

**PUBLIC SAFETY COMMISSION  
MEETING MINUTES - June 16, 2011  
Austin, TX**

The Public Safety Commission met in Austin, Texas on June 16, 2011. Attending the meeting were Chairman Allan Polunsky, Commissioners Ada Brown, Carin Barth and Cindy Leon. A quorum was present for the meeting. DPS staff members and guests were also present.

**Call to order**

The meeting was called to order by Chairman Polunsky at 9:38 a.m. Proper notice had been posted.

**Approval of Minutes** (00:47 - indicates time stamp from audio file)

**A motion was made by Commissioner Barth and seconded by Commissioner Brown approving the minutes as submitted for the May 16, 2011 meeting. Motion passed unanimously.**

**Public Comment** (01:23)

Michael Samulin, a business owner, commented on the great job being done by the Driver License Division. He gave two examples of occasions where happy, friendly, courteous employees and timely transactions occurred and added both were the best government experiences he ever had.

Chairman Polunsky thanked Mr. Samulin for the refreshing information. Commissioner Barth added she experienced the same at the Gessner location. She thanked Mr. Samulin for passing on his experience. She thanked AD Davio and the Driver License Division, especially now that they are accepting credit cards. Chairman Polunsky said they have seen a positive move forward with the aggressive changes implemented and substantial assistance from the State legislators in the strategy of improving and streamlining the process. He added AD Davio and her staff had done a lot of things in a short period of time to improve the situation now and for the future.

**Director's Report** (07:00)

Director McCraw added that the time it was taking to process driver licenses had been greatly reduced. This also resulted in reducing the backup in the call system. He stated this was a great improvement.

He continued his report providing information on a cartel related crime that occurred June 9, 2011 in Hidalgo County. The effort involved the U. S. Border Patrol, Texas Parks and Wildlife Department, and the Texas Rangers during an event involving drug smugglers who were attempting to move approximately 1500 pounds of marijuana across the Rio Grande from Mexico to near Abram, Texas. Chairman Polunsky added he had accompanied the Department to Weslaco for a press conference and speaking for the Department of Public Safety stated "there is no minimum numbers of bullets necessary to be shot before our people have the ability to defend themselves." He added there was no requirement for extensive fire, one bullet would do it. He stated if our people find themselves in a situation of danger, even without a shot being fired, they have full authority to do whatever they need to do to protect themselves, including firing. He added, "We are not going to be fighting a politically correct war; we are fighting an effective war doing whatever we need to do to protect our border and our citizens".

Director McCraw added that on that same date, the Supreme Court ruled that the use of a vehicle to flee law enforcement was a violent crime. Since January 10, 2011, the Department has had 1,071 pursuits in Texas, and of those 24% occurred in eight contiguous counties along the border. Chairman Polunsky stressed again it is a dangerous situation down there and no one should minimize the criminal activity taking place and that our people have the support to do what they need to do.

Commissioner Steen joined the meeting during the Director's report.

**New Business** (17:15)

**Renaming ceremony of State Operations Center to the Jack Colley State Operations Center**

The Public Safety Commission moved the meeting at this time to the State Operations Center for the renaming ceremony of the State Operations Center in honor of Jack Colley. Director McCraw, Chairman Polunsky and AD Kidd shared stories about Jack. Chris Colley spoke about his father's dedication and Jennifer, Jack's daughter, thanked everyone in attendance for their support. Chairman Polunsky read the proclamation signed by Governor Perry.

(18:34)

**Discharge Appeal Hearing and possible action regarding DPS employee Reginald Norman**

Chairman Polunsky announced that the scheduled discharge appeal hearing was deferred at the request of Reginald Norman's counsel.

