MINUTES
PUBLIC SAFETY COMMISSION
FEBRUARY 13, 2014
AUSTIN, TX

The Public Safety Commission met in Austin, Texas on February 13, 2014. Attending the meeting were Chairman Cynthia Leon, Commissioners Carin Barth, Manny Flores, Steven Mach and Randy Watson. A quorum was present at the meeting. DPS staff members and guests were also present.

Call to Order (0:00:05)
The meeting was called to order by Chairman Leon at 9:01 a.m. Proper notice had been posted.

Chairman Leon introduced our newest Commissioner, Manny Flores. Mr. Flores was appointed by Governor Perry on December 19, 2013. Commissioner Flores is the Chief Executive Officer of LatinWorks and is an advisory board member of Helping Hand Home for Children and the United Way of Greater Austin Community Board, and a volunteer of SafePlace. Mr. Flores is also past co-chair of the Greater Austin Hispanic Chamber of Commerce Celebrando Austin event, and past member of the St. Michael's Academy Board of Trustees.

Approval of Minutes (0:02:43)
A motion was made by Commissioner Mach seconded by Commissioner Watson approving the minutes as submitted for December 4 & 5, 2013. Motion passed unanimously.

Public Comment (0:03:19)
1.Tonya Dansby – third party testing
2.Gary King – third party testing and curriculum
3.Earnest Weatherford – 2 year requirement for examiners
4.Patrick Barrett – third party testing and 2 year requirement of examiners
5.Jeff Adams – third party testing
6.Tom Pennington – third party testing
All were asked to submit their questions in writing for proper written response.

Directors Report (0:25:05)
A. Recognition of service for Ada Brown – Former Commissioner, Texas Public Safety Commission

Former Commissioner, Justice Ada Brown was named an Honorary Texas Ranger Captain in recognition of her service to the Public Safety Commission and the Department.

A motion was made by Commissioner Barth seconded by Commissioner Mach approving the motion to name Justice Ada Brown as an Honorary Texas Ranger Captain. Motion passed unanimously.

Director McCraw acknowledged the following individuals in the audience:
Heather Hill – Governor's Office
Gretchen Essell – Senator Estes' office
John Wielmaker – Legislative Budget Board

B. Human Trafficking Assessment (0:39:08)
Interdiction for the Protection of Children (IPC):
-39 children rescued in 2013
-over 100 rescued since 2010
-3,030 trained officers in Texas
-4,080 officers trained outside of Texas
-Roll Call Video
-27,827 apprehended unaccompanied alien children in CY 2013
-DrawBridge continues to be successful

C. Metal Regulatory Issues (0:43:20)
-843 medal recycling entities (MREs), largest concentration are in Regions 1 & 2
-5.3 million transactions reported last year
-168 MREs are within 150 miles of Fort Hood
-over 200 audits were conducted @ MREs last year

D. Annual Report Update (0:52:40)
Hard copies of the 2013 DPS Annual Report were distributed to the Commissioners. This reports provides the template for the following year.

New Business (0:58:18)
A. Report from the Texas Department of Public Safety Foundation regarding recent progress and status including hiring of Foundation Executive Director
Former Commissioner, Tom Clowe, introduced Emily Christy as the new executive director of the Texas Department of Public Safety Foundation. Ms. Christy's official start date will be March 10, 2014 and the Foundation office will be located in San Antonio (due to kind donation of office space by Allan Polunsky).

B. Report, discussion, and possible action on OIG Annual Report (1:09:02)
IG Fleming provided the OIG Annual Report:
-310 complaints received in CY 2012
-291 complaints received in CY 2013
-Major trend – 4th Amendment, Search & Seizure, Alcohol, Anger Management, Fraud and/or Bribery, Off Duty Intervention and Secondary Employment Issues
-Investigation Timeline – January – June 2013 (50 days); June – December 2013 (22 days)
-Standard Operating Procedures manual developed
-over 200 investigators trained during the OIG & EEO Investigator Training in January/February 2014
-Blue Team (Early Intervention System) – assists public safety agencies in identifying potential concerns early on, so that proactive action can be taken

