

MINUTES
PUBLIC SAFETY COMMISSION
July 16-17, 2009
Austin, Texas

Call to order – July 16, 2009

The Public Safety Commission met in Austin, Texas on July 16, 2009. Attending the meeting were Chairman Allan Polunsky, Commissioners Tom Clowe, Carin Barth, Ada Brown and John Steen. DPS staff members and guests were also present. The meeting was called to order by Chairman Polunsky at 10:40 a.m. Proper notice had been posted.

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. Interview and deliberate regarding applicants for position of Department Director. Executive Session began at 10:42 a.m. and ended at 5:50 p.m.

The meeting reconvened as a quorum in open session at 6:03 p.m. and immediately recessed until July 17, 2009.

Call to order – July 17, 2009

The Public Safety Commission met in Austin, Texas on July 17, 2009. Attending the meeting were Chairman Allan Polunsky, Commissioners Tom Clowe, Carin Barth, Ada Brown and John Steen. DPS staff members and guests were also present. The meeting was called to order by Chairman Polunsky at 10:34 a.m. Proper notice had been posted.

Approval of Minutes

A motion was made by Commissioner Steen and seconded by Commissioner Barth approving the minutes for the June 18, 2009 meeting. Motion carried unanimously.

Public comment

Scott Henson, author of "Grits for Breakfast" blog, commented on the requirement to implement an indigence program for the Driver Responsibility Program and urged the Commission not to delay implementation.

B. C. Lyon, trustee of the Department of Public Safety historical museum, offered the museum's assistance in the activities for the 75th Anniversary of the department next year.

New Business

Commissioner Clowe, on behalf of all of the members of the Commission, acknowledged and presented Chairman Polunsky a plaque recognizing his exceptional public service in the 81st Legislative Session.

Chairman Polunsky assigned Commissioners Clowe and Barth to work together on the search for the Division Chief for the Driver License Division and update at the August Commission meeting.

Oscar Ybarra reviewed pending Contracts. There was discussion on the inclusion of IMS in the contract process and systems.

Chairman Polunsky opened discussion on the celebration of DPS 75th "Jubilee" Anniversary. He urged participation in the planning for this event, stating he hoped everyone would be a part in the orchestration of events, suggestions, and forming of committees in order to pay homage and plan the event.

Ongoing Business

A recommendation was made with regards to the roundtable workshop for project management office. Since dependent on the selection of the permanent Director being in place, it was decided to wait until that individual was on board to go forward on this item. The new Director will be involved and the date for conducting this workshop will be discussed at a later meeting.

Agreement was reached to also wait until the new Director was on board in order to proceed on the implementation of organization changes and next steps in planning to develop and administer a project management plan and project management office for reorganization of the department.

Chairman Polunsky stated a vote would be taken later in the meeting on the Executive Director. Commissioner Barth inquired about the Inspector General position and the decision to turn it over to a search firm was reached. Colonel Beckworth will have a proposal ready at the August meeting to discuss at that time.

Chief Michael Kelley gave an update on the implementation of driver license reengineering, the new driver license system and options regarding implementation. Commissioner Barth inquired about the timing of an assessment by the PMO to move forward with the roll out of the reengineering efforts. Primary focus will be analyzing the process, training and actual rollout. Chief Greg Gloria provided past and current metrics on production of licenses at the counter, which was followed by a lengthy discussion about the new drivers' license implementation. Commissioner Steen inquired of Chief Kelley after his one week on his new job what the three biggest challenges were. Chief Kelley stated: 1. getting the right people in the right places; 2. number of personnel and 3. making sure individuals out in the field know they are the priority. Commissioner Clowe commented on IMS giving this division priority and getting it on the right track.

Commissioner Brown provided a brief update on the ongoing recruitment policy committee requesting the item be included on the next monthly PSC meeting.

Chief Sandra Fuldenwider gave an update on the year-end repair and rehabilitation projects.

Chief Michael Kelley and Rebekah Hibbs addressed the ongoing issue with respect to the audit under the Drivers License Division – Driver Responsibility – Vendor Management HQ-08-37, September 2008. Ms. Hibbs provided statistical information and suggested enhancements for the program and collection of the fees. The vendor, Municipal Services Bureau, followed with their presentation. The vendor, contract, current renewal, indigence program and Legislative intent were discussed and action for possible termination of the vendor will be considered at the August Commission meeting.