**Semi-annual update report, discussion and possible action on EEO/Sexual Harassment**

Major Rhonda Fleming, AD EEO presented the semi-annual report on EEO/Sexual harassment. She stated under state law each employee must complete training within 30 days of hire, and existing employees had to complete on-line retraining every two years. She informed that at this point in time, only 23 existing employees had not taken the training. She provided 2010 statistics on the EEO investigations. Out of 49 sustained allegations 38 were for unprofessional conduct. For January 2011 to present there have been 67 allegations, 14 sustained and all were for unprofessional conduct.

Major Fleming said that an anti-bullying committee had been formed and a survey distributed to employees. 34% who responded indicated they had experienced or witnessed bullying in the workplace. 84% of the respondents agree DPS should have an anti-bullying policy. The committee will study possible changes or additions to the policy manual.

Commissioner Leon commented on the trend slide calendar year-to-date for EEO Reporting and investigations going down and felt the message must be helping and that was wonderful. Commissioner Leon inquired about bullying training models used. Major Fleming said DAD White had looked into models used. Commissioner Steen addressed sexual harassment trends. Major Fleming said true sexual harassment incidents were very rare, and hoped the training was raising the awareness. Commissioner Steen added he was glad progress was being made. Chairman Polunsky commended Major Fleming on her excellent job in this important, necessary function. He said DPS was fortunate to have her discharging these responsibilities. He commended Director McCraw since Major Fleming was one of his first appointments made upon joining DPS.

(28:03)

**Report, discussion and possible action on North Texas Toll Authority contract including ensuring the Department is receiving full compensation for service provided**

AD Steve Goodson, Chief Auditor's office stated the requested audit to determine whether DPS is receiving full compensation for law enforcement services provided to NTTA had been initiated and planning completed. Commissioner Barth inquired about the gas price in the contract. AD Goodson stated the contract was based on a per mile rate, and did not know if certain fuel rates were used when the per-mile rate was determined. She stated she wanted them to convert the per-mile rate and see how it looked versus a gallon fuel rate basis. AD Goodson said the final report would be delivered by August 30, 2011. Chairman Polunsky stated his own opinion was DPS was underpaid for services overall contracted, and they would revise going forward and retroactively, if necessary, to cover expenses for providing this unique contract service whereby the Department provided Trooper law enforcement services to a toll authority outside of the State operations. AD Goodson stated he thought there were other contracts. Chairman stated he would like to see them all. AD Baker, Texas Highway Patrol added DPS had one other toll way contract - with Central Texas.

Follow up report, discussion and possible action on Chief Auditors Office Open Issues – aging and corrective action

AD Goodson then provided a follow-up on status updates of open audit and inspection issues. He added responsiveness to requests for corrective action status updates had improved. He said the next routine follow-up activity will occur in Fall 2011. Commissioner Steen inquired about the push back areas. AD Goodson stated in the semi-annual report they would list the specific areas of push back.

Chief Auditors Office Report

AD Goodson finished his reports with information on the quality assurance review (QAR) - who audits the auditors of DPS CAO, providing the list of team members. Commissioner Steen asked how the audit team was chosen. AD Goodson said he chose the members personally from the State Agency Internal Audit Forum. Commissioner Steen commented that it seemed they should be chosen independently. AD Goodson agreed and added he would be happy to vet individuals for consideration. Chairman Polunsky asked if possible for the State Auditor's office to make the selection since it would be more objective. Commissioner Steen agreed, saying he did not think AD Goodson should be the person choosing who audits the CAO. AD Goodson said he would work with Commissioner Barth to assist in the process of identifying the team and methodology.