C. Report, discussion, and possible action on potential county drug analysis support (1:31:25)
AD Hearn provided a briefing on the following:
-DPS has 13 crime labs throughout Texas with 400 forensic scientists
-conduct drug and substance analysis and oversee the breath alcohol program
-County drug analysis support is program where local governments contract with DPS to conduct duty of performing breath tests
-County pays for salary and benefits of individual but is our employee to work on their cases
-Currently have a contract with Harris County that covers 3 FTEs
-There has been a 500% increase over the past 5 years in blood alcohol submissions
-Counties find this appealing since backlog creates more jail and docket costs
-Williamson County is interest in the program and supporting one FTE

D. Report, discussion, and possible action on cyber security (Executive Session anticipated)
To be discussed during Executive Session.

E. Report, discussion, and possible action on proposed amendments to Media and Communications Policies Rule: 37 TAC Section 1.58, concerning Release of Information on Victims (1:31:25)
AD Bodisch is seeking approval to publish Rule 1.58 to receive public comment.

F. Report, discussion, and possible action on the proposed repeal of Public Safety Communications Rule: 37 TAC Section 9.3, concerning Release of Information on Accident Victims

AD Bodisch is seeking approval to publish Rule 9.3 to receive public comment.
A motion was made by Commissioner Barth seconded by Commissioner Mach approving New Business E & F (proposed amendments to Rule 1.58 and Rule 15.5) to receive public comment. Motion passed unanimously.

G. Report, discussion, and possible action on proposed amendments to Driver License Rule for publication to receive public comment: 37 TAC Section 15.5, concerning Learner License (1:35:00)
AD Peters is seeking approval to publish Rule 15.5 to receive public comment.
A motion was made by Commissioner Flores seconded by Commissioner Mach approving proposed amendments to Driver License Rule 15.5 to receive public comment. Motion passed unanimously.

H. Report, discussion, and possible action on proposed new Driver License Rule for publication to receive public comment: 37 TAC Section 15.172, concerning Issuance by Counties (1:38:31)
AD Peters is seeking approval to publish Rule 15.172 to receive public comment.
A motion was made by Commissioner Watson seconded by Commissioner Flores approving proposed new Driver License Rule 15.172 to receive public comment. Motion passed unanimously.

I. Report, discussion, and possible action on the proposed reorganization Driver Education Rules for publication to receive public comment, including: repeal of 37 TAC Sections 18.1 – 18.4, Sections 18.21 – 18.25, and Sections 18.31 – 18.33 and proposed new 37 TAC Sections 18.1 – 18.4, Section 18.11, Section 18.21, and Section 18.22 (1:44:43)
AD Peters is seeking approval to publish repeal and proposed Driver Education Rules to receive public comment.
An amended motion was made by Commissioner Barth seconded by Commissioner Mach approving proposed reorganization Driver Education Rules to include repeal of Sections 18.1 – 18.4, Sections 18.21 – 18.25, and Sections 18.31 – 18.33 and proposed new Sections 18.1 – 18.4, Section 18.11, Section 18.21, and Section 18.22 to receive public comment. Motion passed unanimously.

ONGOING BUSINESS

C. Report, discussion, and possible adoption of the following previously published rules:
4. 37 TAC Section 15.61, concerning Third Party Skills Testing (1:49:15)
AD Peters is seeking adoption of Rule 15.61. Public comments were received and addressed.

A motion was made by Commissioner Watson seconded by Commissioner Flores approving adoption of Section 15.61 concerning Third Party Skills Testing. Motion passed unanimously.

5. 37 TAC Section 15.142, concerning Agreement to Purchase Driver Record Information (2:01:53)
AD Peters reported no comments were received regarding Section 15.142.
A motion was made by Commissioner Barth seconded by Commissioner Mach approving Section 15.142, concerning Agreement to Purchase Driver Record Information. Motion passed unanimously.

NEW BUSINESS
J. Report, discussion, and possible action on proposed amendments to Crime Records Rule: 37 TAC Section 27.1, concerning Right of Review (2:03:35)
AD Hearn is seeking approval to publish Rule 27.1 to receive public comment.
A motion was made by Commissioner Flores seconded by Commissioner Mach approving publication of proposed amendments to Crime Records Rule 27.1 to receive public comment. Motion passed unanimously.

