

MINUTES
PUBLIC SAFETY COMMISSION
June 18, 2009
Austin, Texas

Call to order

The Public Safety Commission met in Austin, Texas on June 18, 2009. Attending the meeting were Chairman Allan Polunsky, Commissioners Carin Barth, Ada Brown and John Steen. Commissioner Tom Clowe was absent. DPS staff members and guests were also present. The meeting was called to order by Chairman Polunsky at 10:37 a.m. Proper notice had been posted.

Approval of Minutes

A motion was made by Commissioner Steen and seconded by Commissioner Brown approving the minutes for the May 22, 2009 meeting. Motion carried unanimously.

Public comment

Alice Tripp, a Legislative Director/Lobbyist from the Texas State Association, the NRA State Affiliate TSRA Headquarters, provided a handout and commented on concerns with the delay in processing of Concealed Handgun Licenses. Chairman Polunsky referenced a recent discussion he had with Colonel Beckworth recognizing the need for the processing delays to be addressed. Colonel Beckworth stated within 60 days the backlog should be brought current.

New Business

Michael Kelley, Chief of Government Relations, along with Chairman Polunsky and Colonel Beckworth, acknowledged individuals who served the Department beyond the call of duty to accomplish our mission in the 81st Legislative Session. The following each received a plaque: Amy Trost, Policy Analyst, Sunset Advisory Commission; Chris Steinbach, Chief of Staff-Representative Lois Kolkhorst; Athena Ponce, Policy Analyst, Senator Juan "Chuy" Hinojosa; Lori Gabbert, Budget Analyst, Legislative Budget Board; Michael Meyer, Budget Analyst, Senate Finance Committee; Erica Akpan, Policy Analyst, Senate Transportation and Homeland Security Committee; Adam Burkland, Policy Analyst, Senate Transportation and Homeland Security Committee; and David Erinakes, Policy Advisor, Senate Transportation and Homeland Security Committee. Ken Levine, Deputy Director, Sunset Advisory Commission; Pete Winckler, Legislative Aide to Senator Glenn Hegar; Ken Martin, Policy Analyst, Sunset Advisory Commission; Kathy Panaszek, Analyst, House Appropriations Committee; and Steven Polunsky, Committee Director, Senate Transportation and Homeland Security Committee, were not able to attend. A certificate was also presented to Chairman Polunsky who stated how deeply honored he was to receive the plaque. He commented on the contribution of the staff and employees, those recognized this morning and those in the Legislature who made this happen. Commissioner Steen thanked Michael Kelley and his Government Relations staff who supported the team effort with the Legislature.

Chairman Polunsky stated the roundtable workshop for the project management/organization structure which was to have been held June 17, 2009, was postponed. He further stated the selection for a permanent Director would occur in the next few weeks therefore it was prudent to delay the workshop 4-6 weeks in order for the Director to participate. Commissioner Steen concurred with having the Director on board, and setting a date late July or early August to conduct the workshop.

Colonel Beckworth reported on the Department asset forfeiture policy and procedure requesting to keep this item open stating revisions were being made to the policy. Once finalized the policy would come back to the Commission for approval at the July meeting. Chairman Polunsky asked DPS look into using seized funds or other revenue sources for the additional black and white patrol vehicles approved by the legislature.

Stuart Platt recommended three items under New Business be discussed in Executive Session with decisions to be made upon reconvening Regular Session. IV. New Business Item D. Discussion and possible action regarding pending litigation and appeal: DPS v. Cox Texas Newspapers and Hearst Newspapers, Travis County District Court, No. D-1-GN-07-004116; Item IV. E. Discussion and possible action to review and approve a revised policy for vendor responsibilities regarding sensitive personal information acquired by the Department; and Item IV. G. 1. Deliverables-Based Information Technology Services.

Chairman Polunsky acknowledged Stuart Platt, Office of General Counsel, for the many hours he spent during the Legislative session and his contribution which was appreciated.

Commissioner Barth raised an issue with respect to an audit under the Drivers License Division – Driver Responsibility – Vendor Management HQ-08-37, September 2008. Her concern was the percentage of monies being collected as there is a large amount of money due the State which should be pursued. Chief Judy Brown, Drivers License Division, gave an overview of the driver responsibility collection program. Commissioner Steen asked for specifics of the program. Chief Brown, Rebekah Hibbs and Farrell Walker provided details of the collection structure, vendor contract and fees. Chairman Polunsky asked that each Commissioner receive a copy of the vendor contract and that a representative from Municipal Services Bureau (the vendor) be at the next meeting for review of the contract and discussion of the Commission's concerns on ways to improve the collections and enforce the law to the most effective result. Commissioner Steen thanked Commissioner Barth and Chief Walker for considering the amount of money that could be collected and for bringing this to the Commission's attention.