Janie Smith distributed and presented the final Sunset Review recommendations and other legislation affecting the Department and the Public Safety Commission.

Chief Michael Kelley and Ron Coleman presented an update on the transformation of the administration of the Driver License Division to a civilian model. The transformation recruiting effort is going well and by September 1st all positions should be filled.

Chief Valerie Fulmer discussed security measures for the Department focusing on parking.

Chief Brad Rable gave an update report on the procurement of an information management intrusion detection system stating it was in the final stage. Commissioner Steen asked Chief Rable the three biggest challenges in his first two week and 4 days on the job. Chief Rable stated: 1. lack of documented discipline process; 2. lack of data to make decisions on a day to day basis and 3. lack of money to get us to where we need to be.

Chairman Polunsky opened discussion with regards to the search for the Department Director. Commissioner Clowe gave an overview of the selection process. Commissioner Steen noted the outstanding job Colonel Beckworth did as the interim director. Colonel Beckworth received applause and a standing ovation from the audience. Commissioner Steen then thanked Commissioners Clowe and Barth for their time and effort in the search. **Commissioner Steen then made the following statement: "That the Commission extend a conditional offer subject to appropriate background investigation, formal reference verification, and United States Citizenship verification to appoint as Director of the Texas Department of Public Safety the following candidate: Steven McCraw and that this action be approved by a vote of the Commission under the authority of Government Code 411.005."**

"As a part of this motion, I would ask that the Commission empower either the Chair or another Commission member to verify the prerequisite conditions are met satisfactorily and to finalize the terms of negotiations for employment, including starting date, with the candidate. That member can inform Human Resources of the progress and when completed, request Commissioners be notified of the successful resolution of negotiations by Department personnel notifying individual Commission members. In the event the conditions or negotiations do not lead to a successful conclusion, then I would ask the matter of an appointment of a Director be returned to the August Agenda for Commission consideration. However I believe the candidate: Steven McCraw should be voted upon and approved by the Commission today." This motion was made by Commissioner Steen and seconded by Commissioner Clowe. Motion carried unanimously.

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 2:02 p.m. and ended at 2:58 p.m.

Upon reconvening Regular Session Chairman Polunsky appointed Commissioner Barth to the selection of Inspector General and the CFO function. Commissioner Barth then took Chairman's duty of conducting the regular session while Chairman Polunsky stepped out briefly.

Reports

Oscar Ybarra, Chief of Finance, updated the Commission on obtaining federal dollars for hurricane destruction. He also stated details would be provided soon for the 2010 internal budget.

Farrell Walker, Director of Audit & Inspection had no update to his monthly report.

Valerie Fulmer gave the Administration Division report highlighting the backlog progress and demand for CHL licenses. At the request of Commissioner Steen a graph showing the trend will be presented on the screens at future meetings.

Tom Ruocco, Criminal Law Enforcement Division, briefed the Commission on recent multiagency bandito activity.

Jack Colley, Emergency Management Division, addressed drought and wildfire proclamations, H1N1 and the future potential threat; and hurricane preparedness.

Chief David Baker presented the Texas Highway Patrol Division report and commented on the laser transit technology to recreate crashes. Chief Baker also stated the HP division has 185 vacancies. He is working with Commissioner Brown on recruiting.

Chief Tony Leal, Texas Rangers, gave his Ranger report. He spoke about the ongoing efforts of solving cold cases.