ONGOING BUSINESS
A. Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office. Updates regarding status of recent CAO activity (2:05:03)
CA Goodson reported two audits have been completed since last PSC meeting:
-Employee Moving Expenditures (special request)
-Financial Audit of the CVE Inspection Program

Chairman Leon asked Commissioner Mach to work with Commissioner Barth as liaison to the audit function of the Department.

B. Update, report, discussion and possible action regarding recruitment (2:11:28)
AD Woodall provided an update on the A-2014 recruit class:
-143 recruits were invited to the A-14 recruit school which began January 12, 2014; 142 attended (total review of 3,500 applications)
-Currently in the fifth week of school @ 120 recruits
-Duty assignments will occur next week
-1,700 applications have been received for the B-14 and 1,275 are currently being processed (400 did not meet the minimum requirements)

C. Report, discussion, and possible adoption of the following previously published rules:

1. 37 TAC Section 1.111, concerning Ten General Orders (2:15:57)

Director McCraw reported no comments were received regarding Section 1.111.

A motion was made by Commissioner Watson seconded by Commissioner Mach approving adoption of Section 1.111, concerning Ten General Orders. Motion passed unanimously.

2. 37 TAC Section 1.143, concerning Use of Unmanned Aircraft by a Law Enforcement Authority (2:18:12)

DD Baker is seeking adoption of Rule 1.143. One comment was received by City of Arlington regarding reporting of use of UAs. General Counsel did not concur since it is not consistent with statute.

A motion was made by Commissioner Flores seconded by Commissioner Mach approving Section 1.143, concerning Use of Unmanned Aircraft by a Law Enforcement Authority. Motion passed unanimously.

3. 37 TAC Sections 9.61 – 9.68, concerning State Amateur Radio Operator Service (2:20:31)

AD Kidd reported no comments were received regarding Sections 9.61 – 9.28.

A motion was made by Commissioner Mach seconded by Commissioner Watson approving Section 9.61 – 9.28, concerning State Amateur Radio Operator Service. Motion passed unanimously.

AD Kidd provided the Commission with an update on steps taken in emergency management dealing with disasters. Actual audit contractors have been hired and previous employees that were assigned as auditors are now program managers. Monitoring occurs monthly and on a quarterly basis.

6. 37 TAC Section 27.42, concerning Criteria for Entry into the Missing Persons Bulletin (2:29:28)

AD Jones reported no comments were received regarding Section 27.42.

A motion was made by Commissioner Watson seconded by Commissioner Flores approving Section 27.42, concerning Criteria for Entry into the Missing Persons Bulletin. Motion passed unanimously.

D. Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code Chapter 411, Secs. 411.005, 411.006 and 411.0071 (2:31:14)

Director McCraw provided the Commission with a new streamlined organization chart. **A motion was made by Commissioner Barth seconded by Commissioner Flores approving the new DPS organizational chart proposed by Director McCraw. Motion passed unanimously.**

E. Report, discussion and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team (2:36:14)
A motion was made by Commissioner Flores seconded by Commissioner Mach approving consent of Robert Bodisch as the Deputy Director of Homeland Security. Motion passed unanimously.

F. Report, discussion and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated) (2:37:39)
To be discussed during Executive Session.

REPORTS (2:37:45)
A. Commission member reports and discussion - none
B. Finance Report - none
C. Chief Auditor's Office - none
D. Division status reports on activities and action
-Commissioner Barth commended Contracting for putting out a contract at the very end of December that saved the agency a significant amount of money.
-AD Peters provided an update on the Electronic Identification Certificate – 157 cards have been issued as of 5:00 p.m. on February 12, 2014; 4 are in the Quality Assurance process and we are providing services in 30 counties; and 52 offices are providing Saturday service

CONSENT ITEMS (2:41:11)
A. Discussion and possible action on the Director's action of discharging probationary employees: Delisha Thomas and Michael White
B. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024: Special Rangers: Joseph D. Armistead, Louis R. Cardinal, Jimmy L. Dunklin, Donna K. Kennedy, Marty C. Lucke, Ismael M. Orosco, and Byron D. Smith; Special Texas Rangers: None
C. Donations:
1. Additional donation items, as needed - none
A motion was made by Commissioner Watson seconded by Commissioner Flores approving Consent Items A - C. Motion passed unanimously.