(39:59)

Report, discussion and possible action on Department generators

AD Nim Kidd, TDEM reported on the Department generators. He presented slides of the State showing locations of all the generator locations, with emphasis on the 150 mile radius of the coast as requested by Commissioner Barth at the last meeting. The slides he presented showed status, facility size, coverage and power (diesel, natural gas) and if power has back up power. Commissioner Barth asked how many were field generators - not permanent generators. DAD Sandra Fulenwider, Administration said all shown on the slide were permanent generators. AD Kidd said DPS had several portable generators. Chairman Polunsky asked if beyond this were there other issues besides the coastal area. AD Kidd said yes and indicated some had certain power limitations. Commissioner Barth inquired about the cost of the generator at the Houston main building. AD Fulenwider said the generator ran just over \$1million. AD Kidd said not every building needed 100% power, but would be pre-wired to provide 100% emergency power. Commissioner Barth asked if DPS had authority with El Paso Power so they provide DPS priority power during the rolling blackouts. AD Kidd said DPS had no guaranty anywhere, and added that even hospitals had no authority for priority power, if ERCOT says shut down it gets shut down. He said individual power companies make independent decisions. AD Kidd said he wanted to study which areas DPS needed priority. Commissioner Barth said we needed to focus on being as high on the priority list for power. Chairman Polunsky requested an ongoing report from AD Kidd of the list and how it was progressing at each of the future Public Safety Commission meetings. He asked if a brownout occurred today would there be issues with power at HQ. AD Fulenwider said yes while they had a verbal understanding, nothing had been received in writing from the power supplier. Chairman asked for this to be addressed immediately with the positive results reported at the next meeting. He added DPS should be at the top of the list in the State or do some other things.

(50:38)

Review of pending contract renewals/change order/award

1. Helicopter Flight Training and Parts, Labor and Repair Services (American Eurocopter Corporation) – Award of New Contract

AD Valerie Brown, Administration reported on the new contract awarded to American Eurocopter Corporation which had been approved by the review board and Commissioner Barth. No action was necessary.

(51:40)

Adjourn into Executive Session

The Commission went into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items

authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; and ongoing criminal investigations. Executive Session began at 11:39 a.m.

(52:23) The Public Safety Commission reconvened at 4:13 p.m. A quorum was present.

**Ongoing Business (52:29)**

Reports, discussion and possible action regarding the following:

Committee report and discussion on 28-day work cycle and Overtime and Compensatory Time policy  
Commissioner Brown reiterated the report on 28-day work cycle and Overtime and Compensatory Time policy would be deferred pending the outcome of Session.

(53:02)

Report, discussion and possible action regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

No discussion

Report, discussion and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.005 and 411.0071

No discussion

Follow-up report, discussion and possible action regarding Legislative initiatives for modification of the provisions of Government Code 411.244 DPS Office of Inspector General

OIG Stuart Platt reported on the Legislative initiatives for modification of the provisions of Government code 411.244 stating it passed both House and Senate and was in the hands of the Governor for his signature.

He also reported on the Citizens Police Academy Commander Wilson was conducting and he was teaching. He stated people were very engaged and complimented the program saying it was very well done.

Commissioner Steen asked how the OIG's office was doing and requested an overview. IG Platt said they were doing field training on management issues and thought the intake process was going well overall. He also said the investigation process time has been reduced. Commissioner Steen inquired if any staffing issues. IG Platt reported their administrative support staff was the only area that needed additional personnel. Commissioner Steen asked how being off campus was working. IG Platt said very well. Commissioner Steen asked IG Platt for two or three challenges. IG Platt stated 90% of employees had experienced OIG as being a positive experience but one of the challenges was a "chip on the shoulder" attitude about the training, yet afterwards they said it was rewarding to pursue so the training changed that. He said the second issue was finding what the right timeframe was for an investigation which was 28 days, adding they had waited for one transcript to come back in 28 days, so timeliness versus the right answer has to be weighed – how long it takes to conduct and solve the investigation and get the right results was what mattered. The third issue was the interview in an interrogation: criminal versus administrative and changing the environment with that regard. Commissioner Steen asked how long OIG Platt had been in this position. IG Platt stated one year. Commissioner Steen asked if he did some of the investigations himself. IG Platt said only on two occasions, but usually he only helped other investigators. Commissioner Steen said managing the office and getting involved in investigations had to be hard. OIG Platt said spending time building rapport with the Regional managers and their regions and managing his time helped.

Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar

Commissioner Steen asked Commander Ortiz to present an update at the next meeting on the building safety and security at the DPS campus on North Lamar.

(01:05:15)

Report, discussion and possible action on the Fiscal Year 2011 Operating Budget

AD Denise Hudson, Finance provided a brief overview of how things came out in the Legislative session. She indicated the Department wound up with \$222 million and most of the items requested were approved. In addition, \$3.8 million was authorized to carry forward from 2011 to 2012-13.

AD Hudson provided the operating budget and stated it had a remaining balance of \$9 million.

She presented the FTE report stating there were 375 Commissioned vacancies with 32 anticipated to graduate which would bring the amount down to 343 vacancies.

Report, discussion and possible action regarding purchases using seized funds

She concluded with the seized funds report which had watercraft weaponry and recruit school requests pending approval and would result in a \$7.6 million balance.

Chairman Polunsky inquired if the budget was signed. AD Hudson said it was not yet signed. Chairman said a more global discussion on the budget would occur in July. He further commended the Deputy Directors, Assistant Directors, the Government Relations group led by Amanda Arriaga and all 8,000 + employees of the Department for the exemplary work done under the direction of Colonel McCraw. He acknowledged it was breathtaking what had been accomplished on behalf of the Department of Public Safety this Session and a wonderful testimony of what goes on at DPS.

**A motion was made by Commissioner Barth and seconded by Commissioner Brown approving seized funds expenditures for the watercraft weaponry and recruit school for 2011 Contingency Plan. Motion passed unanimously.**

Update Report, discussion and possible action regarding recruitment

Captain Hester of Education, Training and Research reported on the current recruiting efforts. He said there were currently 181 applicants in the various stages of being processed. He stated the current 32 cadets at the academy would graduate at the next Graduation Ceremony which would be on July 8<sup>th</sup>. He announced some changes in the recruiting process resulted in the process time averaging 10 weeks. Prior to the changes it had been taking 4-6 months. Chairman inquired about the 181 and which class was next and when it would be held. Captain Hester said it would be Class B and it would be held when 60 candidates were approved which was dictated by the pool and how fast they could be processed.

Commissioner Leon reported on the recruiting committee meeting stating future strategy was in discussion. Commissioner Brown said they hoped to come up with solutions to gather good candidates. Director McCraw said that in September DPS would be more competitive due to Session. He proposed at that time once they had 80 sufficiently qualified candidates they would conduct a school with anticipation of graduating 50. One year ago the FTE Commissioned vacancies were 380. The Director said he was confident we could get there and stressed the retire/rehire program and seeing if the Legislature provides money for the solution to help us be more competitive. Commissioner Leon emphasized that was one of the recommendations the committee had come up with was to increase the number of candidates needed to start a class. Director McCraw stated with confidence "we'll get there".

Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

No discussion

Follow-up report, discussion and possible action regarding creation of a foundation to benefit the Texas Department of Public Safety

Chairman Polunsky said the General Counsel had sent a letter to the current Foundation. The letter essentially stated there would have been no way unanimous consent was reached since the current

Public Safety Commission had not been present at the meeting where they were eliminated. He said every effort would be taken to come together and work side by side toward the goal of the Foundation and an update would be provided at the next meeting.

Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements

Colonel McCraw requested a continuance of the Ethics policy action to July. Commissioner Steen thanked the Director and his Chief of Staff for taking the time to meet with him.

Status report, discussion and possible action on TxDOT median dividers and effectiveness in deterring vehicles crossing over and law enforcement turn around areas

AD David Baker, Texas Highway Patrol gave an update on the median crossovers. Seventy-one remain to be completed, unchanged from the last meeting. He said there was a slight decrease in the total number requested. As of last month, 268 had been requested. After subsequent conversations 243 is the current number requested. San Antonio has asked for patience until their fiscal year begins. Commissioner Steen inquired what happened to the progress. AD Baker said most likely money which was the key factor, as San Antonio had indicated with their request.

