



Public Safety Commission Meeting

October 27, 2022, 9:00 a.m.

6100 Guadalupe, Building E

Austin, TX 78752

Summary

(This report represents a summary of events of the meeting, and is not necessarily complete nor an exact transcript of testimony.)

The Public Safety Commission convened as posted to consider and take formal action, if necessary, on the following agenda items:

I. CALL TO ORDER

9:00 am – *Chairman Steven Mach called the meeting to order. In attendance: Chairman Steve Mach, Commissioners Steve H. Stodghill, and Commissioner Dale Wainwright. Commissioner Nelda Blair was not in attendance. A quorum was present. Also present were Deputy Director Freeman Martin and General Counsel Phil Adkins.*



II. INVOCATION

Chaplain Ferman Carpenter gave the invocation.

III. PLEDGES

Trooper Marcos Whitern led the meeting in the Pledge of Alliance and the Texas Pledge of Allegiance.

IV. APPROVAL OF MINUTES

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to approve the minutes from the August 28, 2022, Public Safety Commission Meeting, The motion passed.

V. PRESENTATIONS

Award and Service Presentations were tabled until the December PSC Meeting.

VI. PUBLIC COMMENT

(Members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must complete a Public Comment Registration Card located at the entry. Should a member of the public bring an item to the Commission for which the subject was not posted on the agenda of the meeting, state law provides that the Commission may receive the information but cannot act upon it at the meeting. The Commission may direct staff to contact the requestor or request that the issue be placed on a future agenda for discussion.)

Chairman Mach said that we would begin public comment with those wishing to address the shooting incident in Uvalde.



Senator Roland Gutierrez of San Antonio thanked the Commission for allowing the citizens of Uvalde to address the Commission, and asked that the 5 minute limit for the speakers be flexible in that the families have a lot to say and have repeatedly been cut off when speaking. He also said that he would do his best to be brief but would exceed his 5 minute limit as well.

He began by stating that he has always been a strong supporter of law enforcement that that he respects the Department of Public Safety and Director Steve McCraw, even though he has called for Dir. McCraw's resignation many times. He said that he has asked the families of the Uvalde victims how they can muster up the power to speak about the events of that day, knowing that each time it brings back the pain and

frustration that they feel. I know that many of you are parents, so when you listen to these family members, think about your own children and try to comprehend what they are going through.

The 18 year old shooter entered the school at 11:33 AM and while over 100 law enforcement officers amassed in and around the building, no direct action to stop the massacre for over 1 hour, supposedly while waiting for the proper equipment and for a Federal tactical team to arrive. Uvalde PD approached the classroom within 5 minutes but retreated upon taking fire and injuring one officer. In a similar scenario that took place in St. Louis last week, officers arrived within 10 minutes and the shooter was dead within 14 minutes.

During that hour plus, continued shooting hinted to the carnage inside the classroom, while kids in the room called 911 again and again pleading for help. How many of the children's lives could have been saved if a more rapid response were made....2, 3, 4 or more? These children waited 77 minutes for help. And what were the parents and people of Uvalde hearing from law enforcement, repeated lies about the gunman (that he was an illegal immigrant from El Salvador), about the status of the situation (a hostage situation rather than an active shooter situation), that a teacher aide had entered the building and not closed the door behind her allowing the shooter to enter (she had closed the door with her foot and gone back to check that it was closed as video showed), that police could have shot the gunman outside of the school when later video showed that that individual was a PE teacher at the school, and who was in charge of the scene. Repeating information he had been given by DPS and other LE agencies, Governor Greg Abbott stated "It could have been worse if not for the quick response of law enforcement".

Days later, Director McCraw characterized the disaster as an "abject failure" on the part of law enforcement including DPS. DPS failed on May 24, and tragically continues to fail by providing inaccurate and distorted information. They continue to withhold important information. Audio recordings indicate that Captain Joel Betancourt, a 15 year veteran of the department, told his strike team 70 minutes into the siege to "stand by" to wait for a more highly skilled unit to arrive.

Senator Gutierrez went on to say that Colonel McCraw issues cards for all troopers to carry that state the Department's core values of "Integrity, Excellence, Accountability and Truth". They failed in every one of these values. He stated that the families deserve complete and total truth as well as restitution to the victims at a bare minimum.