ITEMS FOR FUTURE AGENDA (2:42:00)
Commissioner Barth – update on Regulatory Services Enforcement

DATE FOR FUTURE MEETING (2:42:56)
Discharge hearings will be scheduled on April 9, 2014, and the regular Public Safety Commission meeting is scheduled for April 10, 2014.

ADJOURN INTO EXECUTIVE SESSION (2:43:39)
The Commission adjourned into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations. Executive Session began at 11:58 a.m.

(0:00:00) The Public Safety Commission reconvened this open session at 2:07 p.m. Commissioners present were Chairman Leon, Commissioners Carin Barth, Manny Flores, Steven Mach and Randy Watson.

ADJOURN
A motion was made by Commissioner Mach seconded by Commissioner Flores to adjourn the meeting. Motion passed unanimously.
The meeting was adjourned at 2:08 p.m.

Read and approved this 10th day of April, 2014.

Chairman

IN THE MATTER OF	§	BEFORE THE
THE DISCHARGE OF	§	PUBLIC SAFETY COMMISSION
PROBATIONARY EMPLOYEES	§	IN AUSTIN, TRAVIS COUNTY, TX

Advice and Consent

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

Employee Name	Employee Title/Division	Date of Discharge
Delisha Thomas	Customer Service Representative/Regulatory Services	12/02/13
Michael White	Security Officer/Capitol Complex	12/16/13

Approved:

A. Cynthia Leon, Chair
Public Safety Commission
Date: February 13, 2013

SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS
February 13, 2014

Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Armistead, Joseph D.	EPB	Austin	11/30/13	18 years	
Cardinal, Louis R.	CID	Lubbock	11/30/03	29 years	
Dunklin, Jimmy L.	THP	HP/Tyler	08/31/10	21 years	
Kennedy, Donna K.	CID	Waco	12/31/13	25 years	
Lucke, Marty C.	THP	Abernathy	12/01/13	26 years	
Orosco, Ismael M.	CID	Midland	12/31/13	24 years	
Smith, Byron D.	CID	Corpus Christi	05/31/88	27 years	

Special Texas Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
None					

Approved by the Public Safety Commission on: _____ Date: 2/13/14

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter H
Section 1.111

The Texas Department of Public Safety (the department) adopts amendments to Section 1.111, concerning Ten General Orders. These amendments are adopted without changes to the proposed text as published in the December 27, 2013 issue of the *Texas Register* (38 TexReg 9452) and will not be republished.

Amendments to this rule were necessary to reflect current policy in use by the department.

No comments were received regarding the adoption of these amendments.

This adoption is made 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 Section 2001.039, which requires state agencies to review their rules and readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter J
Section 1.143

The Texas Department of Public Safety (the department) adopts new Section 1.143, concerning Use of Unmanned Aircraft by a Law Enforcement Authority. This new section is adopted without changes to the proposed text as published in the November 8, 2013 issue of the *Texas Register* (38 TexReg 7925) and will not be republished.

The 83rd Legislative Session enacted House Bill 912 which created Texas Government Code, Chapter 423, the Texas Privacy Act. Texas Government Code, Section 423.007 authorizes the department to adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in Texas. This proposal was necessary to establish those guidelines.

The department accepted comment on the proposed rules through December 9, 2013. Written comments were submitted by Will Johnson, Police Chief of the City of Arlington. Substantive comments received, as well as the department's responses, thereto, are summarized below:

COMMENT: The City of Arlington recommends that one point-of-contact with the executive branch and one point-of-contact with the legislative branch be established and that electronic reporting be acceptable. Additionally, the City of Arlington recommended a standardized form for law enforcement agencies to complete and submit.

RESPONSE: Department staff does not believe the comment recommendation can be implemented under the new law and therefore cannot agree to the recommendation. Staff interprets the new statute to require law enforcement agencies to individually submit required reports to the governor, lieutenant governor, and legislators.

