.34. In order not to cause additional reporting time and undue hardship, Education Service Centers requested the reporting time for submission of instructor certification information be extended from fifteen (15) to thirty (30) calendar days.

RESPONSE: The department agrees with the comment and amends the proposed language.

COMMENT: Regarding Section 14.35. In order not to cause additional reporting time and undue hardship, Education Service Centers requested the reporting time for submission of school bus driver certification information including certificate issuance be extended from fourteen (14) to thirty (30) calendar days.

RESPONSE: The department agrees with the comment and amends the proposed language.

COMMENT: Regarding Section 14.35. The wording "six month (180 day)" period could mean more or less than 180 days, depending upon the months.

RESPONSE: The department agrees with the comment and amends the proposed language.

COMMENT: Regarding Section 14.35. Clarification is needed to determine if the reference to "certification" is the twenty (20) or eight (8) hour certification course for reinstate status during the 12 month interval immediately following certification expiration.

RESPONSE: The department agrees the wording creates an ambiguity and will include the term "initial" for further clarification.

COMMENT: Regarding Section 14.36. In order not to cause additional reporting time and undue hardship, Education Service Centers requested the reporting time for submission of school bus driver enrollment certification information including enrollment certificate issuance be extended from fourteen (14) to thirty (30) calendar days.

RESPONSE: The department agrees with the comment and amends the proposed language.

The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter D
Section Numbers 14.51 – 14.53

The Texas Department of Public Safety adopts the repeal of Chapter 14, Subchapter D, Sections 14.51 -14.53, concerning School Bus Safety Standards, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9942).

Adoption of repeal of the sections is necessary in order to delete obsolete language and because the text of the sections no longer reflect current statute and practices. Adoption of this repeal is filed simultaneously with the adoption of a new Subchapter D, Sections 14.51 – 14.54, which promulgates revised regulations for the school bus safety standards.


No comments were received regarding adoption of the repeals.

The repeals 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; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter D
Section Numbers 14.51 – 14.54

The Texas Department of Public Safety adopts new Chapter 14, Subchapter D, Sections 14.51, 14.53, and 14.54 concerning School Bus Safety Standards, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9949) and will not be republished. Section 14.52 is adopted with changes and will be republished.

Adoption of the new sections is necessary in order to set forth the vehicle equipment specifications for school buses, school activity buses, and multifunction school activity buses operated in the State of Texas. The new sections also implement the requirement of House Bill 3190, as passed by the 80th Texas Legislature, pertaining to school bus emergency evacuation training. The new sections are adopted simultaneously with an adoption for repeal of current Subchapter D, Sections 14.51 – 14.53 and are necessary in order to delete obsolete language and because the text of the current sections no longer reflect current statute and practices.

The department accepted comment on the proposed rules through January 5, 2009. Written comments were submitted by Jim Dunlap and Keith A. Kaup representing Texas Association for Pupil Transportation (Gulf Coast Chapter); Patrick Garcia representing Education Service Center Region XI; Lou Autry representing Education Service Center Region X; Carolyn Tipton representing Education Service Center Region XV; Charley Kennington representing Education Service Center Region IV; Don Archer representing Education Service Center Region VI; Crystal Dockery representing Education Service Center Region XVI; Kenneth L. Coleman representing Borger Independent School District; and Kirk A. Self representing Canyon Independent School District.

The substantive comments, as well as the department's responses thereto, are summarized below:

COMMENT: Regarding Section 14.52. The Texas School Bus Specifications were developed and derived for a motor vehicle (school bus) that is used to transport pre-primary, primary, or secondary students on routes to and from school or on a school related activity trip other than on routes to and from school. By definition, a school activity bus is not a "school bus" or "multifunction school activity bus" and cannot be held in compliance with the Texas School Bus Specifications.

RESPONSE: The department agrees with the comment and states the term school activity bus and multifunction school activity bus were included inadvertently. The necessary change has been made to the section.

The new sections are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Education Code, Section 34.002, which authorizes the department to

adopt safety standards for school buses; and Section 34.0021, which authorizes the department to adopt rules for implementation of school bus emergency evacuation training; and Texas Transportation Code, Section 521.005, which authorizes the department to adopt rules to administer restrictions on operators of certain school buses; Section 545.426, which authorizes the department to adopt rules to administer the operation of a school bus; Section 547.102, which authorizes the department to adopt standards and specifications for school bus equipment; and Section 547.7015, which authorizes the department to adopt rules governing the design, color, lighting, and other equipment, construction, and operation of a school bus for the transportation of schoolchildren.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter E
Section Numbers 14.61 – 14.67

The Texas Department of Public Safety adopts the repeal of Chapter 14, Subchapter E, Sections 14.61 -14.67, concerning Advertising General Provisions, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9943).

Adoption of repeal of the sections is necessary in order to delete obsolete language and because the text of the sections no longer reflect current statute and practices. Adoption of this repeal is filed simultaneously with the adoption of a new Subchapter E, Sections 14.61 – 14.65, which promulgates revised regulations for the advertising requirements on school buses.


No comments were received regarding adoption of the repeals.

The repeals 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 547.701(d), which authorizes the department to adopt rules to regulate the display of advertising on the exterior of a school bus.

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 February 19, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

School Bus Safety Standards
Title 37 T.A.C. Part I, Chapter 14
Subchapter E
Section Numbers 14.61 – 14.65

The Texas Department of Public Safety adopts new Chapter 14, Subchapter E, Sections 14.62 – 14.65, concerning Advertising Requirements, without changes to the proposed text as published in the December 5, 2008, issue of the *Texas Register* (33 TexReg 9951) and will not be republished. Section 14.61 is adopted with changes and will be republished.

Adoption of the new sections is necessary in order to set forth the advertising display requirements for school buses. The new sections also establish a traffic crash reporting requirement for school buses that are displaying exterior advertising. The new sections are adopted simultaneously with an adoption for repeal of current Subchapter E, Sections 14.61 – 14.65 and are necessary in order to delete obsolete language and because the text of the current sections no longer reflect current statute and practices.

The department accepted comment on the proposed rules through January 5, 2009. Written comments were submitted by Jim Dunlap and Keith A. Kaup representing Texas Association for Pupil Transportation (Gulf Coast Chapter); Patrick Garcia representing Education Service Center Region XI; Lou Autry representing Education Service Center Region X; Carolyn Tipton representing Education Service Center Region XV; Charley Kennington representing Education Service Center Region IV; Don Archer representing Education Service Center Region VI; Crystal Dockery representing Education Service Center Region XVI; Kenneth L. Coleman representing Borger Independent School District; and Kirk A. Self representing Canyon Independent School District.

The substantive comments, as well as the department's responses thereto, are summarized below:

COMMENT: Regarding Section 14.61. It appears to be the intent of TRC 547.701(d) to regulate the advertising only on school buses that are used on routes for home to school and school to home transportation since that is the great danger for the school children while they are loading and unloading on a highway or street.

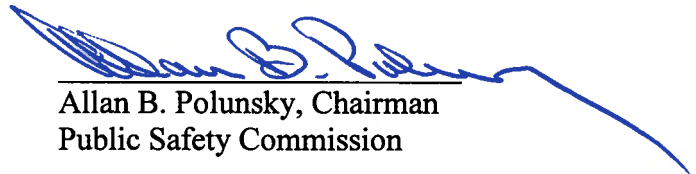
RESPONSE: The department agrees with the comment and states the term school activity bus and multifunction school activity bus were included inadvertently. The necessary change has been made to the section.

The new sections are proposed 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 547.701(d), which authorizes the department to adopt rules to regulate the display of advertising on the exterior of a school bus.

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