Consent items

1. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers: Paul T. Hopson, Arvel P. Shepard, Teddie D. Williamson
2. Discussion and possible action on adoption of proposed rules:
 - Proposed amendments to Rule 1.4, 37 TAC Sec. 1.4, regarding Programs under Texas Highway Patrol Division, as published in 34 TexReg 2749, May 8, 2009
 - Proposed amendments to Rule 1.58, 37 TAC Sec. 1.58, regarding Release of Information on Crash Victims, as published in 34 TexReg 2750, May 8, 2009
 - Proposed amendments to Rule 1.129, 37 TAC Sec. 1.129, regarding Fees for Sale of Motor Vehicle Crash Reports in Highway Patrol Field Offices, as published in 34 TexReg 2751, May 8, 2009
 - Proposed repeal of Rules 1.281-1.285, 37 TAC Secs. 1.281-1.285, regarding Senate Bill 1074 Video Units, as published in 34 TexReg 2751, May 8, 2009
 - Proposed amendments to Rule 14.52, 37 TAC Sec. 14.52, regarding Texas School Bus Specifications, as published in 34 TexReg 2752, May 8, 2009
3. Discussion and possible action on proposed rules for publication:
 - Proposed amendments to Chapter 15: Rules 15.5, 15.7, 15.21-15.23, 15.25-15.31, 15.33-15.40, 15.42, 15.44, 15.48, 15.52, 15.54, 15.56, 15.59, 15.81-15.83, 15.85, 15.87, 15.91-15.93, 15.101, 15.113, 15.114, 15.131, and 15.163, 37 TAC Secs. 15.5, 15.7, 15.21-15.23, 15.25-15.31, 15.33-15.40, 15.42, 15.44, 15.48, 15.52, 15.54, 15.56, 15.59, 15.81-15.83, 15.85, 15.87, 15.91-15.93, 15.101, 15.113, 15.114, 15.131, and 15.163, regarding Driver License Rules
 - Proposed repeal of Rule 15.8, 37 TAC Sec. 15.8, regarding Classified Driver License
 - Proposed repeal of Rules 15.41 and 15.47, 37 TAC Secs. 15.41 and 15.47, regarding

Application Requirements-Original, Renewal, Duplicate, Identification Certificates
 Proposed repeal of Rules 15.111 and 15.112, 37 TAC Secs. 15.111 and 15.112, regarding Denial of Renewal of Driver License for Failure to Appear for Traffic Violation
 Proposed amendments to Chapter 16: Rules 16.3, 16.4, 16.8, 16.9, 16.11, 16.12, 16.34, 16.47, 16.48, 16.50, 16.51, 16.71-16.73, 16.75, and 16.103-16.105, 37 TAC Secs. 16.3, 16.4, 16.8, 16.9, 16.11, 16.12, 16.34, 16.47, 16.48, 16.50, 16.51, 16.71-16.73, 16.75, and 16.103-16.105, regarding Commercial Driver License
 Proposed repeal of Rule 16.91, 37 TAC Sec. 16.91, regarding Noncommercial Motor Vehicle Permits
 Proposed amendments to Chapter 18: Rules 18.1-18.4 and 18.21-18.25, 37 TAC Secs. 18.1-18.4 and 18.21-18.25, regarding Driver Education

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 Clowe moved to approve. Commissioner Brown seconded. Motion carried unanimously.**

Items for future agenda

Commissioner Brown - update, discussion and possible action on recruitment policy
 Commissioner Clowe/Barth – Executive search firm services for role of Inspector General.
 Commissioner Brown – update, discussion and possible action regarding overtime policies
 Commissioner Steen – update, discussion and possible action on use of transcripts
 Commissioner Barth/Chief Kelley/Stuart Platt – Presentation, discussion and possible action regarding the Drivers License Division – Driver Responsibility – Vendor Management HQ-08-37, September 2008
 Commissioner Steen - Suggested new seating arrangement. He also made the request for a Director report, highlighting top priorities to be presented after approval of the minutes.
 Commissioner Steen - Requested moving Public Comment to the end of the Commission meeting.

Future meeting date

The next regular meeting will be Friday, August 21, 2009.

Commissioner Barth thanked Colonel Beckworth, and his other half, on behalf of the entire Commission. Chairman Polunsky stated Colonel Beckworth was what the department was all about and thanked him for his sacrifices and looked forward to his continued future with DPS. Commissioner Clowe stated his picture should go onto the wall.

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

Read and approved this 21st day of August, 2009.



 Chairman

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On July 17, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter A
Section Number 1.4

The Texas Department of Public Safety adopts amendments to Chapter 1, Subchapter A, Section 1.4, concerning Programs under Texas Highway Patrol Division, without changes to the proposed text as published in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2749).

Adoption of amendments to Section 1.4 are necessary in order to update the rule so that it reflects the revised titles of the division and titles of the various services within the division that were changed during a re-organization.

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 July 17, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter D
Section Number 1.58

The Texas Department of Public Safety adopts amendments to Chapter 1, Subchapter D, Section 1.58, concerning Release of Information on Crash Victims, without changes to the proposed text as published in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2750).