This adoption is made 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 Section 423.007 which authorizes the department to adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in Texas.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Public Safety Communications
Title 37 T.A.C. Part I, Chapter 9
Subchapter F
Sections 9.61 – 9.68

The Texas Department of Public Safety (the department) adopts proposed new Sections 9.61 – 9.68, concerning State Amateur Radio Operator Service. These rules are adopted without changes to the proposed text as published in the December 27, 2013 issue of the *Texas Register* (38 TexReg 9453) and will not be republished.

Amateur radio operators are often needed to assist in communications in an emergency. There was no mechanism to allow state employees who are amateur radio operators to take paid leave in order to assist in disaster response operations as there is for other needed state employees. In response, Texas Government Code, Section 661.919 authorizes state employees who are amateur radio operators to, with certain limitations, take leave in order to participate in disaster relief operations with the approval of their supervisor and the governor. A maximum of 350 state employees may be granted a maximum of 10 days of leave with pay per year to participate in disaster response operations, within the State of Texas. This proposal is necessary to establish the guidelines for this service.

No comments were received regarding the adoption of these rules.

This adoption is made 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.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter I
Section 15.142

The Texas Department of Public Safety (the department) adopts amendments to Section 15.142, concerning Agreement to Purchase Driver Record Information. Amendments to this section are adopted without changes to the proposed text as published in the November 8, 2013 issue of the *Texas Register* (38 TexReg 7926) and will not be republished.

The 81st Texas Legislature enacted House Bill 2730 which added Texas Transportation Code, Section 521.060 and the 82nd Texas Legislature enacted House Bill 2657, which renumbered Section 521.060 to Section 521.062, allowing the department to establish a driver record monitoring pilot program by rule for a period not to exceed one year. The amendments to this rule establish the department's intent to initiate a pilot monitoring program with up to three persons eligible pursuant to Texas Transportation Code, Section 521.062(b). All requirements relating to privacy and the release of information are contained within the statute. If the department determines that the program will be recommended as a permanent program, a formal report will be prepared and submitted to the lieutenant governor, the speaker of the house of representatives and each member of the legislature in accordance with Texas Transportation Code, Section 521.062(m), prior to a request being submitted to the Public Safety Commission. This rule will then be modified to accommodate a permanent program.

No comments were received regarding the adoption of these amendments.

This adoption is made 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 521.062(a), which authorizes the department to establish by rule a driver record monitoring pilot program.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter C
Section 15.61

The Texas Department of Public Safety (the department) adopts new Section 15.61, concerning Third Party Skills Testing. This new section is adopted with changes to the proposed text as published in the December 27, 2013 issue of the *Texas Register* (38 TexReg 9454) and will be republished.

The 83rd Texas Legislature amended Transportation Code, Section 521.165, which authorizes the department to permit third parties to administer the skills test for a driver license on the department's behalf. The new rule creates a program wherein the department may enter into Memorandum of Understanding (MOU) with certified driver education schools to perform the testing under certain circumstances.

The department accepted comments on the proposed rules through January 27, 2014. Written comments were submitted by Patrick Barrett representing Driver Ed in a Box, Gary King representing the Texas Professional Driver Education Association, Dee Conrad representing herself as an owner of a driver education school, and Bob Kamm representing I Drive Safely. Changes were made to proposed new Section 15.61(c)(4) based on the comments received by the department. Substantive comments received, as well as the department's responses, thereto, are summarized below:

COMMENT: Regarding Section 15.61(c)(4), Bob Kamm objected to the requirement that an instructor never have been convicted of Driving while intoxicated (DWI) or Driving under the influence (DUI) because TEA certification allows an instructor to have such convictions as long as it is not within seven years. He indicated this will put a lifetime ban on an instructor becoming an examiner and does not allow rehabilitated individuals to become examiners.

RESPONSE: The department agrees with this recommendation. The department may employ a person if he or she had one of the referenced convictions prior to employment so this requirement would be holding instructors to a higher standard than is applied to department employees. The department changed the wording in Section 15.61(c)(4) to mirror Texas Education Agency (TEA) standards, Has not been convicted of: (C) Driving while intoxicated within seven years; or (D) Driving under the influence within seven years.