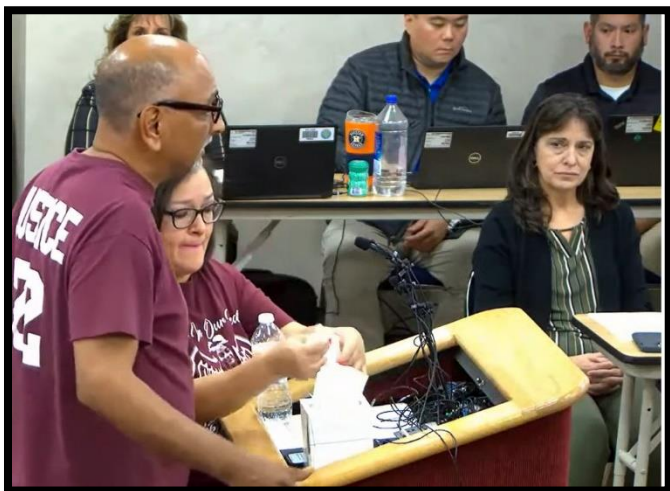


Next to speak was Brett Cross, guardian of 10-year-old Robb Elementary School victim Uziyah Garcia. He began by stating that police waited outside as the children were "slaughtered." And so far, only one trooper has been fired, Juan Maldonado. Captain Betancourt is "under investigation" but is characterized as a model officer and seems to be part of the "good old boy" network at DPS.

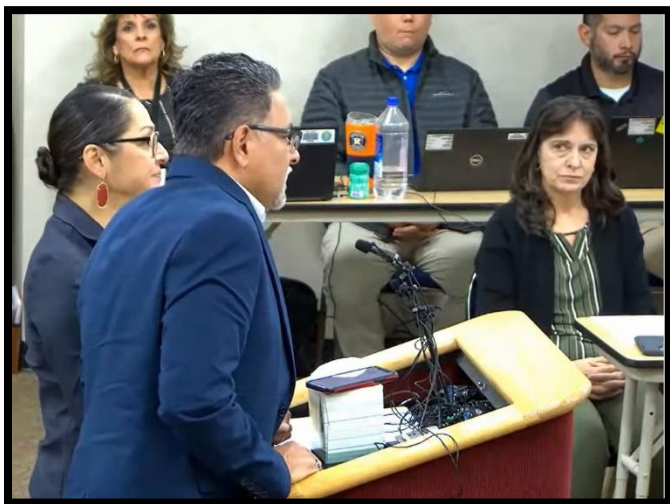


Mr. Cross also said that Director McCraw had stated that if DPS was found to be in the wrong, that he would resign. "I think that you should honor that promise. You sir have disgraced the state." He then read off the names of the 19 school children and two teachers who were killed:

Makenna Lee Elrod, Layla Salazar, Maranda Mathis, Nevaeh Bravo, Jose Manuel Flores Jr., Xavier Lopez Tess Marie Mata, Rojelio Torres, Eliahna "Ellie" Amyah Garcia, Eiahna A. Torres, Annabell Guadalupe Rodriguez, Jackie Cazares, Uzayah Garcia, Jayce Carmelo Luevanos, Maite Yuleana Rodriguez, Jailah Nicole Silguero, Irma Garcia, Eva Mireles, Amerie Jo Garza, Alexandria "Lexi" Aniyah Rubio, Alithia Ramirez.



Jesse Rizo, uncle of 9-year-old victim Jackie Cazares, spoke next. "We may appear strong but we are falling apart. Our town has been ripped apart in the aftermath of this shooting. It is absolutely unacceptable...we deserve the truth, but we get lies and roadblocks to getting at the truth. Every time it comes up on TV or in the news, it opens our wounds again. You are adding insult to injury every time you do this. Officers either lied to you or you are spinning the information to your advantage. You need to resign and turn in your badge."



Manuel Rizo, uncle and godparent to Jackie Cazares also spoke stating that this Commission has a duty to make this right. "This is not who we are or what we do, but we have been thrown into this position to speak for the children and their families. Perhaps Jackie would have been able to survive if this "highly trained" group of officers had been brave enough to confront the shooter. It was their fear of the weapon that kept them from acting. It was a lack of leadership. I would like to know how soon we can expect to see a complete report regarding this tragedy. Please work with us to get it completed soon."