Adoption of the amendments to Section 1.58 are necessary in order to update the rule so that it reflects the revised wording of "crash" as it relates to motor vehicle collisions which replaced the terminology "accident" previously used.

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.

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Allan B. Polunsky, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On July 17, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter I
Section Number 1.129

The Texas Department of Public Safety adopts amendments to Chapter 1, Subchapter I, Section 1.129, concerning Fees for Sale of Motor Vehicle Crash Reports in Highway Patrol Field Offices, without changes to the proposed text as published in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2751).

Adoption of amendments to Section 1.129 are necessary in order to update the rule so that it reflects the revised working of "crash" as it relates to motor vehicle collisions which replaced the terminology "accident" previously used.

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.

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Allan B. Polunsky, Chairman
Public Safety Commission

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On July 17, 2009, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Organization and Administration
Title 37 T.A.C. Part I, Chapter 1
Subchapter W
Section Numbers 1.281 – 1.285

The Texas Department of Public Safety adopts the repeal of Chapter 1, Subchapter W, Sections 1.281 – 1.285, concerning Senate Bill 1074 Video Units, without changes to the proposed text as published in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2751).

Adoption of repeal of the sections is necessary due to the sections no longer being necessary. This subchapter pertains to the regulation of a contract for video units in 2002 that no longer exists.

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 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 July 17, 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 Number 14.52

The Texas Department of Public Safety adopts amendments to Chapter 14, Subchapter D, Section 14.52, concerning Texas School Bus Specifications, with changes to the proposed text as published in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2752) and will be republished.

Adoption of amendments to Section 14.52 is necessary in order to update the rule so that it reflects the 2009 Texas School Bus Specifications as the current publication.

The department accepted comments on the proposed rule through June 8, 2009. One written comment was submitted by Lee Banks representing Rush Bus Centers.

The comment, as well as the department's response thereto, is summarized below:

COMMENT: Regarding Section 14.52. Language in the 2009 School Bus Specifications document states they will be applicable for 2009 Model School Buses. This statement would make the 2009 Specifications retro-active to buses that have already been sold thus far in 2009 and put into service. My understanding is these specifications are to be effective on buses ordered and/or quoted during the period of time they are in effect regardless of year model.

RESPONSE: The department agrees with the comment and clarifies there is no intent to retroactively apply these specifications for 2009 model school buses purchased before formal adoption of the 2009 Texas School Bus Specifications. The specifications have been changed from "The 2009 Texas School Bus Specifications are effective January 1, 2009 and supersede the 2008 Texas School Bus Specifications" to the new language of "The 2009 Texas School Bus Specifications are effective upon final adoption of the Public Safety Commission." This change is made to the first paragraph of page A-3 of the 2009 Texas School Bus Specifications document.

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; Texas Education Code, Section 34.002, which authorizes the department to adopt safety standards for school buses; and Texas Transportation Code, 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.

Section 14.52. Texas School Bus Specifications.

(a) All school bus chassis and body manufacturers shall certify to the department, in the form of a letter, that all school buses offered for sale to or use by the public school systems in Texas meet or exceed all standards, specifications, and requirements as specified in the department's publication Texas School Bus Specifications. The department hereby adopts the Texas School Bus Specifications for 2009[~~2008~~] Model School Buses. Previously published Texas School Bus Specifications remain in effect for earlier model year school buses until the department repeals these publications.

Figure: 37 TAC Section 14.52(a)

(b) All school bus chassis and body manufacturers shall certify to the department, in the form of a letter, that all multifunction school activity buses offered for sale to or use by the public school systems in Texas meet or exceed all federal standards, specifications, and requirements of a multifunction school activity bus as specified in the Title 49, Code of Federal Regulations, Part 571.

(1) A multifunction school activity bus may be painted any color except National School Bus Glossy Yellow.

(2) A multifunction school activity bus cannot be used for home to school or school to home transportation. Before delivery of a multifunction school activity bus, the manufacturer must place a label in the direct line of site of the driver while seated in the driver's seat stating: "This vehicle is not to be used for home to school or school to home transportation".

(c) Any new school bus found out of compliance with the specifications that were in effect in Texas on the date the vehicle was manufactured will be placed out of service by the vehicle's owner until it is brought into compliance with the applicable specifications.

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