COMMENT: Regarding Section 15.61(b)(3), Gary King objected to the requirement to teach the Impact Texas curriculum because it will require the authorized entities to add a new element to the state approved driver education curriculum. He stated that the change would be expensive to

schools using their own proprietary curriculum due to the addition and removal of materials and requirement for approval by TEA. Additionally, he stated that there is no corresponding statute that will guide implementation standards for the new curriculum thereby creating multiple requirements and questions to comply.

RESPONSE: The department disagrees with this recommendation. The Impact Texas curriculum is not being incorporated into the current TEA approved courses, but will be taught in addition to the current requirements. It will not require removal or addition of current materials or reapproval by TEA. Additionally, the statute allows the department to set the standards by which an authorized entity may administer the skills test, so it is authorized by Transportation Code, Section 521.165 to set the requirements to participate in the program.

COMMENT: Regarding Section 15.61(b)(3) concerning teaching the Impact Texas curriculum, Bob Kamm suggested adding (d) to clarify that the curriculum will be taught to all applicants regardless of age.

RESPONSE: The Impact Texas curriculum, formally called Impact Texas Teen Drivers, will be applicable to drivers of all ages. However, the MOU is being developed to initially implement the program on a limited basis for applicants under 18 years of age to ensure its success. The department will expand the program to adults in the future and those details will be included in the MOU. The department needs the ability to work with the authorized organizations to ensure that all parties are satisfied with the program requirements before it is expanded to include all persons required to pass a skills examination before being issued a driver license. This falls in line with the department's duty to ensure highway safety.

COMMENT: Regarding Section 15.61(b)(4), Gary King objected to the MOU reference because the MOU has not been made available for review at this time.

RESPONSE: The department disagrees with this recommendation. The MOU is currently in development and a focus group, consisting of driver education providers, will be convened to review the draft and solicit input and comments regarding the terms of the MOU. No entity will be required to sign the MOU without the opportunity to review the agreement.

COMMENT: Regarding Section 15.61(c)(2), Gary King objected to the requirement that a driver education instructor hold an instructor license issued by TEA for two years prior to administering skills tests because it restricts the authorized organization from using its employees as it sees fit. He also states that instructors receive extensive training and TEA approval and will receive the department's skills test training so this requirement is restrictive and causes unnecessary burden on the organization. Patrick Barrett also objects to this requirement because he believes this is over and above what is required of department employees and this restriction will make it difficult to hire additional staff to participate in the program.

RESPONSE: The department disagrees with this objection. The department is responsible for highway safety and its employees undergo extensive training before being allowed to administer skills examinations. Additionally, the department is working with the American Association of Motor Vehicle Administrators (AAMVA) to have its skills examination program certified by the

association, which will require at least one year of employment prior to administering exams. Since department employees are in the driver license issuance and testing environment daily and are observed and mentored by seasoned driver license customer service representatives and supervisors prior to being allowed to administer examinations on their own, this requirement is not onerous for the organizations or instructors.

This 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; and Texas Transportation Code, Chapter 521.165, which authorizes the department to delegate the administration of skills examinations to authorized third parties.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On February 13, 2014, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Crime Records
Title 37 T.A.C. Part I, Chapter 27.42
Subchapter D
Section 27.42

The Texas Department of Public Safety (the department) adopts amendments to Section 27.42, concerning Criteria for Entry into the Missing Persons Bulletin. Amendments to this section are adopted without changes to the proposed text as published in the November 8, 2013 issue of the *Texas Register* (38 TexReg 7927) and will not be republished.

This rule relates to the acceptable documentation a law enforcement agency must possess before information on a missing or unidentified deceased/living person can be entered into the Texas Department of Public Safety Missing Persons Online Bulletin. The amendments are necessary because the bulletin is now published online, updated as necessary, and therefore agencies may submit entries at any time.

No comments were received regarding the adoption of these amendments.

This adoption is made 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.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.

A. Cynthia Leon, Chair
Public Safety Commission