Dr. Monica Martinez, historian, author and professor, and Uvalde citizen. In her book, "The Injustice Never Leaves You: Anti-Mexican Violence in Texas" she tells of the massacre of 1000's of people in south Texas between 1910 and 1920. The locals in the area refer to it as "The Massacre". She suggested that "if we don't learn from past tragedies, we are likely to repeat them". She told the story of a Mexican landowner and his father who reported a robbery on their property to the Texas Rangers. As they rode away, they were shot in the back by the "posse". She also spoke of an incident in which 15 men and boys were rounded up by Texas Rangers and then they opened fire on the group, killing them all. A Texas Ranger Captain submitted several false reports of the incident. In Uvalde, parents were seen begging law enforcement to save their children.

She stated that they need answers. She suggested that the delay might be related to the November elections. "The families deserve the truth now so that they can begin the healing process. You need to answer these families' questions."

Chairman Mach asked that Director McCraw respond with his Uvalde Update Report at this time. (See Director McCraw's report below in VII, B.

Following Director McCraw's Uvalde update and responses from families, Chairman Mach said that we have a request to speak about the Compassionate Use Program.



Aaron Lopez said that the company he represents would like to get a license to be a dispenser in the Texas medical use program. His company already operates in several states. He said that he would like to know what is being used to determine the success of the program? 1. Patient access? 2. Competitive market place (there are 10,000 licenses in Oklahoma and 3 in Texas)? 3. Pharmaceutical quality? 4. Patient education? 5. Job creation? It could be all of the above. Quality, access, and diversity of choice are all important. I know that overnight storage and security are big concerns. Having clear guidelines would help a lot. Having only 3 issued licenses statewide could result in an access problem. I would recommend expansion of licensing at a reasonable ratio resulting in possibly 10-15 licensees. Limit the size of the facilities.

Limit the number of retail locations, I would be happy to serve on any advisory board as a consultant.

Attorney Steve Bresnan submitted a written statement to the Commission but did not wish to comment publicly.

VII. DIRECTORS REPORT

A. Case Update: California Speedball

Chairman Mach *(to be taken up before item IX)*

B. Uvalde Update

Editor's note: Director McCraw's report below is not a direct transcription of his talk but covers the main elements.

Director Steve McCraw began: 11:39 – 1 hour, 14 minutes, 18 seconds. That is how long it took. It was always an active shooter situation. 5 minutes in, there were enough officers, equipment, and knowledge to go in and confront the shooter. No doubt about it. Stop the killing. Active shooter situation.

Right is right. We were wrong. Along with our Texas Ranger investigation, we have asked the FBI to investigate as well. We need to know when did they arrive, and what did they do. DPS as an institution, as of right now, did not fail the community. We had 2 people inside within 10 minutes and 4 people within 20 minutes. As of June 2, the District Attorney is reviewing as a criminal investigation. He has instructed me not to discuss the details while under investigation.

The Texas Ranger investigation will be completed by the end of this year. Among other things, this is what we are looking into: 1. Why didn't we prevent it. For 6 months or more, the shooter showed that he was on a pathway towards violence. 2. Why was the shooter able to enter the school and classroom. The doors should have been locked. 3. There is no such thing as a barricaded subject; this is an active shooter.

"I don't expect forgiveness or anything else. I'm not going to say that we were without fault."

Director McCraw asked Chairman Mach if we could give the families an opportunity to respond, even though it is not usually allowed with public comment. Chairman Mach agreed.





Manuel Rizo pointed out that there were multiple failures in the law enforcement response. He stated that those failing to act should have been terminated within 10 minutes. He also said that the AR-15 style assault weapon is the #1 weapon of choice of these mass murderers. "Why have we not acted to get these weapons off the streets?"

political skills for our great governor. No one is going to be indicted. Everyone is forced to sign a non-disclosure agreement. All the focus is being shifted to the farce that is Operation Lone Star. "This is highly personal to me."

Senator Gutierrez added that the department and the Director have become



VIII. NEW BUSINESS

- A.** Update and discussion regarding the Texas Ranger Bicentennial

Russell Melinon was not present to provide this update.