**Reports**

Commission member reports and discussion

There were no Commission member reports.

Division status reports on activities and action

AD Davio reported on previously requested information to do with a Driver License Rule. DAD Duncan Fox, Office of General Counsel provided information on a directive from the PSC regarding translators being used at Driver License offices. It stated the use of a human being accompanying an applicant as a translator when applying or testing for a driver license was not permitted. She stated tests were only offered in English and Spanish as required by State statute. Commissioner Barth asked what if someone brought a dictionary. AD Davio said there were no references to dictionaries, only human translators not being allowed. She verified with several of the DL offices and confirmed human translators were not allowed.

Commissioner Brown asked AD Ruocco, Criminal Investigation Division what the street value of 100 kilograms of cocaine would be valued at. AD Ruocco said \$15K per kilogram. Director McCraw provided numbers of statewide seizures last year vs. this year (Jan 1 – May 31) for THP & CID: 81,244 lbs. marijuana an increase of 104% = \$136 million; Cocaine had a 109% increase of \$94 million; heroin up 52% to \$1.766 million; methamphetamine up 37% to \$23.5 million, currency increased 88% to \$21 million; and weapons 146% but since small numbers equaled 149 weapons seized. Chairman thanked the Director for this information and added the PIO should disseminate this type of information

Chairman Polunsky thanked AD Kidd for the very nice ceremony put on by his division earlier in the morning.

Chairman thanked Amanda Arriaga for the job done this Session.

**Consent Items**

Discussion and possible action on the Director's Action of discharging probationary employee Meghann Presley

Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024

Discussion and possible action approving a donation of a .338 sniper rifle with scope to the Texas Ranger Swat Team

Colonel Lamar Beckworth mentioned Item C on Consent Items was a critical item to bring to the attention of the Commission. It was a rifle being donated to the Texas Rangers. He added all the other items, the probationary discharge and Special Ranger and Special Texas Ranger applications were okay. **A motion was made by Commissioner Leon and seconded by Commissioner Brown approving all three of the Consent Items. Motion passed unanimously.**

**Items for Future Agenda**

(01:43:57) Commissioner Barth requested the following reports at the next meeting: a follow up on the 2011 external quality assessment review team; a report on MSB collection success of past due fines/surcharges; and a continual update from AD Kidd to the Commission on his conversations with the electric companies around the state with regards to placing the Department of Public Safety at the top of their priority list for power.

Colonel Beckworth requested an item for Commission action on the next agenda to establish rules and procedures for the access card process for HB 2131, which would issue an expedited/fast pass by-pass card access through the State Capitol metal detectors. Commissioner Steen asked about the language of the statute which Colonel Beckworth responded "the act will take effect immediately" but added it would have to go through the publication process which could take a couple of months.

Colonel Beckworth stated that Commissioner Brown requested an overview of the commercial motor vehicle weigh stations and asked that this be included on the next agenda for a presentation.

**Date for Future Meeting**

(01:49:23) The next meeting of the Public Safety Commission will be held July 21, 2011. A discharge appeal hearing will be scheduled.

**Adjourn**

(01:50:06) The meeting was adjourned at 5:10 p.m.

Read and approved this 21<sup>st</sup> day of July, 2011.

  
Chairman





## SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS

### Special Ranger Applicants

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Duff, Roy G.	CID	Houston	08/31/2002	32 years	
Jolley, Jerrell T.	CAO	Headquarters	09/30/1998	25 years	
Malone, Howard K.	THP	HP/Luffkin	4/30/2011	27 years	
Redmon, Glen	THP	HP/Ozona	05/01/1992	21 years	
Rodriguez, Antonio	THP	CVE/Kingsville	03/31/2011	28 years	
Williams, Patrick	DLD	Garland	08/31/2008	23 years	

### Special Texas Ranger Applicant

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Leal III, Antonio	Rangers	Headquarters	03/31/2011	26 years	

Approved by the Public Safety Commission on: *June 16, 2011*