Stuart Platt recommended taking the Pending Contract items into Executive Session. Oscar Ybarra commented on the three contracts adopted on October 16, 2008, however renewal/change orders were needed due to the increase, of 50% or /\$100K or more, on: 1)Stop Stick Tire Deflation Devices, 2)Deliverable Based Information Technology Services and 3)Texas Highway Patrol Information Systems. Commissioner Steen inquired about the number of signatures necessary on contracts. Colonel Beckworth provided the details of the process and signatures required and will have Accounting provide a sample copy of the contract review process to Commissioner Steen.

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 11:53 a.m. and ended at 2:37 p.m.

New Business

Upon reconvening Regular Session, Michael Kelly made a presentation of an appreciation plaque to Kyle Mitchell of the Governor's Budget Office for his efforts during the Legislative Session.

Stuart Platt commented that additional matters would be pursued and a report would be presented at the next Public Safety Commission meeting regarding the pending litigation and appeal: DPS v Cox Texas Newspapers and Hearst Newspapers, Travis County District Court, No. D-1-GN-07-004116.

Chairman Polunsky inquired if any pending contract action was necessary. **A motion was made by Commissioner Barth and seconded by Commissioner Brown to approve the revised policy for vendor responsibilities regarding sensitive personal information acquired by the Department (see attached policy).** Commissioner Steen requested the policy be displayed on the screens for viewing by meeting attendees. **Duncan Fox stated action could be deferred on this item in order to get it placed on the screen.**

Ongoing Business

There was no update on the procurement of a project management contract to implement organizational changes and planning regarding the development and administration of the project management plan for reorganization. This would occur after the PMO workshop.

Chairman Polunsky stated with regards to the executive search firm services for executive director and management positions, interview processes for those positions, status report on the search and possible action regarding the employment of management position candidate that Commissioner Clowe and Commissioner Barth will be meeting with Korn Ferry in order to conduct interviews with candidates for the Director position. They would narrow the list of candidates to a smaller selection to be interviewed by all of the Commissioners at the July meeting. During the July meeting the Commission would make their selection. Stuart Platt stated the Commission would delegate authority to Chairman Polunsky to go forward with the contract to do background investigation as needed.

Judy Brown and Jimmy Weise gave an update on implementation of driver license reengineering, the new driver license system, and options regarding implementation. Commissioner Barth stated we had discussed outside contractors to supplement the roll out and inquired of recommendations. Jimmy Weise stated an additional \$50K was needed to complete roll out and Chairman Polunsky gave Commissioner Barth authority to approve the contract as soon as the requested information is provided to her next week by Jimmy Weise.

Michael Kelley provided a detailed status regarding the Sunset Review bills and other legislation affecting the Department. He stated the Governor had until Sunday, June 21, 2009 to sign, veto, or line item veto bills. Chairman Polunsky asked for clarification on the physical fitness standards. Colonel Beckworth stated prior to promotion or pay raise the physical readiness test (PRT) must be completed and that an employee may be terminated for not completing the PRT. Commissioner Steen inquired about the Driver License and CHL calls and Michael Kelly detailed the variety of calls his Office of Government Relations receives.

Bob Burroughs, Asst. Chief Drivers License Division, provided an update on transforming the administration of the Driver License Division to a civilian model.

Chief Valerie Fulmer gave an update on review and reconsideration of physical readiness standards for commissioned officers of the department explaining the statutory changes that affect the PRT. The PRT workgroup will discuss the different types of incentives for completing the physical readiness standards for commissioned officers of the Department. Recommendations will be brought into the July or August meeting.

Chief Fulmer commented on the initial security measures for the Department gained from the DHS security assessment team who was on campus June 9 through June 11. The Commission wishes for this to go forward and Chief Fulmer will obtain costs for some items and list those that can be done with minimal effort in order to provide to the Commission at the next meeting.

Chief Bryan Lane, Information Management Services, gave an update on the procurement of an information management intrusion detection system stating as soon as the contract was locked down with AT&T he would provide. Commissioner Barth requested a retroactive subcontract with AT&T from April 15, 2009 – October, 2009, to cover the six month period. **A motion was made by Commissioner Barth and seconded by Commissioner Steen to have a six-month contract in place with AT&T. Motion carried unanimously.**

Chief Lane had no further update on the action report on computer virus containment.

At this time, the proposed policy for vendor responsibilities regarding sensitive personal information acquired by the Department was made available on the screen. Duncan Fox presented noting requirements of all vendors in order to protect the individuals. **Motion that had previously been made and seconded passed unanimously.**

Reports

Oscar Ybarra, Chief of Finance, updated the Commission on the status of the Department's Exceptional Items adopted. He further detailed how those funds were being appropriated.