- B.** Report and discussion on the FY22 Customer Service Survey



Noel Landuyt, PhD, Director for the Institute for Organizational Excellence at UT Austin – has been working with DPS since 2000 since the passage of the Customer Service Standards Act. He evaluates and makes recommendations on time, processes etc. He noted that DPS scores very well, with the biggest problem being the no-show rate of people with appointments. We have been conducting focus interviews which have proven to be most informative, and I recommend that we continue to perform these interview through 2023. They help to provide a quantitative analysis piece to our research. We

currently show a 9 out of 10 satisfaction rate with our customers (which is up 50% over the last 10 years). 90% of the respondents say that we are doing a good job; 90% report good interactions. The #1 complaint is the required documentation. 75% say that it works pretty well. Sherri Gipson, Chief of Driver License Division said that they are asking people with appointments set that they can't make, to cancel those appointments so that those slots can be filled with walk-ins. Dr. Landuyt said that Ms. Gipson and her staff are doing a good job with customer service.



- C.** Report, discussion, and possible action on the Contract Review Board Charter



Jessica Ballew, Chief Infrastructure Operations Division, In preparing the Contract Review Board Charter, we are putting focusing on items that pose the most risk and are continuing to assess through the process. We are clarifying rules and making sure that they are legally sound. I am asking for your approval of our revised Contract Review Charter.

A motion was made by Commissioner Wainwright to approve the revised Charter and seconded by Commissioner Stodghill. The motion passed.

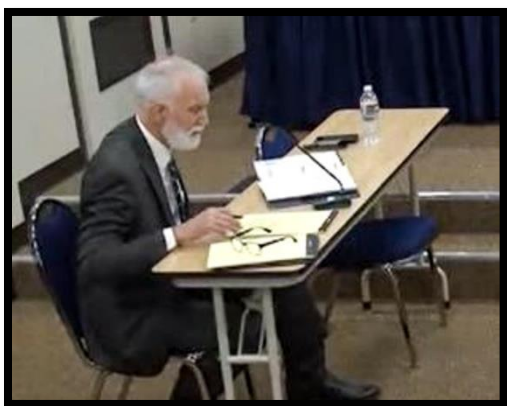
D. Report, discussion, and possible action on the transfer of certain state property from the Department of Public Safety to the City of Eagle Pass

Jessica Ballew, Chief IOD, stated that HB4667 authorized the transfer of the small and outdated DPS DL facility to the City of Eagle Pass. Since the move to a newer, larger location was complete, we are ready to make the transfer.

A motion was made by Commissioner Wainwright to approve the transfer of property and seconded by Commissioner Stodghill. The motion passed.

E. Final Determination in Contested Cases – consideration and possible action on Proposals for Decision:

1. SOAH Docket No. 405-22-2378.PSB – Christopher J. Bennett
2. SOAH Docket No. 405-22-2370.PSB – Treon Livingston
3. SOAH Docket No. 405-22-2578.PSB – Drew Paschall
4. SOAH Docket No. 405-22-.MVI – Evander Rojas Villa



General Counsel Phil Adkins reported that each of the four cases involved disqualifying issues and he is asking for the Commission for final determination on all four of the SOAH recommended denials.

A motion was made by Commissioner Wainwright for final determination on SOAH recommendations, and seconded by Commissioner Stodghill. The motion passed.

F. Report, discussion, and possible action on the following rule proposal for publication to receive public comment:

1. Proposed new 37 TAC Section 36.5, concerning Sellers of Catalytic Converters in the Ordinary Course of Business



Chief Wayne Mueller – Regulatory Services Division, this rule change was discussed and supported by all of the critical stakeholders that a list of excluded businesses could be developed. He asked that the proposed rule be published in the Texas Register for public review and comment.

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to post the proposed rule for review and comment. The motion passed.

G. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

This item was discussed in executive session.

Chairman Mach acknowledged legislative representatives attending the meeting in person and online.

IX. ONGOING BUSINESS

A. Discussion and possible action regarding Compassionate Use Program

Chief Wayne Mueller, Regulatory Services Division, stated that over the last 18 months, they have tracked a 10% member user growth on average month to month. If that rate is sustained (which is an aggressive estimate), we could see 145,000 users by December, 2023. We, however, feel a more conservative estimate of 2,500 new users per month would yield approximately 100,000 served by 2024, based on an estimated 2,500 new users per month over 18-24 months. This is in line with what we estimated at the last PSC Meeting in August.



We also reviewed the process of determining activity which includes:

Lifetime patient count.

Active patients (1 prescription submitted within the last 3 months)

Total milligrams of active ingredients (CBD & THC combined) by month

We discussed the Advisory Committee that was suggested at the last PSC Meeting at length with input from General Counsel Phil Adkins and we suggest that we start with a “Working Group” made up of 9 individuals, 3 from current licensees, 3 from patient representatives, and 3 from physicians qualified to treat and prescribe. Within this later group, 1 should be familiar with veteran needs, and 1 should be familiar with pediatric needs. Since the Legislature is convening in January, it is anticipated that they will ask for an advisory committee and will stipulate requirements for such a committee. We felt that the working group would serve as a good interim step and prepare us for such a legislative mandate.

We have also been working on rules including 1. Storefront rules – permanent satellite locations, and 2. Addressing licensees who fail to have adequate usership.

At this time, we are not satisfied that we are ready to submit rules for action, but hope to have them ready by the December PSC Meeting.

Commissioner Wainwright asked if it might not be advisable to include a non-stakeholder member to the advisory working group?

I am asking for three action items:

- 1. Approval to form a Working Group as outlined above (Commissioner Wainwright asked to modify this to a 10-person group to include one non-stakeholder).*

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to approve formation of this modified Working Group. The motion passed.

- 2. Have new rules for review and approval for the December PSC Meeting.*

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to have new rules by the December meeting. The motion passed.

- 3. Complete new framework for addressing the need for issuing new licenses by the December meeting.*

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to have new framework for additional licensing. The motion passed.

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

- 1. Proposed amendments to 37 TAC Section 15.58, concerning Medical Advisory Board Referrals**
- 2. Proposed amendments to 37 TAC 15.181, concerning Eligibility for Election Identification Certificate**
- 3. Proposed amendments to 37 TAC Section 16.5, Qualifications to Drive in Intrastate Commerce**

Chief Sherri Gipson said that they received no comments and asked that items IX. B, 1-3 be adopted.

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to adopt items 1-3. The motion passed.

- 4. Proposed amendments to 37 TAC Section 21.2, concerning Standards for Vehicle Safety**
- 5. Proposed amendments to 37 TAC Section 21.3, concerning Standards for Sunscreening and Privacy Window Devices**



Chief Orlando Alanis, Highway Patrol, stated that they had received no comments and asked that the above standards 4 and 5 be adopted.

A motion was made by Commissioner Stodghill and seconded by Commissioner Wainwright to adopt items 4 & 5. The motion passed.

C. Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment,

evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

Director McCraw stated that with the retirement of Chief Chance Collins, Texas Rangers, he would like approval of the appointment of Jason Taylor, Regional Director, Southeast Texas Region to the position of Chief of the Texas Rangers.

Chairman Mach said he had reservations regarding losing his SE Texas Regional Director, but fully endorsed the recommendation for the promotion. A motion was made by Commissioner Stodghill and seconded by Commissioner Wainwright. The motion passed.

With the opening of the Southeast Regional Director, Director McCraw asked that Asst. CID Chief Gerald Brown be considered for the position of Southeast Regional Director.

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to promote Gerald Brown to Southeast Regional Director. The motion passed.

With the opening at the Asst. CID Chief position, Director McCraw asked for the promotion of Matt Hicks to that opening.

A motion was made by Commissioner Stodghill and seconded by Commissioner Wainwright to promote Matt Hicks to be the new Assistant Chief of CID.

D. Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated)

This item was handled in executive session.

(VII. A. Case Update: California Speedball) – Reported out of sequence

Director McCraw asked Trooper Danny Nunez to provide this report:



Trooper Nunez began by defining a Speedball as a poly-drug that combines a stimulant (in this case cocaine) with an opioid (in this case heroin) which can be taken by injecting or by nasal inhalation (snorting). The combination increases the effect of the two drugs and increases the danger as well. On January 13, at 1:37pm a black Ford Expedition was stopped for an out-of-date registration, driven by an obviously agitated woman from Florida with multiple arrests and convictions on her record. She was in route from Anaheim, California to Columbus, Ohio, two known drug access points. The alert trooper noted loose panels with powder on them and after feeling under

one detected bags of contraband. With the removal of the modified gear shift console, 6,719 grams of Cocaine, 2,315 grams of heroin, and 227 grams of THC were discovered. With the de-brief of the driver, a deal was reached to complete a controlled delivery of the drugs in Columbus, where an additional 250 grams of cocaine were recovered. Michael Washington received a sentence of 120 months while the driver of the Expedition received a reduced sentence for her cooperation.