Farrell Walker gave the Audit and Inspection update report. He stated the draft report on Deloitte was expected and would be shared with the Commission at the next meeting.

Valerie Fulmer gave the Administration Division report stating that 56 applications were received in the recruiting effort in Michigan. The Emergency Vehicle track skill pad should be available for use soon.

Tom Ruocco, Criminal Law Enforcement Division, briefed the Commission on a recent 2008 kidnapping arrest, and CODIS database.

The Emergency Management Division report was given by Chief Jack Colley. He updated the Commission on hurricane and disaster preparedness activities and the related Texas re-entry task forces. He highlighted the positive impact to emergency management and Border Star funding provided by the legislature. Commissioner Steen inquired about the disaster recovery contingency fund and Chief Colley provided the details of that fund.

Chief David Baker presented the Texas Highway Patrol Division report providing details of the monthly crash report. He highlighted RoadTec 2009 activity and in-car communication system which advised a trooper of a driver aiding an escapee who was apprehended.

Chief Judy Brown, Drivers License Division, stated she had nothing to add to her written report. Chairman Polunsky made note of the fact Chief Brown was retiring from DPS. Chairman Polunsky thanked her for the many years of service to the Department and the State of Texas. He stated she had done an excellent job and wished her luck in her next endeavor. Colonel Beckworth commented on her good work on behalf of DPS with AAMVA.

Chief Tony Leal, Texas Rangers, gave an update on a cold case and Capital Murder case in Ector County. Commissioner Brown praised the Rangers for the case of the sexual assault and death of a child and how hard it has to be to deal with that.

Commissioner Barth left the meeting at this time. A quorum was still present.

Bryan Lane, Information Management Service, had no further update but stated he and the staff were excited and preparing for the start of the CIO. Chairman Polunsky thanked Chief Lane for everything he had done with the countless hours during the challenging situation he stepped up to. Chief Lane stated it is what we stand for and what we do every day.

Colonel Beckworth announced Brad Rable would start on June 29, 2009 as the new CIO and that we were excited about the energy level he brings and Chairman Polunsky agreed.

Consent items

1. Discussion and possible action on the Director's action of discharging probationary employees John Cavaco and Gary Teague
2. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers: Miguel J. Cordero, Darrell W. Estes, Raul Garza, Richard J. Peche, Ray A. Woods, Stanley E. Clark
3. Discussion and possible action on adoption of proposed rules:
Proposed repeal of Rules 3.703.9, 37 TAC Secs. 3.7-3.9 regarding crash investigations as published in 34 TexReg 2451, April 17, 2009.
Proposed amendments to Rule 28.93, 37 TAC Sec. 28.93, regarding Policy, Procedure and Rule Compliance for DNA laboratories.

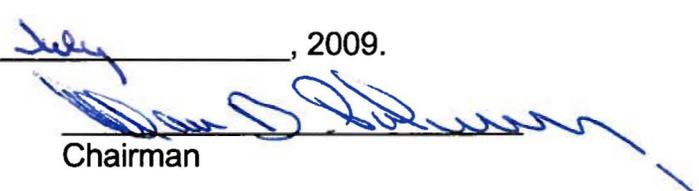
Commissioner Steen asked Colonel Beckworth if there was anything in these items over which they should be concerned. Colonel Beckworth stated there was not. **Commissioner Steen moved to approve. Commissioner Brown seconded. Motion carried unanimously.**

Future meeting date

The next regular meeting will be July 16, 2009.

There being no further business, the meeting was adjourned at 4:15 p.m.

Read and approved this 17 day of July, 2009.


Chairman

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

Advice and Consent

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

Employee Name	Employee Title/Division	Date of Discharge
John Cavaco	Microfilm Camera Operator, Driver License	06/05/09
Gary Teague	Records Technician, Criminal Law Enforcement	06/05/09

Approved:



Allan B. Polunsky, Chairman
Public Safety Commission
Date: June 18, 2009

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On June 18, 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 A
Section Numbers 3.7 – 3.9

The Texas Department of Public Safety adopts the repeal of Sections 3.7 – 3.9, concerning Crash Investigations, without changes to the proposed text as published in the April 17, 2009, issue of the *Texas Register* (34 TexReg 2451).

Adoption of repeal of the sections is necessary due to the transfer of the powers and duties for crash reports from the Texas Department of Public Safety (TxDPS) to the Texas Department of Transportation (TxDOT).

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 S.B. 766, Acts 2007, 80th Leg., R.S.

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