X. REPORTS

A. Commission member reports and discussion

None

B. Finance Report

None

C. Chief Auditors Office

None

D. Division status reports on activities and action

Chief Jessica Ballew, Chief- Infrastructure Operations Division, introduced Michael Parks, Director of Contracts and Procurement Division.

Director Parks discussed getting the best value for the agency while complying with standards. He highlighted three of the “best practices”:

- 1. Revising the Charter*
- 2. The Contract Management System acquired and implemented at the beginning of FY 2021*
- 3. Adapting to short term emergency procurement requirements.*

He stated that compliance and quality contracts were the priorities.

This year, 70 major contracts were awarded totaling \$325 million. We managed 280 active major contracts totaling about \$2 billion. In FY 2021, 16,000 P.O.s were issues in 33 lines. 99% of our bids were competitive bids totaling \$230 million. <1% were non-competitive, but only >.3% were non-emergency bids. Even with our non-competitive bids, we worked to get informal competing quotes to get the best value when possible.

Deputy Director Freeman Martin asked to give a brief Recruit School update since Chief RenEarl Bowie was not able to attend. This year we had two overlapping Recruit Schools; the B2022 class has 78 recruits, while the C2022 class will began this month has 82 recruits, for a total of 160 currently in training.

The B2022 school had 3,193 applicants, about half of the previous schools. In discussions with other law enforcement agencies in the state and around the country, we are still in much better shape than our counterparts.

In 2023 we will have 3 recruit classes: 2 full schools and C2023 will be an advanced peace officer school. It will include a preliminary 4-week school to allow for Texas required TCOLE certification prior to the start of the 14 week “Advanced Peace Officer” Training school.

Chairman Mach noted that he has seen several articles in the media noting a mass retirement of troopers in 2022. DD Martin said that the numbers are deceiving, and it is really a math issue. In 1990 DPS ordered a 4-year hiring freeze, so in 1994 and 1995 a lot of Troopers were hired. In 2022 through 2024, there are a lot of Troopers who will be hitting their 30-year mark and seeking retirement. Chairman Mach said that that shows how important it is for the Legislature to keep approving additional recruit school funding to keep our pipeline of new troopers filled.

Also asked was what the reduction in recruit applications can be attributed to? DD Martin responded that there are several reasons, but the most prominent one is that there is a worker shortage across the board in

business and industry and fewer people are seeking employment. The Summer of 2020 Civil Unrest also has contributed to fewer recruits.

XI. CONSENT ITEMS

All of the following items may be enacted with one motion. These items are typically self-explanatory or have been previously considered by the Commission. There will be no separate discussion of these items unless a commissioner so requests.

- A.** 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: Edubijes Torres Aguirre, Lance Kendall Amos, Charles Brent Barry, Michael Troy Baumann, Phillip Clayton Davis, Roman Michael Macias, Michael Mark Negri, Shannon O'Neil, Sandra Gail Rainwater, Conrad Martin Rodriguez, Jay Elton Truelock, Eloy Vasquez, and Rudolph La-Von Williams ; and Special Texas Rangers: Michael Todd Martin, Lancer Shane Morrow, and Jay Reginald Womack

B. Donations:

1. Additional donation items, as needed

Chairman Mach asked for a motion to approve the Consent Items.

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill. The motion passed.

XII. ITEMS FOR FUTURE AGENDA

Chairman Mach asked the Commissioners to send any items to be included in the future agenda to General Counsel Adkins or to Sophie Yanez.

XIII. DATE FOR FUTURE MEETING

The regular Public Safety Commission meeting is scheduled for December 15, 2022.

Discharge hearings will be scheduled for December 16, 2022.

The date for the next Public Safety Commission is scheduled for December 15, 2022.

XIV. ADJOURN INTO EXECUTIVE SESSION

(If required) 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

Chairman Mach adjourned the PSC Meeting to Executive Session at 11:47AM.

XV. ADJOURN

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items:

Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the Commissioners seek the advice of their attorney as privileged communications under the

Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney
Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties, discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071 Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations Government Code Sec. 551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the government body in negotiations with a third person Government Code Sec. 551.073 Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

